

Chapter – 1

INCOME TAX ACT CONCEPTS & DEFINITIONS

Objectives :

After reading this unit we should be able to

- Understand the Income Tax and Central Budget in India
- Know the Brief History of Income Tax
- Define certain important terms in the Income Tax Act
- Understand the concepts of Capital and Revenue

Structure

- 1.1 Central Budget and Income Tax**
- 1.2 Income tax Act, 1961**
- 1.3 Concepts and Definitions**
- 1.4 Assessment Year – Previous Year**
- 1.5 Income**
- 1.6 Capital and Revenue**
- 1.7 Self-Assessment Questions**
- 1.8 Exercises**

1.1 CENTRAL BUDGET AND INCOME TAX

Taxes form a major source of revenue for the Government. These are of two types – Direct taxes like income-tax, wealth-tax, expenditure-tax, etc. and indirect taxes like excise duty, customs duty, service tax, etc. Now in India all the Indirect taxes were integrated into a new Law called Goods Services Tax Act, 2017.

Among the direct taxes, Income-tax assumes great significance since it affects directly the individuals – the layman. The level of his disposable income directly depends on the tax-rates prescribed in the budget. At times, the Government levies surcharge on Income-tax to finance some expenditure of special nature. While the

amount of income is shared between the Union and the State Governments, surcharge is retained by the Union for the purpose it is levied.

Tax System in India :

Taxes are important instruments of Government for raising resources and reducing disparities in the society. As such, the role of income tax in a developing country like ours is very vital. The Government of India has embarked upon economic planning to raise the standard of living of the masses, to reduce disparities and regional imbalances for national integration. Taxes can be used for economic growth in the following ways.

1. **Helps in mobilization of resources** : It is an instrument by the use of which developmental finance for the public sector can be mobilized.
2. **Helps in reduction in inequalities** : As income tax rates are progressive it can be used to reduce inequalities in the distribution of income.
3. **Reduces conspicuous consumption** : A progressive tax on income arrests the purchasing power of rich people and thereby tends to reduce the demand for conspicuous consumption.
4. **Creation of demand for economic development** : A progressive taxation tends to change the allocation of income into consumption and savings with the objectives of increasing consumption and reducing the propensity to save.

1.1.1 Meaning of Tax : A tax is a fee charged (levied) by a government on a product, income or activity. If tax is levied directly on person or corporate income, it is called direct tax. If tax is levied on the price of a good or service, it is called indirect tax. The purpose of taxation is to finance government expenditure.

1.1.2 Tax – Definition : According to Hugh Dalton, “A tax is a compulsory contribution imposed by a public authority, irrespective of the exact amount of service rendered to the tax payer in return and not imposed as penalty for any legal offences.” In general, tax is a levy or other type of a financial charge or fee imposed by state or central governments on legal entities or individuals. Local authorities like local governments, like panchayats or municipal corporations also have right to impose taxes.

1.1.3. Types of taxes : Broadly taxes are two types. They are : (1) Direct Taxes
(2) Indirect Taxes

1.1.4 Direct Taxes

A direct tax is a form of tax is collected directly by the government from the persons who bear the tax burden. Taxable individuals file tax returns directly to the Government. Examples of direct taxes are :

1. Income Tax
2. Wealth Tax
3. Estate Duty
4. Gift Tax
5. Corporate tax

At present Gift tax is included in Income Tax Act. The Estate duty which was there earlier was removed in India. The wealth tax was also deleted from the assessment year 2016-17. Finally, in India we have only Income Tax including Corporate Tax as Direct Tax.

1.1.5 Income Tax – Brief History :

Income tax was introduced in India, for the first time in 1860 to overcome the financial problems caused by the Cepoy Mutiny of 1857 in the country. Though many changes were made in the Income Tax Act, subsequently, the second landmark in the history of Indian Income Tax law was the enactment of Indian Income Tax Act, 1922.

1.2 INCOME TAX ACT, 1961

At present the law of income tax in India is governed by the Income Tax Act, 1961 which extends to whole of India, including the States of Jammu and Kashmir and Sikkim. It is administered along with other direct taxes by the Central Board of Direct Taxes (C.B.D.T.) The Board has framed various rules for the administration of income tax, which are known as the Income Tax Rules, 1962. They are amended and modified from time to time, as required by the amending Income tax Act. The Income Tax Act, 1961 is having 298 sections and many more subsections and twelve schedules.

Finance Act :

A Finance Bill will be introduced in the parliament on the last working day of February every year and the Finance Act is generally passed sometime in April-May with a view to changing the rates of tax or making amendments, if any, in the Act. The

provisions of the Finance Act are applicable to the income of the previous year to be assessed during the assessment year commencing on 1st April every year. The Finance Act contains proposals in the areas of direct taxes and indirect taxes (like customs and excise etc.) The tax rates of income-tax are also contained in the Finance Bill, because the rate schedule does not form part of the income-tax act, 1961. As the Government is interested in taxing the people according to the needs of the country, they have thought it worthwhile to enact the tax rates every year instead of incorporating them in the permanent enactment, namely, the Income-tax Act, 1961.

Scope of Income Tax Law:

The law of income tax is contained in the Income Tax Act, 1961. Recently certain important amendments have been made by the Finance Act, 2018. The Income Tax Act broadly covers – (i) Basis of charging income-tax; (ii) Incomes exempt from income-tax; (iii) Computation of income under various heads; (iv) Clubbing of Income; (v) Set off and Carry Forward of Losses; (vi) Permissible Deductions; (vii) Rebates and Reliefs; (viii) Double taxation relief; (ix) Special provisions relating to Avoidance of tax; (x) General Anti-Avoidance Rule; (xi) Determination of Tax; (xii) Non-Residents (special provisions); (xiii) Special Provisions relating to Companies, (xiv) Special provisions for Limited Liability partnerships; (xv) Tax on Dividends distributed by domestic companies; (xvi) Income tax authorities and their powers; (xvii) Survey, search and seizure; (xviii) Assessment; (xix) Collection and recovery of tax – TDS and TCS; (xx) Advance tax; (xxi) Refund; (xxii) Advance Rulings; (xxiii) Appeal and Revision; (xxiv) Acquisition of Immovable property; (xxv) Penalty; and (xxvi) Prosecution.

Income Tax Rules : For implementing the various provisions of the Act, Income-tax Rules, 1962 have been framed which prescribe the procedures, time-limits, conditions, returns, forms, etc. The Rules have also undergone several important changes during the last year. Besides, the Central Board of Direct taxes has issued a number of circulars/ notifications, clarifying the provisions of the Act, either on its own initiative or at the instance of public queries.

1.3 CONCEPTS AND DEFINITION :

Sections 2 and 3 of the income tax Act, 1961 define various concepts. 'Previous Year' is explained in Sec.3; whereas meaning of all other concepts is given in Sec.2 Let us now discuss some important definitions.

1. Agricultural Income :

Agricultural Income has not been taxed right from the beginning under the Income-Tax Act. The justification for such exemption is that income from agriculture is taxed in the form of land revenue. Another reason for its being kept outside the purview of the Income-tax Act, 1961, is that agriculture being a State subject, the Central Government is not entitled to tax this source of income. According to section 10(1) agricultural income is exempted from tax.

According to Sec.2(1A) Agricultural Income means :

- I. **Rent or Revenue** : any rent or revenue derived from land which is situated in India and is used for agricultural purposes;
- II. **Income Derived** : any income derived from such land by –
 - (a) agriculture; or
 - (b) the performance by cultivator or receiver of rent-in-kind of any process ordinarily employed by a cultivator or receiver of rent-in-kind to render the produce raised or received by him fit to be taken to market; or
 - (c) the sale by a cultivator or receiver of rent-in-kind of the produce raised or received by him, in respect of which no process has been performed other than a process of the nature described above (ii) of this sub-clause;
- III. **Agricultural House Property** : any income derived from any building owned and occupied by the receiver of the rent or revenue of any such land or revenue of any such land, or occupied by the cultivator or the receiver of rent-in-kind, of any land with respect to which, or the produce of which, any process mentioned in paragraphs (ii) and (iii) of Sub-clause (b) is carried on : Further, the following conditions are to be satisfied.

- (a) the building is on or in the immediate vicinity of the land, and is a building which the receiver of the rent or revenue or the cultivator, or the receiver of rent-in-kind by reason of his connection with the land, requires as a dwelling house, or as a store-house, or other out-building and
- (b) the land is either assessed to land revenue in India or is subject to a local rate assessed and collected by officers of the Government as such or where the land is not so assessed to land revenue or subject to a local rate, it is not situated –
 - (i) not being more than 2 kilometers, from the local limits of any municipality or cantonment board referred to in item (A) and which has a population of more than 10,000 but not exceeding 1,00,000; or
 - (ii) not being more than 6 kilometers, from the local limits of any municipality or cantonment board referred to in item (A) and which has a population of more than 1,00,000 but not exceeding 10,00,000; or
 - (iii) not being more than 8 kilometers, from the local limits of any municipality or cantonment board referred to in item (A) and which has a population of more than 10,00,000. The income derived from such building on, or in the immediate vicinity of such land will not be agricultural income. For the purpose of clauses (ii) of the proviso to sub-clause (c) “population” means the population according to the last preceding census of which the relevant figures have been published before the first day of the previous year.

Agricultural Incomes : The following are examples of agricultural incomes.

- (i) Selami or premium received by landlord at the time of transfer of agricultural holdings.
- (ii) Nazars accepted by landlord for dealing with the question of successions, settlement and partition of agricultural land.
- (iii) Income from use of land for grazing of cattle required for agricultural pursuits.
- (iv) Income from lease of land for grazing of cattle required for agricultural pursuits.
- (v) Profit on sale of crop after harvest made by a cultivating owner or tenant.

- (vi) Compensation received from an insurance company for damage caused by hailstorm to the green leaf forms part of agricultural incomes
- (vii) Salary received by a partner or share of profit of a farm engaged in agricultural operation.
- (viii) Income received from the sale of trees which were replanted and subsequent operations were carried out.
- (ix) Fees collected from owners of cattle, normally used for agricultural purposes, for allowing them to graze on forest lands covered by jungles and grass grown spontaneously
- (x) Income from growing flowers and creepers
- (xi) Rent for agricultural land received from the sub-tenants by mortgagee in possession.
- (xii) Income derived from running a dairy which is purely incidental to agricultural and where cattle are pastured upon agricultural land.

Non-agricultural Incomes : The following incomes though connected with land are not agricultural incomes.

1. Incomes from sale of trees from a forest where no tilling or other basic operations were carried and trees are of spontaneous growth.
2. Income from the sale of wild grass.
3. Income from sale of gur or refined sugar acquired by using some manufacturing process.
4. Income from sale of ginned cotton.
5. Interest received by money-lender in the form of agricultural produce.
6. Share of agricultural produce received by a person for supply of water.
7. Remuneration received for managing agricultural farm.
8. Commission received by the landlord for selling the agricultural produce of his tenants.
9. Profit from sale or harvest of an agricultural crop purchased by the assessee as standing crop, may be called as profit from trading operations.

10. Income from sale of fruits of trees of spontaneous growth is not agricultural income.
11. Remuneration received by a person for managing agricultural property is not agricultural income.
12. Income from fishers
13. Royalty income from mines and brick making
14. Interest on arrears of rent of agricultural land.

Partly Agricultural Incomes :

Sometimes income comprises of both agricultural as well as non-agricultural income. In such a situation it becomes necessary to disintegrate such income into two parts – agricultural income and non-agricultural income. The division of agricultural income and business income is to be calculated under Rule 7, 7A, 7B and 8 in the following way.

Partly agricultural and Partly Business Income

Crop	Rule	Agricultural Income	Business Income
Growing and Manufacture of Tea	8	60%	40%
Rubber manufacturing business	7A	65%	35%
Coffee grown and cured by seller	7B(I)	75%	25%
Coffee grown, cured, roasted and grounded	7B(IA)	60%	40%

Integration of Agricultural Income :

With effect from assessment year 1974-75, the agricultural income is integrated with Non-agricultural income in certain cases of assesses. The integration is done only in those cases where assessee has both agricultural and non-agricultural incomes. The partial integration is done to compute the tax on non-agricultural income only when the following two conditions are satisfied.

- i. Integration is done only in case of (i) individuals (ii) Hindu undivided families (iii) Association of Persons, (v) Bodies of Individuals and (vi) Artificial juridical persons.

- ii. Integration is done when non-agricultural income of the assessee exceeds the maximum exemption limit. For the assessment year 2018-19 is the exemption limit is ₹ 2,50,000 in the case of an individual (in case of Senior citizen ₹ 3,00,000 and Super Senior Citizen ₹ 5,00,000) and HUF etc., and
- iii. Integration is done only if net agricultural income exceeds ₹ 5,000

2. Person : The term person includes :

- a) an individual;
- b) a Hindu undivided family;
- c) a company;
- d) a firm;
- e) an association of persons or a body of individuals, whether incorporated or not;
- f) a local authority; and
- g) Every artificial judicial person not falling within any of the proceeding categories.

An Association of person or body of individuals or a local authority or an artificial juridical person shall be deemed to be a person, whether or not such person was formed or established or incorporated with object of deriving income, profits and gains.

3. Assessee :

It is the most commonly used term in relation to Income Tax. Assessee means person by whom income-tax or any other sum of money is payable under the Act. It includes every person in respect of whom any proceeding under the Act has been taken for the assessment of his income or loss or the amount of refund due to him. It also includes a person who is assessable in respect of income or loss of another person or who is deemed to be an assessee, or an assessee in default under any provisions of the Act.

Persons Liable to Pay Income Tax :

- A. Following persons are liable to pay income-tax if their taxable income' in a year exceeds the basic exemption limit for the year:

1. Individuals (including non-residents),
2. Hindu Undivided Families (HUFs)
3. Association of Persons (AOPs)/Bodies of Individuals (BOIs) (where the individual shares of the members are known)
4. Artificial juridical persons, such as, deities of temples
5. Societies and charitable/religious trusts

B. Following persons are liable to pay income-tax irrespective of their income :

1. All partnership firms (including limited liability partnership firms)
2. Co-operative societies
3. Companies
4. Local authorities
5. AOP/BOI where shares of the members are indeterminate or unknown.

1.4 ASSESSMENT YEAR & PREVIOUS YEAR

1. Assessment Year :

Assessment year means the period starting from April 1st and ending on March 31st of the next year. For instance, the assessment year 2018-19 will commence on April 1st, 2018 and will end on March 31st, 2019. Income of previous year of an assessee is taxed during the assessment year at the rates prescribed by the relevant Finance Act.

2. Previous Year :

According to Sec.3 'Previous year' means the financial year immediately preceding the assessment year. For example for the assessment year 2018-19, the previous year is 2017-18 i.e., from 1-4-2017 to 31-3-2018. In case of a business or profession newly set up, or a source of income newly coming into existence, in the said financial year, the previous year shall be the period beginning with the date of setting up of the business or profession or, as the case may be the date on which the source of income newly comes into existence and ending with the said financial year. For example, in case of a newly started business commencing its operation on Vijaya Dasami, 2018 the previous year in relation to the assessment year 2018-19 shall be the

period between Vijaya Dasami, 2018 to March, 2019. Thus, in case of a newly established business the previous year may be less than 12 months.

Exception to the previous year : As a normal rule, the income earned during any previous year is charged to tax in the immediately succeeding assessment year. However, in the following circumstances the income is taxed in the same year in which is earned.

1. **Income of Shipping Business (Section 172) :** In case a non-resident Shipping Company, which has no representative in India, earns income from any Indian port it will not be allowed to leave the port till the tax on such income has been paid or alternative arrangements to pay tax are made in the current year itself.
2. **In case of persons leaving India permanently [Section 174] :** If the Assessing Officer has the reasons to believe that an individual will leave India with no intentions of coming back, he may ask him to pay tax on the income earned during the previous year up to the date of his leaving the country.
3. **Assessment of association of persons or body of individuals or artificial judicial person formed for a particular event or purpose [Sec.174A] :** Where it appears to the Assessing Officer that any association of persons or a body of individuals or an artificial judicial person formed or established or incorporated or immediately after such assessment year, the total income of such person or body or judicial person, for the period from the expiry of the previous year for that assessment year upto the date of its dissolution, shall be chargeable to tax in that assessment year.
4. **In case of persons trying to transfer their assets [Section 175] :** If the Assessing Officer is of the opinion that any person is likely to sell, transfer, dispose off or to part with any of his assets with the intentions to avoid payment of any tax liability, he may ask the to file the return and pay taxes during the previous year itself.
5. **Discontinued business [Section 176] :** In case any business or profession is discontinued during a previous year the income of the period from the expiry of last previous year till the date of discontinuation will be assessed to tax in the current previous year itself.

The power of the Assessing Officer to invoke the provisions of section 176 is discretionary and with reference to the other provisions mentioned above, it is mandatory. In the above cases, the income of the previous year may be taxed as the income of the assessment year immediately preceding the normal assessment at the rates applicable to that assessment year. For example, when a person is likely to leave abroad on 15-9-2018, the assessing officer can assess in his case the income earned from 1-4-2018 to the probable date of departure at the rates applicable to the assessment year 2018-19 itself, though as per the rules he will have to be assessed during 2019-20 assessment year.

1.5 INCOME [Section 2 (24)] :

Generally speaking the word `Income' covers receipts in the shape of money or money's worth which arise with certain regularity or expected regularly from a definite source. However, all receipts do not form the basis of taxation under the Act. According to Section 2(24) `Income' includes the following

- (i) Profits and gains;
- (ii) Dividend;
 - (a) Voluntary contributions received by a trust created wholly or partly for charitable or religious purposes or by an institution established wholly or partly for such religious purposes or by certain other specified associations or institutions;
- (iii) The value of any perquisite or profit in lieu of salary;
 - (a) Any special allowance or benefit, other than perquisite included above, specifically granted to the assessee to meet expenses wholly, necessarily and exclusively for the performance of the duties of an office or employment of profit;
 - (b) Any allowance granted to the assessee either to meet the 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.
- (iv) 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, and 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;

- (a) the value of any benefit or perquisite, whether convertible into money or not, obtained by any representative assessee mentioned in clause (iii) or clause (iv) of sub-section (1) of section 160.
- (b) any sum chargeable to Income tax under clauses (ii) and (iii) of section 28 or section 41 or section 59.
- (v) (a) any sum chargeable to Income tax under clause iii (a), iii (b) , iii(c) and clause (v) of section 28.
- (vi) any capital gains chargeable under section 45.
- (vii) The profits and gains of any business of insurance carried on by a mutual insurance company or by a co-operative society.
- (viii) any profits and gains of any business of banking (including providing credit facilities) carried on by a co-operative society with its members shall constitute part of income .
- (ix) any winnings from lotteries, crossword puzzles, races including horse races, card games and other games of any sort or from gambling or betting of any form or nature whatsoever.
- (x) Any sum received by the assessee from his employees as contributions to any provident fund or super-annuation fund or any fund set up under the provisions of the Employees' State Insurance Act, 1948 or any other fund for the welfare of such employees;
- (xi) Any sum received under a Key-man Insurance Policy including the sum allocated by way of bonus on such policy.
- (xii) Non-compete fee and any compensation for not sharing of any intangible asset such as know-how, patent, trademark referred to in clause (va) to section 28.
- (xiii) Any sum referred to clause (v) of sub-section (2) of section 56 i.e., gift of money and property exceeding ₹ 50,000
- (xiv) The value of property referred to in section 56(2)(viia)
- (xv) Any consideration received for issue of shares as exceeds the fair market value of the shares referred to in section 56(2)(viib) shall be included in income.

Heads of Income :

Income-tax is a composite tax on all incomes received by, or accruing, or arising to, a tax-payer during a previous year. For computing the taxable income, incomes from various sources are computed under five different heads of income. If there are two or more sources of income falling under a head of income, the income is computed separately for each source and then aggregated under the head. The various heads of incomes are [Sec.14]:

1. Salary including allowances, value of perquisites, profits in lieu of salary and pension. [Sec.15 to 17].
2. Income from House Property – whether residential or commercial, let out or self-occupied. [Sec.22 to 27]
3. Profits and Gains of Business or Profession [Sec.28 to 44D]
4. Capital gains [Sec.45 to 55A]
5. Income from other sources including bank interest, interest on securities, lotteries, crossword puzzles, races, games, gifts from unrelated persons exceeding the specified limit etc. [Sec.56 to 59]

Different rules govern the computation of income under these heads.

Gross Total Income :

Gross Total Income means the total income before making any deduction under Sec.80 C to Sec.80U. As per section 14, all income shall, for purposes of Income-tax and computation of total income, classified under the following heads of income as stated below.

- (i) Salaries
- (ii) Income from House property
- (iii) Profits and gains of Business or Profession
- (iv) Capital Gains
- (v) Income from other sources

Aggregate of incomes computed under the above 5 heads, after applying clubbing provisions and making adjustments of set off and carry forward of losses, is known as Gross Total Income (GTI)

Total Income : The total income of an assessee is computed by deducting from the gross total income, all deductions permissible under Chapter VIA of the Income tax Act, i.e., deductions under sections 80 C to 80U.

Calculation of Total Income

		₹	₹	₹
1.	Income from Salaries			
	Salary/Bonus/Commission etc.	x x x		
	Taxable Allowance	x x x		
	Value of Taxable perquisite	x x x		
	Gross Salary		x x x	
	Less : Deductions u/s 16		x x x	
	Net Taxable income from Salary			x x x
2.	Income from House Property			
	Net annual of House Property		x x x	
	Less : Deductions u/s 24		x x x	
	Income form House Property			x x x
3.	Profits and Gains of Business and Profession			
	Net profit as per P & L account		x x x	
	Less/Add : Adjustment required to be made as per provisions of Income tax Act		x x x	
	Profits and Gains of Business and profession			x x x
4.	Capital Gains			
	Capital Gains as computed		x x x	
	Less : exemptions u/s 54/54B/54D etc.		x x x	
	Income from Capital gains			x x x
5.	Income from other sources :			
	Gross Total Income		x x x	
	Less : Deductions u/s 57		x x x	
	Income from Other sources			x x x
	(Income of other persons if any u/s 60 to 64 set off and carry forward of losses u/s 70 to 80)			
6.	Gross Total Income			x x x
	Less : Deductions u/s 80 C to 80 U			x x x
7.	Total Income			x x x

How to Compute Total Income :

In the calculation of Total Income or taxable income of an assessee, the following procedure is to be followed.

1. First we have to determine the residential status of the assessee to find out which income is to be included in the computation of his Total Income.
2. Then we have to calculate separately under each head of income starting from the first head salaries, following by the remaining four heads i.e., come from house property, profit and gain from business or profession, capital gain and other sources.
3. Then adjustments are to be made for set off and carry forward of losses after adding any income of other persons to be included in the total income of the assessee.
4. After getting Gross Total income, we have to provide deduction u/s 80C to 80U.
5. The Total income is to be rounded off to the nearest ten.

1.6 CAPITAL AND REVENUE

After having back ground of definitions and concepts various terms used in the Income Tax Act, let us now try to know concept of capital and revenue items.

The objective of Income-tax Act is to tax only income and items which are construed as income. Generally, revenue receipts are always considered as income chargeable to tax unless specifically exempted. Salary, interest, rent, commission etc. are revenue receipts chargeable to tax. Though share of income received by a partner from a firm is revenue receipt, it is not taxable since it is exempted under section 10(2A). On the other hand, capital receipts are not chargeable to tax except when specifically provided in law. Receipts such as gifts, loan, corpus, donations, compensation for termination of a source of income are normally considered as capital receipts and therefore not chargeable to tax. However, compensation for termination of employment received from an employer is chargeable to tax, even though it is a capital receipt under section 17(3). Similarly, compensation received by an agent for termination of the agency is a capital receipt but it is specifically provided as chargeable to tax u/s 28(ii)[c],

However, distinction between a capital receipt and a revenue receipt should be perceived based on the facts and circumstances of each case. Factors such as the basis of measurement; the quantum and periodicity; the nomenclature used by the parties; nature of the transaction etc. are not final and conclusive in judging a receipt as revenue or capital. For the purpose of taxation of income, capital and revenue have been discussed under the following categories.

1. Capital receipt and revenue receipt
2. Capital expenditure and revenue expenditure
3. Capital loss and revenue loss.

1. Capital and Revenue Receipts :

- (i) **Capital Receipts** : Capital receipts are those receipts which are received on selling capital assets. Ex. : Sale proceeds of a building.
- (ii) **Revenue Receipts** : These receipts arise on account of sale of goods in business. For professionals, amount received for rendering of services is also of revenue nature.

2. Examples of Capital Receipts :

1. Amount realized by the sale of fixed assets
2. Salami or Nazarana received for the grant of permanent lease.
3. Price received for sale of technical know-how
4. Compensation received under an insurance policy for the loss of plant and machinery
5. Damages received by an employee for wrongful termination of services.
6. Compensation received by the employee or any person, from railways, for permanent disablement caused by railway accident.
7. Where foreign currency is kept as an investment or to purchase a capital asset, profit made due to change in the rate of foreign exchange.

3. Examples of Revenue Receipts :

1. Amount realized by the sale of floating assets.

2. Compensation received by a railway passenger for becoming temporarily disabled in railway accident
3. Royalty received in advance or otherwise.
4. Compensation received under an insurance policy for the loss or damage of the goods kept as stock-in-trade.
5. Damages received by a merchant from his customer for breach of contract to buy goods from him. Here, it is in the nature of compensation for loss of future profits.
6. Dividend and interest on investments are revenue receipt as they are received by the use of one's assets by somebody else.
7. Where foreign currency is kept and used for carrying on export business and the businessman makes profit due to change in the rate of foreign exchange, such profit is revenue receipt.

Distinction between Capital and Revenue Receipts :

The following are the differences between capital and revenue receipts.

1. **Nature of Assets :** A receipt on account of fixed asset is capital receipt while a receipt on account of circulating asset is revenue receipt. Amount received on the issue of shares or debentures is a capital receipt while sale proceeds of goods or stock-in-trade is a revenue receipt.
2. **Receipts in the hands of recipient :** The nature of receipt is material in deciding whether a particular receipt is a revenue or capital. When a preference shareholder gets back his amount of capital, it is a capital receipt in the hands of shareholder even if the same is paid out of company's accumulated profits. On the contrary, salary received by employees of a newly started business is a revenue receipt in the hands of the employee in spite of the fact that the payment was paid out of company's capital.
3. **Termination of source of Income :** Any sum received as compensation for the termination of source of income is treated as capital receipt. For example, compensation for loss of employment is a capital receipt while compensation received for temporary disablement is a revenue receipt.

4. **Magnitude of Receipt** : Magnitude of receipt is immaterial. Receipt of royalty in lump-sum is a revenue receipt while proceeds of a fixed asset received in installments of small amount is a capital receipt.
5. **Income of Wasting Assets** : Profits from wasting assets like mines, quarries are chargeable to tax as revenue receipt.
6. **Receipts of compensation for the surrender of certain rights** : An amount received by way of compensation for the surrender of certain rights under an agreement is a capital receipt. When a partner receives an amount from continuing partners under an agreement prohibiting him to run a similar or competitive business, such income is treated as capital receipt. But if a person receives a sum for breach of contract, such income is treated as revenue receipt.
7. **Motive for using the assets** : If the buyer buys goods with the intention to hold it as investment and uses it as source of income, the sale proceeds of such goods are treated as capital receipt. But if goods are purchased with the intention of resale, the sale proceeds of such goods are treated as revenue receipt.

Capital and Revenue Expenditures :

1. **Capital Expenditure** : Amount spent on acquiring of capital assets is termed as capital expenditure. Ex.: amount spent on buying of plant and machinery is the expenditure of capital nature.
2. **Revenue expenditure** : Expenses incurred in day-to-day running of business is known as revenue expenditure. For example, wages and salaries paid is revenue in nature

Examples of Capital Expenditure : The following are the examples

- 1) Cost of goodwill, land, buildings, plant, machinery, tools, furniture and fixtures, patterns and designs.
- 2) Expenditure incurred on erection of plant and machinery
- 3) Legal charges incurred on the acquisition of land and buildings.
- 4) Wages paid for the construction of building of the factory.
- 5) Cost of issuing shares and debentures
- 6) Preliminary expenses of a limited company.

Examples of Revenue Expenditure :

1. All the expenses incurred in the normal conduct and administration of the business.
2. Repairs, replacements and maintenance expenses, incurred on permanent assets and factory building.
3. Expenses incurred in securing business
4. Expenditure incurred on inviting foreign technicians to suggest improved methods of operation.
5. Cost of raw materials and other stock-in-trade used in the business.
6. Legal costs incurred in the course of normal carrying of the business
7. Interest and dividend paid on debentures and shares.
8. Payment made for the use of patents, copyrights and quota rights.

Distinction between Capital and Revenue Expenditure :

The following are the differences between these two expenditures..

1. **Nature of Assets** : Expenditure incurred acquire or install assets like building and machinery is treated as capital expenditure. Expenditure incurred for buying goods for resale is treated as revenue expenditure.
2. **Improvement and Maintenance of Assets** : Any expenditure which brings about an improvement in the earning capacity of an asset is treated as capital expenditure while expenditure incurred for maintaining the working capacity of an existing assets is treated as revenue expenditure.
3. **Nature of Transaction** : If the expenditure is non-recurring in nature, it is treated as capital expenditure whereas if it is of recurring nature it would be treated as revenue expenditure.
4. **Nature of Liability** : When payment is made to discharge the liability of capital nature, such expenditure is treated as capital expenditure. If the payment is made to discharge a revenue liability, it is treated as revenue expenditure.

Capital and Revenue Losses :

Losses may be capital or revenue losses. Capital losses are not deductible, while revenue losses are deductible in computing business profits.

Examples of Capital Losses :

- i) Loss incurred due to damage, destruction etc., of capital assets.
- ii) Loss of advance made for setting up of a new business, which ultimately could not be started.
- iii) Loss incurred due to sale of shares held as investment
- iv) Loss of security deposits made to obtain selling agency.

Examples of Revenue Losses :

- i) Loss of stock-in-trade by fire, in transit, by ravages of white ants, by enemy action during the war, by negligence or fraud of employees or due to theft.
- ii) Loss of business receipts caused by the negligence or dishonestly of the employees.
- iii) Loss caused by embezzlement by the employees.
- iv) Shortage of cash in money lending business.
- v) Loss arising on account of failure on the part of any person, trader or otherwise, to accept delivery of goods.
- vi) Loss due to exchange rate fluctuations in respect of foreign currency, held on revenue account or for utilization in the course of business.

Illu.1 : State, while giving reasons whether the following are capital or revenue receipts.

- 1. Compensation received for compulsory vacation of place of business.***
- 2. Bonus shares received by a dealer of shares.***
- 3. Money received by a Tyre Manufacturing company for sale of technical know-how regarding manufacture of tyre.***
- 4. Dividend and interest for investments.***

Solution :

1. It is a Revenue Receipt since it is received in compensation of profit foregone by the assessee due to compulsory vacation of place of business.
2. It is a Revenue Receipt, if the assessee converted the Bonus shares into stock-in-trade. Otherwise, it is an accretion to the capital asset.
3. It is a Revenue receipt. If the sale of technical know-how results in substantial reduction in value of the Tyre Company or company closes down its business in that particular line then the receipt would be a capital receipt.
4. Assessee gets the income of dividend and interest regularly and from a definite source. It is a return for the use of his asset by somebody else and so it is a revenue receipt.

Illu.2 : State whether the following are capital or revenue receipts.

- 1. Compensation received for nationalization***
- 2. Premium on issue of new shares***
- 3. Sales-tax collected from purchase of goods***
- 4. Annuity***
- 5. Unclaimed dividends***

Solution :

1. Compensation received for nationalization, being a receipt in substitution of a source of income is a capital receipt.
2. Premium on issue of new shares, being received from the shareholders is a part of capital and, therefore, capital receipt.
3. Sales-tax collection from purchaser of goods is not a capital receipt. In a way the business collects it on behalf of the Government and pays. If it is considered a revenue receipt, then any sales-tax payable will also be allowed as revenue expenditure.
4. Annuities are the periodical receipts and generally considered as of revenue nature and, therefore, taxable. But there is a need to differentiate between an

annuity by way of income and the receipt of capital amount in installments. In the latter case it is not taxable.

5. Unclaimed dividends are not a receipt at all. It is neither the recoupment of an allowed loss nor remission of an allowed liability. Dividend distribution is not a revenue item and, therefore, the unclaimed dividend will not be revenue but of
6. Capital nature.

1.7 SELF-ASSESSMENT QUESTIONS

A. Answer the Following

1. Direct Taxes
2. Indirect Taxes
3. Finance Act
4. Assessment year
5. Capital Vs. Revenue losses
6. Assessee
7. Define Person.
8. Previous year
9. What is Total Income?

B. Answer the following questions :

1. Explain the Income Tax and its relation with the Union Budget in India.
2. Explain the Tax system in India.
3. Explain the scope of Income Tax Law in India.
4. What is agricultural income? Explain with examples.
5. Define agricultural income and explain its exemptions.
6. What is Agricultural Income and how is it treated for Tax purposes? \
7. "Though certain incomes arise from agricultural land, they are not regarded of agricultural incomes." Mention those incomes.
8. Partly agricultural income and partly non agricultural income.
9. Recognition of income from agricultural house property
10. Define 'Income'. Explain different types of incomes.
11. What is previous year? How do you determine it? What are the exceptions to the Previous Year?
12. Define the terms Previous Year and Assessment Year.

13. Explain the expectations to the previous year.
14. What are the five heads of Income?
15. Who is an Assessee?
16. How do you compute Total Income of an assessee?
17. Explain tax planning, tax avoidance and tax evasion.
18. Distinguish between revenue and capital expenditures.
19. Give few examples of capital and revenue incomes?

1.8 EXERCISES

1. State whether the following are capital or revenue receipts.
 - (a) Compensation received for nationalization
 - (b) Dividend and interest from investments
 - (c) Unclaimed dividend
 - (d) Premium on the issue of new shares
 - (e) Amount received by an assessee for digging and removing earth from his land for brick making.
 - (f) ₹ 50,000 received as premium for giving 50 shops on hire
 - (g) Sales tax collected from purchasers
 - (h) Compensation received for termination of agency, before the expiry of stipulated period, the only source of income being the agency.
2. State whether the following receipts are capital receipts or revenue receipts, giving reasons.
 - (i) Bonus shares received by a dealer of shares
 - (ii) Annuities
 - (iii) Insurance receipts
 - (iv) Damages received in respect of repairs not carried out in time
 - (v) Compensation received for the cancellation of a contract made in the ordinary course of business.

1.9 REFERENCE BOOKS :

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3. Dr. Vinod K. Singhania, Income Tax, Taxmann Publications, New Delhi.
4. Gaur, V.P., Narang, D.B., Practical Income Tax, Kalyani Publishers, New Delhi
5. Dr. Kiranmayi, Income Tax, Jai Bharath Publishers, Guntur,

Chapter – 2

RESIDENTIAL STATUS

Objectives :

After studying this unit we should be able to

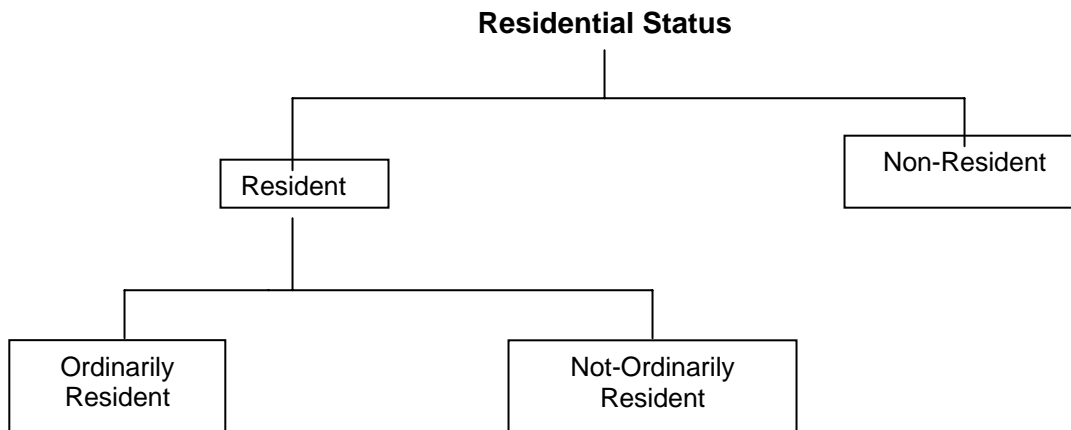
- Determine the Residential Status of assesses
- Understand the meaning of incidence of tax

Structure

- 2.1 Determination of Residential Status
- 2.2 Residential Status – Individuals
- 2.3 Residential Status – HUF
- 2.4 Residential Status and other assesses
- 2.5 Incidence of tax
- 2.6 Self-Assessment Questions
- 2.7 Exercises

2.1 DETERMINATION OF RESIDENTIAL STATUS :

The incidence of tax an assessee depends on his residential status. For instance, whether an income, accrued to an individual outside India, is taxable in India depend upon his/her residential status. Similarly, whether an income earned by a foreign national in India (or outside India) is taxable in India depends on the residential status of the individual, and not on his citizenship.



Basic Rules for determining residential status of an assessee :

The following basic rules must be kept in mind while determining the residential status.

1. **Separate set of Rules** : Residential status is determined for each category of persons separately e.g., there are separate set of rules for determining the residential status of an individual and separate rules for companies, etc.
2. **Previous Year** : Residential status is always determined for the previous year because we have to determine the total income of the previous year only. Residential status of a person is to be determined for every previous year because it may change from year to year. For example A, who is resident of Indian in the previous year 2017-18, may become a non-resident in previous year 2018-19. If a person is resident in India in a previous year relevant to an assessment year in respect of any source of income, he shall be deemed to be resident in India in the previous year relevant to the assessment year in respect of each of his other source of income [Sec.6(5)]
3. **Different countries** : A person may be a resident of more than one country for any previous year. If Y is a resident in India for previous year 2017-18, it does not mean that he cannot be a resident of any other country for that previous year.
4. **Citizenship** : Citizenship of a country and residential status of that country are separate concepts. A person may be an Indian national/citizen, but may not be a resident in India. On the other hand, a person may be a foreign national citizen, but may be a resident in India.
5. **Material facts** : It is the duty of the assessee to place all material facts before the assessing officer to enable him to determine his correct residential status.

Let us study the rules relating to the determination of residential status of various persons.

2.2 INDIVIDUALS [Sec.6(1) and Sec.6(2) :

The conditions laid down in the Income Tax Act, for determining residential status of individuals, may be studied under two heads.

1. Primary conditions; and
2. Secondary conditions

Primary Conditions : There are two primary conditions

- i. An individual is said to be resident in India if he is in India for a period of 182 days or more, during the previous year; or
- ii. He is in India –
 - (a) for a period of 60 days or more during the previous year and
 - (b) for a period of 365 days or more in the 4 years preceding the relevant previous year.

Indian Citizens :

1. Where the individual, being a citizen of India, leaves the country in any previous year, for seeking employment in a foreign country or as a member of the crew of an Indian ship; or
2. Where an individual being, a citizen of India or a foreign national of Indian origin, who is living outside India, comes to India for business official or private purposes, he must stay in India for 182 days instead of 60 days in the context of (b) (i) primary condition.

Indian origin : “Indian origin” means either he or either of his parents or grand parents were born in undivided India.

Foreign bound ships : In the case of foreign bound ships where the destination of the voyage is outside India, there is uncertainty with regard to the manner and basis of determination of the period of stay in India for crew members of such ships who are Indian citizens. In view of the above, section 6(1) has been amended to provide that in the case of an individual, being a citizen of India and a member of the crew of a foreign bound ship leaving India, the period or periods of stay in India shall, in respect of such voyage, be determined in the manner and subject to such conditions as may be prescribed by the Central Board of Direct Taxes.

Secondary conditions : [Sec.6(b)] : The two secondary conditions that must also be considered for determining residential status of an individual are :

- (a) He was non-resident in India 9 previous year out of the 10 preceding previous years preceding the relevant previous year, or
- (b) He was in India, for a period or periods aggregating in all to 729 days or less, during 7 previous years proceeding the relevant previous year.

Status of Individual assessee :

- (i) **Resident and Ordinarily Resident :** The individual will be a Resident and ordinarily resident, if he fulfils any one of the primary conditions and both the secondary conditions.
- (ii) **Resident but not ordinarily Resident :** The individual will be Resident but not ordinarily resident, if he fulfils any one of the primary conditions and only one or none of the secondary conditions.
- (iii) **Non-Resident :** The individual will be a non-resident, if he does not fulfill any one of the two primary conditions. It is not relevant whether he fulfill, any one or both the secondary conditions.

Important explanations :

1. Relevant previous year means the previous year for which the residential status is being determined.
2. In computing the period of stay in India, it is not necessary that the stay should be for a continuous period. What is to be seen is the total number of day's stay in India during the relevant previous year
3. It is also not necessary that the stay should be only at one place, e.g., he may stay at Hyderabad for 90 days and then go out of India. On return in the same previous year.
4. In computing the period of 182 days, the day the individual enters India and the day he leaves India should both be treated as stay in India.
5. Place and purpose of stay in India is immaterial. Presence in territorial waters of India would also be regarded as presence in India.

6. The individual is treated as being in India if he is at any place within the territorial waters of India.

Meaning of employment : The term employment is not defined in the Income Tax Act. A man may employ himself so as to earn profits in many ways. Thus, he can set up an independent practice abroad or businessman can shift his business activities to a foreign country. A person merely undertaking tours abroad in connection with his employment in India would not be eligible for the relaxation provided under exception.

2.3 HINDU UNDIVIDED FAMILY (HUF) : [Sec.6(2), Sec.6(6)]

The Residential of status of Hindu undivided family is to be determined according to Sec.6(2) and Sec.6(6).

1. **Resident :** A Hindu undivided family is said to be resident in India if control and management of its affairs is wholly or partly situated in India.
2. **Non-Resident :** The Hindu undivided family is non-resident in India if control and management of its affairs is wholly or partly situated outside India.
3. **Resident and Ordinarily Resident :** If the control and management of the affairs of the HUF is wholly or partly situated in India and if the manager of the family satisfies the following two additional conditions, the HUF shall be considered as resident and ordinarily resident.
 - (a) He was non-resident in India 9 previous year out of the 10 preceding previous years preceding the relevant previous year, or
 - (b) He was in India, for a period or periods aggregating in all to 729 days or less, during 7 previous years proceeding the relevant previous year.
4. **Resident but not ordinarily resident :** If the control and management of the affairs of the HUF is wholly or partly situated in India but the manager of the family does not satisfy the above mentioned two additional conditions, such HUF shall be considered as resident but not ordinarily resident.

2.4 FIRM, AOP, COMPANY AND EVERY OTHER PERSON [Sec.6(4)]

A firm, Association of Persons (AOP) and every other person other than a company is considered as resident if the control and management is wholly or partly situated in India. If the control and management is wholly situated outside India, such firm, AOP or any other person is considered as non-resident.

Company :

1. **Resident** : The following companies are considered as resident in India.
 - (i) An Indian Company
 - (ii) Any other company whose control and management is situated wholly in India.
2. **Non-Resident** : The company is said to be Non-Resident if it is a foreign company and control of its management of its affairs is situated either partly or wholly outside India.

2.5 INCIDENCE OF TAX

According to section 5, the scope of total income depends upon the residential status of a person for the relevant assessment year. Once the residential status of a person is determined in accordance with Sec.6 of the Income Tax Act, the income chargeable to tax as part of total income shall be identified as follows.

1.Scope of total income of a `Resident' [Section 5(1)] :

- (a) Income received or deemed to be received in India during the relevant accounting year. The place and date of accrual is immaterial.
- (b) Income which accrues or arises or is deemed to accrue or arise in India during the relevant accounting year irrespective of the date and place of its receipt.
- (c) Income accruing during the relevant accounting year outside India whether it is brought or not in India during the year.

2. Scope of Total income of `Not Ordinarily Resident' [Section 5(1)] :

- (a) Income received or deemed to be received in India during the relevant accounting year. The date and place of accrual is immaterial.

(b) Income which accrues or arises or is deemed to accrue or arise in India during the relevant accounting year irrespective of the date and place of its receipt.

(c) Income accruing or deemed to accrue or deemed to be received outside India during the relevant accounting year from a business set up in and controlled from India.

3. Scope of total income of 'Non-Resident' [Section 5(2)] :

(a) Income received or deemed to be received in India during the relevant accounting year. The date and place of accrual is immaterial.

(b) Income which accrues or arises or is deemed to accrue or arise in India during the relevant accounting year irrespective of the date and place of its receipt.

(I) **Income deemed to be received in India [Section 7] :** Income deemed to be received means income not received but it is deemed to be received. The following incomes are considered as deemed to be received in India.

(a) Annual accretion to the credit balance of employee's Recognised Provident Fund.

(b) Transfer balance of Unrecognised Provident Fund to Recognised Provident Fund.

(c) Tax deducted at source

(d) Dividend distributed or deemed to be distributed.

(II) **Income which accrues and arises in India :** Income is said to accrue or arise when the right to received the income becomes vested in the assessee.

(III) **Income deemed to arise or accrue in India [Section 9] :** Under Sec.9 income, though not actually accrues or arises in India, is deemed to accrue or arise in India in the following circumstances.

(a) Income accruing or arising directly or indirectly through or from any business connection in India or through or from any property or through the transfer of the capital asset situated in India.

(b) Income under salaries if such salaries are earned in India.

(c) Income under salaries payable by Government to a citizen of India for service rendered outside India.

- (d) Dividend paid by an Indian company outside India.
- (e) Interest, royalty or fees for technical service payable by : (i) the Government; (ii) the resident except where such income is payable from any source outside India; (iii) the Non-Resident where such income is payable from source in India.
- (f) Salary payable abroad by the Government to a citizen of India.

Incidence of Tax

	Kinds of Income	Taxability of Income		
		Resident	Not-Ordinarily Resident	Non-Resident
1.	Income received or deemed to be received in India	Yes	Yes	Yes
2.	Income earned/accrued or deemed to be earned/accrued in India, whether received within or outside India	Yes	Yes	Yes
3.	Income earned and received outside India from a business controlled from or a profession setup in India	Yes	Yes	No
4.	Income earned and received outside India – foreign income	Yes	No	No
5.	Income earned and received outside India, in the earlier years but brought to India in the previous year	No	No	No
	Total Income	XXX	XXX	XXX

Yes = Taxable; No = Not taxable.

Income deemed to accrue or arise in India :

Certain activities related to diamond trading in “Special Notified Zone” will not create a business connection in India [Clause (e) inserted in Explanation 1 to section 9(1) (i)] : In order to facilitate the FMCs to undertake activity of display of uncut diamond (without any sorting or sale) in the special notified zone, the Finance Act has inserted the following clause (e) in Explanation 1 to section 9(1) (i) in the case of a foreign company engaged in the business of mining of diamonds, no income shall be deemed to accrue or arise in India to it through or from the activities which are confined

to display of uncut and unasserted diamond in any Special Zone notified the Central Government in the Official Gazette in this behalf.

Illustrations

Illu.1 : Mrs. Ramya left India for the first time on October 5, 2017. Determine her residential status for A.Y. 2018-19.

Solution :

Period of Mrs. Ramya's stay in India during 2017-18 188 days i.e. more than 182 days. Thus, condition (i) of Sec.6 is satisfied and Mrs. Ramya becomes resident in India for Assessment Year 2018-19.

Illu.2 : Mr. Paul left India for the first time on May 20, 2016. During the year 2017-18 Mr. Paul came to India on May 27, 2017 and stayed for a period of 65 days. Determine his residential status for Assessment Year 2018-19.

Solution :

Period of Mr. Paul's stay in India during 2017-18 for 65 days i.e. less than 182 days but more than 60 days.* Thus, condition (i) of Sec.6 is not satisfied, and a part of condition (ii) is satisfied.

Period of Mr. Paul's stay in India during four preceding years 780 days i.e. more than 365 days. Thus, condition (ii) of Sec.6 is fully satisfied, and Mr. Paul is resident for Assessment Year. 2018-19.

* In case Mr. Paul is citizen in India/person of Indian origin (PIO), coming on a visit to India, he is required to stay for at least 182 days during the previous year for being a resident. The minimum stay of 182 days is also required in case a citizen of India/PIO goes out of India for employment during the previous year.

Illu.3 : Mr. Sinha left India for the first time on May 20, 2017. Determine the residential status for Assessment Year 2018-19.

Solution :

Period of Mr. Sinha's stay in India during 2017-18 500 days i.e. less than 182 days and also less than 60 days. Thus, both conditions (i) and (ii) of Sec.6 are not satisfied. Hence, Mr. Sinha was a non-resident for Assessment Year 2018-19.

Illu.4 : Mrs. Ragini came to India for the first time on April 16, 2015. She stayed in India up to October 5, 2017, before her departure from India. Determine her residential status for Assessment Year 2018-19.

Solution :

Period of Mrs. Ragini's stay in India during 2017 -18 188 days i.e. more than 182 days. Thus, condition (i) of Sec.6 is satisfied and hence, Mrs. Ragini is resident for Assessment year 2018-19.

Mrs. Ragini's residential status during preceding ten years is as under:

2007-08 to 2014 -15 (8 years)	Non-resident since throughout stayed outside India
2015-16	Resident (since stayed in India for 350 days)
2016-17	Resident (since throughout stayed in India)

Thus, Mrs. Ragini was non-resident in eight out of ten preceding years. Condition (a) of Sec.6(6) is not satisfied.

Period of Mrs. Ragini's stay in India during the seven preceding years.

2010-11 to 2014-15	Nil	
2015-16	351 days	
2016-17	365 days	716 days, i.e. less than 730 days

Condition (b) of Sec.6(6) is satisfied. But to become Resident one should satisfy both the conditions. Thus, Mrs. Ragini is a **Not Ordinarily Resident** for Assessment Year 2018-19.

Illu.5 : Bhaskara Rao (44 years) is a citizen of India. He left India for the first time on September 20, 2017 for the purpose of working on an overseas project of his employer-company: Zapri Ltd., an Indian company. He will come back on October 10, 2018. Find out his residential status for the assessment year 2018-19 and 2019-20.

Solution:**Assessment Year 2018-19 :**

Bhaskara Rao is an Indian citizen. During the previous year he is employed an Indian company in India. However, to work on an overseas project of the employer-company he left India on September 20, 2017. This is his first foreign trip. During the previous year 2017-18, he was in India for 173 days. As he is an Indian citizen and leaves India for employment purposes, he can become resident in India only if he is in India for at least 182 days. Since he is in India only for 173 days, he will be non-resident in India for the previous year 2017-18 (i.e., assessment year 2018-19).

Assessment year 2019-20 :

In the previous year 2018-19, Bhaskara Rao will come back on October 10, 2018. It cannot be said that he has come to India during the previous year 2018-19, on a "visit". Consequently he can become resident in India by satisfying any of the two basic conditions. During the previous year 2018-19, he was in India for more than 60 days and during earlier 4 years, he is in India for more than 365 days. He is, therefore, resident in India. Moreover, he satisfied 2 additional conditions, as prior to September 20, 2017 he was never out of India. He was resident and ordinarily resident in India for the previous year 2018-19 (i.e., assessment year 2019-20).

Illu.6 : For the previous year 2017-18, Sravan reports the following income.

		Rs.
1.	Fees for technical services paid by a non-resident company for a project situated outside India (income is received out side India and later on it is gifted to Mrs. Sravan)	97,000
2.	Income from a profession set up in India, service is rendered from India but amount is received in Canada (later on remitted to India)	1,24,000
3.	Rental income from house property situated in Nepal (amount is received in USA which is entirely used for the education of his daughter in USA)	80,000
4.	Agricultural income from Bhutan (received in Nepal and agricultural operations are controlled from India)	2,00,000
5.	Agricultural income from Andhra Pradesh	70,000

6.	Rental income of property situated in Nepal pertaining to the previous year 2016-17 is remitted to India in the current year	75,000
7.	Technical fees paid by Government of India for a foreign project (amount is received out side India)	90,000

Find out the income of Sravan chargeable to tax for the assessment year 2018-19 if Sravan is (i) resident and ordinarily resident; (ii) resident but not ordinarily resident and (iii) non-resident in India.

Solution:

**Calculation of Taxable Income of Mr. Sravan
(Assessment year 2018-19)**

S.No.	Particulars	Resident Rs.	Not ordinarily resident Rs.	Non- resident Rs.
1.	Fees for technical services	97,000	Nil	Nil
2.	Income from Profession set up in India	1,24,000	1,24,000	1,24,000
3.	Income from House property in Nepal	80,000	Nil	Nil
4.	Agricultural income from Bhutan	2,00,000	2,00,000	Nil
5.	Agricultural Income from Andhra Pradesh	Nil	Nil	Nil
5.	Income of earlier year remitted to India	Nil	Nil	Nil
6.	Technical fees by Government of India	90,000	90,000	90,000
	Net income	5,91,000	4,14,000	2,14,000

Illu.7 : The following information is submitted by Mr. Ramana for the assessment year 2018-19 (i.e., previous year ending March 31, 2018) :

		Rs.
1.	Capital gain on sale of a property situated in Tirupathi (amount is received in Mauritius)	17,10,000
2.	Income from a business in Tirupathi controlled from Bangladesh	21,50,000
3.	Income from a business in Bangladesh controlled from Tirupathi (amount is received in Bangladesh)	15,90,000

4.	Rent from a commercial property in USA received in Bangladesh but later on remitted to India	28,80,000
5.	Consultancy fees received from an Indian company (for a project situated in USA) (amount is deposited in his account with Citibank, Tirupathi branch, however, it is withdrawn by him in Bangladesh)	9,50,000
6.	Interest from deposits with an Indian company received in Bangladesh	2,30,000
7.	Profits for the year 2016-17 of a business in Bangladesh remitted to India during the previous year 2017-18 (not taxed in India earlier)	7,70,000
8.	Gift received from parents of Mrs. Ramana	10,00,000
9.	Royalty received from the Government of West Bengal (paid to him in Bangladesh for project situated in Bangladesh)	3,00,000

Determine the net income of Mr. Ramana for the assessment year 2018-19 in the following cases if Mr. Ramana is (a) Resident (b) Not Ordinarily resident and (c) Non Resident.

Solution:

**Calculation of Total Income of Mr. Ramana
(Assessment year 2018-19)**

S.No.	Particulars	Resident Rs.	Not ordinarily Resident Rs.	Non Resident Rs.
1.	Capital gain on transfer of Tirupathi property	17,10,000	17,10,000	17,10,000
2.	Business income in Tirupathi	21,50,000	21,50,000	21,50,000
3.	Business income in Bangladesh (*business is controlled from Tirupathi)	15,90,000	15,90,000*	Nil
5.	Rent from USA property	28,80,000	Nil	Nil
6.	Consultancy fees from Indian company	9,50,000	9,50,000	9,50,000
7.	Interest on deposit with an Indian company	2,30,000	2,30,000	2,30,000
8.	Passed untaxed profit	Nil	Nil	Nil
9.	Gift from relatives	Nil	Nil	Nil
10.	Royalty from Government	3,00,000	3,00,000	3,00,000
	Net income	98,10,000	69,30,000	53,40,000

Illu.8 : Mr. Venkatesh has the following incomes during the Assessment Year 2018-19 (previous Year 2017-18):

		Rs.
(a)	Dividends on shares in Indian companies credited to his account outside India	5,000
(b)	Interest on bank accounts in India	5,000
(c)	Royalty from books published in India	20,000
(d)	Interest on capital from firm outside India but controlled in India	25,000
(e)	Remuneration for technical services rendered outside India, paid by an Indian company	50,000
(f)	Interest on bank deposits outside India	15,000

Solution:

Total income of Mr. Venkatesh (Assessment Year 2018-19)

		Rs.
(i)	If Mr. Venkatesh is 'Resident' in India Gross Total Income = (b) + (c) + (d) + (e) + (f) = Note: Dividends from Indian companies are fully exempt u/s 10(34).	1,15,000
(ii)	If Mr. Venkatesh is 'Resident but Not Ordinarily Resident' Gross Total Income = (b) + (c) + (d) = Interest on foreign deposits and remuneration for technical services rendered outside payable by a resident person are not deemed to accrue or arise in India.	50,000
(iii)	If Mr. Venkatesh's is 'Non-Resident' Gross Total Income = (b) + (c) = In case of Non-Resident foreign incomes are excluded.	25,000

2.6 SELF-ASSESSMENT QUESTIONS

Answer the Following Questions :

1. What is Residential Status?
2. How did you determine the Residential Status of Individuals?
3. How did you determine the Residential Status of HUF?

4. How did you determine the Residential Status of Firm and a company?
5. What is Incidence of Tax?
6. "Incidence of Tax depends on the Residential Status of an assessee" Discuss.

2.7 EXERCISES

1. Mr. Robert, a French national, came to India for the first time during 2013-14. During the financial year 2013-14, 2014-15 2015-16, 2016-17 and 2017-18 he was in India for 55 days, 60 days, 80 days, 160 days and 70 days respectively. Determine his residential status for the assessment year 2018-19.

[Ans.: Non Resident]

2. Mr. Swamy is a citizen of India, after working for 15 years in a firm at Chennai, left for London on October 1, 2017 and came back to India after March 31st, 2018. What is his residential status?

[Ans.: Resident and Ordinarily Resident]

3. On 1st April, 2013 Mr. James left India on business affairs and came back on 5th April, 2017. Again he left India May 1st, 2017 and returned back on December 2017. Determine his residential status for the previous year 2017-18.

[Ans.: Non-Resident]

4. John Keats came to India from Germany the first time on 30th September, 2010 to join in a German company as a General Manager. After reporting for duty, he left for USA on 2nd October, 2011 to finalize the company's transactions. He returned to India on 10th October, 2011 and stayed in India till 31st July, 2016 when he went back to the Germany. He again came back to join duty on 10th November, 2017. What is his residential status for the previous year 2017-18? Give reasons.

[Ans.: Resident and Ordinarily Resident]

5. Mr. Ganesh being an Indian citizen, got a job offer in USA. He wants to stay in India as long as possible, and to be a non – resident in India. Advise him, when should he depart for USA?

[Ans.: To be treated as Non-Resident he should depart from India on September, 29, 2017]

6. Ms. Kavitha, an engineer, left India (first time) for Los Angeles on 15th March, 2017 for taking practical training there. She returned to India on 24th January, 2018. She

never left India in past. Determine her residential status for the Assessment Year 2018-19.

[Ans.: Non-Resident]

7. On 1st June, 2015, Mrs. Mary a Syrian citizen, leaves India after a period of 10 years stay. During the financial year 2016-17, she comes to India for a period of 46 days. Later, she returns to India for one year on 10th October, 2017 Determine Mrs. Mary's residential status for the Assessment Year 2018-19.

[Ans.: Resident]

Hindu Undivided Family :

8. Mr. Ranadheer is Karta of a HUF whose property is situated in Bangladesh. During the previous year 2017-18 he came to India with his family for 15 days and went back leaving his family in India. Determine the residential status of India.

[Ans.: Non-resident]

9. Mr. Ramayya Chowdary is the kartha of HUF. The business of the HUF is transacted from Canada and all the policy decisions are taken from there. Mr. Ramayya Chowdary who was born in Anathapur, visits India during the Previous Year 2017-18 after 15 years. He comes to India on 1-4-17 and leaves for USA on 1-12-17. Determine the Residential Status of Mr. Chowdary and the HUF for the Assessment year 2018-19.

[Ans.: Non-Resident]

Company.

10. A company is floated in Bangkok with the head office in Hong Kong for importing iron ore from India. The company has a resident manager in Hyderabad to look after its interest. The Board of Directors of the company used to come to Bangalore and take decisions at the office of the resident manager, in view of the importance of Iron Ore to their company. Decide the residential status of the company?

[Ans.: Resident in India]

11. The following incomes are earned by Mr. Surya during the previous year 2017-18.

- (i) Profit from business in Iran received in India ₹ 5,000.
- (ii) Income from House property in Iran received in India ₹ 5,000.

- (iii) Income from House property in Pakistan deposited in a Bank there ₹ 1,000.
- (iv) Profits of business established in Pakistan deposited in a bank there ₹ 20,000 (out of ₹ 20,000 a sum of ₹ 10,000 is brought into India). This business is controlled in India.
- (v) Accrued in India but received in England ₹ 2,000
- (vi) Profit earned from business in Kanpur ₹ 6,000
- (vii) Income from agriculture in England – It is all spent on the education of children in London ₹ 5,000
- (viii) Past untaxed foreign income brought into India during the previous year ₹ 10,000.

From the above particulars ascertain the taxable income if Mr. Surya is (i) resident (ii) not ordinary resident and (iii) non-resident for the Assessment Year 2018-19.

[Ans.: (i) Rs.44,000; (ii) Rs.38,000; (iii) Rs.18,000]

12. Following are the incomes of Mr. Singhanian a citizen of India, for the previous year 2017-18.

	₹
1. Interest on Savings Bank deposit in Syndicate Bank, Tirupathi	12,000
2. Income from agriculture in Africa invested in Brazil	5,000
3. Dividends received in London from a foreign company out of which ₹ 2,000 were remitted to India	12,000
4. Salary drawn for two months for working in India Embassy's office in Jamaica and salary received there	48,000
5. Income from house property. (The building is situated in Turkey and the balance remitted to India)	25,000
6. Pension received in Italy for services rendered in India.	10,000

You are required to compute his gross total income for the assessment year 2018-19 if he is (a) a resident and ordinarily resident, (b) not ordinarily resident, and (c) a non-resident.

[Ans.: (a) Rs.1,12,000; (b) Rs.70,000; (c) Rs.70,000]

13. For the previous year ended 31.3.2018. Mrs. Kavitha had the following income:

		₹
1.	Honorarium received from government of India (₹ 15,000 was incurred as traveling expenses in this connection)	1,00,000
2.	Profits earned from a business in Gujarat controlled from USA	5,00,000
3.	Royalty received from Government of India	60,000
4.	Profit earned from a business in Nepal, controlled from Khatmandu and credited to his personal account in the bank there	40,000
5.	Dividend from an Canada company credited to his account in Germany	20,000
6.	Agriculture income from Australia not remitted to India	6,00,000

Compute the taxable income of Mrs. Kavitha for the assessment year 2018-19 if she is a (a) Resident and ordinarily resident; (b) Not ordinarily resident; or (c) Non-resident.

[Ans.: (a) Rs.13,05,000; (b) Rs.6,45,000; (c) Rs.6,40,000]

14. During the financial year 2017-18 Mrs. Kazal had the following income:

	₹
Fees for technical services paid by a non-resident for a business outside India	20,000
Income from profession in India, but received in USA	6,000
Property income in Uganda (out of which ₹ 6,000 was remitted to India)	16,000
Profits earned from agriculture in A.P.	15,000
Agricultural income in Bangladesh	20,000
Past untaxed profits remitted to India during the previous year from Australia	1,00,000

Compute the income of Mrs. Kazal for the assessment year 2018-19 if she is (i) resident and ordinarily resident, (ii) not ordinarily resident, and (iii) non-resident in India.

[Ans.: (i) Rs.62,000; (ii) Rs.6,000; (iii) Rs.6,000]

15. Mrs. Hemamalini provides the following details of income. Compute her income being liable to tax in India for the Assessment year 2018-19 assuming that she is (a) Ordinarily resident (b) Not ordinarily resident (c) Non-Resident.

Particulars	₹
1. Income from sale of property of Jaipur (30% consideration received in India)	1,00,000
2. Dividend from Indian company received outside India	20,000
3. Foreign company Dividend received in India	15,000
4. Foreign company Dividend received outside India	47,000
5. Income from sale of house property situated in USA (80% consideration received in India)	30,00,000
6. Royalty received from the Government of India	10,000
7. Income received in France from a business being controlled from India	1,00,000

[Ans: (a) Rs.32,72,000; (b) Rs.26,25,000 (c) Rs.25,25,000]

16. Mr. Milton, a British national came to India for the first time on 1st November, 2017 for a period of six months. He declared following incomes during the previous year ending 31st March, 2018:

- (i) Salary received in India for four months at the rate of ₹ 75,000 per month.
- (ii) Interest on fixed deposit in a bank in India: ₹ 50,000.
- (iii) Income from agriculture in USA: ₹ 10,00,000
- (iv) Income from a business in Nepal being controlled from India: ₹ 2,00,000
- (v) Salary earned in USA brought into in the previous year: ₹ 5,00,000

You are required to compute Milton's taxable income for the assessment year 2018-19.

[Ans: Rs.3,50,000]

17. The following is the income of Mr. Janardhana for the previous year 2017-18.

	₹
Profits from business in Dubai received in India.	8,00,000
Income from house property in Nepal received in India.	1,20,000
Income from house property in Sri Lanka deposited in a bank there.	1,80,000
Profits of business established in Canada deposited in a	

Bank there, this business is controlled in India	
(out of ₹ 2,00,000 a sum of 1,00,000 is remitted in India)	2,00,000
Income from profession in India but received in England.	2,40,000
Profits earned from business in Kanpur.	1,60,000
Income from agriculture in France, it is all spent on the	
Education of children in Paris .	2,70,000

From the above particulars ascertain the taxable income of Mr. Janardhan for the assessment year 2018-19, if Mr. Janardhan is (i) a resident and ordinarily resident, (ii) not ordinarily resident, and (iii) a non – resident.

[Ans: (i) Rs.19,70,000; (ii) Rs.15,20,000; (iii) Rs.13,20,000]

Chapter - 3

EXEMPTED INCOMES

Objectives :

After studying this Chapter we should be able to :

- Know the list of the exempted incomes from total income as well as from tax
- Explain certain important exempted incomes
- Discuss the complete tax holiday for new SEZ units.

Structure**3.1 Introduction****3.2 Incomes not included in Total Income [Section 10]****3.3 Complete Tax Holiday for New SEZ Units****3.4 Self-Assessment Questions**

3.1. INTRODUCTION

All receipts, which give rise to income, are taxable under the Income Tax Act unless it is specifically provided that it does not form part of total income. Such incomes which do not form part of total income may also be called incomes exempt from tax. As per section 10 to 13A, certain incomes are either totally exempt from tax or exempt up to a certain amount. Therefore, these incomes to the extent these are exempt, are not included in the total income of an assessee for computation of his total income.

Incomes which do not form part of Total Income : The following incomes do not form part of total income.

- (a) Incomes not included in total income of any person [Sec.10]
- (b) Income of newly established units in Special Economic Zones [Sec.10AA]
- (c) Income form property held for charitable or religious purposes [Sec.11-13]
- (d) Income of political parties [Sec.13A]
- (e) Voluntary contribution received by an electoral trust [Sec.13B]

In addition to above exemptions, there are certain exemptions of income tax given under other statutes.

3.2 INCOMES NOT INCLUDED IN TOTAL INCOME [Section 10]

- 1. Agricultural Income:** Income from agriculture is exempt. However, if the net agricultural income exceeds Rs.5,000, it is taken into account for determining the rates of income-tax on incomes liable to tax. [Sec.10 (1)]
- 2. Receipt from Hindu Undivided Family:** Any sum received by an individual as a member of Hindu Undivided Family where such sum has been paid out of the income of the family or in the case of any impartible estate, where such sum has been paid out of the income of the estate belonging to the family, irrespective of whether tax is payable or not by the HUF on its total income. However, certain receipts from HUF are liable to be clubbed in the hands of an individual member u/s 64(2). [Sec.10 (2)]
- 3. Partner's Share in the Firm's Income:** In the case of a person being a partner of a firm which is separately assessed as such, partner's share in the total income of the firm is exempt. Share of a partner of the firm shall be computed by dividing the total income of the firm in the profit sharing ratio mentioned in the Partnership Deed. [Sec.10 (2A)]
- 4. Certain Interest Incomes of Non-Residents:**
 - (i)** Interest on securities/bonds specified by the Central Government upto 31.5.2002. Premium on their redemption is also exempt. [Sec.10(4)(i)]
 - (ii)** Interest on Non-Resident (External) Account held by a person resident outside India or a person who has been permitted by the Reserve Bank of India to maintain such account. [Sec.10(4)(ii)]
 - (iii)** Interest on specified saving certificates issued before 1.6.2002 by the Central Government, subscribed by a Non-Resident Indian in convertible foreign exchange remitted from outside India through official channels. [Sec.10(4B)]
- 5. Value of Leave Travel Concession:** Value of any leave travel concession or assistance received by or due from the employer to employee (including non-citizens) and his family (spouse, children and dependent- father, mother, brother, sister dependent on him) in connection with his proceeding on leave or after retirement or termination of his service to any part of India. [Sec.10(5)]

- 6. Income of Foreigners:** Following incomes in respect of foreigners are exempt:
- (a) Remuneration to an official of Embassy, High Commission, Legation, Affairs, Commissioner, Consulate or trade representative of a foreign State, or as a member of staff of any of these officials. [Sec. 10(6)(ii)]
 - (b) Remuneration received by employees of foreign enterprises. [Sec.10(6)(vi)]
 - (c) Salaries to non-residents employed on a foreign ship. [Sec.10(6)(viii)]
 - (d) Remuneration received by certain foreigners, on training in certain establishments. [Sec.10(6)(xi)]
- 7. Tax paid by a person on behalf of another:** Tax paid by following persons on behalf of another, shall not be included in the total income of the latter:
- (a) Tax paid by Government or an Indian concern on behalf of a foreign company in respect of royalty or fees for technical service paid under an agreement entered into after 31.3.1976 but before 1.6.2002, and either in accordance with the Industrial Policy of the Government or approved by the Central Government. [Sec.10(6A)]
 - (b) Tax paid by Government or an Indian Concern on behalf of a non-resident or a foreign company in respect of its income under an agreement entered into before 1.6.2002. [Sec.10(6B)]
 - (c) Tax paid by an Indian Company on behalf of a foreign Govt. or a foreign enterprise on income by way of consideration for acquiring an aircraft or an aircraft engine on lease, under an agreement entered into after 31.3.1997 but before 1.4.1999 or after 31.3.2007 and approved by the Central Government. [Sec.10(6BB)]
- 8. Income by way of Royalty or Fees for Technical Services,** arising to a foreign company under an agreement with the Central Govt., in connection with projects on Indian security. [Sec.10(6C)]
- 10(6D) : With effect from 1-4-2018 (Assessment Year 2018-19) : New clause introduced – Fees for Technical Services or Royalty Income from National Technical Research Organization shall be exempt for Non Resident or a Foreign Company**
- 9. Allowances/Perquisites for services rendered outside India** paid or allowed outside India by the Government to an Indian citizen. [Sec.10(7)]
- 10. Income of a Technical Assistant under a Co-operative Technical Assistance Programme:**

- (a) Remuneration received by an individual who is assigned duties in India in connection with any co-operative technical assistance programme or project under an agreement between Government of India and a foreign Government, directly or indirectly from such foreign Government.
- (b) Any other income of such individual which accrues or arises outside India and is taxable in such foreign country. [Sec.101(8)]

11. Income of a Consultant under a Technical Assistance Grant Agreement:

Income of a consultant who is engaged by an international organisation (hereinafter called 'agency') for rendering technical services in India in connection with any technical assistance programme or project under an agreement, approved by the prescribed authority, between the Central Government and the agency, in the form of –

- (a) Any remuneration or fee received directly or indirectly out of the funds made available to the agency, and
- (b) Any other income which accrues or arises outside India and is taxable in the country of consultant's origin. [Sec.10(8A)]

Note: 'Consultant' means an individual who is either not a citizen of India or is not ordinarily resident in India, or any other non-resident person.

12. Income of an Employee of a Consultant, referred to in clause (8A) above, who is assigned duties in India in connection with any technical assistance programme or project under an agreement [referred under clause (8A) above], in the form of –

- (a) Remuneration received directly or indirectly from such Consultant, and
- (b) Any other income which accrues or arises outside India and is taxable in the country of his origin. The individual/employee should either be not a citizen of India or not ordinarily resident in India. [Sec.10(8B)]

13. Income of a Family Member of a Technical Assistant/Consultant/Employee referred to in clauses (8), (8A) or (8B) above, as the case may be, accompanying him to India, which accrues or arises outside India and is taxable in that foreign State or the country of origin of such member. [Sec.10(9)]

14. Death-cum-retirement gratuity :

- (i) Any death-cum-retirement gratuity under the CCS (Pension) Rules, 1972 or under any similar schemes received by all categories of Central and State Government employees;

- (ii) Any gratuity received under section 4(2) and (3) of the Payment of Gratuity Act, 1972.
 - (iii) Any other gratuity received on retirement, termination or death, by the employee, his widow or dependents subject to a maximum of one-half month's salary for each year of completed service based on average salary or preceding ten months or Rs.10,00,000, whichever is less. [Sec.10(10)]
- 15. Commuted Pension :** Any payment in commutation of pension –
 - (i) Received under the Civil Pension (Commutation) Rules or under any other scheme of Central/State Government.
 - (ii) Received from any other employer subject to a maximum of -
 - (a) 1/3rd of the commuted value of such pension, in case the employee receives any gratuity; and
 - (b) 1/2 of the commuted value of such pension, in any other case;
 - (iii) Received from a pension fund set up by Life Insurance Corporation or any other insurer, referred under section 10 (23AAB). [Sec.10(10A)]
- 16. Leave Encashment :** Any payment received by a Central/State Govt. employee, as cash equivalent of leave salary in respect of period of earned leave at his credit at the time of his retirement whether on superannuation or otherwise. However, in case of other employees the exemption is available subject to specified limits. For details see 'Receipts Exempt from Income Tax' in the chapter 'Salary'. [Sec.10(10AA)]
- 17. Compensation to Employee:** Any compensation received by a workman under Industrial Disputes Act or under any other Act or rules, order or notification issued there under or under any standing order or under any award, contract of service or otherwise at the time of his retrenchment is exempt to the extent such compensation is in accordance with Section 25F (b) of Industrial Disputes Act, subject to a maximum of Rs.5,00,000.

However, the compensation received under any scheme approved by the Central Government is exempt without any limit. [Sec.10(10B)]
- 18. Payment under Bhopal Gas Leak Disaster (Processing of Claims) Act, 1985/** any scheme framed there under. [Sec.10(10BB)]
- 19. Compensation on account of a Disaster** received/receivable from Central/State Government or local authority, by an individual or his legal heir (excluding any amount allowed as a deduction). [Sec.10(10BC)]

20. Payment on Voluntary Retirement: Any payment, received or receivable by an employee of – (i) a public sector company, or (ii) any other company, or (iii) any authority established under a Central, State or Provincial Act, or (iv) a local authority, or (v) a co-operative society, or (vi) a University (including a deemed University), or (vii) an Indian Institute of Technology, or (viii) any State Government, or (ix) the Central Government, or (x) a notified institution having importance throughout India or in any State or States, or (xi) a notified institute of management, on his voluntary retirement or termination of service in accordance with any scheme of voluntary retirement or a scheme of voluntary separation in case of a public sector company, subject to a maximum of Rs.5 lakhs. [Sec.10(10C)]

Note: Exemption shall not be allowed for an amount in respect of which relief u/s 80 has been allowed to the assessee for any assessment year.

21. Tax paid by an Employer on any income by way of Perquisites, on behalf of his employee. [Sec.10(10CC)]

22. Payment/Bonus under a Life Insurance Policy: Any sum received under a life insurance policy, including any bonus allocated on such policy. However, sums received under following policies are taxable –

- (i) A policy referred to in Section 80DD or section 80DDA, or
- (ii) A Keyman Insurance Policy on the life of any former or present employee or any person connected with the business (including a policy assigned to the keyman during the term of the policy), or
- (iii) An insurance policy issued on or after 1.4.2003 but upto 31.3.2012 in respect of which the premium payable for any year exceeds 20% of the actual capital sum assured (without considering the value of any premium agreed to be returned or any bonus, etc.), except in case of amount received on the death of a person, or
- (iv) An insurance policy issued on or after 1.4.2012 [not covered in clause (v) below', in respect of which the premium payable for any year exceeds 10% of the actual capital sum assured (that is, the minimum amount assured under the policy without considering the value of any premium agreed to be returned or any bonus etc.), except in case of amount received on the death of person, or
- (v) An insurance policy issued on or after 1.4.2013, on the life of a person suffering with a disability/severe disability referred u/s 80U or a

disease/ailment specified u/s 80DDB, in respect of which the premium payable for any year exceeds 15% of the actual capital sum assured (i.e. the minimum amount assured under the policy without considering the value of any premium agreed to be returned or any bonus etc.) except in case of amount received on the death of a person. [Sec.10(10D)]

- 23. Payment from Provident Fund:** Any payment (including interest) from a provident fund under Provident Fund Act, 1925 or Public Provident Fund Scheme, 1968. [Sec.10(11)]
- 24. Payment from Sukanya Samridhhi Account:** Any payment from an account under the Sukanya Samridhhi Account Rules, 2014 [Sec.10(11A)]
- 25. Accumulated Balance of Recognised Provident Fund:** Any accumulated balance due and becoming payable to an employee from a recognised provident fund, on fulfillment of any of the following conditions:
- (i) If he has rendered a continuous services of five years or more; or
 - (ii) If his service, though not as stated in (i) above, has been terminated due to his ill-health or by the contraction or discontinuation of his employer's business or any other cause beyond his control; or
 - (iii) If on cessation of his employment, his accumulated balance is transferred to recognised provident fund maintained by his new employer; or
- 26. 40% of the total amount payable from the National Pension System Trust** to an employee closure of his account or on his opting out of the pension scheme referred to in section 80CCD. [Sec.10(12A)]
- 10(12A) : Existing Provision – 40% Exemption is provided to an employee of the amount received from National Pension system Trust on account of closure of the account or opting out of the pension scheme.**
- With effect from 1-4-2019 (Assessment year 2019-2020) : Similar Exemption is provided to every assessee when he closes such account or opts out of the scheme.**
- 27. Partial Withdrawal** by an employee from his account under the pension scheme referred to in section 80CCD (i.e. National Pensional System), in accordance with PFRDA regulations in this regard, upto 25% of the amount of contributions made by him. [Sec.10(12B)]

- 28. Payment from Superannuation Fund:** Any payment from an approved superannuation fund made –
- (i) on the death of a beneficiary; or
 - (ii) to an employee in lieu of or commutation of an annuity, on his retirement at or after a specified age or on his becoming incapacitated prior to such retirement; or
 - (iii) By way of refund of contributions on the death of a beneficiary; or
 - (iv) By way of refund of contributions to an employee on his leaving the service otherwise than by retirement at or after a specified age or on his becoming incapacitated prior to such retirement, to the extent of contributions made prior to 1.4.1962 and any interest thereon; or
 - (v) By way of transfer to the employee's account under the pension scheme notified u/s 80CCD.
- 29. House Rent Allowance:** Any special allowance granted to an assessee by his employer to meet expenditure incurred on payment of rent for residential accommodation subject to prescribed limits and conditions. [Sec.10(13A)]
- 30. Special Allowances to Employees :**
- (i) Any special allowance or benefit as may be prescribed which is not in nature of perquisites, specifically granted to meet expenses wholly in performance of duties to the extent such expenses are actually incurred for that purpose.
 - (ii) Any allowance for meeting personal expenses or compensating increased cost of living may be prescribed and to the extent prescribed. [Sec.10(14)]
- 31. Interest, etc. from certain bonds/securities/certificates/deposits:**
- (i) ***Income by way of interest, premium on redemption or other payment,*** on notified securities, bonds, annuity certificates, saving certificates, other certificates and deposits. [Sec.10(15)(i)]
 - (ii) ***Interest on Capital Investment Bonds*** notified upto 31.5.2002. [Sec.10(15)(iib)]
 - (iii) ***Interest on RBI Relief Bonds.*** [Sec.10(15)(iic)]
 - (iv) ***Interest on NRI bonds*** notified upto 31.5.2002, arising to non-whom such bonds have been gifted by a non-resident. [Sec.10(15)(iid)]

- (v) **Interest payable to any foreign bank** by any scheduled bank on deposits made with the approval of Reserve Bank of India. [Sec.10(15)(iiia)]
- (vi) **Interest payable to the Nordic Investment Bank** on a loan granted by it in pursuance to the framework-agreement for financial co-operation with the Central Government. [Sec.10(15)(iiib)]
- (vii) **Interest payable to the European Investment Bank** on a loan granted by it in pursuance of the framework-agreement for financial co-operation with the Central Government. [Sec.10(15)(iiic)]
- (viii) **Interest on moneys borrowed before 1.6.2001 by IFCI, IDBI, Exim bank, National Housing Bank, SIDBI or ICICI** from sources outside India to the extent it does not exceed the rate approved by the Central Government. [Sec.10(15)(iv)(d)]
- (ix) **Interest Payable by an Industrial Undertaking** (engaged in specified activities) in India on a foreign currency loan borrowed before 1.6.2001 from sources outside India and approved by the Central Government. [Sec.10(15)(iv)(f)]
- (x) **Interest payable by Schedule Banks** to a non-resident person or a not ordinarily resident individual/HUF on foreign currency deposits approved by the R.B.I. [Sec.10(15)(iv)(fa)]
- (xi) **Interest payable on Foreign Currency Loans under an agreement approved by the Central Government before 1.6.2003 by a Public Company providing long-term housing finance** for construction or purchase of residential houses in India, and eligible for deduction u/s 36(1) (viii). [Sec.10(15)(iv)(g)]
- (xii) **Interest payable on notified bonds of Public Sector Companies** [Sec.10(15)(iv)(h)]
- (xiii) **Interest on deposits under Deposit Scheme for Retiring Government Employees, 1989, and Deposit Scheme for Retiring Employees of Public Sector Companies, 1991.** [Sec.10(15)(iv)(i)]
- (xiv) **Interest on Securities/Deposits with RBI held by the Welfare Commissioner, Bhopal Gas Victims, Bhopal for the benefit of such victims.** [Sec.10(15)(v)]

- (xv) **Interest on Gold Deposit Bonds, 1999 or deposit certificates under Gold Monetisation Scheme, 2015.** [Sec.10(15)(vi)]
- (xvi) **Interest on notified bonds issued by a local authority/State Pooled Finance Entity.** [Sec.10(15)(vii)]
- (xvii) **Interest received by a non-resident or a not ordinarily resident in India, on a deposit made on or after 1.4.2005 in an Offshore Banking Unit.** [Sec.10(15)(viii)]
- 32. Scholarships** granted to meet the cost of education. [Sec.10(16)]
- 33. Allowances of MPS and MLAs:**
- (a) Any daily allowance received by Members of Parliament or any State Legislature.
- (b) Any allowance received by any Member of Parliament under the Members of Parliament (Constituency Allowance) Rules, 1986.
- (c) Any constituency allowance received by any member of any State Legislature under any Act or rules made by it. [Sec.10(17)]
- 34A. Any payment** (in cash or in kind)
- (i) **In pursuance of an award** instituted in the public interest by Central/State Government or approved by the Central Government, or
- (ii) **As rewards** by the Central/State Government for approved purposes. [Sec.10(17A)]
- Note:** It has been clarified that awards to sportsmen, in the nature of gift/personal testimonials shall be taxable as income u/s 2(24)(xiii), (xiv) and (xv) read with section 56(2) (v), (vi) and (vii). Exemption can be claimed only by eligible persons for approved awards.
- 34.** (i) Pension received by a Central or State Government employee who has been awarded Param Vir Chakra/Maha Vir Chakra/Vir Chakra/other notified gallantry award.
- (ii) Family Pension received by the family of an employee as aforesaid. [Section 10(18)]
- 35. Family Pension received by a widow/children/nominated heirs, of a member of the armed forces** (including para-military forces), who died in the course of operational duties in prescribed circumstances and subject to prescribed conditions. [Sec.10(19)]

36. **Annual Value of a Palace** in the occupation of an ex-ruler. [Sec.10(19A)]
37. **Income of Local Authority** i.e. a Panchayat, Municipality, Municipal Committee, District Board or Cantonment Board. [Sec.10(20)]
38. **Income of approved research association** applying its income wholly and exclusively to its objects of undertaking scientific research or research in social science or statistical research, subject to specified conditions. [Sec.10(21)]
39. **Income of a New Agency** [i.e. Press Trust of India Ltd.] set up in India, which applies its income or accumulates it for application solely for collection and distribution of news and does not distribute its income in any manner to its members. [Sec.10(22B)]
40. **Income of a Professional Association** set up for the control, supervision, regulation or encouragement of the professions of law, medicine, accountancy, engineering, architecture or other notified profession (i.e. Company Secretary, Chemistry, Materials Management and Town Planning), subject to specified conditions. [Sec.10(23A)]
41. **Income received by any regimental fund or non-public fund** established by the armed forces for the welfare of the past and present members of the forces or their dependents. [Sec.10(213AA)]
42. **Income received by an approved fund for the welfare of employees (being its members) or their dependents**, and which applies or accumulates its income, wholly and exclusively, to its objects and invests its funds in the forms or modes specified u/s11(5). [Sec10(23AAA)]
43. **Income of a Pension Fund** set up [by the Life Insurance Corporation of India or by any other insurance company. [Sec.10(23AAB)]
44. **Income of a Public Charitable Trust**, registered society, etc. engaged in development of Khadi and village industries without profit motive. [Sec.10(23B)]
45. **Income of Khadi and Village Industries Board.** [Sec.10(23BB)]
46. **Income of any authority established under a Central or State or Provincial Act for the administration of any public, religious or charitable trust or endowments** (including maths, temples, gurudwaras, wakfs, churches, synagogues, agiaries or other places of public religious worship) or religious/charitable societies registered under the Societies Registration Act, 1860, or any other such law. [Sec.10(23BBA)]

- 47. Income of the European Economic Community** derived in India by way of interest, dividends or capital gains from investments made out of its funds under specified scheme. [Sec.10(23BBB)]
- 48. Income of the SAARC Fund for Regional Projects.** [Sec.10(23BBC)]
- 49. Income of the Insurance Regulatory and Development Authority.** [Sec.10(23BBE)]
- 50. Income of the North-Eastern Development Finance Corporation Ltd.** to the extent of nil from A.Y.2010-11 and onwards. [Sec.10(23BBF)]
- 51. Income of the Central Electricity Regulatory Commission.** [Sec.10(23BBG)]
- 52. Income of the Prasar Bharati (Broadcasting Corporation of India).** [Sec.10(23BBH)]
- 53. Income of following Funds/Institutions/Trusts, etc.**
- (i)** P.M. National Relief Fund or P.M. Fund (Promotion of Folk Art), or P.M. Aid to Students Fund. [Sec.10(23C)(i),(ii) and (iii)]
 - (ii)** National Foundation for Communal Harmony. [Sec.10(23C) (iia)]
 - (iii)** Swachh Bharat Kosh [Sec.10(23C)(iiiia)]
 - (iv)** Clean Ganga Fund. [Sec.10(23C)(iiiiaa)]
 - (v)** The Chief Minister's Relief Fund or the Lieutenant Governor's Relief Fund in respect of any State or Union Territory.] [Sec.10(23C)(iiiiaaa)]
 - (vi)** A University/educational institution, hospital or medical institution wholly or substantially financed by the Govt., or the annual receipts of which do not exceed Rs.1 crore or which is approved by the prescribed authority. [Sec.10(23C)(iiiab), (iiiac), (iiiad), (iiiiae), (vi) (via)]
 - (vii)** Approved fund, charitable/religious institution or trust which applies its income wholly and exclusively in pursuance of its objects. (Secs.10(23C)(iv)and (v)]

10(23C), Existing provision : Third proviso to clause 23© provides for exemption in respect of income of the entities in a case where such income is applied or accumulated during the previous year for certain purposes.

With effect from 1-4-2019 (Assessment year 2019-2020) : A proviso has been inserted to provide that the provisions of section 40(a)(ia), 40A(3) and 40A(3A) shall apply in computing the aforesaid Application of Income mutatis

mutandis as they apply in computing the income chargeable under the head “Profits and gains of business or profession”.

54. Income of a Mutual Fund [Sec.10(23D)]

Note: Income distributed by a Mutual Fund to its unit holders shall be subject to additional income-tax u/s 115R, but exempt in the hands of unit holders u/s 10(35).

55. Income of a Securitisation Trust from the activity of securitization. [Sec.10(23DA)]

56. Income of notified Investor Protection Fund set up by recognised stock exchanges in India. (Sec.10(23EA)]

57. Income of notified Investor Protection Fund set up by commodity exchanges in India. [Sec.10(23EC)]

58. Income of notified Investor Protection Fund set up by a depository, by way of contributions from a depository. [Sec.10(23ED)]

59. Specified Income of a notified Core Settlement Guarantee Fund set up by a recognised clearing corporation. [Sec.10(23EE)]

60. Income of an approved Venture Capital Fund or Venture Capital Company by way of dividends or long-term capital gains on equity shares in a venture capital undertaking acquired up to 31.3.1999. [Sec.10(23F)]

61. Income of an approved Venture Capital Fund or Venture Capital Company by way of dividends (not subjected to dividend distribution tax u/s 115-O) or long-term capital gains on equity shares in a venture capital undertaking acquired upto 31.3.2000. [Sec.10(23FA)]

62. Income of a venture capital company or venture capital fund from investment in a venture capital undertaking. [Sec.10(23FB)]

63. Income of an Investment Fund except income from business or profession. [Sec.10(23FBA)]

64. Income accruing/arising to or received by a unit holder or an investment fund, being the proportion of income in the nature of income from business or profession. [Sec.10(23FBB)]

65. Income of a Business Trust by way of interest from a special purpose vehicle or dividends from a specified domestic company u/s 115-O(7).

Note: (1) ‘Business trust’ means an Infrastructure Investment trust or a Real Estate Investment Trust, made under the respective SEBI Regulations, and the

units of which are listed on a recognised stock exchange as per SEBI regulations. [Sec.2(13A)]

(2) 'Special Purpose Vehicle' is an Indian company in which the business trust holds controlling interest or specified percentage of shareholding as per the regulations.

- 66. Rental Income of a Business Trust** being a real estate investment trust from its real estate asset. [Sec.10(23FCA)]
- 67. Income received by a unit holder from the business trust** [however, proportion of income which is in the nature of income referred u/s 10(23FC) or (23FCA) (a) shall not be exempt]. [Sec.10(23FD)]
- 68. Income of Trade Union or association of trade unions** by way of income from house property and income from other sources. [Sec.10(24)]
- 69. Income of Statutory Provident Fund** or recognised provident fund or an approved superannuation fund or approved gratuity fund or Deposit-Linked Insurance Fund (under Coal Mines P.F. Act or E.P.F. Act). [Sec.10(25)]
- 70. Income of the Employee's State Insurance Fund.** [Sec.10(25A)]
- 71. Income of members of scheduled tribes** residing in specified areas, from any source in such areas or by way of dividend or interest on securities. [Sec.10(26)]
- 72. Income of Sikkimese individual** (except a Sikkimese woman who marries a non-Sikkimese on or after 1.4.2008), from any source in the State of Sikkim or by way of dividend or interest on securities. [Sec.10(26AAA)]
- Note:** Income of non-Sikkimese individuals residing in Sikkim shall continued to remain taxable.
- 73. Income of an Agricultural Produce Market, Committee or Board.** [Sec.10(26AAB)]
- 74. Income of a statutory corporation, body etc. set up for promoting the interests of the members of Scheduled Castes or Scheduled Tribes or backward classes** or of any two or all of them. [Sec.10(26B)]
- 75. Income of a Corporation established by the Central/State Government for promoting the interests of a notified minority community** [i.e. Muslims, Christians, Sikhs, Buddhists and Zoroastrians (Parsis.)] [Sec.10(26BB)]
- 76. Income of a Ex-Servicemen Corporation.** [Sec.10(26BBB)]

- 77. Income of a Cooperative Society** formed for promoting the interest of members of Scheduled Castes or Scheduled Tribes, or both. [Sec.10(27)]
- 78. Income of certain Boards/ Authorities**, namely, Coffee Board, Rubber Board, Tea Board, Tobacco Board, Marine Products Export Development Authority, Agricultural and Processed Food Products Export Development Authority, Spices Board and Coir Board. [Sec.10(29A)]
- 79. Subsidy received under a notified scheme** from Tea Board, Rubber Board, Coffee Board, Spices Board or any other commodity Board/Authority. [Sec.10(30) and (31)]
- 80. Income of a Minor Child** liable to be included in income of his parent u/s 64(1A) is exempt up to a maximum of Rs.1,500 per minor child. [Sec.10(32)]
- 81. Any Capital Gain arising on transfer of units of Unit Scheme, 1964** on or after 1.4.2002. [Sec.10(33)]
- 82. Dividends from a domestic company** and subjected to additional income-tax u/s 115-O (excluding dividend income in aggregate from a domestic company or companies exceeding Rs.10 lakhs, of a resident individual/HUF/firm, subjected to 10% tax u/s 115BBDA). [Sec.10(34)]
- 83. Income arising to a shareholder from buy back of shares** of an unlisted domestic company, subjected to additional income-tax u/s 115QA. [Sec.10(34A)]
- 84. Income in respect of units of –**
- (i) A Mutual Fund specified u/s 10(23D), or
 - (ii) The specified undertaking or the specified company defined under the UTI (Transfer of Undertaking and Repeal) Act, 2002. [Sec.10(35)]
- 85. Income** received upto 31.5.2016 from a securitization trust by an investor of such trust, subjected to additional income-tax u/s 115TA. [Sec.10(35A)]
- 86. Long-term capital gain arising on transfer of eligible listed equity shares of a company** acquired on or after 1.3.2003 but before 1.3.2004. [Sec.10(36)]
- 87. Any Capital gain arising to an individual /HUF on compulsory acquisition of an agricultural land** in urban areas (i.e. situated within the jurisdiction of a municipality or a cantonment board having population of 10,000 or more or within specified distance from the local limits of such municipality/board), provided the compensation/consideration is received on or after 1.4.2004 and the land was being used for agricultural purposes by the HUF/individual or his parent(s), during the period of two years immediately before acquisition. [Sec.10(37)]

Note: Compensation received for compulsory acquisition of land (whether agricultural or non-agricultural) under Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 is exempt from income-tax u/s 96 of the said Act, and thus shall not be taxable under the Income Tax Act.

- 88. Capital gain arising to an individual/HUF**, on transfer of a land or building or both or any right therein, under the land pooling scheme for setting up capital of Andhra Pradesh. [Sec.10(37A)]
- 89. Long-term capital gains arising on transfer of equity shares of a company or units of an equity oriented fund** or units of a business trust and subject to Securities Transaction Tax. [Sec.10(38)]
- 10(38) : Existing Provision – LTCG (Long Term Capital gain) on Sale of Equity shares etc. on which STT are paid both at the time of acquisition and at the time of sale is exempt.**
- With effect from 1-4-2019 (Assessment year 2019-2020) : Such LTCG shall not be exempt in case of transfer of Equity shares etc on or after 1-4-2018**
- 90. Income from notified international sporting event** held in India. [Sec.10(39)]
- 91. Grant, etc. received by a subsidiary company, from its holding company being an Indian Company engaged in the business of generation or transmission or distribution of power.** [Sec.10(40)]
- 92. Any capital gain arising from transfer of an asset of a power undertaking, to an Indian company notified u/s 80-IA(4)(v)(a) effected up to 31.3.2006.** [Sec.10(41)]
- 93. Income of a notified non-profit body or authority**, set up under a treaty or agreement between the Central Government and two or more countries. [Sec.10(42)]
- 94. Amount received by an individual as a loan, in lumpsum or in installment, in a reverse mortgage transaction** under a notified scheme. [Sec.10(43)]
- 95. Income of New Pension System Trust.** [Sec.10(44)]
- 96. Income by way of notified allowance or perquisite to the Chairman/retired Chairman/member/retired member of Union Public Service Commission (UPSC).** [Sec.10(45)]

- 97. Specified income of a notified body, authority, board, trust or commission** set up under a statute or by Central/State Government for regulating/administering an activity for the public benefit. [Sec.10(46)]
- 10(46), Existing Provision :** Provides for exemption to specified income arising to a body or authority or Board or Trust or Commission not engaged in any commercial activity, established or constituted with the object of regulating or administering any activity for the benefits of the general public. With effect from 1-4-2018 (Assessment year 2018-19) : Similar exemption has been provided to a class of body or authority or Board or Trust or commission also.
- 98. Income of a notified infrastructure debt fund.** [Sec.10(47)]
- 99. Income of a notified foreign company** received in India in Indian currency, on account of sale of crude oil or other notified goods or rendering or notified services to any person in India under a notified agreement/arrangement. [Sec.10(48)]
- 100. Income of a notified foreign company** from stronger of crude oil in a facility in India and sale of crude oil there from to any person resident in India [or from sale of left over crude oil after the expiry of the agreement/arrangement.] [Sec.10(48A)]and (48B)]
- 10(48B), Existing provision :** Exemption is available for any income accruing or arising to a foreign company on account of sale of leftover stock of crude oil from a facility in India after the expiry of the agreement or arrangement. With effect from 1-4-2019 (Assessment year 2019-2020) : Similar exemption has been provided in case of the termination of the aforesaid agreement or the arrangement.
- 101. Income arising from any specified service** provided on or after the date of enforcement of equalization levy and chargeable to such levy. [Sec.10(50)]

3.3 COMPLETE TAX HOLIDAY FOR NEW SEZ UNITS

15 Year Tax Holiday for New SEZ Units [Sec.10AA]

Profits and gains derived by an entrepreneur from a unit in Special Economic Zone, manufacturing or producing any article or thing or providing any service (including

computer software), shall be eligible for deduction for fifteen consecutive assessment years beginning from the first year of production.

Amount of Deduction: The deduction allowable shall be –

- | | | |
|-------------------|---|---|
| For first 5 A.Ys. | - | 100% of export profits |
| For next 5 A.Ys. | - | 50% of export profits |
| For next 5 A.Ys | - | 50% of the profit credited to the Special Economic Zone Re-investment Reserve Account, to be utilized for the purposes of the assessee's business in the prescribed manner. |

Note :

- (1) Export profits means =

$$\frac{\text{Profits of Business (of SEZ Unit)} \times \text{Export Turnover}}{\text{Total Turnover of the business carried on by the undertaking}}$$
- (2) The amount of deduction u/s 10AA shall be allowed from the total income of the unit computed in accordance with the provisions of the Act, before allowing deduction u/s 10AA, and the deduction shall not exceed such total income.
- (3) Profits and gains derived from on site development of computer software (including services for development of software) outside India shall be deemed to be profits from export of computer software. It has been further clarified that software developed abroad at a client's place would be eligible for the benefit of this provision because these would amount to 'deemed export'. However, there must exist a direct and intimate nexus or connection of development of software done abroad with the eligible unit set up in India and such development of software should be pursuant to a contract between the client and the eligible unit.
- (4) Profits from development of Technical Manpower at the client's place abroad specifically for software development work pursuant to a contract between the client and the eligible unit shall also be eligible as 'export profit.'
- (5) Deduction to new SEZ unit shall be allowed from its total income computed as per the provisions of the Act, before allowing deduction u/s 10AA, and the deduction shall not exceed such income. [Sec.10AA].

Conditions:

- (i) The unit begins to manufacture or produce articles or provide services (including computer software) during the previous year relevant to A.Y.2006-07 or thereafter but up to A.Y.2020-21.
- (ii) The unit should not have been formed by the splitting up or reconstruction of a business already in existence, except a unit formed as a result of re-establishment, reconstruction or revival of the business in accordance with section 33B.

Note: It has been clarified that mere transfer/redeployment of upto 50% of the existing technical manpower from an existing unit engaged in developing software or providing ITES, to a new SEZ unit in the first year of commencement of business will not be constructed as splitting up or reconstruction of the unit for the purpose of section 10AA.

Further, if an enterprise demonstrates that the net addition of the new technical manpower in all units is at least equal to 50% of the total technical manpower of the new SEZ unit during the relevant previous year, the deduction would not be denied.

- (iii) The unit should not have been formed by the transfer to a new business of machinery or plant used for any purpose, exceeding 20% of the total value of the machinery or plant used in that business.
- (iv) A unit which has already availed deduction u/s 10A for 10 consecutive A.Ys. shall not be eligible for deduction u/s 10AA. If the unit has not availed such deduction for A.Ys., then it can avail deduction u/s 10AA only for the unexpired period of 10 A.Ys. and thereafter deduction for another 5 A.Ys in respect of amount credited to SEZ Re-investment Reserve.
- (v) Where any unit entitled for deduction is transferred to another undertaking in a scheme of amalgamation or demerger, the deduction shall be allowed to the amalgamated or the resulting company and not to the amalgamating or the demerged company for the remaining period.
- (vi) The amount of Special Economic Zone Re-investment Allowance Reserve is utilized in acquisition of new machinery or plant which is put to use within 3 years next following the previous year in which the reserve is created. Prior to

acquisition of new machinery or plant, the amount may be used for any business purposes except for distribution of dividends/profits or creation of an asset outside India.

- (vii) The particulars of the new plant/machinery shall be furnished in Form 56FF along with the return for the year in which it is first put to use.
- (viii) Any amount of reserve which is misutilised or not utilized within the specified period shall be deemed as income of the unit.
- (ix) An audit report in from 56F from a chartered accountant, certifying that the deduction has been correctly claimed, shall be furnished along with the return.

Units availing of deduction u/s 10AA for any assessment year in respect of a specified business referred u/s 35AD (8) (c), shall not be allowed any deduction u/s 35AD in respect of such specified business for the same or any other assessment year.

Units availing of tax holiday u/s 10AA are not entitled to other tax concessions such as unabsorbed depreciation allowance, unabsorbed investment allowance, unabsorbed development rebate, unabsorbed capital expenditure on family planning, set off and carry forward of losses, relating to A.Y.2005-06 or earlier years, deductions u/ss 80HH/80HHA/80-I/80-IB/80J, etc.

However, any business loss (other than from speculation business) or capital loss, relating to the business of the unit shall be allowed to be carried forward or set off.

Note:

- (1) Where a deduction is claimed and allowed under this section in respect of any profits or gains, no deduction shall be allowed in respect of such profits or gains under any other section for the same assessment year, the deduction shall not exceed the profits or gains of the undertaking/unit/enterprise. If the assessee fails to claim deduction under this section in his return of income, no deduction shall be allowed to him under the section. [Sec.80A(4) and (5)]
- (2) Where any sale or purchase of goods or services by an undertaking/unit, is made at a value which does not correspond to their market value as on the date of transfer, then for the purpose of deduction the profits and gains of the undertaking/unit shall be computed as if the transfer had been made at the market value. [Sec.80A(6)]

- (3) The transactions of SEZ unit (covered u/s 10AA) shall be treated as 'specified domestic transactions' subject to Transfer Pricing Regulations u/s 92 to 92F. [Sec.92BA]
- (4) In case an eligible SEZ unit is relocated from one SEZ to another, in accordance with instruction no.59 of Dept. of Commerce, the unit so relocated will be eligible for tax benefit for the unexpired period at the applicable rates, provided other conditions are fulfilled.

3.4 SELF-ASSESSMENT QUESTIONS

1. What are Tax Free Incomes?
2. Discuss the incomes which are not included in total income nor income-tax is payable on them.
3. Given ten examples of incomes which are totally exempt from income-tax
4. Explain the provisions of law relating to tax holiday in respect of Free Trade Zones.
5. Give ten examples of incomes which are totally exempt from income-tax
6. Explain the provisions of section 10A pertaining to industrial units in the Free trade Zones.
7. Any four incomes exempted from Tax U/S. 10.
8. Explain any Items which are fully exempted from Income tax.
9. Sec. 10 Exempted Incomes. Explain.
10. Mention any ten exempted incomes U/S 10.
11. Under section – 10 of income tax act 1961 write any five exempted incomes.
12. Describe any 12 exempted incomes contained in Section 10 of the Income Tax Act, 1961.
13. Exempted incomes u/s 10 of Income tax act
14. Explain the provisions of the Income Tax Act relating to Tax holiday for new SEZ Units.

Chapter – 4**INCOME FROM SALARIES****Objectives :**

After reading this unit you should be able to :

- Understand the incomes chargeable to tax under the head salaries
- Taxability of allowances
- Valuation of Perquisites
- Types of Provident funds

Structure :

- 4.1 Introduction**
- 4.2 Income from Salaries**
- 4.3 Basis of charge**
- 4.4 Allowances**
- 4.5 Perquisites**
- 4.6 Valuation of Perquisites**
- 4.7 Profit in lieu of salary**
- 4.8 Incomes exempt from tax**
- 4.9 Provident Funds**
- 4.10 Deduction from Salary**
- 4.11 Deduction under Section 80 C**
- 4.12 Definition of Salary**
- 4.13 Self-Assessment Questions**
- 4.14 Exercises**

4.1 INTRODUCTION

As per section 14, income of an assessee is computed under the following five heads.

1. Salaries
2. Income from house property
3. Profits and gains of business or profession
4. Capital gains
5. Income from other sources.

The aggregate of these heads of income is termed as “Gross Total Income”. Total Income or Taxable Income of an assessee is gross total income as reduced by the deductions under section 80C to 80 U. The following chart helps in knowing the heads of income, sections covered and the computation of total income of an assessee.

Computation of Total Income

	Particulars	Sections	₹
1.	Salaries	Sec.15-17	xxx
2.	Income from House Property	Sec.22-27	xxx
3.	Profits and Gains from Business or Profession	Sec.22-44DA	xxx
4.	Capital Gains	Sec.45-55A	xxx
5.	Income from Other sources	Sec.56-59	xxx
6.	Clubbing of other persons income	Sec.60-65	xxx
7.	Set off and Carry forward of losses	Sec.70-80	xxx
8.	Gross Total Income		xxx
9.	Less : Deductions u/s 80 C to 80U		xxx
10.	Total Income or Taxable Income		xxx

Allowability of Deductions [Section 14A] : According to this new section in computing the total income of an assessee no deduction shall be allowed in respect of any expenditure incurred by the assessee in relation to income which does not form part of the total income under the Income-tax Act.

Now let us discuss how to compute income from Salaries.

4.2 INCOME FROM SALARIES

Salary is the first head of income. It is very important head of income from students as well as assesses point of view. The sections covered in computing income from salary are given below.

Section 15	Chargeability
Section 16	Deductions allowed (i) Entertainment Allowances (ii) Professional Tax
Section 17	Definitions 1. Salary 2. Perquisites 3. Profit in lieu of salary

Chargeability :

The first head of income is income from Salaries. Sec.15, 16 and 17 of the Income Tax Act deal with the computation of income Tax under the head “Salaries”. To understand the computation of income under the head “Salaries” the following important concepts must studied.

- 1. Employer – Employee Relationship :** Relationship of employer and employee must exist in including any income under the head `Salaries`. Only payments received from employer are taxable under this head. Receipts from a person other than employer are taxable under the head `other sources.` Where such relationship does not exist as in the case of partner of a firm, advocates, chartered accountants, LIC agents, small saving agents, commission agents, etc. income is taxable under some other head and not under `Salaries`. Besides, only those payments which have a nexus with the employment are taxable under the head `Salaries`. The following points needs consideration.

(a) Master - Servant : If a person is acting as an agent for his principal during the course of carrying on of his business, there is no relationship between them as Master and Servant and therefore any commission of remuneration earned by the agent is chargeable to tax under “Profits and Gains of Business or Profession” An agent is holding the position of an independent contractor who undertakes to carry out certain specific jobs or works assigned to him without subjecting himself to the direct control and supervision of the principal unlike an employee.

(b) Contract of Service vs. Contract for service : If there is a contract of service, employer-employee relationship is brought into existence and the employer in such a case can direct and control as to what is required to be done by the employee and as to how it should be done by him. As against this, in a contract for service,” the contractee can best specify what is to be done and it is for the contract to independently chalk out the details of work and executive the same. Therefore, income earned out of a contract for service is taxable as a business income and not as salary income since employer-employee relationship does not exist.

2. **Salary and wages – conceptually not different :** “Conceptually there is no difference between salary and wages.
3. **Salary from more than one source :** If an individual receives salary from more than one employer during the same previous year (may be due to change of employment or due to employment with more than one employer simultaneously), salary from each source is taxable under the head “Salaries.”
4. **Place of Accrual of Salary :** According to Section 9(1) salary will be deemed to accrue or arise at a place where services are rendered. If the services are rendered in India and salary on account of such services is received outside India, it will be treated as an income which is deemed to accrue or arise in India.
5. **Voluntary surrender of Salary :** Any salary surrendered by the employee to the Central Government, under the Voluntary Surrender of Salaries (Exemption from Taxation) Act, 1961, will not be included while computing the income of an employee, whether he is a private sector/public sector or Government employee.
6. **Deductions from Salary :** In case of net salary is received after deduction of following items, these are added back to get gross salary. (i) own contribution to provident fund, (ii) tax deducted at source, (iii) repayment of loan etc., (iv) LIC premium, if deduction from salary, (v) group insurance scheme, (vi) Rent of house provided by employer etc.
7. **Tax free salary :** Tax-free salary means that the employer himself pays the tax which is due on the salary of such employee in addition to paying salary. The amount of tax, so paid by employer, is also to be considered as the income of the

employee and will be added to his salary. Here gross salary means salary received by the employee + tax paid by the employer on behalf of the employee. When the salary is paid "tax-free", that is, the tax due on the salary is borne by the employer, the employee has to return in his total income the gross salary i.e. the aggregate of the net salary received plus the amount of tax paid on his behalf by the employer. It does not make any difference whether the tax is borne by the employer voluntarily or under a contractual obligation.

8. **Advance salary received** : In case an assessee receives some salary in advance in a previous year which was actually not due in that year, it shall be taxable in the year of receipt. However, if any loan or advance is taken it is not treated as advance salary.
9. **Arrears of salary received** : Any amount of salary received from present or past employer during the relevant previous year and which relates to earlier previous years, is treated as arrears of salary. It is taxable in the year in which it is received and not the year to which it belongs.
10. **Salary in the grade system** : Certain employees are entitled to a graded system of salary. Under this system, the normal annual increments to be given to the employee are already fixed in the grade. For example if an employee joins the service on 1-5-2010 and is placed in the grade of ₹12,200-300-17,400-500-19,400. This means that, he will get a basic salary of ₹12,200 w.e.f. from 1-5-2010. He will get annual increment of ₹300 w.e.f. 1-5-2011 and onwards till his salary reaches ₹17,400. Thereafter, he will get an annual increment of ₹500 till his salary reaches ₹19,400. No further increment will be given thereafter till he is placed in other grade.

4.3 BASIS OF CHARGE [SEC.15]

For the purpose of chargeability to tax, salary consists of the following.

- (a) **Due Basis** : any salary due from an employer (or a former employer) to an assessee in the previous year, whether actually paid or not;
- (b) **Paid or Allowed Basis** : any salary paid or allowed to him in the previous year by or on behalf of an employer (or a former employer), though not due or before it became due; and

- (c) **Arrears basis** : any arrears of salary paid or allowed to him in the previous year by or on behalf of an employer (or a former employer); if not charged to income-tax for any earlier previous year.

Salary income is chargeable to tax either on due basis or receipt basis. Once salary is accrued, its subsequent waiver is only an application of income and is liable to be taxed. Any salary paid in advance is included in the total income of any person for any previous year it shall not be included in the total income of the person when the salary becomes due.

Meaning of Salary :

The term 'salary' is defined to include the following.

- (a) Wages
- (b) Any annuity or pension
- (c) Any gratuity
- (d) Any fees, commission, perquisites or profits in lieu of or in the addition to any salary or wages.
- (e) Any advance of salary
- (f) Any payment received by an employee in respect of any period of leave not availed by him;
- (g) Employer's contribution to Recognized Provident Fund (RPF) in excess of 12% of Employee's salary and interest credited to recognized provident funds in excess of 9.5% p.a.;
- (h) The aggregate of all sums that are comprised in the transferred balance of an employee participating in a recognised provident fund to the extent to which it is chargeable to tax.
- (i) The contribution made by the Central Government in the previous year, to the account of an employee under a notified pension scheme referred to in Section 80 CCD.

Computation of Income from Salary

		₹	₹
1.	Salary		
	(i) Wages	Xxx	
	(ii) Annuity Pension	Xxx	
	(iii) Taxable Gratuity	Xxx	
	(iv) Fees, Commission etc.	Xxx	
	(v) Advance salary received	Xxx	
	(vi) Taxable leave salary	Xxx	
	(vii) Employer's contribution to Recognized Provident Fund (RPF) in excess of 12% of salary	xxx	
	(viii) Interest credited to RPF in excess of 9.5%	xxx	
	(ix) Transferred Balance	Xxx	Xxx
2.	Allowances :		
	(i) Dearness Allowance	Xxx	
	(ii) House Rent Allowance	Xxx	
	(iii) Entertainment Allowance	Xxx	
	(iv) Conveyance Allowance	Xxx	Xxx
3.	Perquisites :		
	(i) Value of Rent Free Accommodation	Xxx	
	(ii) Other Perquisites	Xxx	Xxx
4.	Profit in lieu of Salary :		
	(i) Compensation for loss of employment	Xxx	
	(ii) Payment from PF	Xxx	Xxx
5.	Gross Salary		Xxx
6.	Less : Deductions u/s Sec.16		
	(i) Entertainment Allowance	Xxx	
	(ii) Professional tax	Xxx	Xxx
7.	Net Salary/Taxable Salary		Xxx

Note : Standard deduction will be allowed u/s 16 from the Assessment year 2019-20 onwards.

4.4. ALLOWANCES

An allowance is defined as a fixed amount of money given periodically in addition to the salary for the purpose of meeting some specific requirements connected with the service rendered by the employee or by way of compensation for some unusual conditions of employment. It is taxable on due/accrued basis whether it is paid in addition to the salary or in lieu thereof. The basic rule is that all such allowances are taxable as these are paid because of direct relationship between an employer and employee. However, certain allowances have been exempted subject to certain conditions.

1. **Dearness Allowance** : Taxable fully
2. **City Compensatory Allowance** : Taxable fully
3. **House Rent allowance [Sec.10(13A)]** : House rent allowance (HRA) received by an employee from his employer is an exempted income. If the actual house rent allowance received by the employee is in excess of the lowest limit as prescribed, the excess sum will be taxable salary. HRA is exempt from tax to the lower of the following.
 - (a) **50% of Salary** in Mumbai, Kolkata, Chennai, Delhi; **40% of salary** in other cases.
 - (b) Actual amount of house rent allowance received; or
 - (c) The excess of rent paid over 10% of salary.

If the employee is living in his own house or in a house where he is not paying any rent, HRA is fully taxable.

Salary for this purpose means basic salary and dearness allowance if the terms of employment so provide. It also includes any commission based on a fixed percentage of turnover achieved by the employee, as per the terms of the service contract. However, it excludes all other allowances and perquisites. Relevant period means the period for which the accommodation is occupied by the employee. The assessee shall be required to produce the rent receipts in proof of actual payment, for the purpose of regular assessment, in all cases. However, for the purpose of claiming deduction of HRA at source, employees drawing HRA up to Rs.3,000 p.m. are exempted from production of rent receipts. W.e.f. 1.6.2016, for the purpose of claiming deduction of HRA at source,

the employee shall be required to furnish in Form 12BB, the name, address and PAN of the landlord(s), if the aggregate rent paid during a previous year exceeds Rs.1 lakh.

Illu.1 : From the following particulars furnished by Mr. Gowda, residing in Chennai, find the taxable amount of H.R.A.

		Rs.
(a)	Basic salary (per annum)	3,00,000
(b)	House Rent Allowance (per annum)	60,000
(c)	Rent paid for house in Chennai	75,000

Solution :

The amount of HRA exempt shall be least of the following:		
		Rs.
(i)	Actual HRA received	60,000
(ii)	Rent paid – 10% of salary i.e. [Rs.75,000 – Rs.30,000]	45,000
(iii)	50% of salary (since house is at Chennai)	1,50,000
Thus, HRA exempt is Rs.45,000. The taxable amount of HRA is [Rs.60,000 – Rs.45,000] = Rs.15,000.		

Illu.2 : Mr. Krishna, who resides in Vijayawada, receives Rs.35,000 p.m. as basic pay and Rs.2,500 p.m. as H RA. He stays in his father's house up to 31st October for which he pays no rent. Thereafter he stays in a rented house with a rent of Rs.7,000 p.m. Find the taxable amount of H.R.A.

Solution :

Calculation of exempted HRA

		Rs.
(A)	For the period April to October (Since no expenditure incurred on house rent)	Nil
(B)	For the period November to March Least of following amounts:	
	(i) HRA received	2,500
	(ii) Rent paid – 10% of salary [i.e. Rs.7,000 – Rs.3,500]	3,500
	(iii) 40% of salary (since house is at Vijayawada)	14,000

The amount of HRA exempt is Rs.2,500 p.m. Total HRA exempt is Rs.2,500 × 5 = Rs.12,500

	Rs.
HRA received (Rs.2,500 ×12)	30,000
Less: Amount exempt	12,500
HRA taxable	17,500

4. Traveling Allowance : It is exempted to the extent of amount spent for official purposes only.

5. Entertainment Allowance [Sec.16(ii)] : This deduction is to be given only for Government employees. In the case of Government employees, least of the following is allowed as deduction from gross salary.

- (a) 20% of salary
- (b) ₹ 5,000; or
- (c) Actual amount of entertainment allowance received

Other non-government employees are not eligible to get deduction for entertainment allowance. Here, Salary means basic pay only.

6. Foreign Allowance : It is exempt if it is paid to an Indian citizen being government employee working abroad. Taxable in case of others.

7. Uniform Allowance or outfit allowance : Fully exempted u/s 10(14).

8. Special Allowances [Sec.10(14)] :

- (i) **Daily conveyance allowance. Helper allowance, Academic allowance and uniform allowance :** Taxable to the extent actually spent for official purposes only
- (ii) **Children Education Allowance :** ₹ 100 p.m. per child for a maximum of 2 children.
- (iii) **Hostel expenditure allowance :** ₹ 300 p.m. per child for a maximum of 2 children
- (iv) **Special Compensatory (tribal area/scheduled area/Agency area) allowance :** ₹200 p.m.
- (v) **Border area, remote area, disturbed area allowances etc. :** Exemption varies from ₹200 p.m. to ₹ 1,300 p.m.

(vi) **Compensatory field area allowance** : ₹ 2,600 p.m.

(vii) **Compensatory modified field area allowance** : ₹ 1,000 p.m.

9. Transport Allowance :

As per the recommendations of 5th Pay Commission, the Central Government has allowed transport allowance to its employees. As per orders any allowance given with effect from 1-8-1997 under the name of Transport Allowance to any employee whether govt. or private shall be exempted up to ₹ **1,600** p.m. Excess, if any, shall be taxable. But in case of handicapped with disability of lower extremities or a blind employee it shall be exempted upto ₹ **3,200** p.m. **However, the Transport allowance granted to an employee other than handicapped employee Rs.1,600 per month will be withdrawn from the Assessment year 2019-20 due to the introduction of Standard Deduction of Rs.40,000**

4.5. PERQUISITES

4.5.1. Perquisites – Definition :

According to Section 17(2) Perquisites means any benefit or amenity given by employer to employee whether in cash or in kind. Generally, these benefits are attached to the post to which a person is holding. According to Section 17(2) Perquisite includes :

- (i) the value of rent-free accommodation provided to the assessee by his employer;
- (ii) the value of any concession in the matter of rent respecting any accommodation provided to the assessee by his employer.
- (iii) The value of any benefit or amenity granted or provided free of cost or at concessional rate in any of the following cases.
 - (a) by a company to an employee, who is a director thereof.
 - (b) By a company to an employee being a person who has a substantial interest in the company;
 - (c) By any employer (including a company) to an employee to whom the provisions of clause (a) and (b) do not apply and whose income under the head salaries (whether due from, or paid or allowed by, one or more

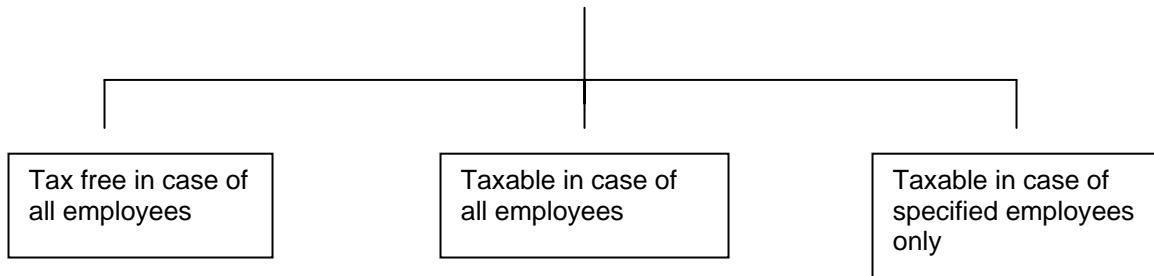
employers) exclusive of the value of all benefits or amenities not provided for by way of monetary payment exceeds ₹ 50,000.

- (iv) any sum paid by the employer in respect of any obligation which, but for such payment, would have been payable by the assessee.
- (v) Any sum payable by the employer whether directly or through a fund, other than a recognized provident fund or an approved superannuation fund or deposited linked insurance fund, to effect an assurance on the life of the assessee or to effect a contract for an annuity; and

Raising the exemption in respect of employer's contribution to approved superannuation fund [Section 17(2) (vii)]: Under Section 17(2) (vii), perquisite includes the amount of any contribution to an approved superannuation fund by the employer in respect of the assessee, to the extent it exceeds ₹ 1,50,000.

- (vi) The value of any other fringe benefit or amenity as may be prescribed.

Types of Perquisites



4.5.2 Perquisites Tax free in case of all employees :

The following perquisites are tax free in case of all employees.

1. Free medical facilities
2. Free refreshments during working hours
3. Free recreational facilities
4. Provision of telephone whether basic or cellular given to employee to facilitate the business of the employer.
5. Free Education which is provided by employer from its own resources who is provided value of such benefit does not exceed ₹ 1,000 p.m. per child.
6. Goods sold at concessional rates.

7. Free ration received by members of armed forces
8. Perquisites allowed by Government to its employees posted abroad
9. Rent free house given to an officer of Parliament, a Union Minister, and leader of opposition in Parliament, judges of high court or Supreme Court.
10. Conveyance facilities to judges of Supreme Court and high court.
11. Free conveyance provided by employer to employees for going or coming from place of employment.
12. Any amount contributed by employer towards pension or deferred annuity scheme.
13. Employer's contribution to staff group insurance scheme.
14. Computers, laptops given to (not transferred) an employee for official/personal use.
15. Transfer of a movable asset (computer, car or electronic items) more than 10 years old without consideration.
16. Accident insurance premium paid by employer for his own benefits.
- 17. Interest free loan or loan at concessional rate of interest taken by employee from employer if amount of loan does not exceed ₹ 20,000 or loan is taken for medical treatment.**
18. Value of any shares or debentures given free of cost or at concessional rate to employee under stock option scheme approved by the Central Government.
19. Income tax on perquisites if paid by employer.

2. Perquisites Taxable in case of all employees :

- (i) Rent free house
- (ii) Concession in the matter of rent
- (iii) Obligations of employee met by employer
 - (a) Gas and electricity bill,
 - (b) Education bill of children,
 - (c) Income tax of employees,

- (d) Professional tax of employee,
 - (e) Salary of servants employed by employee,
 - (f) Any other bill for personal expense is in the employee paid by employer
- (iv) Any other fringe benefits given by employer to employee
- (a) Interest free loans or loan at concessional rate of **interest if more than ₹ 20,000 other than for medical treatment**
 - (b) Use of moveable assets except computers and laptops
 - (c) Transfer of moveable asset.

4.6 VALUATION OF PERQUISITES

4.6.1. Rent Free Accommodation :

In the calculation of rent free accommodation given by an employer to an employee, first we have to consider the following.

- (a) Nature of employee : Government employee or non-government employee
- (b) Type of accommodation : Unfurnished or furnished
- (c) Place of accommodation : Population of the town/city/metro as per 2001 census.
- (d) Owner of the accommodation : Rented accommodation or owned by the employer
- (e) Salary – Definition: 7.5%, 10% and 15% of salary.

After having information on these, we have to calculate the value of rent free accommodation in the following way.

1. Accommodation provided by the Government to its employee : The Value of the perquisite here is the licence fee determined as per Government rules reduced by the rent actually paid by the employee.

2. Non-Government employees – unfurnished accommodation :

In case of Non-Government employees the value of rent free unfurnished accommodation owned and given by the employer is to be decided in the following way.

Determination of value of RFA

I. When the accommodation is owned by the employer :

When the accommodation is owned by the employer the following procedure is to be followed in the calculation of rent free accommodation.

Population of city as per 2001 census where accommodation is provided	Where the accommodation is owned by the employer
(a) Exceeding 25 lakhs	15% of salary in respect of the period during which the accommodation is occupied by the employee
(b) Between 10 lakhs – 25 lakhs	10% of salary in respect of period during which is accommodation is occupied by the employee
(c) Below 10 lakhs	7.5% of salary in respect of period during which the accommodation is occupied by the employer

II. When the accommodation taken on lease by the employer

(a) **15% of salary of the employee; or**

(b) **Lease rent paid or payable by the employer.**

- **Whichever is less is the value of perquisite to the employee.**

Note : City or town population not to be considered in this case.

Valuation of Furnished House :

10% of the cost of furniture owned by employer; or actual hire charges paid by employer is to be **added to the value** of unfurnished house as calculated above.

Salary - Definition : For the purpose of calculation of the value of Rent Free Accommodation, salary includes the pay, allowances, bonus or commission payable monthly otherwise or any monetary payment, by whatever name called from one or more employers, as the case may be, but does not include the following, namely –

- a) dearness allowance or dearness pay unless it enters into the computation of super-annuation or retirement benefits of the employee concerned;
- b) employer's contribution to the provident fund account of the employee;
- c) allowances which are exempted from payment of tax;
- d) the value of perquisites specified in sub-section (2) of Section 17 of the Income-tax Act;
- e) any payment or expenditure in the nature of allotment of shares, debentures or warrants under Employees Stock Option Plan (ESOP) or Scheme in accordance with the guidelines notified by the government or in the nature of medical facility to the extent did not taxable.

Meaning of Accommodation :

Accommodation includes a house, farm-house, flat, hotel accommodation, guest house, a caravan, mobile home, ship etc.

Accommodation in Remote area : For an employee who is working

- (a) in remote area (an area located at least 40 kms, away from city limits of a town whose population is upto 20,000 as per latest census) at mining site, at a project execution site; or
- (b) in offshore area (other is not limit as regard to distance) such accommodation shall be exempted.

More than one accommodation : If the employees is given more than one accommodation, for first three months, value of one such house having lower value shall be taxable. If such accommodation is retained for more than three months, value of both the houses shall be taxable.

Accommodation provided in a Hotel :

In a case of accommodation provided in a hotel, the perquisite value shall be calculated at the rate of 24 per cent of salary paid or payable for the pervious year or actual charges paid or payable to such hotel, whichever is lower, for the period during which such accommodation is provided. Where, however, accommodation is provided in hotel and the following two conditions are satisfied, nothing is chargeable to tax.

- (a) the hotel accommodation is provided for a total period not exceeding in aggregate 15 days in a previous year; and
- (b) such accommodation is provided on an employee's transfer from one place to another place.
- (c) **Where the accommodation is hired by the employer:** Amount of rent paid or payable by the employer or 15% of salary, whichever is less – Rent actually paid by the employee.

3. Concession in the matter of Rent :

The value of the perquisite is to be calculated as if it is rent free accommodation as stated above. Then the rent paid by the employee is to be deducted for getting concession in the matter of rent.

Illu.3 : Mr. Ashok has been provided a residential accommodation by his employer. The total salary of Mr. Ashok is Rs.2,70,000 and he is required to pay Rs.1,800 p.m. towards rent. Calculate the value of perquisite if the accommodation activity having population above 25 lakhs and below 25 lakhs but above 10 lakhs.

		Rs.
(i)	<i>In case the accommodation is provided in a city having population above 25 lakhs</i>	
	15% of Mr. Ashok's salary	40,500
	Less: Rent paid by Mr. Ashok (1,800 ×12)	21,600
	Value of residential accommodation	18,900
(ii)	<i>In case the accommodation is provided in a city having population upto 25 lakhs but above 10 lakhs</i>	
	10% of Mr. Ashok's salary	27,000
	Less: Rent paid by Mr. Ashok	21,600
	Value of residential accommodation	5,400

Illu.4 : Mr. Arun Teja has been provided a residential accommodation by his employer for which the employer paid Rs.42,000 as rent. The total salary of Mr. Arun is Rs.2,70,000 and he is required to pay Rs.1,800 p.m. towards rent. Determine the value of perquisite.

Solution :

Calculation of Value of Rent free Accommodation

	Rs.
Amount of rent paid by employer (Rs.42,000) or 15% of salary (Rs.40,500), whichever is less	40,500
Less: Rent paid by Mr. Arun (1,800 × 12)	21,600
Value of rent free accommodation	18,900

Note : In case where the accommodation is not owned by the employer, we have to take 15% of his salary as perquisite and city and its population are immaterial.

Illu.5 : Mr. Durga Prasad has been provided a furnished residential accommodation at Ongole by his employer. His basic salary is Rs.10,000 p.m., dearness allowance Rs.4,000 p.m. (80% to be considered as salary for computing retirement benefits), education allowance Rs.500 p.m. and medical allowance Rs.1,000 p.m. The employer pays Rs.6,000 p.m. as rent for house and Rs.1,500 p.m. as rent for furniture. Mr. Durga Prasad pays Rs.1,800 p.m. towards rent to his employer, value of perquisite. Determine the value of rent free accommodation.

Solution :

Calculation of Value of Rent Free Accommodation

	Rs.	Rs.
Salary for the purpose of valuation of perquisite:		
- Basic salary (Rs.10,000 × 12)	1,20,000	
- Dearness allowance (Rs.4,000 × 12 × 80/100)	38,400	
- Education allowance (Rs.500 × 12)	6,000	
- Medical allowance (Rs.1,000 × 12)	12,000	
	1,76,400	
15% of Mr. Durga Prasad's salary	26,460	
Amount of Rent paid by employer (for house) (Rs.6,000 × 12)	72,000	
Value of unfurnished house is		26,460
Add: Rent paid for furniture (Rs.1,500 × 12)		18,000
Value of Rent-free furnished house		44,460
Less: Rent paid by Mr. Durga Prasad (Rs.1,800 × 12)		21,600
Value of the perquisite		22,860

Note : When the accommodation is not owned by the employer we have take 15% of his salary or rent paid by the employer, whichever is lower is the value of perquisite.

Perquisites taxable for specified employees only

All monetary obligations of the employee discharged by the employer are perquisites which are taxable in the hands of all employees. But sometimes the employer, instead of making the payment in respect of such monetary obligations or reimbursing such amount to the employee, provides the perquisite in the form of a facility to the employee. Such facility will be a perquisite only for specified employees mentioned in section 17(2)(iii). For example, if a watchman/sweeper is engaged by the employee and his wages are reimbursed/paid by the employer, it is a perquisite for all employees because it is the duty of the employee to pay the salary of his watchman/sweeper.

On the other hand, if the watchman/sweeper is engaged by the employer and facility of his service is provided to the employee, it will be a perquisite only for specified employees. Similarly, if a motor car is provided by the employer to the employee for his personal use it shall be taxable perquisite in case of a specified employee only. Whereas if the car belongs to employee but expenses relating to personal use of such car are paid or reimbursed by the employer it shall be a taxable perquisites in the hands of all employees, whether specified or not.

Any benefit/amenity in the form a facility (other than rent free accommodation, concession in the matter off rent or fringe benefits or amenities as may be prescribed) provided by the employer, which is not tax-free, shall be taxable only in the hands of specified employees. Some of these are :

1. services of a sweeper, gardener, watchman or personal attendant,
2. Free or concessional use of gas, electric energy and water for household consumption.
3. free or concessional educational facilities
4. use of motor car
5. personal or private journey provided free of cost or at concessional rate to an employee or member of his household
6. the value of any other benefit or amenity, service, right or privilege provided by the employer.

If the above perquisite are provided in money (monetary terms) whether by way of reimbursement of expenses incurred by the employee for such facilities or by way of payment on behalf of employee, these perquisite shall be taxable in case of all employees. For example, If the school fees of the children of the employee is reimbursed to him or paid on his behalf to the school, such amount shall be perquisite in case of all employees. On the other hand, if the children of the employee are studying in a school maintained by the employer, the education facility provided is not in money but in kind and it shall be perquisite only for specified employees. Similarly, if the personal gas bills of the employee are in the name of employee and the employer reimburses the amount of such gas bills to him or pays on his behalf to the gas agency, it is in monetary terms and taxable in case of all employees; on the other hand, if such bills are in the name of employer, it will be perquisite in case of specified employee only.

Who is a specified employee [Section 17(2)(iii)] :

An employee shall be a specified employee, if he falls under any of the following three categories :

- (i) he is a Director of a company; or
- (ii) he i.e., the employee, has a substantial interest in the company. As per section 2(32), person who has a substantial interest in the company, in relation to a company means a person who is the beneficial owner of shares, not being shares entitled to a fixed rate of dividend whether with or without a right to participate in profits, carrying not less than 20% of the voting power.
- (iii) his income under the head Salaries (whether due from, or paid or allowed by, one or more employers), exclusive of the value of all benefits or amenities not provided for by way of monetary payment, exceeds ₹ 50,000. Income, for this purpose, shall include all taxable monetary payments like basic salary, dearness allowance, bonus, commission, taxable allowances/perquisites but shall not include the value of any non-monetary benefits/perquisites. The following are to be deducted from salary for this purpose
 - (a) Entertainment allowance (to the extent deductible under section 16(ii))
 - (b) Tax on employment (section 16(iii))

Valuation of Perquisite - Motor Car

In case employer had provided a car or any other vehicle for the private use of the employee or any other member of his family, it is perquisite which is taxable in the

hands of the employee provided he/she is a employee of a specified category [Rule 3(2)].

The valuation of this perquisite depends upon the type of ownership, size of the car and incurring of expenses.

(A) Motor car is owned or hired by employer and its running and maintenance expense are met or reimbursed by employer :

- (i) Car is fully used in the performance of official duties of the employee :** When car is used for official work only and the employee or his family is not deriving and benefit, the value of the perquisite is **nil**. However, in this case the employee is required to maintain complete record of journey's undertaken like date of journey, destination, mileage, amount of spent etc., Thus, a log book is required to be maintained in this case.. Also the employer is also required to give a certificate that the expenditure on car had been incurred wholly and exclusively for official work.

Value of Perquisite – Nil

- (ii) Car is fully used for the private purposes of the employee :** When employee or his family is fully using the car for their private/family purpose, the value of the perquisite is to be determined on the basis of benefit derived by him. For this we have to find out the amount spent by the employer on petrol, repairs, depreciation @ 10% of cost of car or cars, salary of driver etc. The total of all these expenses will be taken as the value of the perquisite. Then, if the employees pay any amount, it should be deducted from the value of the perquisite calculated above.

Calculation of the value of the Perquisite

	₹
Actual expenses incurred by the employer on running and maintenance of car	X x x
Salary of Chauffeur (Driver)	X x x
Depreciation on car (10% of actual cost)	X x x
	X x x
Less : Any amount paid by from employee	X x x
Value of perquisite	X x x

(iii) Car is used partly official purpose and partly for private purposes.

In this type of situation, the value of the perquisite is to be decided in the following way.

Calculation of Value of the perquisite

	Particulars	Size of the Car	Value of Perquisite
(i)	The expenses on maintenance and running of the car are met or reimbursed by the employer (a) Cubic capacity of engine (b) Cubic capacity of engine	Below 1.6 litres Above 1.6 Litres	₹ 1,800 p.m. ₹ 2,400 p.m.
(ii)	The expenses on running and maintenance for private or personal use are fully met by employee himself (a) Cubic capacity of engine (b) Cubic capacity of engine	Below 1.6 litres Above 1.6 litres	₹ 600 p.m. ₹ 900 p.m.
(iii)	Facility of Chauffeur (Driver) . In case driver is also provided by employer to run the motor car ₹ 900 p.m., shall be added in the above mentioned amounts mentioned in points (i) and (ii) above. If nothing is mentioned about driver of the car in the problem, assume that the driver is also provided by the employer in all cases.		₹ 900 in all cases

(B) Car is owned by Employee but its running and maintenance expenses are met or reimbursed by employer

- (i) Car is being used wholly and exclusively for official purposes. Value of perquisite is Nil. However a log book must be maintained.**

(ii) Car is being used partly for official purposes and partly for personal or private purposes.

Calculation of value of perquisite

	₹
Actual amount of expenditure incurred by employer	X x x
Less : ₹ 1,800 p.m. for car below 1.6 lts. and ₹ 2,400 p.m. for car above 1.6 lts. ₹ 900 p.m. for driver	X x x
	X x x
Add : Driver's salary	X x x
Value of Perquisite	X x x

(C) Where the employee owns any other automotive conveyance but the actual running and maintenance charges are met or reimbursed by the employer

1. Employee's conveyance is being used only official purposes. The value of **perquisite is nil**, but a proper log book is required to be maintained
2. Employee's conveyance used partly for official purposes and partly for personal or private purposes of the employee.

The actual amount of **expenditure incurred by the employee as reduced by an amount of ₹ 900 p,m is to be taken as the value of the perquisite**. In this case also a proper log book must be maintained.

(D) Employee or any member of his household uses more than one car belonging to employer ;

Valuation of one car (at the choice of the employee) shall be @ ₹ 1,800 p.m. or ₹ 2,400 p.m. as the case may be depending upon the size of the car. The valuation of any other car or cars shall be made as if he had been provided with such car or cars exclusively for his private or personal purposes.

(E) Car at concessional rate :**Calculation of the value of perquisite**

The value as if car has been provided totally free of cost	X x x
Less : amount paid by the employee	X x x
Value of the perquisite	X x x

(F) Free use of car between office and residence :

Use of employer's car to get to the place of employer's work and come back to his residence is **not a taxable perk and hence it is to be ignored.**

Illu.6: Mr. Kishore has been provided a car (1,200 cc) owned by his employer. Cost of the car is Rs.4,35,000. The employer incurred as expenditure on the car – Petrol Rs.36,000, Driver Rs.40,000 and maintenance Rs.15,000. Mr. Kishore pays Rs.1,000 p.m. to his employer. Determine the value of perquisite of car, if the car is used by Mr. Kishore for –

- (I) Official purposes and partly for personal use,**
- (II) Personal use only.**

Solution :

		Rs.
(I)	<i>If Car used for Official Purposes and Partly for Personal use</i>	
	Value of Car (Rs.1,800 × 12)	21,600
	Value of Driver (Rs.900 × 12)	10,800
	Value of Perquisite - Car	32,400
	Note: Amount paid by the employee is not to be deducted.	
(II)	<i>If Car used for Personal use only</i>	
	Expenditure actually incurred by employer (Petrol Rs.36,000 + Maintenance Rs.15,000)	51,000
	Normal depreciation @ 10% of Rs.4,35,000	43,500
	Driver's salary paid by employer	40,000
		1,34,500
	Less: Amount recovered from employee (Rs.1,000 × 12)	12,000
	Value of Perquisite of Car	1,22,500

Note: However, w.e.f. A.Y. 2019-20, such reimbursement will be considered as taxable perquisite.

4.6.3 Water, Electricity and Gas :

	Particulars	Taxable value of Perquisite	
(a)	Supply of gas, electricity or water for household consumption	(a) If procured from outside agency: Amount paid to outside agency is the value of perquisite. (b) If Resources owned by employer himself : Manufacturing cost per unit Less : Amount paid by the employee	
(b)	Gas, Electricity, water etc., for household consumption and the connection in the name of employee but expenses met by Employer	Specified Employee Taxable	Non specified employee Taxable
(c)	Above facilities provided in any other manner	Taxable	Not taxable

4.6.4. Free Travel Accommodation :

Particulars	Value of Perquisite
Traveling, touring, accommodation and other expenses met by the employer other than specified in Rule 2B (To be calculated only for the period of vacation)	Amount incurred by employer or value market price. Less : Amount recovered from employee

4.6.5. Free Meals :

Particulars	Value of Perquisite
Free meals during office hours	Actual cost to the employer. However, not taxable upto ₹ 50 per meal or tea or snacks Less : Amount recovered from the employee

Note : Free meals in remote area or offshore installation area is not a taxable perquisite. Tea or Non-alcoholic Beverages and Snacks provided during working hours is also not taxable.

4.6.6. Gift :

Particulars	Value of Perquisite
Value of any gift or voucher or token, other than gifts made in cash or convertible into money (e.g., gift cheques) on ceremonial occasion, or otherwise	Actual expenditure to employer Less : Amount recovered from Employee Note : If it is incurred for official purpose then it is not a taxable perquisite.

4.6.7. Club Expenses :

Particulars	Value of Perquisite
Expenditure on club, other than health club or sports club or similar facilities provided uniformly to all employees	Actual expenditure incurred by the employer Less : amount recovered from employee

Note :

1. If the expenditure is incurred exclusively for official purposes and supported by necessary documents, then it is not a taxable perquisite.
2. The Initial fee of corporate membership of a club is not a taxable perquisite.

4.6.8. Free Education Facility for members of employee's household :

	Particulars	Value of Benefit
a.	Where the educational institutions maintained and owned by the employer	1. The cost of education in a similar institution in or near the locality. However, if educational facilities are provided to the children of the employee 2. The value of this perquisite shall be nil if the cost of such education or the value of benefit per child does not exceed ₹ 1,000 p.m.

b.	Where free education facilities for such members of employees' household are allowed in any other educational institution by reason of his begin in employment of the employer.	Same as above
c.	Provision of free or concessional education facilities in any other case	Amount of expenditure incurred by the employer in that behalf

4.6.9 Free Domestic servants :

- a) In case of employee employs servants but their salary is paid by employer – Total salary paid to these servants is taxable in case of all the employees u/s 17(2) (vi)]
- b) In case of services of sweeper, gardener and watchman are provided by employer full salary of these employees is taxable and it shall be reduced by any amount paid by employee.
- c) In case of employer provides any other servant his full salary is taxable for specified employees only.

1. Taxation of the value of fringe benefits [Sec.17(2)]

(i) Interest free or concessional loans :

- (a) Interest free loan taken by employee for any purpose is taxable and taxable value will be the amount calculated at the rates prescribed by the State Bank of India for its loans.
- (b) In case loan is taken at concessional rate of interest for any purpose the taxable value shall be the amount calculated at the rate, which is difference between the rate prescribed by the State Bank of India for its loans and the actual rate of interest charged by employer.
- (c) If loan is taken for medical treatment of notified illness, the interest is fully exempted. But if any amount is received from insurance company, such amount is treated as loan and it shall be taxable as per the above manner.

(d) If the total amount of **loan or loans does not exceed ₹ 20,000 then also the interest is fully exempted.**

(e) Interest shall be calculated on the maximum outstanding monthly balance and shall be reduced by any amount of interest paid by employee.

(ii) **Value of free meals, tea and snacks**

	Purpose of Loan	Value of Benefit
(i)	Tea or snacks provided during office hours	Nil
(ii)	Free meals during workings hours provided in a remote area, or an offshore installation	Nil

(iii) **Use of moveable assets :**

	Purpose of Loan	Value of Benefit
(i)	Use of laptops and computers	Nil
(ii)	Moveable assets, other than (a) laptops and computers; and (b) assets already specified in the rules	10% per annum of the actual cost of such asset, or the amount of rent or charge paid, or payable by the employer, as the case may be

(iv) **Transfer of any moveable asset :**

	Purpose of Loan	Value of Benefit
(i)	Computers and electronics items	Actual cost of such asset to the employer as reduced by 50% of the cost to the employer for each completed year during which such asset was put to use by the employer, on the basis of reducing balance method.
(ii)	Motor cars	Actual cost of such asset to the employer as reduced by 20% of the cost to the employer for each completed year during which such asset was put to use by the employer, on the basis of reducing balance method.

(iii)	Any other asset	Actual cost of such asset to the employer as reduced by 10% of the cost to the employer for each completed year during which such asset was put to use by the employer, on the basis of straight line method.
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Illu.7 : Mr. Srinivas takes interest free loan of Rs.2,10,000 from his employer on 1st October. The loan is repayable in monthly installments of Rs.10,000, which is recovered on 1st day of each month w.e.f. November, 2017. If the SBI rate on 1.4.2017 for similar loan is 8.75% p.a. Calculate the value of perquisite.

Solution :

Calculation of Value of Perquisite

Month	Balance outstanding on the last day of the month
October, 2017	2,10,000
November, 2017	2,00,000
December, 2017	1,90,000
January, 2018	1,80,000
February, 2018	1,70,000
March, 2018	1,60,000
Total	11,10,000

Note:

(1) Interest @ 8.75% p.a. = Rs.11,10,000 × 8.75/100 × 1/12 = Rs.8,093.75.

(2) Since the loan is provided interest-free, the perquisite value is Rs.8,094.

Illu.8 : Mr. Murthy goes on an official tour alone for 5 days, and extends it into a vacation for 4 days. His wife, son and daughter join him on vacation and return along with him. The employer meets the entire expenses being train fare @ Rs.1,000 per head both ways and other expenses @ Rs.700 per head per day. Calculate the value of perquisite.

Solution :

Calculation of the Value of Perquisite

		Rs.	Rs.
(i)	Other expenses of Mr. Murthy for 4 days of vacation i.e. Rs.700 × 4		2,800
(ii)	Train fare and other expenses of 3 family members		
	- Train fare Rs.1,000 × 3	3,000	
	- Other Expenses Rs.700 × 4 × 3	8,400	11,400
	Taxable value of perquisite		14,200

Illu.9 : Mr. Ramana is provided by his employer in his office,

- (i) Tea/Coffee (cost of employer being Rs.5,000 p.a.)**
- (ii) Subsidized lunch for 270 working days (cost of employer being Rs.150 per meal and amount recovered from Mr. Ramana Rs.30 per meal).**

Calculate the value of taxable perquisite.

Solution :

Calculation of Perquisite Value

		Rs.	Rs.
(i)	Cost of tea/coffee (not taxable)		Nil
(ii)	Cost of subsidized lunch	150	
	Less: Deduction	50	
		100 × 270 days	27,000
			27,000
	Less: Amount recovered from Mr. Ramana (Rs.30 × 270)		8,100
	Taxable value of perquisite		18,900

Illu.10 : Mr. Anjaneyulu is provided club facility for him and his family members, by his employer, both for official purposes and for his personal use. His employer incurred a total expenditure of Rs.32,000 out of which Rs.6,000 was incurred on official lunch to business guests (as certified by employer) and Rs.8,000 on use of health club, which is provided uniformly to all his employees. A sum of Rs.1,500 (Rs.600 towards health club and Rs.900 towards other club

facility) is recovered from Mr. Anjaneyulu by the employer. Calculate the value of taxable perquisite.

Solution :

Calculation of Value of Perquisite

		Exempt Rs.	Taxable Rs.
(a)	Expenditure on official lunch	6,000	
(b)	Expenditure on health club facility	8,000	
(c)	Expenditure on other club facility (Rs.32,000 – Rs.6,000 – Rs.8,000)	-	18,000
		14,000	18,000
	Less: Amount recovered from Mr. Anjaneyulu	600	900
		13,400	17,100
	Taxable Value of Perquisite	Nil	17,100

Illu.11 : Mr. Vamsi purchased a car for Rs.3,25,000 on 1.4.2013 which remained in his use upto 31.10.2017, when he sold it to his employee Mr. Sastry for Rs.65,000. Calculate the taxable value of perquisite.

Solution :

Calculation of Value of Perquisite

	Rs.
Cost of car to Mr. Vamsi (on 1.4.2013)	3,25,000
Less: Depreciation @ 20% for 2013-14	65,000
	2,60,000
Less: Depreciation @ 20% for 2014-15	52,000
	2,08,000
Less: Depreciation @ 20% for 2015-16	41,600
	1,66,400
Less: Depreciation @ 20% for 2016-17	33,280
Value of Car for 2017-18 (year of sale)	1,33,120
Less: Amount recovered from employee Mr. Sasthry on sale	65,000
Taxable value of perquisite	68,120

Note: Though the car was in use of Mr. Vamsi for 7 months during 2017-18, it can not be considered as completed year of use.

Illu.12 : Mr. Reddy is employed in an electronic goods manufacturing company. Mr. Reddy purchased following items from his company:

- (i) One washing machine at Rs.3,000; Cost of company Rs.4,900, M.R.P. Rs.8,900
- (ii) One colour T.V. set at Rs.2,500; Cost of company Rs.3,800, M.R.P.7,900.

Calculate the value of perquisite to Mr. Reddy.

Solution :

Calculation of Value of perquisite

	Rs.
Cost of washing machine and T.V. to the employer company (4,900 + 3,800)	8,700
Less: Amount recovered from Mr. Reddy (3,000 + 2,500)	5,500
Taxable value of perquisite	3,200

(v) Medical facility or medical reimbursement :

- (a) **Medical facility in employer's own hospital :** The value of any medical treatment provided to an employee or any member of his family in a hospital, dispensary or a nursing home maintained by the employer is **fully tax free**.
- (b) **Medical facility in Govt. Hospital :** Any amount paid by employer towards medical facility in a Govt. Hospital in the employee or any member of his family is **fully tax free**.
- (c) **Treatment of prescribed diseases :** Any payment made or reimbursed by the employer directly to an approved hospital for the treatment of the employee or any member of his family for prescribed diseases or ailments is to be taken as **fully tax free**.
- (d) **Medical facility in private clinic :** Any sum paid by the employer in respect of any expenditure incurred by the employee on his medical treatment or treatment of any member of his family from any doctor subject to maximum of ₹ **15,000** in the previous year is fully tax free.
- (e) **Treatment in Foreign countries :** In case of treatment is taken outside India the expenses on stay and treatment of patient and stay of one attendant shall be

exempted up to foreign exchange allowed by RBI; and the expenses on travel of patient and attendant shall be **fully exempted provided gross total income of employee does not exceed ₹ 2,00,000 p.a.**

- (f) **Medical Claim Insurance** : If the employer pays for the group medical insurance of the employees on the life of the employee or his family members is to be taken as **fully tax free**. With effect from the assessment year 2007-08 all medical insurance payments made under a scheme framed by the GIC or any other insurer approved by the Central Government or Insurance Regulatory and Development Authority, whether paid directly or reimbursed to the employees, shall not be treated as taxable perquisite.
- (g) **Life Insurance premium** : On the life of employee or any member of his family, if paid by employer is **fully taxable**. But accident insurance premium paid by employer but for his own benefit is **not taxable**. ULIP paid by employer is also **fully taxable**.

Illu.13 : Mr. Sekhar draws a gross salary of Rs.2,00,000 p.a. for Assessment Year 2018-19. His employer incurred expenditure on medical treatment of Mr. Sekhar and his family members, in a dispensary maintained by him, as follows:

		Rs.
(a)	Mr. Sekhar, Mrs. Sekhar and minor daughter	25,000
(b)	Major son (not dependent)	5,000
(c)	Parents of Mr. Sekhar (dependent)	12,000
(d)	Parents of Mrs. Sekhar (dependent)	8,000
(e)	Brother of Mr. Sekhar (dependent)	3,000
(f)	Sister of Mr. Sekhar (not dependent)	5,000
	Mr. Sekhar also got reimbursement of following expenditure on medical treatment at a private hospital:	
(a)	Mr. Sekhar, Mrs. Sekhar and children	6,000
(b)	Parents of Mr. Sekhar (dependent)	8,000
(c)	Parents of Mrs. Sekhar (dependent)	5,000

Solution :

Calculation of value of perquisite of medical expenses

(A) Expenditure on medical treatment in a dispensary maintained by employer:			
		Exempt Rs.	Taxable Rs.
	(a) Mr. Sekhar, Mrs. Sekhar and minor daughter	25,000	-
	(b) Major son	5,000	-
	(c) Parents of Mr. Sekhar	12,000	-
	(d) Parents of Mrs. Sekhar	-	8,000
	(e) Brother of Mr. Sekhar	3,000	-
	(f) Sister of Mr. Sekhar	-	5,000
		45,000	13,000
(B) Reimbursement of medical expenditure at private hospital :			
		Exempt upto Rs.15,000	Taxable Rs.
	(a) Mr. Sekhar, Mrs. Sekhar and children	8,000	-
	(b) Parents of Mr. Sekhar	6,000	-
	(c) Parents of Mrs. Sekhar	-	5,000
		14,000	5,000

Note:

(1) Thus, total taxable value of perquisite for A.Y. 2018-19 is Rs.18,000.

From A.Y. 2019-20, the amount exempt under clause (B) i.e. Rs.14,000 will also be taxable.

4.7 PROFIT IN LIEU OF SALARY

The amount of any compensation due to or received by an assesses from his employer or former employer or in connection with the termination of his employment. [Sec.17(3)]. These payments include the following.

- (1) Terminal compensation
- (2) Payment from an unrecognized provident fund or an unrecognized superannuation fund
- (3) Payment under Keyman Insurance Policy

- (4) Any amount due or received before joining or after cessation of employment
- (5) Any other sum received by the employee from the employer.

4.8 SALARY INCOMES EXEMPT FROM TAX [SEC.10]

While calculating income from salary we have also take into account certain incomes relating to salary which are exempt from tax under Sec.10. The following incomes are exempt from tax u/s 10.

1. Value of Travel Concession [Sec.10(5)] :

Value of travel concession or assistance received by an individual from his employer or former employer for himself and his family in connection with his proceeding : (i) on leave to any place in India; (ii) to any place in India after retirement from service or after the termination of his service shall be exempt.

The exemption shall be allowed subject to the following.

- (a) Where journey is performed by air :** Maximum exemption shall be an amount not exceeding the air economy fare of the National Carrier by the shortest route to the place of destination.
- (b) Where places of origin of journey and destination are connected by rail and the journey is performed by any mode of transport other than by air –** maximum exemption shall be an amount not exceeding the air conditioned first class rail fare by the shortest route to the place of destination; and
- (c) Where the places of origin of journey and destination or part thereof are not connected by rail and the journey is performed between such places :** The amount eligible for exemption shall be :
 - (i)** where a recognized public transport system exists, an amount not exceeding the 1st class or deluxe class fare, as the case may be, on such transport by the shortest route to the place of destination; and
 - (ii)** Where no recognized public transport system exists, an amount equivalent to the air-conditioned first class rail fare, for the distance of the journey by the shortest route, as if the journey had been performed by rail.

Exemption will, however, in no case exceed actual expenditure incurred on the performance of journey

Family for the purpose of this provision means –

- (a) the spouse and children; and
- (b) Parents, brothers and sisters of the individual wholly or mainly dependent on the individual.

The exemption shall not be available to more than two surviving children of an individual after 1st October, 1998. This restriction shall not apply in respect of children born before 1st October, 1998 and also in case of multiple births after one child. The exemption is available in respect of shortest route only. The exemption shall be available in respect of 2 journeys performed in a block of 4 calendar years commencing from the calendar year 1986. The present block of 4 years is 2018 to 2021 calendar years.

2. Indian citizens employed abroad by Government of India [Sec.10(7)] :

Any allowance or perquisite paid or allowed outside India by the Government to a citizen of India for rendering service outside India is exempt.

3. Gratuity [Sec.10(10)]

- (a) Government Employees :** In case of Government employees the gratuity paid is fully exempt from tax. Presently Government employees are eligible for a maximum Rs.20 lakhs of Gratuity. This amount is fully exempted from tax from the present assessment year 2018-19 onwards
- (b) Employees under Gratuity Act :** In case of non-Government employees covered by Payment of Gratuity Act, it is exempt to the extent of least of the following.
 1. 15 days salary for each year of completed service (7 days in case of employees working in seasonal factories) or part thereof in excess of six months; or
 2. gratuity actually received; or
 3. ₹ 10 lakhs (increased to Rs.20 lakhs from the Assessment year 2019-20 onwards)

“Salary” for the purpose of the aforesaid limits means salary last drawn by an employees and includes dearness allowance but does not include any bonus, commission, house rent allowance, overtime wages and any other allowance.

Salary of 15 days is calculated by dividing salary last drawn by 26 i.e., maximum number of working days in a month. For instance, if monthly salary at the time of retirement is ₹ 2,500, 15 days salary would come to ₹ 1,442.31 [i.e., ₹ 2,500 X $\frac{15}{26}$]

(c) Other Employees : In case of non-Government employees not covered by Payment of Gratuity Act, it is exempt to the extent of least of the following.

- (i) a half month's salary for each completed year of service; or
- (ii) Gratuity actually received; or
- (iii) ₹ 10 lakhs (increased to Rs.20 lakhs from the Assessment year 2019-20 onwards)

Completed Years of Service : While calculating completed years, any fraction of the year will be ignored. For instance, if service of a retiring employee is 30 years, 10 months, 30 years will be taken for this purpose, ignoring the balance of 10 months.

Average monthly Salary : Average monthly salary is calculated on the basis of average salary for the ten months immediately preceding the month in which the employee has retired.

4. Commutation of Pension [Sec.10(10A)] :

- (a) Govt. Employee :** Commuted value of pension is fully exempt in case of Government employees.
- (b) Other Employees :** In case of non-government employees commuted value of pension will be exempt to the extent of the following.
 - (i) One third of commuted value of pension if the employee receives gratuity, or
 - (ii) One-half of commuted value of pension if the employee does not receive gratuity.

Illu.14 : Mr. Singh, a Central Government employee, received Rs.15,05,600 as death-cum-retirement gratuity at the time of his retirement on 31.10.2017.

Solution :

The amount received by a Government as gratuity is fully exempt u/s 10(10). W.e.f. 1.1.2016, the maximum gratuity allowable to a Central Govt. Employee is Rs.20 lakhs.

Illu.15 : An employee received Rs.11,80,000 as gratuity on his retirement on 30.6.2017. Period of service is 36 years 4 months. The last drawn wages were Rs.49,400.

Solution :

The amount of gratuity received by a non-government employee exempt shall be the minimum of (a), (b) and (c).

		Rs.
(a)	Gratuity actually received	11,80,000
(b)	Amount calculated at 15 days wages for number of completed years of service i.e. $\left\{ \frac{Rs.49,400 \times 15}{26} \right\}^{36}$	10,26,000
(c)	Maximum monetary limit	10,00,000

Thus, Rs.10,00,000 shall be exempt and Rs.1,80,000 shall be taxable.

Note:

1. For computing 15 days wages, a month is deemed to comprise of 26 days.
2. Exempted gratuity of Rs.20,00,000 is applicable from the Assessment year 2019-20 onwards.

Illu.16 : An employee, not covered under Payment of Gratuity Act, receives Rs.9,95,000 as gratuity on his retirement on 31.5.2018; period of service is 40 years. Average salary in the immediately preceding ten months is Rs.48,000 per month.

Solution :

The amount of gratuity received by an employee not covered by Gratuity Act will be exempt to the minimum of the following.

		Rs.
(a)	Actual amount received	9,95,000
(b)	½ month's average salary for 40 complete years $\left\{ \frac{Rs.48,000}{2} \times 40 \right\}$	9,60,000
(c)	Maximum monetary limit	10,00,000

Thus, Rs.9,60,000 is exempt and Rs.35,000 is taxable.

Illu.17 : Mr. Sridhar, a Central Government employee, retired with a gross pension of Rs.18,500. He commuted Rs.15,000 of his pension and receives 10,20,000 as commuted pension. He also receives Rs.5,05,600 as gratuity.

Solution :

The amount received by a Government employee as commuted pension is fully exempt u/s 10(10A).

Illu.18 : An employee retires from service with his pension fixed at Rs.12,000 per month. He commuted Rs.10,000 out of his pension and received Rs.8,00,000 as commuted value of pension.

Solution :

The amount of commuted pension received by a non-government employee will be taxable in the following way.

(i) *If the employee has received gratuity:*

$$\begin{aligned} \text{Amount Exempt} &= \text{Committed value of } 1/3 \text{ of normal pension} \\ &= \frac{Rs.8,00,000}{10,000} \times \frac{12,000}{3} = Rs.3,20,000 \end{aligned}$$

(ii) *If the employee has not received gratuity*

$$\begin{aligned} \text{Amount Exempt} &= \text{Committed value of } 1/2 \text{ of normal pension} \\ &= \frac{Rs.8,00,000}{10,000} \times \frac{12,000}{2} = Rs.4,80,000 \end{aligned}$$

5. Leave encashment on retirement [Sec.10 (10AA)] :

This exemption is admissible only at the time of retirement, superannuation or registration. Leave encashment will be fully taxable if received during service.

- (i) **Government Employees** : In case of Government employees, it is fully exempt.
- (ii) **Non-Government employees** : In case of non-Government employees, it is exempted to the extent of the least of the following :
- (a) Cash equivalent of earned leave to the credit of employee at the time of retirement, at a maximum of 30 days' average salary for each completed year of service (entitlement to earned leave not to exceed 30 days for each year of completed service); or
- (b) Maximum 10 months average salary; or
- (c) ₹ 3,00,000.

Salary : Here salary means basic salary + DA (if given under the terms of employment or if it enters into pay for retirement benefits) + commission on turnover achieved by him.

Illu.19 : Mr. Pavan, a non-Government employee, retired on 31st January, receiving Rs.5,50,000 as leave salary. Based on following information, determine the amount of taxable leave salary:

- | | |
|--|-------------------|
| (a) Basic Salary p.m. (drawn since last 2 years) | Rs.22,000 |
| (b) Total duration of service | 28 years |
| (c) Leave at credit at the time of retirement | 20 months 10 days |
| (d) Leave entitlement for every year of service | 40 days |
| (e) Leave availed while in service | 17 months |

Solution :

Calculation of Taxable leave Salary:

		Rs.	Rs.
(i)	Leave encashment actually received		5,50,000
(ii)	Cash equivalent of leave (not exceeding 30 days for each year of service) at employee's credit on retirement :		
	(a) Leave at credit of employee:		
	30 days × years of service (i.e. 30 × 28 = 840 days)	28 months	

	Less: Leave availed while in service	17 months	
		11 months	
	(b) Average monthly salary	22,000	
	Cash equivalent of leave [(a) × (b)]		2,42,000
(iii)	Ten months × average salary i.e. 10 months × average salary in the 10 months preceding date of retirement i.e. 10 × Rs.22,000		2,20,000
(iv)	Maximum monetary limit		3,00,000
	Thus, amount of leave salary exempt u/s 10(10AA) is		2,20,000
	Amount received as leave salary		5,50,000
	Less: Amount exempt u/s 10(10AA)		2,20,000
	Amount taxable as leave salary		3,30,000

6. Annual accretion to the credit balance in Recognised Provident Fund (RPF) :

- (i) **Employer's Contribution** : Employer's contribution in excess of **12%** of salary of the employee is taxable.
- (ii) **Interest on RPF** : Excess of interest over **9.5% p.a.** is taxable.

7. Retrenchment Compensation [Sec.10 (10B)] :

In case of a "Workman" under the Industrial Disputes Act or any other Act or Rules receives any retrenchment compensation the exemption will apply to the least of the following.

- (a) 3 months salary for each completed year of service; or
- (b) salary at the time of retirement as multiplied by the balance months of service left before the date of retirement or super-annuation subject to a maximum of ₹ 5,00,000.

Salary for this purpose means basic salary excluding all allowances and perquisites. However, if the terms of employment so provide, salary includes dearness allowance also.

8. Compensation received at the time of VRS [Sec.10(10C)]

Compensation received by the employee under Voluntary Retirement Scheme is exempt up to ₹ 5 lakhs. This exemption shall be allowed if the employee voluntary retires from the following bodies.

1. A public sector company;
2. Any other company;
3. An authority established under a Central, State or Provincial Act
4. A Local Authority;
5. A Co-operative Society;
6. A university established or incorporated or under a Central, State or Provincial Act, or an Institution declared to be a University under Section 3 of the University Grants Commission Act, 1956;
7. Any Indian Institute of Technology within the meaning of clause (g) of Section 3 of the Institute of technology Act, 1961;
8. Such Institute of Management as the Central Government may be notification in the Official Gazette, specify in this behalf.
9. Any State Government or the Central Government.

4.9 DEDUCTIONS FROM SALARY

The following two deductions are to be given from gross salary.

1. **1.Entertainment Allowance [Sec.16(ii)]** : The deduction is to be given only for Government employees. Least of the following is allowed as deduction from gross salary.
 - (a) 20% of Salary
 - (b) ₹ 5,000; or
 - (c) Actual amount of entertainment allowance received.

Entertainment allowance received a Non-Government is fully taxable and no deduction is to be given under this section.

2. **Professional Tax** : Amount paid is fully deductible.

- 3. Standard Deduction [Sec. 16(ia)]: W.e.f. A.Y. 2019-20, a standard deduction of Rs.40,000 or the amount of salary, whichever is less, shall be allowed.**

4.10 PROVIDENT FUNDS

Provident fund scheme is a welfare scheme for the benefit of the employees. Under this scheme certain sum is deducted by the employer from the employee's salary as his contribution to the Provident Fund every month. The employer also contributes a certain percentage of the salary of the employee to the provident fund. These contributions are deposited/invested. The interest earned on these investments is also credited to the provident fund account of the employees. The balance thus keeps on accumulating year after year. At the time of retirement/resignation, the accumulated amount is given to the employee.

Kinds of Provident Funds :

		SPF	RPF	UPF
1.	Employer's contribution of PF	Exempt from tax	Exempt upto 12 per cent of salary. Excess of employer's contribution over 12 percent of salary is taxable	Exempt from tax.
2.	Rebate u/s 88 on employee's contribution	Available	Available	Not available
3.	Interest credited to provident fund	Exempt from tax	Exempt from tax if rate of interest does not exceed 9.5 per cent p.a	Exempt from tax
4.	Lumpsum payment at the time of retirement or termination of service	Exempt from tax	Exemption from tax in some cases, when not exempt provident fund will be treated as an unrecognized fund from the beginning	Employee's own contribution is exempt from tax. Interest on employee's contribution is taxable under the head Income from Other Sources.

- (i) **Statutory Provident Fund (SPF)** : Fund to which the Act of 1925 applies is known as statutory provident fund (Employees of Government and Semi-Government, Universities etc.)
- (ii) **Recognised Provident Fund (RPF)** : Any provident fund recognized by the Commissioner of Income Tax is known as Recognised Provident Fund.
- (iii) **Unrecognised Provident Fund (UPF)** : Any provident fund which is not recognized by the Commission of Income Tax is known as Unrecognised Provident Fund.
- (iv) **Public Provident Fund (PPF)** : This fund is set up by Central Government and is maintained by State Bank of India. Anybody can deposit minimum of ₹ 500 and maximum of ₹ 1,50,000 per year.

Payment from Recognised Provident Fund [Sec. 10(12)]

Any accumulated balance due and becoming payable to an employee from a recognised provident fund is exempt from tax, on fulfillment of any of the following conditions:

- (i) If he has been in continuous service for at least five years; or
- (ii) If his service has been terminated due to his ill-health or due to contraction or discontinuation of his employer's business or any other cause beyond his control; or
- (iii) If on cessation of his employment his accumulated balance is transferred to another recognised provident fund, maintained by his new employer; or
- (iv) If his entire accumulated balance is transferred to his account under the pension scheme notified u/s 80CCD.

Payment from a Superannuation Fund: [Sec. 10(13)]

Any payment from an approved superannuation fund is exempt if it is made –

- (i) On the death of a beneficiary; or
- (ii) To an employee in lieu of or in communication of an annuity, on his superannuation or on his becoming incapacitated; or
- (iii) By way of refund of contributions on the death of a beneficiary; or
- (iv) By way of refund of contributions, to an employee on his leaving the service otherwise than by retirement on superannuation or on his becoming

incapacitated prior to such retirement, to the extent of contributions made prior to 1.4.1962 and any interest thereon; or

- (v) By way of transfer to the employee's account under the pension scheme notified u/s 80CCD.

4.11 DEDUCTION UNDER SECTION 80 C

This deduction is in respect of amounts paid as Life Insurance premiums, ULIP, CTD, Contribution to Provident Fund, Superannuation Fund, Public Provident Fund, etc., amounts invested in N.S.C. VI, VII and VIII Issues, repayment of loan taken for purchase or construction of residential house, etc.

Deduction under Section 80 C :

Deduction under Sec.80C is to be given only to Individuals and Hindu Undivided Families. The following are the investments eligible for qualifying amount under this section. The following amounts are qualified getting deduction under Sec.80C.

Eligibility : This deduction shall be admissible only to an assessee, being an individual or a Hindu Undivided family.

- (i) **Life Insurance Premium** : Actual amount paid towards Life Insurance policy premium subjects to a maximum of 10% of capital sum assured (20% for policy is taken before 1-4-2012) to himself, spouse or children (minor or major, married or unmarried). It also includes step or adopted children. Sum assured shall not include bonus or any premium agreed to be returned. In case of HUF actual amount of premium paid in the name of any or all the co-parceners of the HUF also eligible for deduction.

Any premium or other payment made on an insurance policy other than a contract for deferred annuity issued on or after 1-4-2012 shall be eligible for deduction upto 10% of actual capital sum assured. In case of a person with a disability as referred in Sec.80U or Sec.80DDB the premium will be restricted to 15% of the actual capital sum assured.

- (ii) **Annuity** : Amount contributed towards a contract for a deferred annuity; not being an annuity plan.

- (iii) Amount of deduction from the salary payable by or on behalf of the Government to any individual in accordance with the conditions of his service, for the purpose of securing deferred annuity not exceeding one-fifth of the salary; However, rebate shall be available only to so much of premium or any other sum not exceeding 20% of actual sum assured of an insurance policy other than contract for a deferred annuity. In calculating the actual sum assured, the value of any premium agreed to be returned and the benefit by way of bonus shall not be taken into account.
- (iv) **Statutory Provident Fund** : Any contributions by an individuals to any provident fund to which Provident Funds Act, 1925 applies;
- (v) **Other Provident Funds** : Contribution to public provident fund to himself, spouse or children.
- (a) Contribution by an employee to a recognized provident fund;
 - (b) Contribution by an employee to an approved superannuation fund;
- (vi) As subscriptions to any notified security of the Central Government;
- (vii) Investments in National Savings Certificates VI, VII and VIII Series;
- (viii) Any amount invested by a person with UTI or LIC under unit linked insurance plan.
- (ix) Contribution to Unit linked Insurance Plan of the LIC, Mutual Fund notified under section 10(23D).
- (a) Contribution to notified annuity plan of the LIC of Indian or any other insurer;
 - (b) Subscription to any units of any mutual fund referred to under section 10(23D) or UTI and notified by the Central Government.
 - (c) Contribution by an individual to a pension fund set up by a mutual fund notified u/s 10(23D) or UTI as the Central Government may specify
- (x) **Deposit Scheme of National Housing Bank and Others** : Subscription to any deposit scheme or as a contribution to any such fund set up by the National Housing Bank; A subscription to any notified deposit with scheme of a public sector company engaged in providing long term finance for construction or purchase of houses in India for residential purposes or deposit with any authority constituted in India for the purpose of dealing with and satisfying the need for housing

accommodation for the purpose of planning development or improvement of cities, towns and villages or for both.

(xi) Tuition fee to children : Any sum paid by an individual as tuition fees to any university, college or school or other educational institution situated in India for the purpose of full time education in respect of any two children of the assessee. It shall not include payment towards any development fees or donation or payment of similar nature.

(xii) Subscription to equity or debentures : Any subscription by an individual or HUF to equity shares or debentures forming part of any eligible issue of capital approved by the Board of wholly public company any public financial institution where such proceeds are utilized for infrastructure company.

(xiii) House Loan principal amount repayment

- (a) Repayment of any loan taken from Government approved institution or specified employer or any other notified institution borrowed for the purpose of purchase or construction of residential house. Any expenditure incurred towards stamp duty, registration charges for purchase of the house is also eligible;
- (b) Payment in part/installment under any self financing or similar scheme of any housing board, development authority engaged in construction and sale of houses;
- (c) Payment in part/installment towards cost of the house/flat allotted, due to any company or co-operative society of which assessee is a shareholder or member;

(xiv) Fixed Deposit in Banks and post offices : Fixed deposits for not less than 5 years in scheduled banks is eligible for deduction under this section.

(xv) NABARD Bonds : Subscriptions to bonds of NABARD are also eligible for deduction under section 80 C.

Qualifying Amount : The amount of deduction shall be actual amount paid or deposited during the previous year in prescribed savings schemes stated above. This amount is called as qualifying amount.

Amount of Deduction : The amount of deduction to be given is as follows :

- (i) Qualifying amount; or
- (ii) ₹ 1,50,000 - whichever is less.

According to Section 80 CCE the amount of deduction under section 80 C, 80 CCC, and 80 CCD should not exceed ₹ 1,50,000.

Additional Illustrations

Government Employee receiving Gratuity :

Illu.20 : Mr. Raja Naidu, a Central Government employee, receives Rs.15,05,600 as death-cum-retirement gratuity at the time of his retirement on 31.10.2017. Compute the taxable gratuity.

Solution:

The amount received as gratuity is fully exempt u/s 10(10). W.e.f. 1.1.2017, the maximum gratuity allowable to a Central Govt. employee is Rs.20 lakhs.

Non-Government Employee covered under Payment of Gratuity Act

Illu.21 : Mr. Kesav, an employee receives Rs.11,80,000 as gratuity on his retirement on 30.6.2017. Period of service is 36 years 4 months. The last drawn wages were Rs.49,400. The amount of gratuity exempt shall be the minimum of (a), (b) and (c).

Solution:

Calculation of Taxable gratuity (Assessment Year 2018-19)

(a)	Gratuity actually received	Rs.11,80,000
(b)	Amount calculated at 15 days wages for number of completed years of service i.e. $\left\{ \frac{Rs.49,400 \times 15}{26} \right\} \times 36$	Rs.10,26,000
(c)	Maximum monetary limit Thus, Rs.10,00,000 shall be exempt and Rs.1,80,000 shall be taxable.	Rs.10,00,000

Note: For computing 15 days wages, a month is deemed to comprise of 26 days.

Non-Government Employee not covered under Payment of Gratuity Act

Illu.22 : Mr. Bharat, an employee, not covered under Payment of Gratuity Act, receives Rs.9,95,000 as gratuity on his retirement on 31.5.2017; period of service is 40 years. Average salary in the immediately preceding ten months is Rs.48,000 per month. The amount of gratuity exempt shall be the minimum of (a), (b) and (c).

Solution:

Calculation of Taxable gratuity (Assessment Year 2018-19)

(a)	Actual amount received	Rs.9,95,000
(b)	1/2 month's average salary for 40 complete years $\left\{ \frac{Rs.48,000}{2} \times 40 \right\}$	Rs.9,60,000
(c)	Maximum monetary limit Thus, Rs.9,60,000 is exempt and Rs.35,000 is taxable.	Rs.10,00,000

Commuted Pension of Government Employee

Illu.23 : Mr. Ranadheer, a Central Government employee, retired with a gross pension of Rs.18,500. He commutes Rs.15,000 of his pension and receives 10,20,000 as commuted pension. He also receives Rs.5,05,600 as gratuity.

Solution:

The amount of Rs.10.20 lakhs received as commuted pension is fully exempt u/s 10(10A).

Commuted Pension of Non-Government Employee

Illu.24 : Mr. Sarma an employee retires from services with his pension fixed at Rs.12,000 per month. He commuted Rs.10,000 out of his pension and received Rs.8,00,000 as commuted value of pension. The amount of commuted pension exempt shall be worked out as follows:

Solution:

Calculation of Commuted value of Pension (Assessment Year 2018-19)

(i)	<i>If the employee has received gratuity</i> Amount exempt = Commuted value of 1/3 of pension $= \frac{Rs.8,00,000}{10,000} \times \frac{12,000}{3} = Rs.3,20,000$
(ii)	<i>If the employee has not received gratuity</i>

Amount exempt = Commuted value of 1/2 of normal pension

$$= \frac{Rs.8,00,000}{10,000} \times \frac{12,000}{2} = Rs.4,80,000$$

Illu.25 : Mr. Nandeeswarayya, a non – Government employee, retired on 31st January, 2018, receiving Rs.5,50,000 as leave salary. Based on following information, determine the amount of taxable leave salary:

(a)	Basic Salary p.m. (since 2015)	Rs.22,000
(b)	Total duration of service	28 years
(c)	Leave at credit at the time of retirement	20 months 10 days
(d)	Leave entitlement for every year of service	40 days
(e)	Leave availed while in service	17 months

Solution:

**Calculation of Taxable leave salary
(Assessment Year 2018-19)**

(i)	Leave encashment actually received	Rs.5,50,000
(ii)	Cash equivalent of leave (not exceeding 30 days for each year of service) at employee's credit on retirement: (a) Leave at credit of employee: 30 days x years of service (i.e. 30 x 28 = 840 days) = 28 months Less : Leave availed while in service = 17 months <hr/> 11 months (b) Average monthly salary = Rs.22,000 Cash equivalent of leave [= (a) x (b) =]	Rs.2,42,000
(iii)	Ten months average salary i.e. 10 months x average salary in the 10 months preceding 31.1.2017 i.e. 10 x Rs.22,000	Rs.2,20,000
(iv)	Maximum monetary limit Thus, amount of leave salary exempt u/s 10(10AA) is Amount received as leave salary Less: Amount exempt u/s 10(10AA) Amount taxable as leave salary	Rs.3,00,000 <u>Rs.2,20,000</u> Rs.5,50,000 Rs.2,20,000 Rs.3,30,000

Illu.26 : From the following particulars furnished by Mr. Simhadri, residing in Chennai, find the taxable amount of H.R.A.

(a)	Basic salary (per annum)	Rs.3,00,000
(b)	House Rent Allowance (per annum)	Rs.60,000
(c)	Rent paid for house in Chennai	Rs.75,000

Solution:

Calculation of HRA exempts (Assessment Year 2018-19)

(i)	Actual HRA, i.e.	Rs.60,000
(ii)	Rent paid – 10% of salary i.e. [Rs.75,000 – Rs.30,000]	Rs.45,000
(iii)	50% of salary (since house is at Delhi)	Rs.1,50,000

Thus, HRA exempt is Rs.45,000. And taxable amount of HRA is [Rs.60,000-Rs.45,000] = Rs.15,000.

Illu.27 : Mr. Mangapathi Rao, who resides in Kakinada, receives Rs.35,000 p.m. as basic pay and Rs.25,000 p.m. as HRA. He stays in his father's house up to 31st October for which he pays no rent. Thereafter he stays in a rented house with a rent of Rs.7,000 p.m. Find the taxable amount of HRA:

Solution:

**Calculation of HRA exempts
(Assessment Year 2018-19)**

(A)	For the period April to October (Since no expenditure incurred on house rent)	Nil
(B)	For the period November to March Least of following amounts :	
	(i) Actual HRA	Rs,2,500
	(ii) Rent paid – 10% of salary [i.e. Rs.7,000 – Rs.3,500]	Rs.3,500
	(iii) 40% of salary (since house is at Kakinada)	Rs.14,000
The amount of HRA exempt is Rs.2,500 p.m. Total HRA exempt is Rs.2,500 × 5 = Rs.12,500		
	HRA received (Rs.2,500 × 12)	Rs.30,000
	Less : Amount exempt	Rs.12,500
	HRA taxable	Rs.17,500

Illu.28 : Mr. Jaggayya has been provided a residential accommodation by his employer. The total salary of Mr. Jaggayya is Rs.2,70,000 and he is required to pay Rs.1,800 p.m. towards rent. Calculate the Value of perquisite.

Solution:

(i)	In case the accommodation is provided in a city having population above 25 lakhs	
	15% of Mr. Jaggayya's salary	Rs.40,500
	Less: Rent paid by Mr. Jaggayya (1,800 ×12)	Rs.21,600
	Value of residential accommodation	Rs.18,900
(ii)	In case the accommodation is provided in a city having population upto 25 lakhs but above 10 lakhs	
	10% of Mr. Jaggayya's salary	Rs.27,000
	Less: Rent paid by Mr. Jaggayya	Rs.21,600
	Value of residential accommodation	Rs.5,400

Illu.29 : Mr. B has been provided a residential accommodation by his employer for which the employer paid Rs.42,000 as rent. The total salary of Mr. B is Rs.2,70,000 and he is required to pay Rs.1,800 p.m. towards rent. Calculate the value of perquisite.

Solution:

Amount of rent paid by employer (Rs.42,000)	
or 15% of salary (Rs.40,500), whichever is less	Rs.40,500
Less: Rent paid by Mr. B (1,800 ×12)	Rs.21,600
Value of residential accommodation	Rs.18,900

Illu.30 : Mr. Patanjali has been provided a furnished residential accommodation at Mumbai by his employer. His basic salary is Rs.10,000 p.m., dearness allowance Rs.4,000 p.m. (80% to be considered as salary for computing retirement benefits), education allowance Rs.500 p.m. and medical allowance Rs.1,000 p.m. The employer pays Rs.6,000 p.m. as rent for house and Rs.1,500 p.m. as rent for furniture. Mr. Patanjali pays Rs.1,800 p.m. towards rent to his employer. Calculate the Value of perquisite

Solution:

**Calculation of exempted HRA
(Assessment Year 2018-19)**

Salary for the purpose of valuation of perquisite		
- Basic salary (Rs.10,000 × 12)	Rs.1,20,000	
- Dearness allowance (Rs.4,000 × 12 × $\frac{80}{100}$)	Rs.38,400	
- Education allowance (Rs.500 × 12)	Rs.6,000	
- Medical allowance (Rs.1,000 × 12)	Rs.12,000	
	Rs.1,76,400	
15% or Mr. Patanjali's salary		Rs.26,460
Amount of Rent paid by employer (for house) (Rs.6,000 × 12)		Rs.72,000
Value of unfurnished house is		Rs.26,460
Add: Rent paid for furniture (Rs.1,500 × 12)		Rs.18,000
Value of Rent-free furnished house		Rs.44,460
Less: Rent paid by Mr. Patanjali (Rs.1,800 × 12)		Rs.21,600
Value of the perquisite		Rs.22,860

Illu.31 : Mr. Ayyangar has been provided a car (1,200 cc) owned by his employer. Cost of the car is Rs.4,35,000. The employer incurred as expenditure on the car- Petrol Rs.36,000, Driver Rs.40,000 and maintenance Rs.15,000. Mr. Ayyangar pays Rs.1,000 p.m. to his employer. Calculate the value of perquisite.

Solution:

Calculation of Car perquisite

The Car is used by Mr. Ayyangar for -		
(I)	Official purpose and partly for personal use,	
(II)	Personal use only.	
(I)	If Car used for Official Purposes and Partly for Personal use	
	Value of Car (Rs.1,800 × 12)	Rs.21,600
	Value of Driver (Rs.900 × 12)	Rs.10,800
	Value of perquisite of Car	Rs.32,400
	Note: Amount paid by the employee is not to be deducted	

	(II)	If Car used for Personal use only	
		Expenditure actually incurred by employer (Petrol Rs.36,000 + Maintenance Rs.15,000)	Rs.51,000
		Normal depreciation @ 10% of Rs.4,35,000	Rs.43,500
		Driver's salary paid by employer	Rs.40,000
			Rs.1,34,500
		Less: Amount recovered from employee (Rs.1,000 × 12)	Rs.12,000
	Value of Perquisite of Car	Rs.1,22,500	

Illu.32 : Mr. Relangi takes a loan of Rs.1,00,000 from his employer for medical treatment of his wife (disease specified under rule 3A). Calculate the value of perquisite.

Solution:

Further, Mr. Relangi receives Rs.40,000 under mediclaim policy, which he retains. The value of perquisite shall be interest on the loan of Rs.40,000.

Illu.33 : Mr. Raja Babu takes a loan of Rs.15,000 from his employer for his daughter's education. Calculate the value of perquisite.

Solution:

The perquisite is not taxable, since loan is less than Rs.20,000.

Illu.34 : Mr. Z takes interest free loan of Rs.2,10,000 from his employer on 1st October, 2018. The loan is repayable in monthly installments of Rs.10,000, which is recovered on 1st day of each month w.e.f. November, 2018. If the SBI rate on 1.4.2018 for similar loan is 8.75% p.a. Calculate the value of perquisite.

Solution :

Calculation of Value of perquisite

Month	Balance outstanding on the last day of the month Rs.
October, 2018	2,10,000
November, 2018	2,00,000
December, 2018	1,90,000
January, 2019	1,80,000

Taxation	120	Salaries
February, 2019		1,70,000
March, 2019		1,60,000
Total		11,10,000
Interest @ 8.75% p.a. = Rs.11,10,000 × $\frac{8.75}{100} \times \frac{1}{12}$ = Rs.8,093.75		
Since the loan is provided interest – free, the perquisite value is Rs.8,094.		

Illu.35 : Mr. Suresh goes on an official tour alone for 5 days, and extends it into a vacation for 4 days. His wife, son and daughter join him on vacation and return along with him. The employer meets the entire expenses being train fare @ Rs.1,000 per head both ways and other expenses @ Rs.700 per head per day. Calculate the value of perquisite.

Solution:

Calculation of the Value of perquisite

(i)	Other expenses of Mr. Suresh for 4 days of vacation i.e. Rs.700 × 4		Rs.2,800
(ii)	Train fare and other expenses of 3 family members		
	- Train fare Rs.1,000 × 3	Rs.3,000	
	- Other Expenses Rs.700 × 4 × 3	Rs.8,400	Rs.11,400
	Taxable value of perquisite		Rs.14,200

Illu.36 : Mr. Nishanth is provided by his employer, in his office –

- (i) Tea/coffee (cost of employer being Rs.5,000 p.a.)**
- (ii) Subsidized lunch for 270 working days (cost of employer being Rs.150 per meal and amount recovered from Mr. Nishanth Rs.30 per meal). Calculate the value of perquisite.**

Solution:

Calculation of the value of taxable perquisite

Value of taxable perquisite			Nil
(i)	Cost of tea/coffee (not taxable)		
(ii)	Cost of subsidized lunch	Rs.150	
	Less: Deduction	Rs.50	
		Rs.100 x 270 days	Rs.27,000
			Rs.27,000

	Less: Amount recovered from Mr. Nishanth (Rs.30 × 270)		Rs.8,100
	Taxable value of perquisite		Rs.18,900

Illu.37 : Mr. Mukharjee is provided club facility for him and his family members, by his employer, both for official purposes and for his personal use. His employer incurred a total expenditure of Rs.32,000 out of which Rs.6,000 was incurred on official lunch to business guests (as certified by employer) and Rs.8,000 on use of health club, which is provided uniformly to all his employees. A sum of Rs.1,500 (Rs.600 towards health club and Rs.900 towards other club facility) is recovered from Mr. Mukharjee by the employer. Calculate the value of perquisite.

Solution:

Calculation of the Value of perquisite

		Exempt Rs.	Taxable Rs.
(a)	Expenditure on official lunch	6,000	
(b)	Expenditure on health club facility	8,000	
(c)	Expenditure on other club facility (Rs.32,000 – Rs.6,000 – Rs.8,000)	-	18,000
		14,000	18,000
	Less: Amount recovered from Mr. Mukharjee	600	900
		13,400	17,100
	Taxable Value of Perquisite	Nil	17,100

Illu.38 : Mr. Rajamouli purchased a car for Rs.3,25,000 on 1.4.2013 which remained in his use upto 31.10.2017, when he sold it to his employee. Mr. Kartik for Rs.65,000. The taxable value of perquisite shall be:

Cost of car to Mr. Rajamouli (on 1.4.2013)	Rs.3,25,000
Less: Depreciation @ 20% for 2013-14	Rs.65,000
	Rs.2,60,000
Less: Depreciation @ 20% for 2014-15	Rs.52,000
	Rs.2,08,000

Taxation	122	Salaries
Less: Depreciation @ 20% for 2015-16		Rs.41,600
		Rs.1,66,400
Less: Depreciation @ 20% for 2017-18		Rs.33,280
Value of Car for 2018-19 (year of sale)		Rs.1,33,120
Less: Amount recovered from employee Mr. Kartik on sale		Rs.65,000
Taxable value of perquisite		Rs.68,120

Note: Though the car was in use of Mr.Rajmouli for 7 months during 2018-19, it can not be considered as completed year of use.

Illu.39 : Mr. Sanjay is a State Govt. employee getting basic pay of Rs.14,000 p.m. , D.A. Rs.3,000 p.m., H.R.A. Rs.4,000 p.m. and N.P.A. Rs.3,500 p.m. The Govt. has deducted as professional tax Rs.75 p.m. on behalf of Mr. Sanjay. Mr. Sanjay resides in his father's house at Delhi and pays no rent. Compute Mr. Sanjay's income from salary for A.Y. 2018-19.

Solution:

**Computation of Income from Salary of Mr. Sanjay
(Assessment Year 2018-19)**

	Rs.	Rs.
Basic Pay (Rs.14,000 × 12)		1,68,000
D.A. (Rs.3,000 × 12)		36,000
H.R.A. (Rs.4,000 × 12)	48,000	
Less: Exempt u/s 10(13A)	Nil	48,000
N.P.A. (Rs.3,500 × 12)		42,000
Gross Salary		2,94,000
Less: Professional Tax (Rs.75 × 12)		900
Net Salary		2,93,100

Note:

1. The amount of HRA u/s10(13A) exempt is the least of following:

		Rs.
(i)	Actual HRA received	48,000
(ii)	Rent paid – 10% of salary	Nil
(iii)	50% of salary [(Rs.1,68,000 + Rs.36,000) + 2]	1,02,000

Thus, no exemption is allowable in respect of HRA.

Illu.40 : Mr. Deepak is an employee of M/s. Nagarjuna Ltd. During the financial year 2017-18, he gets Rs.50,000 p.m. as salary and rent-free unfurnished house (rent paid by employer Rs.12,000 p.m.). Nagarjuna Ltd. has deposited Rs.8,000 as income – tax on perquisite of rent-free house on behalf of Mr. Deepak.

Compute Mr. Deepak's income under the head salary and tax liability thereon for A.Y.2018-19.

Solution:

**Computation of Income from Salary of Mr. Deepak
(Assessment Year 2018-19)**

	Rs.
Salary (Rs.50,000 ×12)	6,00,000
Value of Rent-free Unfurnished House	90,000
Tax Paid on value of non-monetary perquisite by employer on behalf of employee [Exempt u/s 10 (10CC)]	Nil
Gross Salary	6,90,000
Gross Total Income	6,90,000
Less : Deduction u/s 80C to 80 U	Nil
Taxable Income	6,90,000

Notes:

1.	Calculation of Value of Rent-free Unfurnished House :	Rs.
	(a) 15% of salary (Rs.6,00,000 × $\frac{15}{100}$)	90,000
	(b) Rent paid (Rs.12,000 ×12)	1,44,000
	Thus, value of rent-free house is Rs.90,000.	
2.	Tax paid by the employer on non-monetary perquisites is not considered as employee's income u/s 10(10CC). However, the tax so paid by the employer should not exceed the tax payable on such non-monetary perquisites, which shall be calculated at the average rate of tax, as per section 192 (1B).	
	In this case :	
	Total Income is	6,90,000
	Tax payable on total income is	64,890
	Average rate of tax is $\left(\frac{64,890}{6,90,000} \times 100 \right)$	9.4%

	Tax payable on non-monetary perquisite at the average rate is (Rs.90,000 × 9.4%) Since the company has paid Rs.8,000 (less than Rs.8,460), it is fully exempt.	8,460
3.	A tax rebate is available u/s 87A, equal to the amount of tax or Rs.2,500 [Rs.5,000 for A.Y. 2018-19], whichever is less, in case of a resident individual having total income upto Rs.3.5 lakhs [Rs.5 lakhs for A.Y. 2018-19].	
4.	For A.Y. 2018-19, surcharge is payable @ 15% of income-tax, if total income exceeds Rs.1 crore.	

Illu.41 : Mr. Damodar retired from SLV Ltd. on 1.11.2017 after a service of 25 years 9 months. He received Rs.10,80,000 as gratuity (Payment of Gratuity Act is not applicable). At the time of retirement he was getting basic pay Rs.28,000 p.m. (Rs.24,000 p.m. upto 30.6.2017) and dearness allowance Rs.9,000 p.m. (Rs.7,500 p.m. upto 30.6.2017). 40% of dearness allowance is considered part of salary for the purpose of retirement benefits. Compute Mr. Damodar's income from salary for A.Y.2018-19.

Solution:

Computation of Income from Salary

	Rs.	Rs.
Basic Pay :		
April '17 to June '17 (Rs.24,000 × 3)	72,000	
July '17 to Oct. '17 (Rs.28,000 × 4)	1,12,000	1,84,000
Dearness Allowance :		
April '17 to June '17 (Rs.7,500 × 3)	22,500	
July '17 to Oct. '17 (Rs.9,000 × 4)	36,000	58,500
Gratuity	10,80,000	
Less: Exempt u/s 10(10)	3,60,500	7,19,500
Gross Salary		9,62,000

Notes:

		Rs.	Rs.
1.	Gratuity exempt u/s 10(10) is least of following :		
	(i) Actual gratuity	10,80,000	
	(ii) Maximum monetary limit	10,00,000	
	(iii) Half-month's average salary for each completed year of service $\left(Rs. \frac{28,840}{2} \times 25 \right)$	3,60,500	
	Thus, gratuity exempt is Rs.3,60,500.		
2.	Average salary for preceding 10 months is :		
	Basic Salary		
	July '17 to Oct. '17 (Rs.28,000 × 4)	1,12,000	
	Jan '17 to June '17 (Rs.24,000 × 6)	1,44,000	
	Total Basic salary for preceding 10 months	2,56,000	(A)
	Dearness Allowance :		
	July '17 to Oct. '17 (Rs.9,000 × 4)	36,000	
	Jan '17 to June '17 (Rs.7,500 × 6)	45,000	
	Total DA to for preceding 10 months	81,000	
	40% of DA to be considered	32,400	(B)
	Total Salary for preceding 10 months [(A) + (B)]		2,88,400
	Average Salary $\left(\frac{2,88,400}{10} \right)$		28,840
3.	Completed years of service to be reckoned is 25 years. Any part of year (even if 6 months or more) shall be ignored.		

Illu.42 : Mr. Dharmendra is an employee of M/s. Bharat Ltd. He gets following amounts during the financial year 2017-18

		Rs.
(a)	Basic pay (p.m.)	12,000
(b)	Dearness Allowance (p.m.) [forming part of salary]	5,000
(c)	Interest credited on balance in RPF @ 9.5%	15,000
(d)	Rent – free house at Delhi (rent paid by company Rs.5,000 p.m.)	-
(e)	Leave salary for one month	17,000

Mr. Dharmendra contributed Rs.2,200 p.m. to the recognised provident fund and an equal amount was contributed by the company. Compute Mr. Dharmendra's income from salary for A.Y. 2018-19.

Solution:

**Computation of Income from Salary of Mr. Dharmendra
(Assessment Year 2018-19)**

	Rs.	Rs.
Basic Pay (Rs.12,000 ×12)		1,44,000
Dearness Allowance (Rs.5,000 ×12)		60,000
Interest credited on RPF Balance		Nil
Amount contributed by employer towards RPF (Rs.2,200 ×12)	26,400	
Less: Amount @ 12% of salary $\left[\frac{12}{100} \times (1,44,000 + 60,000) \right]$	24,480	1,920
Leave Salary		17,000
Rent-free accommodation [See Note 2]		33,150
Gross Salary		2,56,070

Notes:

1.	Since interest on RPF balance is credited @ 9.5% p.a. it is fully exempt. [Rule 6(b) in Part A of Schedule IV]	
2.	Value of rent-free house is as under:	
(a)	15% of salary $\left[i.e. \frac{15}{100} \times (1,44,000 + 60,000 + 17,000) \right]$	Rs.33,150
(b)	Rent paid by employer (Rs.5,000 × 12)	Rs.60,000
	Thus, value of perquisite of rent-free house is Rs.33,150.	

Illu.43 : Mr. Narayana receives following emoluments during the previous year 2017-18.

	Rs.
(a) Basic Pay	2,40,000
(b) Commission (5% of total turnover)	1,35,000
(c) 1,000 cc car for office and personal use – Expenditure including driver's salary borne by employer is Rs.40,000	-
(d) Interest-free loan from employer for medical treatment of his	50,000

	wife (disease specified under rule 3A)	
(e)	Contribution to provident fund by Mr. Narayana Employer also made equal contribution	33,000
(f)	National Savings Certificate VIII Issue purchased	60,000
(g)	Income from other sources	46,000

Compute the taxable income and tax liability for Assessment Year 2018-19, assuming: (i) Provident fund is recognised. (ii) Provident fund is unrecognised.

Solution:

Computation of Taxable Income of Mr. Narayana

		Case I (RPF) Rs.	Case II (URPF) Rs.
1.	Income from Salary :		
	Basic Pay	2,40,000	2,40,000
	Commission	1,35,000	1,35,000
	Perquisite of Car [Rs.1,800 + Rs.900) ×12]	32,400	32,400
	Employer's contribution to provident fund [Rs.33,000 – 12% of Rs.2,40,000]	4,200	-
	Perquisite of interest-free loan, for medical treatment (value deemed as nil)	-	-
	Gross Salary	4,11,600	4,07,400
	Less: Deduction	-	-
	Net Salary	4,11,600	4,07,400
2.	Income from Other Sources		
	Other Income	46,000	46,000
	Gross Total income	4,57,600	4,53,400
	Less: Deduction u/s 80C		
	Mr. Narayana's contribution Rs.33,000 to provident fund	-	
	NSC purchased	93,000	60,000
	Total Income	3,64,600	3,93,400

Notes:

1. In case provident fund is recognised, employer's contribution in excess of 12% of salary is taxable as income from salary. [Rule 6(a), Part A of Schedule IV].
2. In case provident fund is unrecognised, employer's contribution is not taxable. However, when the accumulated balance from URPF is received by the employee, then the amount to the extent of employer's contribution and interest thereon will be taxable as income from salary. Further, interest on employee's contribution will be taxable as income from other sources.
3. In case loan is provided for medical treatment of a disease specified in rule 3A, the value of perquisite is nil.
4. The maximum deduction allowable u/s 80C is Rs.1,50,000.
5. Employee's contribution to recognised provident fund is eligible for deduction u/s 80C. However, no deduction is available in case of unrecognised provident fund.

Illu.44 : Mr. Syam, employed with Latha Ltd. up to 31.10.2017, received following emoluments:

		Rs.
(a)	Basic pay p.m.	15,000
(b)	Bonus for the year received in July 2016	13,200
(c)	Club facility (for private use only) Expenditure by employer p.m.	700
(d)	House Rent Allowance p.m.	2,800
(e)	Employer's contribution to URPF p.m. (Mr. Syam also made equal contribution)	1,000
W.e.f. 1.11.2017, Mr. Syam joined Asha Ltd., with following pay package:		
(a)	Basic pay p.m.	20,000
(b)	House Rent Allowance p.m.	1,600
(c)	Club facility (for private use only) Expenditure by employer p.m.	1,100
(d)	Use of car for journey between office and residence – Employer's expenditure p.m.	600
(e)	Employer's contribution to RPF p.m. (Mr. Syam also made equal contribution)	2,200
Other particulars of Mr. Syam are as under :		
(a)	Mr. Syam resides at Amritsar paying a monthly rent of	3,700
(b)	Mr. Syam income from other sources	95,000
(c)	Mr. Syam contributed to LIC/PPF/NSC etc.	19,000

Compute Mr. Syam's taxable income and tax liability for A.Y. 2018-19.

Solution :

**Computation of Taxable Income of Mr. Syam
(Assessment Year 2018-19)**

		Rs.	Rs.
1.	Income from Salary		
	(a) From Latha Ltd.		
	Basic pay (Rs.15,000 × 7)		1,05,000
	Bonus		13,200
	Club facility (Rs.700 × 7)		4,900
	HRA (Rs.2,800 × 7)	19,600	
	Less : Exempt u/s 10(13A)	15,400	4,200
	Employer's Contribution to URPF		-
			1,27,300
	(b) From Asha Ltd.		
	Basic Pay (Rs.20,000 × 5)	1,00,000	
	HRA (Rs.1,600 × 5)	8,000	
	Less : Exempt u/s 10(13A)	8,000	-
	Club Facility (Rs.1,100 × 5)	5,500	
	Facility of Car (not taxable as perquisite)		-
	Employer's Contribution to RPF		-
	Gross Salary		2,32,800
	Less: Deduction		-
	Net Salary		2,32,800
2.	Income from Other Sources		95,000
	Gross Total Income		3,27,800
	Less: Deduction u/s 80C		
	: Contribution to LIC/PPF/NSC	19,000	
	: Contribution to RPF (Rs.2,200 × 5)	11,000	30,000
	Total Income		2,97,800

Notes :

1. House Rent Allowance received from Latha Ltd. is exempt to the extent of least of following :		Rs.
(a)	Actual HRA received	19,600
(b)	Rent paid – 10% of salary [i.e. 3,700 × 7 – Rs.10,500]	15,400
(c)	Thus, HRA exempt is Rs.15,400	
2.	Employer's contribution to URPF is not taxable at the stage of contribution. However, when the accumulated balance from URPF is received by the employee, then the amount to the extent of employer's contribution and interest thereon will be taxable as income from salary.	
3.	House Rent Allowance received from Asha Ltd. is exempt to the extent of least of following :	
(a)	Actual HRA received	8,000
(b)	Rent paid – 10% of salary [i.e. 3,700 × 5 – Rs.10,000]	8,500
(c)	40% of salary	40,000
	Thus, HRA exempt is Rs.8,000	
4.	Facility of motor car/other conveyance provided by the employer to an employee for the purpose of journey between his residence and office is not taxable as a perquisite.	
5.	Employer's contribution to Recognised Provident Fund is not taxable up to 12% of employee's salary. In this case, Employer's Contribution to RPF is (Rs.2,200 × 5)	11,000
	12% of salary is $\left(\frac{12}{100} \times Rs.1,00,000\right)$	12,000
	Thus, no amount is taxable.	
6.	The maximum deduction allowable u/s 80C i.e. Rs.1,50,000.	
7.	A tax rebate is available u/s 87A, equal to the amount of tax or Rs.2,500 [Rs.5,000 for A.Y.2018-19], whichever is less, in case of a resident individual having total income up to Rs.5 lakhs for A.Y. 2018-19.	
8.	For A.Y. 2018-19, surcharge is payable @ 15% of income-tax, if total income exceeds Rs.1 crore.	

Illu.45: On Computation of Taxable Salary and allowances, Deduction for Interest on Housing Loan and Deduction u/s 80C.

Mr. Ganesh, a Central Govt. Officer in Chennai, is receiving Basic Pay Rs.23,720, Grade Pay Rs.7,600, DA at prescribed rates, transport allowance @ Rs.3,200 + DA thereon, and HRA @ 30% of basic pay + grade pay (though living in his own house). His date of increment is 1st July. The following are other particulars of his income. Compute his taxable income and tax payable, for A.Y.2018-19.

	Rs.
Honorarium for valuation of answer books of a departmental examination	3,000
Fee for work done for a private body (1/3rd of fees has been retained by Govt.)	6,000
Contributions to G.P.F. p.m.	4,700
Postal Life Insurance Premium financed from G.P.F. p.m.	280
Contribution to Central Govt. Employees Group Insurance Scheme p.m.	500
Life Insurance Premium (on a Policy of Rs.1,00,000 taken in name of his wife before 1.4.2012)	10,500
Contribution to Public Provident Fund	10,000
Repayment of HDFC loan borrowed after 1.4.1999 EMI Rs.25,000 (Towards loan Rs.95,000, towards interest Rs.2,05,000)	3,00,000

Solution:

**Computation of Taxable Income of Mr. Ganesh
(Assessment Year 2018-19)**

		Rs.	Rs.
1. Income From Salary :			
Basic Pay @ Rs.23,720 p.m. (March to June 2017)		94,880	
@ Rs.24,660 p.m.* (July 2017 to Feb. 2018)		1,97,280	2,92,160
Grade Pay @ Rs.7,600 p.m.			91,200
Dearness Allowance			
1.3.2017 to 30.6.2017 @ 125% i.e. Rs.39,150 p.m.		1,56,600	
1.7.2017 to 31.12.2017 @ 132% i.e. Rs.42,583 p.m.		2,55,498	

1.1.2018 to 28.2.2018 @ 140% (assumed) i.e. Rs.45,164 p.m. House Rent Allowance @ 30% of basic pay + grade pay	90,328	5,02,426
1.3.2017 to 30.6.2017 @ Rs.9,396	37,584	
1.7.2017 to 28.2.2018 @ Rs.9,678 Transport Allowance [See Note 1]	77,424	1,15,008
1.3.2017 to 30.6.2017 @ Rs.7,200 p.m.	28,800	
1.7.2017 to 31.12.2017 @ Rs.7,424 p.m.	44,544	
1.1.2018 to 28.2.2018 @ Rs.7,680 p.m.	15,360	
	88,704	
Less: Exempt u/s 10(14) @ 1,600 p.m.	19,200	69,504
		10,70,298
Honorarium		3,000
Fees (2/3 retained by him)		4,000
Total Salary		10,77,298
Less : Standard Deduction		-
Net Salary		10,77,298
2. Income From House Property :		
Self-occupied u/s 23(2) (a) deemed at nil	-	
Less: Interest on HDFC Loan	2,00,000	(-) 2,00,000
Gross Total Income		8,77,298
Less: Deduction u/s 80C		
- GPF @ Rs.5,000/- p.m.	60,000	
- CGEGIS @ Rs.500/- p.m.	6,000	
- Life Insurance Premium	10,500	
- Repayment of HDFC Loan	95,000	
- Deposit in Public Provident Fund	10,000	
	1,81,500	
Restricted to a maximum of Taxable Income		1,50,000
Total Income		7,27,298
Rounded of		7,27,300

* Including 3% increment on basic pay (Rs.23,720) + grade pay (Rs.7,600) i.e. Rs.940, w.e.f. 1st July.

Notes:

1. Dearness Allowance is fully taxable. Transport Allowance is exempt upto a maximum of Rs.1,600 p.m. under section 10(14) (ii), read with rule 2BB.
2. Mr. Ganesh is living in his own house, the entire amount of House Rent Allowance is taxable. Besides, the annual value of the house property shall be deemed at nil u/s 23(2), being self-occupied.
3. Honorarium and the fees retained by the govt. officer are taxable.
4. Deduction for interest on housing loan in respect of self-occupied property valued at nil is restricted to maximum Rs.30,000. However, in respect of loans obtained on or after 1.4.1999 in relation to property acquired or constructed within 5 years from the end of the financial year in which loan is taken, deduction is allowable upto Rs.2,00,000.
5. Deduction will be allowed u/s 80C with respect to payments in specified schemes like LIC premium, contribution to P.F., repayment of housing loans, tuition fees, investment in Bank Term Deposit Scheme (of minimum 5 years), 5 years Post Office Time Deposits, Senior Citizen Savings Scheme, etc., subject to a maximum of Rs.1,50,000. Further, aggregate deduction u/s 80C, 80CCC and 80CCD (1) shall not exceed Rs.1,50,000. However, deduction u/s 80CCD(2) in respect of contribution by Central Govt./employer to the pension scheme shall be available in addition to Rs.1,50,000. Also, an additional deduction u/s 80CCD(1B) shall be allowable for contribution to notified pension scheme subject to a maximum of Rs.50,000.
6. In respect of life insurance policies taken up to 31.3.2012, premium upto 20% of sum assured qualifies for deduction P.L.I. Premium of Rs.280 p.m. in respect of the policy financed from G.P.F. does not qualify for deduction under section 80C as the G.P.F. contribution is already qualifying.
7. Repayment of housing loan from approved institutions, qualifies for deduction u/s 80C, irrespective of amount, within the overall limit of Rs.1,50,000.

4.12 SELF-ASSESSMENT QUESTIONS

A. Short Answer Questions

1. Define Salary
2. What are perquisites?
3. What is profit in lieu of salary?
4. State deductions allowed from salary.
5. What is recognized provident fund?
6. Rent free accommodation
7. What is entertainment allowance?
8. Kinds of provided fund.
9. Deductions U/S 16.
10. Deduction U/S 16(i) and 16(ii)
11. Dearness allowance.
12. House Rent Allowance.
13. Fully taxable allowances.
14. Perquisites
15. House rent allowance
16. Statutory Provident fund

B. Essay Questions :

1. What is the basis of charge in regard to salary income?
2. Discuss the perquisites which are taxable only in the case of employees belonging to the specified category.
3. Enumerate any ten perquisites which are not taxed in the hands of any assessee?
4. Explain the term 'Perquisites'. How are they valued.
5. What are the rules regarding the valuation of the rent-free house provided to the employee by employer?
6. How are the following treated as per the Income-tax Act. (1) Statutory provident fund (2) Recognised provident fund (3) Unrecognised provident fund (4) Also discuss how the interest credited to these provident funds is treated for assessment purposes.

7. How would you determine the value of the following perquisites? (1) Lunch during office hours (2) Free car provided by the employer for use by the employee (3) Free furnished house (4) Servant and gardener provided for upkeep of the house.
8. Explain the Income tax rules relating to the taxability of various types of provident funds.
9. Write in brief note about gratuity.
10. Explain various types of provident funds.
11. Write in brief about the kinds of Provident Fund.
12. Entertainment allowance in the case of Government employee
13. Explain in brief about 'Rent Free Accommodation Unfurnished'.
14. Discuss Gratuity
15. Define Specified Employee
16. Explain various types of provident funds.

4.13 EXERCISES

1. Mr. Vigneswar is a Central Govt. employee getting basic pay of Rs.18,000 p.m., D.A. Rs.3,000 p.m., H.R.A. Rs.4,000 p.m. and Non Practicing Allowance (N.P.A.) Rs.3,500 p.m. The Govt. has deducted as professional tax Rs.75 p.m. on behalf of Mr. Vigneswar. Mr. Vigneswar resides in his father's house at Chennai and pays no rent. Compute Mr. Vigneswar's income from salary for A.Y. 2019-20.
2. Mr. Shah is an employee of KLM Ltd. He gets following amount during the financial year 2017-18.

		Rs.
(a)	Basic pay (p.m.)	15,000
(b)	Dearness Allowance (p.m.) [forming part of salary]	5,000
(c)	Interest credited on balance in RPF @ 9.5%	15,000
(d)	Rent-free house at Delhi (rent paid by company Rs.5,000 p.m.)	-
(e)	Leave salary for one month	17,000

Mr. Shah contributed Rs.2,500 p.m. to the recognised provident fund and an equal amount was contributed by the company. Compute Mr. Shah's income from salary for A.Y.2018-19.

3. Mr. Abdul Kalam receives following emoluments during the previous year 2018-19.

		Rs.
(a)	Basic Pay	3,00,000
(b)	Commission (5% of total turnover)	1,15,000
(c)	1000cc car for office and personal use – Expenditure including driver's salary borne by employer is Rs.40,000	-
(d)	Interest-free loan from employer for medical treatment of his wife (disease specified under rule 3A)	50,000
(e)	Contribution to provident fund by Mr. Abdul Kalam Employer also made equal contribution	40,200
(f)	National Savings Certificate VIII Issue purchased	60,000
(g)	Income from other sources	46,000
	Compute the taxable income and tax liability for A.Y. 2018-19, assuming :	
	(I) Provident fund is recognised.	
	(II) Provident fund is unrecognised.	

Compute his taxable income for the Assessment Year 2018-19.

4. Mr. Sitaram, employed with Jyothi Ltd. up to 31.10.2018, received following emoluments:

		Rs.
(a)	Basic pay p.m.	19,000
(b)	Bonus for the year received in July 2018	13,200
(c)	Club facility (for private use only) Expenditure by employer p.m.	700
(d)	House Rent Allowance p.m.	2,800
(e)	Employer's contribution to URPF p.m. (Mr. Sitaram also made equal contribution)	1,000
W.e.f. 1.11.2018, Mr. Sitaram jointed Jayabheri Ltd., with following pay package:		
(a)	Basic pay p.m.	22,000
(b)	House Rent Allowance p.m.	2,000

(c)	Club facility (for private use only) Expenditure by employer p.m.	1,100
(d)	Use of car for journey between office and residence – Employer's expenditure p.m.	600
(e)	Employer's contribution to RPF p.m. (Mr. Sitaram also made equal contribution)	2,200
Other particulars of Mr. Sitaram are as under:		
(a)	Mr. Sitaram resides at Guntur paying a monthly rent of	4,100
(b)	Mr. Sitaram's income from other sources	96,500
(c)	Mr. Sitaram contributed to LIC/PPF/NSC etc.	19,000

Compute Mr. Sitaram's taxable income for the Assessment Year 2018-19.

5. Mr. Simhachalam, a Central Govt. Officer in Visakhapatnam, is receiving Basic Pay Rs.81,200 in Pay Level 12, DA at notified rates, transport allowance up to 30.6.2017 @ Rs.3,200 + DA thereon and w.e.f. 1.7.2017 @ 24% of basic pay (though living in his own house). His date of next increment is 1st July. The following are particulars of his other income and investments. Compute his taxable income for the Assessment Year 2018-19.

	Rs.
Honorarium for valuation of answer books of a departmental examination	3,000
Fee for work done for a private body (1/3rd of fees has been retained by Govt.)	6,000
Contribution to G.P.F. p.m.	5,000
Postal Life Insurance Premium financed from G.P.F. p.m.	280
Contribution to Central Govt. Employees Group Insurance Scheme p.m.	500
Life Insurance Premium (on a Policy of Rs.1,00,000 taken in name of his wife before 1.4.2012)	10,500
Contribution to Public Provident Fund	10,000
Repayment of HDFC loan borrowed after 1.4.1999 EMI Rs.25,000 (Towards loan Rs.95,000, towards interest Rs.2,05,000)	3,00,000
Contribution to National Pension System	50,000
Medical Insurance Premium (for self and family)	28,000

6. Mrs. Padmini, Central Govt. Officer in Visakhapatnam, getting basic pay of Rs.69,000 in Pay Level 10 (w.e.f. July 2016), D.A. at notified rates, HRA @ 30% up to 30.6.2017 and @ 24% w.e.f. 1.7.2017 and transport allowance @ Rs.3,200 + DA thereon up to 30.6.2017 and @ Rs.7,200 + DA thereon w.e.f. 1.7.2017, voluntarily retired on 31.8.2017 at a gross pension of Rs.35,550 out of which she commuted Rs.10,000. She got Rs.10,61,520 as commuted pension and Rs.1,31,790 as leave encashment of 200 days, in addition to gratuity of Rs.3,50,000, GPF accumulation of Rs.3,60,000 and Rs.24,000 as maturity value of Postal Life Insurance Policy. During the service period, Mrs. Y contributed to GPF @ Rs.6,000 p.m., Postal Life Insurance premium (financed from GPF) Rs.300 p.m. and CGEGIS Rs.120 p.m. Mrs. Padmini has income from bank FD interest Rs.17,500 and has purchased NSC for Rs.65,000. Mrs. Padmini is living with her parents and the house is owned by her father and she pays no rent. Compute her taxable income for the Assessment Year 2018-19.

7. Mr. Gowtham receives Rs.5,55,740 during 2018-19 including Rs.63,450 as arrears of salary for the previous 2 years as under:

Year	Salary without Arrears Rs.	Arrears Rs.	Amount eligible for deduction u/s 80C
2016-17	3,89,120	19,650	1,50,000
2017-18	4,23,840	43,800	1,50,000
2018-19	4,92,290	-	1,50,000

Compute the tax payable by Mr. Gowtham for A.Y. 2018-19.

8. Find out the net income and tax thereon of Mr. Amitab for the assessment year 2018-19 taking into consideration the following additional information –

The employer company provides the following perquisites –

- (a) A domestic servant (expenditure of the employer : Rs.3,000 per month)
- (b) Car (1,200cc) for domestic and official purposes (expenditure of the employer on running and maintenance: Rs.11,000 per month).
- (c) Car insurance (Rs.12,000 per year).
- (d) Driver (Rs.6,000 per month).

Mr. Amitab contributes 15 per cent of the basic salary towards recognised provident fund. Employer company makes a matching contribution. Mr. Amitab also contributes Rs.1,20,000 annually to the public provident fund account.

9. Mrs. Madhuri (age: 61 years) is an Asst. Professor in Nannaya University at Rajmahendravaram. The details of her salary and other income for the previous year 2017-18 are as follows:

	Rs.
Basic salary	7,86,000
Dearness allowance (forming part of salary)	72,000
Education allowance for two children (expenditure being Rs.3,600)	9,400
Hostel expenditure allowance for one child (expenditure being Rs.10,000)	11,800
House rent allowance	96,000
Remuneration from the Nannaya University for acting as examiner	41,540

She is a member of statutory provident fund to which she contributes 13 per cent of her salary and similar amount is contributed by the University. Besides, the University reimburses Rs.17,000 being expenditure incurred by Mrs. Madhuri on medical treatment of her daughter in a private clinic. Bills are issued in the name of Mrs. Madhuri but paid by the employer.

During the year, she spent Rs.3,000 on the purchase of books for her teaching purposes. She has maintained a scooter for the whole year for office as well as private purposes. She has been living in a rented house and paying Rs.15,000 per month as rent.

For the year 2017-18, she paid Rs.9,000 as insurance premium on his life policy taken in 2006, sum assured being Rs.30,000 (date of payment: April 3, 2018). Compute the total income for the assessment year 2018-19.

10. Mrs. Nirmla (44 years) received the following income from Mahendra Ltd. during the year ending March 31, 2018:

	Rs.
Salary @ Rs.30,000 per month	3,60,000
Leave travel concession for proceeding on leave (expenditure on air fare: Rs.72,000)	75,000

Taxation	140	Salaries
Lunch allowance @ Rs.3,000 per month (expenditure : Rs.36,000)		36,000
Medical allowance (expenditure: Rs.20,000)		24,000
Allowance for purchase and maintenance of uniform for official use (expenditure incurred by Nirmala: Rs.4,000)		18,000

Mrs. Nirmala also enjoyed the following benefits and perquisites:

Free unfurnished flat in Hyderabad for which employer is paying a monthly rent of Rs.30,000. Free use of a Maruti car with driver for personal use and official use.

Car can also be used by the family members of Mrs. Nirmala

Free service of personal attendant (salary : Rs.12,000) and sweeper (salary : Rs.18,000). Free use of employer's I Pad (cost to the employer: Rs.32,000, year of purchase : 2003-2004).

Mrs. Nirmala's salary and allowances for March 2018, though due on March 31, 2018, were received by her only in April 2018. Compute net income of Mrs. Nirmala for the assessment year 2018-19.

11. Mr. Nagarjuna (age: 41 years) gives the under noted particulars of his income received from TLS Ltd. for the year ending March 31, 2018:

	Rs.
Salary after deduction of income-tax at source and own contribution to the office provident fund which is recognized	9,00,000
Income-tax deducted at source	80,000
Own contribution to the recognised provident fund	1,45,000
Employer's contribution to the provident fund	1,40,000
Interest credited to the provident fund calculated at the rate of 11 per cent per annum on May 31, 2017	2,89,000
Holiday home facility provided by the employer	18,000
House rent allowance (actual rent paid by Nagarjuna for the house in Kurnool was Rs.1,08,000) [in addition to salary of Rs.9,00,000 given above]	1,20,000

Mr. Nagarjuna is given free use of 1,200 cc car by his employer for domestic and official purposes (with effect from November 5, 2017) all the expenses including salary of driver being met by the latter. A sum of Rs.1,200 is, however, recovered from Mr. Nagarjuna.

Mr. Nagarjuna is also provided free service of a watchman (with effect from May 10, 2018) and a sweeper (with effect from December 1, 2017). Salary (Rs.2,675 per month per person) is paid by employer.

Mr. Nagarjuna pays life insurance premium of Rs.4,000 on his own life (sum assured: Rs.1,00,000). Income of Nagarjuna from other source is Rs.2,89,000 which includes income-tax refund of Rs.16,000 and Rs.700, being interest thereon. Compute Nagarjuna's total income and the tax liability (after adjusting tax deducted at source) for the assessment year 2018-19 assuming that he had no other income.

12. Mr. Kistappa (age: 61 years), a private sector employee based at Ananthapur and covered by the Payment of Gratuity Act, 1972, retires on October 31, 2017 after service of 30 years and 11 months. At the time of retirement, his employer pays Rs.8,44,808 as gratuity. He is entitled for a monthly pension of Rs.17,000 (salary and pension fall due on the last day of each month). He gets one-third of his pension commuted for Rs.9,00,000 on January 1, 2018. At the time of retirement, the employer transfers an air-conditioner to Kistappa (it was purchased in 1992 for Rs.78,000 and since then it was used for business purposes) and gives a cheque of Rs.1,80,000 in appreciation of services. Determine the total income for the assessment year 2018-19 with the following particulars:

Basic salary: Rs. 3,15,000 (Rs.45,000×7); bonus Rs.1,00,000; high cost of living allowance: Rs.80,000; house rent allowance: Rs.84,000 (Rs.12,000×7); rent paid: Rs. 96,000 (Rs.8,000 ×12); employer's contribution towards recognised provident fund: 12 per cent of basic salary; Kistappa's contribution towards provident fund: Rs.93,000; insurance premium on life insurance policy on the life of his major son not dependent upon Kistappa's: Rs.20,000 (sum assured of policy taken in 2008: Rs.80,000) and income from other sources: Rs.5,23,000.

13. Mr. Surya receives the following emoluments during the previous year ending March 31, 2018:

	Rs.
Basic pay	5,52,000
Commission	2,60,000
Free car facility for Mr. Surya and his family members only for private use (expenditure of the employer including normal wear	1,21,000

Taxation	142	Salaries
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and tear: Rs.1,21,000)	
Entertainment allowance	30,000

On October 1, 2018 the employer gives a housing loan of Rs.11,70,000 @ 2 per cent per annum (repayable in 15 years) (SBI lending rate: 10.15 per cent).

Surya contributes Rs.1,60,000 towards recognised provident fund. His income from other sources is Rs.1,90,000. Determine the taxable income and the amount of tax liability for the assessment year 2018-19 if:

- Mr. Surya is an employee of M/s Chandra & Sons, a partnership firm;
- Mr. Surya is an employee of the AP Government since 1964.

14. Mr. Sudarshana Rao, Manager of Visakha Ltd. receives the following emoluments during the previous year relevant for the assessment year 2018-19:

Basic salary: Rs.4,80,000, dearness allowance:Rs.48,000 (not forming part of basic pay), commission @ 2 per cent of turnover (turnover achieved by Mr. Sudarshan Rao during the previous year 2017-18: Rs.16,00,000), arrears of bonus of the previous year 2012-13: Rs.9,000 (not taxed earlier), employer's contribution towards recognised provident fund: Rs.68,000; interest credited in provident fund account @ 11 per cent on June 3, 2017: Rs.80,000; conveyance allowance: Rs.10,000 (60 per cent of which is utilised for official purposes), education allowance for Mr. Sudarshan Rao's three sons @ Rs.200 per month per child: Rs.7,200, rent-free furnished house in Chennai (lease rent of unfurnished house paid by the employer: Rs.1,80,000, rent of furniture: Rs.8,000), free services of gardener, cook and watchman (salary: Rs.6,000, Rs.9,000 and Rs.12,000 respectively). On March 10, 2018, Gemini Ltd. sells imported furniture to Mr. Sudarshana Rao for Rs.10,000 (the furniture was purchased by the company on June 30, 2012 for Rs.1,90,000 and since then it was used for business purposes).

He makes the following payments during the previous year:

- Own contribution towards recognised provident fund: Rs.42,000.
- Deposit in Home Loan Account of the National Housing Bank: Rs.6,000 (including advance deposit of Rs.1,000).
- Contribution towards National Savings Certificate VIII Issue: Rs.1,40,000.

Determine the Total income for the assessment year 2018-19.

15. Mr. Kesava Rao, who is employed with TTK Ltd. up to October 31, 2017, gets the following salary and benefits: Basic salary: Rs.12,000 per month; bonus: Rs.800 per month; club facility (expenditure of the comp any: Rs.900 per month); house rent allowance: Rs.5,000 per month; employer's contribution towards unrecognized provident fund: Rs.900 per month (Mr. Kesava Rao also makes a matching contribution).

On November 1, 2017 Mr. Kesava rao joins Jocil Ltd. on monthly salary of Rs.18,000 and house rent allowance of Rs.3,000 per month. Besides, he enjoys club facility (expenditure of the company: Rs.1,200 per month), car facility (expenditure of the company: Rs.1,900 per month) and employer's contribution towards recognised provident fund : Rs.1,200 per month (Mr. Kesava Rao also makes a matching contribution). On March 1, 2018, Jocil Ltd. purchases a music system for Rs.65,000 and the same is sold on the same day to Mr. Kesava Rao for Rs.22,000.

Determine the taxable income of Mr. Kesava Rao for the assessment year 2018-19 on the following assumptions:

1. Salary in both cases becomes due on the last day of each month.
 2. Mr. Kesava Rao is not a director in any company, though he holds 10 per cent share capital in TTK Ltd. and Jocil Ltd., respectively.
 3. He resides in Tanuku and pays rent of Rs.4,00 per month throughout the previous year.
 4. Car facility is used by Sri Kesavarao only for journey between office and residence and back.
 5. Club facility is provided only for private benefit of Sri Kesava Rao.
 6. Income of Sri Kesava Rao from other sources is Rs.3,89,000.
 7. Sri Kesava Rao deposits Rs.1,45,000 in public provident fund in November 2017.
- 16.** Mr.Raghuram, a salaried employee, wants to know the amount of tax liability in respect of his following income and investments:

	Rs.
Income	
Basic salary	14,50,000
Dearness allowance (forming part of salary)	2,00,000

Taxation	144	Salaries
Special allowance		76,000
Conveyance allowance (fully utilised for official purposes)		84,000
Interest on non-Government securities (computed)		1,95,000
Income from house property (computed)		7,00,000
Investment		
Insurance premium paid on the life of major daughter (sum assured: Rs.4,00,000) (policy taken June 2016)		70,000
Insurance premium on the life of father dependent upon Mr. Raghuram		25,000
Insurance premium (due but unpaid on March 31, 2018) on own life		20,000
Investments in shares of an infrastructural facility companies		10,000
Contribution towards recognised provident fund		30,000
Part payment of cost of construction of a house to the CRDA		90,000
Contribution towards public provident fund		10,000

Also determine the net income for the assessment year 2018-19.

Chapter – 5

INCOME FROM HOUSE PROPERTY**Objectives :**

After reading this lesson we should be able to :

- Understand the type of income chargeable under this head
- Mention the exempted incomes from house property
- Determine the Income from House Property

Structure :**5.1 Introduction****5.2 Chargeability****5.3 Exempted incomes from House Property****5.4 Determination of Annual Value****5.5 Deductions Allowed****5.6 Calculation of Income from Self-Occupied House****5.7 Deductions from Self-Occupied House****5.8 Other Important Points****5.9 Self-Assessment Questions****5.10 Exercises****5.1 INTRODUCTION**

Income from house property is the second head of income. The sections covered are given below :

Section 22	Chargeability
Section 23	Computation of annual value
Section 24	Deductions allowed
Section 25	Inadmissible expenses
Section 25a	Unrealized rent recovered
Section 25b	Arrears of rent received
Section 26	Co-ownership
Section 27	Deemed owner

5.2 CHARGEABILITY

The annual value of any property comprising of building or land appurtenant thereto, of which the assessee is the owner, is chargeable to tax under the head "Income from House property". The following three conditions must be satisfied before the notional rental income of the property can be taxed under the head "Income from House Property".

- (i) The property must consist of buildings and lands appurtenant thereto.
- (ii) The assessee must be the owner of such house property
- (iii) The property may be used for any purpose, but it should not be used by the owner for the purpose of any business or profession carried on him. If it is used for business or profession, it will be taken into consideration while calculating profit or gain from business or profession.
- (iv) In case a portion of the business premises is let out to employee or employees of the business for residence and this letting out is incidental or is essential for the efficient running of the business of the assessee, the rent received from such employee or employees will not be taxable as Income from House Property.
- (v) It is the owner who is liable to pay tax on the income of the house property and in case of a dispute about ownership the person who receives rent shall be liable to pay tax till the dispute about ownership is settled.

Sub-letting : When main tenant lets out full or part of the hired property to another person it is called sub-letting. Income, if any, from sub-letting is taxable under the head "Income from other sources."

Composite Letting : Rent received from letting out of building along with the furniture etc., shall be split out in two parts i.e., (i) from building, and (ii) rent from furniture, other amenities. Rent received from the first category only is assessable under the head of income and the rent received from second part is liable under the head 'income from other sources'. Where such rent cannot be split up like this, the whole rent received shall be taxable under the head income from other sources and not under house property.

Deemed Owner of House Property : According to Section 27 of Income tax Act the assessee in following cases is deemed to be the owner of the house property, though not owner of the house property.

- (i) An individual who transfer 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 or to a minor child not being a transfer in connection with an agreement to live apart or to a minor child not being a married daughter, shall be deemed to the owner of the house property so transferred. Where the individual transfers cash to his/her spouse or minor child and the transfers acquires a house property out of such cash, the transferor shall not be treated as deemed owner of the house property . Such transaction will however, attract clubbing provisions.
- (ii) The holder of an imposable estate shall be deemed to be the individual owner of all the properties comprised in the estate.
- (iii) A member of a co-operative society to whom a building or part (thereof is allotted or leased under a house building scheme of the society, shall be deemed to be the owner of that building or part thereof.

5.3 EXEMPTED INCOMES FROM HOUSE PROPERTY

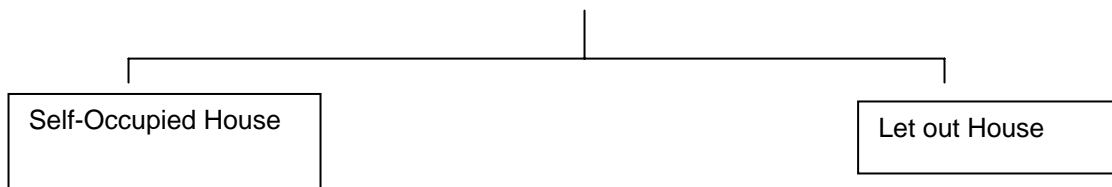
Under section 10 of the Income tax Act, 1961 following incomes from house property are exempted from tax. These incomes are not to be included in the total income of assessee. Hence no tax is payable on such incomes. These incomes are :

- 1. Agricultural House Property [Sec.2(1) [c]** : Income from such house property which is situated on or in the immediate vicinity of agricultural land which is used for agricultural purposes by cultivator is exempted from tax.
- 2. House Property held for charitable purposes [Section 11]** : Any income from a house property held for charitable or religious purposes e.g., rent from shops owned by a temple is also exempted.
- 3. Self-Occupied but vacant house [Section 23(3)]** : In case an assessee keeps one of his own houses reserved for self-occupation but is living in a rented house elsewhere due to his employment or profession the income from such house is taken be nil.

4. **House used for own business or profession** : There is no income chargeable to tax under this head from such house property.
5. **Property held by registered trade union [Section 10(24)]** : Income from a house property owned by a registered trade union is not to be included in its Gross Total Income.

Let us now discuss how to calculate income from house property in case of let out houses and self-occupied houses.

Type of House Property



Now let us discuss the determination of annual value in case of let out and self-occupied houses.

5.4 DETERMINATION OF ANNUAL VALUE OF LET OUT HOUSE

Annual Value : The following points are to be considered in the determination of the annual value of let out houses. Annual value means.

- (a) The amount of rent at which the property might reasonably be expected to let from year to year; or
- (b) If the property or any part of the property is let and the actual rent received or receivable by the owner in respect of such property is more than the reasonable rent as per (a) above, the annual value shall be amount so received or receivable; or
- (c) If the property or any part of the property is let and was vacant during the whole or any part of the previous year and owing to such vacancy the actual rent received or receivable by the owner in respect thereof is less than the reasonable rent as per (a) above, the annual value shall be the amount so received or receivable. Before calculating the gross annual value, the following terms are to be considered.

- (i) **Municipal Value** : This is the value determined by the municipal authorities for levying municipal taxes on house property.
- (ii) **Fair rent of the property** : Fair rent is the rent which a similar locality, if it is let for a year.
- (iii) **Standard Rent** : Rent fixed under the Rent Control Act is known as Standard Rent.
- (iv) **Expected Rental Value** : Municipal Rental Value or Fair Rental Value whichever is higher is selected. Then such higher figure is compared with Standard Rent and from these whichever is less is selected as Expected Rental Value.
- (v) **Actual Rent** : It is the rent actually received by the owner of the house property from the tenant. If the tenant pays composite rent i.e., rent of building plant and machinery, furniture, etc. and rent is separable, actual rent is to be reduced by the amount of rent of plant and machinery, furniture etc. Any amount of local taxes paid by tenant, cost of repairs borne by tenant or any interest on advance deposit are not be added.
- (vi) **Real Rental Value** : In case cost of common facilities such as lift maintenance, salary of common gardener and watchman, lighting of common stairs and corridors and water and electricity bills (if included in rent) are borne by the owner and rent includes bills (if included in rent) are borne by the owner and rent includes the cost of these items. Such cost is reduced out of actual rent received and balance is called Real Rental Value. In case cost of the facilities is borne by the owner it shall be deducted out of actual rent before comparing it with other rental values.

Gross Annual Value : Before arriving at the Gross Annual Value of a let out house, the following points are to be taken into account.

- (a) House let out for the full year without vacancy
- (b) House let out with vacancy for the part of the year
- (c) House let out with unrealized rent
- (d) House let out with vacancy and unrealized rent.

1. House Let out for the full year : Gross Annual value is to be calculated by calculating the following.

(a) Expected Rent :

- (1) Municipal value or Fair Rental Value – whichever is higher is to be taken.
- (2) The above arrived value (i) or Standard rent whichever is lower is the expected rental value.

(b) Actual Rent Received : The actual rent received or receivable is to be taken.

Gross Annual Value : The above calculated expected rental value or actual rent received, whichever is higher, will be gross annual value.

2. House Property let out with vacancy : In this case there may be two situations

- (a)** if actual rent received or receivable is more than Expected Rent.
- (b)** If it is less than Expected Rent.

Situation 1 :**(a) Expected Rent :**

- (i)** Municipal value or Fair Rental Value – whichever is higher is to be taken.
- (ii)** The above arrived value (1) or Standard rent whichever is lower is the expected rental value.

(b) Actual Rent Received : The actual rent received or receivable.

(c) Gross Annual Value : The above calculated expected rental value or actual rent received, whichever is higher, will be gross annual value.

Situation 2 : Actual Rent received is less than Expected Rent : Where the property is let and was vacant for while or part of the year and the actual rent received or receivable owing to such vacancy is less than the expected rent, the annual value of the property shall be determined under this situation if all the following three conditions are satisfied.

- (a)** The property is let out
- (b)** It was vacant during the whole or part of the previous year
- (c)** Owing to such vacancy, the actual rent received or receivable is less than the value determined under section 23(1)(a).

In this type of situation Actual rent received or receivable is gross annual value.

3. House let out with unrealized rent : Here also there may be two situations

Situation 1 : If rent actually received or receivable (after deducting unrealized rent as per conditions given below) is more than Expected Rent.

(i) Expected Rent :

(a) Municipal rent or Fair rent and whichever is higher is to be taken first.

(b) The above arrived value or standard rent whichever is lower is to be taken.

(ii) Actual Rent Received : If rent actually received or receivable (after deducting unrealized rent as per conditions given below) is more than Expected rent such rent received or receivable is to be taken as Gross Annual Value.

Situation 2 : If rent actually received or receivable (after deducting unrealised rent as per conditions given) is less than Expected Rent.

If rent actually received or receivable (after deducting unrealized rent) is less than Expected Rent such Expected rent is to be taken as Gross Annual Value.

4. House Let out and where vacancy and unrealized rent are there : Here also there are two situations. (a) Where the actual rent received or receivable is more than expected rent.. (b) Where the actual rent received or receivable is less than expected rent.

(i) Where the actual rent received or receivable is more than expected rent :
The gross annual value in this case is to be calculated in the following way.

(a) Expected Rent :

1. Municipal Rent or Fair Rent and whichever is higher is to be taken first.
2. The above arrived value or standard rent whichever is lower is to be taken.

(b) Actual Rent :

1. If the rent actually received or receivable for the fully year (after deducting unrealized rent) is more than the Expected Rent such rent received or receivable is Annual Rent.
2. Such Actual rent is to be reduced by the amount of rent not received due to vacancy.

Illu.1 : Determine the Net Annual value in the following cases.

Particulars	(1) Rs.	(2) Rs.	(3) Rs.	(4) Rs.
Actual rent received	10,800	3,600	9,000	18,000
Municipal value	12,000	6,000	5,400	12,000
Fair Rental value	15,000	9,000	8,400	24,000
Standard Rent	12,000	5,400	7,200	15,000
Local taxes paid	1,200	600	540	1,200

Solution :

The following procedures are to be adopted in determining the Gross Annual value.

1. Calculation of Expected Rent :

- (i) Municipal value or Fair Rental value whichever is higher is to be taken.
- (ii) When Standard rent is also given : Amount arrived above (i) or standard rent whichever is less is expected rent.

2. Calculation of Actual or Rent received : Expected rent as calculated above (a) or actual rent whichever is higher will be the Gross annual value.

Particulars	(1)	(2)	(3)	(4)
Gross Annual Value [As determined above)	12,000	5,400	9,000	18,000
Less: Local Taxes	1,200	600	540	1,200
Net annual value	10,800	4,800	8,460	16,800

Illu.2 : Determine the Net Annual Value of Mr. Srikar in the following cases

Particulars	A Rs.	B Rs.	C Rs.
Municipal valuation	1,00,000	80,000	1,20,000
Fair rent (rent which similar property would fetch)	1,20,000	60,000	1,10,000
Standard Rent	1,25,000	1,00,000	Not fixed
Actual Rent	1,00,000	1,00,000	1,00,000
Municipal Taxes	15,000	12,000	7,500

Solution : Determination of Gross Annual Value of Mr. Srikar:

Case A:

1. Municipal valuation Rs. 1,00,000 or fair rent Rs. 1,20,000 whichever is higher = Rs. 1,20,000;
2. Standard rent Rs. 1,25,000; or fair rent Rs.1,20,000, whichever is less = Rs. 1,20,000;
3. Actual rent Rs. 1,00,000 or fair rent as determined Rs. 1,20,000, whichever is more

Rs. 1,20,000 is the gross annual value.

Case B :

1. Municipal valuation ₹ 80,000 or fair rent ₹ 60,000 whichever is higher = ₹ 80,000;
2. Standard rent ₹ 1,00,000 or fair rent as determined ₹ 80,000 whichever is less = ₹ 80,000;
3. Actual rent ₹ 1,00,000 or fair rent so determined ₹ 80,000, whichever is more = ₹ 1,00,000 is the gross annual value.

Case C:

1. Municipal valuation ₹ 1,20,000 or fair rent ₹ 1,10,000 whichever is higher = ₹ 1,20,000; is the fair rent;
2. Actual rent ₹ 1,00,000 or fair rent so determined ₹ 1,20,000; whichever is more = ₹ 1,20,000 is the gross annual value.

Computation of Net Annual Value**(In ₹)**

Particulars	A	B	C
Gross Annual Value [As determined above]	1,20,000	1,00,000	1,20,000
Less: Municipal Taxes [Presumed as paid during the previous year]	15,000	12,000	7,500
Net annual value	1,05,000	88,000	1,12,500

Illu.3: Gnaneswari is the owner of the three houses, which are all let out and covered by the Rent Control Act. From the following particulars find out the gross annual value in each case.

Particulars	House I	House II	House III
	₹	₹	₹
Municipal value	30,000	26,000	35,000
Annual Rent	42,000	36,000	30,000
Fair rent	36,000	28,000	30,000
Standard Rent	30,000	35,000	36,000
Unrealized rent	7,000	9,000	2,500
Period of vacancy	1 month	2 months	3 months

Solution :

Computation of Gross Annual value**(Assessment year 2018-19)**

Particulars	House I	House II	House III
	₹	₹	₹
Expected Rent	30,000	28,000	35,000
Let out period (in months)	11	10	9
Proportionate expected rent for the let out period	27,500	23,333	26,250
Actual rent for let out period	38,500	30,000	22,500
Actual rent received (ARR)	31,500	21,000	20,000
Gross Annual Value	31,500	28,000	35,000

Working Notes :

1. Expected Rent = Municipal value or Fair Rent, whichever is higher subject to maximum of standard rent.

2. Proportionate expected rent for the let out period = Expected rent x Let out period/12
3. Actual Rent received = Actual rent – unrealized rent
4. If Actual Rent received is greater than or equal to Proportionate expected rent, then Gross Annual Value = Actual Rent received, i.e.,
Gross annual value = Expected rent

Illu.4 : Mr. Bharat owns a house property (municipal value Rs.1,35,000, fair rental value Rs.1,25,000, standard rent Rs.1,14,000), which is let out throughout the year 2017-18 @ Rs.10,000 p.m. upto October 2017 and @ Rs.12,000 p.m. thereafter. Rent for the month of March 2018 could not be realised (conditions specified under rule 4 are fulfilled). Calculate the annual value of the property for A.Y. 2018-19.

Solution :

**Calculation of Annual Value
(Assessment year 2018-19)**

	Rs.	Rs.	Rs.
Reasonable rent of the property :			
Municipal value	1,35,000 (A)		
Fair Rental Value	1,25,000 (B)		
Standard Rent	1,14,000 (C)		
Higher of (A) or (B), subject to maximum of (C)			1,14,000
Rent received/receivable :			
: April 2017 to October 2017 (Rs.10,000 × 7)		70,000	
: Nov. 2017 to March 2018 (Rs.12,000 × 5)		60,000	
		1,30,000	
Less: Unrealised rent for March 2018		12,000	1,18,000
Gross Annual Value			1,18,000
Gross annual value the property is Rs.1,18,000.			

Illu.5 : Mr. Sankar owns a house property (municipal value Rs.35,000, fair rental value Rs.25,000, standard rent Rs.19,000), which is let out @ Rs.1,500 p.m. from April 2017 to September 2017 and Rs.1,800 p.m. during October 2017 to February 2018. The property remained vacant during March 2018. Rent for February 2018

could not be realised (conditions specified under rule 4 are fulfilled). The annual value of the property for A.Y. 2018-19.

Solution :

**Calculation of Annual Value
(Assessment year 2018-19)**

	Rs.	Rs.	Rs.
Reasonable rent of the property :			
: Municipal value	35,000 (A)		
: Fair Rental Value	25,000 (B)		
: Standard Rent	19,000 (C)		
Higher of (A) or (B), subject to maximum of (C)			19,000
Rent received/receivable :			
: April 2017 to October 2017 (Rs.1,500 × 6)		9,000	
: October 2017 to March 2018 (Rs.1,800 × 6)		10,800	
		19,800	
Less: Unrealised rent for February 2018		1,800	
		18,000	
Less: Rebate for vacancy during March 2018		1,800	16,200
Gross annual value of the property is Rs.16,200.			

Note: It may be noted that reasonable rent (Rs.19,000) is more than rent received/receivable after deducting unrealised rent (Rs.18,000) and ALV should be Rs.19,000 as per Section 23(1)(b). However, since the rent received after deducting unrealised rent and re bate for vacancy (Rs.16,200) is less than reasonable rent, the ALV shall be fixed at the rent received so determined, by virtue of section 23(1)(c).

(ii) Where the actual rent received or receivable is less than expected rent : In this case the actual rent received or receivable is to be taken as Gross Annual value. The following steps may be followed.

1. First, calculate Gross Annual Value as per the procedures stated above.
2. Deduct Municipal taxes. The amount arrived at is known as Net Annual Value.

Computation of Income from House Property

	₹	₹
Gross Annual Value		xxx
Less : Municipal taxes		xxx
Net Annual Value (NAV)		xxx
Less : Deductions u/s 24 :		
1. 30% of Net Annual Value	xxx	
2. Interest on borrowed capital	xxx	
3. Pre-construction Interest [1/5th]	xxx	xxx
Income from House Property		xxx

5.5 DEDUCTIONS ALLOWED :

After calculating the Net Annual Value the following deductions are to be given under Section 24.

- a) **Standard deduction** : 30% of net annual value. This deduction is to be given whether asked for or not. It is to be given irrespective of the amount spent on repairs, ground rent, insurance premium etc.

- b) **Interest on borrowed Capital** : Where the property has been acquired, constructed, repaired, renewed or reconstructed with borrowed capital, the amount of any interest payable on such capital is allowed as a deduction. The amount of interest payable yearly should be calculated separately and claimed as a deduction every year.

- c) **Pre-Construction Interest** : Interest payable by an assessee in respect of funds borrowed for the acquisition or construction of a house property and pertaining to a period prior to the previous year in which such property has been acquired or constructed, to the extent it is not allowed as a deduction under any other provision of the Act, will be deducted in five equal annual installments, commencing from the previous year in which the house is acquired or constructed. Before deducting interest on borrowed capital the following points are to be taken into account.

1. Interest on unpaid interest is not deductible.
2. No deduction is allowed for any brokerage or commission for arranging the loan.
3. Interest on fresh loan, taken to repay the original loan raised, is allowed as deduction.

However, where the property is let and was vacant for whole or part of the year and the actual rent received or receivable owing to such vacancy is less than the sum determined under clause (a), we have take actual rent as the gross annual value.

5.6 CALCULATION OF INCOME FROM SELF-OCCUPIED HOUSE

House property owned by the assessee may be occupied by himself or his family members or it may be used for his own business or profession. The following procedure is to be followed in the calculation of income from such property.

1. **Occupied for own Business or Profession** : Income is chargeable to tax under the head "Profits and gain from business or profession."
2. **One Self-Occupied Property** : The annual value will be taken as Nil
3. **Non-Occupation of Self-Occupied Property** : Self-Occupied property but could not be occupied because of his stay in other place due to employment, business or profession. The annual value of this property is also to be taken as Nil.
4. **More than one house under own occupation** : Annual value of one house is taken as Nil and other house/houses are to be taken as deemed to be let.
5. **House property consists of various independent units and one is under own occupation and others are let out** : Annual value of one unit is taken as Nil and other unit/units are treated as let out.
6. **If house property is partly let out and partly self occupied, it is to be treated as :**
 - a) if units are inseparable then treat this house as one house and no benefit of self occupation is to be given.
 - b) If units are separable, each unit or part is to be treated as separate house;

7. House Property is let out for part of the year and under own occupation for part of the Year : Whole property is treated as let out house property and no benefit of self-occupancy is to be given. But actual rent is taken only for number of months for which house property is actually let out.

8. Deemed let-out Property : In the case of a deemed let-out property, the nature of which is self-occupied property or unoccupied property, the computation of income shall be similar to that of let-out property but subject to certain modifications. The relevant points are listed here below :

- a) Fair rent has to be adopted as gross annual value.
- b) Municipal taxes actually paid can be claimed as deduction
- c) Both the deductions permissible u/s 24 can be claimed as available in the case of a let out property.

Where an assessee owns two or more house properties meant for self-occupation, he can opt to treat one such house property as self occupied. The remaining house or houses shall be deemed as let out properties. This option can be changed year after year in a manner beneficial to the assessee. Generally, the house with the higher gross annual value shall be treated as self-occupied so that the house with lesser gross annual value shall be liable to tax as deemed let out property

5.7 DEDUCTIONS FROM SELF-OCCUPIED HOUSE

1. Interest on Borrowed Capital :

Even though the annual value of self-occupied house is taken as nil, a deduction towards interest on borrowed capital is to be given. The deduction to be given is as follows :

Loan borrowed Date	Maximum Interest allowed
Before 31-3-1999 for house purchase, construction, repairs or renovation	₹ 30,000
After 1-4-1999 for house purchase or construction only and such	₹ 2,00,000*

acquisition or construction is completed within 3 years of the end of the financial year in which the capital was borrowed	
After 1-4-1999 for house repairs and renovations	₹ 30,000

Note* : For getting deduction of interest of maximum of ₹ 2,00,000, it will now be necessary to obtain a certificate from the person to whom such interest is payable specifying the amount of interest payable by the assessee for the purpose of acquisition/construction of the property or conversion of the whole or any part of the capital borrowed which remains to be repaid as a new loan.

Increase in time period for acquisition or construction of self-occupied house property for claiming deduction of interest [Second proviso to section 24(b)] : In view of the fact that housing projects often take longer time for completion, the Act has amended the second proviso of section 24(b) to provide that the deduction under the said proviso on account of interest paid on capital borrowed for acquisition or construction of a self-occupied house property shall be available if the acquisition or construction is completed within 5 years from the end of the financial year in which capital was borrowed.

5.8 OTHER IMPORTANT POINTS

- 1. Amounts not deductible [Sec.25]** : If interest on loan is paid to a non-resident deduction shall be allowed only if tax is deducted at source.
- 2. Recovery of unrealized Rent [Sec.25A]** : It will be treated as the income of the year in which it is recovered.

Simplification and rationalization of provisions relating to taxation of unrealized rent and arrears of rent [Section 25A] : Existing provisions of sections 25A, 25AA and 25B relate to special provisions on taxation of unrealized rent allowed as deduction when realized subsequently, unrealized rent received subsequently and arrears of rent received respectively. Certain deductions are available thereon. The Act has simplified these provisions and merged them under a single new section 25A to bring uniformity in tax treatment of arrears of rent and unrealized rent.

The new section 25A provides as under:

Special provision for arrears of rent and unrealized rent received subsequently [Section 25A]:

- 1. Arrears of rent or unrealized rent received subsequently to be taxed under the head “Income from House Property [Section 25A (1)] :** The amount of arrears of rent received from a tenant or the unrealized rent realized subsequently from a tenant, as the case may be, by an assessee shall be deemed to be the income from house property in respect of the financial year in which such rent is received or realised, and shall be included in the total income of the assessee under the head “Income from house property”, whether the assessee is the owner of the property or not in that financial year.
- 2. Standard deduction @ 30% to be allowed from such arrears of rent or unrealized rent [Section 25A (2)]:** A sum equal to 30% of the arrears of rent or the unrealized rent referred to in section 25A (1) shall be allowed as deduction.
- 3. Unrealised rent recovered [Sec.25AA] :**
 - a) Any amount realized towards unrealized rent already allowed as deduction shall be treated as income of the year of receipt.
 - b) It is to be treated as income taxable under the head ₹Income from house property” even if the assessee has ceased to be the owner of the property.
 - c) No deduction u/s 24 can be claimed in respect of such income.
- 4. Recovery arrears [Sec.25B] :** In case any arrears of rent of any earlier years are recovered these are deemed as income from house property after allowing 30% of Net Annual value as Standard Deduction.
- 5. Co-Ownership [Sec.26] :**
 - a) If two or more persons jointly own a property and if their shares are definite and ascertainable, then the income from such property cannot be taxed as income of an association of persons.
 - b) The share of income of each such co-owner should be determined and included in his individual assessment. Each co-owner is entitled for the

concessional computation relating to one self-occupied property with reference to his share of property under his occupation.

6. Loss from House Property :

- a) Loss from house property including self-occupied house can be set off from income under any other head.
- b) Loss from self occupied house due to interest on loan can be set off from any other head.
- c) Loss under the head 'house property' may be set off against income under any other head up to a maximum of Rs.2,00,000 [Sec.71(3A)]
- d) Unadjusted loss from house property including self-occupied house can be carried forward for 8 assessment years and is to be set of against ₹Income from House Property.'

7. **Annual value of a house property held as stock-in-trade:** Annual value of a house property held as stock-in-trade shall be deemed as nil, for the period up to one year from the end of the financial year in which the completion certificate is obtained. [Sec.23(5)]

Additional Illustrations

Illu.6 : Smt. Savitri is the owner of a residential house property, construction of which was completed on 1st March, 2014. The particulars of the residential house property are given below:

	Rs.
Municipal rental value	40,000
The building has been let-out on a monthly rent of Rs.6,000 inclusive of Rs.500 as rent of furniture	
Municipal taxes paid for 2017-18 and payable for 2018-19	4,180
Ground rent due but not paid	200
Collection charges actually paid	1,500
Amount spent on the repairs of the house	2,500
Insurance charges paid	150
Interest accrued upto 31st March , 2013 on money borrowed for	6,000

construction	
Interest for financial year 2017-18	2,000
Interest for financial year 2018-19	1,500
Interest paid during the year on the mortgage loan of Rs.1,50,000 taken for daughter's marriage against the house property	18,000

The house was let out from 1st May, 2017 and remained vacant from 1st February, 2018 to 31st May, 2018. Thereafter it was again let out. Compute the income from house property for the Assessment years 2018-19 and 2019-20.

Solution:

Calculation of Income from House Property of Mrs. Savitri

	A.Y. 2018-19	A.Y. 2019-20
	Rs.	Rs.
Annual value	49,500	55,000
Less: Municipal taxed paid	4,180	-
Net Annual Value	45,320	55,000
Less: Deductions		
Standard Deduction 30% of Net Annual Value	13,596	16,500
Interest on money borrowed for construction	3,200	1,500
Total deductions	16,796	18,000
Net income from property	28,524	37,000

Working Notes:

1. Where a property is let out for a part of the year, its annual value shall be the actual rent received or receivable for that part of year. No separate vacancy allowance shall be allowed.

The rent for furniture Rs.500 included in monthly rent of Rs.6,000 is however not to be included here. It is taken separately under the head "Income from Other Sources."

2. Municipal taxes payable but not paid shall be deductible only in the year of actual payment. Thus, the deduction is not allowed in A.Y.2019-20 as the taxes are not paid.
3. Interest accrued for the period prior to the previous year in which the property was acquired or constructed, (i.e. upto 31.3.2013) is allowable in 5 equal installments of

Rs.1,200 in the years 2013-14 to 2017-18 i.e. A.Ys. 2014-15 to 2018-19. Thus, total interest allowable for A.Y.2018-19 is Rs.2,000 for financial year 2017-18 plus Rs.1,200 for pre-construction period i.e. Rs.3,200. And, for A.Y. 2019-20, the interest allowable is Rs.1,500.

4. Interest on the loan taken for daughter's marriage is not allowable as it is not connected with the construction of the property.

Illu.7 : Mr. Ramdev purchased, during 2012-13, a house property under general power of attorney which is self-occupied. From the following particulars, compute the income under the head 'Income from House Property' for A.Y. 2018-19.

	Rs.
Annual letting value	75,000
Municipal ratable value	70,000
Municipal taxes due but not paid	2,500
Expenditure on repairs	10,000
Insurance premium due but not paid	500
Ground rent paid	350
Interest payable on money borrowed for construction	1,76,000
Repayment of House Loan	2,24,000

Solution:

	Rs.
Annual Value	Nil
Less: Interest on money borrowed for construction	1,76,000
Net Income (Loss) from Property	(-) 1,76,000

Working Notes:

1. In terms of Section 23(2)(a) (Self-occupied Property), the annual value of the property referred to in the illustration is nil. In respect of such property no other deduction is allowed except by way of interest on borrowings for purchase/ construction of house.

2. Where a self-occupied house property is acquired or constructed with funds borrowed on or after 1.4.1999, within 5 years from the end of the financial year in which the loan is taken, the deduction for interest can be claimed upto Rs.2,00,000. In other cases, the maximum deduction allowable for interest is Rs.30,000.
3. There is no deduction against income from house property in respect of repayment of principal (Rs.2,24,000). However, this will be considered at the time of calculation of deduction u/s 80C subject to specified limits and conditions.
4. Loss from self-occupied property can be adjusted against income from other property, whether let-out or self-occupied (deemed as let-out). The net loss from house property can be set off against income under any other head. W.e.f. A.Y. 2018-19, such set off shall be allowed subject to a maximum of Rs.2,00,000. The loss from house property which cannot be so set off shall be carried forward for next eight years.

Illu.8 : Mr. Mahadev has two residential houses in self-occupation, particulars of which for the financial year 2017-18 are as under:

	House A (Rs.)	House B (Rs.)
Municipal Value	50,000	1,00,000
Fair rental value	60,000	1,25,000
Municipal tax paid	2,000	10,000
Fire Insurance premium paid	500	2,000
Interest on loan for construction		
- of house A taken on April 1, 2014, construction completed on March 5, 2016 (Interest for pre- construction period Rs.10,000)	1,200	-
- of house B taken on June 5, 2012, construction completed in April 2017 (Interest for pre- construction period Rs.25,000)	-	3,600

Determine the income under the head 'Income from House Property' for Assessment Year 2018-19.

Solution:

In terms of section 23(4)(a), Mr. Mahadev opts that annual value of House B be computed at nil as self-occupied and thus by virtue of section 23(4)(b) House A is deemed to be let-out. Hence, income from house property shall be:

	House A Rs.	House B Rs.
Annual Value	60,000	Nil
Less: Municipal taxes paid	2,000	Nil
Net Annual Value	58,000	Nil
Less: Standard Deduction @ 30%	17,400	Nil
Less: Interest on loan for the	Rs. Rs.	
- current year	1,500 3,600	
- pre-construction period in 5 equal installments	2,000 5,000	3,500 8,600
Income from House Property	37,100	(-) 8,600

Thus, income under the head 'Income from House Property' shall be Rs.28,500.

Working Notes:

1. Annual value of House B (self-occupied property) is deemed as nil u/s 23(2)(a). Annual value of House A (property deemed as let-out) is equal to reasonable rent i.e. higher of municipal value or fair rental value, subject to maximum of its standard rent, if any.
2. Municipal taxes are deductible from annual value, only if annual value is a positive number. In case annual value is deemed as nil (in case of SOP), municipal taxes cannot be deducted.
3. A deduction of 30% of net Annual Value is allowable u/s 24(a). In case of a self-occupied property, this deduction is not allowed.
4. No separate deduction is allowable for fire insurance, etc.

5. Where a self-occupied house property is acquired or constructed with funds borrowed on or after 1.4.1999, within 5 years from the end of the financial year in which the loan is taken, the deduction for interest can be claimed up to Rs.2,00,000. In other cases, the maximum deduction allowable for interest is Rs.30,000.

In this case House B (self-occupied) has been constructed with borrowed funds (in April 2017) within 5 years from the end of the financial year in which the loan was taken (2012-13). Thus, deduction for interest can be claimed up to Rs.2,00,000.

6. Interest for pre-construction period is deductible in 5 equal installments. Thus, in case of House A, interest for pre-construction period (up to 2014-15) is allowable in 5 installments of Rs.2,000 each during previous years 2015-16 to 2019-20. Similarly, in case of House B, a deduction of Rs.5,000 each shall be allowable during previous years 2017-18 to 2021-22.

Illu.9 : Mr. Peri Sastry owns a two storeyed building; ground floor is self-occupied and the first floor which was also under self-occupation is let-out w.e.f.1.6.2017 @ Rs.3,500 p.m. Mr. Sastry received an interest free security deposit of Rs.25,000 (refundable) and six months advance rent Rs.21,000 from the tenant which was adjusted during the year. The municipal valuation of the property is Rs.55,000. The municipal taxes of Rs.9,000 are actually paid on 20.9.2017.

Mr. 'Sastry' had taken a loan of Rs.2,50,000 from a co-operative housing finance society to build the first floor on which interest payable for the year is Rs.25,000 and also a sum of Rs.15,000 is paid towards loan repayment. The income from house property for A.Y. 2018-19 is computed as follows:

Solution:

**Computation of Income from House Property of Mr. Peri Sastry
(Assessment year 2018-19)**

	Rs.	Rs.
Annual Value of the Property		
- Ground floor self-occupied u/s 23(2) (a)		Nil
- First floor let out w.e.f. 1.6.2017 for 10 months @ 3,500/- p.m.		35,000
Annual Value		35,000

Less: Municipal taxes paid during the year (for rented portion only)		4,500
Net Annual Value		30,500
Less: 30% deduction for repairs, etc.	9,150	
Less: Interest on borrowed capital	25,000	34,150
Income from house property		(-) 3,650

Working Notes :

1. Advance rent since adjusted during the year automatically becomes a part of the Annual Value. However, where any amount of advance rent remains unadjusted, the same shall be treated as part of ALV in the relevant year(s) to which it relates. Security deposit if not refundable is also deemed as part of rent received on pro-rata basis.
2. Repayment of loan is eligible for deduction u/s 80C within the overall limit of Rs.1,50,000.

Illu.10: Mr. Jagan submits the following information for A.Y. 2018-19, in respect of his property at Vijayawada.

	Rs.
(a) Fair rental value	3,00,000
(b) Municipal Value	3,10,000
(c) Standard Rent	3,50,000
(d) Actual Rent	6,00,000
(e) Rent unrealized for the previous year 2017-18	50,000
(f) Municipal taxes paid	40,000
(g) Expenditure on repairs	10,000
(h) Insurance premium	5,000
(i) Ground rent	1,000
(j) Interest on loan against the property utilised for construction of a new property	20,000
(k) The property remained vacant for a period of 3 months during previous year 2017-18.	

Compute income under the head 'Income from House Property', for A.Y. 2018-19.

Solution:

**Computation of Income from House Property of Mr. Jagan
(Assessment year 2018-19)**

	Rs.	Rs.
Reasonable Rent		
Fair rental value (A)	3,00,000	
Municipal value (B)	3,10,000	
Standard Rent (C)	3,50,000	
Higher of (A) and (B) subject to maximum of (C)		3,10,000
Actual rent received/receivable	6,00,000	
Less: Unrealised rent	50,000	
	5,50,000	5,50,000
Gross Annual value of property		5,50,000
Less: Rebate for Vacancy (Rent for 3 months)		1,50,000
Annual Value		4,00,000
Less: Municipal Taxes paid		40,000
Net Annual Value (NAV)		3,60,000
Less: Standard Deduction @ 30% of NAV u/s 24	1,08,000	
Less: Interest u/s 24	Nil	1,08,000
Income from House Property		2,52,000

Note: Interest on loan against the property is not deductible from income from such property. Since the loan is utilised in construction of a new property, the interest will be reckoned as interest for pre-construction period in relation to the new property, and shall be allowed as deduction against income from such new property in the relevant years, after its construction is completed.

Illu.11 : Mr. Suvarna Raju is a Lawyer. He owns a property in a posh colony is Machilipatnam. The property has four units of equal size. Unit 1 on the ground floor is used by Mr. Raju for his profession. Unit 2 on the first floor is let out to a non-resident on monthly rent of Rs.80,000 with effect from July 1, 2017. This unit remains vacant during May and June 2017 as suitable tenant is not available. The old tenant has occupied Unit 2 since 1985 and after a Court verdict he vacates it on April 30, 2017 without paying rent of 6 months (monthly rent being Rs.10,000).

Unit 3 on the second floor and Unit 4 on the third floor are converted into one residential unit and is occupied by Mr. Raju for his residential purposes.

Municipal valuation of the entire property is Rs.3,00,000. Market rent of a similar property is Rs.7,00,000. Standard rent is Rs.6,50,000. Municipal tax is levied at the rate of 15 per cent. Entire municipal tax is payable by Mr. Raju. Municipal tax of previous year 2017-18 is paid in two installments – Rs.28,000 on March 31, 2018 and Rs.17,000 on June 1, 2018.

Mr. Raju has taken a loan of Rs.20 lakh from SBI at the rate of 9 percent per annum for renovation of second and third floor. This loan was taken in 2016 and nothing is repaid upto March 31, 2018. On March 31, 2018, he repays Rs.15,00,000. Interest on loan is not paid although it has become due for payment.

Income of Mr. Raju from profession is Rs.33,10,000 (without deducting depreciation of Unit 1 which comes to Rs.32,000 and municipal tax). Mr. Raju annually pays life insurance premium of Rs.50,000 on the life of his dependent mother (68 years) and Rs.1,20,000 in public provident fund. He wants to claim deduction under section 80C in respect of repayment of loan taken from SBI.

Determine the amount of Total income of Mr. Suvarna Raju for the assessment year 2018-19.

Solution:

**Computation of income from House Property of Mr. Suvarna raju
(Assessment Year 2018-19)**

	Rs.	Rs.
Computation of gross annual value		
Municipal value of Unit 2 (Rs.3,00,000 ÷ 4) (MV)	75,000	
Fair rent Unit 2 (Rs.7,00,000 ÷ 4) (FR)	1,75,000	
Standard rent Unit 2 (Rs.6,50,000 ÷ 4)(SR)	1,62,500	
Annual rent Unit 2 (Rs.10,000 × 1 + Rs.80,000 × 11)	8,90,000	
Unrealized rent Unit 2	10,000	
Loss due to vacancy (Rs.80,000 × 2)	1,60,000	
<i>Step 1</i> – Reasonable expected rent of Unit 2 [MV or FR, whichever is higher, but subject to maximum of SR]		1,62,500
<i>Step</i> – // Rent received/receivable after deducting unrealized rent but before adjusting loss due to vacancy (Rs.8,90,000 – Rs.10,000)		8,80,000

<i>Step III</i> – Amount computed in Step I or Step II, whichever is higher	8,80,000
<i>Step IV</i> – Loss due to vacancy	1,60,000
<i>Step V</i> – Gross annual value is <i>Step III minus Step IV</i>	7,20,000
Less: Municipal tax of Unit 2 (Rs.28,000 ÷ 4)	7,000
Net annual value	7,13,000
Less: Deductions under section 24 – Standard deduction @ 30%	2,13,900
Interest from borrowed capital	Nil
Income from Unit 2	4,99,100

Computation of income of Units 3 and 4 : These two units are used as one residential unit. Gross annual value is nil. Municipal tax is not deductible. Interest on borrowed capital is deductible up to Rs.30,000. Higher deduction up to Rs.2,00,000 is applicable only in the case when loan is taken for purchase or construction of a residential purposes. Since loan is taken for renovation of Units 3 and 4, the higher amount of Rs.2,00,000 is not deductible. Interest of the previous year 2017-18 comes to Rs.1,80,000. However, amount deductible is only Rs.30,000. Interest on borrowed capital is deductible on accrual basis. In other words, Rs.30,000 is deductible even if interest is not actually paid. Income from Units 3 and 4 will be (-) Rs.30,000.

Computation of income from Legal profession–

	Rs.	Rs.
Income		33,10,000
Less: Depreciation	32,000	
Less: Municipal tax [(Rs.28,000 + Rs.17,000) ÷ 4, municipal tax paid up to September 30, 2018 is deductible for the previous year 2017-18 under section 43B]	11,250	43,250
Income from profession		32,66,750
Computation of income and tax liability -		
Income from house property		
Unit 1 : Nil, as it is occupied for own	Nil	

C.D.E.	172	Acharya Nagarjuna University	
business/profession		4,99,100	
Unit 2: Rs.4,99,100 +		(-) 30,000	4,69,100
Units 3 and 4 : (-) Rs.30,000			
Income from profession			32,66,750
Gross total income			37,35,850
Less: Deductions under section 80C			1,20,000
Net income (rounded off)			36,15,850

Working Notes : Deposit of Rs.1,20,000 in public provident fund, insurance premium on mother's life is not eligible, repayment of loan is deductible only when it is taken for acquiring or purchasing a property.

Illu.12 : Mr. Yogi (50 years) owns a commercial property in Cuddapah. It is let out to different tenants. Municipal valuation of the property is Rs.25,00,000. Market rent of a similar property is Rs.32,00,000. Annual rent (if there is no vacancy and no unrealized rent) is Rs.40,00,000. Standard rent is not applicable. Unrealized rent is Rs.3,20,000 [there are two tenants who have defaulted – A : Rs.1,20,000 and B: Rs.2,00,000]. It is not possible to realize anything from A and B. B has also occupied a property owned by Mrs. Yogi. One flat in the property (annual rent being Rs.60,000) remains vacant for 4 months during the previous year. Another flat (annual rent being Rs.90,000) remains vacant for 8 months during the previous year.

Annual rent of Rs.40,00,000 includes Rs.10,00,000 pertaining to different amenities provided in the building. Rs.30,00,000 is rent of building and Rs.10,00,00 is for different amenities which is calculated as follows –

1. Lift maintenance charges: Rs.3,50,000.
2. Electricity charges: Rs.2,00,000.
3. Air-conditioning charges: Rs.3,50,000.
4. Security guard charges: Rs.1,00,000.

Mr. Yogi has incurred following expenses in respect of the aforesaid property –

1. Advance fees and court charges for drafting lease agreements with tenants: Rs.75,000.
2. Municipal tax of 2017-18: Rs.4,70,000 (however, 10 per cent rebate is obtained for payment before due date).

3. Arrears of municipal tax of 2016-17 paid during the current year: Rs.1,20,000 (it includes interest on arrears of Rs.15,000).
4. Expenditure on lift maintenance: Rs.2,10,000 (a payment of Rs.30,000 is made in cash).
5. Electricity bill: Rs.2,40,000.
6. Air-conditioner maintenance: Rs.80,000 (an amount of Rs.40,000 is paid to Volta Ltd., in which Mr. Yogi is a director holding 15 per cent share capital, similar services can be obtained from any other person for Rs.18,000).
7. Salary to security guard: Rs.1,25,000.
8. Salary of staff for supervising lift maintenance and air-conditioner services: Rs.2,40,000.
9. Salary of staff for collecting rent and other charges: Rs.90,000.
10. Insurance of building: Rs.1,17,000.
11. General repair of building: Rs.80,000.
12. Interest on loan taken from a foreign company payable outside India for construction of the property: Rs.7,50,000 (tax is not deducted by Mr. Yogi under section 195).
13. Interest on the same loan for the previous year 2016-17: Rs.2,00,000 (paid during the current year after deducting tax at source). Besides, the above expenses, Mr. Yogi can claim depreciation on lift and air-conditioning system which comes to Rs.5,07,500.

Assuming that income of Mr. Yogi from business is Rs.9,70,000 and he annually contributes Rs.1,20,000 in public provident fund, find out Total income of Mr. Yogi for the assessment year 2018-19.

Solution:

Annual rent is Rs.40,00,000. Out of which annual rent of the property is Rs.30,00,000 and charges for different amenities (like lift, air-conditioning, electricity, security guard) are Rs.10,00,000. In other words, 75% of the annual rent pertains to rent of building and 25% of rent pertains to charges for different amenities. From the data given in the problem, the following calculation can be made –

	Total	Rent of building (75% of total)	Charges for different amenities (25% of total)
	Rs.	Rs.	Rs.
Annual rent if there is no vacancy and no unrealized rent	40,00,000	30,00,000	10,00,000
Less: Unrealised rent (Rs.1,20,000 + Rs.2,00,000)	3,20,000	2,40,000	80,000
Rent after deducting unrealized rent	36,80,000	27,60,000	9,20,000
Less: Loss due to vacancy [(Rs. 60,000×4÷ 12) + (Rs.90,000×8 ÷12)]	80,000	60,000	20,000
Balance	36,00,000	27,00,000	9,00,000

Computation of gross annual value

	Rs.
Municipal value (MV)	25,00,000
Fair rent (FR)	32,00,000
Standard rent (SR)	NA
Annual rent	30,00,000
Unrealized rent	2,40,000
Loss due to vacancy	60,000
<i>Step I</i> – Reasonable expected rent of the property [MV or FR, whichever is higher, but subject to maximum of SR]	32,00,000
<i>Step II</i> – Rent received/receivable after deducting unrealized rent but before adjusting loss due to vacancy	27,60,000
<i>Step III</i> – Amount computed in <i>Step I</i> or <i>Step II</i> , whichever is higher	32,00,000
<i>Step IV</i> – Loss due to vacancy	60,000
<i>Step V</i> – Gross annual value is <i>Step III</i> minus <i>Step IV</i>	31,40,000
Less: Municipal tax [(90% of Rs.4,70,000) + (Rs.1,20,000 - Rs.15,000)]	5,28,000
Net annual value	26,12,000
Less: Deduction under section 24 :	
Standard deduction @ 30%	7,83,600
Interest from borrowed capital	Nil
Income	18,28,400

Note: Interest payable outside India is not deductible if proper tax has not been deducted by the taxpayer. Interest of last year (in respect of which tax is deducted during the current year) is not deductible during the current year.

	Rs.
Amount collected for different amenities (after excluding vacancy and unrealized amount, as calculated above) (Rs.9,20,000 – Rs.20,000)	9,00,000
Less: Expenses and depreciation	
Legal expenses for drafting agreements (25% of Rs.75,000)	18,750
Lift maintenance expenditure (Rs.2,10,000 – cash payment of Rs.30,000 to be disallowed)	1,80,000
Electricity	2,40,000
Air-conditioner maintenance (Rs.80,000 – excess payment to B Ltd., i.e., Rs.22,000)	58,000
Security guard	1,25,000
Supervisor salary	2,40,000
Salary of staff for collecting rent and other charges (25% of Rs.90,000)	22,500
Depreciation	5,07,500
Income from other sources	(-) 4,91,750

Computation of income

	Rs.
Income from house property	18,28,400
Business income	9,70,000
Income from other sources	(-)
	4,91,750
Gross total income	23,06,650
Less: Deduction under section 80C	1,20,000
Net income	21,86,650

5.9 SELF-ASSESSMENT QUESTIONS

I. Short Answer Questions :

1. What is Annual Value?
2. What is meant by deemed owner of House Property?

3. What are exempted incomes from house property?
4. What is unrealised rent?
5. What is co-ownership?
6. How do you treat the loss from House Property?
7. Deductions under Section 24
8. What is Composite Rent?
9. Gross Annual Value.
10. Fair Rental Value.
11. Annual value
12. Municipal rental value.
13. Net Annual Value.
14. Municipal Rent and Standard Rent
15. What is House Rent Allowance

B. Essay Questions

1. State the provisions relating to the chargeability of Income from House Property.
2. What is Annual Value? How do you compute income from a let out house property?
3. State the provisions relating to the computation of income from a self-occupied house property.
4. What are various deductions allowed in computing income from house property?
5. Explain how the income from house property is computed under the provision of the Income-tax Act, 1961.
6. Write in brief the treatment of interest of pre-construction period.
7. What is Annual Value? Explain the method of computing income from house property, if the house is let out.
8. Define annual value and explain the procedure of computing income from house property when a house is let out and self occupied.
9. How do you compute income from self occupied House property

5.10 EXERCISES

1. Gnaneswari is the owner of the three houses, which are all let out and covered by the Rent Control Act. From the following particulars find out the gross annual value in each case.

Particulars	House I	House II	House III
	₹	₹	₹
Municipal value	30,000	26,000	35,000
Annual Rent	42,000	36,000	30,000
Fair rent	36,000	28,000	30,000
Standard Rent	30,000	35,000	36,000
Unrealised rent	7,000	9,000	2,500
Period of vacancy	1 month	2 months	3 months

[Ans.: Gross Annual Value (i) Rs.31,500; (ii) Rs.28,000; (iii) Rs.35,000]

2. Gopal is the owner of a house property whose municipal valuation is ₹25,000. The construction of the property was commenced on 1st January, 2012 and completed on 30th April, 2013. The building comprises of three residential units and is let out to X, Y and Z on an annual rent of ₹10,000 per unit. Gopal pays Municipal taxes ₹3,000 for the entire building. Find out the net annual value of each unit of X and Y have taken their units for residential purposes and Z for the business purposes.

[Ans.: Net Annual Value Rs.27,000]

3. Mr. Rami Reddy furnishes the following particulars in respect of house property owned by him in Kadapa

	₹
Municipal value	2,00,000
Fair rent	2,40,000
Actual rent (per month)	21,000
Municipal tax paid during the year	20,000

The tenant vacated the property on 31.10.2017 and thereafter the property was let out for ₹ 25,000 p.m. Mr. Rami Reddy could not realise the rent for the months of September and October, 2016 due to the death of the earlier tenant.

- (a) Compute the annual value of the property for the assessment year 2018-19.

- (b) What will be your answer if the unrealized rent is for one month instead of two months.

[Ans.: Net Annual Value Rs.2,31,000]

4. Determine the income from house property on the basis of the following

	₹
Annual rent received	9,000
Municipal value	5,400
Fair rent	8,400
Standard rent	7,200
Municipal taxes paid	540

[Ans.: Income from House Property Rs.5,922]

5. Miss Pavani is the owner of a house which was constructed in 2015 and let out for residential purposes. The local taxes in respect of the house paid during the year ended 31st March, 2018 were 10% of Municipal value. Other particulars are as follows :

	₹
Municipal Valuation	10,000
Rent received	12,000

Compute the net annual value for the current Assessment Year.

[Ans: Income from House Property Rs.7,700]

6. From the following particulars, calculate the income from house property. Municipal value of the house ₹ 12,000, which was let out on a rent for ₹ 18,000 per annum. The tenant has undertaken to bear the cost of repairs, Municipal taxes paid by the owner are ₹ 1,800.

[Ans: Income from House Property Rs.11,340]

7. Mr. Srinivas has a house property in Guntur whose particulars are as under:

	₹
Municipal value	3,00,000
Standard rent	3,12,000
Municipal taxes paid	50,000
Interest on money borrowed for acquiring the house after 1.4.2015	2,60,000
Period of occupation for own residence	2 months
Actual rent for 10 months	35,000 p.m.

Compute the income from house property for assessment year 2018-19.

[Ans: Income from House Property Rs.10,000]

8. Mr. Sastry owns a house property in Kadapa which is let out for ₹ 10,000 p.m., the municipal value of which is ₹ 1,00,000 and municipal taxes were 25% of municipal valuation. Mr. Sastry paid during the previous year municipal tax of 6 years which relate to past 5 years as well as for the current year. The other expenses of the property were as under:-

	₹
Repairs	5,000
Insurance premium	2,000
Interest for purchase of house	11,000
Ground rent due	2,000

Compute income of Mr. Sastry from house property for the assessment year 2018-19.

[Ans: Loss from House Property (-) Rs.41,000]

9. Mr. Hitesh has 2 house properties situated in Nellore. Property A is self-occupied for first 6 months i.e. from 1.4.2017 to 30.9.2017 and w.e.f. 1.10.2017, it is let out for ₹ 10,000 per month. Property B is let out w.e.f. 1.4.2017 at rent of ₹ 12,000 p.m. and w.e.f. from 1.10.2017, it was self-occupied as Mr. Hitesh shifted his residence from property A to property B.

The other details of the above two house properties are as under:

	Property A ₹	Property B ₹
Municipal tax paid	30,000	24,000
Insurance premium paid	3,000	4,000
Interest on money borrowed for purchase of house property	35,000	40,000

Compute the income from house property.

[Ans: Income from House Property : Property A Rs.28,000; Property B Rs.44,000]

10. Following are the particulars of house properties of Mr. Sujaya Krishna for the previous year 2017-18. Compute his income from house properties:

	House A	House B
Construction started on	31.3.1991	10.2.1987
Construction completed on	31.3.1992	1.6.1991

Annual Rental Value	30,000	12,000
Municipal valuation	25,000	12,000
Municipal Tax	2,500	1,200
Actual Repairs Expenses	2,000	2,000
Interest on money borrowed to renovate the building	1,200	-
Insurance premium	200	175
Ground rent	150	100
Vacancy period	3 months	-
Rent collection charges	1,000	600

Both the above houses were let out for residential purposes. Insurance premium of House A and Ground Rent of House B are still outstanding. Repair expenses of the house A and the municipal tax of House B were paid by the tenants.

[Ans: Income from House Property Rs.21,200; House A : Rs.12,800; House B Rs.8,400]

11. Mr. Somi Reddy owned a house property. It is used by him throughout the previous year 2017-18 for his (and his family members) residence. Municipal value of the property is ₹ 1,66,000, whereas fair rent is ₹ 1,76,000 and standard rent is ₹ 1,50,000. The following expenses are incurred by Somireddy : repairs: ₹ 20,000, municipal tax : ₹ 16,000, insurance: ₹ 2,000; interest on capital borrowed to construct the property: ₹ 1,66,000; interest on capital borrowed by mortgaging the property for daughter's marriage: ₹ 20,000 (in either case capital is borrowed before April 1, 1999). Income of Mr. Somireddy from business is ₹ 7,10,000. Find out the net income of Mr. Somireddy for the assessment year 2018-19.

[Ans: Loss from House Property Rs.30,000; Total Income Rs.6,80,000]

12. Mr. Gangi Reddy has two houses, both of which are self-occupied. The particulars of the house are as under:

	Ist House (₹)	IInd House (₹)
Municipal Value	60,000	90,000
Fair Rental Value	72,000	1,20,000
Standard rent	-	1,00,000
Date of completion	1.1.1994	1.10.1994
Municipal taxes	6,000 paid during the year	9,000 paid during the year

Suggest which house should be opted by Mr. Gangi Reddy to be assessed as self-occupied so that his tax liability is minimum.

[Ans: Income from House Property : Net Annual Value : I Rs.46,200; II Rs.63,700. Hence he may prefer House II as self occupied.]

13. Mr. Gajapathi Raju owned a residential house property. It has two equal residential units – Unit 1 and Unit 2. While Unit 1 is self-occupied by Mr. Raju for his residential purpose, Unit 2 is let out (rent being ₹ 6,000 per month, rent of 2 months could not be recovered). Municipal value of the property is ₹ 1,30,000, standard rent is ₹ 1,25,000 and fair rent is ₹ 1,40,000. Municipal tax is imposed @ 12 per cent which is paid by Mr. Raju. Other expenses for the previous year 2017-18 being repairs: ₹ 250, insurance: ₹ 600, interest on capital (borrowed during 1998) for constructing the property: ₹ 63,000.

Find the income of Mr. Raju for the assessment year 2018-19 on the assumption that income of Mr. Raju from other sources is ₹ 1,80,000.

[Ans. : Net Income Rs.1,56,790]

14. Prasanna owns a property at Gudiwada (municipal value: ₹ 1,64,000, fair rent : ₹ 2,16,000, standard rent: ₹ 1,80,000). The house is let out up to January 31, 2018 (monthly rent being ₹ 14,000). From February 1, 2018, the property is self-occupied for own residential purposes. Expenses incurred by Mr. Prasanna are: municipal tax: ₹ 6,000 (actually paid), repairs: ₹ 2,100, insurance: ₹ 1,100, interest on capital borrowed (date of borrowing being June 10, 1991) for acquiring the property: ₹ 1,23,000. Assuming that the income of Prasanna from other sources is ₹ 1,86,000, find out the net income of Mr. Prasanna for the assessment year 2018-19. Does it make any difference if property is let out up to January 31, 2018 @ ₹ 19,000 per month? There is no unrealized rent.

[Ans: Income from House Property I Rs.1,84,800; II Rs.1,91,800]

15. Mr. Kanaka Raju completed construction of his house property on 31-5-2016 and moved in for self occupation on 1-6-2017. The construction was commenced on 1-4-2014. Mr. Raju had borrowed loan on 1-10-2014 for the construction and the annual interest payable on the same is ₹ 1,75,000. Municipal valuation of the property is ₹ 6,00,000 and the property taxes paid during the year is 20% of the Municipal valuation. Compute Income from House Property for Mr. Kanaka Raju for the Assessment Year 2018-19.

[Ans: Loss from House Property Rs.2,00,000]

16. Mr. Mangaiah has occupied two houses for his residential purposes, particulars of which are as follows:

	House I ₹	House II ₹
Municipal Valuation	2,30,000	1,70,000
Fair Rent	2,90,000	2,00,000
Standard rent under Rent Control Act	2,42,000	2,30,000
Municipal taxes paid	15%	15%
Fire insurance	2,000	1,000
Interest on capital borrowed for construction of house (₹ 20,00,000 is borrowed @ 12% p.a. on 15.4.2016, construction is completed on 28.3.2017 and loan is yet to be repaid)	2,40,000	Nil

Income of Mr. Mangaiah from other sources is ₹ 5,40,000. Determine the taxable income for the assessment year 2018-19 on the assumption that he contributes ₹ 1,20,000 towards the public provident fund.

[Ans: Loss from House Property Rs.(-) 94,750; Total Income Rs.3,25,250]

17. For the assessment year 2018-19, Mr. Vijay kanth (age: 65 years) submitted the following information: Income from business ₹ 9,82,000

Property income:

	House I ₹	House II ₹
Fair rent (FR)	3,50,000	3,20,000
Municipal valuation (MV)	3,60,000	3,50,000
Standard rent (SR)	3,00,000	5,00,000
Annual rent	6,00,000	4,20,000
Unrealized rent of the previous year 2017-18	10,000	80,000
Unrealized rent of the previous year 2016-17	-	3,00,000
Vacant period (number of months)	(2)	(4)
Loss on account of vacancy	1,00,000	1,40,000
Municipal taxes paid	40,000	50,000
Repairs	5,000	7,000
Insurance	20,000	30,000

Taxation	183	Income from House Property	
Land revenue		25,000	40,000
Ground rent		66,000	82,000
Interest on capital borrowed by mortgaging House I (funds are used for construction of House II)		1,40,000	-
Nature of occupation		Let out for residence	Let out for business

Determine the taxable income and tax liability of Mr. Vijayakanth for the assessment year 2018-19 assuming that Mr. Vijayakanth deposits, ₹ 1,40,000 in the public provident fund account of Mrs. Vijayakanth and invests ₹ 50,000 in NSC IX issue.

[Ans: Total Income Rs.11,19,000; Tax payable Rs.1,60,370]

Chapter – 6

PROFITS AND GAINS OF BUSINESS OR PROFESSION

Objectives :

After studying this unit we should be able to

- Define Business
- Understand the rules relating to computation of business income
- Know the deductions allowed specify the disallowed expenses and computing business income
- Follow the steps in computing the taxable profit or gain from business or profession.

Structure :

- 6.1. Introductions
- 6.2. Business – Definition
- 6.3. Profession – Definition
- 6.4. Chargeability – Sec.28
- 6.5. Computation of Income
- 6.6. Disallowed Expenses
- 6.7. Expenses Expressly disallowed
- 6.8. Deemed Profits
- 6.9. Valuation Stock
- 6.10. Steps in Computing Taxable Profits
- 6.11. Computation of Gain from Profession
- 6.12. Self-Assessment Questions
- 6.13. Exercises

6.1 INTRODUCTION

Profit and Gain from Business or Profession is the third and most important head of income. Section 28 to 44DA deal with chargeability and computation of Profits and gains of business or profession.

6.2 BUSINESS - DEFINITION

Sec.2(13) defines ``Business'' to include any trade, commerce or manufacture or any adventure or concern in the nature of trade, commerce and manufacture.

Business connotes some activity which is carried on by devoting time, attention and labour of a person either by himself or through others normally with a motive to make profits. Further, it denotes some real, substantive and systematic or organized course of activity or conduct with a set purpose. It should have a genuine and independent existence, and activities associated with it should be reasonably frequent and repetitive, though a once-in-life-time activity may also be business, if it is undertaken with profit motive.

6.3. PROFESSION – DEFINITION

Section 2(36) defines "Profession" to include vocation. Therefore, even if a person carries on any activity, not on the basis of ability and knowledge acquired out of a carries on any activity, not on the basis of ability and knowledge acquired out of a professed study, degree or diploma but on account in inborn talent, skill and attributes, any income derived there from shall also be considered as professional income. Example, income earned by rendering discourses on philosophy, religion etc.

6.4 CHARGEABILITY – SEC. 28

The following items of income shall be chargeable to tax under the head ₹Profits and gains of business or profession.

1. Profits and gains of any business or profession carried on by the assessee at any time during the previous year.
 - (a) Profits and gains of a transaction not undertaken in the regular course of business or profession are taxable as casual income under the head 'Income from Other Sources.'
 - (b) Where the assessee was engaged in the business of renting its properties and was declaring income from rent under the head business or profession, it was held that the income from rent was taxable as 'business income' and not 'income from house property.'
 - (c) Profits and gains of a speculation business should be kept distinct from other business.
2. Any compensation or other payment due to or received by a person in connection with :
 - (i) Termination or modification of contract relating to management of affairs of an Indian company or any other company.
 - (ii) Termination or modification of a contract relating to agency for business activity in India
 - (iii) Vesting of the management of any business and property in favour of government or any corporation owned by government under any law in force.
3. Income of any trade, professional or similar association from specific services performed for its member In the case of an assessee carrying on export business the following export incentives :
 - (i) Profit on sale of import-entitlement or EXIM Scrip
 - (ii) Cash assistance (Cash Compensatory Support – CCS)
 - (iii) Excise or customs duty repaid (drawback)
4. The value of any benefit or perquisite, whether convertible into money or not, arising from business or exercise of a profession (the nexus between the business or profession and the benefit should be proximate to attract the provision)

5. Any interest, salary, bonus, commission or remuneration due to or received by a partner of a firm from such firm. Any sum received or receivable in cash or kind under an agreement for not (i) carrying out any activity in relation to any business; (ii) sharing any know-how, patent, copyright, trade-mark licence, franchise or any other business or commercial right of similar nature or information or technique likely to assist in the manufacture or processing of goods or provisions for services.
6. Any sum received under a Key-man insurance policy including the sum allocated by way of bonus on such policy.
7. **With effect from 1-4-2019 (Assessment year 2019-2020) 28(ii)(e) : The new sub-clause has been inserted to tax any compensation due to or received by any person in connection with the termination or the modification of the terms and conditions of any contract relating to his business under the head "Profits and gains of business or profession."**
8. **With effect from 1-4-2019 (Assessment year 2019-2020) 28(via) : The new clause has been inserted to tax the fair market value of the inventory as on the date of its conversion or treatment as capital assets under the head "Profit and gains of business and profession."**
9. **Taxation of Non-compete fees and exclusivity rights in case of Profession [Section 28(va)]:** The Act has amended clause (va) of section 28 of the Act to bring the non-compete fee received/receivable (which are recurring in nature) in relation to not carrying out any profession, within the scope of section 28 of the Act i.e. the charging section of profits and gains of business or profession. Further, the Act has also amended the proviso given under the above clause (va) to clarify that receipts for transfer of right to carry on any profession, which are chargeable to tax under the head "Capital gains", would not be taxable as profits and gains of business or profession

6.5 COMPUTATION OF BUSINESS PROFIT

According to Section 28 the Profit and Gain from Business or Profession is to be computed in accordance with the provisions contained in Sec.30 to 43D.

Before analyzing the various provisions relating to computation of income, it requires to be mentioned that income chargeable to tax under the head ``Profits and

Gains of Business or Profession' shall be computed on the basis of common principles of commercial expediency subject to the express provisions of the act.

According to Sec.29 of the Profits under the head 'Profits and Gains of Business or Profession' are calculated in accordance with the provisions contained in section 30 to 44B, which provide for the deductions to be made from the gross income. These deductions are :

		Section
1.	Rent, rates, taxes, repairs and insurance for building, used for the purpose of the assessee's business	30
2.	Repairs and insurance premium paid in connection with the plant, machinery, furniture etc. used in business or profession	31
3.	Depreciation of buildings, machinery, plant or furniture	32
4.	Tea Development Account and	33AB
	Reserve for shipping companies	33AC
5.	Expenditure on scientific research	35
6.	Expenditure on patents and copyrights	35A
7.	Expenditure on know-how	35AB
8.	Expenditure on eligible projects or schemes	35AC
9.	Expenditure by way of payment to associations and institutions carrying out Rural Development programmes	& 35CCB
10.	Amortisation of certain preliminary expenses	35D
11.	Expenditure on demerger or amalgamation	35DD
12.	Expenditure incurred under voluntary retirement scheme	35DDA
13.	Deductions for expenditure on prospecting etc., for certain minerals	35E
14.	Other deductions Insurance premium of stock-in-trade Bonus or commission to employees Interest on borrowed capital Employer's contribution to provident and other funds Employer's contribution to the approved gratuity funds Loss of animals Bad debts	36

	Transfer of money to special reserve in case of financial institutions only Expenditure incurred on family planning case of companies only	
15.	General Any other type of expenses incurred but not covered under sections 30 to 36	37
16.	Buildings partly used for business premises	38

Let us now discuss these deductions.

6.5.1 Expenses relating to Building [Sec.30] :

According to Sec.30 the following expenses are deductible.

- (a) If the assessee is occupying the premises as a tenant, rent paid is deductible. Further, if he undertakes to do the repairs, the cost of such repairs is also deductible.
- (b) If the assessee is the owner, the expenses incurred towards current repairs are deductible.
- (c) Any land revenue, local rates property taxes are deductible.
- (d) Insurance premium in respect of the property is deductible.

However, any repair expenditure of capital nature shall not be allowed as deduction under this section.

6.5.2. Expenses relating to machinery, plant and furniture [Sec.31] :

According to Sec.31 the following expenses are deductible.

- (a) Current repairs
- (b) Insurance premium

However, any repair expenditure of capital nature shall not be allowed as deduction under this section.

6.5.3. Depreciation [Sec.32] :

The provisions relating to the deduction of depreciation and other allowances are discussed separately in the next chapter.

6.5.4. Expenditure on Scientific Research [Sec.35] :

According to Sec.43 (4) scientific research means any activities for the extension of knowledge in the fields of natural or applied sciences including agriculture, animal husbandry and fisheries.

Section 35 lays down while computing the income of that business or profession, the following deductions shall be allowed in respect of expenditure on scientific research. The expenses are of two types (1) Revenue expenditure (2) Capital Expenditure

The following types of deductions are to be given for scientific research expenditure incurred by the assessee.

1. Expenditure incurred by the assessee for his business :

(a) In all cases of in-house research – 100% of the following expenses being :

- (i)** Any revenue expenditure and capital expenditure (other than cost of acquisition of any land) on scientific research incurred during the year, and
- (ii)** Any expenditure incurred during the 3 years immediately preceding the year of commencement of business, being salary to an employee; or purchase of materials used in such scientific research or any capital expenditure (except cost of acquisition of any land)

(b) In case of companies in specified Business [Sec.35 (2AB)] :

- i. 150% of any expenditure (other than expenditure on cost of land or building);
- ii. Companies engaged in the business of bio-technology; or in the business of manufacture or production of any drugs, pharmaceuticals; electronic equipments; computers; telecommunication equipments; chemicals; or any other article or thing notified by the Board alone can claim weighted deduction under this section.

From the assessment year 2014-15 in order to incentives the companies to continue to spend on in-house research, section 25(2AB) has been amended to extent the benefit of the weighted deduction of 200% of revenue and capital expenditure (not being in the nature of cost of any land or building) for a further period of 5 years i.e., upto 31-3-2017.

Expenditure on Scientific research by companies [Section 35(2B)] :

The Companies are allowed to **deduct 150%** of actual expenditure incurred on research in certain fields. This benefit has been extended upto 31-3-2012.

2. In case of contribution to outsiders – 125% of amount contributed :

A weighted deduction of 125% of the amount contributed shall be allowed as deduction in case such contribution is made to research in social science or statistical research or any other research. Deductions can be claimed even if the research is not connected to the assessee's business. Similarly, donations contributed to laboratory owned or financed by the Government, approved university, college or institution,

National Laboratory or a University or to Indian Institute of Technology will also qualify for deduction.

Amendment to Sec.35(2AB)

According to Sec.35(2AB), a weighted deduction of 150% of expenditure incurred on scientific research on approved in house research and development facility is available to a company engaged in the business of biotechnology or in the business of manufacture or production of any drugs, pharmaceuticals, electronic equipment, computers, telecommunication equipment, chemicals or any other article or thing notified by Board upto 31-3-2007. By virtue of the amendment, this provision is now applicable in respect of any expenditure incurred by a company upto 31-3-2012.

Weighted deduction for sum paid to a company to be used by such company for scientific research (Sec.35(1)(iia))

With effect from the Assessment year 2009-10 with a view to encouraging outsourcing of scientific research, particularly by small companies which are handicapped in making happy investment for building in house scientific facilities, the Act has inserted a new clause (iia) in sub section (1) of section 35 of the Income Tax Act to allow a weighted deduction of 125% of the amount paid by a person to a company to be used for scientific research, if such company –

1. is registered in India;
2. has as its main object the scientific research and development;
3. is for the time being approved by the prescribed authority in the prescribed manner; and
4. fulfills such other conditions as may be prescribed.

However, with a view to avoid multiple claims for deduction the Act has provided that a company approved under the provisions of section 35(1)(iia) will not be entitled to claim weighted deduction of 150% under section 35(2AB). However, deduction to the extent of 100% of the sum spent as revenue expenditure on scientific research which is available under section 35(1)(i) will continue to be allowed.

Extension in time limit for claiming expenditure on in house scientific research by certain companies as per [Sec.35(2AB)][w.e.f. 1-4-2013] :

The deduction under Sec.35(2AB) shall be available in respect of expenditure incurred upto 31-3-2017.

6.5.5 Expenditure for obtaining licence to operate telecommunication services – Sec.35AB :

According to this section any amount actually paid for obtaining licence to operate telecommunication service shall be allowed as deduction in equal installments during the number of years for which the licence is in force.

6.5.6. Expenditure on eligible projects [Sec.35AC] :

Where an assessee incurs any expenditure by way of payment of any sum to a public sector company or a local authority or to an association or institution approved by the National Committee for carrying out any eligible project or scheme it will be allowed as deduction.

6.5.7. Inclusion of 3 new businesses (w.e.f. 1-4-2013) [Sec.35AD]:

	Nature of Business	Commencement of Operations
(i)	Setting up and operating on inland container depot or a container freight station notified or approved under the Customs Act, 1962	On or after 1-4-2012
(ii)	Bee keeping and production of honey and bees-wax	On or after 1-4-2012
(iii)	Setting up and operating a warehousing facility for storage of sugar	On or after 1-4-2012

Increased deduction @ 150% for following specified businesses commencing operations on or after 1-4-2012

- (i) Setting up and operating cold chain facility : [Section 35AD(8)(c)(i)]
- (ii) Setting up and operating a warehousing facility for storage of agriculture produce [Sec.35AD(8)(c)(ii)]
- (iii) Building and operating, anywhere in India a hospital with atleast 100 beds for patients [Sec.35AD(8)(c)(v)]
- (iv) Developing and building a house project [Sec.35AD(8)(c)(vii)]
- (v) Production of fertilizers in India [Sec.35AD(8)(c)(viii)]

Any capital expenditure in respect of which payment(s) made to a person on a day, otherwise than by an account payee cheque/bank draft or by ECs, exceeds Rs.10,000, shall be not deductible.

6.5.8 Contributions to rural development programmes [Sec.35CCA] :

According to Sec.35CCA contributions made to approve scientific associations/institutions for implementation of rural development programs, the training of persons for implementing such programs and contributions to National Fund for rural development will be allowed as deduction. Similarly contributions to the National Urban Poverty Eradication Fund notified by the Central Government also qualifies for deduction.

6.5.7 Deduction in respect of expenditure on notified agricultural extension project [Sec.35CCC] :

Where an assessee incurs any expenditure on agricultural extension project notified by the Board in this behalf in accordance with the prescribed guidelines, then a deduction of a sum equal to 150% of such expenditure shall be allowed.

6.5.8 Deduction in respect of expenditure on notified skill development project [Sec.35CCD] :

Where a company incurs any expenditure (not being expenditure in the nature of cost of any land or building) on any skill development project notified by the Board in this behalf in accordance with the prescribed guidelines a deduction of a sum equal to 150% of such expenditure shall be allowed.

6.5.9 Amortization of Certain preliminary expenditure [Sec.35D] :

The deduction under the section will be given only to Indian companies and resident non-corporate assesses. The preliminary expenditure incurred by the assessee is deductible under this section. In case of non-corporate assesses 5% of project cost and in case of corporate assesses 5% of project cost or 5% of capital employed at the option of the company is eligible for deduction. The qualifying amount of the preliminary expenditure can be claimed as deduction over a period of 5 years in equal installments.

Amortization of Preliminary Expenses of all Undertakings :

The benefit of deduction of preliminary expenses is allowed over a period of 5 years (i.e., 1/5th every year) in case of industrial undertakings and now, from the assessment year 2009-10, this benefit will be extended to service sector also.

6.5.10 VRS Compensation [Sec.35DDA] :

Where any expenditure is incurred by way of payment of any sum to an employment at the time of voluntary retirement in accordance with any scheme. 1/5th of the amount so paid shall be deducted in computing the profits and gains of the business

for that previous year and the balance shall be **deducted in four equal installments** in the immediately succeeding four previous years

6.5.11 Expenditure on prospecting for certain minerals : [Sec.35E] :

Where an assessee, being an Indian company or person (other than a company) who is resident in India, is engaged in any operation relating to prospecting for, extraction or production of any mineral and incurs, after 31st day of March, 1970, any expenditure specified below, the assessee shall, in accordance with and subject to the provisions of this section, be allowed for each of the relevant previous years a deduction of an amount equal to one-tenth (1/10) of the amount of such expenditure.

6.5.14 Other Deductions [Sec.36] :

The following are the other deductions allowed in the computation of profit and gains of business or profession.

- (a) Insurance premium paid in respect of insurance against risk of damage or destruction of stocks or stores.
- (b) Insurance premium paid by federal milk co-operative society for insurance on the life of cattle owned by a member of primary co-operative society
- (c) Insurance premium paid by cheque for insuring the health of the employees under an approved insurance scheme.
- (d) Bonus or commission paid to employees for services rendered, where such sum would not have been payable as profits or dividends to such employees.
- (e) Interest paid in respect of capital borrowed for the purpose of business or profession. Interest on loans borrowed from public financial institutions or state financial institutions and interest on term loans borrowed from schedule banks.
- (f) Contribution to recognized provident fund or approved superannuation fund.
- (g) Contribution to an approved gratuity fund (Subject to Sec.43b).
- (h) Any sum received from any of the employees towards their contribution to the welfare fund accounts, if such sum is remitted on or before the relevant due date to the concerned fund account.
- (i) In respect of animals used for the purposes of business or profession otherwise than as stock-in-trade and have died or become permanently useless for such purposes, the difference between the actual cost and the amount, if any, realized in respect of the carcasses or animals.

- (j) (i) The amount of bad debt written off as irrecoverable subject to the following conditions.
- (k) The debt should be incidental to the business,
- (l) It should have been taken into account in computing the income of the assessee or it should represent money lent in the ordinary course of banking or money lending business.
- (m) It should be written off in the books of account.
- (n) The business in respect of which the debt is incurred should be continued during the previous year.
- (ii) In respect of any provision for bad and doubtful debts made by –
- (o) A scheduled or a non-scheduled bank incorporated in India, an amount not exceeding 7.5% of gross total income (before allowing any deduction under this clause) and 10% of the aggregate average advances made by the rural branches of such bank.
- (p) A bank incorporated outside India, an amount not exceeding 5% of gross total income.
- (q) A public financial institution or a State Financial Corporation or a State Industrial Investment Corporation, an amount not exceeding 10% of the gross total income.
- (r) In the case of –
- (s) financial corporation engaged in providing long term finance for industrial or agricultural development or development of infrastructural facility in India or
- (t) a public company providing long term finance for construction or purchase of residential houses in India an amount not exceeding 40% of the profits of such business carried to a special reserve account created and maintained. Where the aggregate of the amount carried to such reserve account exceeds twice the amount of paid up share capital and general reserve, no deduction shall be allowed in respect of such excess. Any loan or advance where the terms provide for repayment of the same along with interest thereof during a period of not less than 5 years shall be regarded as 'long-term finance'.
- (u) Any expenditure incurred by a company for promoting family planning among employees. If the expenditure incurred is of a capital nature deduction shall be allowed over a period of 5 years in equal installments.
- (v) Any sum paid by a public financial institution by way of contribution towards exchange risk administration fund.

Deduction of discount on Zero Coupon Bond [Section 36(iia)] : From the assessment year 2006-07 the pro rata amount of discount on a zero coupon bond having regard to the period of life of such bond calculated in the manner as may be prescribed. The expression,

- i. 'discount' means the difference between the amount received or receivable by the infrastructure capital company or infrastructure capital fund or public sector company issuing the bond the amount payable by such company or fund or public sector company on maturity or redemption of such bond;
- ii. "Period of life of the bond" means the period commencing from the date of issue of the bond and ending on the date of the maturity or redemption of such bond;
- iii. "infrastructure capital company" and "infrastructure capital fund" shall have the same meanings respectively assigned to them in clauses (a) and (b) of Explanation 1 to clause (23G) of Section 10.

Deduction of Banking cash transaction tax [Section 36(xii)] :

Any amount of banking cash transaction tax paid by the assessee during the previous year on the taxable banking transactions entered into by him shall be allowed to be debited.

Definition of Infrastructure facility for the purpose of section 36(1) :

Presently, under the provisions of section 36(1)(viii), a deduction to the extent of 40% of profit is allowed in respect of any special reserve created by a financial corporation which is engaged in providing long term finance for inter alia, development of a infrastructure facility in India. The term infrastructure facility was assigned the meaning given to it under section 10(23G).

Securities Transaction Tax (STT) to be allowed as a deduction [Sec.36(1)(xv)]

With effect from the assessment year 2009-10 at present the amount of STT paid is allowed as rebate under section 88E of the Income Tax Act. This rebate is allowed when the income from taxable securities transactions is included under the head profits and gains of business or profession.

The Bill has discontinued the rebate available to such assessee under section 88-E of the Income Tax Act with effect from the assessment year 2009-10.

However, any amount of securities transaction tax paid by the assessee during the year in respect of taxable securities transactions entered into the course of business shall be allowed as deduction under section 36(1) (xv) of the Income Tax Act subject to

the condition that such income from taxable securities transaction is included under the head profits and gains of business or profession. Consequentially, section 40(a)(ib), which provided that STT is not an allowable expenses, has been omitted.

Commodities Transaction Tax to be allowed as a deduction [Sec.36(1)(xvi)]

The bill has inserted clause (xvi) I sub-section (1) of section 36 with effect from the Assessment year 2009-10 to provide that any amount of commodities transaction Tax (CTT) paid by the assessee during the year in respect of taxable commodities transactions entered into the course of business shall be allowed as deduction subject to the condition that such income from taxable commodities transactions is included under the head profits and gains of business or profession.

2. Clarification for amount to be eligible for deduction as bad debts in case of banks [Section 36(1)(vii) &(viia)]

In order to clarify the scope and applicability of provision of clause (vii) and of sub-section(1) and subsection (2) of section 36, the Act inserted Explanation 2 in clause (vii) of section 6(1) stating that for the purposes of the proviso to section 36(1)(vii) and section 36(2)(v), only one account as referred to there in is made in respect of provisions for bad and doubtful debts under section 36(1)(viia) and such account related to all types of advances, including advances made by rural branches. Therefore, for an assessee to which clause (viia) of section 36(1) applies, the amount of deduction in respect of the bad debts actually written off under section 36(1)(vii) shall be limited to the amount by amount by which such bad debts exceeds the credit balance in the provision for bad and doubtful debts account made under section 36(1) (viia) without any distinction between rural advances and other advances.

Note: The amendment has been made to overrule the judicial decision in the case of Catholic Syrian Bank Ltd. v CIT (2012) 206 Taxman 182 (SC) where it was held that proviso to section 36(1)(vii) is applicable only for rural branches of banks. In case of other branches of the bank, deduction of actual bad shall be allowed even if these branches have made a provision for bad and doubtful debts.

3. Commodities Transactions Tax to be allowed as a deduction [section 36(xvi)] :

The Act has inserted clause (xvi) in section 36 of the income-tax Act to provide that an amount equal to the commodities transaction tax paid by the assessee in respect of the taxable commodities transactions entered into in the course of his business during the previous year shall be allowable as deduction. If the income arising from

such taxable commodities transactions is included in the income computed under the head “profits and gains of business or profession”.

It has also inserted an Explanation to provide that for the purposes of this clause, the expressions “commodities transactions tax”. And “taxable commodities transactions” shall have the meanings respectively assigned to them Chapter VII of the Finance Act, 2013.

“Commodities Transaction Tax” means tax livable on the taxable commodities transactions under the provisions of chapter VII of the Finance Act, 2013.

“Taxable Commodities Transaction” means a transaction of sale of commodity derivatives in respect of commodities. Other than agricultural commodities, traded in recognized associations.

6.5.15 General Deductions [Sec.37] :

Under Sec.37, deductions of a general nature are allowed subject to the conditions as specified. The language of this section may be stretched to claim deduction for many items of expenditure which is not specifically covered elsewhere under this head, though there are restrictions with regard to expenditure on entertainment, advertising, traveling etc., as also under Sec.40 and 40A.

Conditions of deduction under Sec.37 :

1. The expenditure is not of the nature described in Secs. 30 to 36.
2. It is not in the nature of capital expenditure
3. It is not in the nature of personal expenses of the assessee
4. It is laid out wholly and exclusively for purposes of the business or profession of the assessee.

Advertisement in publications of a Political Party – Sec.37(2B)

No allowance shall be made in respect of expenditure incurred by an assessee on advertisement in any souvenir, brochure, pamphlet or the like published by a political party.

6.6 DISALLOWED EXPENSES

The provisions of sec.40 40A and 43B provide for certain disallowances. Certain expenses are totally disallowable and certain other expenses are disallowable either due to non-fulfillment of certain requirements or on account of exceeding certain limits prescribed. Let us first discuss the expenses which are disallowed in case of all assesses.

6.6.1 Expenses Disallowed in case of all assesses [Sec.40(a)] :

1. **Non-deduction of tax at source** : According to Sec.40(a)(I), any interest, royalty, fees for technical service or other sum chargeable under the Act which is payable to a Non-Resident either in India or outside India on which tax is deductible at source shall be disallowed, if
 - (a) such tax has not been deducted; or
 - (b) such tax after deduction has not been paid during the previous year or in the subsequent year before the expiry of the time prescribed under law. In case the tax is deducted in any subsequent year or has been deducted in the previous year but paid in any subsequent year after the expiry of time prescribed under law, such sum shall be allowed as a deduction in computing the income of the previous year in which such tax has been paid.
2. **Interest Commission etc., payable to a resident or contractor** : According to Sec.40(a)(ia) any interest, commission or brokerage, fees for professional services or fee for technical services payable to a resident, or amounts payable to a contractor or sub-contractor, being resident, for carrying out any work on which tax is deductible at source shall be disallowed if –
 - (a) such tax has not been deducted; or
 - (b) such tax after deduction has not been paid during the previous year or in the subsequent year before the expiry of the time prescribed under law. In case the tax is deducted in any subsequent year or has been deducted in the previous year but paid in any subsequent year after the expiry of time prescribed under law, such sum shall be allowed as a deduction in computing the income of the previous year in which such tax has been paid.
3. **Payment of Taxes** : Income Tax, Wealth Tax and Securities transaction tax are not deductible.
4. **Tax on perquisites** : Any tax payment borne by the employer on behalf of the employee in respect of non monetary perquisites provided to such employee, which is exempt in the case of the employee u/s 10(10CC).

Disallowance of certain fee, charge, etc. in the case of state Government Undertakings [Section 40(a)(iib)]

The Act has amended section 40 of the Income tax Act to provide that-

- a) any amount paid by way of royalty, licence fee, service fee, privilege fee, service charge or any other fee or charge, by whatever name called, which is levied exclusively on or,
- b) Any amount appropriated, directly or indirectly, from a state Government undertaking, by the State Government, shall not be allowed as deduction for the purposes of computation of income of such undertaking under the head "profits and gains of business or profession".

6.6.2 Disallowances in the case of partnership firms [Sec.40(b)] :

(discussed separately in the Assessment of Partnership)

The section is applicable exclusively to partnership firms. According to the section Interest paid to a partner by a firm is not deductible if the following conditions are satisfied.

1. It should be authorized by and in accordance with the partnership deed.
2. It should relate to a period falling after the date of the partnership deed.
3. It should be not exceeding 12% p.a. simple rate of interest.

Explanation 1 : If a person is a partner in his representative capacity in the firm and if he receives interest in his individual capacity from the firm such interest should not be disallowed.

Explanation 2 : If a person who is a partner in his individual capacity receives interest for and on behalf of some one else from the firm in which he is a partner such interest should not be disallowed.

Payment made to working partner : Any amount paid by way of salary, bonus, commission or remuneration by a firm to a partner is not deductible in the computation of income of the firm unless the following conditions are fulfilled.

- (a) It should be authorized by and in accordance with partnership deed.
- (b) It should relate to a period falling after the date of the partnership deed
- (c) It should be paid to a working partner
- (d) It should be within the prescribed limits. The prescribed limits are as follows.

Book Profits		
Profession Firm	Other Firms	Remuneration as % of Book Profits
On the first ₹1,00,000 or in case of loss	On the first ₹75,000 or in case of loss	₹50,000 or 90% whichever is higher

On the next ₹1,00,000	On the next ₹75,000	60%
On the balance	On the balance	40%

Book Profits : “Book Profit” means the net profit, as shown in the profit and loss account for the relevant previous year, computed in the manner laid down in Chapter IV-D as increased by the aggregate amount of the remuneration paid or payable to all the partners of the firm if such amount has been deducted while computing the net profit.

Working Partner : “Working Partner” means an individual who is actively engaged in conducting the affairs of the business or profession of the firm of which he is a partner.

Firm etc. : According to Sec.2(23) the term “Firm” “Partner” and “Partnership” have the meanings respectively assigned to them in the partnership Act, 1932. The expression “Partner” shall also include any person who is a minor admitted to the benefits of partnership.

CBDT Circular : CBDT has issued circular No.739 dt.25-3-1996 stating that disallowance of salary to partners shall be made in the case of a firm if the partnership deed does not specify the amount of remuneration payable to each individual working partner or it does not lay down the manner of quantifying such remuneration.

6.7. EXPENSES EXPRESSLY DISALLOWED [SEC.40A]

There are certain expenses or payments which are not deductible in certain circumstances under Section Sec.40A

6.7.1 Excessive and unreasonable expenditure [Sec.40A(2)] :

If an assessee incurs expenditure towards goods supplied, service rendered or facilities provided by specified persons, the Assessing officer can disallow such expenditure to the extent it is excessive or unreasonable. The extent to which the expenditure is excessive or unreasonable shall be determined having regard to the fair market value of the goods, services or facilities for which the payment is made or the legitimate needs of the business or profession of the assessee or the benefit derived by or accruing to him there from.

The persons who are specified for the purpose of this provision with reference to the following assesses are as follows :

S.No.	Assessee	Specified Persons
1.	Individual	Any relative of the assessee; any person in whose business of profession the assessee or his relative has a substantial interest
2.	Company, firm, AOP or HUF	Any Director, partner or member or relative of such person; any person in whose business or profession the assessee or director, partner or member of the assessee or any relative of such person has a substantial interest.
3.	All assesses	a) any individual who has substantial interest in assessee's business or profession. b) a company, firm AOP or HUF having a substantial interest in assessee's business or profession or any director, partner or member of any such entity or any relative of any such director, partner or member c) a company, firm, AOP or HUF of which a director, partner or member has a substantial interest in assessee's business or any director, partner or member of any such entity or any relative of any such director, partner or member.

6.7.2. Cash payments in respect of expenditure exceeding ₹10,000 [Sec.40A(3)] :

According to this section if any payment for any expenditure exceeding ₹20,000 are to be made only through a crossed cheque or a crossed bank draft. So if, any payment exceeding ₹10,000 is made otherwise than through a crossed cheque or draft, then 20% of such amount is to be disallowed as deduction while computing income under this head of income. The following are the exceptions.

1. Cash payments made under contracts entered into by the assesses before 1st April, 1969.
2. Payment made in cash exceeding ₹10,000 under such circumstances as may be prescribed having regard to the nature and extent of banking facilities available, considerations of business expediency and other relevant factors
3. Payment made in cash to acquire capital assets.

The Central Board of Direct Taxes had framed Rule 6-DD which provide for cases and circumstances in which payments exceeding ₹10,000 may be made otherwise than by a crossed cheque or a crossed bank draft.

Cash Payment Exceeding ₹10,000 [Sec.40A(3)]

Any business payment exceeding ₹10,000 must be made through a cross cheque or draft. Through this amendment, it has been provided that where a payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque or bank draft, exceeds ₹10,000, 100% of such payment made shall be disallowed.

3. Provision for gratuity [Sec.40A(7)] :

No deduction shall be allowed in respect of any provision made by the assessee for the payment of gratuity to his employees on their retirement or on termination of their employment for any reason. However, any provision made by the assessee for the purpose of payment of any contribution towards an approved gratuity fund or for the purpose of payment of any gratuity which has become payable during the previous year shall be allowed as deduction.

4. Non statutory/unrecognized welfare fund contributions [Sec.40A(9)] :

Any contribution made by the assessee to unrecognized or non-statutory welfare fund accounts is not deductible.

Expenditure on fringe benefit tax – disallowed u/s 40 : From the Assessment year 2006-07 any sum paid on account of fringe benefit tax under section 115WB shall be allowed to be debited under section 40(ic).

5. Deduction based on actual payment [Sec.43B] :

Certain expenses which are otherwise deductible shall be disallowed unless payment is made within the stipulated time limit and the evidence for payment of such tax is furnished along with the return of income. The nature of such expenses and the time stipulated for payment are as follows : Any sum payable by the assessee by way of

- (i) any tax, duty, cess or fee under any law in force
- (ii) Contribution to any recognized provident fund or superannuation fund or gratuity fund or any other fund for the welfare of the employees.
- (iii) Any bonus or commission to employees;
- (iv) Any interest on borrowings from any public financial institution or State financial corporation or State industrial investment corporation;
- (v) Interest on loans and advances from a scheduled bank
- (vi) Any sum payable by the assessee as an employer in lieu of any leave at the credit of his employee,

Shall not be allowed as deduction unless the payments are actually made within the due date for filing the return of income u/s 139(1). If the payment is made after the due date for filing the return, deduction can be claimed only in the year of actual payment.

Extension of scope of section 43B to include certain payments made to railways

[Section 43B]: With a view to ensure the prompt payment of dues to railways for use of the Railway assets, the Act have inserted clause shall also be subject to provisions of section 43B.

6.8. DEEMED PROFITS

The following receipts are chargeable to tax as business income.

6.8.1 Recovery against any deduction [Sec.41(1)] : Section 41(1) is applicable if the following conditions are satisfied.

- (a) In any of the earlier years a deduction was allowed to the taxpayer in respect of loss, expenditure or trading liability incurred by the assessee.
- (b) During the current previous year, the taxpayer,
 - (i) has obtained a refund of such trading liability (it may be in cash or any other manner); or
 - (ii) has obtained some benefit in respect of such trading liability by way of remission or cessation thereof.

6.8.2. Sale of assets used for scientific research [Sec.41(3)] :

Where any capital asset used in scientific research is sold without having been used for other purposes and the sale proceeds, together with the amount of deduction allowed under section 35, exceed the amount of the capital expenditure incurred on purchase of such asst, such surplus (i.e., sale price) or the amount of deduction allowed, whichever is less, is chargeable to tax as business income in the year in which the sale took place.

6.8.3 Recovery of Bad debt :

Where any bad debt has been allowed as deduction under section 36 and the amount subsequently recovered on such debt is greater than the difference between the debt and the deduction so allowed, the excess realization is chargeable to tax as business income of the year in which the debt is recovered.

The other deemed in comes are the amount withdrawn from reserve created under Sec.36(1) (viii) and recovery after discontinuance of business or profession and adjustment of loss.

6.8.4 Trading in derivatives not be speculative transactions [Section 43(5)] :

An eligible transaction in respect of trading and derivative referred to in section 2(aa) of the Securities Contracts (Regulations) Act, 1956 carried out in a recognised stock exchange

Derivative trading in commodities also not to be treated as speculative transaction [Proviso to section 43(5)]]

Like eligible transaction in respective trading in derivatives securities, an eligible transaction in respect of trading in commodity derivatives carried out in a recognized association shall also not be treated as speculative transaction. Hence, income/loss from such transactions shall be treated as non-speculative business income/loss.

Further, the following Explanation 2 has been inserted to provide for certain definitions relating to above transactions.

Meaning of "Commodity derivative": commodity derivative" shall have the meaning as assigned to it. ;

Meaning of "Eligible transactions". Means any transactions,-

- (A) carried out electronically on screen-based systems through member or an intermediary, registered under the bye laws, rules and regulation's of the recognized association for trading in commodity derivative in accordant with the provisions of the forward contracts (Regulations) act, 1952 and the rules, regulations or bye-laws made or directions issued under that Act on a recognized association; and
- (B) which is supported by a time stamped contract note issued by such member or intermediary to every client indicating in the contract note, the unique client identify number allotted under the Act, rules, regulations or bye-laws referred to in sub-clause(A), unique trade number and permanent number allotted under this Act.

Meaning of "recognized association": "Recognized association " means a recognized association as referred to in section 2(I) of the Forward Contracts(Regulation) Act, 1952 as which fulfils such conditions as may be prescribed and is notifies by the central Government for this purpose.

With retrospective effect from 1-4-2017 (Aseessment year 2017-2018) : New Section inserted [Sec.43AA] : Any gain or loss arising on account of any change in foreign exchange rates shall be treated as income or loss and such gain or loss shall be

computed in accordance with the income computation and disclosure standards notified under Section 145(2)

Moreover, such gain or loss shall be in respect of all foreign currency transactions including those relating to monetary items and non-monetary items or transactions of financial statements of foreign operations or forward exchange contracts or foreign currency transaction reserves.

Special provision for full value of consideration for transfer of assets other than capitals assets in certain cases)] [Section 43CA]

Currently, when a capital asset, being immovable property, is transferred for a consideration which is less than the value adopted, assessed or assessable by any authority of a state Government for the purpose of payment of stamp duty in respect of such transfer, then such value (stamp duty value) is taken as full value consideration under section 50C of the Income-tax Act. These provisions do not apply to transfer of immovable property, held by the transferor as stock-in-trade.

(A) Stamp duty value to be deemed consideration in certain cases[Section 43CA(1) : The Act has inserted a new section 43CA to provide that where the consideration for the transfer of n asset (other than capital asset), being land or building or both, is less than the stamp duty value, the value so adopted or assessed or assessable shall be deemed to be the full value of the consideration for the purposes of computing income under the head" Profits and gains of business of profession".

(B) Provisions of section 50C(2) and (3) made applicable to section 43CA[Section 43cA(2)]: the provisions of subsection (2) and sub-section(3) of section 50C shall, so far as maybe, apply in relation to determination of the value adopted or assessed or assessable under section 43CA(1).

Where valuation can be referred to the Valuation officer[section 50C(2)]: If the following considerations are satisfied, the Assessing Officer may refer the valuation of the relevant asset to a valuation officer in accordance with section 55A of the Income-tax Act:

(i) where the assess claims before the Assessing officer that value adopted or assessed or assessable by the stamp valuation authority exceeds the fair market value of the property as on the date of transfer; and

- (ii) the value so adopted or assessed or assessable by stamp valuation authority has not been disputed, in any appeal Eurovision or reference before any authority or court,

consequences where the value is determined by the valuation officer; if the fair market value determined by the valuation officer is less than the value adopted(assessed or assessable) for stamp duty purposes, the assessing officer may take such fair market value to be the full value of consideration. However, as per section 50C(3), if the fair market value determined by the valuation officer is more than the value and will take the full value of consideration to be the value adopted or assessed or assessable for stamp duty purposes.

- (C) Stamp duty value on the date of agreement to be deemed consideration [Section 43CA)]; The Act has also provided that where the date of an agreement fixing the value of consideration for the transfer of the asset and the date of registration of the asset are not same duty value may be taken as on the date of the agreement for transfer and not as on the date of registration for such transfer.

However, this exception shall apply only in those cases where amount of consideration or a part thereof for the transfer has been received by any mode other than cash on or before the date of the agreement.[Section 43CA(4)]

The above section 43CA has been inserted to cover sale of immovable property held as stock-in-trade.

Existing provision [Sec.43CA(1)]: The said section provides that the value adopted or assessed or assessable by the stamp valuation authority shall be taken as the full value of consideration for the purposes of computing profits and gains from transfer of land or building or both (other than a capital asset), if it is more than the consideration received in case of transfer of such asset.

With effect from 1-4-2019 (Assessment year 2019-2020) : New Proviso inserted that where the value adopted or assessed or assessable by the stamp valuation authority does not exceed 105% of the consideration received or accruing as a result of the transfer, the consideration so received or accruing shall be deemed to be the full value of the consideration.

With retrospective effect from 1-4-2017 (Assessment year 2017-18) : New section inserted [Sec.43CB] : Profits and gains of a construction contract or a contract for providing services hall be determined on the basis of percentage of completion

method in accordance with the income computation and disclosure standards notified under section 145(2).

Also, in the case of a contract for providing services with duration upto ninety days, the profits and gains shall be determined on the basis of project completion method. More so, in the case of a contract for provision of services involving indeterminate number of acts over a specific period of time, the profits and gains arising from such contract shall be determined on the basis of a straight line method.

6.9 VALUATION OF STOCK

The proper and correct valuation of stock is an important factor to arrive at the correct profits of any business undertaking. Correct or actual or real profits cannot be ascertained unless a proper method is adopted for the valuation of closing and opening stocks. The Income-tax Act is silent about this factor and so no method, whatsoever, is recommended by the Income Tax Act. Hence, it is valued according to the general accounting principles.

6.9.1 Under or Over-Valuation of Stock :

Generally, the opening and closing stocks are not valued at cost price. They are either under-valued or over-valued. In such cases the profit of the year is affected by such under-valuation or over-valuation. To remove the effect of such valuation the following procedure is to be followed.

$$\text{Under valuation} = \text{Value of Stock} \times \frac{100}{100 - \text{rate of under-valuation}}$$

$$\text{Over Valuation} = \text{Value of Stock} \times \frac{100}{100 + \text{rate of under-valuation}}$$

6.9.2 Maintenance of Accounts : Sec.44AA :

Business Assess :

In the case of any assessee carrying on business or profession other than the profession notified under Rule 6F, the books of account are required to be maintained in the following cases.

1. Where the income from such business or profession had exceeded ₹2,50,000 in any of the three preceding previous years; or is likely to exceed ₹2,50,000 during the current previous year in case of newly setup business or profession.
2. If the turnover or sales or gross receipts has exceeded ₹25,00,000 in any of the three preceding years; or is likely to exceed ₹25,00,000 during the current previous year in case of newly setup business or profession.
3. Where the profits and gains from the business are deemed to be the profits and gains of the assessee under section 44AD or Section 44AE or Section 44AF or Section 44BB or section 44 BBBB and the assessee has claimed his income to be lower than the income prescribed in those provisions during the previous year.

These assesses are required to maintain such books of account and documents as may enable the Assessing Officer to compute the total income in accordance with the provisions of the Income Tax Act, 1961.

Professional Assessee :

In case a person is carrying on any of the following profession as specified u/s 44AA, he is required to maintain his accounts in prescribed manner as given below.

1.	Existing legal, medical, engineering, architectural, accountancy, technical consultancy, interior decoration or any other notified profession	Gross receipts exceeding ₹25 lakhs or professional income exceeding ₹2,50,000 in any of the three previous years preceding the relevant previous year
2.	Newly set up professions as given at (1) above	Gross receipts are likely to exceed ₹25 lakhs or professional income is likely to exceed ₹2,50,000 during the relevant previous year
3.	Any other existing profession not covered at (1) above	Gross receipts exceeding ₹25 lakh or professional income exceeding ₹2,50,000 in any of the three previous years preceding the relevant previous year.
4.	Any other newly setup profession not covered at (1) above	Gross receipts are likely to exceed ₹25 lakhs or professional income is likely to exceed ₹2,50,000 during the relevant previous year

For person covered under Sec.44AD, 44AE and 44AF : With effect from assessment year 1998-99 maintenance of accounts shall be compulsory for those persons also who are covered u/s 44AD (Business of civil contractor or supply of labour), u/s 44AE (Business of carriage of good) and u/s 44AE (Retail Business) if their profits are lower than the profits computed under the aforesaid sections.

Maintenance of accounts by certain persons [Section 44AA(2)(iv)]: The existing clause (iv) to section 44AA(2) has been substituted by new clause (iv) to provide that the assessee shall have to maintain accounts where the provisions of section 44AD(4) are applicable in his case and his income exceeds the maximum amount which is not chargeable to income-tax in any previous year.

6.9.3 Audit of Accounts [Sec.44AB] :

Every assessee who fulfils either of the following two conditions shall have to get his accounts audited. The audit must be got done before the specified date and copy of the report duly signed and verified in prescribed manner must be furnished before such specified date.

Increase in limits of sales turnover or gross receipts in business or profession for audit of accounts [Sec.44AB] [w.e.f. 1-4-2013] :

- (i) In case of person carrying on business ₹.1 crore
- (ii) In case of person carrying of profession ₹.25 lakhs

Conditions :

1. If a person is carrying on business – his total sales, turnover of gross receipts in business exceed ₹ 1 crore in a previous year. (Or)
2. If a person is carrying on profession – his gross receipts in profession exceed 25 lakh rupees in a previous year. (Or)
3. **For persons covered under section 44AD, 44AE, and 44AF :** With effect from assessment year 1998-99 audit of accounts shall be compulsory for those persons also who are covered u/s 44AD (Business of civil contractor or supply of labour), u/s 44AE (Business of carriage of goods) and u/s 44AE (Retail business) if they claim that their profits are lower than the profits computed under the aforesaid sections.

Compulsory Audit :

An assessee may claim lower profits and gains than the amount specified above if he maintains such books of accounts or other documents as specified u/s 44AA, and gets his accounts audited and a report is furnished u/s 44AB.

Audit of accounts of certain persons [Section 44AB]:

- (1) Under the existing provisions of section 44AB of the Act, every person carrying on a profession is required to get his accounts audited if the total gross receipts in a previous year exceed ₹ 25,00,000.

In order to reduce the compliance burden, the Act has increased the threshold limit of total gross receipts, specified under section 44AB for getting accounts audited, from ₹ 25,00,000 to ₹ 50,00,000 in the case of persons carrying on profession.

- (2) The existing clause (d) of section 44AB has been substituted by new clause (d) for a person carrying on the profession which provides as under :

Every person carrying on the profession shall, if the profits and gains from the profession are deemed to be the profits and gains of such person under section 44 ADA and he has claimed such income to be lower than the profits and gains so deemed to be the profits and gains of his profession and his income exceeds the maximum amount which is not chargeable to income-tax in any previous year, get his accounts of such previous year audited by an accountant before the specified date and furnish by that date the report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars as may be prescribed.

- (3) Further, new clause (e) has been inserted in section 44 AB for a person carrying on business which provides as under: Every person carrying on the business shall, if the provisions of section 44AD(4) are applicable in his case and his income exceeds the maximum amount which is not chargeable to income-tax in any previous year, get his accounts of such previous year audited by an accountant before the specified date and furnish by that date the report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars as may be prescribed.

Non Applicability of [Sec.44AD] for certain persons : The provisions of Sec.44AD shall not apply to following persons.

- (i) A person carrying on profession as referred to in [Section 44AA(I)]
- (ii) A person earning income in the nature of commission or brokerage; or
- (iii) A person carrying on any agency business.

Amendments in section 44AD relating to presumptive taxation scheme for persons having income from business [Section 44AD]: The following amendments have been made by the Finance Act, 2016 in section 44AD:

- (a) Increase in the threshold limit of the eligible business –Sub-clause (ii) of clause (b) of Explanation to section 44AD]: In order to reduce the compliance burden of the small tax payers and facilitate the ease of doing business, the Act has increased the threshold limit is ₹ 2 crore.
- (b) Salary, remuneration, interest etc, paid to the partner as per clause (b) of section 40 not be allowed as a deduction while computing presumptive income in case of a firm [Proviso to section 44 AD(2) deleted]: The Act has omitted the proviso to section 44AD(2) and as such the expenditure in the nature of salary, remuneration, interest etc. paid to the partner as per clause (b) of section 40 shall not be deductible while computing the income under section 44AD as the said section 40 does not mandate for allowance of any expenditure but puts restriction on deduction of amounts, otherwise allowable under section 30 to 38.
- (c) **Introduction of Presumptive taxation scheme for persons having income from profession [Section 44ADA] :** The existing scheme of taxation provides for a simplified presumptive taxation scheme for certain eligible persons engaged in certain eligible business only and not for persons earnings professional income. In order to rationalize the presumptive taxation scheme and to reduce the compliance burden of the small tax payers having income from profession and to facilitate the ease of doing business, the Act has provided for presumptive taxation regime for professionals.

In this regard, new section 44ADA has been inserted in the Act which provides as under:

Special provision for computing profits and gains of profession on presumptive basis [Section 44ADA]:

- (1)** Resident assessee engaged in the profession referred to in section 44AA(1) can opt for presumptive income in certain cases [Section 44ADA(1)]: Notwithstanding anything contained in section 28 to 43C, in the case of an assessee, being a resident in India, who is engaged in a profession referred to in section 44AA(1) and whose total gross receipts do not exceed ₹ 50,00,000 in a previous year, a sum equal to 50% of the total gross receipts of the assessee in the previous year on account of such profession or, as the case may be, a sum higher than the aforesaid sum claimed to have been earned by the assessee, shall be deemed to be the profits and gains of such profession chargeable to tax under the head "Profits and gains of business or profession."

Profession referred to in section 44AA(1) : Legal, medical, engineering or architectural profession, or profession of accountancy or technical consultancy or interior decoration or any other profession as is notified by the Board in the Official Gazette. Authorized representatives, film artists, company secretaries and profession of Information Technology have been notified for this purpose.

- (2)** Consequences if the assessee opts for presumptive income scheme:
- (a)** Deduction under section 30 to 38 shall be deemed to have been allowed [Section 44ADA (2)]: Any deduction allowable under the provisions of sections 30 to 38 shall, for the purposes of section 44ADA(1), be deemed to have been already given full effect to and to further deduction under those sections shall be allowed.
 - (b)** Written down value of any asset for the succeeding year shall be computed as if the assessee has claimed deduction [Section 44ADA(3)]: The written down value of any asset used for the purposes of profession shall be deemed to have been calculated as if the assess had claimed and had been actually allowed the deduction in respect of the depreciation for each of the relevant assessment years.
 - (c)** Assessee to maintain accounts and get them audited if he claims profits to be less than 50% of the gross receipts [Section 44ADA(4)]:

Notwithstanding anything contained in the foregoing provisions of this section, an assessee who claims that his profits and gains from the profession are lower than the profits and gains specified in section 44ADA(1) and whose total income exceeds the maximum amount which is not chargeable to income-tax, shall be required to keep and maintain such books of account and other documents as required under section 44AA(1) and get them audited and furnish a report of such audit as required under section 44AB.

6.10. STEPS IN COMPUTING TAXABLE PROFITS

The following are to be followed in computing profit or loss from business.

When Profit and Loss Account is given :

1. Take the net profit as shown in the profit and loss account as the starting point
2. Go through the debit side of Profit and Loss a/c and find out expenses which have been shown therein but are not to be allowed as per the provisions of the Income-Tax Act.
3. Also go through the notes and other supplementary information available and see whether there are any amounts included on the debit side of P & L a/c which should not be allowed under the provisions of the Act.
4. The aggregate of all the disallowed expenses [as per (ii) and (iii) above] is to be added to the profit under the head **Add : Disallowed expenses.**
5. Now go through the credit side of the P & L a/c and at the times you may find amounts that are not chargeable under this head but under heads like "Income from House property" or Income from other sources etc. These incomes should be separated by deducting them from the profit remaining as per (iv) above under the heading **Less : Incomes to be shown under other heads.**
6. From the notes supplied at the end of the question or the information supplied by the assessee you may gather certain amounts falling in the category of income but not taken into account in the preparation of P & L account. These amounts, if there are any, should be added to the profits arrived at under (v) above.
7. The net result represents the Taxable Profit or Loss from Business.

Computation of Business Profits

	Particulars	₹	₹
I.	Net profit as per P \& L a/c		xxx
II.	Add : Inadmissible expenses :		
	1. All funds and reserves	xxx	
	2. All taxes (except sales tax, excise duty and local taxes)	xxx	
	3. Rent paid to own building	xxx	
	4. All capital expenditures	xxx	
	5. All capital losses	xxx	
	6. All donations and charities	xxx	
	7. Expenses of other heads of Income	xxx	
	8. Interest on capital	xxx	
	9. All personal expenses	xxx	
	10. Inadmissible depreciation	xxx	
	11. Bad debts not allowed	xxx	
	12. Gifts and penalties	xxx	
	13. Salary of the owner and family members	xxx	
	14. All other inadmissible expenses	xxx	xxx
III.	Less : Expenses allowable but not debited to P & L Account		xxx
	1. Actual bad debts	xxx	
	2. Depreciation	xxx	
	3. Other expenses	xxx	xxx
IV.	Less : Incomes exempt from tax or income to be shown by under other heads		xxx
	1. Income from House property	xxx	
	2. Capital gains	xxx	
	3. Interest on Securities, dividends, other incomes	xxx	xxx
V.	Taxable Business Profit/Loss		xxx

6.11 COMPUTATION OF GAIN FROM PROFESSION

When Summary of Cash transaction is Given :

When we have to compute the income of persons engaged in some profession like doctors, solicitors, lawyers, tax consultants etc., it is not the profit and loss account that is made available but a summary of their cash transactions in the year. The debit side of this summary consists of all receipts – capital and revenue – and payment side represents all disbursements – capital expenditure and revenue expenditure made during the year.

In order to compute taxable gains of profession from the summary of cash transactions, the following steps are necessary.

1. Go through the debit side of Receipts and Payments Account and sort out the amounts pertaining to the profession and of revenue nature. The aggregate of these amounts is the gross income from the profession. Omit all capital receipts, e.g., sale proceeds of old furniture.
2. Turn to credit side that consists of all sorts of expenses. Pick up all those expenses that are incurred in ordinary course of one's profession. Ignore capital disbursements. Ex: Computer purchased.
3. From the notes given, find out the amount of private and domestic expenses found mixed on the credit side of the summary. These amounts should be separated and left out.
4. Deduct the aggregate of all expenses, as per (b) and (c) above, from the total amount of professional earnings as arrived at and left out.
5. Have a second look on the debit side and pickup other incomes to be shown under other hands. Ex. Income from other sources etc.
6. Expenses belonging to the various incomes sorted out in (e) above should be deducted from respective income and the net taxable amount to be found out.

Now we can compute the total income of the assessee since we know the amount of taxable income under different heads.

Calculation of Gain from Profession

	Particulars	₹	₹
I.	Professional Receipts		
	1. Consultation Fees	xxx	
	2. Operating fees	xxx	
	3. Visiting fees	xxx	
	4. Sale of Medicines	xxx	
	5. Gifts from patients	xxx	
	6. Value of perquisite received	xxx	
	7. Fees received as Examiner	xxx	
	8. Other Professional Receipts	xxx	xxx
	Total Receipts		xxx
II.	Less : Professional expenses :		
	1. Dispensary Expenses	xxx	
	2. Medicines	xxx	
	3. Depreciation on Surgical Equipment, X ray plant etc.	xxx	
	4. Car expenses relating to profession, depreciation	xxx	
	5. Expenses incurred for Professional development	xxx	
	6. Other professional expenses	xxx	xxx
	Gain from Profession		xxx

Illustrations

Illu.1: Calculate the Taxable Income of M/s. Teja & Co., with the help of following figures for the year ending on 31.3.2018 (A.Y.2018-19).

		Rs.
(a)	Net Profit as per P & L A/c	1,00,000
(b)	Fine imposed by the Municipality	400
(c)	Income Tax Penalty for A.Y. 2014-15	3,000
(d)	Legal Expenditure on tax-proceedings	5,000
(e)	Bad debts recovered	1,000
(f)	Interest on capital borrowed for acquisition of machinery for expansion of existing business relating to period after the machinery was put to use	10,000
(g)	Amount of Provident Fund payable during 2017-18 but not paid by the due date for filing or return	5,000

Solution:

Computation of Total Income of Teja & Co.
(Assessment year 2018-19)

		Rs.	Rs.
1.	Business		
	Net Profit as per P & L A/c		1,00,000
	Add:		
	(i) Municipal Fines	400	
	(ii) Income tax Penalty	3,000	
	(iii) Provident Fund payable but not actually paid	5,000	8,400
	Business Income/Total Income		1,08,400

Illu.2: The following is the Profit & Loss Account of M/s. Sarada & Co., for the year ending on 31.3.2019. Calculate their taxable income for the year (i.e. A.Y. 2019-20).

Profit & Loss Account

	Rs.		Rs.
To Salary	19,200	By Gross Profit	59,000
To Bonus Paid	1,600	By Interest Received	8,000
To Advertisement	3,500	By Interest on Drawings of Partner (Mr. Y)	1,000
To Entertainment Expenses	2,500		
To Telephone Expenses	6,000		
To Car Expenses	2,000		
To Donations	2,000		
To Misc. Expenses	4,000		
To T.D.S. on Interest	800		
To Income Tax for A.Y. 2018-19	1,600		
To Depreciation			
- Furniture @ 10%	1,000		
- Car @ 15%	18,000		
To Net Profit	5,800		
	68,000		68,000

- (a) The firm has a GST liability of Rs.600 which remains unpaid as on 31.3.2019. The amount is however paid before the due date.
- (b) Out of the donations, only Rs.1,000 is eligible for deduction u/s 80G (approved charitable institution).
- (c) Car was purchased before 30.9.2018.

Solution:

**Computation of Total Income of M/s Sarada & Co.
(Assessment year 2018-19)**

	Rs.
1. Business	
Net Profit as per P & L A/c	5,800
Add: 1. Donations (to be considered separately)	2,000
2. T.D.S. on Interest	800
3. Income Tax for A.Y. 2018-19	1,600
Net Business Income	10,200
Less: Deduction u/s 80G.	
- 50% of Donation to approved charitable institution	500
Total Income	9,700

Notes:

1. GST Payable Rs.600 would also have been added, if it were not deposited in time (i.e. due date prescribed for filing of the return). Proof of payment though not required to be attached with the return; however, the assessee must have the proof in his possession.
2. Rate of depreciation on cars is 15%. If the car is used for less than 180 days the amount of depreciation allowable for the year shall be halved to 7.5%.

Illu.3: Mr. Balakrishna furnished the following particulars relevant for A.Y. 2018-19. Compute his income from business for the year.

	Rs.	Rs.		Rs.
To Salary		1,84,000	By Gross Profit	8,86,000
To Miscellaneous		33,000	By Commission	1,17,000
expenses			and discount	
To Advertisement	44,000		By Miscellaneous	23,000
			receipts	

Add: Payable	35,000	79,000	
To Fire Insurance Premium		5,000	
To Diwali Expenses		6,000	
To Entertainment Expenses		5,000	
To Mahurat Expenses		2,100	
To Bad Debts written off		6,900	
To Reserve for Losses		10,000	
To Interest on X/s Capital		4,000	
To Interest on Bank Loan		14,000	
To Patents		27,000	
To Depreciation on Plant & Machinery		28,000	
To Provision for GST Payable		13,000	
To Net Profit		6,09,000	
		10,26,000	10,26,000

1. Salaries include payment of Rs.54,000 to a relative, out of which Rs.6,000 is excessive.
2. Miscellaneous expenses include –
 - (i) Expenditure of Rs.5,400 on training of apprentice,
 - (ii) Rs.8,000 paid as commission for securing a business order, and
 - (iii) Rs.11,600 paid as compensation to an employee on termination of his service.
3. Advertisement expenditure includes Rs.12,600, being cost of 6 pen sets (costing Rs.2,100 each) presented to customers.
4. Depreciation on plant & machinery allowable as per I.T. Rules is Rs.33,000.
5. Rs.8,000 is deposited towards GST payable, on 10.4.2019 (before due date for filing of return i.e. 31.7.2019). The balance remains unpaid.

Solution:

**Computation of Profit from Business of Mr. Balakrishna
(Assessment year 2018-19)**

		Rs.	Rs.
1.	Net Profit as per P & L A/c		6,09,000
	Add: Inadmissible Expenditure		
	(a) Salary paid to relative treated as excessive u/s 40A(2)	6,000	
	(b) Reserve for Losses	10,000	
	(c) Interest on X's capital	4,000	
	(d) Patents	27,000	
	(e) Depreciation (to be considered separately)	28,000	
	(f) Provision for GST remaining unpaid upto 31.7.2018 (Rs.13,000- Rs.8,000)	5,000	80,000
			6,89,000
	Less: Deductible Expenditure :		
	(a) Depreciation on Patents @ 25%	6,750	
	(b) Depreciation on Plant & Machinery (As per rules)	33,000	39,750
	Business Income		6,49,250

Notes:

1. Expenditure on training of apprentices, commission for securing business order and compensation on termination of service of employee are fully deductible.
2. Advertisement expenditure (except that in any souvenir, brochure, etc. of a political party) is fully deductible u/s 37(1).
3. Reserve for losses is not deductible.
4. Interest on own capital is not deductible.
5. Expenditure on acquisition of patents is not deductible; only depreciation @ 25% of W.D.V. is allowable.

II. Calculation of Gain from Profession :

Illu.4 : Dr. Ram Prasad is a registered medical practitioner. He has prepared the following income and expenditure account for the year ending 31st March, 2018. You are required to prepare a statement showing this income from profession.

Income and Expenditure Account

	₹		₹
Household expenses	20,000	Consultation fees	10,000
Car purchased	30,000	Visiting Fees	20,000
Travelling expenses (personal)	4,000	Gain on Race (gross)	10,000
Charity and Donations	1,000	Share in sale proceeds of an ancestral house	34,000
Income Tax	2,000	Profit on sale of securities	6,000
Salaries	8,000	Dividend on shares (gross)	5,000
Gift to daughter	7,000	Interest on PO Savings Bank	600
Establishment Expenses	1,000	Gifts from Father-in-law	2,000
Surgical Equipment	4,000	Bad debts recovered (Not allowed in earlier year)	2,000
Life Insurance Premium	2,000	Interest on Fixed deposit	1,300
Books	2,000		
Wealth tax	1,000		
Interest on capital	1,000		
Surplus	7,900		
	90,900		90,900

Rate of Depreciation allowable on car is 20% and surgical equipment is at 25%. In case of books for professional the rate of depreciation is 60%.

Solution :

**Calculation of Gain from Profession of Sri Ram Prasad
for the Assessment Year 2018-19**

	₹	₹
Professional Receipts		
Consultation Fees	10,000	
Visiting Fees	20,000	30,000
Less : Professional Expenses :		
Salaries	8,000	
Establishment expenses	1,000	
Books (60% on ₹ 2,000)	1,200	

Depreciation on Surgical equipment (25% on ₹ 4,000)	1,000	
Depreciation on car (20% on ₹ 30,000)	6,000	17,200
Gain from Profession		12,800

Illu.5 : Sri GVV Satyanarayana a Chartered Accountant practicing at Vijayawada. The following is the analysis of his receipts and payments account for the year ending 31.03.2018:

Receipts	₹	Payments	₹
To Balance b/d	9,500	By Salaries	64,000
To Professional income	1,90,000	By Rent	12,000
To House rent for 8 months	32,000	By Telephone expenses	5,500
To Share of Income from HUF	6,250	By Professional expenses	3,000
To Share of profit from firm	11,000	By Motor car expenses	7,500
To LIC policy matured with Bonus	77,750	By Misc. Office expenses	1,500
		By Purchase of car	80,000
		By Advance Income-tax	12,500
		By Personal expenses	42,400
		By Entertainment Expenses	17,000
		By House property expenses:	
		- Municipal Taxes	6,000
		- Repairs	2,500
		- Insurance	2,000
		- Collection charges	600
		By Balance c/d	70,000
Total	3,26,500	Total	3,26,500

Compute Mr. Satyanarayana's gross total income after taking into account, the following:

- (i) Value of benefits received from clients during the course of profession is ₹ 5,000.

- (ii) Allowable rate of depreciation on motor car is 15%.
- (iii) Municipal value of the house property is ₹ 42,000. This house was self occupied for residence for 4 months during the year.

Solution :

**Profits and gains of business or profession
(Assessment Year 2018-19)**

	₹	₹
Professional receipts		1,90,000
Add: Value of benefits		5,000
Gross income		1,95,000
Less: Admissible expenses		
Salaries	64,000	
Rent	12,000	
Telephone expenses	5,500	
Professional expenses	3,000	
Motor car expenses	7,500	
Entertainment expenses	17,000	
Miscellaneous office expenses	1,500	
Depreciation (₹ 80,000 × 15%)	12,000	1,22,500
Profits and gains of business or profession		72,500

**Computation of Gross total income of Mr.G.V.V. Satyanarayana
(Assessment Year 2018-19)**

Particulars	₹
I. Income from house property (Note 1)	25,200
II. Profits and gains of business or profession (Note 2)	72,500
Gross total income	97,700
Note 1 – Income from House Property	₹
Gross annual Value (42,000 or 32,000 whichever is higher)	42,000
Less: Municipal taxes	6,000
Net annual value (NAV)	36,000
Less: Deduction u/s. 24-30% of NAV	10,800
Income from House Property	25,200

Working Notes:

1. It is assumed that motor car purchased has been used for more than 180 days.
2. Share income from HUF is exempt u/s. 10(2).
3. Share income from firm is exempt u/s. 10 (2A).
4. Amount received on LIC Policy matured is exempt u/s. 10 (10D).
5. Income tax and personal expenses are not deductible.

6.12 SELF-ASSESSMENT QUESTIONS**A. Short Answer Questions :**

1. Define Business
2. What is Scientific Research Expenditure?
3. What is Profession?
4. Explain the concept of deemed profits.
5. Speculation business.
6. What is deemed profit?
7. Unabsorbed Depreciation
8. Expenditure on scientific research.

B. Essay Questions :

1. Describe the income that are chargeable to tax under the head ₹Profit and gains from business, profession or vocation.
2. List out important deductions allowed while computing income under the head profits and gains of business or profession.
3. What expenses are disallowed to a businessman computing profits?
4. Mention any ten items of expenses which are inadmissible in computation of income from business.
5. Inadmissible expenses in computing income from business or profession.
6. Describe the charging provisions u/s 28 for the income taxable under the head profits & gains.
7. Distinguish between capital and revenue receipts and payments

6.13 EXERCISES

I. Profit from Business :

1. Given below is the profit and loss account of Mr. Raja Ram for the year ended 31-3-2018.

	₹		₹
To Salaries	30,000	By Gross Profit	2,50,000
To Rent	20,000	By Discount	10,000
To Discount	10,000	By Bad debt recovered	15,000
To Bad debts	5,000	By Refund of sales tax	5,000
To General expenses	20,000	By Dividend (Gross)	20,000
To Provision for bad and doubtful debts	8,000	By Interest on debtors	4,000
To Donation to National Defence Fund	5,000	By Refund of Income tax	10,000
To Interest on capital	6,000	By rent received	21,000
To Life Insurance premium (proprietors)	4,000		
To Preliminary expenses	5,000		
To Depreciation	8,000		
To Patents, Rights	7,000		
To Municipal tax of the property	3,000		
To Provision for I.Tax	12,000		
To advertisements	32,000		
To Entertainment expenses	15,000		
To Net profit	1,45,000		
	3,35,000		3,35,000

Additional Information :

- (i) Depreciation as per sec.32 of the Act ₹ 15,000
- (ii) Actual income tax paid ₹ 18,000
- (iii) Advertisement expenses are pertaining to the gifts given to twenty important customer

- (iv) General expenses include ₹ 5,000 spent on neon-sign boards and ₹ 5,000, expenses relating to pleasure trip of the proprietor to Simla.

Compute total income of Mr.Raja Ram.

[Ans.: Business Income : Rs.1,38,000; Total Income Rs.1,65,600]

2. From the following information, compute the M/s KCP Ltd. Business Income.

Profit and Loss account for the year ended 31st March, 2018

	₹		₹
To Opening Stock	1,04,000	By Sale of Sugar	23,00,000
To Cane Purchased	9,50,000	By Transfer fee	600
To Manufacturing expenses	5,00,000	By Profit on sale of Motor Truck	5,000
To Salaries and Wages	92,000	By Rent from Agricultural lands	2,000
To General charges	16,000		
To Commission	60,000		
To Interest on loan	18,000		
To Director's fees	2,000		
To Income Tax	72,000		
To Reserve for bad debts	40,000		
To Depreciation	1,38,000		
To Provision for dividends	60,000		
To Net profit	2,55,600		
	23,07,600		23,07,600

- (i) Motor truck sold during the year for ₹ 45,000 was purchased for ₹ 80,000 and depreciation claimed so far was ₹ 40,000.
- (ii) General expenses include :
- (iii) ₹ 2,000 donation to Hospital
- (iv) ₹ 2,000 subscription to Sugar Syndicate
- (v) ₹ 8,000 paid to a Director for a trip to Japan to study modern methods.
- (vi) Actual bad debts amounted to ₹ 20,000
- (vii) Depreciation allowable ₹ 1,00,000.

[Ans.: Profit from Business : Rs.4,40,600]

3. From the following P & L A/c of Mr. Stalin, compute income under the head Profits & Gains of Business or Profession:

Particulars	Amount	Particulars	Amount
Opening Stock	4,00,000	Sales	1,62,00,000
Purchases	52,00,000	Closing stock	4,80,000
Salaries	8,00,000	Income from house property	80,000
Rent, rates & taxes	1,20,000	Indian company Dividend	9,000
Legal charges	40,000		
Miscellaneous expenses	20,000		
Provision for bad debts	30,000		
Provision for gratuity	20,000		
Provision for income tax	40,000		
Salary to Mrs. Stalin	36,000		
Depreciation	40,000		
Net profit	1,00,23,000		
	1,67,69,000		1,67,69,000

Additional information: Depreciation allowed as per Income tax Act ₹ 60,000.

[Ans.: Profit from Business Income : Rs.1,00,04,000;]

4. From the following profit & loss account of Mrs. Jayaprada, Compute her Profits and gains of business or profession:

Particulars	Amount	Particulars	Amount
Opening Stock	2,00,000	Sales	1,61,00,000
Purchases	31,00,000	Closing stock	5,00,000
Salaries	5,00,000	Income from house property	2,00,000
Telephone	1,00,000	Indian company Dividend	10,000
Electricity	60,000		
Repair	80,000		
Municipal taxes for office	20,000		
Car expenses	1,50,000		
Provision for bad debts	30,000		
Depreciation on car	40,000		
Securities transaction tax	10,000		

Agricultural expenditure	50,000		
Net Profit	1,24,70,000		
	1,68,10,000		1,68,10,000

Additional information:

- Repair includes replacement of petrol engine with diesel engine ₹ 20,000.
- Half of the Telephone expenses are used for personal purpose.
- 40% of the total Electricity is used for residence purpose.
- Car is 40% used for personal purpose.
- Opening stock is undervalued by 20% and closing stock is overvalued by 25%.

[Ans.: Business Income : Rs.1,23,40,000]

II. Gain from Profession :

5. From the following particulars compute the income from profession of Dr.Khanna.

Receipts :

- Visiting fees ₹ 26,000
- Consultation fees ₹ 15,000
- Sale of medicines ₹ 16,000
- Dividends ₹ 5,000

Expenses :

- Dispensary Rent ₹ 5,000
- Electricity charges ₹ 3,000
- Telephone expenses ₹ 3,000
- Salary to compounder ₹ 5,000
- Purchase of medicines ₹ 8,000
- Depreciation of X-Ray ₹ 2,000
- Income tax ₹ 5,000
- Donations ₹ 2,000
- Motor car expenses and depreciation ₹ 6,000.

Other Particulars

- Electricity charges include domestic bill of ₹ 1,000
- 50% of motor car expenses are for professional use.

[Ans.: Grain from Profession : Rs.29,000]

6. Dr. Raviraja a medical practitioner furnishes his Receipt and Payments Account.

Receipts	Amount	Payments	Amount
Balance b/d	28,000	Purchase of professional books	10,000
Examiner's fees	1,000	Income tax	20,000
Visiting fees	60,000	Household expenses	15,000
Sale of medicine	1,20,000	Rent of Clinic:	
Consultation fees:		For last year	2,000
For last year	6,000	For current year	11,000
For current year	34,000	Electricity, water etc.	4,000
Interest on post office savings bank account	14,000	Car purchased	60,000
Salary as a part time lecturer in a medical college	5,000	Membership fees of medical association	1,000
Gifts received from patient	10,000	Medicine purchased	80,000
Retainer fees from G. Ltd	3,000	Car expenses	30,000
Interest on Govt. securities	20,000	Salary to staff	20,000
		Gifts to wife	10,000
		Surgical equipment	30,000
		Balance c/d	8,000
	3,01,000		3,01,000

Other information:

- (i) 1/3rd of motor car relates to his personal use.
- (ii) Gift includes ₹ 1,000 as birthday gift of Dr. Raviraja
- (iii) Medicine costing ₹ 10,000 were taken for the treatment of his son.
- (iv) Depreciation to be charged on motor car @ 15%, on books @ 100% and on surgical equipment @ 15%.

Compute income from profession of Dr. Raviraja

[Ans.: Gain from profession : Rs.83,500]

Chapter – 7**DEPRECIATION****Objective :**

After studying this unit you should be able to

- Understand the meaning of depreciation
- Find out the assets eligible for depreciation
- Know the rates of depreciation
- Understand the method of calculation of depreciation
- Know the other types of allowances

Structure :

- 7.1. Introduction**
- 7.2. Conditions for allowing Depreciation**
- 7.3. Rates of Depreciation (on W.D.V. Basis)**
- 7.4. Actual Cost of Assets**
- 7.5. Method of Calculating Depreciation**
- 7.6. Tea Development**
- 7.7. Site Restoration Fund**
- 7.8. Unabsorbed Depreciation**
- 7.9. Self-Assessment Questions**
- 7.10. Exercises**

7.1 INTRODUCTION**Depreciation – Meaning :**

Depreciation means diminution in value of an asset on account of wear and tear and obsolescence. It is a legitimate deduction for determination of true business income. Depreciation is claimed by the lessee in hire-purchase agreements. Depreciation is not allowable on the cost of land but only on super structure build upon it.

Sections covered :

Section 32	Depreciation
Section 32(2)	Treatment of unabsorbed depreciation
Section 32(AC)	Investment allowance
Section 33AB	Tea Development account
Section 33ABA	Site Restoration Fund
Section 34	Conditions for depreciation allowance

(a) Assets eligible for Depreciation : Assets eligible for depreciation are :

1. Building
2. Machinery or Plant and
3. Furniture,
4. Intangible assets like patents copyrights etc.

(b) Block of assets : Block of assets means a group of assets falling within a class of assets comprising.

- (i) Tangible assets being building, machinery, plant
- (ii) Intangible assets being know-how, patents, copyrights, trade marks, licenses, franchises or any other business or commercial rights of similar nature.

7.2 CONDITIONS FOR ALLOWING DEPRECIATION [SEC.32]

1. Asset should be **owned**, wholly or partly, by the assessee. In case of co-ownership, depreciation is allowed on proportionate basis.
2. Assets should be **used** for the purpose of business or profession.
3. Depreciation is allowed on the capital expenditure incurred by the assessee, by way of improvement, etc., on a building not owned by him but taken on lease.
4. Depreciation should be claimed in respect of following assets:
 - (i) Tangible Assets** – Building, machinery, plant or furniture.
 - (ii) Intangible Assets** – Know-how, patents, copyrights, etc., acquired on or after 1.4.1998.

Let us go through some examples.

- (1) EPABX and mobile phones are not computers; hence, higher depreciation @ 60% is not eligible.

- (2) Depreciation is not allowable in respect of machineries which have been discarded due to obsolescence and which have not been used in manufacturing of product.
- (3) Computer accessories and peripherals such as, printers scanners and server etc. from an integral part of the computer system. So, they are entitled to depreciation at the higher rate of 60%.

7.3 METHODS OF DEPRECIATION:

Methods of depreciation	Applicable to undertaking engaged
SLM – Straight Line Method	In generation or generation and distribution of power
WDV – Written Down Value	In all other cases

Block of Assets – Section 2(11):

It means a group of asset falling within a class of assets comprising tangible or intangible assets in respect of which same percentage of depreciation is prescribed.

Actual Cost – Section 43(1):

- (a) It means actual cost to the assessee as reduced by that portion of costs which has been met directly or indirectly by any other person or authority, e.g., subsidy.
- (b) Items to be included in cost of fixed assets.
- (1) Cost of fixed asset.
 - (2) Interest on money borrowed for purchase of the assets till the asset is put to use.
 - (3) Carriage inward, loading or unloading charges.
 - (4) Installation charges.
 - (5) Cost of repair and modification prior to the use of asset.
 - (6) Commission paid to banker for giving guarantee to supplier of the asset.
- (c) **Items not to be included in cost of fixed assets:**
- (i) Excise duty and additional duty leviable thereon in respect of which credit is claimed and allowed.

- (ii) Amount of subsidy, grant or reimbursement by the Central Govt. of State Govt. or any authority established under any law or any other person towards a portion of cost of asset.
- (iii) Expenditure for acquisition of any asset or part thereof in respect of which a payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque drawn on a bank or an account payee bank draft or use of electronic clearing system through a bank account, exceeds Rs.10,000, such expenditure shall be ignored for the purposes of determination of actual cost.

7.4 RATES OF DEPRECIATION – RULE 5 :

	Block of Assets	Rate of Depreciation
I.	Buildings:	
	Residential	5%
	General	10%
	Temporary Structure	100%
II.	Furniture and Fittings (including electrical fittings)	10%
III.	Plant and Machinery:	
(a)	Plant and Machinery (General)	15%
(b)	Renewable Energy Devices :	
(i)	Wind Mills and any specifically designed devices which run on wind mills installed between 1.4.2012 to 31.3.2014	15%
(ii)	Any special devices including electric generators and pumps running on wind energy installed between 1.4.2012 to 31.3.2014	15%
(iii)	Equipments not covered in (i) and (ii) above or Equipments covered in (i) and (ii) above installed on or before 31.3.2012 or after 1.4.2014	80%
(c)	Motor cars other than those used in the business of running them on hire	15%

(d)	Motor Buses, Motor Lorries, Motor Vans and Motor Taxis used in the business of running them on hire	30%
(e)	Books owned by the assessee carrying on profession:	
(i)	Books, being annual publication	100%
(ii)	Books other than those covered by (i) above	60%
(f)	Books owned by the assessee carrying on business in running lending libraries	100%
(g)	Aeroplanes	40%
(h)	Air Pollution control Equipments, Water pollution Control Equipments	100%
(i)	Computer including computer software	60%
(j)	Ships	20%
IV.	Intangible Assets:	
	Know-how, patents, copyrights, trademarks, licenses, franchises or any other business or commercial rights of similar nature.	25%

Notes:

- (i) Buildings include roads, bridges, culverts, wells and tube-wells.
- (ii) A building shall be deemed to be a building used mainly for residential purposes, if the built-up floor area thereof used for residential purposes is not less than 66.67% of its total built-up floor area and shall include any such building the factory premises.
- (iii) Electrical fittings include electrical wiring, switches, sockets, other fittings and fans, etc.
- (iv) Computer software means any computer programme recorded on any disc, tape, perforated media or other information storage device.
- (v) However, in case of domestic companies which have opted for section 115BA, i.e. the domestic companies opting to be taxed @ 25%, the above rate of depreciation shall be restricted to 40% in case of every asset which is depreciated at more than 40%.

7.5 WRITTEN DOWN VALUE (WDV) – SECTION 43(6):

1. WDV for the purpose of block of asset is determined as under:

Step	Particulars
1.	WDV of all the assets falling within a block of asset at the beginning of the PY, i.e., as on 1st April.
2.	Add: Actual cost of any assets falling within that block, acquired during the PY.
3.	Less: Money received or receivable in respect of any asset falling within that block, which is sold or discarded or demolished or destroyed during that PY together with the amount of 'scrap' value, if any.
4.	Balance is the WDV at the end of PY i.e., 31st March on which depreciation is to be calculated at a specified percentage.
➤ Deduction at 3rd cannot exceed the aggregate amount referred in steps 1 and 2. As the excess shall be treated as short-term capital gain.	

2. WDV in case of Slump Sales :

Step	Particulars
1.	WDV of all the assets falling within a block of asset at the beginning of the PY, i.e., as on 1st April.
2.	Add: Actual cost of any assets falling within that block acquired during the PY.
3.	Less: Money received or receivable in respect of any asset falling within that block, which is sold or discarded or demolished or destroyed during that PY together with the amount of 'scrap' value, if any.
4.	Less: Amount calculated below Actual cost of the asset falling in the block transferred by slump sale (-) Depreciation actually allowed in respect of any PY relevant to assessment year commencing before 1.4.1998. (-) Depreciation allowable from the AY 1988-89 onwards as if it was only the asset in the block.
5.	Balance is the WDV at the end of PY i.e., 31st March on which depreciation is to be calculated after the slump sale.
➤ Deduction at 3rd Step cannot exceed the amount referred to in Step 1	
➤ Deduction at 4th Step cannot exceed the WDV (i.e., Step 1 + 2-3)	

- 3. WDV of assets during the period when the incomes is exempt:** Where the assessee is not required to compute his total income for any PY or years preceding the PY relevant to the assessment year under consideration, then:
- (i) The actual cost of an asset shall be adjusted by an amount attributable to its revaluation, if any in the books of account;
 - (ii) The depreciation on such asset provided in the books of account in respect of such preceding PY or PYs shall be deemed to be the depreciation actually allowed;
 - (iii) The amount of depreciation actually allowed above shall be adjusted by the amount of depreciation attributable to such revaluation.
- 4. Assets partly used for business and partly for agricultural purpose:** Where the income of an assessee has been derived both from agriculture and business of the assessee, then for computing WDV of the asset, the depreciation will be computed and allowed, as if the whole income is derived from the business chargeable to the tax under the head 'PGBP'.
- 5. Asset used for Less than 180 days in the Year of Acquisition:** Depreciation shall be restricted to 50% of the amount calculated at the percentage prescribed for an asset if:
- (i) The asset is acquired by the assessee during the PY and
 - (ii) It is put to use for a period of less than 180 days in that PY
- 6. Additional Depreciation – Section 32(1) (ia):**
- (a)** Additional depreciation is allowed on new plant and machinery, to an assessee engaged in the business of production or manufacture of any article or thing or in the business of generation, transmission or distribution of power.
 - (b)** It is available only in the year in which the new plant and machinery is first put to use.
 - (i) Finance Act, 2015 has resolved a prolonged dispute regarding allowance of Additional Depreciation on the Plant and Machineries which are put to use for less than 180 days in the year of acquisition
 - (ii) W.e.f. Assessment year 2016-17 in the case when only 50% of additional depreciation in the year of acquisition as the asset is put to use for less than 180 days then the remaining 50% of such additional depreciation shall be allowed in the immediately subsequent year.

- (c) Any new plant and machinery acquired and installed after 31.3.2005 *other than* the following, are eligible for additional depreciation:
- (i) Ships and aircraft;
 - (ii) Plant or machinery installed in any office premises or any residential accommodation including accommodation in nature of guest house;
 - (iii) Plant or machinery used before its installation, either within or outside India by any other person;
 - (iv) Any office appliances or road transport vehicles; or
 - (v) Any machinery or plant, the whole of the cost of which is allowed as a deduction in computing the income chargeable under the head PGBP of any one PY.
- (d) Additional depreciation is claimed @ 20% of the actual cost of new plant and machinery and if asset is acquired and used for a period of less than 180 days, then @ 10% of the actual cost.
- 7. Additional incentives for Notified areas of the State of Andhra Pradesh, Bihar, Telangana or West Bengal :** As per Finance Act, 2015, Additional Depreciation shall be claimed @ 35% of the actual cost of new plant and machinery acquired for sets up an undertaking or enterprise for manufacture or production of any article or thing in notified backward area in the State of State of Andhra Pradesh, Bihar, Telangana or West Bengal, during the period beginning from 1.4.2015 to 31.3.2020.
- 8. Effect of Sale of Asset in a Block –Section 50:**
- (a) **If WDV of the block of the asset is reduced to zero, though the block does not cease to exist :** When the sale proceeds exceed the sum of opening WDV and additions, the resulting figure is termed as STCG. **For instance** Opening WDV is Rs.1,00,000, additions during the year are Rs.50,000 and one asset in the block costing Rs.25,000 is sold for Rs.1,75,000. The WDV shall be worked out as under:

Particulars	Rs.
WDV at the beginning of the year	1,00,000
Add: Additions during the year	50,000
Sub-total	1,50,000
Less: Sale value restricted to Rs.1,50,000	1,50,000
WDV of the block at the end of the year (even though there may be asset in the block)	Nil
Sale Value	1,75,000
Less: WDV + Additions during the year	1,50,000
Surplus, being Short-term Capital gain	25,000

- (b) **If block of asset is empty or ceases to exist on the last day of the PY, though the WDV is NOT Zero** : When all the assets in the block are sold, resulting figure is Short-term capital gain or loss.

For instance

Opening WDV is Rs.1,00,000, additions during the year are Rs.50,000 and all assets in the block are sold for Rs.1,25,000. Then WDV shall be worked out as under:

Particulars	Rs.
WDV at the beginning of the year	1,00,000
Add: Additions during the year	50,000
Sub-total	1,50,000
Less: Sale	1,25,000
WDV of the block at the end of the year	Nil
Sale Value	1,25,000
Less: WDV + Additions during the year	1,50,000
Shortfall, being Short-term Capital Loss	25,000

(c) **Depreciation to Power Sector:**

- a. An undertaking engaged in the generation or generation and distribution of power can claim depreciation in respect of assets acquired after 31.3.1997, according to :
- (i) Straight line method; or
 - (ii) WDV method

- b. The option for this purpose shall be exercised before the due date of furnishing return of income. Once the option is exercised, it shall be final and shall apply to all subsequent years.
- c. When an asset on which depreciation is claimed on straight line basis is sold, discarded, demolished or destroyed in a PY, then the loss arising is deductible as **terminal depreciation**, and in case of a **gain**, the same is taxable as **balancing charge**.

d. Terminal depreciation and balancing charge u/s. 41(2).

Step	Particulars
1.	Find out the WDV of depreciable asset on the 1st day of the PY in which such asset is sold, discarded, demolished or destroyed.
2.	Find out the sales consideration
3.	<p>If the amount under Step 2 is less than the amount under Step 1, then the deficiency is terminal depreciation.</p> <p style="text-align: center;">Or</p> <p>If the amount under Step 2 is more than the amount of Step 1, then</p> <p>(a) So much of surplus which is equal to the amount of depreciation already claimed, is balancing charge.</p> <p>(b) Remaining surplus, if any is taxable as capital gains.</p>

7.6 UNABSORBED DEPRECIATION:

1. The unabsorbed depreciation due to absence or inadequacy of profits in a PY can be carried forward **indefinitely**.
2. The depreciation so unabsorbed shall get added to the following year's depreciation and, in case of no depreciation, it will be treated as current year's depreciation and will be set off in that PY and in any subsequent PYs.
3. Following is the **priority** or order for such set off:

Priority	Particulars
	Business profits before depreciation for current year.
1.	Less: Current year's depreciation
2.	Less: Brought-forward business loss, if any
3.	Less: Brought-forward unabsorbed depreciation

7.7 INVESTMENT ALLOWANCE:

1. Investment Allowance :

Investment allowance for new plant and machinery installed on or before 31-3-2017 was available for Assessment year 2015-16 to 2017-18 only [Sec.32AC] Investment allowance @ 15% of the cost of new plant or machinery acquired during 1-4-2015 to 31-3-2020, for setting up an undertaking or enterprise for manufacture or production of any article or thing, on or after 1-4-2015, in a notified backward area in the States of Andhra Pradesh, Bihar, Telangana or West Bengal [Sec.32AD].

2. Tea Development Account [Sec.33AB]:

Amount deposited in Tea Development Account or Coffee Development Account or Rubber Development Account or 40% of profits and gains from business of growing and manufacturing tea or coffee or rubber in India.

3. Site Restoration Fund [Sec.33ABA]:

Amount deposited in Site Restoration (including interest thereon) or 20% of profits, whichever is less, in case of an assessee carrying on business of prospecting for, or extraction or production of, petroleum or natural gas or both in India.

ILLUSTRATIONS

Illu.1:

- (a) Mr. Singh borrowed a sum of Rs.20,00,000 on 1.4.2016 bearing interest @ 12% p.a. to construct a building for the purpose of his business.
- (b) The construction of house property is completed on 30.6.2018 and put to use immediately.
- (c) The loan is still outstanding.
- (d) Cost of construction of building is Rs.50 lakhs.

Compute the actual cost of building on which depreciation shall be allowed.

Solution:

**Computation of cost of building for Depreciation
(Assessment Year 2018-19)**

Particulars	Rs.
Cost of construction	50,00,000
Add: Interest from 1.4.2016 to 30.6.2018 to be capitalised (20,00,000 × 12/100 × 27/12)	5,40,000
Total Cost eligible for Depreciation	55,40,000

Illu.2:

(a) Mr. Rayudu gifted the following asset to Mr. Naidu on 12.11.2018, with the following particulars:

Name of Asset	Fair Market Value as on 12.11.2018	Date of Acquisition	Cost of Acquisition in hands of Mr. Rayudu
Plant and Machinery	10,00,000	1.6.2006	9,00,000
Building	9,50,000	1.8.2007	8,00,000

(b) The opening WDV of the block of assets to Mr. Naidu as on 1.4.2018 as follows:

Block of Plant and Machinery (15%)	5,20,000
Block of Building (10%)	8,40,000

(c) Compute the WDV of the block of assets as on 31.3.2019 along with the implications u/s. 49(4) and 56(2)(vii), if any.

Solution:

Computation of the WDV of the Block as on 31.3.2019

Particulars	Plant & Machinery (15%)	Building (10%)
Opening WDV of the block as on 1.4.2015	5,20,000	8,40,000
Add: Asset acquired during the year	9,00,000	8,00,000
WDV of the block before depreciation	14,20,000	16,40,000
Less: Depreciation for the year:		
[(5,20,000 × 15/100) + (9,00,000 × 7.5/100)]	1,45,500	-
[(8,40,000 × 10/100) + (8,00,000 × 5/100)]	-	1,24,000
WDV of the block as on 1.4.2019	12,74,500	15,16,000

Note : Section 56(2) (vii) is not applicable in the case of machinery since the same is not covered within the purview of the said section. However, as per the said section, the Fair Market Value of the building, i.e., Rs.9,50,000 shall be treated as Income from Other Sources in the hands of Mr. Naidu for the Asst. Year 2019-20.

Illu. 3:

- (a) M/s. Zindal Ltd. transfers an undertaking in a slump sale on 1.4.2018 for Rs.20,00,000.
- (b) The W.D.V. of the Block of Plant & Machinery as on 1.4.2018 is Rs.16,00,000. The company has acquired a new machinery A on 1.6.2018 for Rs.4,00,000 and sold a machinery B on 31.12.2018 for Rs.13,00,000.
- (c) The said machinery were acquired at actual cost of Rs.18,00,000/- and depreciation on same as per the Income Tax Act is as under:
- (i) Actual Depreciation upto AY 1987-88
3,00,000
- (ii) Depreciation from AY 1988-89 to AY 2018-19 assuming that these Machineries are the only Assets in the block of assets Rs.4,50,000
- (d) Work out the W.D.V. of Block of assets of machinery for AY 2019-20.

Solution:

**Calculation of W.D.V. of Block of assets of machinery
(Assessment Year 2019-20)**

Particulars	Rs.	Rs.
Opening W.D.V. as on 1.4.2018		16,00,000
Add: Actual cost of Assets acquired during the previous year.		4,00,000
Less: Moneys payable in respect of the assets sold during the previous year		13,00,000
Less: Assets transferred in Slump Sale:		
Actual Cost	18,00,000	
Less: Depreciation upto AY 1987-88	3,00,000	
Less: Depreciation from AY 1988-89 to AY 2018-19	4,50,000	
Balance	10,50,000	
Restricted to Rs.7,00,000		7,00,000
WDV of the Block		NIL

Illu.4 :

- (a) Galaxy Ltd. owns two buildings A and B on 1.4.2017 in the block with:
- (i) Rate of depreciation: 10%
 - (ii) Depreciated value: Rs.14,15,700
- (b) It purchases on 1.12.2017 building C for Rs.3,10,000 which was put to use on the same date (Rate of depreciation: 10%)
- (c) He sells building A during the previous year 2017-18 (say on 10.1.2018) for Rs.8,70,000,
- (d) Work out depreciation for the previous year 2017-18.

Solution:**Calculation of Depreciation****(Assessment year 2018-19)**

Particulars	Rs.
WDV of the block (i.e., buildings A and B) on 1.4.2017	14,15,700
Add: Cost of building C (purchased on 1.12.2017)	3,10,000
Total	17,25,700
Less: Sale proceeds of building A	8,70,000
Written down value of the block	8,55,700
Depreciation [as building C is purchased in the year 2017-18 and it is put to use for less than 180 days, depreciation on Rs.3,10,000 will be 50% of 10% of Rs.3,10,000 and on the remaining amount depreciation will be 10% of (Rs.8,55,700(-) Rs.3,10,000)]	70,070
WDV of the block on 1.4.2018	7,85,630

Illu.5:

- (a) BSP Ltd. owns two buildings A and B on 1.4.2017 in the block with:
- (i) Rate of depreciation: 10%
 - (ii) Depreciated value: Rs.17,50,000
- (b) It purchases on 1.11.2017 building C for Rs.4,20,000 (Rate of depreciation: 10%). However, the same was put to use on 1.12.2018.
- (b) He sells building B during the previous year 2017-18 (say on 24.1.2018) for Rs.9,10,000,
- (c) Work out depreciation for the previous year 2017-18.

Solution:

**Calculation of Depreciation
(Assessment year 2018-19)**

Particulars	Rs.	Rs.
WDV of the block (i.e., buildings A and B) on 1.4.2017		17,50,000
Add: Cost of building C (purchased on 1.11.2017)		4,20,000
Total		21,70,000
Less: Sale proceeds of building B		9,10,000
Written down value of the block		12,60,000
Depreciation [as building C is purchased in the year 2017-18, but the same is not put to use, no depreciation is charges on Rs.4,20,000 and on the remaining amount depreciation will be 10% of (Rs.12,60,000 (-) Rs.4,20,000)]		84,000
WDV of the block on 1.4.2018		11,76,000

Computation of WDV for Assessment Year 2019-20

Particulars	Rs.	Rs.
WDV of the block (i.e., buildings A and C) on 1.4.2018		11,76,000
Less: Depreciation (10% of Rs.11,76,000)		1,17,600
WDV of the block on 1.4.2019		10,58,400

Note : The restriction of 50% will apply only in the year of acquisition and not in subsequent year when the asset is put to use. Hence, the normal depreciation of 10% is charged on same.

Illu.6: Mr. Gokaraju furnished the following particulars for the PY 2017-18:

Particulars	Rs.
Business Income (before providing Depreciation)	72,000
Depreciation	94,000
Income from House Property (net of all deductions)	60,000
Income from Other Sources	2,06,000

Compute the Total Income of Mr. Gokaraju for the AY 2018-19.

Solution:

Computation of Total Income
(Assessment Year 2018-19)

Particulars	Rs.	Rs.
Income from Business (before depreciation)	72,000	
Less: Depreciation (restricted to business income)	72,000	Nil
Income from House Property	60,000	
Less: Unabsorbed Depreciation (Rs.94,000 - 72,000)	22,000	38,000
Income from Other Sources		2,06,000
Total Income		2,44,000

Illu.7 : M/s Krishna & Co owns the following assets on April 1, 2017:

Assets	Written down value on April 1, 2017 (Rs.)	Rate of depreciation
Plant A	70,000	40%
Plant B	6,90,000	15%
Plant C	17,000	15%
Plant D	18,000	40%
Furniture	44,000	10%
Building A	5,90,000	10%
Building B	4,10,000	10%
Building C	86,000	5%

The firm acquires the following second-hand assets during the previous year 2017-18:

Asset	Cost price Rs.	Date of purchase	Date when the asset is put to use	Rate of depreciation
Plant E	55,000	April 10, 2017	May 1, 2017	15%
Plant F	70,000	April 30, 2017	May 15, 2017	15%
Plant G	4,90,000	May 17, 2017	June 1, 2017	40%
Plant H	14,70,000	June 15, 2017	June 15, 2017	15%
Building D	1,90,000	July 18, 2017	November 30, 2017	10%
Building E	4,36,000	September 7, 2017	September 8, 2017	5%

The firm sells the following assets during 2017-18:

Asset	Sale consideration Rs.
Plant B	12,90,000
Plant D	4,000
Plant C	76,000
Building A	3,80,000
Building C	15,91,000

Determine the amount of depreciation for the assessment year 2018-19.

Ignore additional depreciation.

Solution:

Calculation of Depreciation

	Plant 15% Rs.	Plant 40% Rs.	Furniture 10% Rs.	Building 10% Rs.	Building 5% Rs.
Plant A	-	70,000	-	-	-
Plant B	6,90,000	-	-	-	-
Plant C	17,000	-	-	-	-
Plant D	-	18,000	-	-	-
Furniture	-	-	44,000	-	-
Building A	-	-	-	5,90,000	-
Building B	-	-	-	4,10,000	-
Building C	-	-	-	-	86,000
Depreciated value of the block on April 1, 2017	7,07,000	88,000	44,000	10,00,000	86,000
Add: Actual cost of assets acquired during the year					
- Plant E	55,000	-	-	-	-
- Plant F	70,000	-	-	-	-
- Plant G	-	4,90,000	-	-	-
- Plant H	14,70,000	-	-	-	-
- Building D	-	-	-	1,90,000	-
- Building E	-	-	-	-	4,36,000

Less: Sale consideration of assets sold during the year					
- Plant B	(-) 12,90,000	-	-	-	-
- Plant D	-	(-) 4,000	-	-	-
- Plant C	(-) 76,000	-	-	-	-
- Building A	-	-	-	(-)	-
				3,80,000	
- Building C	-	-	-	-	(-)
					15,91,000
Total	9,36,000	5,74,000	44,000	8,10,000	(-) 10,69,000
Written down value on the last day of the previous year	9,36,000	5,74,000	44,000	8,10,000	Nil
Normal depreciation (*5% of Rs.1,90,000 + 10% of Rs.6,20,000)	1,40,400	2,29,600	4,400	71,500*	Nil

Aggregate depreciation: Rs.4,45,900. Short-term capital gain on transfer of Building C: Rs. 10,69,000.

Illu.8 : KCP Ltd., a sugar manufacturing company, owns the following assets on April 1, 2017:

Assets	Written down value on April 1, 2017 Rs.	Rate of depreciation
Plant A	4,20,000	15%
Plant B	17,80,000	15%
Plant C	8,70,000	15%
Plant D	1,23,000	40%

On March 25, 2018, it sells plant D for Rs.4,97,000. On November 10, 2017, it acquires the following assets:

Assets	Cost Rs.	Rate of depreciation
Plant E (second-hand)	95,000	40%
Plant F (foreign made car)	6,80,000	15%
Plant G (Indian car)	2,00,000	15%
Building A	40,00,000	10%
Know-how	21,00,750	25%
Plant H (office telephone system)	91,200	40%
Plant I (office machine)	18,000	100%
Computer	47,170	40%

Determine the amount of depreciation admissible for the assessment year

2018-19.

Solution :

Calculation of Depreciation

	Plant 15% Rs.	Plant 40% Rs.	Plant 100% Rs.	Building 10% Rs.	Know-how 25% Rs.
Plant A	4,20,000	-	-	-	-
Plant B	17,80,000	-	-	-	-
Plant C	8,70,000	-	-	-	-
Plant D	-	1,23,000	-	-	-
Depreciation value of the block on April 1, 2017	30,70,000	1,23,000	Nil	Nil	Nil
Add: Actual cost of assets acquired during the year :					
- Plant E	-	95,000	-	-	-
- Plant F	6,80,000	-	-	-	-
- Plant G	2,00,000	-	-	-	-
- Plant H	-	91,200	-	-	-
- Plant I	-	47,170	18,000	-	-
- Computer	-	-	-	40,00,00	-
				0	

-Know-how	-	-	-	-	21,00,750
Less: Sale consideration of Plant D	-	(-) 4,97,000	-	-	-
Total	39,50,000	(-) 1,40,630	18,000	40,00,000	21,00,750
Written down value on the last day of previous year	39,50,000	Nil	18,000	40,00,000	21,00,750
- Eligible for half of normal depreciation	8,80,000	Nil	18,000	40,00,000	21,00,750
- Eligible for normal depreciation	30,70,000	Nil	Nil	Nil	Nil
Depreciation:					
- At half of the normal rate	66,000	Nil	9,000	2,00,000	2,62,594
- At normal rate	4,60,500	Nil	Nil	Nil	Nil

Aggregate depreciation: Rs.9,98,094. Short-term capital gain on transfer of Plant D: Rs. 1,40,630.

7.10. SELF-ASSESSMENT QUESTIONS :

A. Short Answer Questions :

1. What is Depreciation?
2. What is Block of Assets?
3. What is actual cost of assets?
4. What is Written down Value?
5. Explain the provisions relating to Tea Development Account.
6. What is Site Restoration Fund?
7. Unabsorbed Depreciation

B. Essay Questions :

1. Define Depreciation? State the conditions for allowing Depreciation under Income Tax Act.
2. Explain the method of calculation of depreciation under Income Tax Act.

7.11 EXERCISES

1. Mr. Srikar is engaged in the business of transportation of goods. On 1.4.2017 the W.D.V. of his various assets was as given below:

	₹
1. Office building (Rate of depreciation 10%)	9,20,000
2. Commercial vehicles(Rate of depreciation 30%)	30,90,000
3. Car (Rate of depreciation 15%)	2,10,000

During the year, he sold one of the commercial vehicles which was over the age of 15 years for ₹ 60,000. It was replaced by another vehicle at the cost of ₹ 9,00,000 on 1.11.2017. A new vehicle was purchased on 1.1.2018 for ₹ 15,00,000. Calculate depreciation admissible for the previous year 2017-18.

[Ans.: Total Depreciation : Rs.13,92,500]

2. From the particulars given by Bhima Ltd. calculate the amount of depreciation admissible during the year ending 31.3.2018

Fixed assets	Written down value of 1.4.2017 ₹	Additions during the accounting year ₹	Rate of depreciation
Building(non – Residential)	15,60,000	Nil	10%
Building(Residential)	3,75,000	Nil	5%
Plant &Machinery	31,50,000	5,60,000	15%
Motor cars	74,000	-	15%
Furniture	17,600	Nil	10%

Part of the residential buildings whose written down value on 1.4.2017 was ₹ 2,20,000 was completely destroyed by fire on 5.6.2017 and ₹ 1,80,000 was received from insurance company in respect thereof. The new plant and machinery were installed on 8.10.2017.

[Ans.: Total Depreciation : Rs.7,49,110]

3. Avinash purchases on 30th April, 2017 a new machine at a cost of ₹ 1 lakh. In bringing it to factory site the incurs expenses on clearing, freight and loading and unloading amounting to ₹ 5,000, ₹ 1,000 and ₹ 500 respectively. In installing the machine a further cost of ₹ 10,000 is incurred. It is then found that a part is broken and in repairing such broken part an additional expenditure of ₹ 7,500 becomes necessary. Ultimately on 31st January, 2018 the machinery is ready for use and is actually brought into use on that day. If the rate of depreciation is 15% determine the actual cost of the machinery for purposes of depreciation and also the amount of depreciation admissible for the assessment year 2018-19 and W.D.V on 1-4-2017. The previous year ends on 31st March, 2018.

[Ans.: WDV on 1-4-2018: Rs.1,02,300]

4. X Ltd. Owned plant and machinery having w.d.v. of ₹ 2,00,000 on 1-4-2017. An additional machinery was installed on 31-8-2017 costing ₹ 5,00,000. A fire had broken in the premises of the factory on 31-12-2017 destroying the entire plant and machinery. Insurance company paid a compensation of ₹ 2,40,000. Calculate Depreciation/capital gains.

[Ans.: Short term capital loss : Rs.4,60,000]

5. M/s. Krishna Traders has two Machineries A & B in the block. The written down value of the block (rate of depreciation is 15%) as on 1st April of 2017 was ₹ 8 lakhs. In order to meet the specific requirement of a customer, M/s Krishna traders purchased a new machine C on 1st May for ₹ 2 lakhs. After executing the order of the customer, the new machine was sold for ₹ 1.5 lakhs on 6th September, 2017. Calculate depreciation allowance to the assessee. How shall your answer differ in case the machine was sold on 1st January, 2018?

[Ans.: Total Depreciation : Case I Rs.7,22,500 Case II Rs.7,22,500]

6. Mr. Pulla Rao Industries furnishes you the following information:

Block	Rate	WDV
Plant & Machinery (10 looms)	15%	5,00,000
Buildings (3 buildings)	10%	12,50,000

Acquired on 5th July 2017 five looms for ₹ 4,00,000.

Sold on 7th December 2017, 15 looms for ₹ 10,00,000.

Acquired on 10th January 2018, 2 looms for ₹ 3,00,000.

Compute depreciation claim.

[Ans.: Depreciation Rs.1,55,000]

7. InfoTech Ltd, an industrial undertaking had furnished you following information.

Particulars	Data
Rate of depreciation of block	60%
Number of assets in the block	15
Depreciated value of the block on 1.4.2017	₹ 6,00,000
Purchase of plant (new) A on 1.5.2017	₹ 20,00,000
Sale of old plant	₹ 46,00,000

Plant A was put to use in September, 2017. Calculation of the amount of depreciation chargeable.

[Ans.: Depreciation : Nil; Short term capital Gain : Rs.20,00,000]

Chapter – 8

CAPITAL GAINS

Objectives :

After reading this unit you should be able to

- Know the meaning of the Capital Gain, Capital Asset and Transfer
- Know about the cost of acquisition, cost of improvement and cost of transfer
- Understand the method of computation of capital short-term and long-term capital gain
- Know the exemptions from capital gain

Structure :

- 8.1. Introduction**
- 8.2. Meaning of Capital Gain**
- 8.3. Meaning of Capital Asset**
- 8.4. Transfer of Capital Asset**
- 8.5. Types of Capital gains**
- 8.6. Cost of acquisition**
- 8.7. Cost of improvement**
- 8.8. Computation of capital gain**
- 8.9. Exempted capital gains**
- 8.10. Taxation of Capital gains**
- 8.11. Self-Assessment Questions**
- 8.12. Exercises**

8.1 INTRODUCTION

Any gain arising from the transfer of a capital asset during a previous year is chargeable to tax under the head “Capital Gains”. Income from Capital gains is computed in accordance with the provisions of sections 45 to 55A of the Act. The expression “Capital Gains” means any profits or gains arising from the sale of a capital asset affected in the previous year. However, all capital receipts are not liable to capital gains tax.

Sec.45 to Sec.55A deals with the computation of capital gains. The main sections in this head are given below :

Section 45	Capital gains
Section 46	Capital gain on distribution of asset by companies in liquidation
Section 47	Transactions not regarded as transfer
Section 48	Mode of computation of capital gain
Section 49	Deemed cost of acquisition
Section 50	Special provision for computation of capital gains in case of depreciable assets
Section 51	Advance money received
Section 54	Profit on sale of property used for residence
Section 54B to 54GA	Various exemptions from capital gain
Section 55	Meaning of cost of improvement and cost of acquisition.

8.2 MEANING OF CAPITAL GAIN

Any profits arising from the transfer of a capital asset is called capital gain. The following are the essential conditions for taxing capital gains.

1. There must be a capital asset.
2. The capital asset must have been transferred.
3. There must be profit or gain on such Transfer, which will be known as Capital Gain.
4. Such capital gain should not be exempt u/s 54, 54B, 54D, 54EC, 54ED, 54F or 54G of the Act.

8.3 MEANING OF CAPITAL ASSET

Capital asset means property of any kind held by assessee, whether or not connected with his business or profession. It includes plant and machinery, building – whether business premises or residential, all assets of business, goodwill, patent rights etc. but does not include the following.

1. **Stock-in-trade**, raw materials and consumable stores held for the purposes of business or profession.
2. **Personal effects of movable nature**, such as furniture, utensils, vehicles held for personal use by the assessee or any dependent member of his family. However, jewellery is a capital asset. The personal effects like archaeological collections, drawings, paintings, sculptures or any other work of art has been excluded from the definition of capital assets.
3. **Rural Agricultural Land** : Agricultural land in India provided it is not situated –
 - (a) in any area within the territorial jurisdiction of a municipality or a cantonment board, having a population of 10,000 or more; or
 - (b) in any notified area;
 - (i) not being more than 2 kilometers, from the local limits of any municipality or cantonment board referred top in item (A) and which has a population of more than 10,000 but not exceeding 1,00,000; or
 - (ii) not being more than 6 kilometers, from the local limits of any municipality or cantonment board referred to in item (A) and which has a population of more than 1,00,000 but not exceeding 10,00,000; or
 - (iii) not being more than 8 kilometers, from the local limits of any municipality or cantonment board referred to in item (A) and which has a population of more than 10,00,000. The income derived from such building on, or in the immediate vicinity of such land will not be agricultural income. For the purpose of clauses (ii) of the proviso to sub-clause (c) “population” means the population according to the last preceding census of which the relevant figures have been published before the first day of the previous year.
4. **6½ per cent Gold bonds**, 1977 or 7 per cent Gold bonds, 1980 or National Defence Gold Bonds, 1980 issued by the Central Government.
5. **Gold Bonds issued by Government** of India including gold deposit bonds issued under the gold deposit scheme, 1999 notified by the central Government.

6. **Special Bearer Bonds, 1991** issued by the Government of India.
7. **Deposit Certificates** issued under the Gold Monetisation Scheme, 2016 w.e.f. Assessment year 2017-18

8.4 TRANSFER OF CAPITAL ASSET

Transfer basically means the act by which a person conveys property to one or more persons. Transfer means effective conveyance of the capital asset to the transferee. As per Section 2(47), 'transfer' includes –

- (i) **Sale or exchange of the asset:** A sale takes place when title in the property is transferred for a price. While an exchange takes place when title in one property is passed in consideration of the title in another property. A sale can be said to have taken place on the date of execution of the sale deed and not on the date of the agreement to sell.
- (ii) **Relinquishment of the asset :** Relinquishment of a capital asset arises when the owner surrenders his rights in a property in favour of another person. For example, the renunciation of right to subscribe to shares in a company under a 'Rights Issue' to a third person.
- (iii) **Extinguishment of any right in the asset:** This covers ever possible transaction which results in destruction, annihilation, extinction, termination, cessation, or cancellation of all or any bundle of rights in a capital asset. In the opinion of the Board of Editors, redemption of debt instruments like debentures, fixed deposits and bonds, shall amount to transfer (since it involves extinguishment of rights) and the capital gains/loss should be computed on such event. It may be noted that fixed deposits with banks and public sector companies; have been held to be 'capital asset'. Similarly, buy-back of shares by a company amounts to extinguishment of rights in the shares, and is this regarded as transfer.
- (iv) **Compulsory acquisition** of the asset under any law;
- (v) **Conversion of the asset** into stock-in-trade of a business carried on by the owner of the asset;
- (vi) **Maturity or redemption** of a zero coupon bond issued by an infrastructure capital company/fund or a public sector company on or after 1.6.2005 and

- notified by the Central Government, in respect of which no payment or benefit is received or receivable before maturity/redemption;
- (vii) **Handing over the possession** of an immovable property in part performance of a contract for the transfer of that property;
 - (viii) **Transactions involving** transfer of membership of a group housing society, company, etc., which have the effect of transferring or enabling enjoyment of any immovable property or any rights therein;
 - (ix) **Distribution of assets** on the dissolution of a firm, body of individuals or association of persons;
 - (x) **Transfer of a capital** asset by a partner or member to the firm or AOP, whether by way of capital contribution or otherwise; and
 - (xi) **Transfer, under a gift** or an irrevocable trust, of shares, debentures or warrants allotted by a company directly or indirectly to its employees under the Employee's Stock Option Plan or Scheme of the company as per Central Govt. guidelines.

8.5 YEAR OF TAXABILITY

Capital gains form part of the taxable income of the previous year in which the transfer giving rise to the gains takes place. Thus, the capital gain shall be chargeable in the year in which the sale, exchange, relinquishment, etc. takes place. [Sec. 45(1)]. Where the transfer is by way of allowing possession of an immovable property in part performance of an agreement to sell, capital gain shall be deemed to have arisen in the year in which such possession is handed over. If the transferee already holds the possession of the property under sale, before entering into the agreement to sell, the year of taxability of capital gains is the year in which the agreement is entered into.

Destruction or Damage : In case of destruction or damage of a capital asset in fire, flood, riot, etc., and receipt of any money or asset as insurance claim, the capital gain shall be chargeable to tax in the year such money or asset is received. In case of transfer by way of conversion of a capital asset into stock-in-trade of a business, the capital gains are deemed to arise in the year in which such stock-in-trade is sold or otherwise transferred. [Sec. 45(2)]

Compulsory acquisition : In cases of compulsory acquisition of a capital asset, the amount of compensation or consideration or any part thereof, originally awarded is charged to tax in the year it is received. Any additional compensation shall be taxable in

the year of its receipt. Any interim compensation awarded by a court/tribunal shall be taxable in year it is so ordered. Where the amount of consideration/compensation or the enhanced consideration/ compensation is subsequently reduced by any court order, the capital gain shall be recomputed with reference to such reduced consideration/compensation. [Sec. 45(5)]

8.6 TYPE OF CAPITAL ASSETS AND CAPITAL GAINS

Period of Holding a Capital Asset:

For classification of capital asset as short-term or long-term, its period of holding by the assessee becomes important. Generally speaking, period of holding a capital asset is the duration from the date of its acquisition on the date of its transfer.

1. Short Term assets and short term capital gain :

A capital asset held by the assessee for not more than the specified period immediately preceding the date of its transfer is called as 'short term capital asset', and capital gain arising on its transfer is called 'short term capital gain.' The specified period is as under:

(i)	Shares in a company, Securities (other than units)	12 months
	(a) Listed securities on stock exchange	
	(b) Unlisted securities	36 months
(ii)	Units of	
	(a) Equity-oriented mutual fund	12 months
	(b) Other than equity-oriented mutual fund - transferred after 10.7.2014	36 months
(iii)	Zero Coupon Bond	12 months
(iv)	An immovable property, being land or building or both -	
	- transferred upto 31.3.2017	36 months
	- transferred on or after 1.4.2017	24 months
(v)	Other capital assets	36 months

2. Long Term asset and Long term capital gain :

The gain resulted in the transfer of capital asset is known as short term capital gain. A capital asset held by the assessee for more than the specified period (as above) is called 'long-term capital asset' and capital gain arising on its transfer is called 'long-term capital gain'.

Differences between short-term and long-term capital gain:

S. No.	Short-term capital gain (STCG)	Long-term capital gain (LTCG)
(i)	STCG is included in the Gross total income of the assessee and taxed as per rate applicable to that assessee.	LTCG is in Gross total income and is taxed on the flat rate of 20% (10% in certain case or Nil in certain cases).
(ii)	Deductions under sections 80C to 80U are available.	Deductions under sections 80C to 80U are not available.
(iii)	Set-off of minimum exemption limit is available from all STCGs for resident as well as Non-resident.	Set-off of minimum exemption limit is available only for resident.
(iv)	STCL can be set-off against STCG and LTCG	LTCL can be set-off against only LTCG
(v)	Cost of acquisition & Cost of improvement are not indexed in case of STCG.	Cost of acquisition & Cost of improvement are indexed in case of long-term capital gains.

8.7 COMPUTATION OF CAPITAL GAINS

The income chargeable under the head "Capital gain" is to be computed by calculating gain or loss from short-term and long-term capital gain separately. (Sec.48)

Method of Computation of Capital gains**1. Calculation of Short-term Capital Gain**

1.	Sale Price		xxx
2.	Less : (i) Transfer expenses	xxx	
	(ii) Cost of acquisition	xxx	
	(iii) Cost of improvement	xxx	xxx
3.	Gross Capital gain/Loss		xxx
4.	Less : Deductions : Sec.54B, 54D, 54G, 54GA		xxx
5.	Taxable Capital Gain/Loss		xxx

2. Calculation of Long-term Capital Gain

1.	Sale Price		xxx
2.	Less : (i) Transfer expenses	xxx	
	ii. Indexed Cost of acquisition	xxx	
	iii. Indexed Cost of improvement	xxx	xxx
3.	Gross Capital gain/Loss		xxx
4.	Less : Deductions : Sec. 54, 54B, 54D, 54EC, 54F, 54G, 54GA, 54GB		xxx
5.	Taxable Long-term Capital Gain/Loss		xxx

Notes

- Any amount paid on account of security transaction tax shall not be allowed to be deducted under Section 48. For computing long-term capital gains,
- 'Index cost of Acquisition' and Indexed Cost of Improvement' are required to be deducted from the full value of consideration of a capital asset. Both these costs are then required to be indexed with respect to the cost of Inflation Index.

Indexed Cost of Acquisition =

$$\frac{\text{Cost of acquisition} \times \text{Cost inflation index for the year of transfer}}{\text{Cost inflation index for the year of acquisition or 2001-02 whichever is later}}$$

Indexed Cost of Improvement =

$$\frac{\text{Cost of improvement} \times \text{Cost inflation index for the year of transfer}}{\text{Cost inflation index for the year of improvement}}$$

- In case of bonds and debentures**, except capital indexed bonds issued by the Government, the cost of acquisition and cost of improvement **shall not be indexed**.

Methods of Computation of Capital Gains

Short-term Capital Gain		Long-term Capital Gain	
(A)	Find out Full Value of Consideration	(A)	Find out Full Value of Consideration
(B)	Deduct:	(B)	Deduct:
	(i) Expenditure incurred wholly and exclusively in connection with such Transfer.		(i) Expenditure incurred wholly and exclusively in connection with such Transfer.
	(ii) Cost of Acquisition		(ii) Indexed Cost of Acquisition

	(iii) Cost of Improvement		(iii) Indexed Cost of Improvement
	(iv) Exemption provided by sections 54B, 54D & 54G, 54GA		(iv) Exemption provided by sections 54, 54B, 54D, 54EC, 54ED, 54F & 54G, 54GA, 54 GB.
(C)	(A-B) is short-term capital gain	(C)	(A-B) is a long-term capital gain

1. Ascertain the **full value of consideration** received or accruing as a result of the transfer.
2. **Deduct** from the full value of consideration –
 - (i) **Transfer expenditure** like brokerage, legal expenses, etc.,
 - (ii) **Cost of acquisition** of the capital asset/indexed cost of acquisition in case of long-term capital asset; and
 - (iii) **Cost of improvement** to the capital asset/indexed cost of improvement in case of long-term capital asset.
3. The balance left-over is the gross capital gain/loss.
4. Deduct the amount of permissible exemptions u/ss 54, 54B, 54D, 54EC, 54EE, 54F, 54G, 54GA, 54GB and 54H, etc.
5. The balance is the net capital gain/loss, chargeable to tax.

Illu.1 : Mr. Subbaiah acquired a house property for Rs.50,000 in 1985-86. On his death in October 1987, the house was acquired by his son Mr. Anil. The market value of the house as on 1.4.2001 was Rs.6,00,000. This house was acquired by the Government on 15.3.2009 and a compensation of Rs.16,00,000 is paid to him on 20.1.2018. Mr. Anil filed a suit against the Government challenging the quantum of compensation and the court ordered for giving additional compensation of Rs.14,00,000 on 22.4.2018. He incurred expenditure of Rs.40,000 as expenditure in connection with the suit. The additional compensation was received on 25.5.2018. Compute Capital Gains chargeable to tax.

Solution:

**Computation of Long Tem Capital Gains
(Assessment year 2018-19)**

Particulars	Rs.
Consideration for transfer (being the compensation)	16,00,000
Less: Indexed Cost of Acquisition $6,00,000 \times 272/100$	16,32,000
Long Term Capital Loss	32,000

Notes: This loss shall be carried forward for adjustment only against Long Term Capital Gains arising within the next 4 Assessment Years.

**Computation of Long Term Capital Gains
(Assessment year 2019-20)**

Particulars	Rs.
Court order for Enhanced Compensation	14,00,000
Less: Cost of Acquisition	NIL
Cost of Improvement	NIL
Expenses on Transfer	40,000
Long Tern Capital Gains	13,60,000
Less: Long Term Capital loss – Set off from the Assessment Year 2018-19	32,000
Balance of LTCG	13,28,000

8.8 FULL VALUE OF CONSIDERATION:

This is the amount for which a capital asset is transferred. It may be in money or money's worth or combination of both. For instance, in case of a sale, the 'full value of consideration' is the full sale price actually paid by the transferee to the transferor. Where the transfer is by way of exchange of one asset for another or when the consideration for the transfer is partly in cash and partly in kind, the fair market value of the asset received as consideration and cash consideration, if any, together constitute full value of consideration. In certain cases the determination of full value of consideration is given below.

- 1. Damage or destruction :** In case of damage or destruction of an asset in fire, flood, riot, etc., the amount of money or the fair market value of the asset

- received by way of insurance claim, shall be deemed as full value of consideration. [Sec. 45(1A)]
2. **Conversion** : In case of conversion of a capital asset into stock-in-trade, the fair market value of the asset as on the date of such conversion shall be deemed to be its full value of consideration. [Sec. 45(2)]
 3. **Transfer** : In case of transfer of a capital asset by a person to a firm or AOP/BOI on becoming a partner or member therein, the amount recorded in the books of account of the firm or AOP shall be deemed to be its full value of consideration. In case of transfer of a capital asset by a firm or AOP/BOI on its dissolution, the fair market value of the asset on the date of transfer shall be deemed to be its full value of consideration. In case, shares, debentures or warrants allotted under Employees' Stock Option Scheme, are transferred under a gift or an irrevocable trust, their market value as on the date of transfer shall be deemed to be the full value of consideration.
 4. **Consideration in non-monetary** : Any consideration which cannot be expressed in money's worth does not form part of full value of consideration for the transfer.

Stamp Duty Value to be Full Value of Consideration in case of Land and/or Building: [Sec. 50C] : Where the full value of consideration declared in respect of transfer of any land and/or building, held as a capital asset and not as stock-in-trade, is less than the value adopted or assessed or assessable by the State stamp valuation authority in respect of such transfer, the value so adopted or assessed or assessable shall be deemed to be the full value of consideration, and capital gains computed accordingly. However, where the stamp duty value does not exceed 105% of the declared consideration, such consideration shall be deemed to be the full value of consideration, and capital gains computed accordingly.

Where the date of agreement fixing the amount of consideration for transfer of immovable property and the date of registration are not the same, and the consideration or a part thereof has been paid by way of account payee cheque/bank draft or through ECs, on or before the date of agreement for transfer, the stamp duty value on the date of agreement may be taken as the full value of consideration.

Reference to the Valuation Officer : Where the assessee claims that the value adopted or assessed or assessable for stamp duty purposes exceeds the fair market value, and he has not disputed the same in any appeal or revision or reference before

any court, the Assessing Officer may refer the valuation of the relevant asset to a Valuation Officer. Then the Assessing Officer shall take the value determined by the Valuation Officer or the value adopted for stamp duty purposes, whichever is less.

For ascertaining the fair market value of a capital asset, the Assessing Officer may refer its valuation to the Valuation Officer appointed by the Income-tax Department in following circumstances:

- (i) Where the value of the asset as claimed by the assessee is based on valuation by a registered valuer, and the Assessing Officer is of the opinion that such value is at variance with its fair market value. Accordingly, in case where the fair market value as on 1.4.2001 is deemed by the assessee as cost of acquisition of a capital asset, and the Assessing Officer views that such value is higher, then he may make a reference to the Valuation Officer.
- (ii) Where the Assessing Officer is of the opinion that the value of the asset as claimed by the assessee is less than its fair market value by Rs.25,000 or 15%, whichever is less;
- (iii) Where the Assessing Officer is of the opinion that having regard to the nature of the asset and relevant circumstances, it is necessary to do so.

Illu.2 Mr. John acquired a plot in Eluru on 1.5.2016 for Rs.10 lakhs (value assessed for stamp duty purpose was Rs.12 lakhs). He sells the plot on 25.3.2018 for Rs.20 lakhs. However, the Stamp Duty authority assessed its value at Rs.25 lakhs.

- (a) In case Mr. John accepts the stamp duty value, calculate capital gain for the assessment year 2018-19.**
- (b) If Mr. John Challenges the value assessed by the stamp duty authority and the value is finally assessed at Rs.22 lakhs then what will be the capital gain.**
- (c) If Mr. John does not dispute the value assessed by the stamp duty authority but claims before the assessing officer that the stamp duty value exceeds its fair market value, and the assessing officer refers its valuation to the valuation officer who determines its value at Rs.28 lakhs.**

Solution :

**(a) Computation of Capital gain of Mr. John
(Assessment year 2018-19)**

	Rs.
Full value of sale consideration (Value assessed by Stamp Duty authority)	25,00,000
Less: Cost of acquisition	10,00,000
Short-term capital gain	15,00,000

Note : It is short term capital gain as it was held for less than 24 months.

- (a)** When Mr. John challenges the value assessed by the Stamp Duty authority and the value is finally assessed at Rs.22 lakhs, then the full value of consideration shall be taken at Rs.22 lakhs.
- (b)** In case Mr. John does not dispute the value assessed by the Stamp Duty authority but claims before the Assessing Officer that the stamp duty value exceeds its fair market value, and the Assessing Officer refers its valuation to the Valuation Officer who determines its value at Rs.28 lakhs, then the Assessing Officer shall adopt Rs.25 lakhs (stamp duty value) as its full value of consideration.

Fair Market Value to be Full Value of Consideration when Actual Consideration not determinable: [Sec.50D] : When the actual consideration received or accruing as a result of transfer of a capital asset is not ascertainable or determinable, then its fair market value as on the date of its transfer shall be deemed to be its full value of consideration.

8.9 COST OF ACQUISITION

Cost of acquisition is the amount for which the capital asset was originally purchased by the assessee. Expenditure incurred in connection with such purchase, exchange or other transaction e.g. brokerage paid, registration charges and legal expense, is added to price or value of consideration for the acquisition of the asset. Interest paid on moneys borrowed for purchasing the asset is also part of its cost of acquisition. In case of depreciable asset of an undertaking engaged in generation or generation and distribution of power, its written down value shall be taken as its cost of acquisition.

Cost of Acquisition in case of Capital Asset acquired before 1.4.2001: Where capital asset became the property of the assessee before 1.4.2001, he has an option to adopt the fair market value of the asset as on 1.4.2001, as its cost of acquisition.

For example, Mr. Dil purchased a house on 10.1.1980 for Rs.2,00,000. Its fair market value as on 1.4.2001 is determined at Rs.10,00,000. He sells the house during 2017-18 for Rs.25,00,000. Mr. Dil may opt for its fair market value as on 1.4.2001 (Rs.10 lakhs) as the cost of acquisition of the house for the purpose of computation of capital gains.

Cost of Acquisition of Previous Owner: Where the asset was not originally purchased by the assessee but it passed on to him under any of the following circumstances, the cost of acquisition in the hands of the assessee shall be the cost for which the previous owner acquired it :-

- (i) Distribution of assets on total or partial partition of an H.U.F.;
- (ii) Transfer under a gift or will or by succession, inheritance or devolution;
- (iii) Distribution of assets on dissolution, before 1.4.1987, of a firm, AOP/BOI or on liquidation of a company;
- (iv) Under a transfer to a revocable or an irrevocable trust;
- (v) Under a transfer referred to in Section in certain cases.
- (vi) Conversion after 31.12.1969, of separate property of its member of an H.U.F. into the H.U.F.'s property or transfer of any such separate property of the family otherwise than for adequate consideration.

Cost of Acquisition of Long-term Equity Shares/Units of Equity-oriented Mutual Fund Acquired before 1.2.2018: The cost of acquisition of equity shares in a company or units of an equity-oriented mutual fund or of a business trust (referred to u/s 112A), acquired before 1.2.2018 and held for long-term (i.e. more than 12 months) shall be higher of following amounts –

- (1) **Actual cost of acquisition :** (a) Where the shares/units were acquired before 1.4.2001, their fair market value on that date may be deemed as their actual cost.
(b) Cost of acquisition of previous owner shall be taken where the shares/units passed on to the assessee in circumstances mentioned in section 49(1).
- (2) Fair market value (as on 31.1.2018 or the immediately preceding day on which last traded) or full value of consideration for the shares/units, whichever is lower.
'Fair market value' means : (a) In case of listed shares/units, the highest price quoted on the stock exchange where listed, (b) In case of unlisted units the net

assets value (NAV), (c) In case of equity shares not listed as on 31.1.2018 or acquired in consideration of shares not listed as on 31.1.2018 in a transaction not deemed as transfer u/s 47, but listed as on the date of transfer, then an amount equal to –

$$\frac{CII * \text{for the year } 2017 - 18}{CII * \text{for the year in which shares were}} \times \text{Cost of Acquisition.}$$

Forfeiture of Advance Money Received: Where there were any negotiations for transfer of an asset, and any advance or other money was received by the vendor under those negotiations, and the same was retained and forfeited by him on the negotiation becoming infructuous, for any reasons, the amount so forfeited shall be deducted from the 'cost of acquisition' (i.e. the actual cost of the fair market value as on 1.4.2001, at the option of the assessee and the written down value in case of depreciable assets), of that asset, in computing the capital gains arising on the effective transfer of that asset. However, where such forfeited amount of advance has been subjected to tax as income from other sources u/s 56(2)(ix), then this amount shall not be deducted from the 'cost of acquisition' of the capital asset. [Sec. 51]

The term 'other money' includes earnest money deposits made by the purchaser for guaranteeing due performance of the contract and not forming part of the consideration.

Illu.3: Mr. Goswamy acquired a house on 25.9.2000 for Rs.7,00,000. The fair market value of the house as on 1.4.2001 is ascertained at Rs.7,50,000. On 3.3.2014 Mr. Goswamy entered into an agreement to sell the house for Rs.15 lakhs and received Rs.1,50,000 as advance money, which he forfeited on buyer's failure to pay the balance amount. On 20.5.2017 Mr. Goswamy ultimately sold the house for Rs.20 lakhs. Calculate the value of capital gain.

Solution :

**Computation of Capital gain
(Assessment year 2018-19)**

	Rs.
Full value of consideration	20,00,000
Less: Indexed cost of acquisition $\left[(7,50,000 - 1,50,000) \times \frac{272}{100} \right]$	16,32,000
Long-term capital gain	3,68,000

Notes: (1) The fair market value of the house as on 1.4.2001 (Rs.7.5 lakhs) is taken its cost of acquisition.

(2) The amount forfeited in an infructuous transaction (Rs.1.5 lakhs) is to be deducted from the cost of acquisition (before indexation).

(3) W.e.f. A.Y. 2015-16, amount forfeited in an infructuous transaction shall be taxable as 'income from other sources' u/s 56(2)(ix) and where so taxed the same shall not be deducted from the cost of acquisition of the asset.

Illu.4: Mr. Amitab acquired a plot on 20.5.1993 for Rs.4.88 lakhs. Its fair market value as on 1.4.2001 is ascertained at Rs.9,00,000. On 3.12.2016 Mr. Amitab entered into an agreement to sell the plot for Rs.40 lakhs and received Rs.4,00,000 as advance money, which he forfeited on buyer's failure to pay the balance amount. On 15.3.2018 Mr. Amitab ultimately sold the plot for Rs.45 lakhs. Calculate the value of capital gain.

Solution :

**Computation of Capital Gain of Mr. Amitab
(Assessment year 2017-18)**

	Rs.
Income from Other Sources	
Advance Money forfeited under infructuous transfer [Sec.56(2)]	4,00,000
Computation for A.Y. 2018-19	
Capital Gain	
Full value of consideration	45,00,000
Less: Indexed cost of acquisition $\left[Rs.9,00,000 \times \frac{272}{100} \right]$	24,48,000
Long-term capital gain	20,52,000

Note: The amount forfeited in an infructuous transaction (Rs.4 lakhs) is taxable as income from other sources u/s 56(2)(ix) w.e.f. A.Y. 2015-16. And when so taxed, this amount shall not be reduced from the cost of acquisition of the capital asset.

Restriction on Acceptance/Repayment of Advance, etc. against Transfer of Immovable Property in Cash: No person shall accept from any other person, any sum as advance or otherwise, in relation to transfer of an immovable property, if such sum (including any loan, deposit or sum accepted earlier from that person) is Rs.20,000 or more, except by an account payee cheque/bank draft or by ECS. Similarly, no person

shall repay any sum accepted as advance or otherwise, against transfer of an immovable property, if such sum (including interest thereon, if any) is Rs.20,000 or more, except by an account payee cheque/bank draft or by ECS. [Sec.269T]

Note: The above restrictions shall apply, whether the transfer takes place or not.

8.10 COST OF IMPROVEMENT:

Cost of improvement means all capital expenditure incurred in making additions or alternations to the capital asset, by the assessee (or the previous owner). Betterment charges levied by municipal authorities also constitute cost of improvement. Compensation paid to tenants for getting vacant possession amounts to cost of improvement. However, only the capital expenditure incurred by the assessee on or after 1.4.2001, is to be considered and that incurred before 1.4.2001 is to be ignored.

Improvement should be to the capital asset; expenditure incurred on improving the owner's title to the asset is not to be included in 'cost of improvement'. In case of intangible assets like goodwill, right to manufacture, etc. cost of improvement shall be nil.

8.11 TRANSFER EXPENSES:

Transfer expenses include brokerage paid for arranging the deal, legal expenses incurred for preparing conveyance deed and other documents, cost of inserting advertisement in newspapers for sale of the asset and commission paid to auctioneer. However, it is necessary that the expenditure should have been incurred wholly and exclusively in connection with the transfer. An expenditure incurred primarily for some other purpose but which has helped in effecting the transfer does not qualify for deduction. For instance, salary of an employee who helps in maintenance of capital assets, carries out works in connection with transfer, maintains accounts for the capital assets and capital gains, etc., is not deductible.

8.12 INDEXED COST OF ACQUISITION/IMPROVEMENT:

For computing long-term capital gains, 'Indexed Cost of Acquisition' and 'Indexed Cost of Improvement' are required to be deducted from the full value of consideration of the capital asset. Both these costs are thus required to be indexed with respect to the

Cost Inflation Index pertaining to the year of transfer. Accordingly, 'Indexed Cost of Acquisition' and 'Indexed Cost of Improvement' shall be computed as under:

Indexed Cost of Acquisition =

$$\frac{\text{Cost of Acquisition} \times \text{Cost Inflation Index for the year of transfer}}{\text{Cost Inflation Index for the year of acquisition or 2001-02, whichever is later}}$$

Indexed cost of Improvement =

$$\frac{\text{Cost of Improvement} \times \text{Cost Inflation Index for the year of transfer}}{\text{Cost Inflation Index for the year of Improvement}}$$

Cost Inflation Index: The Government has notified the following Cost Inflation Index w.e.f. 1.4.2018 (i.e. A.Y. 2018-19):

S. No.	Financial Year	C.I.I.	S. No.	Financial Year	C.I.I.
1.	2001-02	100	10.	2010-11	167
2.	2002-03	105	11.	2011-12	184
3.	2003-04	109	12.	2012-13	200
4.	2004-05	113	13.	2013-14	220
5.	2005-06	117	14.	2014-15	240
6.	2006-07	122	15.	2015-16	254
7.	2007-08	129	16.	2016-17	264
8.	2008-09	137	17.	2017-18	275
9.	2009-10	148	18.	2018-19	-

Cost of acquisition and cost of improvement shall not be indexed, in case of :

- (a) Shares in, or debentures of, an Indian company acquired by a non-resident in foreign currency.
- (b) Equity shares or units of an equity –oriented mutual fund/a business trust,
- (c) Bonds and debentures, except (i) capital indexed bonds issued by the Govt. and (ii) Sovereign Gold Bonds issued under the Sovereign Gold Bonds Scheme, 2015.

Illu.5: Mr. Venkaiah purchased a house for Rs.1,50,000 in 1999. The fair market value on 1.4.2017 was Rs.7,20,000. He sold the house for Rs.24,00,000 on 15.12.2017. Find out the Indexed cost of acquisition.

Solution:

**Calculation of Capital Gain of Mr.Venkaiah
(Assessment year 2018-19)**

Particulars	Rs.
Sale consideration	24,00,000
Less: Indexed Cost of Acquisition ($7,20,000 \times 272/100$)	19,58,400
Long Term Capital Gain	4,41,600
Cost of acquisition (Fair Market Value on 1.4.2001 or Cost of Acquisition, whichever is more) \times Cost Inflation Index of the year in which the asset is transferred / Cost Inflation Index of the year acquisition (or Base Year i.e. 100)	
$= 7,20,000 \times 272/100 = \text{Rs.}19,58,400$	

Illu.6: Ms. Nayanatara purchased a house for Rs.25,000 in 1995. She incurred Rs.20,000 towards adding one more room on 12.4.1996. The fair market value on 1.4.2001 was Rs.1,20,000. She constructed one more floor for Rs.1,00,000 on 10.12.2007. She sold the house for Rs.9,00,000 on 10.4.2017. Find out the Capital gain.

Solution:

**Calculation of Capital gain of Ms. Nayanathara
(Assessment year 2018-19)**

Particulars	Rs.	Rs.
Fair Market value on 1.4.2001		1,20,000
Sale Consideration		9,00,000
Less : Indexed cost of acquisition $1,20,000 \times 272/100$	3,26,400	
Cost of Improvement $1,00,000 \times 272/129$	2,10,852	5,37,252
Capital Gain		3,62,748

Illu.7: Mr. Rajasekhar purchased a house property on 3.10.2005 for Rs.9,00,000. He incurred Rs.2,50,000 during the month of February 2011. He sold the house for Rs.17,50,000 on 12.6.2017. Calculate the capital gain.

Solution:

**Calculation of Capital gain of Mr. Rajsekhar
(Assessment year 2018-19)**

	Rs.	Rs.
Sale Consideration		17,50,000
Less : Indexed cost of acquisition $9,00,000 \times 272/117$	20,92,308	
Cost of Improvement $2,50,000 \times 272/167$	4,07,186	24,99,494
Capital Loss		(-) 7,49,494

Illu.8 : Mr. Chowdary & Sons, HUF, purchased a land for Rs.5,00,000 in 2005-06. In 2010-11, a partition takes place when Mr. Hari a coparcener, is allotted this plot valued at Rs. 8,00,000. In 2011-12, he had incurred expenses of Rs.3,00,000 towards fencing of the plot. Mr. Hari sells this plot of land for Rs.1,00,00,000 in 2017-18 after incurring expenses to the extent of Rs.2,00,000. Compute the capital gain for the assessment year 2018-19.

Financial Year	Cost of Inflation Index
2005-06	117
2010-11	167
2011-12	184
2017-18	272

Solution:

**Computation of taxable capital gains of Mr. Hari
(Assessment year 2017-18.)**

Particulars		Amount (in Rs.)
Sale consideration		1,00,00,000
Less: Expenses incurred for transfer	2,00,000	
Less: (i) Indexed cost of acquisition = $8,00,000 \times 272 \div 167$	13,02,994	
(ii) Indexed cost of improvement = $3,00,000 \times 272 \div 184$	4,43,478	19,46,472
Long Term capital gain		80,53,538

8.13 CAPITAL GAINS EXEMPT FROM TAX:

1. Capital Gains from Transfer of a Residential House: [Sec.54]:

Any long-term capital gains arising on the transfer of a residential house (including self-occupied house), to an individual or HUF, will be exempt from tax if the assessee has within a period of one year before or two years after the date of such transfer purchased, or within a period of three years constructed, one residential house in India. Where the building as such was held for a period of less than 36 months prior to date of transfer whereas land was a long-term capital asset, assessee was held entitled to benefit of section 54 in respect of both land and building.

Amount of exemption : The amount of exemption available is equal to the amount so utilised or the amount of capital gain, whichever is less. If the whole or any part of the capital gain cannot be so utilised for acquisition of a residential house before filing the return, the same should be deposited in Capital Gains Account Scheme, 1988 in order to claim exemption, before the due date for furnishing the return.

If the amount of capital gain is appropriated towards purchase of a plot and also towards construction of a residential house thereon, the aggregate cost should be considered for determining the quantum of deduction, provided that the acquisition of plot and also the construction thereon, are completed within the specified period as aforesaid. It has been held that the date of commencement of construction of new residential house is immaterial. If the assessee constructs the new house within the specified period (3 years) from the date of sale of old capital asset, he shall be entitled to relief u/s 54. The construction of new house may commence even before sale of old house. However, the construction of new house should not be complete before the transfer of old house.

For availing this exemption, the assessee must not transfer the new house, within a period of three years from the date of its purchase or construction, as the case may be. Otherwise the exemption allowed under this section shall be reduced from the cost of the new house, in computing the capital gains arising therefrom.

2. Capital Gains from Transfer of Agricultural Land : [Sec.54B]:

Any capital gain (both short-term and long-term) arising to an individual or H.U.F. from transfer of any land, which was used by the assessee or his parent (in case of individual assessee) for agricultural purpose in the immediately preceding two years,

shall be exempt from tax, if the assessee purchases within 2 years from the date of such transfer, any other land (to be used for agricultural purposes). Other-wise, the amount can be deposited under Capital Gains Account Scheme, 1988 before the due date for furnishing the return.

Amount of exemption : The amount of exemption allowable is equal to the amount of capital gain or the cost of new agricultural land purchased (including the amount deposited in Capital Gains, Account Scheme), whichever is less. The new land is not to be transferred for a period of three years from the date of its purchase, otherwise the amount of exemption allowed earlier shall be withdrawn, by reducing this amount from the case of the new land, in computing the capital gains arising from its transfer.

3. Capital Gains from Compulsory Acquisition of Industrial Undertaking: [Sec. 54D]:

Any capital gain arising from the transfer by way of compulsory acquisition of land or building of an industrial undertaking, shall be exempt, if the assessee purchases/ constructs within three years from the date of compulsory acquisition, any land or building forming part of industrial undertaking. Otherwise, the amount can be deposited under the 'Capital Gains Accounts Scheme, 1988' before the due date for furnishing the return.

Amount of exemption : The amount of capital gain exempt shall be equal to the capital gain or the cost of new land or building purchased or constructed (including the amount deposited under the CGA scheme), whichever is less. The new land or building purchased or constructed, as the case may be, is not to be transferred for a period of three years from its purchase or construction, otherwise the exemption allowed shall be withdrawn, by reducing it from the cost of the new land or building, in computing the capital gains arising from their transfer.

4. Capital Gains invested in Certain Bonds: [Sec.54EC]:

Any long-term capital gain arising from transfer [of land or building or both] that takes place on or after 1.4.2000, shall be exempt if the whole of the amount of such capital gain is invested in long-term specified assets i.e. bonds issued by National Highway Authority of India (NHAI) or Rural Electrification Corporation Ltd., or any other notified bonds (i.e. bonds issued on or after 15.6.2017 by Power Finance Corporation Ltd. and bonds issued on or after 8.8.2017 by Indian Railway Finance Corpn. Ltd.), within a period of six months from the date of transfer. The amount of investment in long-term specified assets by an assessee during a financial year shall not exceed Rs.50 lakhs.

Maximum exemption : Also, the amount of investment in long-term specified assets by an assessee, out of capital gains arising on transfer of one or more original assets, during the financial year in which such original asset(s) are transferred and in the subsequent year, shall not exceed Rs.50 lakhs. In other words, in respect of long-term capital gains arising during a financial year, deduction can be claimed by making investment in long-term specified assets subject to a maximum of Rs.50 lakhs. It, however, only a part of the capital gain is invested in the specified bonds, the amount of capital gain exempt shall be equal to the amount so invested.

Such bonds issued up to 31.3.2018 shall be redeemable after three years [and those issued on or after 1.4.2018 shall be redeemable after 5 years.] If the specified bonds are transferred or otherwise converted into money or the assessee takes any loan or advance on the security of such bonds, within a period of three years [(or five years in case of bonds issued on or after 1.4.2018)] from the date of their acquisition, the amount of capital gain claimed to be exempt (as above) shall be taxable as long-term capital gain for the year in which the bonds are so transferred or converted or encumbered.

Where exemption has been claimed in respect of any investment in specified bonds under this provision, no deduction u/s 80C shall be allowed with reference to such investment.

5. Capital Gains invested in Units of a Notified Fund for Financing Start-Ups:

[Sec.54EE]:

Any long-term capital gain shall be exempt if the whole of the amount of such capital gain is invested, within a period of six months from the date of transfer, in long-term specified assets i.e. units issued up to 31.3.2019 by a notified fund set up for financing start ups. The amount of investment in long-term specified assets by an assessee during a financial year shall not exceed Rs.50 lakhs.

Maximum exemption : Also, the amount of investment in long-term specified assets by an assessee, out of capital gains arising on transfer of one more original assets, during the financial year in which such original asset(s) are transferred and in the subsequent year, shall not exceed Rs.50 lakhs. In other words, in respect of long-term capital gains arising during a financial year, deduction can be claimed by making investment in long-term specified assets subject to a maximum of Rs.50 lakhs. If, however, only a part of the capital gain is invested in the specified units, the amount of capital gain exempt shall be equal to the amount so invested. If the specified units are transferred or the assessee takes any loan or advance on the security of such units,

within a period of three years from the date of their acquisition, the amount of capital gain claimed to be exempt (as above) shall be taxable, as long-term capital gain for the year in which the units are so transferred or encumbered.

6. Capital Gains from an Asset other than Residential House: [Sec. 54F]:

Any long-term capital gain arising to an individual or HUF, from the transfer of any asset, other than a residential house, shall be exempt if the whole of the net consideration is utilised within a period of one year before or two years after the date of transfer for purchase, or within 3 years in construction, of one residential house in India.

Amount of exemption : If, however, only a part of net consideration is so utilised, the amount of exemption shall be equal to:

$$\frac{\text{Capital Gains} \times \text{New Residential House}}{\text{Amount of Net Consideration}}$$

Further, if the amount cannot be so utilised before filing the return, then in order to avail of the exemption, it may be deposited under the Capital Gains Accounts Scheme, 1988 before the due date for filing the return u/s 139. Where an assessee claimed deduction u/s 54F contending that the sale consideration had been spent on construction of house before due date mentioned in section 139(4) (i.e. before end of assessment year), it was held that the claim be allowed in accordance with law.

Where the assessee spent sale consideration in construction of a residential house, the deduction could not be disallowed merely because the construction was not complete in all respects within the stipulated time.

If a tax-payer transfers the newly acquired residential house within a period of three years of its purchase or construction, then the amount of capital gains arising from the transfer of the original asset which was not charged to tax, shall become taxable as long-term capital gains for the year in which the new asset is transferred.

This concession will not be available in case where the assessee owns more than one residential house on the date of the transfer of the original asset, even if owned jointly with another person. In other words, the deduction can be availed, even if the assessee owns one residential house on the date of transfer of the original asset. However, if the assessee purchases within two years, or construction within three years after such date any residential house (other than the new asset) the income from which is chargeable under the head 'Income from House Property' the amount of capital gains

exempted under this section, shall be taxable as 'long-term capital gains' in the year in which such other house is purchased or constructed.

7. Capital Gains from Shifting of an Industrial Undertaking from Urban Area to Rural Area [Sec.54G] :

Any capital gains arising from transfer of machinery, plant, land or building or any rights therein, in the course of shifting of an industrial undertaking in urban area, shall be exempt, if the assessee has, within a period of 1 year before or 3 years after the date of transfer, purchased new plant or machinery, acquired or constructed land or building, shifted the original asset and transferred the establishment, to a rural area.

Amount of exemption : The amount of exemption shall be equal to the amount so utilised or the amount of capital gain, whichever is less. Advances paid for the purpose of purchase of plant/machinery or acquisition of land/building shall be reckoned as utilization of capital gains u/s 54G. If the capital gains cannot be so utilised, then it should be deposited under Capital Gains Accounts Scheme, to avail of the benefit, before the due date of filing the return.

8. Capital Gains from Shifting of an Industrial Undertaking from Urban Area to SEZ: [Sec.54GA]:

Any capital gains arising from transfer of machinery, plant, land or building or any rights therein, in the course of shifting of an industrial undertaking in an urban area, to any Special Economic Zone, shall be exempt, if the assessee has, within a period of 1 year before or 3 years after the date of transfer, purchased new plant or machinery, acquired or constructed land or building, shifted the original asset and transferred the establishment, to the SEZ, or incurred expenses on purposes specified in a scheme framed by the Government in this regard.

Amount exemption : The amount exempt shall be equal to the amount so utilised or the amount of capital gain, whichever is less. If the capital gain cannot be so utilised, then it should be deposited under Capital Gains Accounts Scheme, to avail the benefit, before the due date of filing the return.

9. Capital Gain from Transfer of a Residential Property invested in a manufacturing small or medium enterprise: [Sec. 54GB]:

Any long-term capital gain arising to an individual or HUF, from the transfer of a residential property (house or plot of land) effected upto 31.3.2017 (up to 31.3.2019 in case investment is made in an eligible start-up), shall be exempt if the net consideration is invested in the equity of a new start-up SME company or in an eligible start-up in the

manufacturing sector or in an eligible business, which is in turn utilised by such company for the purchase of new plant and machinery.

Conditions for exemption : The exemption is available subject to following conditions:

- (a) The assessee invests the net consideration in equity shares of the SME company, in which he holds more than 50% share capital/voting rights (post-issue), before the due date for furnishing his return of income u/s 139(1);
- (b) The SME company utilises the amount in purchase of new plant and machinery (including computers or computer software in case of technology driven start-ups) within one year from the date of subscription; The amount not so utilized by the SME company before the due date for furnishing of return of income by the individual/HUF, shall be deposited in specified bank/institution under the notified scheme, before such date.
- (c) If the whole of net consideration is utilised for purchase of new plant or machinery, the entire capital gain shall be exempt, and if only a part of net consideration is so utilised, the amount of capital gain exempt shall be –

$$\frac{\text{Cost of New Plant or Machinery}}{\text{Amount of Net Consideration}} \times \text{Capital Gain}$$

- (d) If the amount deposited under the notified Scheme is wholly or partly not utilised for purchase of new plant or machinery within the specified period, then the proportionate amount of capital gain shall be taxable as income of individual/HUF for the previous year in which the specified period ends;
- (e) The equity shares in the SME company and the new plant and machinery, shall not be transferred for a period of five years from the date of their acquisition, otherwise the amount of capital gain claimed to be exempt (as above) shall be taxable in the year in which such shares or plant and machinery are transferred. 'Eligible Start-up' and 'eligible business' shall mean the same as defined u/s 80-IAC.

10. Capital Gain on Compulsory Acquisition of Agricultural Land: [Sec. 10(37)]:

Any capital gain arising to an individual/HUF on compulsory acquisition of an agricultural land situate in urban areas, where the compensation/consideration is received by the assessee on or after 1.4.2004, provided, the land was being used for

agricultural purposes by the HUF/individual or his parent(s), during the period of two years immediately before acquisition. The exemption would be allowed even if agricultural land was not cultivated by the assessee himself but by hired labourer or through his family member.

8.14 CAPITAL GAINS ACCOUNTS SCHEME, 1988:

Applicability: The scheme is open to all tax-payers who wish to claim exemption u/s 54, 54B, 54D, 54F, 54G, or 54GB. The deposit should be made before the due date for furnishing of return for the relevant previous year and proof of deposit furnished along with the return. A depositor has to open a separate account under each section if he intends to avail of the benefit under more than one section, referred to above.

There are two types of accounts. 'Deposit Account-A' is similar to a savings accounts where from withdrawals are permitted from time to time. This account is, therefore, suitable for persons who want to utilise the amount for the specified investment in piecemeal. 'Deposit Account-B' is similar to a term deposit wherein the investment is for a fixed period to be specified by the assessee.

Taxability of Unutilized Deposit under Capital Gains Account Scheme: If the amount deposited under the Capital Gains Account Scheme cannot be utilised for specified purpose within the specified period, the capital gain relating to unutilized amount shall be taxable as capital gain for the previous year in which the specified period expires. However, it has been clarified that in the case of an individual who dies before the expiry of the specified period, the unutilized amount can neither be taxed in the hands of the deceased nor in the hands of his legal heirs.

Illu.9 : Mr. Ramana is an owner of land in Faridabad. Such land was being used for agricultural purpose from last 3 years. On 2.4.2003, his land was acquired by Central Government. Mr. Suri had received compensation of Rs.50,000 in respect of land on 1.7.2014.

Solution:

Capital gains received due to compulsory acquisition of agricultural land is fully exempt from Income-tax under section 10(37) from assessment year 2005-06. Mr. Ramana fulfilled all conditions which are required under this section. Hence, the capital gain of Rs.50,00,000 is exempt from Income-tax under the head "Capital Gains."

Illu.10 : On 5.11.2017, Mr. Sastry sells gold for Rs.15,00,000 (cost of acquisition on 15.3.2010 Rs.2,00,000). Expenses on purchase and transfer are Rs.1,000 and Rs.2,000, respectively. On 1.5.2018, he acquires bonds of National Highways Authority (investment being Rs.7,00,000). These bonds are redeemable after 42 months. Find out the exemption under section 54EC.

Solution:

**Calculation of Capital gain of Mr. Sastry
(Assessment year 2018-19)**

Particulars	Rs.	Rs.
Sale consideration		15,00,000
Less: Expenses on transfer		2,000
Net sale consideration		14,98,000
Less: Indexed cost of acquisition i.e. (Rs.2,00,000 × 272/148)	3,67,568	
Less: Exemption under section 54EC	7,00,000	10,67,568
Capital gain chargeable to tax		4,30,432

Working Notes:

- (i) Mr. Sastry should not transfer the bonds of National Highway Authority (NHA) of India or take a loan on the security of these bonds or otherwise convert these bonds into money, within 3 years from 1.5.2018.
- (ii) If Mr. Sastry transfers the bonds of National Highway Authority (NHA) of India (or Mr. Sastry takes any loan or advance on security of these bonds within 3 years from 1.5.2018, then Rs.7,00,000/- will be deemed income by way of long-term capital gain of the previous year in which he transfers these bonds.

Illu.11 : Mr. Sunil gives the following information (He does not own any residential house property) –

Asset transfer (Gold)	27.6.2015
Date of transfer	27.6.2016
Date of purchase	25.5.2005
Sale consideration	40,00,000
Cost of acquisition	4,00,000
Expenses of transfer	75,000

To get the exemption under section 54F, the following residential house property is purchased by Mr. Sunil :

Date of purchase	15.6.2015
Cost of acquisition	28,00,000

Mr. Sunil transferred his house properties at Kurnool as follows: -

Sale consideration	33,00,000
Date of transfer	20.6.2017

Find out the capital gain chargeable to tax in the hands of Mr. Sunil for different assessment years.

Solution:

**Computation of Capital gain of Mr. Sunil
(Assessment Year: 2016-17)**

Particulars	Rs.	Rs.
Sale consideration		40,00,000
Less: Expenses on transfer	75,000	
Less: Indexed cost of acquisition $4,00,000 \times 254/117$	8,68,376	
Less: Exemption under section 54		
Amount of investment in new residential property i.e., $28,00,000 \div 39,25,000$ (Net sale consideration) x 30,56,624 (amount of capital gains)	21,80,522	31,23,898
Long-term capital gains chargeable to tax for the assessment year 2016-17		8,76,102

**Computation of Capital gain of Mr. Sunil
(Assessment Year 2018-19)**

Particulars	Rs.
Sale consideration of house at Kurnool	33,00,000
Less: Cost of acquisition	28,00,000
Short-term capital gains	5,00,000
Long-term capital gains as the new house property at Kurnool is transferred within 3 years from the date of its purchase, the exemption given under section 54F will be taken back	6,03,017

Illu.12 : Mr. Varma sold his residential house property for Rs.2,50,00,000 on 25.5.2017. Brokerage paid on sale is Rs.5,00,000. The residential property was acquired for Rs.50,00,000 on 6.12.2010. He decided to avail exemption under section 54.

As per the scheme of exemption, Mr. Varma is supposed to invest his Capital Gains for purchase of Residential House Property within one year before the date of transfer or within two years after the date of transfer or construct residential house property within 3 years after the date of transfer. However, due to some reasons, Mr. Varma could invest only 50% of his capital gains in purchasing or constructing a residential house property till the next 9 months. How Mr. Varma can save tax on his: Long-Term Capital Gains for assessment year 2018-19.

Solution:

**Computation of Capital gain of Mr. Varma
(Assessment year 2018-19)**

Particulars	Rs.	Rs.
Gross Sale Consideration		2,50,00,000
Less: Expenses on Transfer	5,00,000	
Less: Indexed Cost of Acquisition (COA) = Cost of acquisition × CII in the year of Transfer / CII in the year of Acquisition = 50,00,000 × 272/167	81,43,713	86,43,713
Therefore, Long-Term Capital Gains		1,63,56,287
Less: Exemption under section 54 = 81,78,144		81,78,144
Balance amount to be deposited in capital Gains Accounts Scheme, 1988 before due date of filing return for assessment year 2018-19.		81,78,144

8.16 CAPITAL GAINS ON TRANSFER OF DEPRECIABLE ASSETS:

[SEC. 50]:

Depreciable assets used in the business are also capital assets and, therefore, transfer of any such asset would involve capital gain/loss. Some peculiar features of capital gains on depreciable assets are:

- (1) Capital gain/loss on transfer of a depreciable asset is deemed as 'short-term' irrespective of the period of holding.

However, this deeming fiction is restricted only to section 50 and has no application to other provisions such as section 54EC (deduction for investment of long-term capital gains in specified bonds).

- (2) For computation of capital gain, the cost of acquisition/improvement of the asset need not be ascertained. The capital gain is computed with reference to the

written down value of the entire block of assets to which the asset under transfer pertains.

The amount of capital gains shall be equal to the excess (if any) of full value of consideration over the aggregate of – (a) written down value of the block of assets in the beginning of the previous year, (b) cost of any new asset falling within that block acquired during the year, and (c) expenditure on transfer of the asset. Thus, it may so happen that assets of a block may exist physically and continue to be utilised in the business, though the entire written down value of that block is wiped off by capital gains and the assets do not appear in the balance sheet. The situation of capital loss can arise, only in one case when the entire block is transferred at a consideration less than its written down value.

Capital Gains in case of Slump Sale: A 'slump sale' means the transfer of an undertaking for a lump sum consideration without assigning values to the individual assets and liabilities. [Sec. 2(42C)] Capital gain arising in case of slump sale shall be taxable as 'long-term capital gain' in the previous year in which the transfer took place. However, where the undertaking was held by the assessee for not more than 36 months, the capital gain will be taxable as short-term.

Rates of Tax on Capital Gains :

Short-Term Capital gain :

Short-term Capital Gains are included in the gross total income of the assessee and after allowing permissible deductions under Chapter VI-A, the total income is subject to tax at the rates in force. However, short-term capital gains from transfer of equity shares/units of equity –oriented mutual fund or units of a business trust, subjected to Securities Transaction Tax, shall be taxable at a flat rate of 15%.

Long term Capital gain :

Long-term Capital Gains are subject to a flat rate of tax @ 20%. However in respect of long-term capital gains arising from transfer of listed securities, (other than equity shares and units of equity-oriented mutual fund) or zero coupon bonds, tax shall be payable @ 20% of the capital gain computed after allowing indexation benefit or @ 10% of the capital gain computed without giving the benefit of indexation, whichever is less.

Besides, long-term capital gains arising to non-residents/foreign companies from transfer of unlisted securities or shares of a closely held company, computed without giving the benefit of indexation and conversion of currency u/s 48 First and Second Provisos, shall be taxable @ 10%.

Illu.13: Mr. Sivaji owns the following assets as on 1st April, 2018.

Block of Plant and Machinery (Rate of Depreciation-15%)

Asset	Cost of Acquisition	W.D.V. as on 1.4.2018
Machinery A	2,00,000	17,500
Machinery B	2,50,000	22,000
Machinery C	50,000	15,000

During the previous year 2018-19, Mr. Sivaji acquires Machinery D on 30.4.2018 for Rs.10,000. Also, Mr. Sivaji sells Machinery A on 25.5.2018 for Rs.72,000. Calculate the amount of depreciation and capital gain for A.Y.2019-20.

Solution:

**Computation of Depreciation
(Assessment year 2018-19)**

	Rs.
Aggregate W.D.V. of Machinery A, B and C as on 1.4.2018 (17,500 + 22,000 + 15,000)	54,500
Add: Cost of Machinery D acquired on 30.4.2018	10,000
Total	64,500
Less: Sale consideration of machinery A sold on 25.5.2018 (since consideration Rs.72,000 exceeds Rs.64,500, only Rs.64,500 shall be deducted)	64,500
Net W.D.V. of Machinery as on 31.3.2019	Nil
Depreciation on Machinery for previous year 2018-19	Nil

Note: The block of assets comprising Machinery B, C and D continues to exist with its WDV at Nil.

**Computation of Capital Gains of Mr. Sivaji
(Assessment year 2018-19)**

	Rs.	Rs.
Sale consideration of Machinery A		72,000
Less : W.D.V. of the block of Machinery on 1.4.2018	54,500	
Cost of Machinery D purchased during 2018-19	10,000	64,500
Short-term Capital Gain for A.Y.2019-20		7,500

Illu.14: Mr. Perumallu purchased a plot of land during 1999-2000 for Rs.12 lakhs. He incurred on its leveling, filling and fencing Rs.1,00,000 during 2000-01. He constructed a residential house on the plot at a cost of Rs.8,00,000 during 2004-05 and another Rs.4 lakhs during 2007-08. The fair market value of the plot as on 1.4.2001 is estimated at Rs.15 lakhs. Mr. Perumallu sells the house during 2017-18 for Rs.70 lakhs, incurring transfer expenses of Rs.70,000. Compute the taxable capital gains for A.Y. 2018-19.

Solution:

**Computation of Long-Term Capital Gains of Mr. Perumallu
(Assessment year 2018-19)**

	Rs.	Rs.
Full value of consideration for the house		70,00,000
Less: Transfer Expenses		70,000
Net consideration		69,30,000
Less : Indexed Cost of Acquisition	40,80,000	
Indexed Cost of Improvement	27,69,075	68,49,075
Taxable Long-Term Capital Gains		80,925

Notes:

1. Indexed Cost of Acquisition of House is

$$\frac{\text{Cost of Acquisition (See Note 2)} \times \text{CII for the year of transfer (i.e. 2017-18)}}{\text{CII for the year 2001-02 (i.e. 100)}}$$

$$= \frac{\text{Rs. } 15,00,000 \times 272}{100} = \text{Rs. } 40,80,000$$

2. Where the capital asset was purchased before 1.4.2001 and its Fair Market Value (EMV) as on 1.4.2001 is higher than the actual cost of acquisition, the Cost of Acquisition may be deemed to be the (FMV) as on 1.4.2001, i.e. Rs.15 lakhs.
3. The Cost Inflation Index shall be taken for the year in which the asset was acquired by the assessee or for 2001-02, whichever is later.
4. Indexed Cost of Improvement is worked out as under:
 - Indexed Cost of Improvement (2000-01) = Nil
 - Indexed Cost of Improvement (2004-05)

$$\frac{\text{Cost of Im provement}(2004 - 05) \times \text{CII for the year of transfer (i.e. 2017 - 18)}}{\text{CII for the year in which the improvement took place (i.e. 2004 - 05)}} \\ = \frac{\text{Rs. } 8,00,000 \times 272}{113} = \text{Rs. } 19,25,664$$

Indexed Cost of Improvement (2007-08)

$$\frac{\text{Cost of Im provement}(2007 - 08) \times \text{CII for the year of transfer (i.e. 2017 - 18)}}{\text{CII for the year in which the improvement took place (i.e. 2007 - 08)}} \\ = \frac{\text{Rs. } 4,00,000 \times 272}{129} = \text{Rs. } 8,43,411$$

Total Indexed Cost of Improvement = [(a) + (b) + (c)] = Rs.27,69,075.

5. The cost of improvement incurred before 1.4.2001 shall be ignored and only that incurred on or after 1.4.2001 shall be taken into consideration.

Illu.15: Mr. Chalam had purchased 1,000 Bonds of Indian Railway Finance Corp. on 1.6.2012 @ Rs.100/- per bond with six monthly interest paying option. The bonds are repurchased during 2018-19 @ Rs.105/- per bond. (The dates and figurers are hypothetical).

Compute Mr. Chalam's income from capital gains for A.Y. 2019-20.

Solution: The interest received would be taxed in the year of its receipt. The surplus received on repurchase of the bonds, shall be taxed as capital gains, as under:

Computation of Capital Gains of Mr. Chalam

(Assessment year 2019-20)

	Rs.
Repurchase value of 1,000 bonds repurchased at Rs.105 per bond	1,05,000
Less: Cost of Acquisition of 1,000 bonds	1,00,000
Long-term capital gain	5,000

Note: In case of bonds and debentures (excluding capital indexed bonds issued by the Govt. and Sovereign Gold Bonds) held for long-term, cost of acquisition shall not be indexed.

Illu.16 : Mr. Srinivas purchases a house property in 1976 for Rs.2,60,000. It's fair market value on April 1, 2001 is Rs.3,50,000. Mr. Srinivas dies on May 1,

2003 and by his Will the property is transferred to Mrs. Srinivas. Mrs. Srinivas transfers this property by way of gift to her cousin Mrs. Radha on April 6, 2005 on 60th birthday of Mrs. Radha. Mrs. Radha transfers this property for a consideration of Rs.55,00,000 on September 10, 2017. Stamp duty value on the date of transfer is Rs.1,16,00,000. Stamp duty value is challenged by the purchaser and ultimately after litigation it is charged on value of Rs.1,09,00,000 by stamp duty authorities. The following expenses are incurred in respect of this property –

1. Construction of first floor by Mr. Srinivas: Rs.3,96,226 during 2002-03.
2. Construction of second floor by Mrs. Srinivas: Rs.3,28,270 during 2009-10.
3. Construction of third floor and installation of lift by Mrs. Radha: Rs.14,00,000 during 2016-17.
4. Legal expenditure incurred by Mrs. Srinivas for getting property transferred in her name: Rs.5,000 during 2003-04.
5. Legal expenditure incurred by Mrs. Radha for getting property transferred in her name: Rs.15,000 during 2005-06.
6. Brokerage and legal expenditure paid by Mrs. Radha at the time of transfer: Rs.80,000 during 2017-18.

Interest income of Mrs. Radha during the previous year 2017-18 from other sources is Rs.20,00,000. She has a brought forward short-term capital loss of Rs.65,00,000 pertaining to the assessment year 2016-17. Mrs. Radha has paid Rs.18,000 for medi-claim insurance premium. Mrs. Radha has deposited Rs.20,00,000 in capital gain deposit account scheme on August 6, 2018 for claiming exemption under section 54. She does not have any other income. Mrs. Radha wants to set off brought forward short-term capital loss against short-term capital gain of the next previous year. Find out net income and tax liability of Mrs. Radha for the assessment year 2018-19.

Solution:

**Computation of Total income and tax liability of Mrs. Radha
(Assessment Year 2018-19)**

	Rs.	Rs.
Full value of consideration (being value adopted for stamp duty)		1,09,00,000
Less: Indexed cost of acquisition [Rs.3,50,000 × 272 ÷ 100 (CII of 2001-02)]	9,52,000	

Taxation	289	Capital gains
Indexed cost of improvement [Rs.3,96,226 × 272 ÷ 105]	10,26,415	
Indexed cost of improvement [Rs.3,28,270 × 272 ÷ 148]	6,03,307	
Indexed cost of improvement [Rs.14,00,000 × 272 ÷ 264]	14,42,424	
Expenditure on transfer	80,000	41,04,146
Balance		67,95,854
Less: Exemption under section 54		Nil
Balance		67,95,854
Less: Brought forward short-term capital loss		(-) 65,00,000
Long-term capital gain		2,95,854
Income from other sources		20,00,000
Gross total income		22,95,854
Less: Deduction under section 80D		18,000
Total income (rounded off)		22,77,850

Working Notes:

1. Brought forward short-term capital loss has to be set off against current year's capital gain (even if current year's capital gain is long-term capital gain). An assessee does not have any option in this regard to claim set off only when he or she will;
2. Legal expenditure incurred by Mrs. Srinivas and Mrs. Radha on getting property transferred in their names, is part of cost of acquisition of the property by Mrs. Srinivas and Mrs. Radha. Since cost of acquisition of the previous owner is taken in this case, these expenses are not deductible. Moreover, these expenses are neither expenditure on transfer nor cost of improvement.
3. Due date of submission of return of income is July 31, 2018. Amount is deposited in capital gain deposit account scheme after July 31, 2018. Nothing is, therefore, eligible for exemption.

Illu.17 : Mr. Lokesh acquires 5, 100 shares in Heritage Ltd. on different dates given below –

- (a) 1,000 shares on April 30, 1988 at the rate of Rs.40 per share;
- (b) 500 shares on June 19, 1989 by way of bonus shares;
- (c) 3,000 shares on September 20, 2005 at the rate of Rs.300 per share; and
- (d) 600 shares on May 16, 2006 by way of bonus shares.

Fair market value of shares in Heritage Ltd. on April 1, 2001 is Rs.39 per share. Sangam Ltd., acquires the business of Heritage Ltd. under a scheme of amalgamation during 2017-18. A person holding 10 shares in Heritage Ltd. gets Rs.5,000 plus 5 equity shares in Sangam Ltd. Market value of share in Sangam

Ltd. is Rs.800 per share on the date of allotment of shares in Sangam Ltd. Find out the income chargeable to tax from this transaction in the hands of Mr. Lokesh for the assessment year 2018-19.

Solution:

If shareholders get shares in amalgamated company in lieu of surrender of shares in the amalgamating company, capital gain is not chargeable to tax by virtue of section 47(vii). However, this exemption is available only if the amalgamated company is an Indian company and only shares are allotted in the amalgamated company to the shareholders of amalgamating company. In this case, at the time of amalgamation of Heritage Ltd. into Sangam Ltd., Mr. Lokesh (a shareholder in Heritage Ltd.) gets not only shares in Sangam Ltd. but also some consideration in cash. Consequently, the exemption given by section 47(vii) will not be applicable and capital gain in the hands of Mr. Lokesh will be chargeable to tax as follows :

	Rs.	Rs.
Sale consideration on transfer of 5,100 shares in A Ltd.		
- Consideration received in cash (5,100 ÷ 10 × Rs.5,000)		25,50,000
- Consideration received in the form of shares in Sangam Ltd. (5,100 ÷ 10 × 5 × Rs.800)		20,40,000
Full value of consideration		45,90,000
Less: Indexed cost of acquisition		
- 1,000 shares (1,000 × Rs.40 × 272 ÷ 100)	1,08,800	
- 500 shares (500 × Rs.39 × 272 ÷ 100)	53,040	
- 3,000 shares (3,000 × Rs.300 × 272 ÷ 117)	20,92,308	
- 600 (bonus shares)	Nil	22,54,148
Long-term capital gain		23,35,852

Illu.18 : A Co. (a partnership firm) sells a commercial building on May 10, 2017 for Rs.1,10,00,000. From the data given below, find out the income under the head "Capital gains" for the assessment year 2018-19.

	Rs.
Cost of plot of land (acquired in 2004-05)	3,00,000
Cost of construction (incurred in 2005-06)	4,00,000
Cost of additional construction (incurred in 2009-10)	6,00,000
Expenditure on transfer	6,000

Solution:

	Rs.	Rs.
Sale consideration		1,10,00,000
Less: Expenses on transfer	6,000	
Less: Indexed cost of acquisition (Rs.3,00,000 × 272 ÷ 113)	7,22,124	
Less: Indexed cost of improvement (2005-06) (Rs.4,00,000 × 272 ÷ 117)	9,29,915	
Less: Indexed cost of improvement (2009-10) (Rs.6,00,000 × 272 ÷ 148)	11,02,703	27,60,741
Long-term capital gain		82,39,259

Illu.19 : Mr. Manoj sells a residential house at Srikakulam (no other house is owned by him) on March 20, 2018 for Rs.22,50,000 (cost of acquisition in 2002-03: Rs.1,70,000). On July 31, 2018, he deposits Rs.4,00,000 in a bank for purchase/construction of house property in future to claim exemption under section 54. On November 1, 2018, he purchases 20 bonds of Rs.200 each of National Highways Authority of India (not redeemable within 6 years) to claim exemption under section 54EC. Income of Mr. Manoj from other sources for the previous year 2017-18 is Rs.9,72,000. He completes construction of a residential house property on March 1, 2020 (total investment of Rs.2,70,000 is financed by withdrawing from deposit account). Assume that the income of Mr. Manoj from other sources for the previous years 2019-20 and 2020-21 is Rs.15,92,000 and Rs.18,70,000, respectively, determine the taxable income for the assessment years 2018-19, 2020-21 and 2021-22.

Solution:**Calculation of capital gain of Mr. Manoj**

Assessment year 2018-19	Rs.
Sale consideration	22,50,000
Less: Indexed cost of acquisition (Rs.1,70,000 × 272 ÷ 105)	4,40,381
Balance	18,09,619
Less: Exemption under section 54	4,00,000
Less: Exemption under section 54EC (not available as investment is made after the expiry of 6 months from the date of transfer)	Nil
Long-term capital gain	14,09,619
Income from other sources	9,72,000
Total income (rounded off)	23,81,620

Assessment year 2020-21	
Long-term capital gain	Nil
Income from other sources	15,92,000
Gross total income	15,92,000
Assessment year 2021-22	
Deemed long-term capital gain (amount not utilized in the deposit account upto March 19, 2021)	1,30,000
Income from other sources	18,70,000
Total income	20,00,000

Illu.20 : Mr. Baladev transferred 50 zero coupon bonds of SBI on 2.7.2017 @ Rs.13,300. The bonds were acquired by him in 2015-16 @ Rs.10,000. Compute the long-term capital gain and the tax payable thereon for A.Y.2018-19.

Solution:

**Computation of Long-term Capital Gain of Mr. Baladev
(Assessment year 2018-19)**

	Rs.
Full value of consideration (50 × 13,300)	6,65,000
Less: Indexed Cost of Acquisition $\left(\frac{Rs.5,00,000 \times 272}{254} \right)$	5,35,433
Long-term capital gain	1,29,567
Computation of Tax Liability	
Tax payable on Rs.1,29,567 @ 20% (a)	25,913
<i>Capital gain computed without giving effect of indexation</i>	
Full value of consideration	6,65,000
Less: Cost of Acquisition (without indexation)	5,00,000
Capital Gain	1,65,000
Tax payable @ 10% of Rs.1,65,000 (b)	16,500

Thus, tax payable on long-term capital gain of Rs.1,29,567 shall be restricted to Rs.16,500. Long-term Capital Gains from Equity Shares or Units of an Equity-oriented Mutual Fund or units of a business trust [transferred on or before 31.3.2018], subjected to Securities Transaction Tax, shall be fully exempt u/s 10(38). In respect of transfers made on or after 1.4.2018, such long-term capital gains shall be taxable as under –

Taxation	293	Capital gains
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- (a) Up to Rs.1,00,000 Nil
(b) Exceeding Rs.1,00,000 10%

No Deduction against Long-term Capital Gains: Deductions under Chapter VI-A will not be available in respect of long-term capital gains.

Illu.21 : Mr. Ratan, has following incomes for 2018-19 (A.Y.2019-20):

	Rs.
(a) Long-term capital gains (taxable @ 20%)	35,000
(b) Long-term capital gains from equity shares without indexation benefit (taxable @ 10%)	1,25,000
(c) Short-term capital gain on sale of jewellery/objects of art	15,000
(d) Short-term capital gain on sale of shares subjected to Securities Transaction Tax	10,000
(e) Business income	1,78,000
(f) Bank Interest, Interest on securities, etc.	36,000

Mr. Ratan has made a donation of Rs.4,000 to eligible institutions u/s 80G and invested Rs.10,000 in LIC Policies and Jeevan Akshay. Compute his taxable income and tax payable.

Solution:

**Computation of Taxable Income of Mr. Ratan
(Assessment year 2018-19)**

	Rs.	Rs.
(a) Business Income		1,78,000
(b) Other Incomes		36,000
(c) Short-Term Capital Gain from Jewellery/object of art		15,000
(d) Short-Term Capital Gain from shares (taxable @ 15%)		10,000
(e) Long Term Capital Gains (taxable @ 20%)		35,000
(f) Long Term Capital Gains (taxable @ 10%)		1,25,000
Gross Total Income		3,99,000
Less: Deductions		
u/s 80C Deposit in LIC, etc.	10,000	
u/s 80G @ 50% of the amount donated	2,000	12,000
Taxable Income		3,87,000

Notes:

1. The total amount of deductions allowable under Chapter VI-A shall be restricted to the amount of gross total income as reduced by the amount of long-term capital gains and short term capital gains subject to flat rate of tax @ 15% u/s 111A.
2. The total exemption limit of Rs.2,50,000 is claimed against the income in following order:

	Rs.
Income other than capital gains taxable at specified rates	2,17,000
Short term capital gains	10,000
Long term capital gains	23,000
Long term capital gain	Nil
	2,50,000

3. A tax rebate is available u/s 87A, equal to the amount of tax or Rs.2,500, whichever is less, in case of a resident individual having total income upto Rs.3.5 lakh. However, no rebate shall be allowed against tax payable on long-term capital gains u/s 112A.
4. For A.Y. 2018-19, Education Cess @ 2% and Secondary & Higher Education Cess @ 1% of income-tax and surcharge are payable.

Illu.22 : Mr. Bhagavan applied for (VDA) flat on 20.1.2003 and paid Rs.2,50,000 as application money. The flat was allotted to him on 4.6.2003 at total cost of Rs.25 lakhs. Mr. Bhagavan pays the balance amount as under:

1st installment	Rs.7,50,000 on 1.1.2005
2nd installment	Rs.7,50,000 on 1.1.2006
3rd installment	Rs.7,50,000 on 1.1.2007.

Mr. Bhagavan sells the flat on 2.1.2018 for a total price of Rs.1 Crore. Compute capital gains.

Solution

Computation of Capital gain
Assessment Year 2018-19

Period of holding 4.6.2003 to 2.1.2018 (Long term)		
Particulars	Rs.	Rs.
Sales Price		1,00,00,000
Less: Indexed Cost of Acquisition 25,00,000 × 272/109		62,38,535
Long term Capital gains		37,61,468

Illu.23:

- (a) Mrs. Yamini sold for Rs.33,00,000 on 30.4.2017 her Shop Premises (Income of which not chargeable under the head “House Property”).
- (b) Thereafter, during the same Financial Year on 30.10.2017 she purchases a house property for Rs.15,00,000.
- (c) She does not have any other residential house.
- (d) This Shop Premises were acquired by her father on 2.3.1980 for Rs.1,50,000.
- (e) FMV as on 1.4.2001 of the Shop Premises was Rs.7,50,000.
- (f) She had inherited this Shop Premises after death of her father on 23.6.2005.
- Compute her ‘Capital Gains’ for the Assessment Year 2018-19.

Solution:

Income under the head ‘Capital Gains
(Assessment Year 2018-19)

Particulars	Rs.
Full Value of consideration	33,00,000
Less : Indexed Cost of Acquisition	17,43,590
Balance, being Capital Gains before exemption	15,56,410
Less : Exemption u/s. 54F	7,07,459
Long term capital gain	8,48,951

Note 1 – Indexed Cost of Acquisition		Note 2 – Exemption u/s. 54F	
Particulars	Rs.	Particulars	Rs.
(a) Cost of Acquisition to the previous owner	1,50,000	(i) Cost of Net Asset	15,00,000
(b) FMV as on 1.4.2001	7,50,000	(ii) Capital Gains	15,56,410
Cost of Acquisition, being (a) or (b) whichever is more	7,50,000	(iii) Net Sale Consideration	33,00,000
Indexed Cost of Acquisition (7,50,000 × 272/117)	17,43,590	Exemption: Cost of Net Asset (i) × Capital Gains (ii)/Net Sale Consideration (iii)	7,07,459
		= 15,00,000 × 15,56,410/33,00,000	

Illu.24 : Mr. Sahadev acquired a land on 31.1.2007 for Rs.12,00,000. He entered into an agreement to sell the land with Mr. Vivek on 1.1.2018 and received Rs.1,25,000 as advance money. Mr. Vivek could not honour the agreement and, therefore, Mr. Sahadev forfeited Rs. 1,25,000 on 28.2.2018. Mr. Sahadev sells the land on 31.3.2018 for Rs.23,23,000 to Mr. Jitendra.

Solution:

**Compute capital gains in the hands of Mr. Sahadev
(Assessment Year 2018-19)**

	Rs.
Sales Consideration	23,23,000
Less: Indexed Cost [12,00,000 × 272/122]	26,75,410
Long term Capital loss	(-) 3,52,410
Income from other sources (Advance money forfeited)	Rs.1,25,000

Working Notes :

Period of holding 1.1.1987 to 30.3.3018 (Long term)

Cost of Acquisition (As per Sec. 51) Rs.12,00,000

Illu.25 : Mr. Patel had acquired a residential land and building on 15.1.2003 for Rs.1,58,000. He sold this asset on 4.9.2017 for Rs.15,20,000. The detail of Cost incurred towards its improvement was as under:

- 14.9.2017 : Rs.1,60,000
- 3.11.2008: Rs.2,20,000
- 15.7.2010 : Rs.1,25,000

The other particulars are :

- (a) Expenses related to the transfer were Rs.50,000.
- (b) The value adopted by Stamp Duty Authority is Rs.25,00,000.
- (c) On reference made by the AO, the Valuation Officer determined the FMV at Rs.23,50,000 which the assessee does not challenge.

Compute Capital Gains chargeable in his hands for A.Y. 2018-19.

Solution:

**Capital Gains of Mr. Patel
(Assessment Year 2018-19)**

Particulars	Rs.	Rs.
Full Value of consideration being FMV determined by Valuation		23,50,000
Less : Expenses related to the transfer	50,000	
Indexed Cost of Acquisition – 1,58,000 × 272/ 105	4,09,295	
Indexed Cost of Improvement	10,03,882	14,63,177
Long term capital gain		8,86,823

Note 1: Indexed Cost of Improvement

Particulars	Financial Years		
	2007-08	2008-09	2010-11
Expenditure Incurred	1,60,000	2,20,000	1,25,000
Cost Inflation Index for the respective year	129	137	148
Indexed Cost of Improvement	1,60,000 × 272/129	2,20,000 × 272/137	1,25,000 × 272/148
	3,37,364	4,36,788	2,29,730
Total, being the Indexed Cost of Improvement	Rs.10,03,882		
➤ Cost Inflation Index for the year of Sale (2017-18) - 272			

Illu.26 : Mr. Ketan entered into an agreement to sell a building and land appurtenant thereto to Mr. Parekh on 31.12.2014 for Rs.49 lakhs. Mr. Parekh made an advance payment through cheque of Rs.9 lakhs on 31.12.2014. The

stamp duty value on the date of agreement Rs.63 lakhs. Mr. Ketan purchased this property on 1.4.2013 for Rs.10 lakhs.

Mr. Parekh makes the balance payment of Rs.40 lakhs on 27.10.2015 and gets the property registered on his name on that date when the stamp duty value has increased to 76 lakhs. Possession of the property was also handed over to him on 27.10.2015. Mr. Parekh sold the property on 31.12.2015 for Rs.111 lakhs. Determine taxability for AY 2016-17.

(a) Both the person treats it as capital asset.

(b) Both the person treats it as stock in trade.

Solution:

**Computation of Capital gain of Mr. Ketan
(Assessment Year 2016-17)**

(a) As capital asset :		
Particulars		(Rs.)
In the hands of Mr. Ketan		
Period of Holding (1.4.2013 to 26.10.2015)		
Sale Consideration		63,00,000
Cost of acquisition		10,00,000
Short term capital gains		53,00,000
In the hands of Mr. Parekh		
Period of Holding (27.10.2015 to 30.12.2015)		
Sale Consideration		1,11,00,000
Cost of acquisition		63,00,000
Short term capital gains		48,00,000
In the hands of Mr. Parekh income from other sources'		
Stamp duty valuation		63,00,000
Actual payment		49,00,000
Income due to section 56(2)		14,00,000
(b) As stock in trade:		
In the hands of Mr. Ketan income from Business and profession'		
Full value of consideration		63,00,000
Cost of acquisition		10,00,000
Profit from Business		53,00,000

In the hands of Mr. Parekh income under the head 'Profits and gains from Business and profession'	
Sale price	1,11,00,000
Actual payments being Cost	49,00,000
Profit from Business	64,00,000

Note – : Where in case of transfer provisions of sec. 56(2) is attracted, cost of acquisition of such property is deemed to be the value which has been taken for the purpose of that section. – sec. 49(4)

Illu.27 : Details of Compulsory Acquisition from Mr. Siva are as under:

Date	Particulars	Rs.	Reference
15.5.2007	Property compulsorily acquired by Central Govt.	80,00,000	(A)
15.3.2008	Compensation paid to Mr. Siva On appeal to High Court		
	Compensation enhanced to	1,25,00,000	(B)
15.9.2013	Enhanced Compensation paid to Mr. Siva	45,00,000	(C)
	Legal Expenditure incurred by Mr. Siva On appeal to Supreme Court	1,50,000	(D)
20.12.2014	Compensation reduced to	1,00,00,000	(E)
14.4.2015	Refund of Excess Compensation	25,00,000	(F)
	Legal Expenditure incurred by Mr. Siva	3,50,000	(G)
	Indexed cost of the property	10,00,000	(H)

To Compute Capital Gains for the respective years.

Solution:

**Computation of Capital Gain of Mr. Siva
(Assessment Year 2008-09)**

Particulars	Rs.
Full Value of consideration	80,00,000
Less : Indexed Cost of Acquisition	10,00,000
Long term Capital Gain	70,00,000

**Computation of Capital Gain of Mr. Siva
(Assessment Year 2014-15)**

Particulars	Rs.	Rs.
Full Value of consideration		45,00,000
Less : Indexed Cost of Acquisition	-	
Less : Expenditure on transfer	1,50,000	1,50,000
Long term Capital gain		43,50,000

**Recomputation of 'Capital Gains'
as per the order of Supreme Court
(Assessment Year 2014-15)**

Particulars	Rs.	Rs.
Full Value of consideration :		
Reduced Compensation by Supreme Court		1,00,00,000
Less: Original Compensation		80,00,000
Full Value of Consideration		20,00,000
Less : Indexed Cost of Acquisition	-	-
Less : Expenditure on transfer (3,50,000 + 1,50,000)	5,00,000	5,00,000
Long term Capital gain		15,00,000
<p>The AO shall amend the order of assessment to revise the computation of Capital Gains of Asst. Year 2014-15 by taking reduced compensation to be the full value of consideration within 4 years from the end of the PY in which the order was passed (i.e., 31.3.2018, 4 years from 31.3.2014) – refer section 155.</p>		

Illu.28 : The no. of shares purchased by Mr. Lal in a physical form is given below:

Particulars	Purchase Date	No. of shares	Price
Wipro Ltd.	1.1.2009	200	300
Wipro Ltd.	1.2.2009	400	325
Wipro Ltd.	1.3.2011	600	350
Wipro Ltd.	1.7.2012	100	400

These shares were converted into dematerialized form on 30.4.2015. Mr.Lal sold 1,000 shares on 28.2.2018 for Rs.500 each.

Solution: Assessment year 2018-19 (FIFO):

For 200 shares purchased 1.1.2009	
Particulars	Rs.
Period of holding – Long Term (1.1.2009 to 28.2.2018) :	
Sales Consideration (200 × 500)	1,00,000
Less: Cost of acquisition (200 × 300) × 272/137	1,19,124
Long Term capital loss	(19,124)
For 400 shares purchased 1.2.2009	
Period of holding – Long Term (1.2.2009 to 28.2.2018):	
Sales Consideration (400 × 500)	2,00,000
Less: Cost of acquisition 400 × 325) × 272/137	2,58,102
Long Term capital loss	(58,102)

For 200 shares purchased 1.1.2009	
Particulars	Rs.
For 400 shares purchased 1.3.2011	
Period of holding – Long Term (1.3.2011 to 28.2.2018) :	
Sales Consideration (400 × 500)	2,00,000
Less: Cost of acquisition (400 × 350) × 272/167	2,28,024
Long Term capital loss	(28,024)
8.10 SELF-ASSESSMENT QUESTIONS	

A. Short Answer Questions

1. What is capital Gain?
2. What is capital asset?
3. What is transfer?
4. What is short-term capital gain?
5. What is long-term capital gain?
6. Long-term capital gain.
7. Types of Capital Asset

B. Essay Questions :

2. Define capital gain
3. Explain provisions relating to the taxation of capital gains

4. What is transfer? Explain the transactions not regarded as transfers
5. What is cost of acquisition? How do you determine cost of acquisition of assets?
6. How do you compute the long term capital gain?
7. Explain the capital gains exempted from tax.
8. Indicate the procedure for transfer of capital assets.
9. What is Reverse Mortgage? Explain its features.
10. Difference between long term capital assets and short term capital assets.
11. Long term capital asset and Short term capital asset
12. When do we apply (CII) cost inflation index?
13. How to estimate the cost of acquisition?

8.11 EXERCISES

1. Mr. Vishnu owns two residential houses at Tirupathi and Chittoor and certain other capital assets. He furnishes the following particulars:

		Rs.
(i)	Sale consideration of residential house at Tirupathi sold on 10.5.2017	25,00,000
(ii)	Indexed cost of acquisition of the house	19,00,000
(iii)	Sale consideration of gold jewellery sold on 20.5.2017	15,00,000
(iv)	Indexed cost of acquisition of jewellery	10,50,000
(v)	Cost of acquisition of a new house at Piler purchased 12.11.2017	8,00,000
(vi)	Bonds of NHAJ purchased on 10.11.2017	2,50,000

Compute the amount of capital gain taxable in the hands of Mr. Vishnu for A.Y. 2018-19.

[Ans: Taxable long term capital gain Rs.1,40,000]

2. Mr. Ratnam transferred following shares/units of mutual funds during 2018-19, particulars of which are given below. All holdings are for long-term (more than 12 months).

S. No.	Company/Mutual Fund	No. of Shares/Units	Cost of Acquisition (per share)	FMV as on 31.1.2018 (per share)	Sale Price (per share)
1.	Wipro	1,000	27	200	240
2.	Petronet LNG	1,000	260	250	280
3.	HDFC large Cap Mutual Fund	2,000	100	118	110

Compute the amount of capital gain/loss in each case.

[Ans.: Long Term capital gain : Rs.60,000]

3. Mr. Sundaram has a taxable income of Rs.4,80,000 for A.Y.2019-20 including long-term capital gain from transfer of equity shares/units of equity-oriented mutual fund. Compute his tax liability if the amount of such long-term capital gain is: (a) Rs.90,000 (b) Rs.1,15,000

[Ans. : (a) Tax payable Rs.7,000; (b) Tax payable Rs.7,250]

4. Mrs. Rajeswari purchases gold for Rs.6,00,000 on July 17, 1972. Its fair market value on April 1, 1981 is Rs.9,30,000. In 1982-83, gold is converted into jewellery by spending Rs.23,323. On July 10, 1988, Mr. Rajeswari starts the business of selling jewellery and jewellery owned by her is converted into stock-in-trade (at the time of conversion fair market value of the jewellery is Rs.18,69,000) (assume that indexed cost of acquisition and indexed cost of improvement are Rs.14,97,300 and Rs.34,450). 40 per cent of the stock-in-trade is sold to a customer Mrs. Latha on November 1, 2016 for Rs.22,00,000 (fair market value : Rs.24,50,000). Remaining 60 per cent of the stock-in-trade is sold to another customer Mrs. Ragini on November 28, 2017 for Rs.30,00,000 (fair market value Rs.34,00,000). Discuss the tax consequences of these transactions in the hands of Mrs. Rajeswari, Mrs. Latha and Mrs. Ragini Assume that Mrs. Rajeswari is not a dealer registered under GST.

[Ans.: Long term capital gain Rs.3,37,250]

5. Mr. Giri acquires a house property on April 30, 1988 for Rs.1,70,000. Expenditure on improvement incurred during 1989-90 is Rs.1,10,000. The fair market value of the property on April 1, 2001 is Rs.3,10,294. Expenditure on construction of second floor in the property during 2006-07 is Rs.5,42,080. The property is acquired by Government of India on May 10, 2017. Compensation granted by the appropriate authority is Rs.25,00,000 which is paid to Mr. Giri in two installments (i.e., Rs.6,00,000 on June 10, 2017 and Rs.19,00,000 on April 25, 2018). Mr. Giri is not satisfied with the compensation awarded by the appropriate authority. On his appeal, the High Court increases the compensation to Rs.45,00,000. The additional compensation of Rs.20,00,000 is received by Mr. Giri as follows –
- (a) Rs.15,00,000 on May 7, 2018; and
- (b) Rs.5,00,000 on May 10, 2019 along with interest of Rs.1,80,000 as directed by the Court.

Mr. Giri purchases a residential house property in Pune on May 9, 2017 for Rs.11,00,000 and constructs another unit in the same property on April 20, 2018 by spending Rs.9,00,000. Expenditure incurred by Mr. Giri for getting initial compensation is Rs.10,000 and legal expenditure for litigation in High Court is Rs.70,000. Mr. Giri annually get bank interest of Rs.5,00,000 and annually deposits Rs.1,00,000 in public provident fund.

Find out the net income of Mr. Giri for different assessment years.

[Ans.: Total income Rs. 4,00,000]

6. Mr. Ramdev, a resident individual, transfers the following long-term capital assets during the previous year 2017-18

	Agricultural land in urban area	Silver	Debentures	Gold
Date of transfer	April 12, 2017	October 7, 2017	January 3, 2018	February 26, 2018
Sale consideration (in Rs.)	22,75,000	68,86,000	15,76,000	23,10,000
Indexed cost of acquisition (in Rs.)	19,32,000	56,10,000	7,26,858	11,78,000
Expenditure on transfer (in Rs.)	5,000	6,000	1,000	10,000

Debentures were purchased in 2013-14. Other assets were purchased before April 1, 2013. Indexed cost of acquisition is calculated by applying cost inflation index notified by the Government. On April 1, 2017, Mr. Ramdev owns only one residential house property which is used for his own residence. For acquiring this property, a loan was taken from a friend in 2016 and interest on loan for the year 2017-18 is Rs.1,46,000. Ramdev makes following investments –

- (1) A residential house property of Rs.18,00,000 is acquired on April 14, 2016.
- (2) NHAI bonds of Rs.4,10,000 are purchased on October 5, 2017.
- (3) REC bonds of Rs.9,00,000 are purchased on June 1, 2018.

Determine the amount of capital gain chargeable tax for the assessment year 2018-19. Cost inflation index (CII) of 2013-14 is 220.

[Ans. : Long-term capital gain : Total Rs.24,79,100]

7. Mr. Mohan owned 5 acres of agricultural land within the city limits of Araku which he had purchased on October 1, 2002 for Rs.5,00,000. On October 1, 2017, he sold the agricultural land for Rs.70,00,000. On January 1, 2018, he purchased a coffee estate for Rs.10,00,000. The coffee estate was in a remote village and the nearest town was about 20 kilometres away from the estate. On February 28, 2020, he sold the coffee estate for Rs.35,00,000. You are required to compute the income chargeable under the head 'Capital gains' for the assessment years 2018-19 and 2020-21. What would be your answer if the coffee estate was situating within the city limits of Araku?

[Ans.: Long term capital gain Rs.47,04,762]

Chapter – 9**INCOME FROM OTHER SOURCES****Objectives :**

After going to this unit you should be able to :

- Understand the type of incomes chargeable under this head
- The deductions allowed and not allowed
- Know the meaning of deemed incomes and their taxability

Structure :

- 9.1. Introduction**
- 9.2. Chargeability – Types of Incomes**
- 9.3. Bond Washing Transactions**
- 9.4. Interest on Securities**
- 9.5. Kinds of securities**
- 9.6. Deductions allowed**
- 9.7. Deductions not allowed**
- 9.8. Self-Assessment Questions**
- 9.9. Exercises**

9.1 INTRODUCTION

Income from other sources” is the last head of income. Any item of income which escapes the other four specific heads of income shall be included under this head of income. The sections covered in this head are :

1. Chargeability – Sec.56
2. Deductions Allowed – Sec.57
3. Deductions not allowed – Sec.58
4. Deemed Incomes – Sec.59

9.2 CHARGEABILITY - TYPES OF INCOMES

There are two types incomes chargeable to tax under this head. They are :

- (a) Specific Incomes
- (b) Other Incomes

Specific Incomes : These are :

- (i) Dividends
- (ii) Any winnings from lotteries, crossword puzzles, races including horse races, card games and other games of any sort or from gambling or betting of any form or nature whatsoever.
- (iii) Any sum received by the assessee from his employees as contributions to any staff welfare scheme;
- (iv) Interest on securities;
- (v) Income from machinery, plant or furniture let on hire;
- (vi) Income from letting of plant, machinery or furniture along with the building and letting of building is inseparable from the letting of plant, machinery or furniture; and
- (vii) Any sum received under a Key-man insurance policy including bonus.

Other Incomes : These are :

- (a) Income from subletting;
- (b) Interest on bank deposits and loans;
- (c) Income from royalty;
- (d) Director's fees
- (e) Ground rent;
- (f) Agricultural income from a place outside India
- (g) Director's commission for standing as a guarantor to bankers
- (h) Director's commission for underwriting share of new company
- (i) Examination fees received by a teacher from a person other than his employer;
- (j) Rent of plot of land;
- (k) Insurance commission;
- (l) Mining rent and royalties;
- (m) Casual income
- (n) Annuity payable under a will, contract, trust deed (excluding annuity payable by employer which is chargeable under the head Salaries);

- (o) Salaries payable to a members of parliament;
- (p) Interest on securities issued by a foreign government;
- (q) Family pension received by family members of a deceased employee;
- (r) In case of retirement, interest on employee's contribution if provident fund is unrecognized;
- (s) Income from undisclosed sources;
- (t) Gratuity paid to a director who is not an employee of the company;
- (u) Income from racing establishments;
- (v) Compensation received for use of business assets;
- (w) Annuity payable to the lender of a trade mark.
- (x) Any other income, not included in any head of income or above.

1. Income to include gift of money from unrelated persons [Section 56(2)(vii)]

The following three kinds of gifts received by an individual or HUF from an unrelated person or persons shall be taxable under section 56(2)(vii).

1. Gift of money
2. Gift of immovable property received without consideration
3. Gift of any property, other than immovable property whether received without consideration or acquired for inadequate consideration.

Now let us discuss these one by one.

1. **Gift of Money** : Where any sum of money is received by an individual or HUF from any person or persons without consideration the aggregate value of which exceeds ₹ 50,000, the whole of the aggregate value of such sum shall be taxable in the hands of the recipient.
2. **(a) Gift of immovable property without consideration** : Where any immovable property is received by an individual or HUF from any person without consideration, the stamp duty value of such property shall be taxable in the hands of the recipient.
- (b) Gift of immovable property received for inadequate consideration** : Where any immovable property is acquired for a consideration which is less than the stamp duty value of which exceeds Rs.50,000, the stamp duty value of such property shall be taxable in the hands of the recipient.

Further, where the date of agreement fixing the amount of consideration for the transfer of the immovable property and the date of registration are not

the same, the stamp duty value may be taken as on the date of the agreement, instead of that on the date of registration.

3. Gift of property other than immovable property :

1. **Without consideration** : Where any property other than immovable property is received by an individual or HUF, the aggregate fair market value of which exceeds ₹ 50,000, the whole of the aggregate fair market value of such property shall be taxable in the hands of the recipient.
2. **Acquired for the inadequate consideration** : Where such property other than immovable property is acquired for a consideration which is less than the aggregate fair market value of the property by an amount exceeding ₹ 50,000 the aggregate fair market value of such property as exceeds such consideration shall be taxable in the hands of the recipient.

Existing provision [Sec.56(2)(x)(b)] : Where any person receives any immovable property from any person or persons on or after 1-4-2017 for a consideration which is less than the stamp duty value of the property by an amount exceeding Rs.50,000, the stamp duty value of such property exceeding such consideration shall be charged to tax under the head “Income from other sources.”.

With effect from 1-4-2019 (Assessment year 2019-2020) – In case where any person receives any immovable property for a consideration less than the stamp duty value of the property, then excess amount of stamp duty value over and above the consideration shall be charged to tax under the head “Income from other sources”, if the amount of such excess is higher of the following .

(a) Rs.50,000

(b) 5% of the consideration

Existing Provision [Sec.56(2)(x)] : Proviso provides for exemption to certain transactions which are not regarded as transfer u/s 47 where provisions of section 56(x) shall not be applied.

With effect from 1-4-2018 (Assessment year 2018-19) – List extended to exclude two more transactions –

- (a) The transfer of capital asset between holding company and its wholly owned Indian subsidiary company which is not regarded as transfer under section 47(iv).

(b) The transfer of capital asset between subsidiary company and its Indian holding company which is not regarded as transfer under section 47(v).

With effect from 1-4-2019 (Assessment year 2019-2020) 56(2)(xi) : New clause inserted : Any compensation or other payment due to or received by any person in connection with the termination of his employment or the modification of the terms and conditions relating thereto shall be chargeable to income tax under the head “income from other sources”.

Circumstances when such gift shall not be treated as income :

Where the sum of money or any property is received :

- (a) from any relative; or
- (b) on the occasion of the marriage of the individual; or
- (c) under a will or by way of inheritance; or
- (d) in contemplation of death of the payer or donor as the case may be; or
- (e) from any local authority as defined in the Explanation to Section 10(2); or
- (f) from any fund or foundation or university or other educational institution or hospital or other medical institution or any trust or institution referred to in section 10(23C); or
- (g) from any trust or institution registered u/s 12AA

The amount so received shall not be chargeable to income tax.

The definition of the term “relative” for the purpose is given under.

- (i) Spouse of the individual
- (ii) Brother or sister of the individual
- (iii) Brother or sister of either of the parents of individual
- (iv) Any lineal ascendant or descendant of the individual
- (v) Any lineal ascendant or descendant of the spouse of the individual
- (vi) Spouse of the person referred to in clause (ii) to (v).

Rationalization of section 56 of the Income-tax Act (Section 56(2)(vii)): With a view to bring uniformity in tax treatment, the Act has inserted clause (h) to second proviso occurring after sub-clause (g) of section 56(2)(vii) so as to provide that any shares received by an individual or HUF as a consequence of demerger or amalgamation of a company shall not attract the provisions of section 56(2)(vii).

Dividend :

Section 2(22) gives definition of “deemed dividend” which is chargeable to tax under the head “Income from other sources”, even if the receipt is not regarded as dividend under the Companies Act. However, the definition laid down by section 2(22) is inclusive and not exhaustive. If, therefore, a particular distribution is not regarded as dividend within the extended meaning of the expression in section 2(22), it may still be dividend and chargeable to tax under section 56, provided it is “dividend” under the ordinary meaning of the expression. Following points are to be kept in mind while treating dividend for tax purposes.

- (a) Dividend declared or distributed by an Indian Company or by a mutual fund on its units is fully exempted with effect from 1-4-2003.
- (b) Bonus shares allotted to preference share holders shall be deemed as dividend and their market price shall be fully taxable.
- (c) Deemed dividend is fully taxable.
- (d) In case loan is taken by a person who has substantial interest in the affairs of a Private Limited Company whose business is not money lending such loan is deemed as advance dividend up to accumulated reserves of the company. If such loan is adjusted against-future dividend, it will not be taxable. A person is said to have a substantial interest if he, his spouse and minor child all together hold 10% or more shares in such Private. Limited company. The following are the exceptions.
 - 1. Any advance or loan to a shareholder or the concern in which the shareholder has substantial interest by a company will not be deemed as dividend, if the loan or advance is given during the normal course of its business provided, the lending of money is a substantial part of the business of the company.
 - 2. Any payment made by a company on purchase of its own shares from a shareholder in accordance with the provisions of Sec.77A of the companies Act, 1956 shall not be regarded as dividend. Such buyback of shares attracts capital gains tax liability in the hands of the shareholder u/s 46A
 - 3. Any distribution of shares pursuant to a demerger by the resulting company to the shareholders of the demerged company (whether or not there is a reduction of capital in the demerged company) shall not be treated as dividend.

9.3 BOND WASHING TRANSACTIONS

Avoidance of tax by certain transaction in securities [Section 94] :

In case of securities the assessee can avoid tax by entering into certain transactions. To curb such practice the following provisions have been made applicable to such transactions.

1. **Shifting of interest income not allowed in certain cases** : Interest on securities becomes due on specified dates and is treated as an income of the person who owns the securities on the due date. Therefore, if the owner of any security sells the securities just before the due date, he will be able to avoid the payment of tax on the interest by shifting the burden to other who may have no other income or very little income. Section 94(1) and (2) take care that such practices are not resorted to :

(a) **Sale and buy-back of same or similar securities [Section 94(1)]** : As per section 94(1) if the owner of any securities sells or transfers any securities, and buy back or re-acquires the same or similar securities and if the result of the transaction is that any interest becoming payable in respect of such securities is receivable by any other person, such interest would be deemed to be the income of the transferor and not of the transferee.

(b) **Transactions relating to securities resulting into no income/less income [Section 94(2)]** : Where any person has had at any time during any previous year any beneficial interest in any securities, and the result of any transaction relating to such securities or the income thereof is that, in respect of such securities within such year either no income is received by him or the income received by him is less than the sum to which the income would have amounted if the income from such securities had accrued the income from such securities for such year shall be deemed to be the income of such person.

The provisions of section 94(1) or (4(2) are, however, not applicable, if the owner proves that :

1. there has been no avoidance of Income tax; or
2. the avoidance of income tax was exceptional and not systematic and that there was no avoidance of income tax by such a transaction in any of the three preceding years.

2. Loss arising from purchase and sale of securities not allowed in certain cases [Section 94(7) :

- (a) any person buys or acquires any securities or unit within a period of three months prior to the record date;
- (b) such person sells or transfers;
 - (i) such securities within a period of three months after such date or
 - (ii) such units within a period of 9 months after such record date;
- (c) the dividend or income on such securities or unit received or receivable by such person is exempted.

Then, the loss, if any arising to him on account of such purchases and sale of securities or unit; to the extent such loss does not exceed the amount of dividend or income received or receivable on such securities or unit, shall be ignored for the purposes of computing his income chargeable to tax.

Record date means such date as may be fixed by a company or a Mutual Fund or the Unit Trust of India for the purpose of entitlement of the holder of the securities or the unit holder to receive dividend or income, as the case may be.

3. Bonus stripping in case of units [Section 94(8)] : Where,

- (a) a person buys or acquire any units within a period of three months prior to the record date;
- (b) such person is allotted or is entitled to additional units on the basis of such units without making any payment;
- (c) he sells all or any of such units while continuing to hold all or any of the additional units within a period of 9 months after such date;

then, the loss, if any, arising to him on account of such purchase and sale of units shall be ignored for the purpose of computing his income chargeable tot ax. Further, the amount of loss so ignored shall be deemed to be the cost of purchase or acquisition of such additional units as are held by him on the date of such sale or transfer.

Exceptions to the Rule of Bond Washing Transactions [Section 94(3)]

The rule of Bond washing transaction will not apply in the following two cases.

- (i) the person transferring the securities proves to the satisfaction of the Assessing Officer that there has been no avoidance of income tax; or
- (ii) the avoidance of tax was exceptional and not systematic and there was no avoidance of tax in any of the three preceding years by a transaction of such nature.

9.4. WINNINGS FROM LOTTERIES

Any winning from :

- (a) Lotteries;
- (b) Crossword Puzzles;
- (c) Races including horse races;
- (d) Card games and other games of any sort;
- (e) Gambling or betting of any form or nature whatsoever,
are chargeable to tax as "Income from other sources".

Grossing Up :

Winning from lotteries or horse races are to be grossed when net amount is given with the following (Tax rate is 30% for the financial year 2013-14).

$$\text{Net winnings} \times \frac{100}{70}$$

9.5 INTEREST ON SECURITIES

The interest on securities chargeable under this head are :

- i. interest on any security of the Central Government or a State Government;
- ii. interest on debentures or other securities for money issued by or on behalf of a local authority or a company or a corporation established by a Central, State or Provincial Act.

Chargeability of Interest :

Interest on securities may be taxed on receipt basis or on due basis, depending upon the system of accounting if any, adopted by the assessee.

Accrual of Interest :

Interest on securities accrues or becomes due on a specified date and not on a day-to-day basis. The date on which the interest shall become due is specified by the issuing authority. Interest may become due on quarterly, half yearly or annual basis, depending upon the term of the issue.

9.6 KINDS OF SECURITIES

There are three types of securities. These are :

1. Interest on Govt. Securities Exempted from tax :

Interest on these securities is fully exempted under section 10(15). These are :

1. Interest on National Plan Certificates
2. Interest on National Defence Certificates
3. Interest on Post Office Cash Savings Certificates
4. Interest on National Relief bonds
5. Interest on Treasury Savings Certificates
6. Interest on Capital Investment Bonds
7. Interest on National Savings Certificate II or III issue
8. Interest on special Bearer Bonds
9. Interest on any other Bond or security issued by Central or State Govt. or statutory corporation provided it is so notified u/s 10(15).
10. Any income from units of U.T.I. and other mutual funds.

Other recently issued Govt. Securities :

1. 10% Secured Redeemable NTPC Bonds, 1986 (listed)
2. 10% Secured Redeemable non-convertible bonds issued by Mahanagar Telephone Nigam Ltd.
3. 10% Secured redeemable non-convertible bonds issued by Indian Railway Finance Corp. Ltd.
4. 9% Secured redeemable non-convertible bonds, 1987 (B Series) issued by National Hydroelectric Power Corp. Ltd.
5. 9% secured redeemable non-convertible bonds issued by Indian Railways Finance Corp. Ltd.
6. 9% (tax free) secured redeemable non-convertible bonds issued by Power Finance Corp. Ltd.
7. 10 Years (tax free) secured redeemable non-convertible bonds issued by Indian Telephone Industries Ltd.

8. 10 Years – 9% (tax free) secured redeemable non-convertible NTPC bonds – IV issue.
9. 10 years – 9% (tax free) secured redeemable non-convertible PFC bonds - II series (private placement) issued by Power Finance Corp.,.
10. 10 years – 9% (tax free) secured redeemable non-convertible RFC bonds, issued by Rural Electrification Corp Ltd.
11. 10 years – 9% (tax free) Secured Redeemable non-convertible bonds (C Series) issued by Neyveli Lignite Corp Ltd.
12. 7% Capital Investment bonds
13. 6.5%, 8%, 9% or 10% National Relief Bonds.

2. Tax free bonds : These are of two types

(a) Tax free Government Securities : Even though the securities are tax free, they are not tax free actually. Tax free here means tax will be not deducted at source.

(b) Tax Free Non-Government Securities : Tax free commercial securities means the tax on the securities will be paid by the issuing authorities of these securities. As *such assessee gets full interest without tax deducted source. Therefore, all tax free non-government securities are to be grossed up.

3. Less Tax Securities :

Less tax securities may be Government securities or non-Government securities. Here less tax means the holder of the securities will be paid interest only after deducting tax. Hence, if net interest is given we have to gross up the interest to be included in the income of the assessee.

4. Tax free Commercial Securities :

Commercial (tax free) securities are those securities that are issued by a local authority Statutory Corporation or a company in the form of debentures or bonds. Actually, these are not tax free. Tax is paid by issuing authority to the Government on behalf of such security holders. The person who is holder of such security is liable to tax not only for the interest he is to receive but also the amount of tax which has been deposited on his behalf. The amount of interest actually received by holder is the net interest i.e., after deduction of tax at source.

Grossing up of Interest :

Tax is also to be deducted at source on interest on securities at the prescribed rates of tax. For income-tax purposes what is to be charged to tax is the gross amount of interest. Therefore, if the net-interest is given, it has to be grossed upto arrive at the taxable amount.

In the case of government securities, grossing up is not required as there is no deduction of tax at source. However, grossing up is required in the case of the following.

- i. tax-free non-government securities;
- ii. less tax non-government securities;

Net interest can be gross up as under :

$$\frac{\text{Net interest} \times 100}{100 - \text{Rate of TDS}}$$

The rates of TDS are as under :

- a. In case of securities listed on a recognized stock exchange – 10%

$$\text{Gross Interest} = \text{Net Interest} \times \frac{100}{90}$$

- b. Unlisted non-government securities – 20%

$$\text{Gross Interest} = \text{Net Interest} \times \frac{100}{80}$$

**Rates of Tax Deducted at Source during the
Financial Year 2018-19**

	Particulars	Rate of Deduction
	Payee being a person other than a company	%
	Person being resident in India	
i.	Winnings from Lotteries and Crossword Puzzles	30
ii.	Winnings from horse races	30
iii.	Insurance commission	10
iv.	Interest on securities of State or Central Govt. or Listed Securities	10
v.	Non-listed securities	20

9.7 DEDUCTIONS ALLOWED [SECTION 57]

The following deductions are to be given.

9.7.1 Deductions for Interest on Securities, Dividends etc.:

(a) Collection charges [Section 57(i)] : Any reasonable sum paid by way of commission or remuneration to a banker, or any other person for the purpose of realizing the interest.

(b) Interest on Loan [Section 57(iii)] : Interest on money borrowed for investment in securities is allowed as deduction.

(c) Any other expenditure [Section 57(iii)] : Any other expenditure, not being a expenditure of a capital nature, expended wholly and exclusively for the purpose of making or earning such income is allowed as deduction.

9.7.2 Deductions permissible from letting out of machinery, plant or furniture and buildings [Section 57(ii) and (iii)] : The following deductions are allowable.

- (a) current repairs, to the premises
- (b) Insurance premium against risk of damage or destruction of the premises
- (c) Repairs and insurance of machinery, plant or furniture
- (d) Depreciation based upon loss of assets, in the same manner as allowed under section 32.
- (e) Any other expenditure not being a expenditure of a capital nature, laid out or expended wholly and exclusively for the purpose of making or earning such income is to be given as deduction

9.7.3 Deductions in respect of employee's contribution towards staff welfare schemes [Section 57(ia)] :

Deduction in respect of any sum received by an employer as contribution from his employees towards any welfare fund of such employee is allowable only if such sum is credited by the employer to the employee's account in the relevant fund before the due date.

9.7.4 Family pension payments received by the legal heirs of a deceased employee [Sec.57(iii)]

Family pension is taxable under the 'Income from other sources'. On such family pension a standard deduction is to be allowed to the legal heir at 33 1/3% of such pension, or ₹ 15,000 whichever is less.

9.8 DEDUCTIONS NOT ALLOWED [Section 58]

The following are not allowed as deduction in computing income from other sources .

1. **Personal expenses** : Any personal expenses of the assessee are not deductible.
2. **Interest** : Any interest chargeable under the Act which is payable outside India on which tax has not been deducted at source is not deductible.
3. **Salary without TDS** : Any payment chargeable under the head "Salaries" and payable outside India is not deductible if tax has not been paid or deducted there from.
4. **Wealth Tax** : Any sum paid on account of wealth tax is not deductible.
5. **Amount specified by Section 40A** : Any amount specified by section 40A under the head profit or gain from business or profession is not deductible while calculating income under the head "Income from other sources".
6. **Expenditure in respect of Royalty and Technical fees received by a foreign company** : In the case of foreign companies, expenditure in respect of royalties and technical service fees as specified by section 44D is not deductible.
7. **Expenditure in respect of winnings from Lotteries** : No deduction in respect of any expenditure or allowance in connection with income under the head "Income from other sources" allowed in computing the income by way of any winnings from lotteries, crossword puzzles, races including horse races, card games and other games of any sort or from gambling or betting of any form or nature. However, in the case of income from the activity of owning and maintaining race horses, the expenses incurred on the maintenance of horse is allowed as deduction.

Illu.1 : Compute Income from other sources of Mrs. Yosada in the following case.

1. Mrs. Yasoda borrowed in the year Rs.3,00,000 and invested it in units of quoted mutual funds. None of the mutual funds declared a dividend in the year. She paid an interest of Rs.35,000 on the loan taken by him.
2. Dividends on units purchased, received in the year were Rs.46,000.
3. Interest on fixed deposits with banks was Rs.8,000.
4. Interest on bank deposits in the name of her dependent mother was Rs.20,000. Deposit was made her mother out of gifts received from relatives.
5. Minor son of Krishna has received birthday gift of Rs.65,000 from family friends on November 1, 2017. This amount is deposited in a bank fixed deposit at interest rate of 6 per cent per annum.
6. Mrs. Yasoda had purchased three years ago, National Savings Certificates (8th series) for Rs.50,000 on which interest accrued for the year was Rs.4,775.
7. Donations paid by Mrs. Yasoda to 4 charitable Institutions were Rs.2,000 per institute in the year. However, one of the institutes is not recognized for the purpose of section 80G.

Solution :

**Income from other sources of Mrs. Yasoda
(Assessment year 2018-19)**

	Rs.
Interest from mutual funds	Nil
Interest from units (exempt)	Nil
Interest on fixed deposit	8,000
Interest on deposits of dependent mother (not taxable as income of Mrs. Yasoda)	Nil
Birthday gift received by minor son of Mrs. Yasoda (Rs.65,000 – Rs.1,500)	63,500
Interest income of minor son (6% of Rs.65,000 × 5 ÷ 12)	1,625
NSC interest	4,775
Total Income	77,900
Less: Interest on loan taken to invest in mutual funds	Nil
Income from other sources	77,900

Notes : Not deductible as interest on mutual funds is exempt from tax.

Illu.2 : Mr. Devanand, gave the following particulars of his income and expenditure from the previous year ending March 31, 2018:

Rent of a house situated in Nellore: Rs.4,00,000; rent from letting a building (in Chittoor) along with plant and machinery (letting out of building cannot be separated from letting out of plant and machinery): Rs.9,00,000; depreciation of building in Chittoor: Rs.16,000; depreciation of building in Delhi: Rs.9,000; repairs and insurance of building (in Chittoor) and plant and machinery: Rs.7,500. Dividends on preference shares from an Indian company declared on August 3, 2017 : Rs.40,000.

- (a) Loan from another Indian company which is deemed as dividend under section 2(22)(e) is given on April 3, 2017 [net amount received Rs.10,80,000, tax deducted at source: Rs.1,20,000].
- (b) Royalty income: Rs.8,20,000.
- (c) Winnings from camel races on September 25, 2017 [net amount received: Rs.74,000, tax deducted at source: Nil].
- (d) Interest on 6.5 per cent (tax-free) National Relief Bond: Rs.1,70,000.
- (e) Gift received on January 20, 2018 in foreign currency from a school friend: Rs.50,000. Gift from another friend on March 31, 2018: Rs.6,000.

Determine the income chargeable under the head “Income from other sources” for the assessment year 2018-19.

Solution:

**Computation of Income from other sources of Mr. Devanand
(Assessment year 2018-19)**

		Rs.	Rs.
1.	Rent of property situated in Nellore (it is taxable under the head “Income from house property”)		Nil
	Rent from letting out of building in Chittoor in letting out of plant and machinery (since the two lettings are not separable, income is taxable under the head “Income from house property”)	9,00,000	
	Less: Depreciation of Chittoor building	(-) 16,000	
	Less: Repair and insurance of Chittoor building and plant and machinery	(-) 7,500	

	Income		8,76,500
2.	Deemed dividend (Rs.10,80,000 + Rs.1,20,000)		12,00,000
3.	Royalty income		8,20,000
4.	Winning from races		74,000
5,	Gift (Rs.50,000 + Rs.6,000)		56,000
	Income from other sources		30,26,500

Illu.3 : Mr. Raj kumar holds the following securities on April 1, 2017:

Rs.80,000 9% (Non-listed) debentures of ITC Ltd. (dates of payment of interest: June 1 and December 1 every year);

Rs.2,30,000 6% Central Government securities (date of payment of interest : February 28 every year);

Rs.4,90,000 10% debentures of Maruthi Ltd. (dates of payment of interest: March 1 and September 1 every year).

On October 31, 2017, Mr. Rajkumar sells Rs.2,45,000 10% debentures of Maruthi Ltd. Determine the taxable income and tax liability of Mr. Rajkumar for the assessment year 2018-19 on the assumption that her salary income is Rs.14,00,000 and she contributes Rs.90,000 towards unrecognized provident fund. Mr. Rajkumar gets a gift of Rs.4,00,000 from her husband on March 31, 2018.

Solution:

**Computation of Income from Other sources of Mr. Rajkumar
(Assessment year 2018-19)**

		Rs.	Rs.
1.	Interest Income :		
	Interest on debentures of ITC Ltd. (9% of Rs.80,000)	7,200	
	Interest on Central Government securities (6% of Rs.2,30,000)	13,800	
	Interest on debentures of Maruthi Ltd. (10% of ½ of Rs.4,90,000 + 10% of ½ of Rs.2,45,000)	36,750	
2.	Gift from husband (not chargeable to tax)	Nil	
	Income from other sources		57,750
	Salary income		14,00,000
	Gross total income		14,57,750
	Less: Deduction under section 80C		Nil
	Net income		14,57,750

Illu.4 : Mr. Nagababu, maintaining books of account on the basis of financial year, holds the following securities on April 1, 2017:

Rs.4,30,000 7% AP Government loan (date of payment of interest: July 15 every year).

Rs.3,80,000 11% debentures (non-listed) of Honda Ltd. (date of payment of interest : June 30 every year).

Apart from the aforesaid securities, Mr. Nagababu invests in AP Government Loan, Central Government securities and (listed) debentures of Ford Ltd. and receives on December 1, 2017, Rs.36,000, Rs.90,000 and Rs.1,08,000 (net of tax deducted – rate of tax 10%), respectively, as interest. His business income is Rs.24,32,000. he pays Rs.6,000 as commission to his bank for collecting interest on securities. Determine the taxable income of Mr. Nagababu for the assessment year 2018-19.

Solution:

**Computation of Income from Other sources of Mr. Nagababu
(Assessment year 2018-19)**

	Rs.	Rs.
Interest on AP Government loan (7% of Rs.4,30,000)		30,100
Interest on debentures of Honda Ltd. (11% of 3,80,000)		41,800
Interest on AP Government loan		36,000
Interest on Central Government securities		90,000
Interest on debentures of Ford Ltd. (Rs.1,08,000 ÷ 0.90)		1,20,000
Gross interest		3,17,900
Less: Bank commission		6,000
Income from other sources		3,11,900
Business income		24,32,000
Gross Total Income		27,43,900

Illu.5: Mr. Chidambaram is an advocate by profession gives the following particulars.

- (a) On May 30, 2017, he purchases paintings of Ravi Verma for Rs.9,00,000 (fair market value is, however Rs.35,00,000). These paintings are purchased from an advocate (who is not a registered dealer under GST Act). Upto March 31, 2018 these paintings are not sold.**

- (b) Income of Mr. Chidambaram from legal profession is Rs.60,00,000 during the previous year ending March 31, 2018.
- (c) On June 30, 2017 Mr. Chidambaram purchases Gold from a person (other than registered dealer) for Rs.8,00,000 (fair market value is Rs.9,10,000). In December 2, 2017, the Gold is transferred for Rs.9,50,000.
- (d) Mr. Chidambaram's Minor son Mr. Karthik gets a gift of Rs.75,000 from his maternal uncle on his 6th birthday.
- (e) Minor daughter of Mr. Chidambaram gets gift of Rs.60,000 from friends of Mr. Chidambaram and Mrs. Chidambaram on her 5th birthday.
- (f) On January 10, 2018, Mr. Chidambaram purchases a Goddess Durga painting from an Krishna Art Gallery, Chennai. Krishna Art Gallery is a registered dealer under GST Act. The painting is purchased under invoice number 23 issued by Krishna Art Gallery and the invoice price/purchase price is Rs.5,00,000. However, the same painting will not be available for less than Rs.7,50,000 from any other gallery.
- (g) On January 15, 2017, Chidambaram purchases Diamonds from Kalyan Jewellers (a registered dealer under GST Act). Invoice price/purchase price is Rs.3,70,000. However, the same jewellery will not be available for less than Rs.4,40,000 from any other jewellery shop.

From the above information determine the income of Mr. Chidambaram for the assessment year 2018-19.

Solution :

**Computation of Total income of Mr. Chidambaram
(Assessment year 2018-19)**

	Rs.	Rs.
Income from Profession		60,00,000
Short term capital gains (sale consideration for jewellery : Rs.9,50,000 – cost of acquisition : Rs.9,10,000)		40,000
<i>Income from other sources</i>		
(i) Purchase of paintings for inadequate consideration	26,00,000	
(ii) Purchase of jewellery for inadequate consideration (Rs.9,10,000 – Rs.8,00,000)	1,10,000	
(iii) Gift received by minor son	-	

Taxation	325	Income from other sources	
(iv) Gift received by minor daughter		58,500	
(v) Purchase of painting from a registered dealer		-	
(vi) Purchase of jewellery from a registered dealer		-	27,68,500
Total income			88,08,500

Working Notes :

1. Paintings are purchased from a person other than registered dealer and the difference between fair market value and purchase price is taxable.
2. Jewellery is purchased as capital asset; provisions of Sec.562(x) are applicable.
3. Since gift is received from a relative, provisions of Sec.56(2)(x) not applicable.
4. It is income of minor daughter, but it will be clubbed in the hands of Mr. Chidambaram after availing exemption of Rs.1,500 under Sec.10(32)
5. Invoice price is taken as fair market value and since painting is purchased at the fair market value, nothing is taxable.
6. Invoice price is taken as fair market value and since jewellery is purchased at the fair market value, nothing is taxable.
7. It is assumed that income of Mrs. Chidambaram is lower than Rs.88,08,500,

Illu.6 : Mr. Jagan received the following income as interest during the previous year 2017-18.

- (i) ₹3,482 as interest on debentures issued by local authority
- (ii) ₹7,164 as interest on debentures of Nerriot Ltd. (not listed at any recognized stock exchange).
- (iii) ₹12,776 as interest on debentures of DCM Ltd. (Listed on Delhi stock exchange).
- (iv) ₹6,000 as interest on Government Securities on 5.6.2017
- (v) ₹3,852 as interest on tax free debentures of Asian Ltd.(Not listed)

Determine income from other sources for the Assessment Year 2018-19 assuming bank charges 2% on amount collected.

Solution:

**Computation of Income from other Sources of Mr. Jagan
(Assessment year 2018-19)**

	₹
(i) Interest on debentures issued by local authority	Nil

(ii)	Interest on debentures of Nerroit Ltd. (₹7,164× 100/90)	7,960
(iii)	Interest on debentures of DCM Ltd. (₹12,776×100/90)	14,196
(iv)	Interest on Government Securities	6,000
(v)	Interest on tax free debentures of Asian Ltd. (₹3,852×100/90)	4,280
	Gross Income	32,436
	Less: Deduction u/s 57 :	
	Expenses on collection	596
	(2% bank charges on ₹ 29,792 i.e. 7,164+12,776+6,000+3,852)	
		31,840

Note: The collection of charges amounting to ₹ 3,482 relating to the interest debentures issued by a local authority is not taken into account as the total interest is exempted from tax u/s 10(15).

Illu.7 : From the following particulars for the year ended 31-3-2018 compute the income of Sri Surya Bhaskaram, under the head “Income from Other Sources.”

	₹
Dividends (gross)	12,000
Dividend collection charges	300
Rent from Buildings and Machinery	30,000
Depreciation on buildings	4,000
Insurance on buildings	1,600

Solution:

**Computation of Income from Other Sources of Mr. Surya Bhaskaram
(Assessment year 2018-19)**

		₹	₹
Dividends			NIL
Rent from Buildings & Machinery		30,000	
Less: Depreciation on Buildings	4,000		
Insurance on Buildings	1,600	5,600	24,400
Income from Other Sources			24,400

Illu.8 : Amar furnished the following particulars of his income for the previous year 2017-18. Compute his income from other sources.

	₹
Dividends (gross)	4,600
Income from letting on hire of building and machinery	17,000
Interest on Bank deposit	3,500
Directors' fees received	1,200
Ground rent	600
Income from undisclosed sources	20,000
Winning form lotteries (gross)	10,000

The following deductions are claimed :

- a. Collection charges of dividend ₹ 20
- b. Allowable depreciation on building and machinery ₹ 4,100

Solution :

**Computation of Income from other sources of Mr. Amar
(Assessment Year 2018-19)**

	₹
Dividends	Nil
Income from Letting on hire of Building and Machinery	17,000
Interest on Bank deposits	3,500
Director's fees received	1,200
Ground Rent	600
Income form undisclosed sources	20,000
Winning from Lotteries	10,000
	52,300
Less : Deductions u/s 57	
Depreciation on Building and Machinery	4,100
Income from other sources	48,200

Note : Since dividend is exempted, the collection charges on dividend are not deductible.

Illu.9 : Ramesh investments during the year ended 31st March, 2018 consisted of the following.

- (a) ₹ 25,000, 7% government securities
- (b) ₹ 15,000 8% Agra municipal bonds
- (c) ₹ 20,000 9% Bombay port Trust Bonds
- (d) ₹ 15,000, 6% securities issued by foreign government

(e) 7% Government bonds ₹ 18,000

He paid ₹ 60 as commission for collecting the interest and ₹ 1,200 as interest on loan which he had taken for the purpose of purchasing the Bombay Port Trust Bonds. Compute his income from other sources.

Solution :

**Calculation of Income from other sources of Mr. Ramesh
for the assessment year 2018-19**

	₹	₹
Interest on Govt. Securities ($₹ 25,000 \times 7/100$)		1,750
Interest on Agra Municipal Bonds ($15,000 \times 8/100$)		1,200
Interest on Bombay Port Trust Bonds ($20,000 \times 9/100$)		1,800
Interest on Securities of Foreign Government ($15,000 \times 6/100$)		900
Interest on Govt. Bonds ($₹ 18,000 \times 7/100$)		1,260
		6,910
Less : Deductions u/s 57		
Interest on Loan	1,200	
Commission	60	1,260
Income from other sources		5,650

Illu.10 : Compute income from other sources.

Dividends (gross) ₹40,000

Winnings from Lottery ₹15,000

Director 's fee ₹12,000

Income from Srilanka Agricultural Lands ₹40,000

Solution:

**Computation of Income from Other Sources
for the assessment year 2018-19**

	₹	₹
Dividends		NIL
Winning from Lottery		15,000
Director 's fee		12,000
Income from Srilanka Agricultural lands		40,000
		67,000

Note : Assumed that the winnings from lottery in the gross amount.

Illu.11 : Calculate taxable interest on Securities.

- (a) ₹ 1,00,000 10% Tax free Government Securities.
 (b) ₹ 75,000 12% Tax free Limited Co., debentures (listed).
 (c) ₹ 80,000 15% Tax free Limited Co., debentures (unlisted).
 (d) ₹ 50,000 7% Capital Investment Bonds.

Collection charges paid to banker ₹500.

Solution:

**Calculation of Interest on Securities
 (Assessment year 2018-19)**

	₹
Interest on Tax free Government Securities (₹1,00,000 x 10/100)	10,000
Interest on Tax free Limited Company debentures (listed) (₹75,000 x 12/100 = 9,000 x 100/90)	10,000
Interest on Tax Free Limited Company Debentures (unlisted) (₹80,000 x 15/100 = 12,000 x 100/80)	15,000
	35,000
Less: Collection Charges	500
Income from Interest on Securities	34,500

Note:

- (a) Rebate will be given on Tax free Government Securities.
 (b) Interest on 7% Capital Investment Bonds exempted from tax u/s 10 (15).

9.9 SELF-ASSESSMENT QUESTIONS :

A. Short Answer Questions

1. Define Dividend
2. Explain the taxability of winnings from lotteries
3. What are tax-free securities?
4. What are tax-free commercial securities?
5. What are less tax securities?
6. What is meant by grossing up?
7. Casual Income.

B. Essay Questions

8. State the various types of incomes charged to tax under the head "Income from other sources"
9. What are securities? Discuss the provisions relating to the taxability of interest on securities.
10. Explain deductions allowed and not allowed from the income under head Income from other sources.
11. Write any five taxable items of incomes under the head 'Income from other sources'.
12. List out the income from others sources
13. What are the taxable incomes come under the head " Income from other sources"?
14. What are the incomes chargeable to tax under the head Income from Other sources?

9.6 EXERCISES

1. Satyaswamy, the friend of Koti has gifted an immovable property to Koti whose stamp duty value on the date of gift is ₹ 45,00,000.
 - (i) What shall be the value of gift taxable under section 56(2)(vii)?
 - (ii) What shall be the amount taxable if Koti purchased the above property from Satyaswamy for a consideration of ₹ 36,00,000?

[Ans.: (1) Fully taxable (ii) Consideration price to be taken by Satyaswamy Rs.45,00,000 instead of Rs.36,00,000]
2. From the following information compute income of Mr. Premchand from other sources
 - (i) Interest from Savings bank account of SBI ₹6,000.
 - (ii) Winning of ₹ 3 lakhs (Gross) from state government lottery
 - (iii) Income from subletting of house at ₹5,000 p.m. which was actually taken for ₹ 3,000 p.m.
 - (iv) Dividend of ₹11,000 received from Indian Company.
 - (v) Income from owning and maintaining horse races ₹10,000.

[Ans.: Income from Other Sources Rs.3,40,000]

3. Mr. Hariprasad has the following investments in the previous year ended 31st March, 2018.

- (i) ₹ 7,160 received as interest on securities of U.P government.
- (ii) ₹ 9,000 received as interest on securities of a listed paper manufacturing company.
- (iii) ₹7,200 received as interest on the unlisted securities of a sugar company.
- (iv) ₹ 30,000, 11% securities (unlisted) of a textile company.
- (v) ₹20,000, 10% Tami Nadu government securities.
- (vi) ₹ 50,000, 13.5% listed debentures of Dolly Ltd.

Interest on all securities is payable on 30th June, and 31st December. The bank charges 1.5% commission on net realization of interest as collection charges. Hari Prasad also received ₹15,000 as director's fee from a company. His other incomes are – Winnings from horse race: ₹25,000 (gross); and interest on post office savings bank account ₹6,000. Find out taxable income of Mr. Hari Prasad from other sources for the assessment year 2018-19.

[Ans.: Income from Other sources : Rs.76,694]

4. Mr. Narendra aged (50 years) is a resident in India. Find out the net income and tax liability for the information given below for the assessment year 2018-19

Winning from races: Rs.10,000 (expenditure incurred: Rs.200), short-term capital gain (securities transaction tax is applicable): Rs.1,75,000, bank interest (fixed deposit): Rs.2,31,000, public provident fund contribution: Rs.1,14,000.

[Ans.: Total Income Rs.3,02,000]

5. Mrs. Nagma is a resident individual. Her income taxable at normal rate is less than the exemption limit of Rs.2,50,000. In other words, she is unable to utilise exemption limit to the extent of Rs.1,33,000 (i.e., Rs.2,50,000 – Rs.1,17,000). The unutilized exemption limit shall be deducted from short-term capital gains. Short-term capital gain chargeable to tax at the rate of 15% under section 111A will be Rs.42,000 (i.e., Rs.1,75,000 – Rs.1,33,000). Calculate her tax liability.

[Ans.: Tax liability : Rs.6,489]

6. The following incomes are received by Mr. Rajesh Khanna during financial year 2017-18.

		Rs.
(i)	Director's fees	2,000
(ii)	Income from agricultural land in Nepal	5,000
(iii)	Ground rent for land in Chittoor	10,000
(iv)	Interest on Postal Savings Bank A/c	100
(v)	Interest on deposits with Andhra Bank	500
(vi)	Dividend from a foreign company	700
(vii)	Rent from sub-letting a house	26,250
(viii)	Rent payable by Mr. Rajesh for the sub-let house	12,000
(ix)	Other expenses on sub-let-house	1,000
(x)	Winnings from horse-race (Gross)	12,300
(xi)	Interest on Securities (gross)	4,000

You are required too calculate Income from Other Sources of Mr. Rajesh Khanna for the assessment year 2018-19.

[Ans.: Income from Other sources : Rs.47,750]

7. Mr. Ramana Reddy submits the following particulars of his income and outgoings:

- Dividend received from Apple Co. Ltd, an Indian company ₹4,160; interest paid on capital borrowed for the purpose of investment in such shares ₹500.
- Interest on American Government Bond ₹15,700.
- Winning from horse races ₹13,200' expenses incurred for the same ₹2,000.
- Income by way of owning and maintaining race horse ₹8,900; expenses incurred for maintaining such horses ₹1,200.
- Winning from lottery (Net after deduction of tax @ 30%) ₹8,400.

Compute his income from other sources.

[Ans. : Income from other sources : Rs.48,600]

8. Mr. Ranga Reddy submits following particulars of his income for A.Y.2018-19.

Compute his total income and tax payable.

	Rs.
Dividends from Indian companies	2,600
Interest on fixed deposit with bank	15,400
Income from the units of the UTI Mutual Fund	3,900
Interest accrued on National Savings Certificates VIII Issue	2,000
Honorarium received as examiner not being casual income	12,500

Gifts (in cash/by cheque) from friends received during the year	51,000
Employer's contribution to unrecognized provident fund and interest received thereon	56,000
Assessee's own contributions to URPF received	41,000
Interest on his own contribution to unrecognized provident fund	15,000
Withdrawal from National Savings Scheme (1987) account (including interest)	2,400
Interest on deposit with private concerns	14,000
Interest on Debentures	2,600
Winnings from TV Game Show (Gross)	1,60,000
T.D.S. on Winnings from TV Game Show @ 30%	48,000
Deposit in PPF A/c	58,000

[Ans. : Taxable Income Rs.2,70,900]

9. Mr. Vishal submits the following particulars for A.Y. 2018-19. Compute his taxable income and tax payable.

		Rs.
(a)	Rent from letting of factory along with plant and machinery installed therein (letting cannot be separated)	90,000
(b)	Rent from letting of DG set for factory (stand by)	15,000
(c)	Collection charges in relation to rent	500
(d)	Fire insurance premium for factory building	800
(e)	Fire insurance premium for plant & machinery	400
(f)	Repairs to factory building	5,000
(g)	Depreciation :	
	- on factory building, plant, machinery	6,000
	- on DG SET	2,000
(h)	Income from sub-letting of office premises taken on rent	20,000
(i)	Rent paid to owner for office premises	12,000
(j)	Winnings from Lottery (TDS Rs.30,000)	1,00,000
(k)	Interest on Govt. securities	5,000
(l)	Interest from bank	3,000
(m)	Interest on Income-tax refund of Rs.2,000 for A.Y.2017-18	1,200

[Ans.: Total Income Rs.2,07,500]

Chapter – 10

SET OFF AND CARRY FORWARD LOSSES

Objectives :

After studying this unit you should be able to :

- Know the circumstances under which the income of other persons to be included in the total income of the assessee.
- Understand different types of deemed incomes.
- Know the provisions relating to the set off carry forward of losses.

Structure :**10.1 Introduction****10.2 Transfer of Income and Assets****10.3 Clubbing of Incomes****10.4 Recovery of Tax****10.5 Deemed Incomes****10.6 Set off of Losses****10.7 Carry forward of losses****10.8 Order of Set off****10.8 Self-Assessment Questions****10.9 Exercises****10.1 INTRODUCTION**

Every assessee is required to pay tax if his income exceeds the exemption limit specified by the Finance Act. But there are certain cases where the income other persons, related to the assessee, will be included in his income. This is because the assessee may try to reduce his tax liability by transferring certain income or assets on which income is earned, to his own close relatives. Hence, such type of income are to be clubbed with the income of the assessee.

Sections Covered : The provisions relating to the clubbing of income of other person in the income of the assessee are :

Section 60	Transfer of income without transfer of assets
Section 61	Revocable transfer of assets
Section 62	Transfer irrevocable for specific period
Section 63	Transfer and revocable transfer defined
Section 64	Income of an individual to include income of spouse, minor child etc.
Section 65	Liability of person in respect of income included in the income of another person.

Let us now discuss these provisions

10.2 TRANSFER OF INCOME AND ASSETS

- 1. Transfer of income without transfer of assets [Section 60] :** Where there is a transfer of an income by a person to another person, without the transfer of the asset from which the income arises, such income shall be included in the total income of the transferor.
- 2. Revocable transfer of assets [Section 61] :** Where there is a revocable of an asset by a person to another person, any income arising from such assets shall be included in the total income of the transferor.
- 3. Revocability of Transfer [Sec.62] :** According to Section 62 Transfer is revocable if the transferor reserves the right to get back the asset at any time or retransfers the asset at any time or assumes the income of such asset at any time. In case transfer is not revocable during the lifetime of transferee, it is treated as irrevocable and its income remains transferee's income.

10.3 CLUBBING OF INCOMES - CIRCUMSTANCES

- 1. Income of Spouse [Section 64(i) (ii)] :** According to section 64 any salary, commission, fees or any other remuneration received by the spouse from a firm which the individual has substantial interest is to be included in the total income of the spouse. However, if remuneration is solely attributable to the technical or professional knowledge and experience of the spouse, will not be clubbed. If the husband and wife both have substantial interest in the concern and both are in

receipt of remuneration from the concern, there the remuneration of both shall be clubbed in the hands of that spouse whose total income, before including such remuneration, is greater.

2. Income from transferred assets to spouse : Where an asset (other than house property) is transferred by an individual to his or her spouse, directly or indirectly, otherwise than for adequate consideration or in connection with an agreement to live apart, any income from such asset will be deemed to be income of the transferor. The income from the transferred assets shall not be clubbed in the following cases :

- (i) if the transfer is for adequate consideration.
- (ii) The transfer is under an agreement to live apart
- (iii) If the relationship of husband and wife does not exist, either at the time of transfer of such asset or at the time of accrual of the income.

3. Income from assets transferred to Son's Wife [Section 64 (1) (iv)] : Any income which arises from assets transferred directly or indirectly by an individual to his son's wife after 1st June, 1973, otherwise than for adequate consideration, shall be included in the income of the transferor.

4. Income from assets transferred to any person for the benefit of the spouse of the transferor [Section 64(1) (vii)] : Where an individual transfers any assets to any person or association of persons, otherwise than for adequate consideration, the income from such assets shall be included in the income of the transferor to the extent to which the income is for the immediate or deferred benefit of his or her spouse.

5. Income from assets transferred to any person for the benefit of son's wife [Section 64 (1) (viii)] : Where an individual transfer any assets after 1st June, 1973 to any person or association of persons, otherwise than for adequate consideration the income from such assets shall be included in the income of the transferor to the extent to which the income is for immediate or deferred benefit of his or her son's wife.

6. Clubbing of Income of a minor child [Section 64 (1A)] : In computing the total income of an individual, there shall be included all such income as arises or

accrues to his minor child. Therefore, the income of a minor child is to be clubbed in the hands of either of his parents. The income shall be clubbed in the hands of that parent whose total income excluding the income of the minor is greater. According to Sec.10 (32) where the income of a minor child has been included in the total income of a parent, such parent shall be entitled to an exemption to the extent of such income or ₹ 1,500 whichever is less, in respect of each minor child whose income is so included.

7. Income from self acquired property : Where an individual who is a member of the Hindu Undivided Family after 31-12-1969 –

- (i) converts, his separate property as the property of the HUF, or
- (ii) throws the property into the common stock of the family, or
- (iii) otherwise transfers his individual property to the family, otherwise than for adequate consideration.

Then the income from such property shall continue to be included in the total income of the individual.

10.4 RECOVERY OF TAX [SECTION 65] :

The income from any asset transferred to certain specified persons mentioned in the above sections of clubbing of Income, is includible in the total income of the transferor. However, according to section 65 the notice of demand in respect of tax on such income may also be served upon the person to whom such asset has been transferred. On service of such notice, the transferee shall be liable to pay that portion the tax levied on the transferor which is attributable to the income so included.

10.5 DEEMED INCOMES

The following are the deemed incomes.

- 1. Cash Credits [Section 68] :** Where any sum is found credited in the books of an assessee maintained for any previous year and the assessee offers no explanation about the nature and source thereof or the explanation offered by him is not in the opinion of Assessing Officer (A.O), satisfactory, the sum so credited may be charged to income-tax as the income of assessee of that previous year. Such cash credits may be assessed either as business profits or

an income from other sources. In the case of business community it is normally considered as business profit.

- 2. Unexplained Investments [Section 69]** : Where, in the financial year immediately preceding the assessment year, the assessee has made investments which are not recorded in the books of accounts and the assessee fails to furnish any satisfactory explanation as to how and from where this money came or if the Assessing Officer is not satisfied with the explanation the value of such unexplained investment may be deemed to be the income of the assessee of such financial year.
- 3. Unexplained Money etc. [Section 69A]** : Where, in any financial year the assessee is found to be the owner of any money, bullion and jewellery or other valuable articles the assessee either does not furnish any explanation as to how he acquired these things or his explanation, if furnished is not up to the satisfaction of the Assessing Officer, the money, bullion, jewellery or other valuable articles may be deemed to be the income of the assessee for such financial year.
- 4. Investments, Jewellery etc. not fully disclosed in Books of Accounts [Section 69B]** : In case the assessee acquired certain investments, jewellery, valuable article etc. and the actual money spent on these items is more than what is shown or recorded in his books of accounts and the assessee either does not furnish any explanation for this or with his explanation the A.O. is not satisfied, the excess amount under section 69B may be deemed to be the income of the assessee for such financial year.
- 5. Unexplained Expenditure [Section 69C]** : According to Section 69C, where in any financial year an assessee has incurred any expenditure and he offers no explanation about the source of such expenditure or part thereof or the explanation offered by him is not satisfactory according to the opinion of A.O., the amount covered by such expenditure or part thereof, as the case may be, is deemed to be the income of the assessee for such financial year. The amount of unexplained expenditure which is deemed as income of the assessee, shall not be allowed to be deducted under any head of income

- 6. Payment of Hundi Money in Cash [Section 69D]** : According to this section any amount borrowed on `hundi' or repaid on hundi otherwise than in account payee cheque drawn upon a bank, shall be deemed to be the income of the person borrowing or repaying the amount for the previous year in which such amount was borrowed or repaid.

SET OFF & CARRY FORWARD OF LOSSES

Section 70 to 80 of Income Tax Act deals with the set off and carry forward of losses. The sections covered are :

Section 70	Set off of loss from one source against income from another source under the same head of income
Section 71	Set off loss from one head against income from another
Section 71B	Carry forward and set off of loss form house property
Section 72	Carry forward and set off of business loss
Section 72A	Provisions relating to carry forward and set off of accumulated loss and unabsorbed depreciation allowance in amalgamation or demerger etc.
Section 73	Losses in speculation business
Section 74	Losses under the head ₹Capital gains'
Section 74A	Losses form certain specified sources falling under the head "Income from other sources"
Section 75	Losses of firms
Section 78	Carry forward and set off of losses in case of change in constitution of firm or on succession
Section 79	Carry forward and set off of losses in the case of certain companies
Section 80	Submission of return for losses

10.6 SET-OFF OF LOSSES

After computing the income under five heads one by one and after taking the clubbing of income under Sec.60 to 64, we have to aggregate all these incomes to get Gross Total Income. But before arriving at the gross total income, we have to adjust losses either in the same head or against other heads under Sec.70 to 80. First we have to set off the losses within the same head and if it cannot be adjusted, against income of other heads. Let us now go through these provisions.

10.6.1. Inter source adjustment – Sec.70 :

Where the net result of computation for any assessment year in respect of any source of income falling under any head of income is a loss, the assessee shall be entitled to have the amount of such loss set-off against his income from any other source under the same head. However, the following are the exceptions.

- (a) **Loss from Speculation business** : Loss in a speculation business can be set off only against the profit in a speculation business .
- (b) **Loss from a source which is exempt** : Loss incurred by an assessee from a source, income from which is exempt, cannot be set off against income from a taxable sources.
- (c) **Loss from activity of owning and maintaining horses** : Loss incurred in the business of owning and maintaining race horses cannot be set off against income, if any, from any other source except income from such business.
- (d) **Loss cannot be set off against winnings from lotteries, crossword puzzles etc.** : Loss from lotteries cannot be set off against winnings from lotteries, gambling or betting.
- (e) **Loss under the head capital gain** : Short term capital loss can be set off from any capital gain (long-term or short-term) but long-term capital loss can now be set off only against long-term capital gain.
- (f) **Loss arising from the purchase and sale of securities not to be allowed in certain cases [Section 94(7)]** : Where,

- (i) any period buys or acquires any securities or unit within a period of three months prior to the record date;
 - (ii) such person sells or transfers such securities within a period of three months after such date or transfers such units within a period of 9 months after such record date.
 - (iii) The dividend or income on such securities or unit received or receivable by such person is exempted, then the loss, if any arising to him on account of such purchase and sale of securities or units, to the extent such loss does not exceed the amount of dividend or income received or receivable on such securities or unit, shall be ignored for the purpose of computing his income chargeable to tax.
- (g) Bonus stripping [Section 94(8)] :** Where,
- (i) a person buys or acquires any units within a period of three months prior to the record date.,
 - (ii) such person is allotted or is entitled to additional units on the basis of such units without making any payment
 - (iii) he sells all or any of such units while continuing to hold all or any of the additional units within a period of 9 months after such date.
- Then, the loss, if any, arising to him on account of such purchase and sale of units shall be ignored for the purpose of computing his income chargeable to tax.

10.6.2. Loss form one head against profit from another head – Sec.71 :

Where the net result of the computation under any head of income in respect of any accounting year is a loss, the assessee shall be entitled to have such amount of loss set-off against his income assessable for that assessment year under any other head of income. However the following are the exceptions.

- (i) Loss in a speculation business
- (ii) Loss under the head `Capital Gains`
- (iii) Loss form the activity of owning and maintaining race horses
- (iv) Loss that cannot be set off against winnings from lotteries etc.
- (v) Loss from business or profession against the income from `Salaries`

10.7 CARRY-FORWARD OF LOSSES

The unadjusted losses can be carry forward to the next assessment years and they can be set off. But the loss under the head salary or losses under the head 'Income from other sources' other than loss from horse races cannot be carry forward. The following losses only can be carry forward.

- 1) Loss from House Property
- 2) Business Losses
- 3) Speculation Losses
- 4) Loss under head capital gains
- 5) Loss on maintenance of horse races
- 6) Unabsorbed depreciation

1. Loss under head House Property : The loss under the head house property, let out or self occupied, can be carried forward to the subsequent years subject to a limit of 8 assessment years. The loss is to be set off against the income from house property only. Loss under the head 'house property' may be set off against income under any other head **upto a maximum of Rs.2,00,000** [Sec.71(3A)].

2. Business Loss : It can be carried forward for subsequent years subject to a limit of 8 assessment years and it is to be set off against profit from under head business only. In set off and carry forward of business losses the following important points are to be considered.

- (a) The person who has incurred the loss, alone has the right to carry it forward. The successor except succession by inheritance (business passing from father to son) cannot claim to carry forward the loss incurred by his predecessor in business. However, where a company merges with another under the scheme of amalgamation, the past loss of the amalgamating company can be carried forward by the new company.
- (b) The unabsorbed business loss of an industrial undertaking which was discontinued due to natural calamities shall be carried forward and set off against the profit of the reconstructed, re-established business upto a period of 8 assessment years as reckoned from the previous year in which the business is re-started.

- (c) The business loss could be carried forward for 8 assessment years to be set off from income under the head "profits and gains of business or profession."
- (d) Loss from any asset held as stock-in-trade can be set off from any income from such asset even if it is taxable under the head other sources.'
- (e) To carry forward business losses, continuity of same business is not necessary.

3. Speculation Loss : The loss of a speculation business of any assessment year is allowed to be set off only against the profits and gains of another speculation business in the same assessment year. But if speculation loss could not be set off from the income of another speculation business in the same assessment year, it is allowed to be carried forward to claimed as a set off in the subsequent year, but only against the income of any speculation business. Such loss is also allowed to be carried forward for 4 assessment years immediately succeeding the assessment year for which the loss was first computed.

It may be observed that it is not necessary that the same speculation business must continue in the assessment year in which the loss is set off. It can be carried forward for succeeding 4 assessment years. But the loss is to be set off against the speculation profit only. A company whose principal business is that of trading in shares has been excluded from the purview of the explanation to Sec.73. Consequently, such activity shall not be regarded as speculation activity and any loss arising there from shall be treated as normal business loss and not as speculation loss.

4. Unabsorbed Depreciation : The depreciation, which remains unadjusted as either there is no income or less income in the relevant previous year, can be carried forward till it is fully adjusted from any income during the succeeding previous year. It shall be treated as depreciation of the succeeding previous year. In case there is carried forward business loss as well as carried forward unabsorbed depreciation, then following order should be followed for set off.

- (a) Firstly, current depreciation;
- (b) Secondly, brought forward business loss
- (c) Thirdly, brought forward/unabsorbed depreciation.

5. Loss under the head "Capital Gain" : Where in respect of any assessment year, the net result of the computation under the head "Capital gains" is a loss to the assessee, whether short-term or long-term such short-term and long-term capital losses shall be separately carried forward. Further, such carried forward short-term

capital loss can be set off in the subsequent assessment year from income under the head capital gains whether short-term or long-term. But brought forward long-term capital loss shall be allowed to be set off only from long-term capital gain. Such capital losses can also be carried forward to a maximum of 8 assessment years, immediately succeeding the assessment year for which the loss was first computed.

6. Expenses incurred on maintenance of race horses : It can be carried forward for 4 assessment years and allowed to be set-off only from income of some activity.

7. Amalgamation/demerger/conversion of firm or proprietary concern to company [Sect.72A] :

In the case of amalgamation of companies, the unabsorbed losses and unabsorbed depreciation of the amalgamating company owning an industrial undertaking or a ship or a hotel or a banking company shall be deemed to be the loss or depreciation of the amalgamated company for the previous year in which the amalgamation was effected and such loss or depreciation shall be set off or carried forward for a period of 8 assessment years or for an indefinite period respectively by the amalgamated company accordingly subject to the following conditions.

(i) Conditions to be satisfied by the amalgamating Company :

- (a) The amalgamating company has been engaged in the business in which the accumulated loss occurred or depreciation remains unabsorbed for three or more years;
- (b) The amalgamated company has held continuously as on the date of amalgamation at least $3/4^{\text{th}}$ of the book value of fixed assets held by two years prior to the date of amalgamation.

(ii) Conditions to be satisfied by the amalgamated Company :

- (a) The amalgamated company holds continuously for a minimum period of 5 years from the date of amalgamation at least $3/4^{\text{th}}$ s of the book value of fixed assets of the amalgamating company acquired in a scheme of amalgamation.
- (b) The business of the amalgamating company should be continued by the amalgamated company for a minimum period of 5 years from the date of amalgamation;
- (c) The amalgamated company fulfils the additional conditions prescribed under Rule 9C of Income Tax Rules, 1962 to ensure the revival of the business of the amalgamating company or to ensure that the amalgamation is for genuine business purpose :

- (d) Notwithstanding anything contained in section 72(2)(IB) (I) to (iii) where there has been an amalgamation of a banking company with other banking institution under a scheme sanctioned and brought into force by the Central Government under section 45(7) of the Banking Regulation Act, 1949 the accumulated loss and the unabsorbed depreciation of such banking company shall be deemed to be the loss or, as the case may be, allowance for depreciation of such banking institution for the previous year in which the scheme of amalgamation was brought into force and other provisions of this Act relating to set-off and carry forward of loss and allowance for depreciation shall apply accordingly.
- (e) Where there has been reorganization of business whereby a private company or unlisted public company is succeeded by a limited liability partnership fulfilling the conditions laid down in the proviso to clause (xiiib) of Section 47, then, notwithstanding anything contained in any other provision of this Act, the accumulated loss and the unabsorbed depreciation of the predecessor company, shall be deemed to be the loss or allowance for depreciation of the successor limited liability partnership for the purpose of the previous year in which business reorganization was effected and other provisions of this Act relating to set off and carry forward of loss and allowance for depreciation shall apply accordingly.

Provided that if any of the conditions laid down in the proviso to clause (xiiib) of section 47 are not complied with, the set off of loss or allowance of depreciation made in any previous year in the hands of the successor limited liability partnership, shall be deemed to be the income of the limited liability partnership chargeable to tax in the year in which such condition are not complied with.

8. For the purpose of this section – accumulated loss means so much of the loss of the predecessor firm or the proprietary concern or the private company or unlisted public company before conversion into limited liability partnership or the amalgamating company or the demerged company, as the case may be under the head Profits and gains of business or profession (not being a loss sustained in a speculation business) which such predecessor firm or the proprietary concern or the company or amalgamating company or demerged company, would have been entitled to carry forward and set off under the provisions of section 72 if the reorganization of business or conversion or amalgamation or demerger had not taken place.
9. **Provisions relating to carry forward and set off of accumulated loss and unabsorbed depreciation allowance in business reorganization of co-operative**

banks [Sec.72AB] : With effect from the assessment year 2008-09 successor co-operative bank allowed to set off accumulated loss and unabsorbed depreciation of predecessor co-operative bank in case there is an amalgamation. Resulting co-operative bank allowed setting off the accumulated losses and unabsorbed depreciation of the demerged co-operative bank in case of a demerger.

Carry forward and set off of loss under section 73A of the Income-tax Act to be allowed only if the return of such loss is filed as per section 139(3) before the due date specified under section 139(1) [Section 80] : The Act has amended section 80 so as to provide that the loss determined as per section 73A of the Act shall not be allowed to be carried forward and set off if such loss has not been determined in pursuance of a return filed in accordance with the provision of section 139(3). The Act has also amended the section 139(3) so as to give reference of section 73A(2).

10.8 ORDER OF SET OFF

Unabsorbed depreciation, unabsorbed capital expenditure on scientific research and unabsorbed expenditure on family planning are not parts of business losses and they can also be carried forward. However, as per section 72(2), the business loss should be set off before setting off unabsorbed depreciation, etc. Such carried forward business loss will be set off against, ₹business or profession; head only after the current year's depreciation, current capital expenditure on scientific research and expenditure on family planning have been claimed. Therefore, the order of set off will be as under :

1. Current year depreciation
 2. Current year capital expenditure on scientific research and current year expenditure on family planning to the extent allowed.
 3. Brought forward business or profession losses
 4. Unabsorbed depreciation
 5. Unabsorbed capital expenditure on scientific research
 6. Unabsorbed expenditure on family planning.
1. **Losses of firms [Section 75]** : Although the profits of partnership firm are shared by partners and are exempt in their hands, but losses of firms are not shared amongst partner. The firm can only set off and carry forward and set off of its own losses and not the partners.
 2. **Losses in case of change in Constitution of a Firm [Section 78]** : Where a change has occurred in the constitution of a firm, nothing shall entitle the firm to

have carried forward and set off so much of the loss proportionate to the share of a retired or deceased partner as exceed his share of profits, if any, in the firm in respect of that previous year.

3. **Carry forward and set off losses of certain companies [Section 79]** : Where change in shareholding has taken place in a previous year in the case of a company not being a company in which the public are substantially interested, no loss incurred in any year prior to the previous year shall be carried forward and set off against the income of the previous year unless, on the 1st day of the previous year the shares of the company carrying not less than 51% of the voting power were beneficially held shares of the company carrying not less than 51% of the voting power on the last day of the year or years in which the loss was incurred. In case change in voting power takes place in a previous year due to death of a shareholder or on account of transfer of shares by way of gift to any relative, the above mentioned provision shall not be applicable.
4. **Return of Loss** : The return of loss must have been furnished before due date prescribed under section 139(1) , otherwise the loss cannot be carried forward.
5. **Compulsory filing of loss returns [Section 80]** : Although the above losses are allowed to be carried forward, but the carry forward is allowed only when such loss has been determined in pursuance of a return of loss submitted by the assessee on or before the due date for filing of the returns prescribed under section 139(1). However, loss under the head income from house property can be carried forward even if the returns is not filed within the due date mentioned under section 139(1).

Chart relating to Carry Forward of Losses

Section	Nature of Loss	Number of Years	To be set-off against
71B	Loss from house property	8 years	Income from House property
72	Business Loss unabsorbed	8 years	Income from business or profession
72A(1)	Unabsorbed depreciation of Amalgamating Co.	Indefinite Period	Any income of the amalgamated co.
72A(4)	Demerged Company	Indefinite Period	Any income of the resulting company
72A(6)	Firm or proprietary concern succeeded by a company	Indefinite period	Any Income of successor company

72A(1)	Accumulated business loss of –Amalgamating Co.	8 years from expiry of the year of Amalgamation.	Income of the amalgamated company
72A(4)	Demerged Company	Un-expired period out of the total permissible period of 8 years	Income of the resulting company
72A(6)	Firm or proprietary concern succeeded by a company	8 years from the expiry of the year of conversion of the firm or proprietary concern into a company	Income of successor company
73	Speculation business loss	4 years	Income from speculation business
74	Loss under the head 'Capital Gains' (a) Short term capital loss (b) Long Term Capital Loss	8 years 8 years	Short term or long term capital gains Long Term Capital Gains
74A	Loss from the activity of owning and maintaining race horses	4 years	Income from same activity

Illu.1: Mr. Kantha Rao has the following incomes/losses during A.Y. 2018-19.

Compute his taxable income:

(a)	Long-term capital loss	Rs.20,000
(b)	Net profit from business	Rs.50,000
(c)	Net loss from a let out property	Rs.3,000
(d)	Net loss from self-occupied residential property	Rs.7 ,000
(e)	Business loss carried forward from A.Y. 2011-12	Rs.10,000

Solution:**Computation of Income**

	Rs.	Rs.
(a) Profits and Gains of Business or Profession		
Net Business Profit		50,000
(b) Capital Gains		
Long-term capital loss Rs.20,000 carried forward to next year for being set off against 'long-term capital gains' (as per sec.74)		-
(c) House Property		
(i) Net loss from let-out house property	Rs.3,000	
(ii) Net loss from self-occupied residential property	Rs.7,000	(-) 10,000
Aggregate of Incomes		40,000
Less: Carried forward business loss for A.Y. 2011-12		(-) 10,000
Gross Taxable Income		Rs.30,000

Notes:

1. Long-term capital loss can be set off against long-term capital gains only. Long-term capital loss of Rs.20,000 (which is not set off) can be carried forward upto eight following assessment years for being for set of against 'long-term capital gains' only.
2. Loss arising from any house property whether let-out or self-occupied can be set off against income from any other head, in the same year. W.e.f. A.Y. 2018-19, loss from house property can be set off against other income subject to a maximum of Rs.2 lakh. Loss from house property which cannot be so set off may be carried forward to subsequent eight years.
3. Business loss carried forward from A.Y. 2011-12 can be set off against business income (from any business) upto eight subsequent years i.e. upto A.Y. 2019-20.

Illu.2 : For the previous year ending March 31, 2018, Mr. Ramarao (65 years) submits the following information –

1. **Income from house property: Rs.4,40,000.**
2. **Loss from Business A (non-speculative): Rs. (-) 90,000.**
3. **Bank fixed deposit interest: Rs.40,000.**
4. **Deposit in public provident fund account: Rs.1,20,000.**

5. **Payment of life insurance premium on own life: Rs.40,000 (sum assured: Rs.5,00,000).**
6. **Medi-claim insurance premium: Rs.28,000 (on the life of Mr. Rama rao's father).**
7. **Determine the amount of net income and tax liability of Mr. Ramarao under the following two different situations –**
8. **If business loss is set off against other incomes.**
9. **If business loss is carried forward to the next year without adjusting during the current year.**

Solution:

Under section 71, loss of a non-speculative business will have to be set off against other incomes during the current year. It is not possible to carry forward such business loss to the next year without adjustment the same against available income of the current year. Income of Mr. Rama rao in this case will be calculated after adjusting business loss during the current year as follows –

	Rs.	Rs.
Income from house property	4,40,000	
Bank interest	40,000	
Total		4,80,000
Less: Business loss		90,000
Gross total income		3,90,000
Less : Deductions : Under section 80C	1,50,000	
Under section 80D (father is senior citizen)	28,000	1,78,000
Total income		2,12,000

Notes :

1. Public Provident fund Rs.1,20,000 + 40,000 = Rs.1,60,000. But maximum deduction allowed is Rs.1,50,000
2. Deduction u/s 80G maximum deduction Rs.30,000

Illu.3 : Mr. Rangan submits the following information for the year ending March 31, 2018 –

1. **Income of Business A (non-speculative): Rs.(-) 5,00,000.**
2. **Income of Business B (speculative): Rs.6,00,000.**
3. **Income from house property: Rs.6,10,000.**
4. **Winning from lottery: Rs.4,30,000.**

5. Deduction available under section 80C: Rs.1,45,000.

6. Donation to political party: Rs.10,000.

Determine the net income and tax liability of Mr. Rangan for the assessment year 2018-19 taking into consideration the following additional information –

10. Brought forward loss of Business B (speculative) is Rs.5,80,000. This loss pertains to the assessment year 2014-15.

11. Brought forward house property loss of the assessment year 2009-10 is Rs.75,000.

12. Mr. Rangan wants to set off loss of Business A of the current year against winnings from lotteries and the remaining loss against house property income. This strategy Mr. Rangan wants to adopt to avail set off brought forward speculative loss against speculative income of the current year.

Solution:

The planning proposed by Mr. Rangan is not legally tenable. One has to first adjust loss under section 70. Under this section, loss from one activity should be set off against income from another activity within the same head of income. This rule is applicable in all cases barring a few exceptions. In this case, Mr. Rangan has two businesses. Business A is non-speculative and income there from is Rs. (-) 5,00,000. Loss from non-speculative business can be set off against profit from speculative business. This rule does not have any exception. Without adjusting loss under section 70 within the same head of income, one cannot go to section 71 for the purpose of inter-head adjustments.

	Rs.
Business income [Business B: Rs.6,00,000 – Loss of Business A: Rs.5,00,000]	1,00,000
House property	6,10,000
Winning from lottery	4,30,000

Under section 71, loss under one head of income will be adjusted against income under another head of income. In this case, there is no loss under any head of income. After adjusting losses under sections 70 and 71, brought forward losses will be adjusted. In this case, Mr. Rangan has brought forward speculative loss of Rs.5,80,000. It can be set off only against income from speculative business which is Rs.1,00,000. Brought forward house property loss of the assessment year 2009-10 cannot be adjusted against house property income of the assessment year 2018-19.

**Computation of Total income of Mr. Rangan
(Assessment year 2018-19)**

	Rs.	Rs.
House property		6,10,000
Speculative business income from Business B	1,00,000	
Less: Brought forward speculative loss	1,00,000	Nil
Winnings from lottery		4,30,000
Gross total income		10,40,000
Less: Deductions -		
Under Section 80C	1,45,000	
Under Section 80GGC (donation to political party)	10,000	1,55,000
Total income		8,85,000

10.8 SELF-ASSESSMENT QUESTIONS :

A. Short Answer Questions :

1. What is revocable transfer?
2. What is clubbing of Income?
3. What is cash credit?
4. What are unexplained investments and money?
5. What is speculation loss?
6. State the income tax law relating to unabsorbed depreciation.
7. Carry Forwards Losses

B. Essay Questions :

1. Under what circumstances income of other persons can be included in the total income of the assessee under the Income-tax Act, 1961? Explain.
2. Explain the provisions of section 64 of the IT Act, 1961, regarding clubbing of incomes.
3. Under what circumstances are losses allowed to be set off?
4. Give examples of losses which are allowed to be carried forward.
5. Discuss the provisions of the Income tax Act, 1961, relating to the set off and carry forward of losses.
6. Explain the provisions relating to set off and carry forward of losses.
7. Explain in detail IT rules regarding Set – off and Carry forward of Losses.

8. Set – off and carry forward losses. Explain.
9. State the rules relating to set off and carry forward of losses.
10. Provisions of IT Act for setting off of intra – head losses.
11. How do you set off loss from house property?
12. What do you mean by Intra – head and Inter – head set off of losses? Explain the rules pertaining intra – head set off of loss under the income Tax Act.
13. Discuss the provisions relating to set off of losses in the following cases
 - i. Speculation loss of an individual
 - ii. Non-speculation loss of an individual
 - iii. Long-term capital loss
 - iv. Losses arising from the business of owning and maintaining race horses.

10.9 EXERCISES

1. Mr. Manoj submits the following particulars for the year ending 31.3.2018. Compute his taxable income for A.Y. 2018-19.

		Rs.
(a)	Income from Salary	2,30,000
(b)	Income from house property :	
	(i) House A	1,05,000
	(ii) House B (self-occupied)	(-) 1,50,000
(c)	Profits and gains of business or profession :	
	(i) Business I	1,08,000
	(ii) Business II	(-) 46,000
	(iii) Business III (discontinued)	
	Unabsorbed carried forward loss from A.Y. 2013-14	(-) 80,000
(d)	Capital Gains :	
	(i) Short-term capital gain	90,000
	(ii) Short-term capital loss	(-) 50,000
	(iii) Long-term capital gain	87,000
	(iv) Long-term capital loss (on transfer of listed equity shares)	(-) 25,000
(e)	Other sources :	
	(i) Loss from card games	(-) 40,000
	(ii) Winning from lotteries	1,00,000
	(iii) Interest	50,000

[Ans. Total Income Rs.4,62,000]

2. Mr. A.K. Khan informs you the following:

- (i) Taxable salary ₹ 5,20,000
- (ii) Loss from House property A ₹ 60,000
- (iii) Income from House property B ₹ 40,000
- (iv) Brought forward business loss – AY 2007-08 ₹ 1,00,000
- (v) Current year business income – ₹ 80,000
- (vi) Bank interest – ₹ 20,000

Determine total income and carry forward loss, if any.

[Ans.: Gross Total Income Rs.6,00,0000]

3. Mr. Shah furnishes the following information for the year ending of 31-03-2018.

Particulars	₹
(a) Income from Business:	
- Loss from trading in securities in the nature of derivatives	(50,000)
- Profit from non-speculative business	1,50,000
(b) Capital gains:	
- Long term capital loss on sale of unlisted shares	(25,000)
- Short term capital loss on sale of shares	(90,000)
- Short term capital gain on sale of jewellery	75,000

From the above information compute the gross total income of Mr. Shah and the loss to be carried forward.

[Ans.: Gross total income Rs.1,00,000]

4. From the following information submitted by Sri Y. Ramana, compute the taxable income in the following situation.

	Situation I ₹	Situation II ₹
Long term capital gain/loss	(+) 1,70,000	(-) 3,00,000
Short term capital gain/loss	(-) 50,000	(+) 1,10,000
Business income/loss	(-) 80,000	(-) 90,000

[Ans.: Total income : Situation I Rs.40,000; Situation II Rs.20,000]

5. Mr. Suram Naidu furnished the following particulars of his income for the previous year 2017-18:

		₹
1.	Income from salary (computed)	68,000
2.	Income from house A	36,000
3.	Income from house B	24,000
4.	Income from house C	22,000
5.	Profit from business A	60,000
6.	Profit from business B	70,000
7.	Profit from share business (speculative)	82,000
8.	Loss from silver business (speculative)	94,000
9.	Long-term capital gain on sale of shares on which transaction tax has been paid	22,000
10	Short-term capital loss on sale of land	44,000
11	Income from card games	22,000
12	Winnings from lotteries (gross)	60,000
13	Income from horse races in Delhi (Gross)	40,000
14	Loss from horse races in Hyderabad	21,000

Compute the Gross Total Income of Mr. Suram Naidu for the assessment year 2018-19.

[Ans.: Gross Total Income Rs.3,10,000]

Chapter – 11**DEDUCTIONS TO BE MADE IN
COMPUTING TOTAL INCOME****Objectives :**

After going through this unit you should be able to :

- Know the deductions allowed from Gross Total Income
- Specify the deductions in respect of certain payments
- Specify the deductions in respect of certain incomes

Structure :**11.1. Introduction****11.2. Deductions relating to Certain payments****11.3. Deductions relating to Certain Incomes****11.4. Deductions from Gross Total Income At a Glance****11.5. Self-Assessment Questions****11.6. Exercises****11.1 INTRODUCTION**

The aggregate of income computed under each head, after giving effect to the provisions of clubbing of income and set off of losses, is known as “Gross Total Income”. In computing the total income of an assessee, out of the “Gross Total Income” certain deductions are permissible under sections 80C to 80U. The list of deductions to be given from gross total income is given below.

Deductions from Gross Total Income

Section	Nature of deduction
80 C	Contribution to Savings and Investments
80 CCC	Contribution to certain pension funds
80 CCD	Contribution to Pension Scheme of central Government
80 CCE	Restricted of deduction under section 80C, 80 CCC and 80 CCD

Section	Nature of deduction
80 CCG	Investment under Rajiv Gandhi Equity Savings Scheme
80 D	Payment for medical insurance premia
80 DD	Maintenance including medical treatment of handicapped dependents
80 DDB	Medical treatment expenditure
80 E	Repayment of loan taken for higher studies
80 G	Donations to charitable institutions and funds
80 GG	Rent paid
80 GGA	Donations for scientific research or rural development
80 GGB	Contribution by any companies to political parties
80 GGC	Contribution by any person to political parties
80 IA	Profits and gain from industrial undertakings.
80 IAB	Deduction for developers of special economic zones
80 IB	Profits and gain from certain industrial undertakings other than infrastructure development undertakings
80 IC	Profits and gains in respect of certain undertakings in certain special category states.
80 ID	Deduction respect of hotels and convention centres
80 IE	Deduction respect of undertakings in north eastern states
80 JJA	Profits form the business of collecting and processing of bio-degradable waste.
80 JJAA	Deduction for creation of new jobs
80 LA	Deduction for offshore banking units
80 P	Specified incomes of co-operative societies
80 QQB	Royalty income of authors of certain books
80 RRB	Deduction for Royalty on patents
80 TTA	Interest on Savings Bank accounts
80 U	Income of blind and handicapped persons

The above deductions may be divided into two categories. (1) Deductions relating to certain payments (2) deductions relating to certain incomes. Now let us discuss some of these deductions elaborately.

Where a deduction under any provision of this Chapter under the heading C – Deduction in respect of certain incomes” is claimed the allowed in respect of profits of any of the specified business referred to in clause (c) of sub-section (8) of section 35AD for any assessment year, no deduction shall be allowed under the provisions of section 35AD in relation to such specified business for the same or any other assessment year.

11. 2 DEDUCTIONS RELATING TO CERTAIN PAYMENTS :

11.2.1 Deduction under Section 80 C : Deduction under Sec.80C is to be given only to Individuals and Hindu Undivided Families. The following are the investments eligible for qualifying amount under this section. The following amounts are qualified getting deduction under Sec.80C.

Eligibility : This deduction shall be admissible only to an assessee, being an individual or a Hindu Undivided family.

- (a) **Life Insurance Premium :** Actual amount paid towards Life Insurance policy premium subjects to a maximum of 10% of capital sum assured (20% for policy is taken before 1-4-2012) to himself, spouse or children (minor or major, married or unmarried). It also includes step or adopted children. Sum assured shall not include bonus or any premium agreed to be returned. In case of HUF actual amount of premium paid in the name of any or all the co-parceners of the HUF also eligible for deduction.

Any premium or other payment made on an insurance policy other than a contract for deferred annuity issued on or after 1-4-2012 shall be eligible for deduction upto 10% of actual capital sum assured. In case of a person with a disability as referred in Sec.80U or Sec.80DDB the premium will be restricted to 15% of the actual capital sum assured.

- (b) **Annuity :** Amount contributed towards a contract for a deferred annuity; not being an annuity plan.
- (c) Amount of deduction from the salary payable by or on behalf of the Government to any individual in accordance with the conditions of his service, for the purpose of securing deferred annuity not exceeding one-fifth of the salary; However,

rebate shall be available only to so much of premium or any other sum not exceeding 20% of actual sum assured of an insurance policy other than contract for a deferred annuity. In calculating the actual sum assured, the value of any premium agreed to be returned and the benefit by way of bonus shall not be taken into account.

- (d) **Statutory Provident Fund** : Any contributions by an individuals to any provident fund to which Provident Funds Act, 1925 applies;
- (e) **Other Provident Funds** : Contribution to public provident fund to himself, spouse or children.
 - (a) Contribution by an employee to a recognized provident fund;
 - (b) Contribution by an employee to an approved superannuation fund;
- (f) As subscriptions to any notified security of the Central Government;
- (g) Investments in National Savings Certificates VI, VII and VIII Series;
- (h) Any amount invested by a person with UTI or LIC under unit linked insurance plan.
- (i) Contribution to Unit linked Insurance Plan of the LIC, Mutual Fund notified under section 10(23D).
 - a. Contribution to notified annuity plan of the LIC of Indian or any other insurer;
 - b. Subscription to any units of any mutual fund referred to under section 10(23D) or UTI and notified by the Central Government.
 - c. Contribution by an individual to a pension fund set up by a mutual fund notified u/s 10(23D) or UTI as the Central Government may specify
- (j) **Deposit Scheme of National Housing Bank and Others** : Subscription to any deposit scheme or as a contribution to any such fund set up by the National Housing Bank; A subscription to any notified deposit with scheme of a public sector company engaged in providing long term finance for construction or purchase of houses in India for residential purposes or deposit with any authority constituted in India for the purpose of dealing with and satisfying the need for

housing accommodation for the purpose of planning development or improvement of cities, towns and villages or for both.

- (k) **Tuition fee to children** : Any sum paid by an individual as tuition fees to any university, college or school or other educational institution situated in India for the purpose of full time education in respect of any two children of the assessee. It shall not include payment towards any development fees or donation or payment of similar nature.
- (l) **Subscription to equity or debentures** : Any subscription by an individual or HUF to equity shares or debentures forming part of any eligible issue of capital approved by the Board of wholly public company any public financial institution where such proceeds are utilized for infrastructure company.
- (m) **House Loan principal amount repayment**
- (a) Repayment of any loan taken from Government approved institution or specified employer or any other notified institution borrowed for the purpose of purchase or construction of residential house. Any expenditure incurred towards stamp duty, registration charges for purchase of the house is also eligible;
 - (b) Payment in part/installment under any self financing or similar scheme of any housing board, development authority engaged in construction and sale of houses;
 - (c) Payment in part/installment towards cost of the house/flat allotted, due to any company or co-operative society of which assessee is a shareholder or member;
- (n) **Fixed Deposit in Banks and post offices** : Fixed deposits for not less than 5 years in scheduled banks is eligible for deduction under this section.
- (o) **NABARD Bonds** : Subscriptions to bonds of NABARD are also eligible for deduction under section 80 C.

Qualifying Amount : The amount of deduction shall be actual amount paid or deposited during the previous year in prescribed savings schemes stated above. This amount is called as qualifying amount.

Amount of Deduction : The amount of deduction to be given is as follows :

- (i) Qualifying amount; or
- (ii) ₹ 1,50,000 - whichever is less.

According to Section 80 CCE the amount of deduction under section 80 C, 80 CCC, and 80 CCD should not exceed ₹ 1,50,000.

11.2.2 Contribution to certain pension funds [Section 80 CCC] :

Eligibility made : The deduction is applicable to individuals and HUF : The following contributions qualify only if the payments are made form out of the income chargeable to tax.

1. Contribution made to annuity plan of the LIC of India or any other insurer approved by the Insurance Regulatory and Development Authority for receiving pension from a fund. The maximum amount deductible under this section is ₹ 1,50,000 including the savings u/s 80 C.
2. If the assessee or his nominee surrenders the annuity before its maturity, the surrender value including bonus/interest shall be taxable in the year of receipt in the hands of the assessee or his nominee.
3. The pension amount received by the assessee or his nominee from this fund is taxable in the hands of the assessee or his nominee, in the year of receipt.

11.2.3 Pension Scheme of the Central Government (Sec.80CCD)

Eligible assessee :

- (i) An individual assessee employed by the Central Government on or after 1-1-2004 or employed by any other employer, or
- (ii) Any other individual assessee.

Amount of Deduction :

- (i) Amount paid or deposited by the assessee to his account in a notified pension scheme (i.e., New Pension Scheme or Atal Pension Yojana) subject to a maximum of :
 - (a) In case of an employee – 10% of his salary
 - (b) In case of any other individual – 20% of his gross total income

- (ii) Amount paid or deposited by the Assessee to his account in a notified pension scheme (i.e., New Pension Scheme) subject to a maximum of Rs.50,000.
- (iii) Amount contributed by the Central Government or any other employer to the assessee's account in the aforesaid pension scheme subject to a maximum of 10% of his salary [Sec.80CCD(2)]

Conditions :

- (a) Where a deduction has been claimed in respect of any amount paid or deposited, under this section, no deduction u/s 80C shall be allowed with reference to the same amount.
- (b) Where the amount standing to the credit of the assessee in his account is received on its closure/opting out of scheme or pension is received from the annuity plan purchased or taken on such closure/opting out, by the assessee or his nominee, the amount so received shall be taxable in the year it is received.

However, amount received by a nominee on the death of the assessee, at the time of closure of account/opting out of scheme, shall not be taxable as nominee's income.

Also, if any amount received during a year is reinvested in an annuity plan in the same year, it shall be deemed not received.

Note :

1. Deduction under clause (ii) shall be allowed whether or not any deduction is allowed under clause (i)
2. Amount deposited in pension scheme in respect of which deduction has been claimed under clause (i) shall not be eligible for deduction under clause (ii)
3. 'Salary' includes dearness allowance if the terms of employment so provide but excludes all other allowances and perquisites.

11.2.4 Deduction in respect of Investment made under Equity Savings Scheme (Sec.80CCG) :

Eligibility : Resident Individual

Eligible investment : (a) Listed equity shares; or (b) listed units of an equity oriented fund, in accordance with the Rajiv Gandhi Equity Savings Scheme.

Quantum of Deduction : To the extent of 50% of the amount invested, subject to a maximum amount of ₹ 25,000. Such deduction can be availed for 3 consecutive assessment years, beginning with the assessment year in which the listed equity shares or listed units of equity oriented fund were first acquired.

Conditions :

- (i) Gross total income of the assessee shall not exceed ₹ 12 lakhs
- (ii) The assessee is new retail investor as may be specified under the scheme
- (iii) The investment is made in such listed equity shares or listed units of equity oriented fund as may be specified under the scheme; and
- (iv) The investment is locked in for a period of 3 years from the date of acquisition.

If the assessee fails to comply with any of the above mentioned conditions, the deduction originally allowed shall be deemed to be the income of the assessee and shall be taxed in the year of violation.

Deduction for investment under Rajiv Gandhi Equity Savings Scheme discontinued. Only those who have claimed deduction up to A.Y.2018-19 can claim deduction for 3 years up to A.Y.2019-20. [Sec.80CCG]

11.2.5 Medical Insurance premia [Section 80 D] :

Eligibility : This deduction is available only to individuals and HUF.

Premium paid by cheque under a Medical Insurance Scheme of the General Insurance Corporation approved by the Central Government or any other insurer approved by the Insurance Regulatory and Development Authority. The maximum amount of deduction allowable under this section is ₹ **25,000**. In case of senior citizens ₹ 30,000 (Rs.50,000 from Assessment year 2019-20) shall be the limit for deduction.

With a view to allow deduction for payments made through electronic mode, credit card, etc., the Act has also amended the provisions of section 80D so as to provide that the payment of premium made by any mode other than cash, shall be eligible for deduction under this section. Since health insurance cover for the elderly comes at relatively higher price, it is necessary to encourage individual assesses to supplement the efforts of their parents in getting them medically insured.

1. Where the assessee is an individual, the deduction allowed shall be the aggregate of the following namely,
 - (a) the whole of the amount paid to effect or to keep in force an insurance on the health of the assessee or his spouse and dependent children as does not exceed in aggregate ₹ 25,000 (₹ 30,000 in case of senior citizens); and
 - (b) the whole of the amount paid to effect or to keep in force an insurance on the health of the parent or parents (whether dependent or not) of the assessee as does not exceed in aggregate ₹ 25,000 (₹ 30,000 in case of senior citizens).
2. Where the assessee is a Hindu undivided family, the deduction allowed shall be the whole of the amount paid to effect or to keep in force an insurance on the health of any member of that Hindu undivided family as does not exceed in aggregate ₹ 25,000 (₹ 30,000 in case of senior citizens).

Deduction for expenditure on preventive health check-up : However, the deduction on account of expenditure on preventive health check-up (for self, spouse, dependent children and parents) shall not exceed in the aggregate ₹ **25,000**. It is further provided that for the purpose of the deduction under section 80D, payment can be made (a) by any mode, including cash, in respect of any sum paid on account of preventive health check-up; (b) by any mode other than cash, in other cases.

From the Assessment year 2019-20 the deduction of Rs.50,000 in aggregate shall be allowed to with respect to any of the parents of the Assessee being a Senior Citizens or Member of HUF.

11.2.6 Maintenance and medical treatment of a dependent with disability

[Section 80DD] :

Eligibility : Individuals, HUF, who are resident in India are eligible for deduction under this section.

- a. any expenditure incurred for the medical treatment, training (including nursing) and rehabilitation of dependant with disability; or

- b. an amount aid or deposited by the assessee under any scheme of LIC or any other insurer approved by the Insurance Regulatory and Development Authority or UTI approved by the Board for the maintenance of dependant with disability.

The deduction allowed under this section is ₹ 75,000 and the amount is to be allowed irrespective of the quantum of expenditure incurred or deposited. Besides, where the dependant is a person with severe disability, the deduction will be ₹ 1,25,000

11.2.7. Medical treatment for certain specified disease or ailment [Sec.80 DDB] : Individuals and HUF, are resident in India are eligible for the deduction under this section.

1. Deduction shall be the amount actually paid or ₹ 40,000, whichever is less, in respect of that previous year in which such amount was actually paid. In the case of senior citizen the deduction shall be the amount actually paid or ₹ 60,000 (Rs.80,000 from the Assessment year 2019-20 onwards) whichever is less.
2. Deduction shall be allowed only if the medical certificate is furnished along with the return of income.
3. The deduction under this section shall be reduced by the amount received under Insurance from an insurer or reimbursed by an employer, for the medical treatment of the assessee or dependant or member of HUF.

11.2.8 Deduction in respect of interest on loan taken for higher education

[Sec. 80 E] : In computing the total income of an assessee, being an individual, there shall be deducted in accordance with and subject to the provisions of this section, any amount paid by him in the previous year, out of his income chargeable to tax, by way of interest on loan taken by him from any financial institution or any approved charitable institution for the purpose of pursuing his higher education

11.2.9 Donations to certain funds, charitable institutions etc [Section 80 G]

Eligibility : All assesses are eligible for getting deduction under this section.

Gross Qualifying Amount : The amount of contributions made to the following eligible funds or institutions shall be aggregated to arrive at gross qualifying amount.

(A) Donations made to the following are eligible for 100% deduction without any qualifying limit :

- (i) The National Defence Fund;
- (ii) PM's National Relief Fund;
- (iii) PM's Armenia Earthquake Relief Fund
- (iv) The Africa (Public Contributions India) Fund;
- (v) The National Foundation for communal Harmony;
- (vi) A University or any educational institution of national eminence as may be approved;
- (vii) Any Zilla Saksharata Samity for improvement of primary education in villages and towns and for literacy activities.
- (viii) National Blood Transfusion Council or to any State Blood Transfusion Council;
- (ix) Any fund set up by State Government for medical relief to the poor.
- (x) The Army Central Welfare Fund or the Indian Naval Benevolent Fund or the Air force Central Welfare Fund established by the armed forces of the Union for the welfare of the past and present members of the such forces or their dependants;
- (xi) The National Sports Fund to be set up by the Central Government
- (xii) The National Cultural Fund set up the Central Government
- (xiii) The fund for Technology Department and Application setup by the Central Government;
- (xiv) The National Illness Assistance Fund;
- (xv) The Chief Minister's Relief Fund or the Lieutenant Governor's Relief Fund in respect of any State or Union Territory, as the case may be any fund setup by the State Government of Gujarat exclusively for providing relief to the victims of earthquake in Gujarat;
- (xvi) National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities constituted under the relevant Act of 1999;
- (xvii) The National Children's Fund;
- (xviii) The Swachh Bharat Kosh, set up by the Central Government, other than the sum spent by the assessee in pursuance of Corporate Social Responsibility under Section 135(5) of the Companies Act, 2013; [Inserted by Finance Act, 2015 w.e.f. 1-4-2015 i.e., AY 2016-17)

- (xix) The clean Ganga Fund, set up by the Central Government, where such assessee is a resident and such sum is other than the sum spent by the assessee in pursuance of corporate social Responsibility under section 135(5) of the Companies Act, 2013 [Inserted by Finance Act, 2015 w.e.f.1-4-2015 i.e., Assessment year 2016-17)
- (xx) The National fund for control of Drug Abuse constituted under section 7A of the Narcotic Drugs and Psychotropic substances Act, 1985. [Inserted by Finance Act, 2015 w.e.f. 1-4-2016 i.e, Assessment year 2018-19)

(B) Donations made to the following are eligible for 50% deduction without any qualifying limits :

1. Jawaharlal Nehru Memorial Fund;
2. PM's Drought Relief Fund;
3. Indira Gandhi Memorial Trust;
4. Rajiv Gandhi Foundation;

(C) Donation to the following are eligible for 100% deduction subject to qualifying limit :

- (a) Government or local authority or approved institution/association for promotion of family planning.
- (b) Contribution by a company as donations to the Indian Olympic Association or to any other Association notified by the Central Government in the Official Gazette;

(D) Donation to the following are eligible for 50% deduction subject to qualifying limit :

- i. Government or local authority or approved institution/association for promotion of family planning.
- ii. Any other fund or institution which satisfies the conditions of Sec.80G(5).
- iii. Any authority set up for providing housing accommodation or town planning.
- iv. Any corporation established by government for promoting interest of scheduled caste/scheduled tribe/backward class, minority community.
- v. Renovation of notified temple mosque, church, or gurudwara or any other notified place of national importance;

For applying qualifying limit, all donations made to funds/institutions covered under (C) and (D) above shall be aggregated and the aggregate amount shall be limited to 10% of Adjusted Gross Total Income.

Adjusted Gross Total Income : Adjusted Gross Total Income for this purpose means the “Gross Total Income” as reduced by –

- (i) long-term capital gain, if any, which have been included in the “Gross Total Income”.
- (ii) short-term capital gains of the nature referred to in section 111A (i.e., short-term capital gain on transfer of shares through a recognized stock exchange which are taxable @ 15%).
- (iii) all deductions permissible u/s 80C to 80U excepting deductions under this section i.e., section 80G.
- (iv) such income on which income-tax is not payable i.e., share from AOP;
- (v) income referred to in section 115A, 115AB, 115AC or 115AD. These sections relate to incomes of NRIs and foreign companies etc., which are taxable at special rate of tax.

Quantum of Deduction : The quantum of deduction shall be the aggregate of the deductions permissible under clauses (A), (B) and (D).

Essential Conditions for claiming deduction under this section :

1. deduction under this section is allowed to all assesses, whether company or non-company, whether having income under the head “profits and gains of business or profession’ or not.
2. The donation should be a sum of money. Donations in kind do not qualify for deduction
3. The donation should be made only to specified funds/institution.
4. Donations can be given in cash or by cheque or draft however donation given in cash beyond Rs.2,000 is not allowed as qualifying donation and hence no deduction is to be given for such donations.
5. For availing deduction under this section it is obligatory on the part of the assessee to produce proper proof of payment. Where the payment is not proved by production of proper receipt, etc., the deduction under section 80G is not available.

11.2.11 Rent paid [Sec.80 GG] :

Eligibility : Only Individuals are eligible for claiming. Rent paid is allowable as deduction to the extent of the least of the following.

- (i) Excess of rent paid over 10% of total income
- (ii) 25% of Total income
- (iii) ₹ 5,000 p.m.

Conditions : The following conditions are to be fulfilled for getting deduction under this section.

- (a) The assessee should not be in receipt of house rent allowance
- (b) The assessee, his spouse or minor child or the HUF in which he is a member should not own any residential accommodation at that place.
- (c) No claim for self-occupied property should be made in respect of any accommodation.

11.2.12 Donations for Scientific research, rural development etc. [Section 80GGA]

Eligibility : All assessee not having any income chargeable under the head "Profits and Gains of business or profession" are eligible for this deduction. Donations to approved scientific research, association, university, college or institution for scientific research, Statistical Research, Research in Social Science or to the National Fund for Rural Development are fully deductible. Similarly any contribution to the "National Urban Poverty Eradication Fund" set up and notified by the Government is also fully eligible for deduction.

11.2.13 Prohibition of cash donations in excess of ₹ 10,000 [W.e.f. A.Y. 2014-15] :

Currently, there is no provision in either of the aforesaid sections specifying the mode of payment of money. Therefore, sections 80G(5D) and 80GGA(2A) have been inserted to provide as under

80G(5D) : No deduction shall be allowed under section 80G in respect of donation of any sum exceeding ₹ 10,000 unless such sum is paid by any mode other than cash.

80 GGA (2A) : No deduction shall be allowed under section 80GGA in respect of any sum exceeding ₹ 10,000 unless such sum is paid by any mode other than cash.

**11.2.14 Deduction for contributions by companies to political parties :
[Sec.80 GGB]**

Eligibility : In case of company is donating or contributing any amount to any political party, a deduction @ 100% of such donation shall be allowed. The term “political party” means a political party registered under section 29A of the Representation of the People Act, 1951.

11.2.15 Deduction for contributions by any person to political parties [Sec. 80GGC] :

In computing the total income of an assessee, being any person, except local authority and every artificial juridical person wholly or partly funded by the Government, there shall be allowed as deduction of an amount of contribution made by him, in the previous year, to a political party.

**Contributions to political parties not to be in cash [Section 80GGB & 80GGC]
[W.e.f. 2014-15]** : No deduction shall be allowed under section 80GGB and 80GGC in respect of any sum contributed by way of cash.

11.3 DEDUCTIONS IN RESPECT OF CERTAIN INCOMES

The Income Tax Act provided many deductions on certain types of incomes from Gross Total Income. These deductions are given mainly to encourage industrial development, small industries, exports, investment etc. The following are these deductions.

11.3.1. Deduction for profits from infra-structural undertakings [Section 80IA] :

Eligibility : All Assesseees are eligible for deduction under this section.

This deduction is allowed as an incentive to set up infrastructure, facilities like highways, bridges, Airports, Telecommunication system, power generation etc.

	Nature of the business	Commence ment	Rate of deduction		Period of deduction
			Comp.	Others	
1.	Developing or Maintaining or operating or developing, operating and maintaining any infrastructural facility owned by a company or a consortium of companies	1-4-95 onwards	100%	100%	For 10 consecutive years out of first 20 years
2.	Telecommunication services (whether basic or cellular)	1-4-1995 to 31-3-03	100% 30%	100% Nil	For fist 5 years For next 5 years
3.	Developing, operating or maintaining an industrial park or special economic zone	1-4-1997 to 31-3-2009	100%	100%	For 10 consecutive years out of first 15 years
4.	Generation or generation distribution of any form of power	1-4-1999 to 31-3-2010	100%	100%	For 10 consecutive years out of first 15 years
5.	Laying of new transmission lines for power distribution	1-4-1999 to 31-3-2006	100%	100%	For 10 consecutive years out of first 15 years
6.	Undertakes substantial renovation and modernization of the existing transmission or distribution lines	1-4-2004 to 31-3-2006	100%	100%	For 10 consecutive years out of first 15 years
7.	An undertaking owned by an Indian company set up for reconstruction or revival of a power generating plant	1-4-2005 to onwards	100%	100%	For 10 consecutive previous years out of first 15 previous years
8.	Laying an operating cross country natural gas distribution network	From 1-4-2007 onwards	100%	100%	For 10 consecutive assessment years out of 15 years beginning from the year in which the undertaking lays and begins to operate

Extension of date of commencement of operation for power sector undertakings

[Section 80IA (4)(iv)]: The last date of commencement of operations has been extended to 31-3-2012 from 31-3-2011.

Extension of sunset date for tax holiday for power sector [Section 80-IA(4)(iv)] [W.e.f. a.Y. 2014-15]

Section 80-IA(4)(iv)(a), (b) and (c) have been amended to extend the terminal date for a further period of one year i.e., upto 31-3-2013 in case of electricity undertakings.

Extension of the sunset date under section 80IA for the Power sector[Section 80-IA(4)] [W.e.f. 2014-15]

Under the existing provisions contained in the clause (iv) of subsection (4) of section 80-IA, a deduction of profits and gains is allowed to an undertaking which,-

- a) is set up in any part of India for the generation or generation and distribution of power if it begins to generate power at any time during the period beginning on 1.4.1993 and ending on 31.3.2013;
- b) starts transmission or distribution by laying a network of new transmission or distribution lines at any time during the period beginning on 1.4.1999 and ending on 31.3.201;
- c) undertakes substantial renovation and modernization of the existing network of transmission or distribution lines at any time during the period beginning on 1.4.2004 and ending on 31.3.2013.

with a view to provide further time to the undertaking to commence the eligible activity to avail the tax incentive, the Act has amended the above provisions so as extended the terminal date by a further period of one year i.e. up to 31.3.2014.

11.3.2. Deduction for profits from industrial undertaking, ship or hotel [Section 80IB] :

All Assesseees are eligible for deduction under this section.

Nature of Deduction : This deduction is available for the following

- (a) (i) Industrial undertaking set up after 1-4-91 but before 31-3-95. (ii) Industrial undertaking set up in industrially backward areas during 1-10-94 to 31-3-99. (iii) Industrial undertaking set up in small scale sector during 1-4-91 to 31-3-2000. (iv) profits from an undertaking engaged in the integrated business of handling storage and transportation of food grains [Section 80IB (IIA)]

- (b) Ship acquired after 1-4-91 but before 31-3-1995 (only Indian companies)
- (c) Business of Hotel set up in rural areas, hilly areas or places of pilgrimage during 1-4-90 to 31-3-04 or between 1-4-97 to 31-3-2001. (only Indian companies)
- (d) Business of Hotel set up any where in India during 1-4-91 to 31-3-95. (only Indian companies)

Extension of dates u/s 80IB : From the assessment year 2006-07, for setting up any industry in the state of Jammu and Kashmir the period has been extended from 31-3-2005 to 31-3-2007. For companies engaged in scientific research the period has been extended from 31-3-2005 to 31-3-2012.

The Finance Act, 2008 has proposed that no deduction under this sub-section shall be allowed to an undertaking engaged in refining of mineral oil if it begins regaining on or after 1-4-2009. This amendment will take effect from 1-4-2008.

Deduction : Deduction for companies 100% for 5 years and 30% for next five year In case of others 100% for the first years, 25% for the next five year. In case of co-operative societies and others sometimes 100% deduction for first 7 year

Amendment of Section 80IB(9)(ii) : The above provision shall not apply to blocks licensed under a contract awarded after 31-3-2011 under the New Exploration Licensing Policy announced by the Government of India vide Resolution No,0-19018/22/95-ONG.DO .VL dated 10th February, 1999 or in pursuance of any law for the time being in force or by the Central or State Government in any other manner.

1. Phasing out of section 80-IA, 80-IAB, 80-IB:

Section	Incentive currently available in the Act	Phase out measures
Section 80IA; 80IAB, and 80IB – Deduction in respect of profits derive from	100% profit linked deductions for specified period on eligible business carried on by industrial undertakings or enterprises referred in section 80IA, 80IAB, and 80IB.	No deduction shall be available if the specified activity commences on or after 1.4.2017. (I.e. from previous year 2018-19 and subsequent years).

Section	Incentive currently available in the Act	Phase out measures
(a) Development, operation and maintenance of an infrastructure facility (80-IA) (b) Development of special economic zone (80-IAB) (c) Production of mineral oil and natural gas [80-IB(9)]		

11.3.3. Deduction for setting up Industrial undertaking in special states [Section 80IC] :

Eligibility : The deduction under this section is available to all types of assess.

Nature of Deduction : The deduction under this section is to be given for :

- (a) Producing any article not included in 13th Scheduled, industry set up in the State of Sikkim during 23-12-2003 to 31-3-2012.
- (b) Producing any article not included in 13th schedule, industry set up in the State of Himachal and Uttaranchal during 7-1-2003 to 31-3-2012.
- (c) Producing any article not included in 13th schedule, industry set up in the North-Eastern States during 24-12-1997 to 31-3-2007.
- (d) Producing any article included in 14th Schedule industry setup in the State of Sikkim during 23-12-2002 to 31-3-2012.
- (e) Producing any article not included in 13th Schedule industry set up in the State of Himachal and Uttaranchal during 7-1-2003 to 31-3-2012.
- (f) Producing any article not included in 13th schedule industry set up in the North-Eastern States during 24-12-1997 to 31-3-2007.

With a view to encourage investment in hospitals in non-metro cities, it is proposed to extend the benefit of this sub-section to hospitals located anywhere

in India other than the excluded area. This amendment will take effect from Assessment year 2009-10.

Deduction : The deduction is to be given in the following way.

- (a) – 100% for 10 assessment years (b), (c), (e) & (f) – 100% for 5 assessment years 30% for companies (25% for others) thereafter 100% for 10 assessment years (d) 100% for 5 assessment years .

The following chart clearly gives us information relating to the deduction under this section.

Classification of industries	Period of commencement should be between	Deduction of profits derived
Any enterprise carrying on the business of developing or maintaining and operating or developing, maintaining and operating any infrastructure facility	On or after 1-4-1995	100% for 10 consecutive assessment years
Any undertaking providing telecommunication services whether basic or cellular including radio paging, domestic satellite service or net work of trunking and broadband network and internet services	1-4-95 and 31-3-2004	100% for first 5 years and 30% for the next 5 years
Any undertaking which develops, develops and operates or maintains and operates an industrial park or special economic zone notified by the Central Government	1-4-93 and 31-3-2006	100% for 10 consecutive assessment years
An undertaking set up in any part of India for the generation or generation and distribution of power	1-4-93 and 31-3-2006	100% for 10 consecutive assessment years
An undertaking which starts transmission or distribution of power by laying a network of new transmission or distribution lines	1-4-99 and 31-3-2006	100% for 10 consecutive assessment years

This deduction can be claimed at the option of the assessee for any 10 consecutive assessment years out of 15 years beginning from the year in which the undertaking or the enterprise develops and begins to operate any infrastructure facility or starts providing telecommunication services or develops an industrial park or generates power or commences transmission or distribution of power or develops special economic zone. In respect of the highway project including housing or other activities being an integral part of the highway project, road including toll road, a bridge or a rail system, and a water supply project, water treatment system, irrigation project, sanitation and sewerage system or solid waste management system, assessee can claim deduction for any 10 consecutive assessment years out of 20 years beginning from the year of operation.

Special provision in respect of eligible business of eligible start up [Section 80-IAC] :

(1) 100% deduction of profit from eligible business [Section 80-IAC(1) and (2)]:

Where the gross total income of an assessee, being an eligible start-up, includes any profits and gains derived from eligible business, there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction of an amount equal to 100% of the profits and gains derived from such business for any 3 consecutive assessment years out of 5 years beginning from the year in which the eligible start up is incorporated, provided the conditions mentioned in section 80-IAC(3) below are satisfied.

(2) Conditions to be satisfied to claim exemption under section 80-IAC (1)

[Section 80-IAC (3)]: This section applies to a start-up which fulfils the following conditions, namely:-

- (i) It is not formed by splitting up, or the reconstruction, of a business already in existence:

Provided that this condition shall not apply in respect of a start-up which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such undertaking as referred to in section 33B, in the circumstances and within the period specified in that section;

(ii) It is not formed by the transfer to a new business of machinery or plant previously used for any purpose.

(1) Further conditions applicable for an assess claiming deduction under section 80-IAC [Section 80-IAC(4)]: The provisions contained in section 80-IA(5) and 80-IA(7) to (12) shall, so far as may be, apply to the eligible business under this section. These provisions relate to the following:-

- (i) Computation of profits of eligible business [Section 80-IA(5)]
- (ii) Audit of accounts [Section 80-IA(7)]
- (iii) Inter –unit transfer of goods [Section 80-IA(8)]
- (iv) Restriction on double deduction [Section 80-IA(9)]
- (v) Restriction on excessive profits [Section 80-IA(10)]
- (vi) Power of Central Government to notify undertakings to which section 80-IB will not apply [Section 80-IA(11)]

Explanation: - For the purposes of this section, -

- (i) “Eligible business” means a business which involves innovation, development, deployment or commercialization of new products, processes or services driven by technology or intellectual property;
- (ii) “Eligible start-up’ means a company or a limited liability partnership engaged in eligible business which fulfils the following conditions, namely:-
 - (a) It is incorporated on or after 1-4-2016 but before 1-4-2019;
 - (b) The total turnover of its business does not exceed ₹ 25 crore in any of the previous years beginning on or after 1-4-2016 and ending on 31-3-2021; and
 - (c) It holds a certificate of eligible business from the Inter-Ministerial Board of Certification as notified in the Official Gazettee by the Central Government.
- (iii) “Limited liability partnership” means a partnership referred to in section 2(1)(n) of the Limited Liability Partnership Act, 2008.

Deduction in respect of profits and gains from housing projects [Section 80-IBA]:

- (1) 100% deduction of profit from housing projects [Section 80-IBA(1)]: Where the gross total income of an assessee includes any profits and gains derived from the business of developing and building housing projects, there shall, subject to the provisions of this section, be allowed, a deduction of an amount equal to 100% of the profits and gains derived from such business provided the project fulfils the conditions mentioned in section 80-IBA(2).

11.3.4. Tax holiday for hotels and convention centers in specified area [Sec.80ID] :

With a view to provide adequate number of hotel rooms to meet the requirement for accommodating the visitors to the Commonwealth Games which is to be hosted by the country in 2010 and also to boost the number of convention centers, the Act has inserted a new section 80 ID provide for deduction of 100% of profits and gains from the business of hotels and convention centers in specified area. For Five consecutive assessment years beginning from the initial assessment year provided the prescribed conditions are satisfied.

11.3.5 Five Year Tax Holiday for Hotels Located in specified Districts having a World Heritage site [Sec.80-ID] :

It is proposed to extend the scope of tax benefits of tax holiday to new two star, three star or four star category hotels located in specified districts having a World Heritage site. Such hotels must be constructed and start functioning at any time between 1-4-2008 to 31-3-2013.

11.3.6 Deduction to certain undertakings set up in North Eastern States [Sec.80-IE]

With effect from assessment year 2008-09 a special deduction shall be allowed to those assesses who will begin manufacture or production of goods or undertakes substantial expansion in North Eastern States of India between 1-4-2007 to 31-3-2017.

This deduction is allowed if the assessee undertakes –

- (i) To manufacture or produce any eligible article or thing.
- (ii) To undertake substantial expansion to manufacture or produce any eligible article or thing
- (iii) to carry on any eligible business.

Amount of deduction

100% of profit from the above mentioned business shall be allowed as deduction for 10 years beginning with the previous year in which the assessee begins to manufacture or produce articles or completes the substantial expansion.

The new undertaking should not have been formed by splitting up or by reconstruction of an existing business and is not formed by the transfer of plant and machinery previously used for any other purpose.

North-Eastern states means the states of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim and Tripura.

Substantial Expansion means increase in the investment in the plant and machinery by at least 25% of the book value of plant and machinery.

Eligible Business means the business of –

- (a) Hotel (not below two star categories)
- (b) Adventure and leisure sports including ropeways
- (c) Providing medical and health services in the nature of nursing house with a minimum of 25 beds.
- (d) Running an old age house
- (e) Operating vocational training institute for hotel management, catering and food craft entrepreneurship development nursing and paramedical, civil aviation related training, fashion designing and industrial training.
- (f) Running information technology related training centre
- (g) Manufacture of information technology hardware, and
- (h) Bio-technology

11.3.7. Profits and gains of bio-waste [Section 80JJA] :

Eligibility : All assesses are eligible to claim deduction under this section.

Nature of Deduction : Profits from business of collecting, processing or treating of bio-waste to produce bio-gas, pellets for fuel, generation of power.

Deduction : 100% of such income

11.3.8. Any industrial undertaking which creates new jobs [Section 80JJAA] :

Eligibility : All assesseees can claim deduction under this section.

Where the Gross Total Income of an Indian company includes any profits and gains derived from any industrial taking engaged in the manufacture or production of

article or thing, a deduction under this section shall be allowed in respect of employment of new workmen if certain conditions are satisfied.

Essential Conditions :

- (i) The industrial undertaking is not formed by splitting up or reconstruction of an existing industrial undertaking or amalgamations with another industrial undertaking.
- (ii) The company employs new regular workmen in the previous year
- (iii) The company should furnish, along with the return of income, the report of a Chartered Accountant in Form No.10DA giving such particulars in the report may be prescribed

Amount of Deduction :

Deduction shall be allowed of an amount equal to 30% of the additional wages paid to the regular workmen employed by the assessee in the previous year.

Period of deduction :

Deduction shall be allowed for 3 assessment years, including the assessment year relevant to the previous year in which such employment is provided.

Deduction for additional wages in certain cases [Section 80JJAA][W.e.f.A.Y.2014-15]

The tax incentive under section 80JJAA was intended for employment of blue collared employees in the manufacturing sector whereas in practice, it is being claimed for other employees in other sectors also. The Act has therefore amended the provisions of section 80JJAA so as to provide that the deduction shall be available to an Indian company deriving profits from manufacture of goods in its factory. The deduction shall be of an amount equal to thirty per cent of additional wages paid to the new regular workmen employed by the assessee in such factory, in the previous year in which such employment is provided.

Further, the deduction under this section shall not be available if the factory is hiked off or transferred from another existing entry or acquired by the assessee company as a result of amalgamation with another company.

Deduction in respect of employment of new employees [Section 80JJAA] : The existing provisions of section 80JJAA provide for a deduction of 30% of additional wages paid to new regular workmen in a factory for three years. The provisions apply to the business of manufacture of goods in a factory where 'workmen' are employed for not less than 300 days in a previous year. Further, benefits are allowed only if there is an increase of at least 10% in total number of workmen employed on the last day of the

preceding year. With a view to extend this employment generation incentive to all sectors, the Act has substituted the above section with the following section 80JJAA:

30% of additional employee cost to be allowed as deduction for 3 assessment years [Section 80JJAA (1)]: Where the gross total income of an assessee to whom section 44AB applies, includes any profits and gains derived from business, there shall, subject to the conditions specified in section 80JJAA (2), be allowed a deduction of an amount equal to 30% of additional employee cost incurred in the course of such business in the previous year, for 3 assessment years including the assessment year relevant to the previous year in which such employment is provided.

11.3.9. Deduction for income of offshore fund [Section 80LA] :

Eligibility : According to this new section all Indian Scheduled Banks are eligible for claiming this deduction.

Nature of deduction : Banking income from offshore banking unit in special economic zone.

Deduction : 100% for 3 assessment years 50% for next 2 assessment years

11.3.10. Income of cooperative societies : [Section 80 P]

Eligibility : Only co-operative societies are eligible for claiming deduction under this section.

Nature of Deduction : Profit of co-operative society from (a) Banking Business (b) Cottage Industry (c) marketing of agricultural products (d) agricultural implements, seeds, livestock etc. (e) Processing (f) collective disposal of labour (g) fishing and other allied activities (h) business of supplying milk, fruits, oil seeds or vegetables (w.e. from 1-4-88) to Government of federal co-operative society or a Government institution or statutory corporation. (Deduction : 100% of such profits) Profits of a coop society from any other activity. (Deduction : ₹40,000 are allowed as deduction) Income from interest or dividend from any other coop. Society (Deduction: 100% of such income) Income from letting of god own (Deduction : 100% of such income) Income of a society from transport business and manufacturing business with the aid of power provided GTI does not exceed ₹20,000. (Deduction: 100% of amount of interest on security or property income)

From the assessment year 2007-08 this exemption shall not be available to co-operative banks other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank.

New Deduction available for Producer Companies [Sec.80PA) : With effect from 1-4-2019 (Assessment year 2019-2020) - In case of a producer company having a total turnover of Rs.100 crores or less in any previous year and whose gross total income includes any income from the marketing of agricultural produce grown by its members, or the purchase of agricultural implements, seeds, livestock or other articles intended for agriculture for the purpose of supplying them to its members, or the processing of the agricultural produce of its members the whole of the amount of income or profits and gains and business attributable to any one or more of such activities shall be deducted in computing the total income of the assessee for the previous year relevant to any assessment year commencing on or after 1-4-2019 but before 1-4-2025.

11.3.11. Authors of books of Artistic, Scientific nature [Section 80 QQB]:

Eligibility : Only Individuals are eligible

Nature of Deduction : Royalty from writing of certain books

Deduction : Actual Royalty income or ₹3,00,000 w.e is less.

11.3.12. Royalty from Patents [Section 80 RRB] :

Eligibility : Resident Individual

Nature of Deduction : Royalty from developing patents.

Deduction : Actual Royalty income or ₹3,00,000 whichever is less

11.3.13 Deduction in respect of interest on deposits in savings accounts to the maximum extent of ₹10,000 [Section 80TTA] [W.e.f. A.Y. 2014-15]

Where the gross total income of an assessee, being an individual or a Hindu Undivided family includes any income by way of interest on deposits (not being time deposits) in a savings account with –

- (a) a banking company to which the Banking Registration Act, 1949, applies (including any bank or banking institution referred to in section 51 of that Act);
- (b) a co-operative society engaged in carrying on the business banking (including a co-operative land mortgage bank or a co-operative land development bank); or
- (c) a post office as defined in clause (i) of section 2 of the Indian Post office Act, 1898.

A deduction of such interest shall be allowed to the maximum extent of ₹10,000

However, where the income referred to in this section is derived from any deposit in a savings account held by, or on behalf of, a firm, an association of persons, or a body of individuals, no deduction shall be allowed under this section, in respect of such

income in computing the total income of any partner of the firm or any member of the association or any individual of the body.

With effect from 1-4-2019 (Assessment year 2019-2020) – New Section Inserted 80TTB : A deduction of an amount upto Rs.50,000 shall be allowed to a senior citizen where the gross total income of such assessee includes any income by way of interest on any deposits with a banking company or a co-operative society engaged in the business of banking or a Post Office.

11.3.14. Medically Handicapped or Mentally retarded assesses [Section 80 U] :

Eligibility : Resident Individual assessee.

Nature of Deduction : If assessee is blind or medically handicapped and produces a medical certificate.

Deduction : ₹50,000 p.a. but in case of severe disability ₹1,00,000

DEDUCTIONS FROM GROSS TOTAL INCOME AT A GLANCE

Deduction in respect of certain payments :

Section	Who can claim	Particulars of deduction	Total Deduction/Rate
80 C	Individuals, HUF	Savings and Investments	Maximum ₹ 1,50,000 (including deduction u/s 80 CCC and 80 CCD)
80CCC	Individuals	Contribution to Pension Fund	Amount paid or ₹ 1,50,000 p.a. – whichever is less
80CCD	Employees of Central Government	Pension Scheme of Central Government	(a) Salary assessee : 10% of salary (b) Other individuals – 20% of Gross total income (c) Additional deduction upto ₹ 50,000 shall be allowed on amount other than covered under point (a) and (b) above (d) in the case of individuals with salary income – Employer's contribution is deductible upto 10% of salary – in addition to own contribution.

Section	Who can claim	Particulars of deduction	Total Deduction/Rate
80 CCG	Residential individual	Deduction in respect of investment made under Rajiv Gandhi Equity savings scheme	50% of the amount invested in such equity shares or ₹ 25,000 whichever is less No deduction available from the Assessment year 2017-18.
80 D	Individuals, HUF etc.	Health Insurance Premium	Amount paid or ₹ 25,000 – Whichever is less, (Additional deduction of Rs.5,000 extra for senior citizens) for parents maximum ₹ 30,000
80 DD	Individuals, HUF	Mentally Handicapped Dependent person on Assessee	₹ 75,000 and may be extended up to ₹ 1,25,000 if there is severe disability
80 DDB	Individuals, HUF	Amount spent on the treatment of notified diseases for self dependent member of family	(1) ₹ 40,000 with certain conditions (2) ₹ 60,000 for senior citizens. (3) ₹ 80,000 for super senior citizens.
80 E	Individual	Interest on loan for certain types of Higher Education	Actual amount of interest paid
80 G	All assesses	Donations to approved funds on institutions	(a) PM's National Relief Fund, PM's Drought Relief Fund etc., – 100% of the qualifying amount. (b) Other Donations – 50% of the qualifying Amount. (c) 100% or 50% as provided. Deduction shall be denied in respect of cash payments exceeding ₹ 2,000.

Section	Who can claim	Particulars of deduction	Total Deduction/Rate
80 GG	Individuals	Rent paid on House	₹ 5,000 per month or 25% of adjusted Gross Total Income or actual rent paid over 10% of adjusted Gross total income - whichever is less.
80 GGA	All assessee having income under profit or gain under Business or Profession	Donation given to Rural Development or Scientific Research	100% of Donation
80GGB	Indian Companies	Deduction for donation given to a political party	100% of donation
80 GGC	Any person other than Local authority or artificial judicial person	Deduction for donation given to a political party	100% of donation

B. Deduction in respect of Certain incomes :

Section	Who can claim	Particulars of Deduction	Total Deduction/Rate
80 IA	All assesses	Profits from Industrial Undertaking, ship, hotel set up after 1-4-91	For 10 years from 30% to 100%
80 IAB	All assesses	Developers of special economic zones	100% profit
80 IB	All assesses	Profits from Industrial undertakings, shop or hotel	First 5 years – 100% of profit, remaining 5 years – 25% of profit
80 IC	All assesses	Profits from new industrial undertakings established in certain states	100% for 10 years in certain cases
80 ID	All resident assesses	Profits and gains from business of hotels and convention centres	100% profit for first 5 years

Section	Who can claim	Particulars of deduction	Total Deduction/Rate
80 IE	All resident assesses	New undertakings set up in North eastern states between 1-4-2007 to 31-3-2017	100% profit for first 10 years
80 JJA	All assesses	Profits from Business of Collecting and processing of bio-degradable waste	100% of profit upto 5 years
80 JJAA	Indian company	Employment of New workmen	30% of additional wages paid to new regular workmen for 3 years
80 LA	Indian Scheduled Banks	Deduction for income of offshore fund	100% for five assessment years and 50% for next 5 assessment years
80 P	Co-operative society	Income of Co-operative Societies	100% of such profits
80 QQB	Individuals	Authors of Books of artistic, scientific nature	Actual royalty income or ₹ 3,00,000 whichever is less
80 RRB	Resident Indian Citizens	Royalty on Patents	Royalty received or ₹ 3,00,000 whichever is less
80 TTA	Individual or HUF	Deduction in respect of interest on deposits in savings account with banks, co-operative bank and post office	₹ 10,000 or Interest earned, whichever is less.
80 U	Resident Individuals	Mentally handicapped or Mentally retarded assesses income	Maximum deduction ₹ 75,000 and ₹ 1,25,000 if there is severe disability

Illu.1 : Mrs. Roja, aged 45 years, is a retail trader. She submits the following particulars of her income and investments during the year 2017-18 (i.e. A.Y. 2018-19):

		Rs.
(a)	Net business income	4,98,000
(b)	Interest on housing loan for self-occupied flat (loan taken before 1.4.1999)	32,000
(c)	Saving bank account interest	15,000
(d)	Interest from bonds	17,000
(e)	Short-term capital gain on sale of depreciable assets	45,000
(f)	Long-term capital gain on sale of jewellery	14,000
(g)	Interest from PPF A/c	10,000
(h)	Deposit in Jeevan Suraksha	10,000
(i)	Medical Insurance Premium	26,000
(i)	Payment for preventive health check-up	3,000
(k)	Donations to P.M. Relief Fund	4,000
(l)	Donations to approved institutions u/s 80G(5) & (5B)	35,000
(m)	Deposit in PPF/LIC/NSC/Bank FD/ POTD etc.	1,40,000
(n)	Deposit in National Pension System (NPS)	50,000

Compute her taxable income and tax payable for Assessment Year 2018-19.

Solution:

Computation of Taxable Income of Mrs. Roja

(Assessment year 2018-19)

		Rs.	Rs.	Rs.
(a)	Income from Business			4,98,000
(b)	Income from House Property (Self-occupied)			
	Gross Annual Value u/s 23(3)		Nil	
	Less: Interest on Loan Rs.32,000		(-) 30,000	
			(-) 30,000	(-) 30,000
(c)	Long-term capital gain			14,000
(d)	Short-term capital gain			45,000
(e)	Income from Other Sources			

(i) Saving Bank Account Interest		15,000	
(ii) Interest on Bonds		17,000	
(iii) Interest on PPF A/c		-	32,000
Gross Total Income			5,59,000
Less: Deductions under Chapter VI-A			
u/s 80C Deposit in PPF/NSC/LIC/Bank FD/POTD etc.		1,40,000	
u/s 80CCC – Jeevan Suraksha		10,000	
u/s 80CCD (1B) – Deposit NPS		50,000	
u/s 80D - Medical Insurance		25,000	
- Preventive Health Check-up		-	
u/s 80TTA – Saving Bank A/c Interest		10,000	
u/s 80G – P.M. Relief Fund (100%)	4,000		
- Others (50%)	15,500	19,500	2,54,500
Taxable Income			3,04,500
Tax Payable on long-term capital gains @ 20% of Rs.14,000		2,800	
Tax Payable on balance income Rs.2,90,500 [i.e. Rs.3,04,500 – Rs.14,000]		2,025	4,825
Less: Rebate u/s 87A			2,500
Net Tax Payable			2,325
Add: Surcharge			-
Add: Education Cess @ 2%			47
Add: Secondary & Higher Education Cess @ 1%			23
Total Tax Liability			2,395

Calculation of Tax :

Calculation of Tax		Rs.
Total Income	Rs.2,90,500	
	Rs.2,50,000	Nil
	Rs.40,500	5% 2,025
		2,025

Illu.2: Mr. Veeraiah, aged about 65 years, is a practising Lawyer. He submits the following particulars of his income and investments during the year 2017-18 (i.e. A.Y. 2018-19):

		Rs.
(a)	Net income from profession	7,15,000
(b)	Saving Bank interest	8,000
(c)	Interest from fixed deposit/recurring deposit in bank/post office	43,000
(d)	Dividends from companies and income from mutual fund	5,000
(e)	NSC accrued interest	5,000
(f)	Other interest	39,000
(g)	Interest from PPF A/c	25,000
(h)	Deposit in PPF A/c	35,000
(i)	5-Year Time Deposit in SBI	10,000
(j)	Deposit in Senior Citizen Saving Scheme	50,000
(k)	Contribution to New Pension Scheme	60,000
(l)	Payment for preventive health check-up	4,500
(m)	Medical Insurance premia for self and wife	47,500
(n)	Medical expenditure on treatment of father 85 years old not having medical insurance cover	56,000
(o)	Repayment of housing loan from SBI for first residential house (loan amount Rs.20 lakhs sanctioned on 7.5.2016) EMI Rs.12,000, towards Interest for 2018-19 Rs.54,000 and Loan Rs.90,000	1,20,000
(p)	Rent for residential house	1,20,000

Compute his taxable income and tax payable for A.Y. 2018-19.

Solution:

**Computation of Taxable Income of Mr. Veeraiah
(Assessment year 2018-19)**

		Rs.	Rs.
(a)	Income from Profession		7,15,000
(b)	Income from Other Sources		
	- Saving Bank Interest	8,000	
	- Interest from bank/post office FD/RD	43,000	
	- NSC Interest accrued	5,000	
	- Dividends from companies and income from mutual fund		

[Exempt u/s 10(34)/(35)]	-	
- Other interest	39,000	
- Interest of PPF A/c [Exempt u/s 10(11)]	-	95,000
Gross Total Income		8,10,000
Less: Deduction under Chapter VI-A		
u/s 80C amount invested in PPF A/c (Rs.35,000), NSC accrued interest (Rs.5,000), Bank Time – Deposit (Rs.10,000), Senior Citizen Saving Scheme (Rs.50,000) and repayment of housing loan (Rs.90,000)	1,50,000	
u/s 80CCD amount invested in New Pension Scheme (Rs.60,000)	50,000	
u/s 80D Medical insurance premia (Rs.47,500) and payment for preventive health check-up (Rs.4,500)	50,000	
u/s 80D for expenditure on medical treatment of father (aged 84 years) (Rs.56,000)	50,000	
u/s 80EE Interest on housing loan (Rs.54,000)	50,000	
u/s 80TTB Interest on Bank/ Post Office Deposits	50,000	
u/s 80GGB Rent for house (Rs.1,20,000)	60,000	4,60,000
Taxable Income		3,50,000
Tax payable on Rs.3,50,000		2,500
Less: Rebate u/s 87A		2,500
Net Income Tax Payable		Nil

Illu.3 : Mr. Rajesh, aged 50 years, has the following incomes and investments during the year 2017-18 (i.e. A.Y. 2018-19):

		Rs.
(a)	Share income from partnership firm M/s. XYZ	35,000
(b)	Salary as working partner in firm M/s. XYZ @ Rs.30,000 p.m.	3,60,000
(c)	Interest on capital from firm @ 12% p.a.	54,000
(d)	Rental income from society flat let out @ Rs.7,500 p.m.	90,000
(e)	House tax paid during the year	3,400

(f)	Ground rent due to society	500
(g)	Interest on loan for purchase of flat	15,000
(h)	Short-term Capital gain (other than from sale/purchase of shares/units of mutual funds)	90,000
(i)	Interest on PPF A/c	10,000
(j)	Bank FD Interest, NSC Interest, Interest on Bonds	22,000
(k)	Saving Bank Account Interest	11,000
(l)	Other Interest	13,500
(m)	Deposit in PPF A/c	1,00,000
(n)	LIC Premium (Policy issued after 1.4.2012, Sum Assured Rs.2,00,000)	25,000
(o)	5-year Time Deposit with SBI under notified scheme	5,000
(p)	Deposit in Jeevan Suraksha	20,000
(q)	5 year Post Office Time Deposit	5,000
(r)	Contribution to New Pension Scheme	54,000
(s)	Medical Insurance premium	
	- for self, wife and dependent children	24,000
	- for parents (both senior citizens)	41,500
(t)	Payment for regular health check-up	
	- for self and wife	3,000
	- for parents	2,000

Compute his taxable income and tax payable for A.Y. 2018-19.

Solution:

**Computation of Taxable Income of Mr. Rajesh
(Assessment Year 2018-19)**

		Rs.	Rs.	Rs.
(a)	Income from Business			
	- Share income from M/s. XYZ [Exempt u/s 10(2A)]		-	
	- Salary as Partner		3,60,000	
	- Interest on capital		54,000	4,14,000
(b)	Income from House Property			
	- Gross ALV (7,500 x12)		90,000	
	- Less: House Tax paid		3,400	

	- Net ALV		86,600	
	- Less: Standard Deduction @ 30%	25,980		
	- Less: Interest on housing loan	15,000	40,980	45,620
(c)	Short-term capital gain			90,000
(d)	Income from Other Sources			
	- Interest on PPF A/c [Exempt u/s 10(11)]		-	
	- Bank FD/NSC/Bonds Interest		22,000	
	- Saving Bank Account Interest		11,000	
	- Other Interest		13,500	46,500
	Gross Total Income			5,96,120
	Less : Deductions u/s Chapter VI-A			
	- U/s 80C : PPF A/c	1,00,000		
	: Bank Fixed Deposit	5,000		
	: LIC	20,000		
	: 5 years POTD	5,000		
		1,30,000		
	U/s 80CCC : Jeevan Suraksha	20,000	1,50,000	
	u/s 80CCD : Amount invested in New Pension Scheme		50,000	
	U/s 80D: Medical Insurance Premia/Health Check-up for self, wife and dependent Children (24,000 + 3,000 restricted to) : for parents (both senior citizens) (41,500 + 2,000)	25,000		
		43,500	68,500	
	U/s 80TTA: Saving Bank Account Interest		10,000	2,78,500
	Total Income			3,17,620
	Tax Payable on Rs.3,17,620			3,381
	Less: Rebate u/s 87A			2,500
	Net Income Tax Payable			881
	Add: Surcharge			-
	Add: Health & Education Cess @ 4%			35
	Total Tax Liability			916

Illu.4 : From the following particulars submitted by Mrs. Kasaiah (date of birth: June 10, 1982), determine her taxable income for the assessment year 2018-19:

	Rs.
One-half share of profit from a firm	4,00,000
Profit from an industrial undertaking set up in Jammu during September 2008	6,00,000
Profits from the business of growing mushrooms	30,000
Profits from export of film software	40,000
Profits from the business of poultry farming	60,000
Interest on Government securities	90,000
Long-term capital gains on sale of gold	80,000
Winning from lottery	15,000
Birthday gift – Rs.60,000 from Mrs. Kasaiah and Rs.45,000 from a friend Mr. Rajesh	
Insurance premium paid on own insurance policy (policy was taken in 2010) (sum assured: Rs.3,00,000)	80,000

Solution:

**Computation of Total Income of Mr. Kasaiah
(Assessment year 2018-19)**

	Rs.	Rs.
One-half share profit from a firm (exempt from tax)	Nil	
Profit from a small scale industrial undertaking	6,00,000	
Profits from the business of growing mushrooms	30,000	
Profits from export of film software	40,000	
Profits from the business of poultry farming	60,000	
Income under the head "Profits and gains of business or profession"		7,30,000
Capital gain		80,000
Income from other sources (Rs.90,000 + Rs.15,000)		1,05,000
Gross total income		9,15,000
Less: Deductions		
Under section 80C		60,000
Under section 80-IB (25% of Rs.6,00,000)		1,50,000
Total income		7,05,000

Working Notes :

Gift from friend Mr. Rajesh is chargeable to tax but the aggregate gift excluding gift from relative, does not exceed Rs.50,000, therefore, it is not chargeable to tax.

Illu.5 : Mr. Ranadheer (70 years) submits the following particulars of his income for the assessment year 2018-19:

	Rs.
Salary income:	
Basic pay	9,60,000
Commission (2 per cent on turnover, turnover achieved by Mr. Ranadheer: Rs.40,00,000)	80,000
House rent allowance (rent paid by Mr. Ranadheer in Bombay: Rs.1,05,000)	24,000
Other incomes:	
Profits and gains of an industrial undertaking (small scale) set up in Jammu and Kashmir during April 2008	60,000
Profits from publication and printing of books	2,90,000
Profits from speculative share trading business (securities transaction tax: Rs.8,000)	(-) 90,000
Profits from the business of growing mushrooms	48,000
Income from royalty on a book written in Hindi and recommended by the Delhi University	3,10,000
Profits from export of goods	75,000
Income from royalty on patents	3,76,000
Payments/investments (not deducted from incomes stated above):	
Interest on money borrowed for payment of taxes	6,000
Legal expenditure for filing income-tax appeal pertaining to the business of growing mushrooms	8,000
Donation of gold to a notified public charitable institute	40,000
Payment of insurance premium on own life policy (policy was taken in 2,000) (sum assured; Rs.90,000)	19,000

Determine the net income and tax liability of Mr. Ranadheer for the assessment year 2018-19 giving all permissible deductions.

Solution:

**Calculation of Total Income of Mr. Ranadheer
(Assessment year 2018-19)**

		Rs.	Rs.
1.	Income from salary		
	Basic salary	9,60,000	
	Commission	80,000	
	House rent allowance	23,000	
	Salary income		10,63,000
2.	Profit from Business or Profession		
	Profits and gains of an industrial undertaking (small scale)	60,000	
	Profits from publication and printing of books	2,90,000	
	Profits from speculative share trading business (loss from speculative business can be set off only against income from speculative business)	Nil	
	Profits from the business of growing mushrooms (Rs.48,000 – Rs.8,000)	40,000	
	Profit from export of goods	75,000	
	Royalty from books	3,10,000	
	Royalty on patents	3,76,000	
	Business income		11,51,000
3.	Gross total income		22,14,000
	Less: Deductions		
	Under section 80C (20% of Rs.90,000)	18,000	
	Under section 80G (donation in kind is not deductible)	Nil	
	Under section 80-IB (25% of Rs.60,000)	15,000	
	Under section 80QQB (it is assumed that all conditions of section 80QQB are satisfied)	3,00,000	
	Under section 80RRB (it is assumed that all conditions of section 80RRB are satisfied)	3,00,000	6,33,000
	Net income		15,81,000

Note: Salary for the purpose of house rent allowance is Rs.10,40,000. The quantum of exemption is calculated as follows –

- (a) Rs.5,20,000 (being 50% of Rs.10,40,000);
- (b) Rs.24,000; or
- (c) Rs.1,000 (being the excess of rent paid of Rs.1,05,000 over 10% of Rs.10,40,000). Rs.1,000, being the least is exempt. Rs.23,000 (i.e., house rent allowance of Rs.24,000 – exemption of Rs.1,000) is chargeable to tax.

11.5 SELF-ASSESSMENT QUESTIONS

A. Short Answer Questions :

1. Explain the following deductions.
 - (a) Section 80 C
 - (b) Section 80CCC
 - (c) Section 80 D
 - (d) Section 80 E
 - (e) Section 80 GG
 - (f) Section 80JJAA
 - (g) Section 80 P
 - (h) Section 80 QQB
 - (i) Section 80 RRB
 - (j) Section 80 U

B. Essay Questions :

1. What are the provisions relating to deductions of donations from the Gross Total Income?
2. Explain briefly the deductions to be given from Gross Total Income of an Assess.
3. Discuss briefly the provisions of the Income Tax Act regarding deductions to be made in computing the total income of an assessee in respect of certain payments.
4. Discuss briefly the provisions of the Income Tax Act regarding deductions to be made in computing the total income of an assessee in respect of certain incomes.
5. Write any five items u/s 80 C of Income Tax Act, 1961.
6. Discuss any five deductions to be allowed from the gross total income of an assessee.
7. Section 80 C gross qualifying amount.
8. Gross Total Income.
9. Explain any ten items of deductions from Gross Total Income

11.6 EXERCISES

1. Mr. Jogi, a salaried employee, furnishes the following information in respect of the previous year ending March 31, 2018:

	Rs.
Salary income	12,60,000
Interest on debentures	4,50,000
Payment of medical insurance premium on the life of his grandfather	8,000
Donation to the Prime Minister's Drought Relief Fund	2,00,000
Donation to a public charitable institution	3,00,000
Other income	75,000

Determine the net income of Mr. Jogi for the assessment year 2018-19, assuming that her income from long-term capital gains is Rs.45,00,000.

[Ans.: Net income Rs.60,95,750; Amount deductible under section 80G is 50% of Rs.3,78,500.]

2. Mr. Kalyan, a resident individual, furnishes the following information of his income/expenditure relevant for the previous year ending March 31, 2018:

	Rs.
Business income	7,25,000
Short-term capital gain (not covered by section 111A)	70,000
Long-term capital	9,00,000
Winnings from races	90,000
Payment of mediclaim insurance premium on own life	20,000
Donation to the Prime Minister's National Relief Fund	1,00,000
Donation to an approved charitable institution	95,000
Donation to the Central Government for the purpose of promoting family planning	30,000

Determine the net income of Mr. Kalyan for the assessment year 2018-19.

[Ans.: Net income Rs.16,06,750]

3. Mr. Sarma suffers from permanent deafness. He is employed as Public Relations Officer in a public sector undertaking on monthly salary of Rs.72,000. He gets

transport allowance @ Rs.3,900 per month for commuting between office and residence. The Income-tax Department is of the view that Mr. Sarma does not come in the definition of “an orthopaedically handicapped” person, and, consequently, only Rs.1,600 per month is exempt in respect of transport allowance. Besides, he submits the following particulars for the previous year ending on March 31, 2018.

	Rs.
Bank fixed deposit interest	9,00,000
Donation to the National Defense Fund	50,000
Contribution to recognised provident fund	80,000
Payment of insurance premium on own life insurance policy (policy taken in 2001)	9,000

Determine his net income for the assessment year 2018-19.

[Ans.: Net income Rs.15,83,400]

4. Mr. Maruthi Rao, a salaried employee, gets Rs.80,000 per month as basic salary and Rs.10,000 per month as special allowance. His employer provides an unfurnished house at concessional rent in Hyderabad (house is owned by the employer, rent paid by Mr. Maruthi Rao: Rs.12,800 per month). Income of Mr. Maruthi Rao from other sources is Rs.2,45,000. Mr. Maruthi Rao has claimed Rs.12,800 per month (being the amount of rent) as deduction under section 80GG, while the Assessing Officer desires that deduction under section 80GG cannot be claimed by a salaried employee. Is the Assessing Officer legally correct? Also determine the net income of Mr. Maruthi Rao for the assessment year 2018-19 on the assumption that Mr. Maruthi Rao pays annual tuition fees of Rs.1,20,000 of her daughter who is a student of IIT, Delhi.

[Ans.: Net income Rs.11,81,140]

5. Mr. Dharmaraju, aged about 64 years, is a practicing Chartered Accountant. He submits the following particulars of his income and investments during the year 2017-18 (i.e. A.Y.2018-19):

		Rs.
(a)	Net income from profession	6,35,000
(b)	Saving Bank interest	8,000
(c)	Interest from bonds	43,000
(d)	Dividends from companies and income from UTI	5,000
(e)	NSC accrued interest	5,000

(f)	Other interest	37,000
(g)	Interest from PPF A/c	25,000
(h)	Deposit in PPF A/c	35,000
(i)	5-Year Time Deposit in SBI	10,000
(j)	Deposit in Senior Citizen Saving Scheme	50,000
(k)	Contribution to New Pension Scheme	60,000
(l)	Payment for preventive health check-up	4,500
(m)	Medical Insurance premia for self and wife	27,500
(n)	Medical expenditure on treatment of father 84 years old not having medical insurance cover	40,000
(o)	Repayment of housing loan from SBI for first residential house (loan amount Rs.20 lakhs sanctioned on 7.5.2015) EMI Rs.12,000, towards Interest for 2017-18 Rs.54,000 and Loan Rs.90,000	1,20,000
(p)	Rent for residential house	1,20,000

Compute his taxable income and tax payable for A.Y.2018-19.

[Ans.: Net Income Tax Payable - Nil]

6. Gross total income of Mr. Budda Prasad who is self employed is ₹ 5,90,000. He has deposited ₹ 1,00,000 in public provident fund and ₹ 1,10,000 in pension scheme of the Central Government. Compute his taxable income.

[Ans.: Total income Rs. 3,90,000]

Chapter 12**ASSESSMENT OF INDIVIDUALS****Objectives :**

After studying this you should be able to :

- Find out the types of incomes received by the assessee and tax treatment in these cases.
- Know the procedure in computation of total income and tax liability.
- Understand the Method of calculation of rebate under Sections 88, 88B and 88C

Structure :**12.1. Introduction****12.2. Incomes to be included in Assessee's Total Income****12.3. Procedure for Computing Total Income****12.4. Calculation of Tax Liability****12.5. Self-Assessment Questions****12.6. Exercises****12.1 INTRODUCTION**

An individual means a natural person i.e., human being. An individual may be earning income by himself/herself, or earning income as a member of a Hindu Undivided family, firm, company, co-operative society, association of persons or body of individuals. Let us go through how these incomes are chargeable to tax.

12.2 INCOMES TO BE INCLUDED IN ASSESSEES TOTAL INCOME

	Nature of Income	Tax treatment
1.	Income earned by the assessee	Taxable income from all five heads of income viz., Salaries, Income from House Property, Profit or Gain from Business or profession, Capital gains, other sources

2.	Share of profit from a Hindu Undivided Family	It is exempt fully under section 10(2)
3.	Share of profit from a firm assessed as firm	It is exempt fully under section 10(2A)
4.	Salary and interest from the firm assessed as a firm	These incomes are taxable as business incomes
5.	Share of profit from an association of persons/body of individuals	If the association/body is taxable at the maximum marginal rate (or at a higher rate), then share of profit is not taxable in the hand of recipient
6.	Income earned by others and included in the income of the assessee	Such income shall be included in the income of the assessee under Section.60 to 64.

12.3 PROCEDURE FOR COMPUTING TOTAL INCOME

1. First of all ascertain the various incomes which are to be included in total income on the basis of residence.
2. These incomes will be computed according to the various sections of the Act under the heads salaries, income from house property, profits and gains of business or profession, capital gains and Income from other sources.
3. Then we have to adjust present and unabsorbed losses and allowances brought forward under section 70 to section 80. Then we get Gross Total Income.
4. From the gross total income if we give deductions under sections 80 C to 80 U we get Total or Taxable Income.

12.3.1 Rounding off of Total Income Sec.288 A :

The amount of total income computed in accordance with the provisions of the Act shall be rounded off to the nearest multiple of **ten rupees**. For example, if the total income is ₹ 4,90,534, it is to be rounded off as ₹ 4,90,530.

12.3.2 Rounding off Tax :

After calculating the tax payable by the assessee on his total income we have to round off tax payable to the nearest ₹ 10. For example, if tax is ₹ 37,886 it should be rounded upto ₹ 37,890.

12.4 CALCULATION OF TAX LIABILITY

After calculating the total or taxable income, the tax liability of the assessee is to be calculated with the help of the rates given below.

12.4.1 Calculation of Tax for Individuals :

Assessment Year 2018-19

1. In the case of every Individual below 60 years of age

Taxable slab	Rate
Upto ₹ 2,50,000	Nil
₹ 2,50,000 – ₹ 5,00,000	5%
₹ 5,00,000 – ₹ 10,00,000	20%
Above ₹ 10,00,000	30%

2. In the case of every individual, being a resident in India, who is the age of 60 years or more but less than 80 years at any time during the previous year.

Taxable slab	Rate
Upto ₹ 3,00,000	Nil
₹ 3,00,000 – ₹ 5,00,000	5%
₹ 5,00,000 – ₹ 10,00,000	20%
Above ₹ 10,00,000	30%

3. In the case of every individual, being a resident in India, who is of the age of 80 years or more at any time during the previous year.

Taxable slab	Rate
Upto ₹ 5,00,000	Nil
₹ 5,00,000 – ₹ 10,00,000	20%
Above ₹ 10,00,000	30%

(a) Education cess @ 2% and Secondary and Higher Education Cess (SHEC) @ 1% on Income tax shall be chargeable.

(b) **Surcharge on Income Tax** : The amount of income tax computed in accordance with the above rates shall be increased by a surcharge @ 10% of such income tax in case of a person referred to in clause (A) above having a total income

exceeding Rs.50 lakhs but does not exceed Rs.1 crore, and 15% if the total income exceeds Rs.1 crore. Surcharge is subject to Marginal relief.

- (c) **Marginal Relief** : The total amount payable as income tax and surcharge on total income exceeding Rs.50 lakhs shall not exceed the total amount payable as income tax on a total income of Rs.50 lakhs by more than the amount of income that exceeds Rs.50 lakhs. Likewise, if net income exceeds Rs.1 crore, the amount payable as income tax and surcharge shall not exceed the total amount payable as income tax and surcharge on total income of Rs.1 crore by more than the amount of income that exceeds Rs.1 crore.
- (d) **Rebate u/s 87A** : In case of resident individual whose total income does not exceed Rs.3,50,000, rebate shall be allowed from income tax @ 100% of such tax or Rs.2,500 which ever is less.

Tax Rates

Assessment Year 2019-20

- (i) In the case of every Individual below 60 years of age

Taxable slab	Rate
Upto ₹ 2,50,000	Nil
₹ 2,50,000 – ₹ 5,00,000	5%
₹ 5,00,000 – ₹ 10,00,000	20%
Above ₹ 10,00,000	30%

- (ii) In the case of every individual, being a resident in India, who is the age of 60 years or more but less than 80 years at any time during the previous year.

Taxable slab	Rate
Upto ₹ 3,00,000	Nil
₹ 3,00,000 – ₹ 5,00,000	5%
₹ 5,00,000 – ₹ 10,00,000	20%
Above ₹ 10,00,000	30%

- (iii) In the case of every individual, being a resident in India, who is of the age of 80 years or more at any time during the previous year.

Taxable slab	Rate
Upto ₹ 5,00,000	Nil
₹ 5,00,000 – ₹ 10,00,000	20%
Above ₹ 10,00,000	30%

- (a) Taxable Income excludes long term capital gains, which are taxable at specified rates as per Section 112 and 112A, and short-term capital gains taxable at specified rate as per Section 111A.
- (b) For Assessment year 2018-19, Education Cess @ 2% and Secondary & Higher Education Cess @ 1% shall be leviable on the amount of Income tax and surcharge, if any. For Assessment year 2019-20, Health & Education Resident individuals having taxable income upto Rs.3,50,000 shall be entitled for a tax rebate equal to the amount of income tax or Rs.2,500 whichever is less.
- (c) Surcharge shall be payable @ 10% of income tax if taxable income exceeds Rs.50 lakh but does not exceed Rs.1 crore, and @ 15% of income tax if taxable income exceeds Rs.1 crore.

Computation of Total Income

	Particulars	Sections	₹
1.	Salaries	Sec.15-17	xxx
2.	Income from House Property	Sec.22-27	xxx
3.	Profits and Gains from Business or Profession	Sec.22-44DA	xxx
4.	Capital Gains	Sec.45-55A	xxx
5.	Income from Other sources	Sec.56-59	xxx
6.	Clubbing of other persons income	Sec.60-65	xxx
7.	Set off and Carry forward of losses	Sec.70-80	xxx
8.	Gross Total Income		xxx
9.	Less : Deductions u/s 80 C to 80U		xxx
10.	Total Income or Taxable Income		xxx

Allowability of Deductions [Section 14A] : According to this new section in computing the total income of an assessee no deduction shall be allowed in respect of any expenditure incurred by the assessee in relation to income which does not form part of the total income under the Income-tax Act.

Illustrations

Illu.1 : Compute the total income of Mr. Balakrishna, a lecturer of a college affiliated to Andhra University, for the assessment year 2018-19 on the basis of the following particulars:

	₹
(i) Salary @ ₹ 50,000 per month	6,00,000
(ii) Dearness allowance @ 50% of salary	3,00,000
(iii) Warden ship allowance @ ₹ 1,500 per month	18,000
(iv) Examiner ship remuneration from University	25,400
(v) Royalty from books of artistic nature	2,73,000
(vi) Income from card games	6,400
(vii) Winnings from lottery (Gross)	20,000
(viii) Expenses on lottery tickets	10,000
(ix) Interest on saving bank deposit	67,000
(x) Deposit in recognised provident fund	1,22,000
(xi) Life insurance premium paid	30,000

Solution:

Computation of Total Income of Mr. Balakrishna (Assessment year 2018-19)

	₹	₹
1. Income from Salary:		
Salary @ ₹ 50,000 p.m. (₹ 50,000 × 12)	6,00,000	
Dearness allowance	3,00,000	
Warden ship allowance @ 1,500 per month	18,000	
Income under the head salary		9,18,000
2. Income from profession:		
Royalty		2,73,000

3. Income from Other Sources:		
Examiner ship Remuneration from University	25,400	
Interest on saving bank deposit	67,000	
Income from card games	6,400	
Amount received from lottery	20,000	1,18,800
Gross total income		13,09,800
Less: Deductions		
(i) U/s 80 C (₹ 1,22,000 + 30,000 = ₹ 1,52,000 but limited ₹ 1,50,000)	1,50,000	
(ii) U/s 80 QQB	2,73,000	
(iii) U/s 80 TTA	10,000	4,33,000
Total income		8,76,800
Computation of tax:		
Tax on lottery and card games (₹ 26,400 @ 30%)	7,920	
Tax on balance income of ₹ 8,50,400	82,580	
Tax payable	90,500	
Add: Education cess & SHEC @ 3%	2,715	
Net tax payable	93,215	

Calculation of Tax payable :

Age below 60 years	Rs.	Rs.
Tax on	8,50,400	
First Rs.2,50,000	Nil	
Next Rs.2,50,000	5%	12,500
Balance Rs.3,50,400	20%	70,080
		82,580

Notes : No expenses, allowance or any deduction is allowed from winning of lotteries, card games, races etc.

Illu.2: Mr. Bhanu Kiran has computed his income under various heads for the previous year 2017-18 as under:

		₹	₹
(a)	Income under the head salary		3,66,000
(b)	Income under the head house property		(-) 10,000
(c)	Profits and Gains of business or profession		40,000
(d)	Capital Gains – short-term	20,000	
	- long-term	2,30,000	2,50,000
(e)	Income from other sources		
	- Winnings of lotteries	10,000	
	- Interest on Government Securities	12,000	22,000
	Mr. Kiran also submits following information:		
(1)	Payment made by credit card for Mediclaim policy		6,000
(2)	Expenses on Medical treatment of dependant son being a person with disability		15,000
(3)	Payment of interest to Canara Bank, which was taken for pursuing approved higher education		25,000
(4)	Donations to:		
	Prime Minister's Drought Relief Fund		1,000
	Clean Ganga Fund		2,000
	Jawaharlal Nehru Memorial Fund		2,000
	Prime Minister's National Relief Fund		1,200
	Government for Family Planning		37,000
	Approved Charitable Institution		3,000

Compute the Total Income and tax liability for assessment year 2018-19. if he deposits ₹ 20,000 in his PPF Account during the previous year.

Solution:

Computation of Total Income of Mr. Bhanu Kiran

(Assessment Year 2018-19)

		₹	₹
(A)	Income from salary		3,66,000
	Loss from house property		(-) 10,000
	Business income		40,000
	Capital gain short-term	20,000	
	Long –term	2,30,000	2,50,000
	Income from other sources (10,000 + 12,000)		22,000
	Gross Total Income		6,68,000
	Less: Deduction u/s 80 C to 80 U		

(i) U/s. 80 C	20,000	
(ii) U/s. 80 D	6,000	
(iii) U/s. 80 DD	50,000	
(iv) U/s. 80 E	25,000	
(v) U/s. 80 G	38,400	1,39,400
Total Income		5,28,600

Working Notes :

1. Donation to which qualifying limit is not applicable:		₹	₹
(a) Allowed @ 100% :			
(i) Clean Ganga Fund	2,000		
(ii) Prime Minister's National Relief Fund (1,000)	1,200		3,200
(b) Allowed @ 50% :			
(i) Prime Minister's Drought Relief Fund (1,000)	500		
(ii) Jawaharlal Nehru Memorial Fund (2,000)	1,000		1,500
2. Donations to which qualifying limit is applicable:			
(i) Government for family planning	37,000		
(ii) Approved charitable institutions	3,000		
	40,000		
Limited to 10% of Adjusted Gross Total Income i.e., ₹ 3,37,000, 10% of LIC ₹ 33,700. Since donations to Family Planning are more than the maximum allowable, hence 100% of the qualifying amount will be allowable	33,700		33,700
Total deduction for donations u/s 80 G			38,400

Adjusted Gross Total Income is computed as under:

		₹	₹
1.	Gross Total Income		6,68,000
	Less: (1) Long-term capital Gain	2,30,000	
	(2) Deductions u/s 80 C to 80 U other than 80G		
	(20,000 + 6,000 + 50,000 + 25,000)	1,01,000	3,31,000

		3,37,000
2.	Tax on ₹ 5,28,600 shall be calculated as under:	
	At special rate	
	(a) On lottery income of ₹ 10,000 @ 30%	3,000
	(b) On long-term capital gain of ₹ 2,30,000 @ 20%	46,000
	At slab rate	
	Other income without long-term capital gain and lottery i.e. ₹ 2,88,600 (First Rs.2,50,000 – Nil; Balance Rs.38,600 @ 5%)	1,930
		50,930
	Add: Education cess & SHEC @ 3%	1,528
	Tax payable	52,458
	Rounded Off	52,460

Illu.3: Mr. Narasimhan, aged about 73 years, is a whole-time working Director in First Leasing Company Ltd. at Vijayawada. From the following particulars, calculate the taxable income and income-tax payable for the previous year 2017-18 (A.Y. 2018-19).

1. Pay Rs.25,000 p.m.
2. Dearness Allowance 54,000
3. CCA Rs.2,500 p.m.
4. Commission on turnover (@ 0.5% of Rs.1,05,00,000) Rs.52,500.
5. Sitting fee Rs.3,000 p.a.
6. Free use of car (below 1,600cc) for official and personal use with driver. Expenses borne by employer.
7. Rent-free house in Vijayawada, @ Rs.8,000 p.m.
8. Owns a house property in New Delhi which is let out on a monthly rent of Rs.5,000. The municipal taxes of Rs.1,800 for the whole year. Interest payable for 2017-18, on the capital borrowed for the construction of the house is Rs.44,000.
9. Repayment of House Building Advance taken from friends and relatives Rs.15,000 and from LIC Rs.18,000.
10. Bank Interest on Savings Bank A/c Rs.15,260.
11. Interest on PPF A/c Rs.25,000.
12. Interest on Bank FDs Rs.50,000 and Debentures Rs.32,000.
13. Interest on 8% Savings (Taxable) Bonds Rs.40,000 (TDS Rs.4,000)

14. Donations to National Defense Fund Rs.1,000.
 15. Health Insurance premium (Mediclaime) on self and wife (both above 70 years) Rs.22,000.
 16. Expenditure on medical treatment of handicapped daughter Rs.28,000.
 17. Deposit in Jeevan Suraksha of LIC Rs.10,000.
 18. Investment in LIC, Jeevan Dhara and PPF Rs.85,000.
 19. MBA college fees for son Rs.20,000.
 20. Deposit in Bank Term Deposit Rs.30,000

Solution:

**Computation of Taxable Income of Mr. Narasimhan
 (Assessment Year 2018-19)**

		Rs.	Rs.	Rs.
1.	Income from Salary			
	Basic Pay (25,000 ×12)			3,00,000
	D.A.			54,000
	CCA			30,000
	Commission			52,500
	Sitting fee			3,000
	Free use of Motor car with driver			32,400
	Rent-free house in Chennai			65,925
	Gross Salary			5,37,825
	Less: Standard deduction			-
				5,37,825
2.	Income from House Property			
	Annual Value		60,000	
	Less: Municipal taxed paid		1,800	
	Adjusted Annual Value		58,200	
	Less: 30% Standard Deduction u/s 24	17,460		
	Interest on borrowed capital u/s 24	44,000	61,460	(-) 3,260
3.	Income from Other Sources			
	Interest on S.B. A/c		15,260	
	Interest on Bank FDs		50,000	
	Interest on Debentures		32,000	
	Interest on PPF A/c [Exempt u/s 10(11)]		-	
	Interest on 8% Savings Bonds		40,000	1,37,260

4.	Gross Total Income		6,71,825
	Less: Permissible Deductions		
	u/s 80C LIC, PPF, college fees, etc.	1,50,000	
	u/s 80CCC Jeevan Suraksha	-	
	u/s 80D Mediclaim	22,000	
	u/s 80DD Expenditure on Medical treatment of handicapped daughter	75,000	
	u/s 80G 100% of amount donated	1,000	
	u/s 80TTA Saving A/c Interest	10,000	2,58,000
Taxable Income		4,13,825	
Rounded Off		4,13,830	

Assessee Age : 73 years			Rs.
Total Income	4,13,830		
First Rs.3,00,000	Nil		
Next Rs.1,13,830	5%		5,692
Add: Education Cess @ 2%			114
Add: Secondary & Higher Education Cess @ 1%			57
Total Tax Liability			5,863
Less: TDS on Interest			4,000
Net Tax Liability			1,863

Working Notes:

- | | Rs. |
|---|--------|
| 1. Perquisite value of motor car is [(Rs.1,800 + Rs.900) × 12 i.e.] | 32,400 |
| 2. The perquisite of rent-free house is valued as follows: | |
| 15% of salary (3,00,000 + 54,000 + 30,000 + 52,500 + 3,000 i.e. | 65,925 |
| Rs.65,925) or rent actually paid by the employer (i.e. 8,000 × 12 = | |
| Rs.96,000), whichever is lower, thus, | |
| Less: Rent paid by the employee | - |
| | 65,925 |
| 3. Standard Deduction is not available for A.Y. 2018-19. However, from A.Y.2019-20, standard deduction is allowable from salary for Rs.40,000 or the amount of salary, whichever is less. | |
| 4. Interest from savings account with bank/post office is deductible u/s 80TTA upto | |

a maximum of Rs.10,000.

5. Deduction will be allowed under section 80C with respect to payments in specified schemes like LIC premium, contribution to P.F., repayment of housing loans, tuition fees, investment in Banks Term Deposit Scheme (of minimum 54 years), 5 years POTD, Senior Citizen Savings Scheme, etc., subject to a maximum of Rs.1,50,000. Further, aggregate deduction u/s 80C, 80CCC and 80CCD(1) shall not exceed Rs.1,50,000. Hence the gross eligible investments are 18,000 (Housing loan repayment to LIC) + 85,000 (LIC, PPF, etc.) + 20,000 (College fees) + 30,000 (Bank Term Deposit) = 1,53,000. However, the deduction will be restricted to Rs.1,50,000.
Repayment of housing loan to friends and relatives are not eligible for deduction u/s 80C.
6. A deduction up to a maximum of Rs.1,50,000 is allowable u/s 80CCC, in respect of contribution to specific Pension Funds (i.e. LIC's Jeevan Suraksha). However, total deduction u/s 80C, 80CCC and 80CCD(1) shall not exceed Rs.1,50,000. Thus, no deduction 80CCC shall be allowable in this case, since deduction of Rs.1,50,000 is being claimed u/s 80C.
7. The maximum deduction allowable u/s 80D in respect of medical insurance premium for self, spouse and dependent children is Rs.25,000 (Rs.50,000 [Rs.30,000 for A.Y. 2018-19] in case the person insured is a senior citizen). An Additional deduction upto Rs.25,000 (Rs.50,000 [Rs.30,000 for A.Y.2018-19] in case the person insured is a senior citizen) shall be allowable in respect of medical insurance premium for parent(s). For this purpose, senior citizen means a person of age 60 years or more.
8. The deduction allowable u/s 80DD is Rs.75,000 (Rs.1,25,000 in case of severe disability) in aggregate for the deposit made in approved scheme of LIC/UTI and for medical treatment expenditure, irrespective of the actual amount of expenditure incurred.
9. Donations to National Defense Fund are eligible for 100% deduction u/s 80G.
10. A tax rebate is available u/s 87A, equal to the amount of tax or Rs.2,500, whichever is less, in case of a resident individual having total income upto Rs.3.5 lakhs.

Illu.4: Mr. Goswamy submits the following particulars for the year ending 31.3.2018. Calculate his taxable income for A.Y. 2018-19.

		Rs.
(a)	Income from Salary	2,30,000
(b)	Income from house property	
	(i) House A	1,05,000
	(ii) (ii) House B (self-occupied)	(-) 1,50,000
(c)	Profits and gains of business or profession	
	(i) Business I	1,08,000
	(ii) Business II	(-) 46,000
	(iii) Business III (discontinued)	
	Unabsorbed carried forward loss from A.Y. 2013-14	(-) 80,000
(d)	Capital Gains	
	(i) Short-term capital gain	90,000
	(ii) Short-term capital loss	(-) 50,000
	(iii) Long-term capital gain (on transfer of listed equity shares)	1,87,000
	(iv) Long-term capital loss	(-) 25,000
(e)	Other sources	
	(i) Loss from card games	(-) 40,000
	(ii) Winning from lotteries	1,00,000
	(iii) Interest	50,000

Solution:

**Computation of Taxable Income of Mr. Goswamy
(Assessment year 2018-19)**

		Rs.	Rs.	Rs.
1.	Salary			2,30,000
2.	House Property			
	Income from House A		1,05,000	
	Less: Loss from House B		(-) 1,50,000	
	Net Loss			(-) 45,000
3.	Business Income			
	Income from Business I		1,08,000	
	Less: Loss from Business II		(-) 46,000	
	Net Business Income		62,000	

	Less: Loss from Business III carried forward from A.Y 2013-14 Rs.80,000 restricted to net business income		(-) 62,000	Nil
4.	Capital Gains			
	Short-term capital gains	90,000		
	Less: Short-term capital loss	(-) 50,000		
	Net short-term capital gain		40,000	
	Long- term capital gain (from equity shares)	1,87,000		
	Long-term capital loss	25,000		
	Net long-term capital gain		1,62,000	
	Total capital gain			2,02,000
5.	Other Sources			
	Interest		50,000	
	Winning from Lotteries		1,00,000	
	Net income from other sources			1,50,000
	Gross Total Income			5,37,000
	Less: Deductions			Nil
6.	Total Income			5,37,000

Computation of Tax Liability

	Rs.
Tax payable on winnings from lotteries (Rs.1,00,000) @ 30%	30,000
Tax payable on long-term capital gains (from equity shares) (Rs.1,62,000 – Rs.1,00,000 = Rs.62,000) @ 10%	6,200
Tax payable on balance income Rs.5,37,000-(Rs.1,00,000 + 1,62,000) = Rs.2,75,000	1,250
Total Tax payable	37,450
Add: Education Cess @ 3%	1,124
Total Tax Liability	38,575

Notes:

1. Loss from house property can be set off against income under any other head. W.e.f. A.Y. 2018-19, such set off shall be allowed subject to a maximum of Rs.2 lakh.

2. Business loss shall be set off against business income first, and the balance, if any, can be set off against income under other heads except salary.
Business loss carried forward from previous year(s) can be set off against business income only. Unabsorbed business loss relating to A.Y. 2013-14 can be carried forward for 8 assessment years 1.e. up to A.Y. 2021-22. The unadjusted business loss (of A.Y. 2013-14) Rs.18,000 shall be carried forward to A.Y. 2020-21.
3. For A.Y. 2018-19, long-term capital gain from transfer of listed equity shares is fully exempt u/s 10(38).
4. Loss from card games cannot be set off against income from card games by virtue of section 58(4). Since the loss cannot be set off against income from sale source, it cannot be set off against income under any other head too.
5. Long-term capital gains from transfer of equity shares/units of equity-oriented mutual fund, made on or after 1.4.2018 (u/s 112A), up to Rs.1,00,000 are exempt.

Illu.5 : Mrs. Radhika who is a partner in M/s. Sai Enterprises has following incomes and investments for the year ending on 31.3.2018. Calculate her taxable income and tax payable for A.Y. 2018-19.

		Rs.
(a)	Interest on Govt. Securities	2,000
(b)	Interest on NSC VIII Issue (Rs.5,000 deemed as re-invested)	13,500
(c)	Interest on other securities	18,000
(d)	Interest on Savings Bank A/c	1,200
(e)	Interest on Post Office Savings Bank A/c	5,000
(f)	Dividend from Indian Companies	6,000
(g)	Dividend from Mutual Funds	5,400
(h)	Interest on Bank Fixed Deposits	
	- in the name of Mrs. Radhika	9,000
	- by Mrs. Radhika in the name of Mr. Karthik (her husband)	6,500
(i)	Interest on deposits made by Mr. Karthik out of interest income received by him on Bank FDs mentioned above	585
(j)	Gifts from nephew and friends received by cheque (aggregate)	70,000
(k)	50% share in net profit of firm M/s. Sai Enterprises	16,250
(l)	Salary as working partner in M/s. Sai enterprises @ Rs.40,000/- p.m. and interest Rs.34,500/-	5,14,500
(m)	Interest income of handicapped minor son	15,000

(n)	Income of minor daughter (including interest on her PPF A/c Rs.2,200)	10,200
(o)	Insurance Premium on Policy (issued before 1.4.2012) for Rs.30,000 on own life	6,800
(p)	Deposit in PPF Account	1,00,000
(q)	School fees for 2 children Rs.11,500 each (including development fee Rs.3,000)	23,000
(r)	Subscription to eligible equity shares/debentures and units of eligible mutual funds	15,000
(s)	Medical Insurance Premia paid for parents (both senior citizens)	36,000
(t)	Amount actually paid on medical treatment of father for cancer	61,000
(u)	Contribution to LIC's pension fund i.e. Jeevan Suraksha	10,224
(v)	Rent paid for self-residence @ Rs.5,000 p.m.	60,000
(w)	Contribution to National Pension System	50,000

Solution:

Computation of Taxable Income
(Assessment year 2018-19)

		Rs.	Rs.	Rs.
1.	Profits and gains of Business/Profession:			
	(a) 50% share in M/s. Sai Enterprises	-		
	(b) Salary and interest from M/s. Sai Enterprises			
	- Salary @ Rs.40,000/- p.m.	4,80,000		
	- Interest	34,500	5,14,500	5,14,500
2.	Income from Other Sources:			
	(a) Interest on Govt. Securities		2,000	
	(b) Interest on NSC VIII Issue		13,500	
	(c) Interest on other Securities		18,000	
	(d) Interest on Savings Bank A/c		1,200	
	(e) Interest on P.O.S.B. A/c		1,500	
	(f) Dividend on shares		-	
	(g) Dividend from Mutual Funds		-	
	(h) Interest on Bank Fixed Deposit			
	- on own FDs		9,000	

- on husband's FDs [Sec. 64(1)(iv)]	6,500	
(i) Interest on deposits made by husband	-	
(j) Gift from nephew and friends	70,000	
(k) Income of handicapped minor son	-	
(l) Income of minor daughter [Sec. 64(1A)] Rs.10,200 less exemption u/s 10(32) Rs.1,500 less Interest on PPF A/c exempt u/s 10(11) Rs.2,200	6,500	1,28,200
Gross Total Income		6,42,700
Less: Deductions		
(i) u/s 80C		
Life Insurance Premium Paid	6,000	
Interest on NSC VIII Issue	5,000	
School Tuition fee for 2 children (Rs.8,500 x2)	17,000	
Deposit in PPF A/c	1,00,000	
Subscription to shares/debentures	15,000	
	1,43,000	
(ii)u/s 80CCC:Total deduction u/s 80 & 80CCC	10,224	
	1,53,224	
Restricted to	1,50,000	
(iii) u/s 80CCD (1B) (NPS)	50,000	
(iv) u/s 80D	30,000	
(v) u/s 80DDB	60,000	
(vi) 80TTA Saving A/c Interest	2,700	
(vii) u/s 80GG	25,000	3,17,700
Taxable Income		3,25,000
Tax Payable on Rs.3,25,000 (Assumed Age Below 60)		
First Rs.2,50,000	Nil	
Next Rs.75,000	5%	3,750
Less: Rebate u/s 87A		2,500
Net Tax Payable		1,250
Add: Education Cess @ 2%		25
Add: Secondary & Higher Education Cess @ 1%		13
Total Tax payable		1,288

Illu.6: Mr. Anurag, Manager in a leasing company at Tirupathi has the following incomes, expenses and investments during the year 2017-18 i.e. A.Y. 2018-19. Calculate his taxable income and tax payable.

	Rs.
(a) Salary	5,90,000
(b) Rent from Commercial House Property (Gross)	75,000
(c) House Tax paid during the year	5,000
(d) The assessee owns a residential flat in Kakinada which is self-occupied but could not be occupied during the year since the assessee stayed in Tirupathi. Amount paid to Group Housing Society as interest on housing loan availed in March, 1998	31,000
(e) Sale consideration for shares sold during the year, subject to securities transaction tax Cost of acquisition in June 2004 Rs.84,740 Fair Market value as on 31.1.2018 Rs.90,000	2,00,000
(f) Short-term Capital Gain on sale of Shares, subject to securities transaction tax	5,000
(g) Interest on Debentures	12,500
(h) Saving Account Interest	12,000
(i) Post Office Monthly Income	10,000
(j) Dividends from Mutual Fund	4,000
(k) Dividends on Shares in Companies	5,000
(l) Premium on Life Insurance Policy, Contribution to Provident Fund and repayment of Housing Loan, 5 year Time-Deposit with Andhra Bank tuition fees paid to school in respect of his son	1,50,000
(m) Contribution to New Pension Scheme	70,000
(n) Medical insurance premium for self, wife and children	24,000
(o) Medical insurance premium for parents who are both senior citizens and are not dependent on Mr. Anurag.	39,000
(p) Health check-up of self and wife	2,500
(q) Health check-up of parents	2,000

Solution:

**Computation of taxable Income of Mr. Anurag
(Assessment year 2018-19)**

		Rs.	Rs.	Rs.
(a)	Salary			5,90,000

	Less: Standard Deduction			Nil
	Net Salary			5,90,000
(b)	(i) Income from House Property (Let-out)		75,000	
	Less: House Tax Paid		5,000	
			70,000	
	Less: 30% Standard Deduction		21,000	
			49,000	
	(ii) Income from Residential Flat		Nil	
	Less: Interest on Loan Rs.31,000		(-) 30,000	
	Income from House Property			19,000
(c)	Long-Term Capital Gains on sale of Shares			
	Sale Consideration		2,00,000	
	Less: Cost of acquisition or FMV as on 31.1.2018 whichever		90,000	1,10,000
(d)	Short-Term Capital Gains on sale of shares			5,000
(e)	Income from Other Sources			
	[(g) + (h) + (i) + (j) + (k) =			
	12,500 + 12,000 + 10,000 + Nil + Nil]			34,500
	Gross Total Income			7,58,500
	Less: Deduction u/s 80C			
	Life Insurance Premium, Provident Fund, Repayment of Housing Loan, Time Deposit with Andhra Bank and Tuition fee		1,50,000	
	Deduction u/s 80CCD			
	- Contribution to New Pension Scheme		50,000	
	Deduction u/s 80D			
	- Medical insurance premium/ health check – up self, wife and children	25,000		
	- Medical insurance premium/health check up for parents	41,000	66,000	
	Deduction u/s 80TTA		10,000	2,76,000
	Total Income			4,82,500

Tax Calculation

Tax Payable on Short-Term Capital Gains @ 15% on Rs.5,000	Rs. 750
Tax Payable Long-term Capital Gains @ 10% on (Rs.1,10,000 – Rs.1,00,000) = Rs.10,000	1,000
Tax Payable on balance income of Rs.3,27,500	3,875
	5,625
Less: Rebate u/s 87A	2,500
Net Income Tax Payable	3,125
Add: Surcharge	Nil
Add: Health & Education Cess @ 3%	94
Total Tax Liability	3,219
Rounded Of	3,220

Illu.7 : Mr. Rajendar furnishes the following particulars of his income for 2017-18 (i.e. A.Y. 2018-19):

	Rs.
(a) Gross Salary	5,20,000
(b) House-property (self-occupied)	Nil
(c) Long-term capital gain on sale of a commercial house property. Rs.40,000 invested in REC Bonds (notified u/s 54EC) within 6 months from transfer	65,000
(d) Other Sources	
(i) Saving Bank interest	20,000
(ii) Interest accrued on NSC (deemed reinvested)	8,000
(iii) Dividends on shares in companies	2,000
(iv) Income from Mutual Funds	3,000
(v) Interest on Govt. Securities	2,000
(vi) Interest on debentures	7,000
(vii) Interest on PPF A/c	7,500

Besides, Mr. Rajendar makes the following investments during the year – Life insurance premium Rs.6,000, Deposit in PPF A/c Rs.60,000, NSCs purchased Rs.21,000, Contribution to Recognised Provident Fund Rs.45,000, subscription to eligible shares and units of eligible mutual funds Rs.10,000. Mr. Rajendar made a contribution of Rs.60,000 to New Pension Scheme. Mr. Rajendar made

a contribution of Rs.60,000 to New Pension Scheme. Mr. Rajendar also pays house tax for his self-occupied flat Rs.1,000 and health insurance premium Rs.26,000. Compute his taxable income and tax payable.

Solution:

**Computation of Taxable Income of Mr. Rajendar
(Assessment year 2018-19)**

		Rs.	Rs.	Rs.
(a)	Salary as per Salary Certificate		5,20,000	
	Less: Standard Deduction u/s 16		Nil	5,20,000
(b)	Income from house property - Self occupied flat			
	Annual Value [u/s 23(2)(a)]			Nil
(c)	Long-term capital gains		65,000	
	Less: Exemption u/s 54EC		40,000	25,000
(d)	Income from Other Sources [(i) + (ii) + (v) + (vi)]			37,000
	Gross Total Income			5,82,000
	Less: Deductions under Chapter VI-A			
	u/s 80D (Health insurance)		25,000	
	u/s 80C amount invested in			
	Life Insurance Premium	6,000		
	Deposit in PPF A/c	60,000		
	NSCs Purchased	21,000		
	Interest accrued on NSC's	8,000		
	Contribution to RPF	45,000		
	Subscription to eligible shares and units of eligible mutual funds	10,000	1,50,000	
	: U/s 80CCD(1B) Contribution to New Pension Scheme		50,000	
	: u/s 80TTA Saving Bank Interest		10,000	2,35,000
	Total Income			3,47,000
	Tax payable on long-term capital gains @ 20% of Rs.25,000			5,000
	Tax payable on balance income of Rs.3,22,000 [Rs.3,47,000 – Rs.25,000]			3,600

Total Payable	8,600
Less: Rebate u/s 87A	2,500
Net Income Tax Payable	6,100
Add: Surcharge	Nil
Add: Health & Education Cess @ 3%	183
Total Tax, Surcharge and Cess payable	6,283

Illu.8: Mr. Sivaji has following incomes for 2017-18 (A.Y.2018-19):

		Rs.
(a)	Gross Salary	3,18,000
(b)	House property (self-occupies)	Nil
(c)	Short-term capital gain on sale on shares (subjected to Securities Transaction Tax)	22,000
(d)	Long-term capital gain on sale of shares (subjected to Securities Transaction Tax)	1,51,000
(e)	Other Sources	
	(i) Bank FD interest	7,000
	(ii) Dividend on shares in companies	8,000
	(iii) Interest on Govt. Securities	5,000
	(iv) Interest on debentures	12,000
	(v) Interest on PPF A/c	9,000

Mr. Sivaji also makes the following investments during the year –
 Contribution to Recognised Provident Fund Rs.39,360. Deposit in PPF A/c Rs.25,000 and Payment of LIC Premium of Rs.6,000. Compute his taxable income and tax payable.

Solution:

**Computation of Taxable Income of Mr. Sivaji
 (Assessment year 2018-19)**

		Rs.	Rs.	Rs.
(a)	Salary			3,18,000
(b)	Income from house property - Self –occupied flat Annual Value (u/s 23(2)(a)]		-	-
(c)	Short-term capital gain on sale of shares			22,000

(d)	Long-term capital gain on sale of shares			1,51,000
(e)	Income from Other Sources			
	[(i) + (ii) + (iii) + (iv) + (v)]		41,000	
	Less: Dividend on shares in companies (exempt u/s 10(34))	8,000		
	Less: Interest on PPF A/c [exempt u/s 10(11)]	9,000	17,000	24,000
	Gross Total Income			5,15,000
	Less: Deduction under Chapter VI-A u/s 80C			
	Contribution to recognised P.F.		39,360	
	Deposit in PPF		25,000	
	L.I.C. Premium		6,000	70,360
	Total Income			4,44,640
	Tax Payable on short-term capital gain @ 15% on Rs.22,000			3,300
	Tax Payable on long-term capital gain @ 10% on (Rs.1,51,000-Rs.1,00,000) = Rs.51,000			5,100
	Tax Payable balance income of Rs.2,71,640 (4,44,640-22,000-1,51,000)			1,082
				9,482
	Less: Rebate u/s 87A			2,500
	Net Income Tax Payable			6,982
	Add: Surcharge			Nil
	Add: Health & Education Cess @ 3%			209
	Total Tax, Surcharged and Cess Payable			7,191

Illu.9 : From the following particulars submitted by Mrs. Kasaiah (date of birth: June 10, 1982), determine her taxable income for the assessment year 2018-19:

	Rs.
One-half share of profit from a firm	4,00,000
Profit from an industrial undertaking set up in Jammu during September 2008	6,00,000
Profits from the business of growing mushrooms	30,000
Profits from export of film software	40,000
Profits from the business of poultry farming	60,000
Interest on Government securities	90,000
Long-term capital gains on sale of gold	80,000

Winning from lottery	15,000
Birthday gift – Rs.60,000 from Mrs. Kasaiah and Rs.45,000 from a friend Mr. Rajesh	
Insurance premium paid on own insurance policy (policy was taken in 2010) (sum assured: Rs.3,00,000)	80,000

Solution:

**Computation of Total Income of Mr. Kasaiah
(Assessment year 2018-19)**

	Rs.	Rs.
One-half share profit from a firm (exempt from tax)	Nil	
Profit from a small scale industrial undertaking	6,00,000	
Profits from the business of growing mushrooms	30,000	
Profits from export of film software	40,000	
Profits from the business of poultry farming	60,000	
Income under the head "Profits and gains of business or profession"		7,30,000
Capital gain		80,000
Income from other sources (Rs.90,000 + Rs.15,000)		1,05,000
Gross total income		9,15,000
Less: Deductions		
Under section 80C		60,000
Under section 80-IB (25% of Rs.6,00,000)		1,50,000
Total income		7,05,000

Calculation of Tax payable :

Age Less than 60 years	Rs.	Rs.
Total Income	7,05,000	
Long term capital Rs.80,000 on 20% = Rs.16,000		16,000
Winnings from Lottery Rs.15,000 on 30% = Rs.4,500		4,500
Tax on Rs.9,15,000 – (80,000 + 15,000) =		
Tax payable on balance income Rs. 6,10,000	6,10,000	
Total Income Rs.7,05,000 - (Rs.80,000 + 15,000) = Rs.6,10,000		
First Rs.2,50,000	Nil	
Next Rs.2,50,000	5%	12,500
Balance Rs.1,10,000	20%	22,000
		55,000
Add : Education cess @ 3%		1,650
Tax payable		56,650

Working Notes : Gift from friend Mr. Rajesh is chargeable to tax but the aggregate gift excluding gift from relative, does not exceed Rs.50,000, therefore, it is not chargeable to tax.

Illu.10 : Mr. Ranadheer (70 years) submits the following particulars of his income for the assessment year 2018-19:

	Rs.
Salary income:	
Basic pay	9,60,000
Commission (2 per cent on turnover, turnover achieved by Mr. Ranadheer: Rs.40,00,000)	80,000
House rent allowance (rent paid by Mr. Ranadheer in Bombay: Rs.1,05,000)	24,000
Other incomes:	
Profits and gains of an industrial undertaking (small scale) set up in Jammu and Kashmir during April 2008	60,000
Profits from publication and printing of books	2,90,000
Profits from speculative share trading business (securities transaction tax: Rs.8,000)	(-) 90,000
Profits from the business of growing mushrooms	48,000
Income from royalty on a book written in Hindi and recommended by the Delhi University	3,10,000
Profits from export of goods	75,000
Income from royalty on patents	3,76,000
Payments/investments (not deducted from incomes stated above):	
Interest on money borrowed for payment of taxes	6,000
Legal expenditure for filing income-tax appeal pertaining to the business of growing mushrooms	8,000
Donation of gold to a notified public charitable institute	40,000
Payment of insurance premium on own life policy (policy was taken in 2,000) (sum assured; Rs.90,000)	19,000

Determine the net income and tax liability of Mr. Ranadheer for the assessment year 2018-19 giving all permissible deductions.

Solution:

**Calculation of Total Income of Mr. Ranadheer
(Assessment year 2018-19)**

		Rs.	Rs.
1.	Income from salary		
	Basic salary	9,60,000	
	Commission	80,000	
	House rent allowance	23,000	
	Salary income		10,63,000
2.	Profit from Business or Profession		
	Profits and gains of an industrial undertaking (small scale)	60,000	
	Profits from publication and printing of books	2,90,000	
	Profits from speculative share trading business (loss from speculative business can be set off only against income from speculative business)	Nil	
	Profits from the business of growing mushrooms (Rs.48,000 – Rs.8,000)	40,000	
	Profit from export of goods	75,000	
	Royalty from books	3,10,000	
	Royalty on patents	3,76,000	
	Business income		11,51,000
3.	Gross total income		22,14,000
	Less: Deductions		
	Under section 80C (20% of Rs.90,000)	18,000	
	Under section 80G (donation in kind is not deductible)	Nil	
	Under section 80-IB (25% of Rs.60,000)	15,000	
	Under section 80QQB	3,00,000	
	Under section 80RRB	3,00,000	6,33,000
	Net income		15,81,000

Calculation of Tax

Age 70 years	Rs.	Rs.
Total Income	15,81,000	
First Rs.3,00,000	Nil	
Next Rs.2,00,000	5%	10,000
Next Rs.5,00,000	20%	1,00,000
Balance Rs.5,81,000	30%	1,74,300
		2,84,300
Add : Education cess @ 3%		8,529
Tax payable		2,92,829
Tax payable (rounded off)		2,92,830

Note: Salary for the purpose of house rent allowance is Rs.10,40,000. The quantum of exemption is calculated as follows – (a) Rs.5,20,000 (being 50% of Rs.10,40,000); (b) Rs.24,000; or (c) Rs.1,000 (being the excess of rent paid of Rs.1,05,000 over 10% of Rs.10,40,000). Rs.1,000, being the least is exempt Rs.23,000 (i.e., house rent allowance of Rs.24,000 – exemption of Rs.1,000) is chargeable to tax.

Illu.11 : Find out the net income and tax liability in the following cases for the assessment year 2018-19:

	Siva Rs.	Kesava Rs.
Business income	24,75,000	-
Speculative business income from dealing in equity shares (securities transaction tax of Rs.1,874 deducted)	-	24,75,000
Interest on company deposit	1,00,000	1,00,000
Contribution towards public provident fund	90,000	90,000
Life insurance premium (sum assured: Rs.6,00,000) (policy taken in June 2017)	70,000	70,000
Amount invested in debentures of a notified infrastructure company	6,000	6,000
Donation to a notified public charitable institution	18,000	18,000
Rent for residential house paid at Tirupathi	2,39,000	2,39,000
Mediclin insurance premium	30,000	30,000
Age previous year 2017-18	65 years	59 years

Solution:

	Siva Rs.	Kesava Rs.
Business income	24,75,000	24,75,000
Income from other sources	1,00,000	1,00,000
Gross total income	25,75,000	25,75,000
Less: Deductions		
Under section 80C (i.e., Rs.90,000 + 10% of Rs.6,00,000 + Rs.6,000, subject to a maximum of Rs.1,50,000)	1,50,000	1,50,000
Under section 80D	30,000	25,000
Under section 80G (50% of Rs.18,000)	9,000	9,000
Under section 80GG	400	Nil

Net income	23,85,600	23,91,000
Income-tax	5,25,680	5,29,800
Add: Education cess	10,514	10,596
Add: Secondary and higher education cess	5,257	5,298
Tax payable (rounded off)	5,41,450	5,45,690

Note: It is assumed that all conditions of section 80GG are satisfied. Total income for the purpose of section 80GG is Rs.23,86,000 – Rs.1,50,000 – Rs.30,000 – Rs.9,000) in the case of Mr. Siva. In the case of Mr. Kesava, however, total income for the purpose of section 80GG is Rs.23,91,000 (i.e., Rs.25,75,000 – Rs.1,50,000 – Rs.25,000 – Rs.9,000). The amount of deduction under section 80GG is calculated as follows –

In the case of Mr. Siva :

- (a) Rs.60,000;
- (b) Rs.5,96,500 (25% of Rs.23,86,000); or
- (c) Rs.400 (being excess of rent paid of Rs.2,39,0000 over 10% of total income of Rs.23,86,000).
- (d) Rs.400 is deductible in the case of Mr. Siva.

In the case of Mr. Kesava :

- (a) Rs.60,000;
- (b) Rs.5,97,750 (25% of Rs.23,91,000); or
- (c) Nil (rent paid by Mr. Siva less than 10% of total income of Rs.23,91,000).
- (d) Nil, being the least of the above three, is deductible in the case of Mr. Kesava.

12.6 SELF- ASSESSMENT QUESTIONS :

1. What are the incomes to be included in Assessee's total income?
2. State the procedure in the computation of total income and tax liability
3. Explain the law relating to calculation of rebate under section 88
4. Explain the rebate to be given to the assessee under section 88B and Section 88C.
5. Self Assessment u/s 140A
6. PAN - Permanent Account Number u/s 139A
7. Belated return.
8. TDS

9. Best Judgement Assessment
10. Blanket rate method
11. Persons to file return of income.
12. Due dates for filing of income tax returns U/S 139 (1).
13. Due dates for filing of Income Tax return
14. Tax rates in the case of senior citizen for the Academic year 2013 – 2014
15. Tax rates in the case of women assesses.
16. Define Senior Citizen
17. What is meant by Assessment? What are the various types of Assessments?
18. What do you mean by advance payment of tax?
19. State the provisions relating to payment of advance tax
20. What is Tax deduction at source?

12.7 EXERCISES

1. Mr. Dinakar (68 years) submits the following information pertaining to the assessment year 2018-2019 –
 - (a) Mr. Dinakar is a chartered accountant by profession and employed with a company as its Chief Accountant. He is paid a gross monthly salary of Rs.80,000 (inclusive of a house rent allowance of Rs.10,000). He contributes Rs.8,000 per month to a recognised provident fund, to which his employer also contributes an equal sum.
 - (b) With the permission of his employer, Mr. Dinakar teaches law at an evening college for which he is paid a remuneration of Rs.20,000 per month along with the reimbursement of conveyance expenses of Rs.3,000 per month.
 - (c) Mr. Dinakar lives in his own house, built by him in 2012 and occupied from October 1, 2013. The construction was financed by, among other things, loan taken by him from the Housing Development Finance Corporation Ltd., to whom he pays as installment of Rs.15,000 per month towards principal. The interest on the loan for the previous year works out to Rs.46,000. The annual value of the property, as assessed by the municipality, is Rs.3,20,000 and the annual municipal taxes Rs.25,000.
 - (d) In September 2017, he purchased for Rs.1,000 a ticket for a lottery conducted by the Government of Tamilnadu and at the draw held in October 2017, this ticket won a prize money of Rs.10,00,000. The

Director of the State Raffles deducted Rs.3,00,000 from this sum towards income-tax and paid the balance to Mr. Dinakar.

- (e) Mr. Dinakar paid in the year life insurance premia of Rs.20,000 on policies of Rs.80,000 taken on his life, Rs.7,500 paid on a policy for Rs.25,000 taken by him on his wife's life and Rs.8,000 on an endowment policy for Rs.20,000 taken on the life of his son who became a major on May 16, 2017. These policies were taken before 2010.
- (f) He paid in the year Rs.19,000 as premia to effect an assurance on the health of his wife, his dependent children and himself. He also paid Rs.20,700 on preventing check up of family.
- (g) During the year, he made the following deposits –
 - (i) Rs.80,000 as fixed deposit (eligible for deduction under section 80C) with a scheduled bank;
 - (ii) Rs.10,000 in saving accounts in the joint names of his wife and himself with Post Office;
 - (iii) Rs.70,000 to the credit of a public provident fund account with the State Bank of India.
- (h) In the year, he earned interest on the following accounts:
 - (i) Rs.35,500 from the scheduled bank on his fixed deposits;
 - (ii) Rs.18,000 from the Post Office on the savings account with it;
 - (iii) Rs.1,30,000 from the State Bank of India on the public provident fund account.
- (i) On April 1, 2017, Mr.Dinakar's minor son get a gift of Rs.1,50,000 from a family friend who is non-resident in India. This amount is invested in a business and business income for the year ending March 31, 2018 is Rs. (-) 40,000.
- (j) On October 10, 2017, Mr. Dinakar purchases an oil painting from a cousin of his grandfather for Rs.40,000. This painting is not available for less than Rs.3,10,000 in any art gallery.
- (k) On January 10, 2014, Mr. Dinakar transferred a long-term house property on which he got long-term capital gain of Rs.16,00,000. To claim exemption under section 54, Mr. Dinakar purchases a house property in Delhi for Rs.10,00,000 on May 3, 2014. However, this property is transferred on April 6, 2017 for Rs.9,00,000.

Determine the amount of net income and tax liability of Mr. Dinakar for the assessment year 2018-19.

[Ans.: Total income Rs.32,98,500; Tax liability Rs.7,30,840]

2. Mr. Naidu (45 years) is a salaried employee in Chennai. He gets the following emoluments from his employer during the previous year 2017-18:

Basic pay: Rs.8,50,000; dearness pay: Rs.35,000; bonus and commission : Rs.40,200; house rent allowance: Rs.1,90,000; and employer's contribution to provident fund: Rs.80,000. Besides the employer provides a free motor car (1098cc) for official and personal use of Mr. Naidu and provided holiday home facility at Shimla (Rs.28,500). During 2017-18, the employer has sold a fridge to Mr. Naidu for Rs.6,000 (cost of the fridge to the employer when purchased in 1996: Rs.42,000).

Mr. Naidu owns a small house in Chennai since 1990 which is used by him for his own residence. Municipal valuation of the house property is Rs.1,80,000, whereas its standard rent under the Madras Rent Control Act is Rs.40,000. During the previous year, he pays repairs expenditure of Rs.3,000 and interest (capital borrowed in 1990 for acquiring house) Rs.1,60,000.

Besides, he has received Rs.94,000 (gross) as fixed deposit interest from a bank and Rs.2,10,000 as dividend from a foreign company. He has withdrawn Rs.70,000 from the National Savings Scheme, 1987 which includes interest of Rs.20,000. he has received a gift of Rs.62,000 from a friend on August 3, 2017 and Rs.45,000 from Mrs. Naidu on March 1, 2018.

Determine the net income and tax liability of Mr. Naidu for the assessment year 2018-19, on the assumption that he contributes Rs.1,52,000 towards recognised provident fund and deposits Rs.3,000 in the National Savings Scheme, 1992.

[Ans.: Total income Rs.14,21,300; Tax payable Rs.2,46,060]

3. Mr. Sainath is an asst. professor in Srikakulam in Ambedkar University, furnishes the following particulars for the assessment year 2018-19:

Basic salary: Rs.40,000 per month; dearness pay: Rs.2,000 per month; wardenship allowance: Rs.2,600 per month; special allowance: Rs.200 per month; examinership remuneration from his University: Rs.84,000; royalty on book for university students: Rs.1,92,000; income from house property: Rs.2,10,000; long-term capital gain: Rs.2,15,000; short-term capital gain: Rs.1,10,000; interest on Government securities: Rs.48,000; bank interest: Rs.20,000; income from tuitions: Rs.1,16,000; contribution of Mr. Sainath to statutory provident fund; Rs.46,000; contribution to public provident fund: Rs.41,000; expenditure on mediclaim insurance premium of dependent grandmother who is resident: (age: 67 years): Rs.26,000 and donation to Government for the purpose of promoting family planning: Rs.1,24,000.

Determine the net income and tax liability of Mr. Sainath for the assessment year 2018-19.

[Ans.: Taxable income Rs.11,49,740; Tax payable (rounded off) Rs.1,46,720]

4. The following particulars are furnished by Mr. Rajanikanth (age: 65 years), an Indian citizen, for the year ending March 31, 2018:

	Rs.
Salary (net of tax and Rajani's contribution to recognised provident fund)	5,54,000
Rajani's contribution to provident fund	98,000
Employer's contribution to provident fund	96,000
Interest credited to provident fund @ 8 per cent per annum	45,000
Travelling expenses for proceeding on leave to home town (actual expenditure: Rs.10,000)	9,000
House rent allowance (rent paid: Nil)	2,43,000
Interest on deposit with PQR Ltd., on Indian company (received on May 29, 2017)	80,955
Interest collection charges	4
Winnings from lotteries (net of tax) paid to Mr. Rajani on October 10, 2017	35,000
Collection charges of lottery prize	360
Winnings from horse race (net of tax) paid to Mr. Rajani on December 29, 2017	10,500
Tax deduction at source on:	
Salary	1,48,000
Interest on company deposit	8,995
Winnings from lotteries	15,000
Winnings from horse races	4,500
Contribution to public provident fund	9,000

Determine the total income and tax liability (after adjusting tax deducted at source) of Mr. Rajani for the assessment year 2018-19.

[Ans.: Total income Rs.10,90,950]

5. Mr. Vishnu, 62 years has prepared the following Profit and Loss Account for the year ending March 31, 2018:

	Rs.		Rs.
Salaries	4,55,000	Gross profit	20,15,000
Sundry expenses	1,65,000	Rental income (60 per cent portion)	3,60,000
Office expenses	90,000	Dividends from a foreign company	76,000
Interest on capital of Mr. Vishnu	80,000	Winnings from horse races (gross)	54,000
Fire Insurance of house property	16,000	Winnings from lottery (gross)	1,10,000
Wealth tax	14,000	Interest on Government Securities	94,000
Provision for bad debts	46,000		
Repairs of house property	40,000		
Municipal tax of house property	24,000		
Insurance premium on own life	34,000		
Donation to CPI, a political party	6,000		
Depreciation allowable	84,000		
Net Profit	16,55,000		
	27,09,000		27,09,000

Mr. Vishnu owns a house property having three independent units (erections of which was completed on April 14, 2013) which is being used by him for the following purposes:

- 20 per cent of carpet area for business purposes;
- 20 per cent of carpet area for self-residence; and
- 60 per cent of carpet area is let out for commercial purposes.

Determine the net income of Mr. Vishnu for the assessment year 2018-19 assuming that standard rent of the property under the Rent Control Act is Rs.8,00,000.

[Ans.: Net income Rs.17,40,920]

Chapter – 13

Assessment of HINDU UNDIVIDED FAMILIES

Objectives :

After studying this unit you should be able to :

- Understand the meaning and schools of thought of HUF
- Find out the residential status of HUF
- Assess the HUF

Structure**13.1. Introduction****13.2. Creation of HUF****13.3. Existence of property is not a prerequisite****13.4. Blending of personal property with HUF property****13.5. Taxation of HUF****13.6. Tax planning with HUF****13.7. Self-Assessment Questions****13.8. Exercises****13.1 INTRODUCTION :****‘Hindu’ and ‘Hindu Undivided Family’:**

Any person, one of whose parents is a Hindu by religion and who has been brought up as a Hindu, is a Hindu. A Hindu who declares, for the purposes of the Special Marriage Act, 1872 that he does not profess the Hindu religion does not cease to be a Hindu. However, in case of inter-religion marriage if their child is not brought up as Hindu, the family cannot be accorded the status of HUF.

The word ‘Hindu’ preceding the words ‘undivided family’ signifies that the undivided family should be of those to whom Hindu law applies. The term ‘Hindu undivided family’ refers to a Hindu joint family as understood in the personal law of Hindus. It covers all schools of Hindu law.

A Hindu Undivided Family (HUF) consists of all persons lineally descended from a common ancestor including their wives and unmarried daughters. Daughters born in the family are its members till their marriage and women married into the family are equally members of the undivided family. A Hindu family is presumed to be undivided unless the contrary is stated. It has been held that the HUF includes a Jain undivided family. Generally, the father of the family or the senior most male member of the family manages the property of the family as 'karta'. Membership to the family is possible only by birth.

An HUF is a separate entity. It can own property, sell property, earn incomes and enter into contracts with others, through its karta. Members (including daughters) on an HUF are also called as coparceners. A coparcener has the right to demand partition of HUF. A distribution between the individual property and HUF property is very significant here. Whereas the individual property of a person (which he has built up on his own) devolves on his legal heirs on his death; the ancestral property of a person (which he acquired by way of inheritance from his father/forefathers) vests in his undivided family, and the members of family own it jointly till it is divided amongst them.

Whether Two Male Members Necessary:

A joint family may consist of a single male member with his wife and daughter(s) and it is not necessary that there should be two male members to constitute a joint family. Where a male member of an HUF receives a portion of joint family property on partition as his share, he must be assessed in respect of the property which he so receives as karta of his HUF and not as an individual even if his family does not have any other male member but consists of himself and his wife and his daughters. An HUF may consist of a single male member and widows of deceased male members.

Even after the death of the sole male member, until the property of the HUF remains in the hands of the widows of the members of the family and is not divided among them, the joint family continues. However, there must be more than one person. A single person, male or female, does not constitute a family.

Types of Hindu Divided Family :

According to Hindu Law a family business organization can be divided into following two schools of thought.

1. Mitakshara Law :

This law governs Hindu succession in all parts of India except Bengal, Assam and some parts of Orissa. According to this school of thought the male child of the family becomes co-owner or coparcener of the ancestral property since his birth. According to Hindu law business is inheritable asset. The child automatically becomes the coparcener of the family business since his birth.

The property is inherited by a Hindu male child from his father and grandfather. According to Hindu law the family technically comprises of three generations i.e., sons, grandsons, and great grandsons. The ancestral property is owned by three successive generations in the male line.

2. Dayabhanga law :

This system of Hindu succession is prevailing in Bengal, Assam and some parts of Orissa. According to this law if the deceased male coparcener has not left behind a male issue his widow (or in her absence daughter) will become a coparcener.

These days joint family system, is losing its importance, so joint Hindu family business is being replaced by partnership form of business organization.

13.2 CREATION A NEW HUF :

An HUF is a creature of law and cannot be created by acts of parties (except in case of adoption). A Hindu Joint Family consists of the common ancestor and all his lineal male descendants upto any generation together with the wife or wives (or widows) and unmarried daughters of the common ancestor and of the lineal male descendants. Thus, an HUF cannot be created. Actually when we talk of creating an HUF as a separate entity for tax purposes, we mean creation of HUF property for deriving taxable income in the hands of a new tax entity. It is because an HUF for tax purposes comes into existence only if it owns some property or earns some income which is taxable. HUF property can be created in the following ways:

- (1) By devolution of interest in coparcenary property of a coparcener who dies intestate;

- (2) By inheritance through a special bequest under a will;
- (3) By partition of a larger Hindu Undivided family;
- (4) By reunion of separated coparceners;
- (5) By receipt of gifts;
- (6) By blending of individual property with the family hotchpotch;
- (7) By doing joint labour for the benefit of HUF.

Of the above, Gift and Will are the most common ways of creating an HUF.

Partition of a HUF can be done either orally or by executing a deed of partition. A partition can also be affected by a memorandum of family arrangement which need not be registered; it may be oral.

Karta :

- (a) Karta has an implied authority to carry on the family business and to manage its affairs.
- (b) Eldest male member of the family is generally Karta of the family
- (c) In case, such an eldest member declines to become Karta, the next elder male member will function as Karta. A minor cannot be a Karta
- (d) In case of an HUF having no adult male member, its adult female member can discharge the function as a Manager of the family though she cannot be designated as a Karta of the family
- (e) The Karta can join others in partnership in dual capacity i.e., in his individual capacity as well as Karta of the HUF.

13.3 EXISTENCE OF PROPERTY IS NOT A PRE-REQUISITE:

A family which does not own any property may still have the character of HUF. The jointness is understood in terms of faith and food. It has been established now that since the HUF is a creature of Hindu law, it can exist even without any nucleus or ancestral joint family property.

Pre-requisites for HUF Status : The three pre-requisites for an HUF status are :

1. **Hindu :** Includes Buddhists, Jains and Sikhs for the purpose of Income Tax Act
2. **Ancestral Nucleus :** Also known as (a) Common hotchpotch, (b) Common hotch-pot (c) HUF property.

- 3. Family :** A single person, male or female, cannot constitute an HUF. It consists of sons, grandsons and great grandsons, technically called persons lineally descended from a common ancestor, along with their wives and unmarried daughters. After death of the last male member, the HUF may consist of female members only.

Gift: Any person, who is not a coparcener, may make a gift to the HUF. For example, a father can gift his self-acquired property to the HUF of his son, provided there is a clear and unequivocal declaration that the gift is being made for the benefit of his family and not to him as an individual. However, in making such gifts, provisions of Section 64 should be kept in view. The gift may not be considered as an indirect transfer to the son's wife and son's minor children. Gifts can also be accepted from the grandparents, uncles, brother-in-law, other relatives and friends.

Further, to receive a gift it is not necessary that the donee-HUF should possess any nucleus. It may be noted that gift tax has been abolished w.e.f. 1.10.1998 and gift received on or after 1.10.1998 shall not be liable to gift tax. However, gifts of money/property exceeding Rs.50,000 in aggregate during financial year, received by an HUF (except gifts received from any member of HUF) shall be taxable as its income from other sources.

Will: An HUF can be created by will of a person, provided the will is valid and there is a specific bequest in favour of the HUF. It is not necessary that the HUF must be in existence at the time of execution of the will or that there must be in existence already a nucleus of HUF property. HUF can be brought into existence even by a stranger, by making a will in favour of the HUF of a person.

By bequeathing properties in favour of the HUF of HUF's of his son or sons, one can create new HUF units at the disposal of his sons, which will be separately assessed. Besides having the benefits of a designed partition by the members, the properties passing through the will, shall always be under the control and management of the testator's sons being karta of their HUFs. One's property can be thrown into HUF's hotchpots by a will for achieving tax saving. It may be noted that, unlike gifts, sums (any amount) received by an HUF under a will or by inheritance are not taxable as its income.

[Sec.2 (24) (xv)]

13.4 BLENDING OF PERSONAL PROPERTY WITH HUF PROPERTY:

Another mode of acquiring property by HUF is impression of the individual property of a member with the character of HUF property. A property which was originally the separate of self-acquired property of a coparcener may, by operation of the doctrine of blending, become joint family property if it has been voluntarily thrown by him into the common hotchpot, relinquishing and waiving all his separate rights thereto. It is not necessary that before any property of the family. Neither any legal formality/registered document not consent of other members is necessary for blending. In such a case there is no question of the family either accepting or rejecting it. The right to blend the self-acquired property with HUF property is restricted to a male member of HUF and not to a female member. However, a female member may gift her property to the HUF of her son.

When a coparcener throws his self-acquired property in the common stock of his HUF, it is deemed to be the property of the HUF of the coparcener. A declaration in this respect in the income-tax return constitutes unequivocal declaration of the intention and that would be sufficient to establish blending. Section 64(2) recognizes such blending and provides for clubbing of the income from such blended property in the hands of the original owner.

13.5 TAXATION OF H.U.FS:

An HUF is treated as a 'person' and is taxable as a distinct tax-entity. [Sec.2(31)]

The total income of an HUF is computed in the same manner, as in case of individuals, under different heads of income. The incomes are then aggregated and after allowing set off of losses gross total income is arrived, at from which permissible deductions u/ss 80C to 80U are reduced to arrive at the total income.

Interest and Share Income from a Firm:

Where a Karta of the HUF is a partner in a firm, in his representative capacity, the income received from firm by way of interest on capital, shall be taxable as income of HUF. Share income from firm shall, however, be exempt u/s 10(2A).

Deduction for Remuneration paid to Karta:

In the HUF pays any remuneration to the Karta for services rendered by him in managing the business or affairs of the HUF, then such remuneration shall be deductible from the income of the HUF. The remuneration should, however, be genuine and not excessive.

Clubbing of Income:

Income arising to some other persons may be taxable as income of an HUF under the provisions of sections 60 to 63. Besides, income arising from assets blended in HUF property shall be taxable in the hands of the person who converted such property u/s 64(2).

Liability to Pay Tax and Rates of Tax:

An HUF is liable to pay tax if its total income exceeds Rs.2,50,000. The rates of tax are the same as in case of individuals .

Illustrations

Illu.1 : Mr. Mohan Bhagavat is the Karta of Bhagavat's (HUF). The following information is available from the records of family pertaining to the assessment year 2018-19 –

	Rs.
Interest on debentures (net of TDS at the rate of 10 per cent)	10,17,000
Interest on Punjab Government Securities (no tax is deducted)	2,80,000
Bank interest (fixed deposits were made out of family's funds in the name of Mr. Mohan Bhagavat) (net of TDS at the rate of 10 per cent)	90,000
Dividend/interest from UTI	80,000
Rent of house property (net of TDS at the rate of 10 per cent)	3,24,000
Profit from business of collecting and processing of bio-degradable waste (the business was started in the previous year 2012-13)	29,30,000

Long term capital gain on sale of quoted preference shares (after indexation)	80,000
Long term capital gain on sale of quoted preference shares given above (but without indexation)	1,45,000
Agricultural income	1,24,000
Brought forward agricultural loss of the assessment year 2016-17	10,000

The family pays Rs.1,60,000 by way of insurance premium of its members and donates Rs.1,00,000 to an Indian political party. The return of income from the assessment year 2016-17 was submitted on April 1, 2017.

Municipal valuation of the property owned by the family is Rs.3,30,000. The market value of a similar property is Rs.3,35,000 and standard rent is Rs.4,00,000. Municipal tax paid by the family on April 1, 2017 is Rs.56,000. This tax pertains to the financial year 2014-15. Interest on loan taken from one of the members of the family for the purpose of repair of the property is Rs.85,000. However, interest is not paid to the member since 2012. Rate of interest charged by the member is 12% per annum whereas a similar loan from SBI is available at the rate of 10.9 per cent.

The family has a brought forward business loss of a business which was discontinued on January 1, 2016. The amount of loss is Rs. 1,00,000. Income-tax return was submitted in time. The family wants to carry forward this loss to the next year, as during the current year there is no business income which is chargeable to tax.

Determine the amount of net income and tax liability (before adjusting TDS) of the family for the assessment year 2018-19.

Solution:

**Computation of income and tax liability of HUF
(Assessment year 2018-19)**

	Rs.	Rs.
Income from house property		1,27,800
Business income (Rs.29,30,000-brought forward loss of the discontinued business of Rs.1,00,000)		28,30,000
Long-term capital gain		80,000
Income from other sources		

Interest on debentures [Rs.10,17,000 ÷ (1-0.10)]	11,30,000	
Interest on Punjab Government Securities	2,80,000	
Bank interest [Rs.90,000 ÷ (1-0.10)]	1,00,000	15,10,000
Dividend/interest from UTI (exempt)	Nil	
Gross total income		45,47,800
Less: Deductions		
Under section 80C	1,50,000	
Under section 80GGC (contribution to political party)	1,00,000	
Under section 80JJA (profit of business of collecting/processing of bio-degradable waste is deductible at the rate of 100% for the first 5 years)	28,30,000	30,80,000
Total income		14,67,800
Tax on net income		2,80,000

Notes:

1. Computation of house property -	Rs.	Rs.
Municipal valuation (MV)		3,30,000
Fair rent (FR)		3,35,000
Standard rent (SR)		4,00,000
Annual rent [Rs.3,24,000 – (1-0.10)]		3,60,000
Step I – Reasonable expected rent of the property [MV or FR, whichever is higher, but subject to maximum of SR]		3,35,000
Step II – Rent received/receivable after deducting unrealized rent but before adjusting loss due to vacancy		3,60,000
Step III – Amount computed in <i>Step I</i> or <i>Step II</i> , whichever is higher		3,60,000
Step IV – Loss due to vacancy		Nil
Step V – Gross annual value is Step III minus Step IV		3,60,000
Less: Municipal tax		56,000
Net annual value		3,04,000
Less: Deductions under section 24 -		
Standard deduction @ 30%		91,200
Interest from borrowed capital		85,000
Income		1,27,800

2. Adjustment of brought forward loss: Mr. Mohan Bhagavath (HUF) has a brought forward loss of a discontinued business of Rs.1,00,000. By virtue of section 72, it can be set off against any business income of the current year, which is chargeable to tax. The assessee has taxable income from the business of bio-degradable waste. It is chargeable to tax (deduction available @ 100% under section 80JJA cannot make it as income "exempt from tax"). After adjusting this loss, the remaining profit of the business of the current year will be included in gross total income. As it is possible to set off the loss in the current year, it cannot be carried forward.

3. Income-tax liability: It is calculated as under -	Rs.	Rs.
Non-agricultural income		14,67,800
Agricultural income (Rs.1,24,000 – Rs.10,000), brought forward agricultural loss can be set off even if return of the earlier year was submitted belatedly)		1,14,000
Total		15,81,800
Tax on Rs.15,81,800		
On long-term capital gain of Rs.80,000 [an option is available to the taxpayer in this case to pay tax @ 20% of Rs.80,000 (i.e., long-term capital gain which is computed after indexation) or 10% of Rs.1,45,000 (i.e., long-term capital gain which is computed without indexation)]	14,500	
On the balance of Rs.15,01,800 (at the normal rate)	2,63,040	2,77,540
Less: Tax on Rs.3,64,000 (i.e., non-agricultural income of Rs.1,14,000 + exemption limit of Rs.2,50,000)		5,700
Balance		2,71,840
Add: Education cess		5,437
Add: Secondary and higher education cess		2,718
Tax liability (rounded off)		2,80,000

Illu.2 : A Hindu undivided family has three coparceners: Mr. Guruppa (Karta), Mr. Bangarappa and Mr.Thimmappa. The family has the following incomes for the year ending March 31, 2018:

	Rs.
Interest on securities (gross)	5,00,000
Rental income	6,00,000
Rental income of a house (purchased in 1945 in the name of Mrs. Guruppa and of funds of the family)	3,50,000
Income from family business	9,70,000
Bank interest (fixed deposits)	3,22,000
Salary of Mr. Bangarappa from a company	6,00,000
One-third share from a partnership firm in which Mr. Bangarappa is a partner, representing the family	8,00,000

Determine the total income and tax liability of the family for the assessment year 2018-19, assuming that the family pays life insurance premium of Rs.14,000 (sum assured: Rs.1,40,000) on the life of Mr. Gurappa and medical insurance premium of Rs.36,000 on the life of Mr. Guruppa.

Solution:

**Calculation of Total Income of HUF
(Assessment year 2018-19)**

	Rs.	Rs.
Interest on securities		5,00,000
Income from house property [(Rs.6,00,000 + Rs.3,50,000 – 30% standard deduction)]		6,65,000
Business income		9,70,000
Income from other sources		3,22,000
Gross total income		24,57,000
Less: Deductions		
Under section 80C	14,000	
Under section 80D (subject to a maximum of Rs.30,000)	30,000	44,000
Total income		24,13,000
Income-tax		5,36,400
Add: Education cess		10,728
Add: Secondary and higher education cess		5,364
Tax liability (rounded off)		5,52,490

Note: Age of Mr. Guruppa is not given in the problem. However, the family purchased a house in the name of Mrs. Guruppa in the year 1945. Since Guruppa was married in 1945, his age on March 31, 2018 should be at least 60 years. Consequently, deduction up to Rs.30,000 is available under section 80D.

13.7 SELF-ASSESSMENT QUESTIONS :

A.Short Answer Questions.

1. Hindu Undivided Family
2. Karta
3. Coparcenary
4. Mitakshara Hindu School
5. Dayabhaga Hindu School
6. Impartible Estate

B. Essay Questions

1. How do you determine the residential status of an HUF? Give examples.
2. Discuss the terms 'Mitakshara' and 'Dayabhaga' as they are used in Hindu Law.
3. How do you explain 'partition' and 'partial partition' of an HUF?
4. What is HUF? Is it different from a Joint Hindu Family? What are the salient features of an HUF?
5. Describe the procedure of assessment after the partition of an HUF.
6. Explain the essential features of the Mitakshara School of Hindu Law and state how it differs from the Dayabhaga School.
7. State the provisions of the Income Tax Act, 1961 with respect to the assessment of a Hindu Undivided Family?

13.8 EXERCISES

1. M/s. XYZ & Sons (HUF), with its karta Mr. Raja Rao, has the following incomes for the year 2017-18:

		Rs.
(a)	Family business	3,60,000
(b)	Share income from firm M/s. ABC & Co. (wherein HUF is a partner through its karta Mr. Raja Rao)	50,000
(c)	Income from ancestral house (let out)	80,000
(d)	Interest on securities, bank fixed deposits, etc.	23,000
(e)	Interest on saving bank account	12,000
(f)	Interest on PPF A/c	10,000
(g)	Long-term capital gain	1,60,000
(h)	Gifts from relatives of coparceners (not members of HUF)	72,000
(i)	Gifts from other persons	21,000

The HUF has invested Rs.1,00,000 in its PPF Account, paid Rs.20,000 as life insurance premium, Rs.30,000 in bank term deposit (tax saving) and Rs.28,000 towards insurance premia on health of its members (all below 60 years). The HUF has also invested Rs.1,20,000 in NHA capital gains bonds, and has paid Rs.36,000 to Mr. Rajarao as remuneration for managing the family business. Compute the taxable income and tax liability of HUF for Assessment year 2018-19.

[Ans.: Total Income Rs.3,63,000]

2. Kumaraswamy is the Karta of a Hindu Undivided family: Kumar and Brothers. The family consists of Kumaraswamy (66 years) the karta and his two younger brothers Kesav and Siva as coparceners. The family and the coparceners had the following incomes for the year ended March 31, 2018.

1. Salary of Kumaraswamy as manager of a company Rs 4,98,000

Interest on Securities :

- Interest in the name of Kumaraswamy ₹ 2,57,250 on Government securities purchased out of his salary.
- Interest on Government Securities in the names of all coparceners ₹ 30,000 – investments made out of the family income.

2. Property Income

- Ancestral house ₹ 72,000
- House in the name of Kumaraswamy (bought in 1958 out of family funds); ₹ 7,200

3. Business

- (a) Family business income ₹ 2,71,000
- (b) Half share of income in a firm in which Kumaraswamy is a partner as a representative of the family : ₹ 15,600.
- (c) Income of Siva as a lawyer ₹ 4,96,000
- (d) Income of Kesav as a doctor ₹ 4,70,000

4. Capital Gain :

- (i) On sale of long-term capital asset of the family ₹ 55,000
- (ii) On Sale of long term equity shares (securities transaction tax is applicable)
₹ 40,000
- (iii) ₹ 40,000
- (iv) On sale of short-term equity shares (securities transaction tax is levied) ₹ 70,000
- (v) On sale of long-term property by Kesav ₹ 1,60,000

5. Interest on Govt. Securities :

- (a) In the name of Kumaraswamy, bought out of family funds : ₹ 83,000 (gross)
- (b) In the name of Kumaraswamy's wife, bought out of her stridhan ₹ 9,95,000 (gross).

Compute the total income of the family for the assessment year 2018-19 on the assumption that the family pays health insurance premia of ₹ 10,000 for the benefit of members of the family and deposits ₹ 1,75,000 in public provident fund account and gets a gift of ₹ 80,000 during the previous year (i.e., on April 10, 2016 ₹ 62,000 from Karta and on March 31st, 2018 ₹ 18,000 from relative of Kumaraswamy) which is deposited by the family with a company (interest on company deposit for previous year 2017-18 : ₹ 7,750).

[Ans.: Total Income Rs.4,84,440]

Chapter 14**ASSESSMENT OF FIRMS****Objectives :**

After reading this lesson you should be able to :

- Understand the meaning of a firm
- Know the types of firms
- Assess a Firm Assessed as such
- Assess a Firm as Association of Persons

Structure :

- 14.1 Partnership Firm**
- 14.2 Taxation of Firms**
- 14.3 Book Profit**
- 14.4 Assessment of a Firm**
- 14.5 Assessment of a firm in Subsequent years**
- 14.6 Assessment of Firm in certain special cases**
- 14.7 Losses of firms**
- 14.8 Assessment of Partners**
- 14.9 Share Income from Firm fully exempt**
- 14.10 Self- Assessment Questions**
- 14.11 Exercises**

14.1 PARTNERSHIP FIRM:

A 'partnership firm' for the purpose of income-tax means a partnership firm as defined under the Indian Partnership Act, 1932 and includes a limited liability partnership firm as defined under the Limited Liability Partnership Act, 2008. [Sec.2 (23)]

As per section 4 of the Indian partnership Act, 1932, partnership is a 'relationship between persons who have agreed to share the profits of a business carried on by all or any of them acting for all'. Thus, to constitute a firm, three elements are essential, namely, (1) that there must be an agreement entered into by two or more persons; (2)

that the agreement must be to share the profits of a business; and (3) that the business must be carried on by all or any of those persons acting for all. Under Partnership law, a firm is not a distinct legal entity apart from its partners. However, under Income-tax law, a firm can be charged as a distinct assessable entity as distinct from its partners who can also be assessed individually.

Partner:

Persons entering into partnership with one another are individually called as 'partners' and collectively as a 'firm'. For the purpose of income-tax a 'partner' means a partner as defined under the Indian Partnership Act, 1932 and included a minor admitted to the benefits of partnership and a partner of a limited liability partnership. [Sec.2 (23)]

A HUF as such cannot be a partner in a firm but it may through its karta enter into a valid partnership with a stranger or with the karta of another family, or with a member of the HUF in his individual capacity. A minor cannot become a partner, though with the consent of the adult partners, he may be admitted to the benefits of partnership. A valid charitable trust can become a partner in a firm.

Partnership Deed:

A partnership deed is an instrument or document evidencing constitution of a partnership between the parties to the deed, specifying the rights and liabilities of the partners.

14.2 TAXATION OF FIRMS:

The partnership firm is taxed as a separate entity, with no distinction as registered and unregistered firms. A partnership firm is only required to submit a copy of the partnership deed in the first year of its assessment and later on only if there is a change in the terms/constitution of partnership. In computing the total income of the firm, any salary, bonus commission or remuneration, to a partner, shall be deductible subject to certain restrictions.

Interest on Partner's Capital :

- (a) Such interest should be authorized and in accordance with the terms of the partnership Deed.
- (b) It should not pertain to a period prior to the partnership deed and such authorization

- (c) Rate of interest should not exceed 12% simple interest p.a. If it exceeds the said rate, the excess amount is not deductible.
- (d) Firm should comply with all the requirements of Sec.184
- (e) Interest paid by firm to a partner is not taken into account for the purpose of Sec.40(b) (i.e., limit of 12% p.a. does not apply) if such partner receives interest on behalf of or for the benefit of any other person.
- (f) When recipient of interest acts as a partner on behalf of any other person (i.e., in a representative capacity), interest paid by the firm.
 - (i) To such an individual otherwise than as a partner in a representative capacity is not taken into account for the purpose of sec.40(b)
 - (ii) To such an individual as a partner in a representative capacity or to the person to represented is taken into account for the purpose of Sec.40(b)

Where a firm receives interest on drawings from the partner, it is charged to tax normally.

Deduction for Salary/Remuneration to Working Partners:

Any payment of salary, bonus, commission or remuneration, by whatever name called, to any partner will be allowed as deduction in the hands of the firm subject to following conditions:

1. The salary is paid to a working partner. For this purpose, a 'working partner' means an individual partner who is actively engaged in conducting the business/profession of the firm. A partner who is not an 'individual' cannot be regarded as a working partner. Thus, any remuneration paid to a non-individual partner shall not be allowed as a deduction. Sleeping partners or financing partners can't be allowed any remuneration etc. by the firm. Whether a partner can be considered to be a working partner or not is a question of fact and in cases where a dispute could arise on this question, it would be advisable to keep evidence at hand that would indicate allocation of work in a firm, or otherwise show clearly what work has been done by a partner.
2. The payment is authorized by, and is in accordance with, the terms of the partnership deed.
3. The payment relates to a period which falls after to the date of the partnership deed. In other words, the deduction for salary to partners cannot be claimed with retrospective date. The terms of the partnership deed providing for such

payment may be changed at any time during the previous year. It however cannot be claimed with retrospective effect.

4. The Amount of remuneration has been specified or a limit for total remuneration has been specified in the partnership deed. The deduction shall not be allowed, where neither the amount of remuneration has been quantified nor even the limit of total remuneration has been specified in the partnership deed but the same has been left to be determined the partners at the end of the accounting period.

Monetary Ceiling on Salary to Working Partners:

The amount of salary to all the working partners during the previous year should not exceed the limits given below:

(a)	On the first Rs.3,00,000 of book-profit or in case of a loss	@ 90% of the book-profit or Rs.1,50,000, whichever is more.
(b)	On the balance of book-profit	@ 60% of the book-profit.

14.3 BOOK PROFIT

Book Profit means the net profit as shown in the Profit & Loss Account, computed in the manner laid down for computing 'Profits & Gains of Business or Profession' (i.e. after making all deductions allowable u/ss 30 to 44D), and increased by the aggregate amount of remuneration paid or payable to all the partners of the firm if already deducted. [Expl. 3 to Sec.40 (b)]

Taxation of Firm :

- (a) The Partnership firm is taxed as a separate entity, distinct from partners.
- (b) A firm is not allowed basic exemption, unlike an individual or an HUF
- (c) The income of a Firm is taxed at a flat rate
- (d) Rate of tax applicable to a partnership are as under :

Nature of Income	A.Y 2018-19	A.Y 2019-20
	Rates of tax (Besides EC @ 2% and SHEC @ 1%)	Rates of tax (Besides, Health & Education cess @ 4%)
Short-term Capital gain u/s 111A	15%	15%
Long-term capital gain	20%	20%
Income other than above	30%	30%

- (e) Salary, bonus, commission or remuneration to partner and interest on partners' capital is allowed as deduction, subject to certain restrictions u/s 40(b).

14.4 ASSESSMENT OF A FIRM

A firm will be assessed as a firm, if the following requirements are satisfied –

- (i) The partnership is evidenced by a written instrument of partnership (or the partnership deed).
- (ii) The individual shares of the partners are specified in the deed; and [Sec.184 (1)]
- (iii) A certified copy of the deed should be filed along with the first return of the firm. Firms that have already filed a certified copy of the deed in an earlier assessment year, (but not before A.Y. 1993-94), need not furnish it again in subsequent years, unless there is a change in constitution.

A partnership deed shall be certified in writing by all the major partners. Where, however, the firm is dissolved and the return is filed after its dissolution, then the copy of deed may be certified by all the major partners who were partners in the firm immediately before its dissolution. Where a partner is dead, then it will have to be certified by his legal representative.

It may be noted that deduction for any payment of interest, salary, bonus, commission, etc. to a partner, shall be allowed to the firm, if it is authorized by and is in accordance with the terms of partnership deed, which shall not have retrospective effect.

Where a return is filed late, i.e. after the due date, along with a certified copy of the deed, it shall be a sufficient compliance of section 184(2). Where, however, the

return is treated as invalid for any other reason the certified copy of the deed filed along with the return shall also be deemed to have not been furnished. Where a certified copy of the deed has been filed along with the original return, it need not be furnished again with the revised return, if any.

14.5 ASSESSMENT OF A FIRM IN SUBSEQUENT YEARS:

Where a firm is assessed as a firm in any assessment year, it shall continue to be assessed as such for subsequent years. If there is a change in the constitution, the firm shall furnish a certified copy of the revised partnership deed along with the return of income for the relevant assessment year.

There is a change in constitution of the firm if –

- (i) One or more of the partners cease to be partners, and one or more of the existing partners continue, or
- (ii) One or more new partners are admitted, and one or more of the existing partners continue, or
- (iii) All the existing partners continue with a change in their respective shares or in the shares of some of them. [Sec.187(2)]

If a minor admitted to the benefits of partnership attains majority and elects to become a partner, it shall amount to a change in constitution if there happens to be a change in profit sharing ratio or if the minor agrees to share in losses also. However, where a firm is dissolved on the death of a partner, it shall not be treated as change in constitution. In such case, two separate assessments have to be made for the relevant assessment year. [Sec.187 (2) Proviso and Sec.188]

14.6 ASSESSMENT OF FIRM IN CERTAIN SPECIAL CASES:

- (i) Where a firm is not evidenced by a partnership deed, or
- (ii) Partnership deed does not specify the individual shares of the partners, or [Sec.184(1)]
- (iii) The firm fails to furnish a certified copy of the partnership deed along with its return (in case it is the first year of assessment) or a certified copy of the revised

partnership deed for the year in which a change in constitution has taken place, or [Sec.184(2) and (4)]

(iv) When a best judgement assessment is made on account of any of the following defaults on the part of the firm:-

- (a) Failure to file return of income,
- (b) Failure to attend to the notices issued by the Assessing Officer in the course of assessment, or
- (c) Failure to furnish required information or particulars, called for by the Assessing Officer during the course of assessment. [Sec.184(5)]

In aforesaid cases, a firm shall be so assessed that the deduction for salaries and interest to partners, shall be disallowed while making an assessment u/s 143(1)(a), entailing heavy tax liability. Such firms shall be assessed in the status of firm and taxes as such at the rate of tax applicable in case of firms. In case of partners, their interest, salary, etc. shall not be taxable u/s 28(v) and their share in the total income of the firm is exempt u/s 10(2A). [Sec.185]

14.7 LOSSES OF FIRMS:

Where the net result of computation of income of a firm is a loss, (excluding capital loss), it shall be carried forward in accordance with section 72, to be set off against business income in the subsequent eight assessment years. Where in case of a firm, the loss arises after deducting payment of interest, salary, etc. to the partners, the loss shall be treated as usual, i.e. set off against other income of the firm, and balance, if any, carried forward to next years. For details refer chapter 'Set Off and Carry Forward of Losses'.

14.8 ASSESSMENT OF PARTNERS:

Any interest, salary, bonus commission or remuneration by whatever name called, which is due to (or received by) a partner from the firm will be chargeable to tax in his hands under the head 'Profits and gains of business or profession'.

Partner's Salary is not taxable under the head 'Salaries'. Any expenditure incurred in order to earn such income can be claimed as a deduction from such income

under sections 32 to 37 of the Act. For instance, if a partner borrows money to make his capital contribution to the firm he can claim deduction for the amount of interest paid by him on the borrowed money from interest on capital.

Where any interest, salary, bonus, commission or remuneration, or any part thereof is disallowed u/s 40(b) in the case of firm, the amount so disallowed shall not be taxable in the hands of the partners. If, however, the remuneration or interest is disallowed as unreasonable u/s 40A (2) in the firm's assessment, then there will be double taxation of such income since it will be disallowed in the firm's hands and will also be taxed in the hands of the partner.

14.9 SHARE INCOME FROM FIRM FULLY EXEMPT:

The share of the partner in the total income of the firm (including exempted income of the firm) will be fully exempt from income-tax. [Sec.10 (2A)]. In case such share is a loss the same cannot be set off against partner's other business income. It is simply ignored. Thus, share income arising to a minor from the firm shall be exempt and not liable to be clubbed with income of the parent. Even if the taxable income of a firm becomes nil on account of any exemption or deduction under the Act, the entire profit credited to the partner's account in the firm shall be exempt.

No Liability to Deduct Tax at Source on Partners' Salary and Interest: The firm is not liable to deduct tax at source on remuneration and interest on capital paid to partners. The partners will however be liable to pay advance tax on the remuneration or interest.

Illustrations

Illu.1 : Profit and loss account of Ram & Co. [a firm which satisfies all conditions of sections 184 and 40(b)] for the year ending March 31, 2018 is as follows:

	Rs.		Rs.
Cost of goods sold	28,40,000	Sales (commission agency business)	69,00,000
Remuneration to partners	11,00,000	Interest on company	60,000

Remuneration to employees	4,00,000	deposit (being income from other sources)	
Income-tax	90,000		
Interest to partners	2,60,000		
Other expenses	85,000		
Sales tax outstanding	90,000		
Net profit	20,95,000		
	69,60,000		69,60,000

Other information:

1. Out of other expenses, Rs.69,000 is not deductible by virtue of section 37(1).
2. Outstanding sales tax is paid on October 1, 2018.
3. Interest to partners is not deductible to the extent of Rs.70,000.

Find out (a) book profit and (b) maximum remuneration to partners which are deductible under section 40(b) for the assessment year 2018-19.

Solution:

**Computation of book profit of Ram & Co
(Assessment year 2018-19)**

	Rs.	Rs.
Net profit as per profit and loss account		20,95,000
Add: Remuneration to partner (entire amount shall be added)		11,00,000
Add: Income-tax		90,000
Add: Interest to partners (to the extent it is not deductible)		70,000
Add: Other expenses (to the extent not deductible)		69,000
Add: Outstanding sales tax (paid after the due date of submission of return of income, not deductible by virtue of section 43B)		90,000
Less: Interest on company deposits (it is not taxable as business income but taxable as income from other sources)		(-) 60,000
Book profit		34,54,000

Maximum remuneration which is deductible (90% of Rs.3,00,000 + 60% of Rs.31,54,000) (a)		21,62,400
Remuneration actually paid to the partners (b)		11,00,000
Amount deductible (a) or (b), whichever is lower]		11,00,000
Note: Income of the firm chargeable to tax will be calculated as follows -		
Book profit		34,54,000
Less: Remuneration to partners		11,00,000
Business income		23,54,000
Income from other sources		60,000
Net income		24,14,000

Illu.2 : Profit and loss account of M/s Bhanu & Co. (a) firm of chartered accountants) for the year ending March 31, 2018 is as follows:

	Rs.		Rs.
Expenses	59,00,000	Receipts from clients and audit fee	60,00,000
Depreciation	2,95,000	Dividend from foreign companies	2,00,000
Remuneration to partners	2,08,000	Net loss	2,60,000
Interest to partners	57,000		
	64,60,000		64,60,000

Other information:

1. Out of expenses of Rs.59,00,000, Rs.34,000 is not deductible by virtue of sections 36 and 37.
2. Depreciation as per section 32 is Rs.45,000.
3. Interest to partners is fully deductible under section 40(b).
4. The firm satisfies all conditions of sections 184 and 40(b).

Find out the amount of net income of the firm for the assessment year 2018-19.

Solution:

Computation of income of M/s Bhanu & Co
(Assessment year 2018-19)

	Rs.	Rs.
Net profit as per profit and loss account		(-) 2,60,000
Add: Other expenses which are not deductible		34,000
Add: Depreciation which is not deductible (Rs.2,95,000– Rs.45,000)		2,50,000
Add: Entire remuneration to partners		2,08,000
Less: Dividend for foreign companies (taxable as income from other sources)		(-) 2,00,000
Book profit		32,000
Maximum remuneration which is deductible (90% of Rs.32,000 or Rs.1,50,000, whichever is higher)		1,50,000
Business income		(-) 1,18,000
Income from other sources (being dividend from foreign companies)		2,00,000
Net income		82,000

Illu.3 : Profit and loss account of M/s Ganga & Co (a LLP of Ms. Ganga, Ms. Manga and Ms. Savitri for the year ending March 31, is as follows:

	Rs.		Rs.
Cost of goods sold	62,25,000	Sales	61,00,000
Interest to partners	1,20,000	Agricultural income in India	2,00,000
Remuneration to partners	2,70,000	Net loss	3,47,000
Other expenses	32,000		
	66,47,000		66,47,000

Out of other expenses of Rs.32,000, Rs.3,000 is not deductible under sections 30 to 37. Moreover, interest to partners is not deductible to the tune of Rs.18,000 under section 40(b). Find out the amount of net income of the firm for the assessment year 2018-19. The firm satisfies all conditions of sections 184 and 40(b).

Solution:

**Calculation of Total Income of M/s Ganga & Co., an LLP
(Assessment year 2018-19)**

	Rs.	Rs.
Net profit as per profit and loss account		(-) 3,47,000
Add: (1) Interest to partners (to the extent not deductible)	18,000	
(2) Remuneration to partners (entire amount)	2,70,000	
(3) Other expenses (to the extent not deductible)	3,000	2,91,000
		(-) 56,000
Less: (1) Agricultural income (exempt from tax)		(-) 2,00,000
Book profit		(-) 2,56,000
Less: (2) Remuneration (amount deductible is Rs.1,50,000 in the case of loss)		(-) 1,50,000
Net income (loss to be carried forward)		(-) 4,06,000

Illu.4 : From the following information, ascertain the net income of a firm (having four equal partners: Ram, Rahim, David and Pavan) for the assessment year 2018-19:

	Assessment years	
	2017-18 (Rs.)	2018-19(Rs.)
Income before depreciation	(-) 2,00,000	10,00,000
Less: Depreciation	(-)80,000	(-) 1,20,000
Balance	(-) 2,80,000	(-) 8,80,000

Mr. Rahim retires on April 10, 2017 and the other partners carry on the business.

Solution:

**Calculation of Total Income of a Firm
(Assessment year 2018-19)**

	Rs.	Rs.
Brought forward loss from the assessment year 2017-18		2,80,000
Out of which depreciation		80,000

Brought forward loss (excluding depreciation)	2,00,000
Share of Y, the retiring partner (1/4 of Rs.2,00,000)	50,000
Income of the firm of the assessment year 2018-19 before adjustment of loss	8,80,000
Out of which share of Mr. Rahim, the retiring partner [$10/365 \times 1/4 \times \text{Rs. } 8,80,000$]	6,027
Amount on brought forward loss which cannot be set off [Rs.50,000 – Rs.6,027]	43,973
Computation of income of the firm for the assessment year 2018-19:	
Income (before adjustment)	8,80,000
Less:	
Brought forward loss (i.e., Rs.2,00,000 – Rs.43,973)	1,56,027
Unadjusted depreciation	80,000
Total income (rounded off)	6,43,970

14.7 SELF-ASSESSMENT QUESTIONS

A.Short Answer Questions

- (1) Definition of Partnership
- (2) Assessment of Partnership firms
- (3) Assessment as Association of persons
- (4) Instrument of partnership
- (5) Succession of firms
- (6) Changing the constitutions of firms
- (7) Working partner
- (8) Limited Liability partnership

B. Essay Questions

1. Define a firm? Explain the salient features of a firm.
2. State the provisions of Income-tax Act regarding computation of a firm's business income.
3. What are the provisions of Income Tax Act regarding the assessment of a partnership firm?

4. Explain the procedures in the assessment of firms.
5. Explain the procedures in the assessment of AOP
6. Explain various deductions from the gross total income of a firm.
7. What is book profit? How do you compute it in case of a firm?

14.8 EXERCISES

1. Mr. Kesav (28 years) and Mr. Raju (32 years) and Mr. Sarma are three partners (1:2:3) of Jairaj & Co., a LLP engaged in manufacturing leather goods. The profit and loss account of the firm for the year ending March 31, 2018 is as follows:

	Rs.		Rs.
Cost of goods sold	54,76,000	Sales	75,30,000
Salary to staff	8,00,000	Long-term capital gains (according to section 48)	60,000
Income tax	42,000	Other business receipts	14,000
Depreciation	80,000	Net loss	10,000
Remuneration to partners:			
Kesav	4,00,000		
Raju	3,00,000		
Sarma	2,00,000		
Interest on capital to partners @ 18% p.a. :			
Kesav	90,000		
Raju	1,20,000		
Sarma	36,000		
Other expenses	70,000		
	76,14,000		76,14,000

Other information –

1. The firm is not eligible for deduction under section 80-IA/80-IB.
2. The firm has given donation of Rs.3,00,000 to a notified public charitable trust which was not debited to the profit and loss account.
3. Salary and interest are paid to partners as per the partnership deed.
4. Depreciation allowable under section 32 is Rs.72,000.
5. Income and investment of Kesav, Raju and Sarma are as follows:

	Kesav (Rs.)	Raju (Rs.)	Sarma (Rs.)
Interest on company deposit	7,00,000	8,00,000	9,00,000
Dividend from foreign companies	82,000	90,000	1,00,000
Contribution towards the Master Equity Plan 2018 of UTI	1,30,000	1,40,000	1,45,000

Find out the net income and tax liability of the firm and partners for the assessment year 2018-19 on the assumption that –

- (a) Conditions of sections 184 and 40(b) are satisfied; and
 (b) Conditions of section 184 and/or section 40(b) are not satisfied.

**[Ans. : Total income Rs. 3,40,060, 11,29,700; Tax liability of the firm
 Rs.98,900, 3,42,900]**

2. The following is the profit and loss account of M/s. Ram & Co., a trading firm with three equal partners for the year ending on 31.3.2018. Calculate their taxable income for the year (i.e. A.Y.2018-19).

Profit and Loss Account

	Rs.	Rs.		Rs.
To Salary (staff)		21,600	By Gross Profit	1,59,000
To Bonus (do)			By Interest received on advances	8,000
To Advertisement		1,800	By Interest on drawings by partner (Y)	1,000
To Entertainment Expenses		3,300	By Bad debts recovered	1,000
To Telephone Expenses		17,000		
To Car Expenses		12,000		
To Interest paid on loans		8,000		
To Depreciation :		5,000		
- Furniture @ 10%	1,000			
- Car @ 15%	18,000	19,000		
To Interest to partners				

Taxation	463	Assessment of Firms
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@12% :			
X	2,600		
Y	2,200	4,800	
To Salary to partners			
X	26,000		
Y	39,000	65,000	
To Net Profit		11,500	
		1,69,000	1,69,000

1. Car is purchased on 13.10.2017.
2. Interest is paid to/charged from partners @ 12% p.a.

[Ans.: Taxable Income Rs. 20,500]

3. Profit and loss account of M/s Mukhesh & Anil co. a firm of Ramu, Raju and Yesu are partners. It satisfied all conditions of sections 184 and 40(b)] for the year ending March 31, 2018 is as follows:

	₹		₹
Cost of goods sold	47,90,000	Sales (commission agency business)	66,00,000
Remuneration to partners :		Rent of house property (half portion)	50,000
Ramu	6,00,000	Interest on debentures (non-trade investment)	60,000
Raju	9,00,000		
Yesi	55,000		
Income Tax	8,000		
Interest to partners @ 13.5% :			
Ramu	40,000		
Raju	10,000		
Yesu	60,000		
Municipal tax of house property (entire property)	5,000		
Other expenses	2,10,000		
Net profit	32,000		
	67,10,000		67,10,00

Other information:

1. Out of other expenses, ₹ 48,500 is not deductible under sections 36, 37(1) and 43B.

2. On January 15, 2018, the firm pays an outstanding sales tax liability of ₹ 2,922 of the previous year 2014-15. As this amount pertains to the previous year 2014-15, it has not been debited to the aforesaid profit and loss account.
3. Mr. Yesu is not a working partner.
4. The firm owns a house, the ground floor is used for business purposes, the first floor is given on rent. Municipal tax is paid on May 10, 2018.

Find out the net income of the firm (and tax treatment of the payments to partners in their hand) for the assessment year 2018-19.

[Ans.: Book Profit Rs.15,45,300; Total Income Rs.6,23,120]

4. Profit and loss account of Jai Krishna & Co. is a firm of chartered accountants which satisfies all conditions of sections 184 and 40(b)] for year ending March 31, 2018 is as follows:

	₹		₹
Expenses	2,88,000	Receipts from clients for tax advice	3,60,000
Depreciation	2,32,000	Audit fees	2,72,000
Remuneration to partners	2,75,000	Net loss	2,18,000
Interest on capital to partners	55,000		
	8,50,000		8,50,000

Other information:

1. Out of expenses of ₹ 2,88,000, ₹ 57,250 is not deductible under sections 36 and 37.
2. Depreciation as per section 32 is ₹ 3,23,100.
3. Interest on capital to partners, not deductible under section 40(b), is ₹ 17,900.

[Ans.: Book Profit Rs.41,050; Loss to be carried forward by the firm Rs.(-) 1,08,950]

5. Radha Krishna Associates, a firm of Chartered Accountants consisting of two partners Krishna and Radha, sharing profits equally, furnishes the following Income and Expenditure Account for year ending 31.3.2018:

	₹		₹
Establishment & other expenses	14,00,000	Audit fee	18,00,000

Stipend to Assistants	2,00,000	Consultancy charges	4,00,000
Entertainment Exps.		Interest on Government Securities	
	20,000		50,000
Running and maintenance of Motor car	30,000	Long-term capital gain	
			60,000
Depreciation on Motor car purchased during the year, for 9 months @ 20%	60,000		
Interest on loan from partner Krishna @ 24% p.a.	48,000		
Remuneration to Krishna	2,40,000		
Remuneration to Radha	2,10,000		
Excess of Income over expenditure	1,02,000		
	23,10,000		23,10,000

Compute the Total Income of the firm and the tax payable. Also state the treatment of the income from the firm in the hands of the partners.

[Ans.: Book profit Rs.4,66,000; Total Income Rs.2,06,400; Tax payable Rs.57,600]

Chapter – 15

ASSESSMENT OF COMPANIES**Objectives :**

After studying this lesson you should be able to :

- Define a company
- Know the types of companies
- Compute the total income of a company
- Understand the provisions relating to minimum alternative tax on companies.

Structure :

- 15.1 Classification of Companies
- 15.2 Computation of Total Income
- 15.3 Special Rate of Tax for New Domestic Manufacturing Companies
- 15.4 Minimum Alternative Tax (MAT) on Certain Companies
- 15.5 Payment of Advance Tax
- 15.6 Presumptive Tax Scheme for Shipping Companies
- 15.7 Additional Income Tax on Dividend
- 15.8 Self-Assessment Questions
- 15.9 Exercises

15.1 CLASSIFICATION OF COMPANIES:

For the purpose of taxation, companies are broadly classified as under:

1. **Domestic Company:** Domestic company means an Indian company (i.e. registered in India), or any other company which, in respect of its income liable to tax, has made the prescribed arrangement for the declaration and payment, within India, of the dividends payable out of such income. [Sec.2 (21A)] Domestic companies are further classified as:
 - (a) Domestic Company in which public are substantially interested, i.e., **Public Company.**
 - (b) Domestic Company in which the public are not substantially interested, i.e. **Private Company.**

2. **Foreign Company:** It is a company registered outside India which has not made prescribed arrangements for declaration and payment of dividends within India.
3. **Venture Capital Company:** A 'venture capital company' is one which is engaged in providing finance to venture capital undertakings mainly by way of acquiring equity shares of such undertakings, or by advancing loans to such undertakings, and it approved by the Government in this behalf. Guidelines for approval of a venture capital company/ fund have been laid down in Rules 2D/2DA. Application for the purpose shall be in Form 56A/56AA along with Form 56B/56BA and 56C/56CA

Companies Liable to Pay Tax: All companies, whether domestic or foreign, are liable to pay tax, irrespective of their income.

15.2 COMPUTATION OF TAXABLE INCOME:

The taxable income of companies is computed in the same manner as for other non-corporate assesses. The income is computed separately under each head and then aggregated to compute the gross total income. A company, however, can have no income under the head 'Salary' for obvious reasons. For details, refer to the respective chapters.

Incomes Exempt from Tax:

Income of a venture capital company, by way of dividends or long-term capital gains on equity shares of a venture capital under-taking, shall be exempt u/s 10(23F)/(23FA)/(23FB). For details and other exemptions, refer to Chapter 'Incomes Exempt from Tax' and 'Complete Tax Holiday'.

Permissible Deductions for Companies:

Refer to Chapter 'Permissible Deductions from Gross Total Income.'

Rates of Tax:

The rates of tax applicable to companies are given in Table D in Appendix I of this Book.

Income of an Indian company, by way of dividends declared, distributed or paid by a foreign company (wherein such Indian company holds 26% or more equity shares) is taxable @ 15%. [Sec.115BBD]

Venture capital companies are taxed at special concessional rates, with regard to their income from long-term capital gains. [Sec.112 Expl.]

15.3 SPECIAL RATE OF TAX FOR NEW DOMESTIC MANUFACTURING COMPANIES:

W.e.f. A.Y.2017-18, a new domestic company set up and registered on or after 1.3.2016 and engaged solely in the business of manufacture or production of an article or thing and research in relation to, or distribution of, such article or thing manufactured or produced by it (and in no other business) shall have the option to pay tax @ 25% on its total income, provided it foregoes the benefit of section 10AA (tax holiday for new SEZ unit), accelerated depreciation, additional depreciation, investment allowance, expenditure on scientific research, and deduction u/ss 80HH to 80RRB (except sec.80JJAA). The option shall be exercised in the prescribed manner on or before the due date for furnishing the first of the returns of income. Once the option is exercised for any previous year, it cannot be withdrawn for the same or any other previous year. [Sewc.115BA]

In case of companies opting to be assessed u/s 115BA, the depreciation on a block of assets, eligible for a rate more than 40%, shall be restricted to 40% on the W.D.V. of such block of assets. [Rule 5(1) Proviso]

15.4 MINIMUM ALTERNATIVE TAX (MAT) ON CERTAIN COMPANIES:

Where the income-tax payable on the total income of a company, as computed under the Act in respect of any previous year, is less than 18.5% of its books profits, then the total income of the company shall be deemed to be equal to the book profits and the tax payable by such company shall be deemed to be equal to 18.5% of the book profits.

Note:

- (1) From A.Y. 2012-13, MAT shall be payable on any income from any business carried on, or services rendered by, a SEZ Unit developer.
- (2) In case of a unit located in an International Financial Services Centre and deriving income solely in convertible foreign exchange, the rate of MAT shall be 9%.

'Book profit' means the [net] profit as shown in the statement of profit and loss prepared in accordance with the provisions of the Companies Act (or in case of insurance, banking or electricity companies, as per the provisions of their regulatory laws), as reduced or increased by specified adjustments. Deduction shall be allowable for amounts exempt u/s 10 except clause (38), section 11 or 12, profits of a sick industrial company, deferred tax credit, etc.

The company shall furnish a report in form 29B, from a chartered accountant certifying that the book profits have been computed in accordance with this section, along with the return of income. [Sec.115JB]

Note: The provisions of MAT shall not apply in relation to any income from life insurance business.

Tax Credit for MAT:

Where a company has paid Minimum Alternative Tax u/s 115JB for assessment year 2006-07 or any subsequent assessment year, it shall be allowed a tax credit to be set off against tax payable at normal rates in any of the [fifteen] subsequent assessment years, in accordance with section 115JAA. Right to set off tax credit arises as a result of payment of tax u/s 115JA (now 115JB) although quantification of that right depends upon ultimate determination of total income for first assessment year.

Note: In case of conversion of a private company/unlisted public company into a limited liability partnership, tax credit for MAT shall not be allowed to the successor LLP.

15.5 PAYMENT OF ADVANCE TAX:

The provisions regarding payment of advance tax during the year 2017-18 (i.e. A.Y.2018-19), have been discussed in Chapter 'Payment of Advance Tax'.

Note: A company liable to pay Minimum Alternative tax (MAT) u/s 115JB, shall also be liable to pay advance tax.

Filing of Return: The companies should file their return in Form No. ITR – 6. The due date for filing of return is 30th September of the Assessment Year. The formalities relating to filing of return are the same as in case of other assesses. For details, refer to Chapters 'Filing of Return' and 'E-Payment of Tax and E-Filing of Return'.

Tax Deduction at Source (TDS):**Special Provisions Relating to taxation of Foreign Companies:**

Special provisions have been laid down for taxation of certain incomes arising to foreign companies, viz. –

- (i) Income by way of dividends, interest on foreign currency loans, interest from a notified infrastructure debt fund or income from Mutual Fund units purchased in foreign currency. [Sec.115A]
- (ii) Royalty and technical service fees (except those covered u/s 44DA). [Sec.115A]
- (iii) Income from units purchased in foreign currency or capital gains arising from their transfer, to an overseas financial organization (i.e. Offshore Fund). [Sec.115AB]
- (iv) Income from bonds or Global Depository Receipts purchased in foreign currency or capital gains arising from their transfer. [Sec.115AC]

15.6 PRESUMPTIVE TAX SCHEME FOR SHIPPING COMPANIES:

Shipping Companies may opt to pay tax under a tonnage based tax scheme. Under the scheme, income from the operation of a ship is determined based on the tonnage of the ship, and taxed at the normal corporate rate applicable for the year. Tax is payable even if there is a loss. A company owning at least one ship with a minimum tonnage of 15 tons may opt for this scheme. Once option is exercised, there is a lock-in period of ten years. If a company opts out it is debarred from re-entry for ten years. The scheme requires certain conditions like creation of reserves, training etc. to be fulfilled. [Sec.115V to Sec.115VZC]

15.7 ADDITIONAL INCOME TAX ON DIVIDENDS :

Dividends paid or distributed by a domestic company shall be chargeable to additional income-tax at the rate of 15% plus surcharge @ 12%, education cess @ 2% of tax and surcharge, and secondary & higher education cess @ 1% of tax and surcharge aggregating to 17.304%. Dividend Distribution tax (DDT) is payable on net distributed dividend i.e. dividend distributed as reduced by – (a) the amount of dividend received by a domestic company from its subsidiary on which tax payable has been paid

by the subsidiary, or the tax is payable by the domestic company u/s 115BBD (in case the subsidiary is a foreign company), and (b) the amount of dividend paid to New Pension System Trust.

The amount of net distributed dividend shall be grossed up for the purpose of levy of DDT. That is, if the amount of net distributed dividend is Rs.100 and rate of DDT is 17.304%, the amount of dividend after grossing up shall be –

$$Rs.100 \times \frac{100}{(100 - 17.304)} \text{ i.e. Rs.120.9248}$$

DDT @ 17.304% on Rs.120.9248 works out of Rs.20.9248, thus leaving net distributed dividend of Rs.100. In other words, if a company distributes net dividend of Rs.100, it shall pay DDT @ 17.304% on the grossed up amount of Rs.120.9248, i.e. Rs.20.9248.

This tax is payable in addition to the normal income-tax payable by the company. The tax shall be deposited within 14 days from the date of declaration, distribution or payment of dividend, whichever is earliest, failing which interest @ 1% p.m. shall be payable for every month or part thereof) of the delay. [Sec.115-O and 115-P]

The shareholders shall not be allowed any deduction for such dividend income or the tax thereon. Such dividend shall, however, be fully exempt u/s 10(34). [Sec.115-O (4)]

Failure to pay the additional income-tax will entail penalty equal to the amount of tax involved. [Sec.271C (1) (b)]

Additional Income Tax on Income Distributed on Buy-back of Shares by Unlisted Companies:

Amount paid by a company on buy-back of its own shares which is in excess of the sum received at the time of their issue (determined in the manner prescribed in rule 40BB) shall be taxable in the hands of company @ 20% plus surcharge @ 12%, education cess @ 2% of tax and surcharge, and secondary & higher education cess @ 1% of tax and surcharge. [Sec.115QA]

The tax shall be deposited within 14 days from the date of payment to the shareholder, failing which interest @ 1% p.m. shall be payable for every month (or part thereof) of the delay. [Sec.115QB]

The income (i.e. capital gain) arising to the shareholder in respect of such buy-back shall be exempt u/s 10(34A).

Income Tax Rates

Rates of Tax for Companies for A.Y. 2018-19 and for Payment of Advance Tax for A.Y. 2019-20

Type of Company	A.Y. 2018-19	A.Y. 2019-20
A. Domestic Company (Whether public or private) :		
- Long-term Capital Gain u/s 112	20%	20%
- Long-term Capital Gain u/s 112A	-	10%
- Short-term Capital Gain u/s 111A	15%	15%
- Dividends from a subsidiary foreign company	15%	15%
- Other Incomes :		
(a) If total turnover/gross receipt in previous year 2014-15 is up to Rs.5 crores	-	-
(b) If total turnover/gross receipts in previous year is up to Rs.50 crore	25%	25%
(c) In other cases	30%	30%
B. Foreign Company :		
- Long-term Capital Gain u/s 112	20%	20%
- Long-term Capital Gain u/s 112A	-	10%
- Short-term Capital Gain u/s 111A	15%	15%
- Income from royalty or fees for technical services from Government or an Indian concern		
(a) In pursuance of an agreement made on or before 31.3.1976	50%	50%
(b) In pursuance of an agreement made on or after 1.4.1976 but on or before 31.5.1977	10%	10%
(c) In pursuance of an agreement made on or after 1.6.1997 but on or before 31.5.2005	10%	10%
(d) In pursuance of an agreement made on or after 31.5.2005	10%	10%
- Other Incomes	40%	40%

Surcharge:	A.Y.	Condition	Rate	
			Domestic Cos.	Foreign Cos.
	2016-17 to 2019-20	It total income exceeds Rs.1 crore but does not exceed Rs.10 crore If total income exceeds Rs.10 crore	7% 12%	2% 5%
Education Cess:	2006-07 to 2018-19	Leviabale on the amount of Income Tax & Surcharge	2%	2%
Secondary & Higher Education Cess	2008-09 to 2018-19	-do-	1%	1%
Health & Education Cess	2019-20	-do-	4%	4%

ILLUSTRATIONS

Illu.1 : Profit and loss account of Blooming Ltd., for the year ending March 31, 2018 is given below:

	Rs.		Rs.
Office expenses	16,56,000	Gross profit	95,00,000
Salary to employees	28,90,000	Other receipts	3,50,000
Employer's contribution to recognised provident fund	2,10,000		
Interest	9,55,000		
Taxes	11,27,000		
Road construction expenses	90,000		
Entertainment expenditure	1,92,000		
Reserve for bad debts	1,55,000		
Penalty levied by excise	90,000		

department			
Depreciation	10,80,000		
Miscellaneous expenditure	3,67,000		
Net profit	10,38,000		
	98,50,000		98,50,000

Additional information:

1. Office expenses include payment of Rs.45,000 to a relative of managing director Market value of services provided by him is Rs.48,000. Payment is, however, made by an account payee cheque.
2. Office expenses also include a bogus bill of Rs.10,000.
3. Salary to employees includes commission of Rs.70,000 payable on purchase to the employees of purchase department. The payment is, however, made on November 20, 2018. Return of income for the assessment year 2018-19 will be submitted in December 2018.
4. Salary to employees also includes employee's contribution towards recognized provident fund. Contribution for March 2018 of Rs.40,000 is paid after the due date of making payment under provident fund regulations but before the due date of submission of return of income (i.e., September 30, 2018).
5. Out of the employer's contribution to provident fund, a payment of Rs.44,000 (pertaining to March 2018) is paid after the due date of making payment under provident fund regulations but before the due date of submission of return of income (i.e., September 30, 2018).
6. Interest includes the following:
 - (a) Rs.30,000 for late payment of sales tax;
 - (b) Rs.40,000 for the payment of income-tax;
 - (c) Rs.10,000 on loan taken to purchase shares in Indian companies;
 - (d) Rs.15,000 on loan taken to purchase share of foreign companies;
 - (e) Rs.8,000 on loan taken to pay income-tax.
7. Taxes debited to profit and loss account include income-tax of Rs.50,000 for the assessment year 2016-17.
8. Entertainment expenditure includes expenditure of Rs.10,000 for arranging new year party for employees.

9. Other receipts credited to profit and loss account include- (a) dividend from foreign companies; Rs.80,000, (b) dividend from Indian companies: Rs.6,000, (c) UTI interest: Rs.14,000, (d) sales tax refund (earlier not allowed as deduction): Rs.20,000, (e) income tax refund: Rs.24,000 and (f) interest of Rs.11,500 received from Government on refund of income tax.
10. Road construction expenditure is incurred during January 2018 for construction of road connecting office and canteen in the factory of the company. The entire amount is paid by an account payee cheque to the contractor and tax is deducted at source.
11. Depreciation given in profit and loss account is depreciation of building and machinery. It is calculated as per section 32. However, depreciation on road newly constructed between office and canteen is not included as the entire amount is debited to profit and loss account.
12. Blooming Ltd. gives a contribution of Rs.11,500 to a political party. But is not debited to profit and loss account.

Determine the net income and tax liability of Blooming Ltd. for the assessment year 2018-19.

Solution:

**Calculation of Business Profit of M/s Blooming Ltd.
(Assessment year 2018-19)**

	Rs.	Rs.
Net profit as per profit and loss account		10,38,000
Add : Items not deductible		
1. Road construction expenditure	90,000	
2. Reserve for bad debts	1,55,000	
3. Penalty to excise department	90,000	
4. Bogus bill	10,000	
5. Commission (not paid up to September 30, 2018)	70,000	
6. Employee's contribution towards provident fund deposited by employer after due date of making payment under provident fund regulations	40,000	
7. Employer's contribution towards provident fund (employer's contribution is paid before due date of	Nil	

submission of return of income, it is allowable under section 43B, no adjustment is required)		
8. Interest for late payment of income-tax	40,000	
9. Interest on loan taken to purchase shares in Indian companies	10,000	
10. Interest on loan taken to purchase shares in foreign companies	15,000	
11. Interest on loan take to pay income-tax	8,000	
12. Income-tax paid	50,000	5,78,000
		16,16,000
Less: Items Deductible		
1. Depreciation on road construction (1/2 of 10% of Rs.90,000)	(-) 4,500	
2. Dividend from foreign companies (taxable as income from other sources)	(-) 80,000	
3. Dividend from Indian companies (exempt from tax)	(-) 6,000	
4. UTI interest (exempt from tax)	(-) 14,000	
5. Sales tax refund (not allowed as deduction earlier)	(-) 20,000	
6. Income-tax refund	(-) 24,000	
7. Interest on income-tax	(-) 11,500	1,60,000
Business income		14,56,000
Income from other sources (dividend from foreign companies: Rs.80,000 – interest : Rs.15,000 + Rs.11,500 being interest on refund of income-tax)		76,500
Gross total income		15,32,500
Less: Deduction under section 80GGB (contribution to political party)		11,500
Total income		15,21,000
Tax on net income:		
Income-tax @ 30%		4,56,300
Add: Education cess	9,126	
Add: Secondary and higher education cess	4,563	13,689
Tax liability (rounded off)		4,69,990

Notes:

- (1) Payment made to a relative of the managing director is deductible fully, as it is not more than market value and the payment is made by an account payee cheque.
- (2) Expenditure for entertainment of employees is deductible.

Illu.2 : Aravind Ltd. submits the following profit and loss account for the year ending March 31, 2018:

	Rs.		Rs.
Depreciation	8,00,000		
Salary	9,10,000	Gross profit	59,60,000
Sales tax	76,000	Miscellaneous receipts	85,000
Interest on deposit taken from public	32,000	Interest on bank FDs	40,000
Reserve for advance income-tax, bad debts and future losses	92,000	Short-term capital gain on transfer of preference shares in a stock exchange	2,00,000
Family planning expenditure for employees	1,32,000	Rent of flats/houses recovered from employees	10,12,000
Car expenses	2,74,000	Technical fees received from a subsidiary company on account of utilization of services from employees of Aravind Ltd. (amount net of TDS)	18,00,000
Scientific research expenditure	2,00,000	Tax deducted by subsidiary company on the above income	2,00,000
Miscellaneous expenses	2,14,000		
Municipal taxes for flats/houses given to employees	78,000		
Net profit	64,89,000		
	92,97,000		92,97,000

Additional information:

1. Depreciation as per income-tax provisions is Rs.6,10,000. However, it does not include depreciation on an imported car which the company has purchased for MD of the company for Rs.25,00,000 on January 1, 2018, as imported car is not qualified for depreciation.
2. Salary includes a commission of Rs.25,000 payable on purchases to one of the employees. It will be paid in December 2018. Moreover, it includes a bonus of Rs.78,000 which the company has paid to an employee on May 10, 2017. It pertains to the previous year 2016-17.
3. Car is partly used for official purposes and partly for private purposes by MD of the company.
4. A debt of Rs.14,000 has become unrecoverable during the previous year 2017-18. It is not written off in the account of debtor. It is not debited to profit and loss account and moreover it is not debited to reserve for bad debts account. However, the company wants to claim the same as deduction.
5. Municipal tax pertaining to flats/houses given to employees for the previous year 2017-18 debited in the profit and loss account includes an unpaid liability of Rs.32,000. Municipal tax of Rs.30,000 and late payment interest of Rs.2,000 is paid on October 20, 2018.
6. Miscellaneous receipts include Rs.40,000 being dividend received from subsidiary company. However, subsidiary company has not paid dividend tax on this amount.
7. Family planning expenditure includes a capital expenditure of Rs.50,000 on purchase of a plant. Plant is purchased on March 17, 2018 but it is put to use June 10, 2018. It also includes cost of a printer of Rs.6,000 which is purchased for family planning purposes.
8. Under voluntary retirement scheme of the company, some of the employees took voluntary retirement. A sum of Rs.3,60,000 was paid to them on January 1, 2016.
9. A sum of Rs.10,000 is incurred on an advertisement which appeared in a magazine owned by a political party. This expenditure is not deductible under section 37(2B). Consequently, it is not debited to profit and loss account given above.

Determine the net income and tax liability of the company for the assessment year 2018-19. Due date of submission of income is September 30, 2018.

Solution:

**Computation of income of Aravind Ltd
(Assessment year 2018-19)**

	Rs.	Rs.
Net profit as per profit and loss account		64,89,000
Add : Items not deductible :		
1. Reserve for advance income-tax, bad debts, etc.	92,000	
2. Depreciation debited in profit and loss account	8,00,000	
3. Outstanding commission (disallowed under section 43B, it will be deductible in the next year)	25,000	
4. Bonus (it pertains to the previous year 2016-17. As it is paid before the due date of submission of return of income for the previous year 2016-17, it is deductible for calculating income of the previous year 2016-17)	78,000	
5. Municipal tax outstanding (by virtue of section 43B municipal tax of Rs.30,000 is not deductible for the current year. However, late payment charges are deductible)	30,000	
6. Capital expenditure on family planning (deductible in 5 years in 5 equal installments, 1/5 of Rs.56,000 is deductible in the current year, remaining amount, i.e., 4/5 of Rs.56,000 will be deductible in the next 4 years, to claim deduction it is not necessary that asset should be put to use)	44,800	10,69,800
		75,58,800
Less : Deductible expenses		
1. FD Interest (taxable as income from other sources)	(-) 40,000	
2. Short term capital gain	(-) 2,00,000	
3. Depreciation	(-) 6,10,000	
4. Depreciation on imported car (15% of ½ of Rs.25,00,000)	(-) 1,87,500	

5. Dividend from subsidiary company (exempt from tax even if dividend tax is not paid)	(-) 40,000	
6. Voluntary retirement scheme payment (such payments are deductible in 5 years in 5 equal installments. Rs.3,60,000 was paid on January 1, 2016. It is deductible in 5 equal installments. 1/5 of Rs.3,60,000, i.e., Rs.72,000 per year is deductible during the previous year 2015-16 to 2019-20)	(-) 72,000	11,49,500
Business Profit		64,09,300
Short-term capital gain		2,00,000
Income from other sources (interest on fixed deposit)		40,000
Gross total income		66,49,300
Less: Deduction under section 80GGB		10,000
Net income		66,39,300
Tax on net income		
Income-tax @ 30%		19,91,790
Add: Education cess	39,836	
Add: Secondary and higher education cess	19,918	59,754
Tax liability (rounded off)		20,51,540

Notes:

1. In the case of a company, there can be no question of disallowance of expenditure on vehicles on the ground of personal use even if they are personally used by directors.
2. A bad debt is deductible only if it is written off in the books of account of the taxpayer. If it is not written off, it is not deductible.
3. In the case of an Indian company, expenditure on advertisement given to a magazine owned by a political party is treated as contribution to the political party under section 80GGB. However, in the case of a person other than company, a similar expenditure is not treated as contribution to a political party under section 80GGC.

Illu.3 : Costal Ltd., carrying on business in manufacture, sale and export of tyres, tubes and accessories, has disclosed a net profit of Rs.8,00,000 in its profit and loss account for the period ending March 31, 2018. On the basis of the

following particulars furnished by the company and ascertained on inquiry, compute, giving reasons, its total income for the assessment year 2018-19:

1. A sum of Rs.50,000 is debited to compensation account. The company had placed an order for machinery to manufacture tyres with a UK company. However, due to a sudden increase in the price of machinery by the UK company, the assessee cancelled the contract. It was required to pay Rs.50,000 as compensation. The company claims the said amount as deduction on revenue account or, in the alternate, as loss under the head "Capital gains" as the payment was made towards extinguishment of right to acquire a capital asset.
2. "Loss on export of tyre account" shows a debit of Rs.4,00,000. In this connection it is explained that two trucks belonging to the company carrying tyres and tubes valued at Rs.4,00,000 were intercepted at the international border and seized by customs authorities for illegal export of tyres and tubes. The goods were confiscated by the customs authorities and a fine of Rs.1,00,000 was levied. The company claims the value of confiscated goods as a trading loss under section 28 and the payment of the fine of Rs.1,00,000 which is debited to rates and taxes account as an expenditure in the course of business under section 37(1).
3. The company had set up a separate unit for manufacture of plastic tubes at Bangalore in 1995. The said unit suffered heavy losses. As a result the same was closed down and the plant and machinery were sold away. The company, however, claims unabsorbed depreciation amounting to Rs.5,00,000 in its return of income. It is not debited to the profit and loss account.
4. During the previous year 1991-92, the assessee-company acquired 5,000 shares of E Ltd., an Indian company, as a result, the entire share capital of the said company is now held by the assessee-company. In May 2017, the assessee-company sold to E Ltd. plant and machinery for Rs.6,00,000. Cost of acquisition of his machinery as per section 50 is Rs.1,50,000.
5. In the years 2013-14 and 2014-15, the Government of India arranged exports of tyres and tubes through the Federation of Tyre Dealers of which the company was a member. The exports which were made to Europe in loss which was shared by all members including the company. The Federation

thereafter took up the questions of reimbursement of losses with the Government, which after protracted discussion and correspondence agreed to grant a subsidy calculated at a certain percentage of exports. The assessee-company received its share of subsidy amounting to Rs.3 lakhs in the previous year. The amount stands credited to the "Capital reserve account" and claimed as exempt.

6. Under voluntary retirement scheme framed by the company, four of its employees take voluntary retirement during the previous year 2017-18. A compensation of Rs.28 lakhs is paid to them. The entire amount is debited to the profit and loss account. The scheme is not in accordance with the guidelines framed under section 10(10C).

Solution:

**Calculation of Total Income of Costal Limited
(Assessment year 2018-19)**

	Rs.	Rs.
Net profit as per P & L Account		8,00,000
Add : Items not deductible :		
1. Payment of compensation	50,000	
2. Loss arising out of confiscation of stock by customs authorities	4,00,000	
3. Fine	1,00,000	
4. Recovery of loss	3,00,000	
5. Compensation paid on voluntary retirement of employees	22,40,000	30,90,000
		38,90,000
Less : Unabsorbed depreciation of a unit closed before the commencement of previous year (allowable deduction)		5,00,000
Business profit		33,90,000
Capital gain on sale of machinery to wholly owned subsidiary company		Nil
Total income		33,90,000

Working Notes :

1. Payment of compensation : Not allowable since payment is in the nature of capital expenditure, being made to avoid unnecessary investment in capital asset; nor can it be allowed as capital loss as there is no transfer of capital asset.
[not allowable as penalty paid for breach of law is
2. Fine : Not normal incidence of business
3. Compensation paid on voluntary retirement of employees [under section 35DDA, one-fifth of such compensation is deductible in the year in which the expenditure is incurred and the balance is deductible in the next four years; section 35DDA is applicable even if the voluntary retirement scheme has not been framed in accordance with the guidelines given under section 10(10C); amount deductible is 1/5 of Rs.28 lakh]
4. Since transferee-company is wholly owned Indian subsidiary company of the assessee, the transaction is not treated as transfer under section 47(iv) and surplus arising on transfer is not taxable as capital gain.

15.8 SELF-ASSESSMENT QUESTIONS**A.Short Answer Questions :**

1. Indian Company
2. Domestic Company
3. Foreign Company
4. Industrial Company
5. Investment company
6. Trading company

B. Essay Type questions

1. Define a company. How do you classify companies for the purpose of Income Tax Act?
2. What is a widely held company?
3. How do you compute the total income of a company?
4. What is minimum alternate tax? Explain the provisions relating to MAT.

15.9 EXERCISES

1. Net profit as per profit and loss account of Rayalaseema Ltd., is Rs.43,40,000 for the year ending March 31, 2018. It has been calculated without considering the following:

	Rs.
1. Payment in annual installment for a period of 20 years under an approved agreement to a foreign collaborator for technical know-how and for right to manufacture and sell products in India	1,80,000
2. Betterment charges paid under a Town Planning Scheme	12,000
3. Expenditure incurred for repairing a property taken on lease	4,000
4. Legal expenses incurred in connection with issue of capital	32,750
5. Expenses incurred for registration of a trade mark	11,150
6. Shares issued at par to employees of further its interest (difference between market price and par value claimed as revenue expenditure)	66,750
7. In the previous year 2015-16, Rayalaseema Ltd. acquired a unit of TTK Ltd. under a scheme of demerger. Expenditure incurred by Rayalaseema Ltd. in that year on demerger was Rs.8,79,000	8,79,000
8. On March 20, 2018, Rayalaseema Ltd., pays a sum of Rs.60,000 to a consultant for preparation of feasibility report in respect of a new project which will be started by Rayalaseema Ltd. during September 2018.	60,000
9. On December 1, 2017, Rayalaseema Ltd. incurs an expenditure of Rs.40,000 for an advertisement which appears in January 2018 edition of a magazine which is owned by Chennai Ltd. 60 per cent shares in Chennai Ltd. are held by a political party.	40,000

Determine the net income and tax liability of Rayalaseema Ltd. for the assessment year 2018-19.

[Ans.: Total income Rs.39,29,050; Tax liability (rounded off) Rs.12,14,080]

2. Mahendra Ltd., an Indian company, submits the following particulars relevant for the assessment year 2018-19:

	Rs.		Rs.
Salary to staff	16,40,000	Gross profit	63,37,450
Income tax	30,000		
Expenses on issue of shares for setting up a new show room at Delhi	18,000		
Expenses on raising a long-term loan for setting up a new show room at Bombay	12,000		
Interest on public deposits	82,000		
Capital expenditure for promotion of family planning among employees	32,000		
Legal expenses for filing income-tax appeals before the Delhi High Court	10,000		
Reserve for losses	50,000		
Reserve for payment of fines and penalty	20,000		
Reserve for bad and doubtful debts	10,000		
Maintenance expenses of car	56,000		
Bad debts written off	3,450		
Depreciation of :			
(a) Plant and machinery	81,000		
(b) Car	25,000		
Office expenses	1,02,000		
Rent and repairs	42,000		
Sundry expenses	86,000		
Net profit	40,38,000		
	63,37,450		63,37,450

Other information:

1. Car is partly used for official purposes and partly for personal purposes of a relative of director. In part 10 per cent of car expenditure is disallowed.
2. Sundry expenses include payment of an advertisement bill to a person who has substantial interest in the company. The payment is excessive to the extent of Rs.20,000.
3. Office expenses include an expenditure of Rs.10,100 which is paid in cash.
4. Sundry expenses include an expenditure of Rs.10,000 which is paid by a bearer cheque.
5. Depreciation on machinery as per tax provisions is Rs.86,000.
6. On March 10, 2018, the company pays Rs.2,00,000 to a National Laboratory for carrying an approved scientific research programme in natural science. The payment is not recorded in the above P & L A/c.
7. Sundry expenses include royalty payment of Rs.30,000 to a resident on which tax is deducted at source on February 10, 2018 and paid to the Government on December 5, 2018.

Determine the taxable income and tax liability of the company for the assessment year 2018-19.

[Ans.: Total income Rs.39,30,200; Tax liability (rounded off) Rs.12,14,430]

Chapter 16**INCOME TAX AUTHORITIES****Objectives**

After studying this lesson you should be able to :

- Know different types of Income Tax Authorities, their appointment, jurisdiction and powers
- Understand the procedure in search and seizure.

Structure :

- 16.1 Classes of Income Tax Authorities**
- 16.2 Appointment of Income tax Authorities**
- 16.3 Control of Income Tax Authorities**
- 16.4 Jurisdiction of Income Tax Authorities**
- 16.5 Powers of Income Tax Authorities**
- 16.6 Search and Seizure – 132**
- 16.7 Self-Assessment Questions**

16.1 CLASSES OF INCOME TAX AUTHORITIES

Sections	Particulars
116	Income Tax Authorities
117	Appointment of income tax authorities
118	Control of income tax authorities
119	Instructions to subordinate authorities
120	Jurisdiction of income tax authorities
124	Jurisdiction of Assessing Officers
127	Power to transfer cases
129	Change of incumbent of an office
131	Power regarding discovery, production of evidence etc.
132	Search and Seizure
132A	Power to requisition books of account etc.

133 & 134	Power to call for information and inspect registers of companies
133A	Power of survey
133B	Power to collect certain information
135 & 136	Other provisions

According to Sec.116 there shall be the following classification of Income Tax authorities, for the implementation of the Act.

1. The Central Board of Direct Taxes
2. Principal Directors-General of Income Tax or Principal/Chief Commissioners of Income Tax
3. Principal Directors of Income-Tax or Principal Commissioners of Income-Tax or Commissioners of Income-Tax (Appeals)
4. Additional Directors of Income-Tax or Additional Commissioners of Income-Tax or Additional Commissioners of Income-Tax (Appeals)
5. Joint Directors of Income-Tax or Joint Commissioners of Income-Tax
6. Deputy Directors of Income-Tax or Deputy Commissioners of Income-Tax
7. Assistant Directors of Income-Tax or Assistant Commissioners of Income Tax
8. Income-Tax officers
9. Tax Recovery Officers
10. Inspectors of Income-Tax

16.2 APPOINTMENT OF INCOME TAX AUTHORITIES

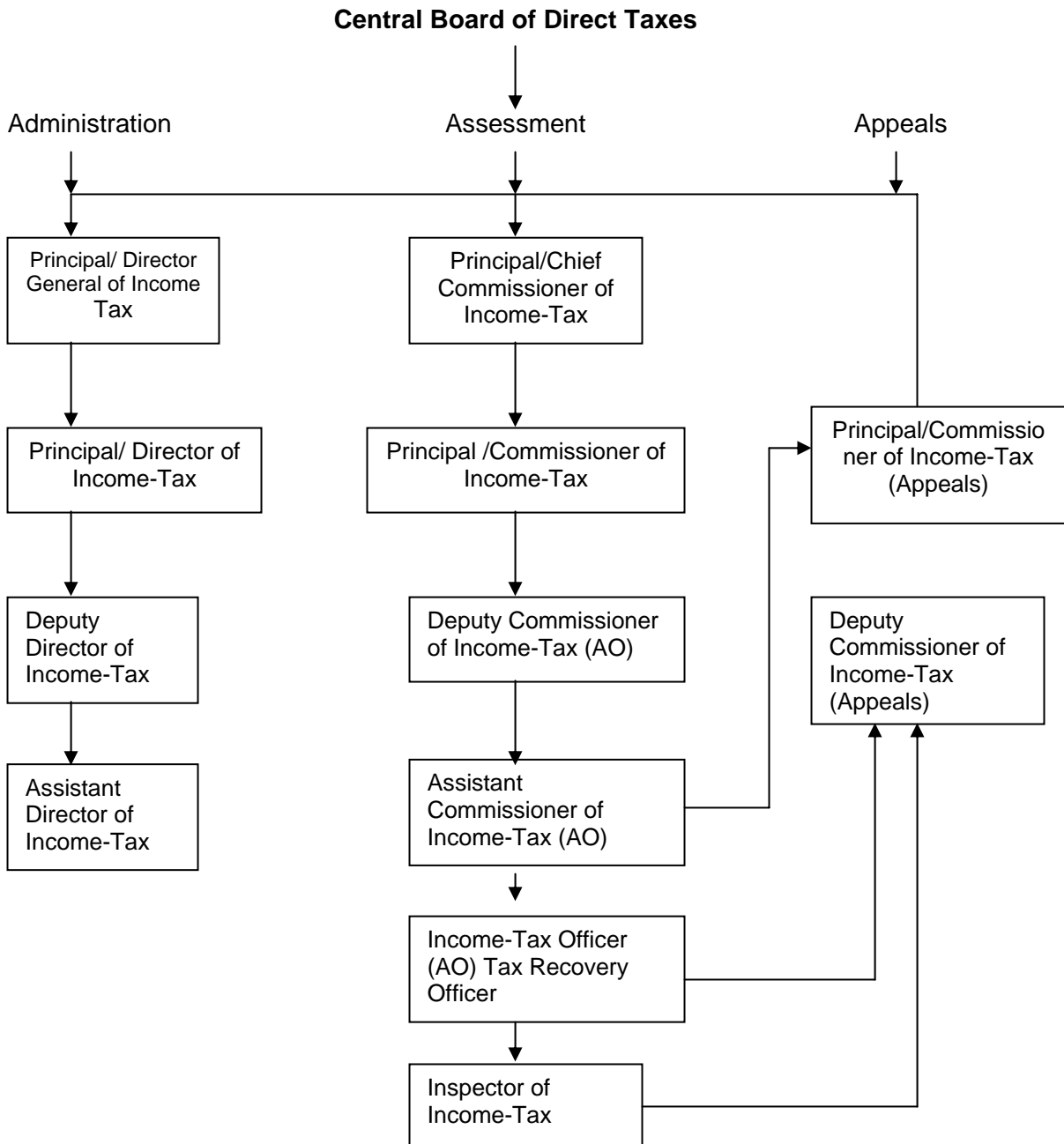
According to Section 117 the appointment of income Tax authorities depends on the type of authority. The Central Government and other authorities, subject to the rules of Central Government and the Board, are appointing authorities for the following officials.

1. **Appointment by Central Government** : The ultimate authority in the matter of appointment of income-Tax authorities is the Central Government, though it may also, subject to rules and orders relating to public services and posts, authorize the Board, any Director General, Chief Commissioner, Director or Commissioner to appoint income-Tax authorities below the rank of Assistant Commissioner.
2. **Appointment by an Income-Tax authority** : Subject to the rules and orders of the Central Government regulating the conditions of service of persons in public services and posts, an Income-Tax authority, authorized in this behalf by the

Board, may appoint such executive or ministerial staff as may be necessary to assist it in the execution of its function.

16.3 CONTROL OF INCOME-TAX AUTHORITIES :

Sec.118 empowers the Board through a notification in the official gazette, as to which Income Tax authorities will be subordinate to which other Income Tax authority/authorities. The following chart helps us in understanding the hierarchy of income tax authorities. Generally, the assessment authorities are the line authorities and they will have direct connection with the assesses.



Let us discuss the powers and the functions of these authorities.

1. Central Board of Direct Taxes :

The Central Board of Direct Taxes (CBDT) is the highest executive authority whose powers of administration, supervision and control over the whole Income-Tax Department. It is constituted under the Central Board of Revenue Act, 1963.

Powers of Board : The following are the powers of the Board.

- I. The Board may from time to time issue orders, instructions and directions to other Income-Tax authorities as it may deem fit for proper administration of Income-Tax Act. Such instructions shall be observed and followed by all the officers and persons who are employed in the execution of the Act.
- II. No such order, instruction or direction shall be issued.
 - i. so as to require any income Tax authority to make a particular assessment or dispose of a particular case in a particular manner.
 - ii. so as to interfere with the discretion of Commissioner (Appeals) in the exercise of appellate functions.
- III. The Board may issue general or special orders whether by way of relation or otherwise of the provisions relating to filing of return of income u/s 139, assessment 158BFA penalty in respect of any class of incomes or class of cases for the proper administration of the Act.
- IV. The Board may, for avoiding genuine hardship, in any case or class of cases, by general or special order, authorize any Income-Tax authority, not being Commissioner (Appeals), to admit belated application or claim for any exemption, deduction, refund or any other relief under the Act and deal with the same on merits in accordance with the law.
- V. The Board may for avoiding genuine hardship, in any case or class of cases, by general or special orders, for reasons to be specified therein, relax any requirement contained in any of the provisions of Chapter IV or Chapter IVA, where the assessee has failed to comply with any requirement specified in any such provision for claiming deduction. However, such benefit shall be given only if –
 - i. the default was due to circumstances beyond the control of the assessee.

- ii. the assessee has complied with such requirement before the completion of assessment in relation to previous year in which such deduction is claimed.

16.4 JURISDICTION OF INCOME-TAX AUTHORITIES

Jurisdiction determined in accordance with direction of Board or Income tax Authority authorized by the Board [Sec.120(1) & (2)] : Income Tax authorities shall exercised all or any of the power sand performs all or any of the functions conferred on or, assigned to such authorities by or under this Act in accordance with such directions as the Board may issue or the Board may authorize any other income tax authority to issue orders in writing for the exercise of the powers and performance of the functions by all or any of other income tax authorities who are subordinate to it.

Explanation to Section 120(1) provides that any income tax authority, being an authority higher in rank, may exercise the powers and perform the functions of the income tax authority lower in rank, if it is so directed by the Board under the said section. It has also been provided that any such direction issued shall be deemed to be a direction issued by the Board under the said sub-section (1)

Directions or order to be issued based on certain criteria [section 120(3)] : In issuing the directions or orders, the Board or other income tax authority authorized by it may have regard to any one or more of the following criteria, namely

- (a) territorial area;
- (b) persons or classes of persons
- (c) incomes or classes of incomes; and
- (d) cases or classes of cases.

Income-Tax authorities shall exercise all or any of the powers and perform all or any of the functions conferred on or assigned to such authorities under this Act and as per the directions of the Board.

The Board may authorize any income-Tax authority to issue orders in writing for the exercise of the powers and performance of the functions of all or any of the other authority subordinate to it.

In issuing the directions or orders the Board or other Income Tax authority may have regard to any one or more of the following criteria.

- (a) territorial areas;
- (b) persons or classes of persons;
- (c) incomes or classes of income; and
- (d) cases or classes of cases

Jurisdiction of Assessing Officer :

1. If an Assessing Officer is vested with jurisdiction over any area then he shall have jurisdiction within the limit of such area in the case of any person.
 - a. Carrying on business or profession within that area or where the business/profession is carried on by any person in more places than one, if the principal place of business or profession is situated within that area.
 - b. Having place of residence within that area.
2. Any dispute relating to jurisdiction of an Assessing Officer to assess any person shall be determined by the Director General or Chief Commissioner or Commissioner of Income-Tax.
3. If the question of jurisdiction is relating to areas within the jurisdiction of different Director Generals, Chief Commissioners or Commissioners of Income Tax, then the concerned authorities can determine the issue.
4. If they are not in agreement then it shall be decided by the Board or by the Director General of Income-Tax or Chief Commissioner of Income-Tax or Commissioner as the Board may by notification in the Official Gazette authorize in this behalf.
5. Where the assessee calls on question the jurisdiction of an Assessing Officer and the Assessing Officer is not satisfied with such claim, he shall refer the matter for determination by Director General or Chief Commissioner or Commissioner of Income-Tax before completing the assessment.

16.5 POWERS OF INCOME-TAX AUTHORITIES

The following are the powers of Income Tax Authorities.

1. **Power to issue summon** : Sec.131 grants powers to Income-Tax Authorities for effective implementation of the functions assigned. When a summon is issued to a

person calling upon him to appear in person, he cannot be represented by any other person.

2. **Power to impound books** : When books and other records are produced under section 131 power is vested to impound them if required. An assessing Officer or Deputy Director can impound only after recording reasons and if retention is desired beyond 15 working days prior approval of higher authority is required. The time limit for retention of books impounded u/s 133A cannot exceed 10 days.
3. **Powers during survey** During survey of business premises, if it is informed that the assets of the business are kept at another place then survey can extend to such other place. Entry to such other place can be only after sunrise but before sunset.
4. **Power to presume** : Any valuable found during search is presumed to belong to the assessee; the contents of documents and account books are presumed as correct and the signature is presumed as that of the person who is assumed to have signed it and every document found is presumed to have been duly executed, stamped and attested.
5. **Power to refund excess cash** : If excess cash seized is refunded or the excess sale proceeds on auctioning of seized assets is refunded, assessee is entitled to interest at the rate of 6% from the expiry of 120 days after execution of search warrants up to the date of completion of the assessment consequent to the search.
6. **Power to involve Sec.13L** : Survey can be converted into a search proceeding if during the course of survey any money, jewellery, other valuable articles which as not disclosed has been found and it is considered appropriate to invoke sec.132.
7. **Power to furnish information** : Every assessee is entitled to confidentiality of information about his case with the Income-Tax department. However, Sec.138 empowers the Board or any person authorized by the Board can furnish information relating to an assessee to any authority or officer under any law. Besides, in public interest, Chief Commissioner or Commissioner can disclose information relating to any assessee to an applicant who seeks such information.

Inspectors of Income tax :

The income tax inspectors are appointed by the Principal Commissioner or Commissioners of Income Tax and are required to perform such duties/functions as may be assigned to them from time to time either by the CIT or by the authority under whom they had been appointed to work.

Thus, inspector of income tax does not perform any functions or exercise any power independently but only acts on directions, whether, statutory or administrative, issued by another income tax authority to whom he is sub-**ordinate**.

16.6 SEARCH AND SEIZURE – 132**Surveys**

Income-tax surveys are made under sections 133A and 133 B of the Act. Surveys are of three types :

- (a) **Specific Survey u/s 133A(1)** : This is the survey of the business premises [or place of charitable activity] of a tax-payer.
- (b) **Survey of Expenditure on Marriages, Parties, etc. u/s 133A(5)** : Section 133A(5) permits the collection of information regarding the nature and scale of expenditure incurred by a person on functions, ceremonies and events such as marriages, birthday parties, anniversary functions, etc.
- (c) **Door to Door Survey u/s 133B** : The objective of survey is to locate new assesses and thereby unearth black-money. Persons who have been avoiding from coming into the tax-net are brought in the mainstream, through a shop-to-shop or house-to-house survey. For this purpose, a questionnaire has been prepared in Form 45 D, which is to be filled in by the person being inquired.

Those who are already assesses are required to fill only the first six columns of the Form 45D, viz. name of the person attending to or helping in the business or profession at the time of filling this form, name, address and nature of the business/profession, its status, PAN/GIR No. and income-tax ward.

The Income-tax authority is empowered to enter the premises falling in his jurisdiction wherein a business or profession is being carried on, and to require the proprietor, the employee or any other person who may be attending to the business or

profession, to furnish information in Form No.45D. The Income-tax authority shall confine him to obtaining information in this form. He may, if necessary, ask the person present in the premises to explain any entry in the columns of the form and may also seek clarification, if there are obvious or glaring contradictions in the information, furnished. The income-tax authority conducting the survey cannot, however, demand production of or take extracts from or seize any books of account or other documents or verify any cash, stock or other valuable articles or record statement of any person.

If any person fails to comply with a notice u/s 133 B requiring the survey information in Form 45D, he shall be liable to pay a penalty upto Rs.1,000. [Sec.272AA]

Rights and Duties of the Persons Present in the Premises

Rights :

- (a) To verify the identity of the officials intending to carry out the survey.
- (b) If the survey is proposed to be carried out by an Inspector of Income-tax, to verify the authorization and to check that the name and address of the premises and the name of the Inspector are correctly mentioned.
- (c) To ascertain that the officer who has authorized the survey has jurisdiction over the case or over the premises.
- (d) To obtain a copy of the statement recorded by the authority conducting survey.
- (e) To consult and to be defended by a legal practitioner of his choice as per article 22(1) of the Constitution. The counsel may also be present during survey proceedings.

Duties:

In case of a survey u/s 133A, the persons present in the premises surveyed must afford the following facilities to the Income-tax Authorities:

- (a) Facility to inspect the books of account and documents;
- (b) Facility to check or verify cash, stock or other valuable articles;
- (c) To furnish such information as may be required on any matter which may be useful for any proceeding under the Act; and
- (d) Offer clarification that may be necessary.

In case of non-compliance/non-cooperation in a survey under section 133A, the Income-tax authority may invoke powers under sub-section (1) of Section 131 of the Act

for enforcing compliance with the requirement made and also levy penalty u/s 272A(1) for a sum of Rs.10,000.

Powers and Restrictions on Income Tax Authorities:

Power under Section 133A(1):

- (a) To enter any business premises [or place of charitable activity] to inspect the books of account and other documents as are available in the premises;
- (b) To check or verify cash, stock or other valuable articles or things which may be found at the place of survey;
- (c) To obtain information as he may require as to any matter;

Powers under Section 133A(2A):

- (d) To enter any office or place of business or profession between sunrise and sunset, to inspect the books of account and other documents as are available in such premises and to obtain such information as he may require, to verify as to whether tax has been deducted or collected as per the provisions of the Act;

Note: Under this provision the income-tax authority shall not have power to impound, the books/documents or to make inventory of cash, stock etc.

Powers under Section 133A(3):

- (e) To place marks of identification on such books of account and make or cause to be made extracts or copies there from;
- (f) To impound any books of account or other documents inspected by him, after recording reasons for so doing, and retain them in his custody up to 15 days (beyond 15 days after obtaining approval of the appropriate authority);
- (g) To make an inventory of cash, stock or any other valuable articles or things;
- (h) To record the statement of any person which may be useful for or relevant to any proceeding under the Act.

An authorised Inspector can exercise powers mentioned at (a) and (e) only. Powers u/s 133A(1) can be exercised by an Assistant Director/Deputy Director/Assessing Officer Tax Recovery Officer/Inspector, with the approval of the Joint Director/Joint Commissioner only.

Powers under section 133A(5):

- (i) To require the assessee or any other person, who has incurred the expenditure or has information about the expenditure incurred, to furnish information which may be useful for any proceeding under the Income-tax Act.
- (j) To record the statement of the assessee or any other person.

Note: Statements recorded under threat, coercion inducement or promises are not valid but the person concerned should take care to retract such statement without delay.

Restrictions:

- (a) An Income-tax Authority can only enter a building or place where a business or profession is carried on. [Sec.133A(2)]
- (b) The premises of a chartered accountant/lawyer/tax practitioner cannot be surveyed, in connection with survey of business place of their client, unless the client, in course of survey, states that his books of account/documents and records are kept in office of his chartered accountant/lawyer etc.
- (c) The survey at a premise, where business or profession is carried on, shall normally commence during the normal business hours. A survey once commenced, may continue after the closure of normal business hours. The survey at any other place, where books of account, or cash, stock or other valuable articles etc. are kept, can commence between sunrise and sunset. However, a survey once commenced may continue after sunset.
- (d) On no account the Income-tax Authority can remove or cause to be removed or impound any cash, stock or other valuable articles from the premises.
- (e) Premises cannot be sealed during survey.
- (f) The Income-tax authority cannot examine any person on oath.

Surrendering Income during Survey:

An assessee can always surrender (disclose) his income to the department. This he can do in course of a survey also. Whether penalty for concealment will be levied on such surrender or not depends on facts of each case.

The CBDT has emphasized that a survey should focus on gathering evidence and avoid obtaining admission of undisclosed income under coercion/undue influence.

Search and Seizure

Search and seizure can be carried out under any of the four laws, namely, the Income-tax Act, the Customs Act, the Excise Act and the Foreign Exchange Management (FEMA). The competent authority under the relevant Act shall issue the authorization in the prescribed form, to conduct the search and seizure under his signature and seal.

The power to search u/s 132 of the Income-tax Act shall be exercised only in consequence of information in the possession of the authority that he has reason to believe that the person (to be searched) is in possession of books of account or other documents which are not likely to be produced in response to a notice or that person is in possession of any movable property which represents undisclosed or untaxed income or property. The information must be some valid, definite information and not any imaginary or invalid information. An intimation simpliciter by the CBI that the money has been found in possession of a person which, according to the CBI, was undisclosed, or a bare intimation by the police or by any person, without something more, cannot be considered sufficient 'information' for initiating search.

If the provisions of section 132 are attracted, the designed officer shall unilaterally issue the warrant of authorization authorizing an officer for conducting the search. No prior notice or information is to be given to the person for the purpose of search. The reasons for issuing warrant of authorization have to be recorded necessarily, but the assessee has no right of inspection of documents or to a communication of reasons for belief at stage of issuing of authorization. It is only at stage of commencement of assessment proceedings after completion of search and seizure, if any, that requisite material may have to be disclosed to the assessee.

The warrant of authorization, although it extends only to search a place, must also indicate the person who is in possession of such books of account or other documents or property. Seizure will follow only after the search. There can be no seizure without the search of a place and that too under a bona fide and reasonable belief that the person has kept such books of account or property there.

Powers of the Search Officials:

Wide-ranging powers have been vested in the income-tax officials conducting search, such as enter and search any building, place or vehicle in occupation of the person being searched; search any person coming into or going out of such building, place of vehicle; require any person in possession or control of computerized accounts

or documents to facilitate inspection of such accounts or seize any books of account, other documents, money, bullion, jewellery etc.; order the owner not to remove any books of account, documents, money, bullion, etc. (not being stock-in-trade of the business) upto 60 days and to examine any person on oath.

However, where the bullion, jewellery or other valuable article or thing are stock-in-trade of the business of the assessee, the same shall not be seized but only a note or inventory shall be made by the authorized official.

Books of account and other documents impounded can be retained upto 30 days from the date of order of search assessment u/s 153A by that officer and beyond that period with the approval of the Chief Commissioner or Commissioner or Director General or Director. [Sec.132]

The search officials have a right to use reasonable means to remove any obstruction or overcome any resistance that may be encountered during a search.

The search officials have no power to make arrests. These are generally resorted to in cases where the detected offence is of a serious nature and the case appears destined for criminal prosecution. Generally, no arrests are made when the intention is departmental proceedings.

If in the course of a raid, officials discover illegal forex deals or that the money has been siphoned off into overseas banks, the relevant information is passed on to FEMA officials.

The CBDT has emphasized that a search should focus on gathering evidence and avoid obtaining admission of undisclosed income under coercion/undue influence.

[Provisional Attachment: The authorized officer may, to protect the interest of revenue, provisionally attach any property belonging to the assessee with proper approval. Such provisional attachment shall be effective for six months from the date of order of such attachment.] [Sec.132(9B) and (9C)]

[Reference to Valuation Officer: The authorized officer may, for the purpose of estimation of fair market value of a property, make reference to a Valuation Officer, for valuation as per section 142A. The Valuation Officer shall furnish the valuation report within 60 days of receipt reference.] [Sec.132(9D)]

Appeals against Retention of Seized Assets and Books of Account:

Where in the course of search, books of account or documents are seized and they are retained by the Department beyond a period of 30 days from the date of order of search assessment u/s 153A, the person entitled for the books of account and

documents can make an application to the Board giving its objection to the retention and requesting for the return of the books of accounts and documents, and let the department keep only photocopies. [Sec.132(10)]

Rights and Duties of the Person to be Searched:

Rights :

1. To see that the warrants of authorization is duly signed and sealed by the issuing authority.
2. To verify the identity of each member of the search party.
3. To have at least two respectable and independent residents of the locality as witnesses.
4. To have personal search of all members of the party before the start of the search and after conclusion of the search.
5. To be present personally during the course of search proceedings.
6. To be represented by a legal adviser, advocate or a chartered accountant.
7. To insist on the personal search of females by another female only with strict regard to decency.
8. To have a copy of the panchanama together with all the annexure.
9. To put his own seals on the packages containing the seized assets.
10. Woman having the occupancy of any apartments etc. to be searched has right to withdraw before the search party enters if according to the customs, she does not appear in public.
11. To call a medical practitioner if he is not well or in case of emergency.
12. To have his children permitted to go to school, after the examination of their bags.
13. To inspect the seals placed on various receptacles sealed in course of search and subsequently at the time of reopening of the seals.
14. To have the facility of having meals etc. at the normal time.
15. To carry out all normal day to day activities and perform his normal worship.
16. To leave the premises with the permission of the authorized officer.
17. To have a copy of any statement before it is used against him in an assessment or prosecution proceedings, by the Department.

18. To have inspection of the books of accounts etc. seized or to take extracts there from in the presence of any of the authorized officers or any other person empowered by him.
19. Every person who is examined u/s 132(4) has a right to ensure that the facts so stated by him have been recorded correctly.
20. To make an application objecting to the approval given by the CIT for retention of books and documents beyond 30 days from the date of the assessment order. The Board shall pass suitable orders after giving the applicant an opportunity of being heard.
21. To object against seizure of any item which does not represent concealed income and which has been duly disclosed in the return of income.
22. To object against seizure of jewellery and ornaments in defiance of CBDT's instruction No.1916, dated 11.5.1994 i.e. –
 - (a) In case of a wealth-tax assessee, gold, jewellery and ornaments found in excess of the gross weight declared in the wealth-tax return can only be seized.
 - (b) In case of person not assessed to wealth-tax, gold, jewellery and ornaments in excess of the 500 gms. per married lady, 250 gms. per unmarried lady and 100 gms. per male member of the family, can only be seized.

Duties :

1. To allow free and unhindered ingress into the premises.
2. To see the warrant of authorization and put signature on the same.
3. To identify all receptacles in which assets or books of account and documents are kept and to hand over keys to such receptacles to the authorized officer.
4. To identify and explain the ownership of the assets, books of account and documents found in the premises.
5. To identify every individual in the premises and to explain their relationship to the person being searched. He should not mislead by personation. If he cheats by pretending to be some other person or knowingly substitutes one person for another, it is an offence punishable u/s 416 of the IPC.
6. Not to allow or encourage the entry of any unauthorized person into the premises.

7. Not to remove any article from its place without the notice or knowledge of the authorized officer. If he secretes or destroys any document with the intention of preventing the same from being produced or used as an evidence before the Court or public servant, he shall be punishable with imprisonment or fine or both, in accordance with section 204 of the IPC.
8. To answer all queries truthfully and to the best of his knowledge. He should not allow nay their party to either interfere or prompt while his statement is being recorded by the authorized officer. In doing so, he should keep in mind that –
 - (i) If he refuses to answer a question on a subject relevant to the search operation, he shall be punishable with imprisonment or fine or both, u/s 79 of the IPC.
 - (ii) Being legally bound by an oath or affirmation to state the truth, if he makes a false statement, he shall be punishable by imprisonment or fine or both u/s 181 of the IPC.
 - (iii) Similarly if he provides evidence which is false and which he knows or believes to be false, he is liable to be punished u/s 191 of the IPC.
9. To affix his signature on the recorded statement, inventories and the panchanama.
10. To ensure that peace in maintained throughout the duration of the search, and to cooperate with the search party in all respects so that the search action is concluded at the earliest and in a peaceful manner.
11. Similar cooperation should be extended even after the search action is over, so as to enable the authorized officer to complete necessary follow-up investigations at the earliest.

Presumption as to Assets, Books of Account, etc. found in a Search or Survey [Sec.292C]:

Where any books of account/documents, money, bullion, jewellery or other valuable article/ thing is/are found in the possession or control of any person during a search u/s 132, of survey u/s 133A, it may be presumed t hat –

- (i) Such books of account/documents, money, bullion, etc. belong to such person;
- (ii) The contents of such books of account/documents are true;

- (iii) The signature and any part of books of account/documents, purported to be in the handwriting, of or signed by any particular person, are in the handwriting of that person;
- (iv) A document stamped, executed or attested, was duly stamped and executed or attested by the person purported to have so executed or attested that document.

Requisition of Books of Account/Documents or any Asset:

An income-tax authority (who has been authorized by the Director General/ Director or the Chief Commissioner/Commissioner) may requisition any books of account of other documents or any asset, if in consequence of information in his possession, he has reason to believe that –

- (a) A person to whom a summons u/s 131 or a notice u/s 142(1) was issued to produce any books of account of other documents, failed to produce such books of account or documents, and the same have been impounded by any officer, or such books of account or document will not be produced by that person after the same are returned to him by that officer, or
- (b) Any assets which have been seized by any officer, represent, wholly or partly, and undisclosed income or property. [Sec.132A]

The assets so requisitioned may be applied towards recovery of any existing tax liability (not including advance tax) or a liability determined on assessment u/s 153A in a search case or a liability arising on an application made before the Settlement Commission u/s 245C(1). [Sec.132B]

Procedure for Assessment in Cases of Search:

Undisclosed income determined as a result of a search u/s 132 or requisition for account books, etc. u/s 132A, shall be assessed on a *de novo* basis. The salient features of the scheme are as under:

- (1) The Assessing Officer shall require the person to furnish, within the specified time, return of income in respect of six assessment years immediately preceding the assessment year relevant to the previous year in which the search was conducted or the requisition made, [and for the 'relevant assessment year(s)'.] [Sec.153A]

Notes :

(a) However, in following cases the Assessing Officer shall not issue notice for initiation of assessment/reassessment proceedings for preceding six A.Ys. [and for the 'relevant assessment years(s)']:

- (i) Where in a search u/s 132 or a requisition u/s 132A, a person is found to be in possession of any money, bullion, jewellery or other valuable article/things, whether or not he is its actual owner, and
- (ii) Where the search is conducted or the requisition is made in the area of an assembly or Parliamentary constituency during the course of election in such constituency.

Thus, in such cases assessment shall be made only for the year in which search or requisition is made. [Rule 112F]

(b) A notice for assessment/reassessment for the 'relevant assessment year(s)' shall be issued only if the Assessing Officer has any books of account/document/evidence revealing that the income, represented in the form of an asset, which has escaped assessment is Rs.50 lakhs or more in the relevant assessment year or in aggregate in the relevant assessment year(s), and the search is initiated or requisition is made on or after 1.4.2017.

(c) 'Relevant assessment year' is the assessment year preceding the assessment year relevant in made, and which falls beyond six assessment years relevant to the previous year in which search is conducted or requisition is made, and which falls beyond six assessment years but not later than ten A.Ys. from the end of the assessment year relevant to the previous year in which search is conducted or requisition is made.

(2) Assessment or reassessment proceedings relating to these assessment years, pending as on the date of initiation of search/requisition shall abate. However, if the assessment made consequent upon the search is annulled in an appeal, the assessment/reassessment proceeding which had abated shall stand revived.

[Sec.153A]

- (3) Tax shall be chargeable at the rate(s) applicable to each assessment year. [Sec.153A]
- (4) The Assessing Officer shall assess or reassess the total income of each of the six assessment years, within 21 months from the end of the financial year in which the last of the authorizations for search/requisition is executed. All provisions of the Act relating to assessment/reassessment shall apply to such assessment/reassessment also. [Sec.153B]
- (5) Assessment in respect of the assessment year relevant to the previous year in which the search is conducted or requisition is made, shall be completed within 21 months from the end of the financial year in which the last of the authorizations for search/requisition is executed. [Sec.153B]

Note:

- (1) In case the last of the authorizations for search/requisition was executed during financial year 2018-19, the time-limit from months, and for those executed during financial year 2019-20 and onwards shall be 12 months.
- (2) Extended time-limits, shall apply where a reference to Transfer Pricing Officer u/s 92CA is made during the course of assessment proceedings.

The limitation period shall exclude the periods stated in Sec.153B Expl. However, the minimum time available with the Assessing Officer after excluding such periods shall be sixty days. [Sec.153B]

- (6) If the Assessing Officer is satisfied that – (i) any money, bullion, jewellery or other valuable article or thing seized or requisitioned belongs to some other person, or (ii) the books of account or documents seized or requisitioned pertain to or the information contained t herein related to some other person, then such assets, books of account or documents shall be handed over to the Assessing Officer having jurisdiction over such other person who shall proceed against him and make an assessment u/s 153A if he is satisfied that the books of account, documents, etc. seized have a bearing upon determination of total income of that person [for 6 A.Ys immediately preceding the A.Y. relevant to the previous year in which search is conducted/requisition is made and' for the relevant assessment year(s)]. [Sec.153C]

Note: It has been clarified that the recording of satisfaction note in relation to the 'other person' is a pre-requisite and the satisfaction note can be prepared at any of the following stages.

- (a) At the time of or along with the initiation of proceedings against the searched person; or
 - (b) In the course of the assessment proceedings; or
 - (c) Immediately after the completion of assessment in respect of the searched person.
- (7) No order of assessment/reassessment shall be passed by an Assessing Officer below the rank of Joint Commissioner except with the prior approval of the Joint Commissioner or with the prior approval of the Commissioner u/s 144 BA. [Sec.153D]

Note: An authorization u/s 132 or a requisition u/s 132A may be made mentioning names of more than one person, however, the assessment/reassessment shall be made separately for each person named therein. [Sec.292CC]

16.7 SELF-ASSESSMENT QUESTIONS

A. Short Answer Questions :

1. Central Board of Direct Taxes
2. Commissioner (Appeals)
3. Income Tax Officer
4. Search and Seizure
5. Powers during Survey

B. Essay Type Questions.

1. What are the authorities provided by the Income Tax Act for the administration of tax? Discuss briefly the powers of Income-tax Officer.
2. Who are the authorities entrusted with the administration of the Income-tax Act in India? How are they appointed and what is their jurisdiction and powers under the Act?
3. What are the various Income-tax authorities constituted under the Income-tax Act and what are their functions? Explain.

4. Under what circumstances can the powers of search and seizure be exercised under section 132?
5. Discuss the conditions under which authority for search and seizure can be issued. Who can issue such authority and to whom?
6. What are the powers of the Commissioner of Income-tax in regard to search and seizure under section 132 of the Income Tax Act?
7. Explain the provisions relating to Income Tax Surveys under Sec.133A and 133B.
8. What is Search and Seizure? Explain the provisions of the Act relating to Search and Seizure.

Chapter 17**PROCEDURE FOR ASSESSMENT****Objectives :**

After going through this lesson you should be able to

- Understand the meaning of assessment
- Know the provisions relating to filing of return
- Specify the types of assessments

Structure :

- 17.1 Introduction**
- 17.2 Filing of Return**
- 17.3 Permanent Account Number**
- 17.4 Return by whom to be signed**
- 17.5 Types of Assessment**
- 17.6 Self-Assessment**
- 17.7 Regular Assessment**
- 17.8 Best Judgement Assessment**
- 17.9 Re-assessment**
- 17.10 Self-Assessment Questions**

17.1 INTRODUCTION

After having discussed how to compute total income and tax liability of an assessee let us now go through how to file a return and the process of assessing the income returned and determination of tax payable can be described as assessment. The word 'assessment' has been used in the Income Tax Act meaning differently at different places. On certain occasions it refers to computation of income, sometimes to the determination of tax payable and sometimes to the whole procedure laid down in the Act of imposing liability on the tax payer.

While using the word 'Assessment' in its most comprehensive sense, i.e., including the whole procedure for imposing liability upon the tax payer, the method for assessment of tax can be divided into three steps.

- (a) Computation of tax payable income or taxable income.
- (b) Computation of tax payable on such taxable income; and
- (c) Serving of notice of demand in prescribed form.

Computation of total income of an assessee can be done only when he has furnished particulars of his income. The Act makes it the obligation of each and every person to submit particulars of the income relating to a particular accounting period to the Income Tax Officer of his area in prescribed form. This prescribed form is known as 'Return of Income' and its filing is first step towards assessment procedure. The sections covered in this chapter are :

Section	Nature of Deduction
Section 139	Return of Income
Section 139A	Permanent Account number
Section 140	Return by whom to be signed
Section 140A	Self assessment
Section 142	Inquiry before assessment
Section 143	Regular assessment
Section 144	Best Judgement assessment
Section 147	Income escaping assessment

The word 'assessment' means the computation of income determination of the amount of tax, interest or penalty payable under the Act. Assessment is one integrated process involving not only the assessment of the total income but also determination of the tax. Initially, the assessee is required to assess himself and finally the Assessing Officer assesses the assessee. The starting point is the return to be filed by assessee under section 139.

17.2 FILING OF RETURN OF INCOME [Section 139 (1)]

Who should File Return?

Following persons are required to file return of other income, duly filled in completely and correctly:

- (1) Individuals, Hindu undivided families, Association of Persons (AOP)/Body of Individuals (BOI) (where individual shares of the members are known) and artificial juridical persons (such as deities of temples) –
- (a) Having taxable income exceeding the basic exemption limit for the year, or [Sec.139(1)]
 - (b) Having taxable income (before making deductions u/ss 10(38) or 10A or 10B or 10BA or under Chapter VIA) exceeding the basic exemption limit. [Sec.139(1) Sixth Proviso]
- The **basic exemption limit** is Rs.2,50,000 (Rs.3,00,000 for resident senior citizens 60 years or above but below 80 years and Rs.5,00,000 for resident very senior citizens 80 years or above). Filing of return is compulsory if the taxable income exceeds the basic exemption limit (as above) even if the tax payable is nil or refundable.
- (2) Non-resident Indians except those covered u/s 115AC and 115G, having taxable income exceeding Rs.2,50,000. [Sec.139(1)]
- (3) All companies and partnership firms including Limited Liability Partnerships irrespective of income/loss. This is mandatory. [Sec.139(1) Third Proviso]
- (4) Co-operative society and local authority, irrespective of income.
- (5) **AOP/BOI** where shares of the members are indeterminate or unknown, irrespective of income. [Sec. 139(1)]
- (6) **A resident person** (excluding not ordinarily resident) [not other-wise required to furnish his return u/s 139(1)] who, at any time during the previous year (a) holds, as a beneficial owner, any asset (including any financial interest in any entity) located out-side India or signing authority in any account outside India, or (b) is a beneficiary of any asset (including any financial interest in any entity) located outside India, except where income arising from such asset is includible in the income of the assessee. [Sec.139(1) Fourth & Fifth Proviso]
- (7) **Societies and Trusts** deriving income from property held for charitable or religious purposes or receiving voluntary contributions for such purposes, and having total income (before giving effect of Sec.11 and 12) exceeding Rs.2,50,000. [Sec. 139(4A)]

Forms of Return:

S. No.	Assessee	Form No.
(i)	Individuals having income from salary, pension, family pension or income from one house property (not being any loss from property brought forward), or income from other sources not being a loss (except winnings from lottery/rate horses) and does not have agricultural income exceeding Rs.5,000 and whose total income does not exceed Rs.50 lakhs	SAHAJ (ITR -1)2
(ii)	Individuals [other than those included in (i) above] H.U.F.s not having any income from business/profession under any proprietorship	ITR-22
(iii)	Individuals/H.U.F.s/ Firms (except LLP) having income from business/profession computed under Estimated Income Scheme u/s 44AD or 44ADA or 44AE and does not have agricultural income exceeding Rs.5,000.	SUGAM (ITR – 4)2
(iv)	Individuals/H.U.Fs. [other than those included in (i), (ii), or (iii) above] and having income from a proprietary business/profession	ITR-32
(v)	Any assessee [other than individual/HUF/company and those covered under (vii) below] i.e. Firms/AOP/BOI	ITR-52
(vi)	Companies [other than those covered under (vii) below]	ITR-62
(vii)	Assessees (including companies) claiming exemption u/s 11 i.e. income from property held for charitable and religious purposes, or political parties/funds/institutions/agencies/business trust required to furnish return u/s 139(4B), (4C), (4E) or (4F)	ITR-72

17.3 CONTENTS OF THE RETURN:

- (1) Acknowledgement Slip (ITR-C):** It is a summary of the return containing name, address, Permanent Account Number, gross total income, deductions, total income and tax paid, acknowledgement no., date of receipt, ward/circle, range.

(2) Return From ITR-2:

Part A GEN	:	General information requiring identificatory and other data
Part B-TI/TTI	:	Outline of the total income and tax computation, verification, details of TRP and details of advance tax, self-assessment tax, TDS on salary, TDS on other incomes and TCS.
Schedule S	:	Salaries
Schedule HP	:	Income from House Property
Schedule IF	:	Information regarding Partnership Firms in which assessee is a partner
Schedule BP	:	Income from Firms
Schedule CG	:	Capital Gains
Schedule OS	:	Income from Other Sources
Schedule	:	Income after set off of current year losses
CYLA		
Schedule	:	Income after set off of Brought Forward Losses of earlier years
BFLA		
Schedule CFL	:	Losses to be carried forward to future years
Schedule VIA	:	Deductions under Chapter VI-A.
Schedule 80G	:	Donations entitled for deduction u/s 80G.
Schedule SPI	:	Income of specified persons includable in income of the assessee
Schedule SI	:	Income taxable at special rates
Schedule EI	:	Exempt income
Schedule PTI	:	Pass through income from business trust/investment trust u/s 115UA/115UB
Schedule FSI	:	Income from outside India and tax relief.
Schedule TR	:	Details of tax Relief claimed and taxes Paid outside India
Schedule FA	:	Details of Foreign Assets.
Schedule 5A	:	Apportionment of income between spouses governed by Portuguese Civil Code
Schedule AL	:	Assets and Liabilities at the end of year (if total income exceeds Rs.50 lakhs)

17.4 AADHAAR NO. MANDATORY W.E.F. 1.7.2017:

W.e.f. 1.7.2017, it shall be mandatorily for a person furnishing his return of income, to quote his Aadhaar Number in the return. Where a person has applied for Aadhaar but the same is not allotted to him, he may quote the Enrolment ID of Aadhaar application form issued to him. [Sec.139AA]

Filling the Return of Income:

1. Round off the income under each head to the nearest rupee and ignore paise. Do not qualify the figures by 'About' or 'Approximately'.
2. In case of any loss under any head of income or in the aggregate, indicate it with a (-) minus sign.
3. Total income should be rounded off to the nearest multiple of 10.
4. Mention Challan Identification Number (CIN) in respect of all payments of tax (as advance tax or as self-assessment tax) made.
5. Mention the Unique Transaction Number (UTN) in respect of Tax Deducted/Collected at source, provided by the tax deductor/collector.
6. Check your annual statement of TDS/TCS (Form 26AS) available on the website of Income Tax Department. Besides the amount of TDS/TCS, it also reflects the amount of income liable to tax for the year. Ensure that the amounts of income and tax depicted in 26AS match with the amount of income included in the computation of total income prepared by you, and the total amount of TDS/TCS as per certificates available with you. In case Form 26AS shows some extra TDS/TCS, obtain the certificate from the deductor/collector. In case 26AS does not reflect any TDS/TCS for which you have a certificate, contract the deductor/collector for making necessary correction in the TDS/TCS statement filed by him.
7. The verification is to be signed by the assessee himself, or by the Managing partner/any partner in case of a firm, or by the designated partner/any partner in case of a firm, or by the designated partner/any partner in case of a limited liability partnership, or by the Karta in case of a HUF, or by the Managing Director/any director in case of a company, or by any of the members or principal officers in case of an association. In unavoidable circumstances, return may be signed by a duly authorised person, whose power of attorney should be duly executed and

preserves. [Sec.140]. Verification should be signed only by an authorised person. An unsigned return or a return signed by an unauthorised person shall be treated as invalid.

8. The assessee should furnish his bank account particulars in the return so as to enable the department to send the refund due, if any, through Electronic Clearing System.

Precautions in filing return :

1. Write neatly and preferably in block letters. Write in ink preferably blue. Losses may be highlighted in red ink.
2. All parts of the return and verification should be filled in neatly and properly, so that the form is not rejected by the department.
3. Alterations/cuttings, if any, should be duly authenticated.
4. Do not leave any column blank. Write Nil/Not Applicable (N.A.), wherever necessary and not any mark or symbol.
5. Pay all 'taxes due' before furnishing the return.

No Documents to be attached with Return Forms:

The CBDT is empowered dispense with the requirement of furnishing any document, statement, receipt, certificate, audit reports or any other document mandatory required to be furnished along with the return, in case of any class or classes of persons, provided such documents, etc. shall be produced before the Assessing Officer on demand. Accordingly, the CBDT has prescribed that return forms shall not be accompanied by any attachment/annexure including statement of computation of income or tax or notes thereto, copies of balance sheet, profit and loss account or notes thereto, TDS/TCS certificate, proof of payment of advance tax/self-assessment tax, audit report or any other document. However, audit report u/s 10(23C)(iv), (v), (vi) or (via), 10A, 10AAS, 12A, 44AB, 44DA, 50B, 80-IA, 80-IB, 80-IC, 80-ID, 80-JJAA, 80-LA, 92E, 115JB, 115JC or 115VW shall be furnished electronically along with the return. It has been clarified that –

- (1) The tax-audit shall be completed and audit report shall be obtained before the due date. Relevant columns of the return form should be filled as per the report.
- (2) No other document, statutory form or audit report (except those mentioned earlier) shall be attached with the return. All these documents should be retained by the assessee and furnished in original during scrutiny proceedings.

- (3) The credit for TDS/TCS shall be allowed on the basis of details furnished in the relevant schedules of the return form.

17.5 DOCUMENTS TO BE PREPARED/OBTAINED BY THE ASSESSEE IN SUPPORT OF THE RETURN:

New return forms have dispensed with the requirement of enclosing any documents in support of the return. However, in the opinion of Board of Editors, even though not required to be submitted along with the return, it is advisable that the documents be prepared/obtained beforehand, since the Assessing Officer may, as per section 139C, require an assessee to furnish these documents at any time after the filing of return.

- (1) Statement of Computation of Income and tax.
- (2) T.D.S. Certificates in Form 16 or 16A or 16B as applicable.
- (3) Certificate/Receipts of payment of insurance premium, provident fund, purchase of NSCs, new equity shares, mutual fund, medical insurance, donations, etc. in support of deductions claimed.
- (4) Audit report, balance sheet, trading, profit and loss account, personal account of proprietor or partners.
- (5) Statement of receipts and payments, where no regular books of account are maintained.
- (6) Certificate of interest on housing loan from the lender, in support of deduction from house property income.
- (7) Other documents/statements in support of income.

TDS/TCS Certificates may be Furnished Later Also:

Where a TDS/TCS Certificate has not been issued by the person deducting or collecting tax, a return may be filed without such certificate (or without furnishing details of such certificate). Such return shall not be treated as defective, if the TDS/TCS Certificate is furnished within two years from the end of the relevant assessment year. Though TDS/TCS certificates are not required to be filed along with the return, still the certificates must be obtained and duly preserved as the same may be called by the Assessing Officer later on.

Self-Assessment Tax: [Sec. 140A]

Under self-assessment scheme, before filing income-tax return, an assessee has to pay self-assessment tax along with Challan No.280. Self-assessment tax payable = Tax Payable on total income as per return – Advance tax paid – TDS/TCS, if any – Double

Taxation Relief u/s 90, 90A or 91 – Tax Credit for MAY u/s 115JAA (in case of companies)/ for AMT u/s 115JD (for other persons) + interest payable u/s 234A for delay in furnishing the return or u/s 234B/234C for default or delay in payment of advance tax + fee or delay in furnishing of return u/s 234F.

Illu.1 : Mr. Jairam has a tax liability of Rs.18,128 for A.Y. 2018-19, of which Rs.330 is paid as TDS and Rs.15,759 as advance tax installments. He is also liable to pay interest u/s 234A Rs.140, u/s 234B Rs.80 and u/s 234C Rs.86. At the time of filing of return of income for A.Y. 2018-19 on 10.2.2019, the amount of self-assessment tax is determined as under:

Solution :

	Rs.	Rs.
Tax payable on total income		18,128
Less: Advance tax	15,759	
Less: TDS	330	16,089
		2,039
Add: Interest payable u/ss 234A, 234B and 234C (Rs.140 + Rs.80 + Rs.86)		306
Add: Late Fee u/s 234F		10,000
Self-assessment tax u/s 140A		12,345

Procedure for Payment of Tax:

The salient features of the present system for payment of taxes called Online Tax Accounting System (OLTAS) are:

(a) The applicable single copy challans are as under:

Challan No. 280 - For payment of Income tax (advance tax/self-assessment tax/tax on regular assessment) by all categories of tax payers.

Challan No.281 - For tax Deducted at Source

Challan No.282 - For other Direct Taxes (including Wealth tax and Securities Transaction Tax)

(b) Tax payer's Counterfoil: The challans have a taxpayer counterfoil at the bottom, which will be returned by the bank duly stamped and receipted.

(c) Challan Identification No.: The bank will give a stamped acknowledgement on the taxpayer's counterfoil mentioning the name of the bank branch, the 7

digit BSR Code of the Bank branch, the date of deposit (DD/MM/YY) and a running serial number of Challan (5 digit) collectively called the Challan Identification No. (CIN).

- (d) Tax payer should mention the CIN in the relevant column in his income-tax return.

Electronic Payment of Tax:

All assesses required to get their accounts audited u/s 44AB and all companies are mandatorily required to make electronic payment of taxes through internet banking facility or through internet by way of credit or debit cards. Other assesses may also make payment of tax electronically. An assessee can make electronic payment of tax from his own account or from the account of any other person in an authorised bank. However, the challan must clearly indicate the PAN of the assessee on whose behalf the payment is made. For details about e-payment, see chapter 'e-Payment of Tax and e-Filing of Return'.

Procedure of Filing Return:

Modes of Filing Return: A return of income may be furnished –

- (i) In paper form (along with Acknowledgement slip),
- (ii) Electronically under digital signature,
- (iii) Transmitting the data electronically in the return under electronic verification code,
- (iv) Transmitting the data in return electronically followed by a verification of the return in Form ITR-V (in paper form, in duplicate) signed manually.

Mode of Filing Return by Different Assessee:

- (1) Individuals or HUFs required to get their accounts audited u/s 44AB are mandatorily required to furnish the return electronically under digital signature only.
- (2) An individual or HUF (not required to get his/its accounts audited u/s 44AB), - (a) Who is an individual of the age of 80 years or more at any time during the previous year, or (b) Whose income does not exceed Rs.5 lakhs and no refund is claimed in the return, and who furnishes his return in Form No. ITR – 1 (SAHAJ) or No. ITR-4 (SUGAM), may furnish the return in any of the modes specified above.

- (3) An individual or HUF not covered in (1) or (2) above may file his/its return electronically in any of the modes specified in (ii), (iii) or (iv) above.
- (4) Firms furnishing their return in Form ITR-5 and required to get their accounts audited u/s 44AB are mandatory required to furnish the return electronically under digital signature only.
- (5) Firms and other persons (not covered above) furnishing their return in Form ITR-5 shall be required to furnish their return electronically in any of the modes specified in (ii), (iii) and (iv) above.
- (6) Companies furnishing their return, in Form ITR-6 and Political parties furnishing their return in Form ITR-7, are mandatorily required to furnish the return electronically under digital signature only.
- (7) Trusts, etc. [except political parties] required to furnish their return in Form ITR-7 may furnish their return, electronically in any of the modes specified in (ii), (iii) and (iv) above. Trusts required to give a notice of accumulation of income u/s 11(2)(a) shall furnish the same electronically.
- (8) An assessee required to furnish an audit report u/s 10(23C)(iv), (v), (vi) or (via), 10A, 10AA, 12(a)(1)(b), 44AB, 44DA, 50B, 80-IA, 80-IB, 80-IC, 80-ID, 80JJAA, 80-LA, 92E, 115JB, 115JC or 115VW or to give a notice u/s 11(2)(a), shall furnish the return electronically.

Audit Reports to be filed Electronically: Besides, the audit report u/s 10(23C)(iv), (v), (vi) or (via), 10A, 10AA, 12A, 44AB, 44DA, 50B, 80-IA, 80-IB, 80-IC, 80-ID, 80-JJA, 80-LA, 92E, 115JB, 115JC or 115 VW shall also be furnished electronically.

Where to File Return :

A return in paper form should be filed with the Assessing Officer who assessed taxpayer in the preceding assessment year or to whom the records have since been transferred. The new assesses should file return to the Assessing Officer, who has territorial jurisdiction over the residence or the principal place of business of the assessee or with the Assessing Officer having special jurisdiction over specific assessee or classes of assesses or classes of income. For example, assessee having income from contract business, should file their Income Tax returns with the Assessing Officer having jurisdiction over the contractor's circle. A doctor or lawyer or chartered accountant should file his return in the respective professional circle.

The return in the prescribed form duly stapled with acknowledgement slip should be delivered in person or through a messenger at counter against a receipted copy of the acknowledgement slip. In special circumstances, the return may be sent by registered post.

17.6 E-FILING OF RETURN:

E-return shall be furnished at <http://incometaxindiaefiling.gov.in>, either with digital signature or with e-verification code. In case an e-return is furnished without digital signature/e-verification code, it shall be followed by a verification in Form ITR-V posted to 'Income-tax Department CPC, Post Box No.-1, Electronic City Post Office, Bangalore-560100, Karnataka'. On receipt of ITR-V, the CPC shall send an e-mail acknowledging its receipt.

Filing of Return through tax Return Prepare: [Sec. 139B]

Assesseees may get their return of income prepared and furnished through a Tax Return Preparer.

Assesseees Eligible: The scheme shall apply to specified class or classes of persons, except companies and those required to get their accounts audited u/s 44AB or any other law.

Who is Tax Return Preparer: Any individual (except a chartered accountant, a lawyer or an employee of a bank where the assessee maintains an account) having prescribed qualifications and training may apply for an authorisation to act as a Tax Return Preparer.

Duties of Tax Return Preparer: The TRP shall assist the assessee in the specified manner, in furnishing the return of income and shall also affix his signature on the return.

Fees: The TRPs are allowed to charge a maximum fee of Rs.250 per return. The department also pays incentive to the TRPs at a percentage of tax paid on returns prepared by them subject to a maximum of specified amount.

Home Visit: Tax payers can avail the facility of 'Register for Home Visit' on website www.trpscheme.com, wherein the nearest available TRP shall visit the taxpayer and render assistance, at the convenient date and time.

Online tax Help: On the website, a taxpayer can fill in his tax related query along with his contact details. The query will be resolved by tax experts through e-mail or phone within 24 hours.

Filing of Return on Computer Readable Medium:

A salaried tax-payer may, at his option, furnish his return of income to his employer, in accordance with the scheme for bulk filing of returns. The employer shall furnish all such returns received by him on or before the due date, on a floppy, diskette, magnetic cartridge, tape, CD-ROM or any other computer readable media, in the prescribed manner. [Sec. 139(1A)]

Time for Filing Return:

The due dates filing of returns are as follows

- (1) Assesseees required to furnish a report u/s 92E in relation to international transactions or specified domestic transactions - **30th November**
- (2) Companies (other than in 1 above) – **30th September**
- (3) Assesseees other than companies, whose accounts are required to be audited under the Income Tax Act or any other law – **30th September**
- (4) A working partner of a firm whose accounts are required to be audited – **30th September**
- (5) All other assesseees (not included in 1 to 4 above) – **31st July**

Where the last day for filing return is a day on which the office is closed, the assessee can file the return on the next day on which the office is opened and in such cases the return will be considered to have been filed within the specified time limit. No extension of time for filing return is available. However, a return may be filed late. See para 'Belated Return' below. A return claiming carry forward of any business loss or speculation loss or loss from a business specified u/s 35AD or capital loss or loss from the activity of maintaining race horses, must be furnished before the due date, otherwise the carry forward of such loss shall not be allowed.

Belated Return:

A belated return may be filed upto the end of the relevant assessment year or before the completion of assessment, whichever is earlier. Thus, return for A.Y. 2018-19, if not filed by the due date, may be filed up to 31.3.2019. A late return attracts interest and

late fee and a return filed after the end of the assessment year attracts penalty also. Details given hereinafter.

Interest for No Return/Late Return:

In case a return is filed after the specified due date or is not filed at all, simple interest is payable on the amount of tax assessed as reduced by the amount of advance tax paid, TDS/TCS, double taxation relief u/s 90, 90A or 91 and tax credit for MAT u/s 115JAA (for companies)/for AMT u/s 115JD (for other persons) @ 1% for every month (or part of month) of delay, i.e. from the due date to the date of filing the return, or where no return has been filed, upto the date of completion of assessment u/s 144. [Secs. 234A and 140A(1A)] Interest as above shall be calculated on the amount of tax payable on returned income as reduced by advance tax, TDS, etc. and paid along with self-assessment tax.

Illu.2 : Mr. Raju reports his income at Rs.5,24,650 and has a tax liability of Rs.18,128 for A.Y. 2018-19, of which Rs.330 is paid as TDS and Rs.15,759 as advance tax installments. The due date for filing of return in his case is 31.7.2018. He however, files his return on 10.2.2019. He shall be liable to pay interest u/s 234A as under:

Solution :

Calculation of Tax payable

	Rs.	Rs.
Tax payable on total income		18,128
Less: Advance Tax	15,759	
Less: TDS	330	16,089
Balance payable		2,039

Interest u/s 234A on Rs.2,000@ 1% p.m. for 7 months (i.e. August 2018 to February 2019) , Rs.140 Fee for Delay in Filing of return u/s 234F, Rs.10,000.

The amount of balance tax payable in respect of which interest is payable shall be rounded off to nearest lower multiple of Rs.100. The interest shall be payable for every month (or a part of month) of delay. No interest shall be payable in case the balance tax payable is nil or refundable.

Waiver of Interest:

The Central Board of Direct taxes is empowered to relax the provisions in case of default in filing the income-tax return under Section 139 and the mandatory interest under Section 234A in suitable cases.

Fee for Failure/Delay in Furnishing Return:

In case a person required to furnish a return of income u/s 139, in respect of A.Y. 2018-19 and onwards, fails to do so by the specified due date, he shall be liable to pay a fee as under: (i) In case the total income of the person is up to Rs.5 lakh – Rs.1,000 (ii) In other cases – (a) If return is furnished by 31st December of the assessment year – Rs.5,000; (b) If return is furnished after 31st December of the assessment year – Rs.10,000. If the return is furnished after the end of the relevant assessment year, the assessee is also liable to penalty/prosecution discussed below.

Penalty/Prosecution for Not Filing/Late Filing of the Return:

If a person required to file return u/s 139(1) in relation to A.Y.2017-18 or any earlier year fails to file the return before the end of the relevant assessment year, a penalty of Rs.5,000 shall be leviable. [Sec.271F]

If any person willfully fails to file his return of income u/s 139(1), he shall be punishable with imprisonment of minimum 3 months (maximum 7 years) and with fine. [Sec.276CC] However, a person shall not be prosecuted if he furnishes his return before the expiry of the assessment year or the amount of [tax payable by that person (not being a company)] (after deducting advance tax and TDS) does not exceed Rs.3,000. This immunity shall not be available if the return is filed either after deduction of failure to file return or in response to notice u/s 142(1)(i) or u/s 148.

Revised Return:

If any mistake/defect/omission in the original return u/s 139(1) or belated return u/s 139(4), is noticed by the assessee, he can furnish a revised return before the assessment has been made or within the relevant assessment year, whichever is earlier. [Sec. 139(5)]. In case the defect is pointed out by Assessing Officer, the revised return should be filed within 15 days of the receipt of information from Assessing Officer.

Defective Return:

A return of income shall be treated as defective in following cases:

- (a) Where the annexures, statements and columns in the return relating to computation of income under each head, computation of gross total income and total income, have not been duly filled in;

- (b) Where the return is not accompanied by –
- (i) A statement of computation of tax payable on the basis of return;
 - (ii) The tax-audit report u/s 44AB, or where the report has been furnished prior to the filing of return, by a copy of such report together with proof of furnishing their report;
 - (iii) Proof of tax deducted or collected at source, advance tax and self-assessment tax;
 - (iv) Copies of manufacturing account, trading account, profit and loss account/income and expenditure account, balance sheet, personal account(s) of the proprietor, partners of a firm or members of an AOP/BOI;
 - (v) Where the accounts have been audited, copies of the audited profit and loss account, balance sheet and the auditor's report, and where a cost-audit has been conducted a copy of the cost-auditor's report;
 - (vi) Where no regular books of account are maintained, a statement indicating the turnover/gross receipts, gross profit, expenses and net profit, total sundry debtors, sundry creditors, stock-in-trade and cash balance etc.

Where a return is found to be defective, the Assessing Officer may intimate the defect to the assessee giving him an opportunity to rectify the defect within 15 days (or within such period as may be specified), if the defect is not rectified within the stipulated period, the return shall be treated as an invalid return and the assessee shall be deemed to have never furnished the return.

Return in Response to a Notice:

In case an assessee fails to furnish his return, by the due date specified u/s 139(1), or before the end of the relevant assessment year, the Assessing Officer may issue a notice upon him requiring him, to furnish his return by the date specified in the notice. [Sec. 142(1)]. Besides, if the Assessing Officer has reason to believe that any income has escaped assessment, he shall issue a notice upon the assessee requiring him to furnish a return of his income by the specified date. The Assessing Officer shall have to record reasons for issuing such notice.

17.7 PERMANENT ACCOUNT NUMBER [Sec.139A]

Permanent Account Number (P.A.N.) means a number which the Assessing Officer may allot to any person for purposes of identification, including a number allotted under the new series. ``Permanent Account Number under the new series'' will mean a number which will have ten alpha-numeric characters to be issued on a laminated card. The following persons are required to apply for and obtain Permanent Account Number.

- (i) Any person who is assessable to tax either in respect of his income or the income of any other person is required to apply on or before the 31st May of the relevant assessment year.
- (ii) Any person carrying on business/profession whose turnover of gross receipt is likely to exceed Rs.5,00,000 in any previous year is required to apply before the end of the relevant previous year.
- (iii) Any person who is required to furnish a return of income under section 139(4A) is required to apply before the end of the previous year.
- (iv) Any person registered under the Central Sales Tax Act, 1956 or the General Sales Tax Act of the appropriate state or union territory.

Quoting of PAN : According to Rule 114B of the Income-tax Rules, all documents pertaining to the transactions in relation to which Permanent Account Number to be quoted as required under section 139 A are as follows.

- (a) Sale or purchase of any immovable property valued at Rs.5 lakhs or more.
- (b) Sale or purchase of motor vehicle or vehicle, as defined section 2(28) of the Motor Vehicle Act, 1988 (other than a two-wheeled) motor vehicle,
- (c) A time deposit with a banking company exceeding Rs.50,000;
- (d) A deposit, exceeding Rs.50,000 in any account with post Office Savings Bank;
- (e) Any contract for sale or purchase of securities of a value of exceeding Rs.1 lakh;
- (f) Opening an account with a banking company;
- (g) Making an application for installation of telephone connection including a cellular phone connection;
- (h) Payments to hotels and restaurants against their bills for an amount exceeding Rs.25,000 at any one time.

- (i) Cash payment for purchase of bank drafts or pay orders or bankers cheque from a banking company for an amount aggregating Rs.50,000 or more during any one day.
- (j) Cash deposits aggregating Rs.50,000 or more with a banking company during any one day.
- (k) Cash payment exceeding Rs.25,000 in connection with travel to any foreign country at any one time.

Further it is mandatory for every person receiving any sum or income or amount from which tax is deducted at source or collected at source to intimate his permanent account number to the person responsible for deducting or collecting such tax. Similar obligation is cast on every person who is responsible to deduct or collect tax to quote the Permanent Account Number in the Statement /returns/ certificates furnished.

Permanent Account Number :

With effect from 1-6-2006, the Central Government may specify class or classes of persons who shall apply to the prescribed authority for PAN and such persons shall within time prescribed apply for allotment of PAN. Keeping in view the nature of transactions involved in Assessing Officer may allot PAN to any other person whether any tax is payable by him or not. There are many other procedural changes proposed in this Finance Act and they shall be incorporated at proper place in respective chapters.

Failure to comply with the provisions of Section 139A i.e., PAN [Section 272B] :

- (a) In case a person fails to comply with the provisions of section 139A i.e., to obtain PAN, the Assessing Officer may direct him to pay a penalty of Rs.10,000.
- (b) In case assessee quotes a false or incorrect permanent account number on any document and which he knows that it is false or incorrect, the Assessing Officer may direct him to pay a penalty of Rs.10,000. Such penalty can be levied only after the person has been given an opportunity of being heard.

17.8 RETURN BY WHOM TO BE SIGNED : SECTION 140

The return under Sec.139 will be signed and verified by the following.

1. **In the case of an individual :** In case of an individual himself. If such individual is absent from India, either he may sign and verify it himself, or this may be done by a person duly authorized by him in this behalf.

2. **In the case of Hindu Undivided Family** : In case of a Hindu Undivided Family, by the karta and if the karta is absent or mentally incapacitated, by any adult member of the family.
3. **In the case of a company** : In case of a company, by its managing director, and if he is not able to do so due to any unavoidable reason, or if there is no managing director, by any director. In case of a non-resident company, the return may be signed by a person holding a valid power of attorney to do so.
4. **In the case of a firm** : In case of a firm, by its managing partner, and if he is not able to do so due to any unavoidable reason, or if there is no managing partner, by any partner.
5. **In the case of a local authority** : In case of a local authority, by its principal officer.
6. **In the case of a political party** : In case of any political party referred to under Sec.139(4B), by the chief executive officer of such party.
7. **In the case of any other association** : In case of any other association, by any member of the association or by the Principal officer thereof.
8. **In the case of any other person** : In case of any other person, by that person or by some other competent person.

17.9 TYPES OF ASSESSMENTS :

The following are various types of assessments.

1. Self Assessment under section 140A
2. Regular Assessment under section 143
3. Best Judgement Assessment under section 144
4. Re-Assessment or income escaping assessment under section 147

17.10 SELF ASSESSMENT [Section 140A]

Self assessment means the assessment to be made by the assessee himself. According to Section 140A the assessee before filing the return is required to compute his total income and tax liability. If any tax is payable by an assessee (after taking into account any advance tax paid by him or tax deducted from his income at source) on the basis of any return to be furnished, he will be required to pay such tax before furnishing the return, and enclose a proof of such payment along with the return.

Before furnishing the return, the assessee will also be liable to pay interest for any delay in furnishing the return under Sec.234A, as also for any default or delay in payment of advance tax under sections 234B and 234C and enclose a proof of such payment along with the return.

The amount of tax paid by him as per self-assessment will be deemed to have been paid towards regular assessment. If the amount paid by the assessee on self-assessment falls short of the aggregate of tax and interest, the amount so paid will be first adjusted towards interest and only the balance will be adjusted towards the tax payable. The procedure for making self-assessment and determination of tax liability of self-assessment tax is explained in the following steps.

1. First, compute the Total Income
2. Then calculate the tax payable on the Total Income taking into account Incomes like long term capital gains, winnings from horse races etc., considering the special tax rates for these incomes.
3. Add 2% of Education Cess to the tax payable. Then add 10% of surcharge on the tax arrived at above, if the total income of the assessee exceeds Rs.8.5 lakhs
4. Later, allow relief, if any under section 89(1), 90 and 91;
5. Now deduct the tax paid by the assessee already under (1) tax deducted sources (2) advance payment of tax
6. Finally, add interest payable stated below, to the next tax calculated above;
 - (a) Interest for late filing of return under section 234A
 - (b) Interest for default in payment of advance tax under section 234B
 - (c) Interest for deferment of advance tax (under section 234C)
7. Then we get the tax yet to be payable by the assessee
8. The assessee should pay this amount through a challan. The return is to be submitted to the Income Tax Department enclosing the challan and other relevant papers within the time allowed under section 139(1) or other sections.

17.10.1 For Failure to pay tax on self-assessment [Section 234A and B] :

If the assessee fails to pay the amount of tax on the basis of self assessment he will be liable to penalty to the imposed @ 1% of the tax due on self-assessment of each month of default.

Calculation of Tax payable under Self-Assessment

	₹	₹
Total Tax payable		X x x
Add : Interest		
(i) Under Section 234A	X x x	
(ii) Under Section 234B	X x x	
(iii) Under Section 234C	X x x	X x x
Total Tax		X x x
Less : Taxes paid in advance :		
(i) Tax deducted at source	X x x	
(ii) Advanced payment of tax	X x x	X x x
Tax yet to be payable		X x x
Tax paid on self-assessment		X x x

17.11 REGULAR ASSESSMENT [Section 143]

After receiving the return from the assessee, the assessing officer undertakes the assessment. This assessment is called regular assessment. He follows the following procedure.

17.11.1 Inquiry before assessment [Section 142] :

For this purpose of making an assessment, the Assessing Officer may take any/all of the following steps.

- (i) Serve a notice under section 142(1)(i) to the person requiring him to furnish a return of his income, or the income of any other person in respect of which he is assessable under the Act, in the prescribed form and within the time specified in the notice, if the person has not filed a return of income and the time allowed under section 139(1) has expired.
- (ii) serve a notice under section 142(1)(ii) to any person who has filed a return of income or not to produce or cause to be produced, such accounts or documents as the Assessing Officer may require. However, the Assessing Officer shall not require the assessee to produce any accounts relating to a period more than three years prior to the pervious year. Further, the notice under this clause can be sent only when the return has been submitted under section 139 [i.e., u/s 139(1) or

139(3) or 139(4) or 139(4A) or 139(5) or then the time allowed under section 139(1) for furnishing the return has expired and the return is not submitted.

Summing of Books of Accounts : The Officer, however, may not summon accounts relating to a period more than 3 years prior to the accounting year in question. Should a notice calling for account books for a period more than 3 years prior to the accounting year be issued, the same may be regarded as consisting of two parts, one for the period of three years for which the books can be rightly called for, and another for the period beyond three years for which the books cannot be called for. The latter part of the notice may be regarded as unauthorised and illegal, but to the extent to which the former part is legal, the assessee should produce books for the three years, and if he fails to do so, he would be regarded as being in default and liable to best judgement assessment.

- (iii) serve a notice under section 142(1)(iii), to furnish in writing and verified in the prescribed manner information in such and on the such points and matters as he may require. The assessing officer may also ask for a statement of all assets and liabilities of the assessee whether included in the accounts or not. However, prior approval of the joint Commissioner of Income tax will be required, a statement of assets and liabilities not included in the accounts. Statement of assets and liabilities can be asked for any number of previous years.

2. Make Inquiry [Section 142(2)] :

For the purpose of obtaining full information in respect of income or loss of any person, the Assessing Officer may make such inquiry, as he considers necessary. While section 142(1) empowers the Assessing Officer to collect information from the assessee himself section 142(2) on the other hand, empowers him to collect information from sources other than assessee.

3. Audit of Accounts [Section 142(2A) to (2D)] :

The Assessing officer may, at any stage of the proceedings before him, direct the assessee to get the accounts audited by a chartered Accountant nominated by the Chief Commissioner/Commissioner of Income Tax. Such a decision may be taken by the Assessing Officer, if :

- (a) having regard to the nature and complexity of the accounts of the assessee;
and

(b) the interest of the revenue

he is of the opinion that it is necessary so do to. The Assessing Officer can issue such directions only with prior approval of the Chief Commissioner/Commissioner of Income Tax [Section 142(2A)]

Direction of audit can be given even if the accounts are already audited under the Income Tax Act or under any other law [Section 142(2B)]

26A. Scope of special audit expanded [Section 142(2A)]

The Act has amended the aforesaid section so as to provide that if at any stage of the proceeding before him, the assessing officer, having regard to-

- a) the nature and complexity of the accounts,
 - b) volume of the accounts,
 - c) doubts about the correctness of the accounts,
 - d) multiplicity of transactions in the accounts, or
 - e) specialized nature of business activity of the assess, and the interest of the revenue,
- is of the opinion that it is necessary so to, he may, with the previous approval of the chief commissioner or the commissioner, direct the assessee to get his accounts audited by an accountant and to furnish a report of such audit.

4. Opportunity of being heard [Section 142(3)]

The Assessing Officer shall be given an opportunity to the assessee of being heard in respect of any information gathered by the Assessing Officer on the basis of the aforesaid inquiry under section 142(2) or on the basis of the audit conducted as per section 142(2A) above, where the Assessing Officer proposes to utilize such information for the purpose of any assessment. However, no such opportunity is necessary when the assessment is made under section 144.

17.12 BEST JUDGEMENT ASSESSMENT [Section 144] :

A best judgement assessment is an assessment by the Income Tax Officer to the best of his judgement after taking into account all relevant material which he has gathered. In the scheme of such assessment, he may take assistance from any accounts maintained by the assessee and rely on information gathered by him, as also surrounding circumstances of the case.

Best judgement assessment may be of two types. (1) Compulsory (2) discretionary

Compulsory Best Judgement [Section 144] :

(a) When Best judgement assessment is mandatory : In the following cases, the Income Tax Officer is required to make a best judgement assessment :

- (i) if any person fails to furnish the return in compliance with Sec.139(1), or does not furnish a delayed return under section 139(4), or a revised return under sec.139(5).
- (ii) if any person fails to comply with all the terms of a notice under sec.142(1), requiring him to produce the books of account and documents;
- (iii) if any person fails to comply with the direction under section 142(2A) for audit of his accounts by a nominated auditor; or
- (iv) if any person, having furnished the return, fails to comply with a notice under Section 143(2), requiring his presence before the AO, or production of evidence in support of the return.

(b) Opportunity to assessee : Best judgement assessment will only be made after giving the assessee an opportunity of being heard. Such opportunity will be given by the AO by a notice requiring the assessee to show cause, on a specified date and time, why best judgement assessment should not be made in his case.

In the following situations, the Assessing Officer may make an assessment in the manner provided in Section 144:

- (a) Where the Assessing Officer is not satisfied about the correctness or completeness of the accounts of the assessee
- (b) Where the method of accounting has been regularly followed by the assessee;
- (c) Where the Accounting Standards notified by the Central Government under section 145(2) have not been regularly followed by the assessee.

Consequences of Best Judgement Assessment :

The following are the consequences of compulsory best judgement assessment.

1. When the assessee files an application of appeal against the best judgement assessment, he is prevented from bringing on record any new fact before the appellate authorities.
2. The assessee becomes liable for penalties and prosecution u/s 271, 276 CC and 276 D.

Remedies for Best Judgement Assessment :

When the best judgement assessment is made against any assessee he has only two remedies against such assessment. These are :

1. Request for the cancellation of the best judgement assessment :

Within one month of the service of the notice of demand on the basis of the best judgement assessment u/s 144, the assessee can apply to the Assessing Officer for the cancellation of such assessment. Section 146 empowers the Assessing Officer to cancel the best judgement assessment. But the cancellation can only be there if the assessee applies on the basis of the following grounds. These are :

- (i) that the assessee was prevented by sufficient cause from making the return required u/s 139; or
- (ii) that he did not receive the notice issued u/s 142(1) and (143(2), or
- (iii) that he did not have reasonable opportunity to comply or was prevented by sufficient cause from complying with the notice issues 142(1) and 143(2)

If the Assessing Officer is satisfied with the reasons forwarded by the assessee for non-compliance he must cancel the best judgement assessment and should proceed with the making of regular assessment. Every application made for cancellation of best judgement assessment shall be disposed of within ninety days from the date of receipt of application by Assessing Officer.

If the Assessing Officer refuses to cancel the best judgement assessment the assessee has been given a right to file an appeal against the best judgement assessment. This right has been granted u/s 216 of the Act. The appeal is presented before the Deputy Commissioner (Appeals) and against his orders, to the Commissioner (Appeals) and Appellate Tribunal. If any question of law arises, the assessee can also knock the door of High Court and then Supreme Court.

2. Appeal against the Assessment :

This remedy is not helpful as the assessee cannot produce any new evidence before the Appellate authority as he had failed to produce such evidence before Assessing Officer.

Discretionary Best Judgement Assessment :

Section 145(3) empowers the Assessing Officer to make a discretionary type of best judgement assessment. This type of assessment may be made under the following two types of cases.

1. Where Assessing Officer is not satisfied about the correctness or the completeness of the accounts of the assessee; or
2. Where no method of accounting has been regularly employed by the assessee.

Under these circumstances it is up to the discretion of the Assessing officer whether to make a best judgement assessment or a regular assessment u/s 143(3). But once this type of assessment is made and tax is determined, the assessee will have no option but to file an appeal with the higher authority against the best judgement assessment. The Assessing officer shall have no power to refuse the register the firm or cancel its registration if the assessee is a firm.

17.13 RE-ASSESSMENT [Section 147]

If the assessing officer has reason to believe that any income chargeable to tax has escaped assessment for any assessment year he may assess or reassess such income or re-compute the loss or depreciation allowance or any other allowance for that assessment year. Once the assessment has been re-opened, any other income which has escaped assessment and which comes to the knowledge of the Assessing Officer subsequently in the course of the proceeding under section 147, can also be included in the assessment.

Need for Re-assessment :

In the following cases, escaped assessment has to be carried out by the assessing Officer.

1. Where no return of income has been furnished by an assessee although he has to file the return under section 139.
2. Where a return of income has been furnished but no assessment has been made and the assessee is found to have understated his income or claimed excessive loss, deduction etc., in the return.
3. Where an assessment has been made but –
 - (a) income chargeable to tax has been under assessed; or

- (b) such income has been assessed at too low a rate; or
- (c) excessive relief was given in respect of such income; or
- (d) Excessive loss/depreciation allowance or any other allowance under this act has been computed.

Issue of notice where income has escaped assessment [Section 148]

Before Proceeding for undertaking the income escaping assessment, the Assessing officer is required to serve a notice to the assessee under section 148.

1. The Assessing officer shall, before making an assessment, reassessment or recomputation under section 147, serve on the assessee a notice under section 148 requiring him to file a return of his income or of any other person in respect of which he is assessable.
2. Before issuing any such notice, the Assessing Officer shall record his reasons for doing so.
3. The return of income is required to be furnished within the time prescribed in the notice by the Assessing Officer.

Time Limit and Sanction for issue of notice under section 148

The time limits for issuing notice under section 148 are prescribed under section 149 and the approvals subject to which an Assessing Officer can issue such notice are stipulated under section 151. These provisions are summarized and presented as follows :

	Time Limit	In case where assessment has been made under section 143(3) or 147	In any other case (including a case assessed under section 144)
(a)	Up to 4 years from the end of the relevant assessment year	Only Income tax officer requires approval of joint Commissioner	No approval is necessary
(b)	Beyond 4 years but up to 6 years from the end of the relevant assessment year	Approval of chief Commissioner or Commissioner is necessary	Assistant Commissioner or Deputy Commissioner and Income-tax officer require approval of Joint Commissioner.

If 4 years have expired, notice under section 148 can be issued in a case only if the income chargeable to tax which has escaped assessment amounts to or is likely to amount to Rs.1 lakh or more for that year.

Exceptions to the time limit : The following are the exceptions for the limit stated above.

1. If an assessment for any year has been completed under section 143(3) or under section 147, then no action shall be taken under section 147 after the expiry of 4 years from the end of the relevant assessment year unless income chargeable to tax has escaped assessment by reason of the failure on the part of the assessee.
 - (a) to file return under section 139; or
 - (b) to furnish a return in response to notice under section 142(1) or under section 148; or
 - (c) to disclose fully and truly all material facts necessary for that assessment year.
2. According to Section 149(3) in case of an agent of non-resident, notice under section 148 in the capacity as agent of the non-resident cannot be issued after the expiry of 2 years from the end of the relevant assessment year
3. Notwithstanding anything contained in section 149, notice under section 148 may be issued at any time in consequence of or to give effect to any finding or direction in an order passed by any authority in appeal, reference, and revision or by a court in any proceeding under any other law Section 150 (1). However, notice under section 148 cannot be issued, if at the time when the order which was subject-matter of appeal, reference, revision, was passed, the time-limit for the issue of such notice had expired Section 150 (2).

Time Limit for completion of Re-assessment :

1. According to Section 153A the time available for completion of assessment or reassessment in respect of each assessment year falling within 6 assessment years shall be 2 years from the end of the financial year in which the last of the authorization for search under section 132 or for requisition under section 132A was executed.
2. In respect of the assessment year relevant to the previous year in which search is conducted under section 132 or requisition is made under section 132A, a

- period of 2 years from the end of the financial year in which the last of the authorization for search under section 132 or for requisition under section 132A was executed shall be allowed.
3. In computing the period of limitation as above, the following shall be excluded.
 - (i) Period during which stay or injunction is granted by any Court; or
 - (ii) Period allowed for special audit under section 142(2A) to be carried out and for furnishing of the said audit report
 - (iii) Time taken for reopening any proceeding or for opportunity given to assessee under section 129; and
 - (iv) In case the assessee unsuccessfully approaches the settlement commission, the period from the date of filing to the date of rejection by the settlement commission.
 4. If after extending the time, the period available to the assessing officer for making an order is less than 60 days, then the remaining period shall be extended to 60 days.

The time limit for issue of notice under sub – section (2) of section 143 for the purposes of making assessment under section 147

Under the existing provisions of section 148 (1), it has been provided that before making any assessment, reassessment or re – computation under section 147, the Assessing Officer shall serve a notice under section 148, on the assessee, requiring him to furnish his return of income and the provisions of the Act shall apply as if the return furnished in response to such notice were a return required to be furnished under Section 139.

A proviso to sub – section (1) has been inserted so as to provide that where a return has been furnished during the period from 1-10-1991 to 30 – 9-2005 in response to a notice served under section 148 and, subsequently a notice has been served under sub – section (2) of section 143 as it stood immediately before the amendment of said sub – section by the Finance Act, 2002, but before the expiry of the time limit for making the assessment, reassessment or recomputation as specified in sub – section (2) of Section 153, such notice shall be deemed to be valid notice.

Another proviso in the said sub – section has been inserted so as to provide that where a return has been furnished during the period from 1-10-1991 to 30-9-2005 in response to a notice served under section 148 and, subsequently a notice has been served under clause (ii) of sub – section (2) of section 143 after the expiry of twelve

months specified in the proviso to clause (ii) of sub – section (2) of section 143, but before the expiry of the time limit for making the assessment, reassessment or recomputation as specified in sub – section (2) of section 153, such notice shall be deemed to be valid notice. These amendments will take effect retrospectively from the 1-10-1991.

Reduction of the time limits provided for completion of assessment and reassessment [Section 153 and 153B] [w. e. f. 1-6-2006]

The existing provisions of section 153 provide the time limit for completion of assessments and reassessments. Section 153B of the Income – tax Act provides the time limit for completion of assessment in cases where search has been initiated under section 132 or books of account, other documents or any assets have been requisitioned under section 132A. The existing provisions of section 17A of the Wealth – tax Act provide the time limit for completion of assessments and reassessments of the net wealth.

The time limits specified for completion of assessments and re – assessments in sections 153, 153B of the Income – tax Act, and in section 17A of the Wealth – tax Act has been reduced by three months in all such cases so that the demand raised during a financial year could be collected in same year. As such the time limit for completion of assessment under section 143 or section 144 for assessment year 2004 –05 shall be 31-12-2006 instead of 31-3-2007. Similarly, time limit for re – assessment under section 147 has been reduced from 1 year to 9 months from the end of the year in which the notice was served under section 148. The time limit for completion of assessment of search cases specified under section 153 B shall also stand reduced to 21 months instead of 2 years.

1. Rationalization of time limit for completion of assessment, reassessment and recomputation [Section 153] :

The limit for completion of all assessments and reassessment [Section 153] : The new section 153 prescribes time limit for completion of various assessments and reassessment which is as follows:

Sl. No.	Relevant sections	Time limit for completion
1.	Assessment u/s 143/144 [Section 153(1)]	18 months from the end of relevant assessment year in which the income was first assessable.

2.	Assessment/Re-assessment u/s 147 [Section 153(2)]	12 months from the end of the Financial Year in which the notice u/s 148 was served on the assessee.
3.	Fresh assessment where original assessment of income has been set aside or cancelled by Appellate Authority u/s 254, or by CIT u/s 263 or 264 [Section 153(3)]	12 months from the end of the Financial Year in which: (i) Such order of set aside or canceling the order passed by the appellate authority u/s 254 was received by the CIT, or (ii) Order u/s 263 or 264 was passed by the CIT, as the case may be.
4.	Time limit for completion of assessment/reassessment/fresh assessment in case the reference is made to TPO under section 92CA (1) [Section 153(4)].	The period available for completion of assessment or reassessment, as the case may be, under section 153 (1), (2) and (3) mentioned in Sl. No. 1 to 3 above shall be extended by 12 months (i.e. it will be 33 months, 21 months and 21 months respectively).
5.	Time limit for giving effect, otherwise than by making a fresh assessment or reassessment, to the order of appeal under section 250 or section 254 or section 260 or section 262 or revision under section 263 or section 264 [Section 153(5)]	3 months from the end of the month in which order under section 250 or section 254 or section 260 or section 262 is received by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, as the case may be, or 3 months from the end of the month in which the order under section 263 or section 264 is passed by the Principal Commissioner or Commissioner: However, where it is not possible for the Assessing Officer to give effect to such order within the aforesaid period, for reasons beyond his control, the Principal Commissioner or

		Commissioner on receipt of such request in writing from the Assessing Officer, if satisfied, may allow an additional period of 6 months to give effect to the order.
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17.11 SELF-ASSESSMENT QUESTIONS

A. Short Answer Questions

1. Self Assessment
2. One-by-six Criteria
3. Permanent Account Number
4. Revised Return
5. Belated return
6. Defective Return

B. Essay Type Questions

1. What is best judgement assessment? In what circumstances can it be made?
2. What is the time limit for filing of return of income under the Income-tax Act?
3. Explain the provisions of the Income-tax Act, 1961, relating to Income escaping assessment.
4. Explain the procedure regarding assessment with special reference to summary procedure i.e., completion of assessment under section 143(2).
5. Write Notes on :
 - (i) Belated return
 - (ii) Self Assessment
 - (iii) Remedies against Best Judgement Assessment
 - (iv) Discretionary Best Judgement Assessment
 - (v) Time limit for the completion of Assessment.

Chapter 18**COLLECTION AND RECOVERY OF TAX****Objectives :**

After studying this lesson you should be able to

- Know the method of collection of tax by the Income Tax Department
- Understand the provisions relating to Tax deducted at Source and Advance payment of tax
- Know the other modes of recovery

Structure :

- 18.1 Introduction**
- 18.2 Tax Deducted at Source**
- 18.3 Failure to collect or pay tax**
- 18.4 Advance payment of tax**
- 18.5 Refund of Tax**
- 18.6 Recovery of Tax**
- 18.7 Self Assessment Questions**

18.1 INTRODUCTION :

The Income Tax Act provides for three modes of collection and recovery of Income tax. These are :

1. Deduction of tax at source
2. Advance payment of tax by the assessee
3. Other modes of recovery

While deduction of tax at source is made only in the case of certain specified incomes, the most common method of tax collection is direct recovery from the assessee.

18.2 TAX DEDUCTED AT SOURCE :**Person Liable to deduct tax at Source:**

Any person responsible for making specified payments (see 'Specified Payments on which TDS is to be Deducted' below), is liable to deduct tax at source, at prescribed rate, from such payments. However, individuals (including sole proprietary concerns) and HUFs, are not liable to deduct at source on following payments:

- (A) If carrying on a business or profession, liable to get the accounts audited u/s 44AB in the immediately preceding financial year:
- (i) Payment to a contractor (including sub-contractor) when such payment is made exclusively for personal purposes of the individual/any member of the HUF (Sec.194C),
 - (ii) Fees for professional services, when such payment is made exclusively for personal purposes of the individual/any member of the HUF (Sec.194),
 - (iii) Royalty (Sec.194J),
 - (iv) Sums referred u/s 28 (va) (Sec.194J).
- (B) In any other case not falling in (A) above:
- (i) Interest other than interest on securities (Sec.194A),
 - (ii) Payment to a contractor (including sub-contractor) (Sec.194C),
 - (iii) Commission (other than insurance commission and commission on lottery tickets) or brokerage (Sec.194H),
 - (iv) Rent (Sec.194-I),
 - (v) Fees for professional/technical services (Sec.194J),
 - (vi) Royalty (Sec.194J),
 - (vii) Sums referred u/s 28(va) (Sec.194J).

Specified Payments on which TDS is to be deducted:

- (1) Salary [Sec.192]
- (2) Accumulated balance in Recognised Provident Fund Account of an employee which is not exempt under rule 8 of Fourth Schedule Part –A, being Rs.50,000 or more [Sec.192A]
- (3) Interest on Securities [other than (a) exempted securities, (b) Central/State Govt. securities and (c) bonds/securities issued by a company in dematerialized form and listed on a recognised stock exchange] to a resident [Sec.193]

- (4) Interest on 8% Savings (Taxable) Bonds, 2003 [or 7.75% Savings (Taxable) Bonds, 2018] credited or paid during a financial year, to a resident exceeding Rs.10,000. [Sec.193]
- (5) Interest on Gold Bonds (in case of a resident individual, TDS is to be deducted if the value of Bonds held during the relevant period exceeds Rs.10,000) [sec.193]
- (6) Interest on debentures of a public company (in case of a resident individual or HUF, TDS is to be deducted where total interest exceeds Rs.5,000 p.a. or where interest is paid otherwise than by an account payee cheque) [Sec.193]
- (7) Payment of Dividends, except those referred to u/s 115-O, to –
 - (a) An individual resident in India, where dividend is paid by an account payee cheque and exceeds Rs.2,500 p.a.
 - (b) Any other resident person, without any limit. [Sec.194]
- (8) Interest other than interest on securities (except interest on deposits in notified schemes) exceeding Rs.5,000 p.a. [Sec.194A]
- (9) Interest on deposits with a housing finance company eligible for deduction u/s 36(1)(viii), where interest exceeds Rs.5,000 p.a. [Sec.194A]

Note: The limit shall be computed with reference to interest credited or paid by a housing finance company which has adopted core banking solutions, and by each branch of such company in other cases.
- (10) Interest on time-deposits (including recurring deposits) with a banking company or a co-operative bank (other than a co-operative land mortgage bank or a co-operative land development bank) where the interest exceeds Rs.10,000 p.a. [(Rs.50,000 in case of payee being a senior citizen, w.e.f. 1.4.2018)] [Sec.194A]
- (11) Interest on deposits under notified scheme [i.e. Senior Citizens Savings Scheme, 2004] with post-office, exceeding Rs.10,000 p.a. [(Rs.50,000 in case of payee being a senior citizen, w.e.f. 1.4.2018)] [Sec.194A]
- (12) Interest paid on the compensation awarded by the Motor Accidents Claims Tribunal, where such interest or the aggregate of such interest paid during a financial year exceeds Rs.50,000. [Sec.194A]

- (13) Income in relation to zero coupon bonds issued before 1.6.2005 by an infrastructure capital company or infrastructure capital fund or public sector company or scheduled bank. [Sec.194A]
- (14) Winnings from lotteries and crossword puzzles or card game and other game of any sort exceeding Rs.10,000 [Sec.194B]
- (15) Winnings from horse races exceeding Rs.10,000 [Sec.194BB]
- (16) Payments to contractors or sub-contractors for carrying out any work (including supply of labour for carrying out any work) under a contract by –
- (i) Central/State Government,
 - (ii) Local authority,
 - (iii) Statutory corporation,
 - (iv) Company,
 - (v) Co-operative society,
 - (vi) Housing and town development authority,
 - (vii) Registered society,
 - (viii) Trust,
 - (ix) University,
 - (x) Foreign Government/foreign enterprise/association or body established outside India,
 - (xi) Firm, or
 - (xii) An individual/HUF/AOP/BOI whose turnover during the preceding financial year exceeds the limit specified u/s 44AB,

When such payment credited or paid or likely to be credited or paid exceeds Rs.30,000 or when aggregate of such payments in a financial year exceeds Rs.1,00,000 [Sec.194C]

Note: 'Work' includes advertising, broadcasting and telecasting including production of programmes for such broadcasting or telecasting, carriage of goods and passengers by any mode of transport except railways, catering and manufacture/supply of a product as per requirement/specification of the customer by using material purchased from such customer (and not from any other person).

- (17) Commission to insurance agents exceeding Rs.15,000 [Sec. 194D]

- (18) Payment under a life insurance policy including amount of bonus [excluding any sum exempt u/s 10(10D)] where such payment or aggregate of payments to a resident payee in a financial year is Rs.1,00,000 or more. [Sec.194DA]
- (19) Payments to non-resident foreigner sportsmen (including athlete) or entertainer and non-resident sports associations u/s 115BBA. [Sec.194E]
- (20) Payment of any amount standing to the credit of the assessee in an account under the National Savings Scheme, 1987, u/s 80CCA (2)(a), being Rs.2,500 or more during a financial year [Sec.194EE]
- (21) Payment on repurchase of units issued under Equity Linked Savings Scheme of Sec. 80CCB. [Sec. 194F]
- (22) Commission, remuneration or prize on lottery tickets exceeding Rs.15,000. [Sec.194G]
- (23) Commission (other than insurance commission) or brokerage credited or paid exceeding Rs.15,000 in financial year excluding commission or brokerage payable by BSNL or MTNL to their PCO franchisees. [Sec.194H]
- (24) Payment of rent (excluding service tax) to a resident (except a real estate investment trust) under any lease, sub-lease, tenancy or any other agreement or arrangement for the use of any land, or building (including factory building), or land appurtenant to a building (including factory building), or machinery, or plant, or equipment, or furniture, or fittings, (whether separately or together), when such payment credited or paid during a financial year exceeds Rs.1,80,000 [Sec.194I]
- (25) Payment to a resident by way of consideration for transfer of any immovable property (other than agricultural land), where such consideration exceeds Rs.50 lakhs. [Sec. 194IA)
- (26) Payment of rent by an individual or a H.U.F., to a resident under any lease, sub-lease, tenancy or any other agreement or arrangement for the use of any land or building or both, exceeding Rs.50,000 for a month or a part of month. Tax shall be deducted at the time of credit of rent, for the last month of the previous year or the last month of tenancy if property is vacated during the year, or at the time of payment, whichever is earlier. [Sec.194IB]
- (27) Payment of any monetary consideration to a resident, under a collaboration agreement with a builder/developer for development of an immovable property

- referred u/s 45(5A), at the time of credit or payment, whichever is earlier. [Sec. 194-IC]
- (28) Fees for professional services exceeding Rs.30,000 p.a. [Sec. 194J]
- (29) Fees for technical services exceeding Rs.30,000 p.a. [Sec.194J]
- (30) Any remuneration, fees, commission, etc. (not covered u/s 192) paid to a director of a company. [Sec. 194J]
- (31) Royalty exceeding Rs.30,000 p.a. [Sec.194J]
- (32) Any sum referred to u/s 28(va) exceeding Rs.30,000 p.a. [Sec.194J]
- (33) Any compensation/consideration or enhanced compensation/consideration on account of compulsory acquisition, under any law, of any immovable property (other than agricultural land), exceeding Rs.2,50,000 in a financial year, to a resident (excluding any payment under an award/agreement exempt from tax u/s 96 of Right to Fair Compensation and transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.) [Sec. 194LA]
- (34) Interest payable to a non-resident/a foreign company, by an infrastructure debt fund referred u/s 10(47). [Sec. 194LB]
- (35) Income payable by a business trust to its unit holders, as referred to u/s 115UA and being in the nature of income referred u/s 10(23FC) (a) or 10(23FCA). [Sec.194LBA]
- (36) Income credited or paid to unit holder by an investment fund, such income being other than the proportion of income exempt u/s 10(23FBB). [Sec.194LBB]
- (37) Income credited or paid to an investor, in respect of an investment in a securitization trust. [Sec.194LBC]
- (38) Interest payable by an Indian company/business trust to a non-resident person/foreign company on foreign currency loan borrowed from a source outside India –
- (i) Under a long agreement made during 1.7.2012 to 30.6.2020, or
 - (ii) Being long-term infrastructure bonds issued during 1.7.2012 to 30.9.2014, or
 - (iii) Being long-term bonds issued during 1.10.2014 to 30.6.2020 under a Govt. approved agreement/terms, or

- (iv) Rupee denominated bonds issued up to 30.6.2020 under Govt. approved terms. [Sec. 194LC]
- (39) Interest payable during 1.6.2013 to 30.6.2020 to a Foreign Institutional Investor/Qualified Foreign Investor, on rupee denominated bonds of an Indian company or Government securities. [Sec. 194LD]
- (40) Any interest or any other sum chargeable to tax (other than 'Salary' and dividends referred to u/s 115-O) payable to a non-resident or a foreign company. [Sec. 195]
- (41) Any income (including long-term capital gains) arising in respect of units referred to in section 115AB, payable to an Offshore Fund. [Sec. 196B]
- (42) Interest or dividends (except those referred to u/s 115-O) or long-term capital gains arising from foreign currency bonds or Global depository Receipts of Indian Company referred to u/s 115AC, payable to a non-resident. [Sec.196C]
- (43) Income (other than dividends referred to u/s 115-O and capital gains) in respect of securities referred to u/s 115AD (except those covered u/s 194LD) payable to a Foreign Institutional Investor. [Sec. 196D]

18.3 FAILURE TO COLLECT OR PAY TAX [Sec.207C (6)] :

Any person responsible for collecting the tax who fails to collect tax in accordance with the provisions of this section, shall, notwithstanding such failure, be liable to pay the tax to the credit of the Central government in accordance with (3) above, sub-section (7) provides that if the seller does not collect the tax or after collecting the tax fails to pay it as required under this section, he shall be liable to pay simple interest @ 2% p.m. or part thereof on the amount of such tax from the date on which such tax was collectible to the date on which the tax was actually paid.

If the tax collected is not paid to the credit of the Central Government, the amount of tax together with the amount of simple interest shall be a charge upon all the assets of the seller [206C(8)]

1. Proposed Amendments in the Provisions of TDS :

The Finance Bill, 2008 has proposed following amendments in the provisions related with TDS which will come into force from June 1, 2007.

- i. Interest on Securities (Sec.193) : In case interest of 8% saving (taxable) bonds, 2003 exceeds Rs.10,000 during any financial year then the provision of TDS shall apply.
- ii. Interest other than 'Interest on Securities' (Sec.194A) : Where the interest is to be paid/payable by any Bank or Banking institution or the payer is a co-operative society engaged in banking business or payer is a Post office paying interest on deposits of a notified scheme of Central Govt. the TDS shall be made where interest payment exceeds Rs.10,000. In case of interest payment, the threshold limit is retained at Rs.5,000.
- iii. Payment to contractors and sub contractor [Sec.194C] : TDS will be @ 1% on payment to contractor for advertising contracts and @ 2% for other contracts. Not ax is to be deducted at source if the payment is made for personal purpose.
- iv. Commission or Brokerage [Sec.194H] : TDS is to be made @ 10% where brokerage paid/payable exceeds Rs.2,500 during the financial year. BSNL and MTNL shall not be required to deduct TDS on any commission or brokerage paid/payable to their public all office franchisees.
- v. Payment of rent [Sec.194 I] : From June 1, 2007 TDS rate shall be 10% in case of rent for plant, machinery or equipment. In case of land and building or land appurtenant to a building or furniture, fittings, the rate of TDS is unchanged i.e., 15% if payee is an individual or a HUF and 20% for other payees.
- vi. Fees for professional or technical services [Sec.194] : Rate of TDS shall be 10% in case of fees paid for professional or technical services, royalty and payments for non compete arrangements.
- vii. Consequences of Failure to Deduct or pay [Sec.201] : In case an assessee fail to deduct TDS, interest will be charged @ 1% for every month or part of the month. Interest will be charged from the date of default till the date of actual payment. This amendment will be applicable w.e.f. assessment year 2008-09.

2. Return of interest paid without deduction of Tax at source [Sec.206A] :

Under this section any banking company or co-operative society or public company responsible for paying interest income to a resident not exceeding Rs.10,000

(Rs.5,000 upto 1-06-2007) shall be required to prepare quarterly returns and furnish the same to tax authority.

18.4 ADVANCE PAYMENT OF TAX

Advance payment of tax is another method of collection of tax by the Central Government in the form of pre-paid taxes. Such advance tax is in addition to deduction of tax at source or collection of tax at source. Scheme of advance payment of tax is also known as '**Pay as you Earn**' scheme i.e., the assessee is required to pay tax during the course of earning of income in the previous year itself, though such income is chargeable to tax during the assessment year. Advance tax is payable on current income in installments during the previous year.

Tax-payers are required to pay advance tax on their income which they expect to earn during the current year. For example, for financial year 2018-19 (relevant to assessment year 2019-20) advance tax is payable in installments during 2018-19 itself. The advance tax so paid is adjusted against the total tax assessed for that assessment year, i.e. A.Y.2019-20. [Sec. 207(1)] 'Advance Tax' for this purpose means: Total tax on the estimated income for current financial year – TDS/TCS, which is required / expected to be deducted/collected, during the year, if any. [Sec.209] However, in case a person receives any income without deduction or collection of tax at source, he shall be liable to pay advance tax in respect of such income.

Who is Liable to Pay Advance Tax?

- (1) All persons including salaried employees and pensioners, in whose case advance tax payable during a financial year is Rs.10,000 or more, are required to pay advance tax. [Sec.208]
- (2) A person, who has received an order u/s 210(3) in Form No.28 to pay an amount by way of advance tax, should deposit such amount in the installments as specified in the order. (Such an order can be served upto the last day of February of the financial year).

If such person estimates his income at a higher amount than that specified in the order u/s 210(3), then he should pay advance tax in accordance with such higher estimated.

However, if he estimates his income at a lower amount, then he should send an estimate of such lower income in Form 28-A, before the next installment falls due and deposit the remaining installments of advance tax accordingly. [Secs. 210(4) & (5)]

Senior Citizens not having Business Income Not Liable to Pay Advance Tax:

Senior citizens (over 60 years during the previous year) not having any income from business or profession shall not be liable to pay advance tax. [Sec. 207(2)]

Advance Tax Installments and Due Dates:

Advance tax is payable by all assesses, in installments by specified due dates, as indicated below: [Sec. 211]

(i)	By 15th June	15% of advance tax
(ii)	By 15th September	30% of advance tax
(iii)	By 15th December	30% of advance tax
(iv)	By 15th March	25% of advance tax
(v)	By 31st March	Tax on capital gains or casual incomes arising after 15th March, if any.

Business/professional assesses declaring income under the estimated income scheme (u/s 44AD or 44ADA) shall be required to deposit the whole of advance tax by 15th March of the financial year. Any amount deposited by 31st March, is treated as advance tax for that financial year. If the last day for payment of any installment of advance tax is a day on which the receiving bank is closed, the assessee can make the payment on the next immediately following working day, and in such cases, the mandatory interest leviable u/s 234B and 234C would not be charged.

Important Note for Salaried tax-payers: Advance Tax is different from Tax Deducted at Source (TDS). In case of salaried people, normally tax is deducted at source from their salaries, by the employer. Their income for the year is estimated, tax calculated thereon and 1/12th of such estimated tax is deducted from their monthly pay bill.

Salaried people are normally not required to pay any advance tax. However, in case the tax liability estimated for the year is more than the TDS, then such employees shall be liable to pay advance tax as indicated above.

How to Calculate Advance Tax?

- (1) Advance tax is payable (in installments, as above) on total income (estimated for the financial year) including capital gains and casual incomes such as winnings from lotteries, races, etc. and after adjusting expenses or losses.
- (2) Therefore, income for the currency year should be estimated as precisely and correctly as possible.
- (3) If any capital gain or casual income arises subsequent to payment of an installment, the remaining installments of advance tax should be accordingly revised. If any such income arises after 15th March, tax should be deposited on such incomes latest by 31st March of the financial year.
- (4) Remember, non-payment or short payment and deferment of advance tax attract penal interest.

Advance Tax Rates:

The rates of advance tax are announced in the Finance Act every year. In the following illustrations, the method of calculating advance tax and preparation of revised estimate of income have been explained.

Illu.1: Mr. Murthy estimates his income for the year 2018-19, as on 10th June, 2018, for the purposes of advance tax as follows:

	Rs.
(a) Business income	5,47,000
(b) Interest from sources other than securities (estimated)	3,000
(c) Life Insurance premium; etc. (u/s. 80C)	66,000
(d) TDS on interest (estimated)	300

Solution:

	Rs.
Taxable Income [(a) + (b) – (c)]	4,84,000
Tax on Rs.4,84,000	11,700
Less: Rebate u/s 87A	-
Net Income Tax Payable	11,700
Add: Health & Education Cess @ 4%	468
Total Tax Payable	12,168
Less: T.D.S. on interest	300
Advance Tax Payable	11,868

Installment of advance tax shall be as under:	
1st installment by 15.6.2018 (15% of 11,868)	1,780
2nd installment by 15.9.2018 (30% of 11,868)	3,560
3rd installment by 15.12.2018 (30% of 11,868)	3,560
4th installment by 15.3.2019 (25% of 11,868)	2,968

Illu.2: Continuing with Illustration 1 above, Mr. Murthy deposited Rs.1,780 as advance tax on 13.6.2018. On 10.9.2018, he re-estimates his income for the previous year 2018-19 as under:

	Rs.
(a) Business income	5,47,000
(b) Interest from sources other than securities (actual)	3,3600
(c) Short-term capital gain (other than on securities)	22,000
(d) Other incomes	7,750
(e) Life Insurance Premium, deposit in PPF A/c, etc. (u/s 80C)	76,000
(f) T.D.S. on interest (actual)	330

Solution:

Calculation of Tax Liability

	Rs.
Taxable Income [(a) + (b) + (c) + (d) – (e)]	5,04,050
Tax on Rs.5,04,050	13,310
Less: Rebate u/s 87A	-
Net Income Tax Payable	13,310
Add: Health & Education Cess @ 4%	532
	13,842
Less: TDS on interest	330
Advance Tax Payable	13,512

The remaining three installments of advance tax shall be as under:

	Rs.	Rs.
2nd Installment by 15.9.2018 45% of Rs.13,512	6,080	
Less: Amount Paid on 13.6.2018	1,780	4,300
3rd Installment by 15.12.2018 (30% of 13,512)		4,054
4th Installment by 15.3.2019 (25% of 13,512)		3,378

Note: The assessee shall, however, be liable to pay interest u/s 234C for deferment of a part of first installment of advance tax insofar as the shortfall is one account of under-estimate of incomes other than capital gains. Refer Illustrations 5 and 6 later.

Illu.3: Continuing further with Illustration 2 above, Mr. Lingam deposits Rs.4,300 as advance tax on 12.9.2018. On 11.12.2018, he re-estimates his income for previous year 2018-19 as under:

	Rs.
(a) Business income	5,70,000
(b) Interest from sources other than securities	3,300
(c) Short-term capital gain (other than on securities)	22,000
(d) Gift from a friend received on 1.12.2018	51,000
(e) Other incomes	8,800
(f) Life insurance premium, deposit in PPF A/c etc. (u/s 80C)	1,30,000
(g) Medical insurance premium	20,000
(h) TDS on interest	330

Solution:

	Rs.	Rs.
(i) Business income		5,70,000
(ii) Capital gain – short-term		22,000
(iii) Other sources [(b) + (d) + (e)]		63,100
Gross Total Income		6,55,100
Less: Deduction u/s 80C	1,30,000	
Less: Deduction u/s 80D	20,000	1,50,000
Total Income		5,05,100
Tax on 5,05,100		13,520
Less: Rebate u/s 87A		-

Net Income Tax Payable		13,520
Add: Health & Education Cess @ 4%		541
		14,061
Less: TDS on Interest		330
Advance Tax Payable		13,731

The remaining two installments of advance tax shall be as under:

	Rs.	Rs.
3rd Installment by 15.12.2018 (75% of 13,731)	10,298	
Less: Amount paid in earlier installments (1,780 + 4,300)	6,080	4,218
4th installment by 15.3.2018 (25% of 13,731)		3,433

18.5 REFUND OF TAX

When the tax paid (including TDS and/or TCS) by a tax payer is in excess of the amount required to be paid by him, he is eligible to get a refund on the excess amount paid by him and also interest as prescribed. Income Tax Refund is covered by sections 237 to 245 of the Income Tax Act.

1. Refund to Whom:

Generally, the person who has paid the excess tax is entitled to claim refund of the same.

Exceptions: There are certain special circumstances (section 238) in which the following person are entitled to claim the refund:

- In case the income of one person is included in the income of other person under any provision of this Act, the latter alone shall be entitled to a refund in respect of that income.
- In case of death, insolvency, incapacity etc. the legal representative or the guardian can claim for the refund.

2. Refund on Assessment:

- Earlier, for the claim of refund Form 30 as per Rule 41 was to be filed. But now refund is given to the assessee upon processing of Income Tax return u/s 143(1).
- Thus, for claiming refund the assessee needs to file Income Tax Return u/s. 139. Even if the assessee is not required to file Income Tax Return for the

reason that his Gross Total Income does not exceed the maximum amount chargeable to tax although, he will be required to file the return for the purpose of claiming refund.

3. Refund on Appeals etc.:

- (a) Where a refund becomes due as a result of any order passed in appeal or any other proceeding under the Act, the AO shall refund the amount to the tax payer without any claim to be raised by the taxpayer in this behalf.
- (b) When an assessment is set aside or cancelled and a fresh assessment is directed, the refund shall become due only on completion on the fresh assessment.
- (c) When an assessment is annulled, refund shall become due only on an amount paid in excess of the tax on returned income.

4. Withholding of Refund u/s. 241A:

As per Finance Act, 2017, for assessments for AY 2018-19 and onwards where refund is due to the assessee u/s. 143(1) and a notice had been issued u/s. 143(2) and the AO is of the opinion, having regard to the fact that in respect of such return, that the grant of the refund is likely to adversely affect the revenue, he may, for reasons to be recorded in writing with the previous approval of the Principal Commissioner or Commissioner withhold the refund upto a date till when the order u/s. 143(3) is passed.

5. Interest on Delayed Refund- Section 244A:

- I. When a taxpayer does not receive the refund in-time, he is entitled to receive interest for the period of delay of granting the refund.
- II. Interest on refund is to be provided is calculated as follows:
 - (i) **Rate of Interest** – The tax payer would be entitled to simple interest.
 - (ii) **Restriction of Interest:**
 - (a) No interest is paid if the amount of refund is less than 10% of the total amount of tax as determined u/s 143(1).
 - (b) The taxpayer will not be entitled to any interest on refund, if the proceedings resulting in the refund are delayed for the reasons attributable to the taxpayer (whether wholly or in part). In such a case, the period of the delay so attributable to him shall be excluded from the period for which interest is payable.

III. The period for which interest is payable to an assessee u/s. 244A(1) can be summarized as under:

Sl. No.	Reason due to which refund has arisen	Period For which interest shall be payable
1.	Where refund has arisen as a result of any tax collected at source u/s 206C, TDS deducted or on account of advance tax paid and the return has been filed on or before the due date u/s 139(1).	Interest shall be payable for every month or part of a month from the period starting from 1st day of assessment year till the date of grant of refund.
2.	Where refund has arisen as a result of any tax collected at source u/s 206C, TDS deducted or an account of advance tax paid and the return has not been filed on or before the due date u/s 139(1).	Interest shall be payable for every month or part of a month from the date of furnishing of the return till the date of grant of refund.
3.	Where refund has arisen as a result of any tax paid u/s 140A i.e. self assessment tax paid.	Interest shall be payable for every month or part of a month from the date of furnishing of the return or payment of tax, whichever is later till the date of grant of refund.
4.	In any other case	Interest shall be payable for every month or part of the month from the date of payment of the tax or penalty till the date of grant of refund.

IV. The period for which interest is payable to an assessee u/s. 244A(1A), where a refund arises as a result of an order passed u/s. 250 or u/s. 254 or u/s. 260 or u/s. 262 or u/s. 263 or u/s. 264, otherwise than by making a fresh assessment or reassessment the interest shall be payable from the date following the date of expiry of the time allowed u/s. 153(5) to the date on which refund is granted.

V. As per Finance Act, 2017 Refund u/s. 244A(1B) in case of refund due to the deductor of TDS or TCS paid **for every month or part of the month** from the date on which – (a) Claim for refund is made in the prescribed form or; (b) Tax is

paid, where refund arises on account of giving effect to an order u/s. 250 or u/s.254 or u/s. 260 or u/s.262.

VI. Varying Rates of Interest Payable to assessee:

Interest Receivable by Assessee	Particulars
Section 244A(1) Upon Refund arising to assessee	Rate of Interest – simple interest at the rate of ½% p.m. on refund due.
Section 244(1A) Upon Refund arising to assessee	Rate of Interest – simple interest at the rate of 3% p.a. on refund due.
Section 244A(1B) As per Finance Act, 2017 Upon Refund arising to deductor	Rate of Interest – simple interest at the rate of ½% p.m. on refund due.

VII. **Set-off of Refund:** In a case where any refund is due to the taxpayer for any assessment year (s) and there is any tax demand remaining payable by him, then in such a case, the AO can set-off the amount of refund with the outstanding demand after giving an intimation in writing to the assessee.

(a) Time Limit: Before 6 years from the end of Assessment Year for which such claim is made. If claim arises as a result of any Court Order than 6 years shall be calculated from the end of the month in which the order was issued or the end of financial year whichever is later.

(b) Disposal of Condonation Application:

- Within 6 months from the end of the month of receipt of application.
- A belated application for supplementary claim of refund can be admitted for Condonation.

(c) CBDT to examine Grievance: The CBDT reserves the power to examine any grievance arising out of an Order passed or not passed by the authorities and issue suitable directions to them for proper implementation of the Circular.

18.6 RECOVERY OF TAX

After the finalization of Regular Assessment under section 143, the Assessing Officer finally decides the tax yet to be payable by the Assessee or refund of tax due to the assessee. If the assessee has to pay he issues a `Demand Notice`. Any amount as specified in the demand notice is payable within a period of 30 days from the receipt of notice at a place and to the person mentioned therein. If the assessee finds it difficult to pay the amount within the stipulated time, he may approach the Assessing Officer for extension of time. Amount may also be paid in installments with previous approval of the Assessing Officer.

Assessee in Default : When the amount is not paid within the stipulated time or the extended time, the assessee will be treated as ``assessee in default'. He shall be liable to any penalty in addition to the arrears and interest thereon. According to Section 229 any sum imposed by way of interest, fine, penalty or any other sum payable under the provisions of this Act shall be recoverable in the manner provided for the recovery of arrears of tax. The different modes of recover of tax are discussed below.

1. Recovery by Tax Recovery Officer [222] :

When an assessee is in default or is deemed to be in default in making a payment of tax, the Tax Recovery Officer (TRO) may proceed to recover from such assessee by one or more of the modes mentioned below in accordance with the rules laid down in the second schedule of the Act.

- (a) Attachment and sale of the assessee's moveable property
- (b) Attachment and sale of the assessee's movable property
- (c) Arrest of the assessee and his detention in prison
- (d) Appointing a receiver for the management of the assessee's movable and immovable properties.

2. Recovery through State Government [227] :

According to Section 227 If the recovery of tax in any area has been entrusted to a State Government, the State Government may direct, with respect to that area or any part thereof, the tax shall be recovered therein with and as an addition to any municipal tax or local rate is recovered. The government is free to use the law of the land of

recover tax dues from the assessee. They may also institute a suit for the recovery of the arrears due from the assessee.

3. Restrictions on registration of transfer of immovable property in certain cases [Section 230A] :

One more method available to the Income tax authorities is putting restrictions on the transfer of immovable property. This section provides that even though document transferring assigning etc., of a person's interest in property fulfils all conditions for the purpose of registration, it will still not be entitled to automatic registration, if the value of such transfer exceeds Rs.5,00,000. The Registration Officer will not register such a document unless the AO certifies.

- (a) that such person has paid all his tax liabilities
- (b) that such person has made satisfactory provision for the payment of his existing tax liabilities; and
- (c) that the registration of document will not adversely affect the recovery of existing tax liabilities.

18.7 SELF-ASSESSMENT QUESTIONS

A. Short Answer Questions

1. Tax Deducted at Source
2. TDS on Winnings from Lotteries
3. Advance Payment of Tax
4. Refund of Tax
5. Tax Recovery Officer

B. Essay Type Questions

1. Discuss the provisions relating to advance payment of tax.
2. What are the other modes of recovery of income tax?
3. What are the provisions relating to deduction of tax at source from : (a) Salaries (b) Interest on Securities; and (c) Winnings from lotteries.
4. Describe the provisions of the Income-tax Act in relation to the advance payment of tax.
5. Explain in brief the provisions of Income-tax law relating to 'Advance Payment of tax'.

Chapter – 19**PENALTIES AND PROSECUTIONS****Objectives :**

After studying this unit you should be able to

- Know various types penalties under Income Tax Act.
- Understand the Punishments for violating the provisions of the Act.
- Know the various types of Appellate authorities and the procedures to be followed in appeals and revisions

Structure :**19.1 Introduction****19.2 List of Penalties****19.3 Prosecution****19.4 Appeals and Revision****19.5 Revision by the Commissioner of Income Tax****19.6 Self-Assessment Questions****19.1 INTRODUCTION**

Sections	Particulars
246A	Appeal to Commissioner (Appeals)
248	Appeal by a person denying liability to deduct tax
249	Procedure for filing appeal
250	Procedure in hearing appeal
251	Powers of Commissioner (appeals)
252	Appellate Tribunal
253(1) & (2)	Appeals to Appellate Tribunal
254	Orders of Appellate Tribunal
260A	Direct appeal to High Court
260B	Case before High Court to be heard by not less than two judges
261	Appeal to the Supreme Court
263	Revision of orders prejudicial to revenue

264	Revision of orders in favour of assessee
268	Exclusion of time taken for copy.

The Income Tax Act gave authority to certain authorities income tax department and High Court or Supreme Court in certain other cases. The power to impose a penalty is given to Assessing Officer and the Commissioner. In the case of **Bansi Lal Vs. C.I.T.** it was held that the right to impose penalty by the Income Tax Officer does not come to an end when an appeal in field against the assessment made by him although in certain cases he has to obtain the prior approval of the Deputy Commissioner.

Under the Income-tax Act, a penalty may be imposed upon the assessee for one or more of the faults and up to a sum indicated in the respective sections. The officers specified in respective sections will exercise jurisdiction to levy it only when the proceeding are before them. The following dicta has been laid down by the Supreme Court in the **Hindustan Steel** case :

1. A proceeding for the levy of a penalty for a statutory offence is a quasi criminal proceeding.
2. Penalty will not ordinarily be imposed unless the party acted (i) deliberately in defiance of law; or (ii) was guilty of conduct contumacious or dishonest; or (iii) acted in disregard to its obligation.
3. Penalty will not be imposed merely because it is lawful to do so.
4. Even though there is a prescription for a minimum penalty, the executive may not levy any penalty if the breach is technical, venial or if the breach flows from a bona fide belief that the offender is not liable to act in the manner prescribed.
5. Whether penalty should be imposed for a statutory offence is a matter of discretion of authority to be exercised judicially and on a consideration of all relevant circumstances.

19.2 LIST OF PEANALITIES

The following table gives particulars relating to penalties under Income Tax Act.

Default/Offence		Penalty
1.	Default in making payment of any tax	Minimum - any amount Maximum - tax in arrears [Sec.221(1)]
2.	(a) Under-reporting of income (not as a consequence of misreporting) (b) Under-reporting of income as a consequence of misreporting.	50% of the amount of tax payable on such under-reported income. 200% of the amount of tax payable on such under-reported income. Note: Tax payable on under-reported income shall be calculated in the specified manner. [Sec.270A]
3.	In relation to assessment up to A.Y. 2016-17: Failure to comply with a notice u/s 142(1) requiring him to file his return of income or furnish any other information, or a notice u/s 143(2) requiring him to appear on a specified date or furnish any information in support of his return of income, or with a direction u/s 142(2A) to get the accounts audited.	Rs.10,000 [Sec.271(1)(b)]
4.	In relation to assessment up to A.Y. 2016-17: Concealment of particulars of income or furnishing inaccurate particulars of income.	Minimum – 100% of tax sought to be evaded Maximum – 300% of tax sought to be evaded [Sec.271(1)(c)]
5.	Failure to maintain prescribed books of accounts and documents by persons carrying on business or profession.	Rs.25,000 [Sec.271A]
6.	In respect an international transaction or specified domestic transaction, failure to keep and maintain requisite information and document as per section 92D(1) or (2), or to report such transaction as required, or maintaining/furnishing incorrect information or document.	2% of the value of the transaction entered into. [Sec.271AA(1)]

7.	Undisclosed income	Penalty of 10% of undisclosed income [Sec.271AAA]
8.	Failure to furnish the information and document as required u/s 92D(4).	Rs.5,00,000 [Sec.271AA(2)]
9.	Initiation of search u/s 132 on or after 1.7.2012 [but before 15.12.2016] - (a) If assessee admits the undisclosed income in the course of search, substantiates how it was derived, pays tax and interest thereon and files a return of income declaring such income. (b) If assessee does not admit the undisclosed income in the course of search, but declares it in his return and pays tax and interest thereon. (c) In any other case.	10% of the undisclosed income. 20% of the undisclosed income. 60% of the undisclosed income. [Sec.271AAB(1)]
10.	Initiation of search u/s 132 on or after 15.12.2016 - (a) If assessee admits the undisclosed income in the course of search, substantiates how it was derived, pay tax and interest thereon and files a return of income declaring such income. (b) In any other case.	30% of the disclosed income. 60% of the undisclosed income. [Sec.271AAB(1A)]
11.	Failure to include in total income any amount of Cash Credit (S.68), Unexplained investment (S.69), Unexplained Money, etc. (S.69A), Undisclosed investment (S.69B), Unexplained expenditure, etc. (S.69C) or amount borrowed or repaid on hundi	10% of the tax payable on such income u/s 115BBE(1)(i) (Sec.271AAC)

	(S.69D), which is determined as income by the Assessing Officer.	
12.	Failure to get the accounts audited or to furnish the audit report before the due date for filing of return.	0.5% of total sales, turnover or gross receipts or Rs.1,50,000 whichever is less. [Sec.271B]
13.	Failure to file report (i) Failure to deduct tax at source. (ii) Failure to pay additional income tax on dividends u/s 115-O. (iii) Failure to pay tax on winning from lotteries in kind or partly in kind and partly in cash u/s 194B.	Rs.1,00,000 [Sec.271BA] Amount equal to the tax which he failed to deduct or pay. [Sec.271C]
14.	Failure to collect tax at source.	Amount equal to the tax which he failed to collect. [Sec.271CA]
15.	Accepting any loan or deposit or sum as advance etc. against transfer of immovable property of Rs.20,000 or more otherwise than by A/c payee cheque/draft or by ECS.	Amount equal to the loan or deposit or sum so accepted. [Sec.271D]
16.	Receiving any amount of Rs.3,00,000 or more otherwise than by an a/c payee cheque/bank draft or by ECS.	Amount equal to the amount so received. [Sec.271DA]
17.	Repayment of any loan or deposit or sum as advance etc. against transfer of immovable property of Rs.20,000 or more otherwise than by A/c payee cheque/draft or by ECS.	Amount equal to the loan or deposit or sum so repaid. [Sec.271E]
18.	Failure to furnish a return of income u/s 139(1) or proviso thereof, [in relation to A.Y.2017-18 or earlier,] before the end of the relevant assessment year.	Rs.5,000 [Sec.271F]
19.	Failure to furnish statement of financial transaction or reportable account - (a) u/s 285BA(1) (b) Within period specified in notice issued u/s 285BA(1)	Rs.100 per day of the default. Rs.500 per day of default. [Sec.271FA]

20.	Furnishing inaccurate statement of financial transaction or reportable account by a prescribed reporting financial institution.	Rs.50,000. [Sec.271FAA]
21.	Failure to furnish a statement, information or document required u/s 94(5) within the prescribed time by an eligible investment fund.	Rs.5,00,000. [Sec.271FAB]
22.	Failure to furnish requisite information or documents as per section 92D(3) in respect of an international transaction or a specified domestic transaction.	2% of the value of such transaction. [Sec.271G]
23.	Failure to furnish information or document by an Indian concern u/s 285A :- (a) In respect of a transaction which had the effect of transferring the right of management or control in relation to the Indian concern. (b) In any other case.	2% of the value of such transaction. Rs.5,00,000 [Sec.271GA]
24.	Failure to furnish report in respect of international group u/s 286.	Rs.5,000 per day for failure up to one month and Rs.15,000 per day beyond one month. [Sec.271GB]
25.	Failure to furnish a TDS/TCS statement or furnishing incorrect information in a TDS/TCS Statement.	Minimum Rs.10,000 and maximum Rs.1,00,000. [Sec.271H]
26.	Failure to furnish information, or furnishing inaccurate information of payments to non-residents/foreign companies u/s 195(6).	Rs.1,00,000 [Sec.271-I]
27.	Furnishing of incorrect information in any report or certificate under the Act, by a chartered accountant or a merchant banker or a registered valuer.	Rs.10,000 for each such report or certificate. [Sec.271J]
28.	Refusal to answer any question in contravention of legal obligation, sign any statement made by him or comply with	Rs.10,000. [Sec.272A]

	summons or failure to comply with a notice u/s 142(1) or 143(2) or with a direction u/s 142(2A).	
29.	Failure to furnish information regarding securities u/s 94(6), or to give notice of discontinuance of business or profession u/s 176, or to furnish information sought u/s 133, or to allow inspection or take copies of registers, or to furnish return of income by charitable or religious institutions u/s 139(4A) or by a scientific research association, news agency, university, hospital etc. u/s 139(4C), or to furnish a copy of declaration of non-deduction of tax at source u/s 197A, or to furnish a statement of perquisites/profits in lieu of salary, or to furnish a copy of declaration for non-collection of tax at source, or to furnish a statement of a payment of interest without TDS u/s 206A, or to furnish a statement of TDS/TCS by a Government Office.	Rs.100 per day of the default. [Sec.272A(2)] However, in case of failure to furnish a copy of declaration of non-deduction of tax at source u/s 197A, or to furnish a certificate of TDS/TCS, or TCS, or to furnish statement of TDS/TCS by a Government office, the amount of penalty shall not exceed the amount of TDS or TCS.
30.	Failure to give information regarding a building in compliance with section 133B.	Any sum subject to a maximum of Rs.1,000. [Sec.272AA]
31.	(a) Failure to apply for allotment of Permanent Account Number (PAN). (b) Knowingly quotes a false PA No. in any document u/s 139A(5)(c) or intimates a false PA No. u/s 139A (5A) or (5C).	Rs.10,000 [Sec.272B] Rs.10,000 [Sec.272B]
32.	Failure to apply for allotment of Tax Deduction and Collection Account No.	Rs.10,000 [Sec.272BB]
33.	Knowingly quotes a false TA No. in any challan, certificate, statement or other document.	Rs.10,000 [Sec.272BB(1A)]

19.3 PROSECUTION

Prosecution means a proceeding either by way of indictment or information in the criminal courts, in order to put an offender upon his trial. In all criminal prosecutions the king is nominally a prosecutor.

Who has to initiate the prosecution proceedings : Under the general law of the land sec.190 of the Code of Criminal Procedure says that any first class Magistrate or any other Magistrate specially empowered may take cognizance of any offences as follows :

- (a) upon receiving a complaint of facts which constitutes such offence;
- (b) upon a report in writing of such fact made by any police officer;
- (c) upon information received from any person; or
- (d) upon his own knowledge or suspicion that such offence can be committed.

In case of an offence under the Income tax Act, 1961, only the Commissioner can set the machinery for prosecution in motion. Section 279(1) empowers the Commissioner to initiate prosecution proceeding under the Act and this power of initiation is given exclusively to him.

Provisions Summarised : The Income-Tax Act provides for punishment in respect of certain offences. The major ones of such offences are :

Offence		Punishment
1.	Removal, parting with or otherwise dealing with books of account, documents, money, bullion, jewellery or other valuable article or thing put under restraint during the search.	Rigorous imprisonment upto two years and fine. [Sec.2575A]
2.	Failure to afford the authorized officer the necessary facility to inspect the books of account or other documents u/s 132(1) (iib).	Rigorous imprisonment upto two years and fine. [Sec.275B]
3.	Fraudulent removal, concealment, transfer or delivery of any property or any interest in the property with the intention to thwart recovery of tax.	Rigorous imprisonment upto two years and fine. [Sec.276]

4.	Failure on the part of a liquidator or receiver of a company to give notice of his appointment, etc.	Rigorous imprisonment upto two years. [Sec.276A]
5.	Failure to enter into written agreement or to furnish the statement of immovable property intended to be transferred where the apparent consideration exceeds the specified amount or failure surrender or deliver the property purchased by the Appropriate Authority or doing or omitting to do anything which will have the effect of transfer of property with apparent consideration exceeding the specified amount without the permission of the Appropriate Authority.	Rigorous imprisonment upto two years. [Sec.276AB]
6.	(i) Failure to deposit the tax deducted at source or tax collected at source.	Rigorous imprisonment upto seven years (not less than 3 months) and fine.
	(ii) Failure to deposit additional income tax on dividends u/s 115-O.	Rigorous imprisonment upto seven years (not less than 3 months) and fine. [Sec.276B and 276BB]
7.	(a) Willful attempt to evade any tax, penalty or interest or under-reporting of income - (i) If amount sought to be evaded or tax on under-reported income exceeds Rs.25,00,000 (ii) Other cases	Rigorous imprisonment upto seven years (not less than six months) and fine. Rigorous imprisonment upto two years (not less than three months) and fine. [Sec.276C(1)]
	(b) Willful attempt to evade the payment of any tax, penalty or interest levied under Income-tax Act.	Rigorous imprisonment upto two years (not less than three months) and fine. [Sec.276C(2)]

8.	<p>Willful failure to furnish in due time return of income:</p> <p>(a) If the amount sought to be evaded exceeds Rs.25,00,000.</p> <p>(b) Other cases</p>	<p>Rigorous imprisonment upto seven years (not less than six months) and fine.</p> <p>Imprisonment upto two years (not less than three months) and fine. [Sec.276CC]</p>
9.	<p>Willful failure to produce accounts and documents as directed by issue of notice u/s 142(1), or to get the accounts audited as directed u/s 142(2A).</p>	<p>Rigorous imprisonment upto one year and fine. [Sec.276D]</p>
10.	<p>Making of a statement in verification or delivery of an account or statement which is false and which the concerned person knows or believes to be false or does not believe to be true:</p> <p>(a) If the amount sought to be evaded exceeds Rs.25,00,000.</p> <p>(b) Other cases.</p>	<p>Rigorous imprisonment upto seven years (not less than six months) and fine.</p> <p>Rigorous imprisonment upto two years (not less than three months) and fine. [Sec.277]</p>
11.	<p>Falsification of books or documents, etc. to induce or abet any other person to evade any tax, penalty or interest.</p>	<p>Rigorous imprisonment upto two years (not less than three months) and fine. [Sec.277A]</p>
12.	<p>Abetting or inducing another person to make and deliver an account or statement or declaration relating to any taxable income which is false and which he either knows or believes to be false :</p> <p>(a) If the amount sought to be evaded exceeds Rs.25,00,000.</p>	<p>Rigorous imprisonment upto seven years (not less than six months) and fine.</p>

	(b) Other cases.	Rigorous imprisonment upto two years (not less than three months) and fine. [Sec.278]
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19.4 APPEALS AND REVISIONS

Appeal to Commissioner (Appeals) [Sec.246A]

Any assessee or any deductor or any collector not satisfied with any of the following orders of the Assessing Officer, may file an appeal to the Commissioner (Appeals) having jurisdiction :

- (a) An order u/s 115VP(3)(ii) (relates to tonnage tax scheme for shipping companies),
- (b) Assessment order against the assessee, where the assessee denies his liability to be assessed under the Act,
- (c) An intimation u/s 143(1) or 143(1B) or 200A(1) or 206CB(1), where the assessee or the deductor or the collector objects to the making of adjustments,
- (d) An assessment order u/s 143(3) (except an order passed in pursuance of directions of Dispute Resolution Panel or an order passed as a consequence of General Anti-Avoidance Rule u/s 144BA) or a best judgment assessment order u/s 144, where the assessee objects to the amount of income assessed, or the tax determined, or the loss computed or to the status under which he is assessed,
- (e) An order of assessment u/s 115WE(3) or 115WF, where the assessee, being an employer objects to fringe benefits assessed,
- (f) An order of assessment or re-assessment u/s 115WG,
- (g) An order of assessment, re-assessment or re-computation u/s 147 (except an order passed in pursuance of direction of Dispute Resolution Panel or an order passed as a consequence of General Anti-Avoidance Rule u/s 144BA) or u/s 150,
- (h) An order of assessment or re-assessment u/s 153A (except an order passed in pursuance of directions of Dispute Resolution Panel) [or an order passed as a consequence of General Anti-Avoidance Rule u/s 144BA],

- (i) An order of assessment or reassessment u/s 92CD(3) relating to advance pricing agreement,
- (j) A rectification order u/s 154 or 155 (except an order passed as a consequence of General Anti-Avoidance Rule u/s 144 BA),
- (k) An order u/s 163 treating the assessee as agent of a non-resident,
- (l) An order u/s 170(2) or 170(3) [succession to business other-wise than on death],
- (m) An order of assessment after partition of an HUF u/s 171,
- (n) An order made u/s 201 (failure to deduct or pay TDS),
- (o) An order made u/s 206C(6A) (failure to collect or pay TCS),
- (p) An order for refund u/s 237,
- (q) A penalty order u/s 221 (default in payment of tax), u/s 271 (failure to comply with notices or concealment of income), u/s 271A (failure to keep, maintain or retain books of account, etc.), u/s 271AAA (initiation of search), u/s 271AAB (initiation of search), u/s 271B (failure to get accounts audited u/s 44AB), u/s 271 F (failure to file return), 271FB (failure to file Fringe Benefit Tax Return), u/s 272A (failure to answer questions, sign statements, furnish information, returns or statements, etc.) u/s 272AA (failure to comply with a search u/s 113B),
- (r) An order imposing or enhancing penalty u/s 275(1A) (i.e. in effect of an appellate or revision order),
- (s) A penalty order u/s 271C (failure to deduct tax at source), u/s 271CA (failure to collect tax at source), u/s 271D (contravention or section 269SS), u/s 271E (contravention of section 269T),
- (t) Any other penalty order,
- (u) An order of assessment of undisclosed income u/s 158BC in case of search or requisition initiated on or after 1.1.1997,
- (v) An order of penalty u/s 158BFA,
- (w) A person claiming as not liable to deduct TDS on any income, other than interest, u/s 195, where under an agreement/arrangement TDS is to be borne by the payer. [Sec.248]

Notes:

- (1) An assessee can appeal against the modification order passed by the Assessing Officer giving effect to the order in an appeal, since such order is alike an order of assessment u/s 143.
- (2) A rectification order u/s 154/155, wherein the Assessing Officer grants refund but fails to grant interest on refund can be appealed against u/s 246(1)(b).
- (3) Order charging interest u/s 220(2) is not a part of assessment order and thus, not appellable.

Appeal Procedure [Sec.249 and Rule 45]:

The appeal should be filed within 30 days from the date of receipt of demand notice/order of assessment/penalty. The appeal should be in Form 35 supported by grounds of appeal duly signed and verified by the person authorised to sign the return of income. It should also be accompanied by a copy of order appealed against and the notice of demand in original.

W.e.f 1.3.2016, the appeal shall be furnished in the following manner:

- (i) Electronically under digital signature, if the return of income is furnished under digital signature, or
- (ii) Electronically through electronic verification code, if the assessee is required to furnish return of income electronically but not covered in clause (i) above, or
- (iii) Electronically (in any of the modes aforesated) or in paper form, if the assessee has the option to furnish the return of income in paper form.

Document accompanying Form 35 shall also be furnished in the same manner.
[Rule 45].

The Commissioner (Appeals) may admit an appeal after the expiry of the specified period of 30 days, if he is satisfied that the appellant had sufficient cause for delay. The appellant should prefer an application for condonation of delay along with the appeal. The delay is condonable if the appeal is based on a Supreme Court order passed subsequently.

In case of an appeal filed before the Commissioner (Appeals) the fee is to be paid as follows:

(1)	Where the total income assessed is upto Rs.1,00,000	Fee of Rs.250
(2)	Where the total income assessed is Rs.1,00,001 to Rs. 2,00,000	Fee of Rs.500
(3)	Where the total income assessed exceeds Rs.2,00,000	Fee of Rs.1,000
(4)	Where the subject-matter of an appeal is not covered under (1), (2), (3) above	Fee of Rs.250

The fee shall be paid in any authorised bank, along with Challan No.280. Photocopy of the counterfoil indicating, Challan Identification No. (CIN) shall be filed along with the appeal. Where the department insists for the original counterfoil, the assessee should retain a photocopy thereof for his record.

The appeal will not be admitted unless before the filing of the appeal the undisputed portion of the income-tax has been paid. Exemption from payment of tax can, however, be granted by the appellate authority for good and sufficient reasons only. Once the appeal is filed, it can be withdrawn only with the permission of the appellate authority.

The procedure for appeal and powers of Commissioner (Appeals) are dealt with in Sections 250 and 251 read with Rules 45 to 48. The Commissioner (Appeals) shall hear and decide an appeal within one year from the end of the financial year in which such appeal is filed before him. The appellate authority shall also hear the ITO or his representative. Further, the CBDT has directed that appellate orders by Commissioner (Appeals) should be issued within 15 days of the last hearing.

The appellate authority may accept or reject the appeal, in which case the appeal is said to be allowed or dismissed, respectively. They have also powers of enhancing the assessed income or penalty. They may even annul the assessment.

Appeal to Appellate Tribunal [Sec.253 and Rule 47]:

A further appeal lies to Appellate Tribunal against (i) an order of the Commissioner (Appeals) u/ss 154 or 250 or 270A or 271 or 271A or 272A, of (ii) an order of revision u/s 263, or (iii) an order in respect of registration of a Trust u/s 12AA or u/s 80G(5)(vi), or (iv) a penalty order u/s 270A, 271, 271A or 272A passed by the Commissioner, or (v) an order passed by an Assessing Officer u/s 115VZC or u/ss 143(3) or 147 or 153 A or 153C in pursuance of the directions of the Dispute Resolution Panel or u/s 154 in respect of such order, or (vi) an order passed by an Assessing Officer u/ss 143(3), 147, 153A or 153C with the Commissioner's approval as per section

144BA(12) or u/ss 154 or 155 in respect of such order, or an order passed u/s 10(23C) [(iv), (v)] (vi) or (via).

An order of Commissioner (Appeals) rejecting an appeal, holding that the appeal was not in the prescribed form or was not verified in the prescribed manner or that there were no sufficient reasons for condoning the delay in filing the appeal, is an order u/s 250 and can be appealed against.

The appeal should be filed within 60 days of the communication of the order. The appeal should be filed in Form 36, in triplicate, accompanied by:

1. Two copies (at least one of which should be certified copy) of the order appealed against and two copies of the relevant order of the Assessing Officer.
2. Counter oil of Challan as proof of payment of appeal fee. The fee is payable as follows:

(1)	Total income assessed is upto Rs.1,00,000	Fee of Rs.500
(2)	Total income assessed is Rs.1,00,001 to Rs. 2,00,000	Fee of Rs.1,500
(3)	Total income assessed is over Rs.2,00,000	Fee of 1% of the income assessed subject to a maximum of Rs.10,000
(4)	Where the subject-matter of an appeal is not covered under (1), (2), (3) above	Fee of Rs.500
(5)	Application for stay of demand	Fee of Rs.500

Note: In case of e-payment of tribunal fees the respective challans are to be countersigned by the concerned bank manager or attested by the authorized representative or assesses themselves, without which the fees will not be treated valid.

3. Three copies of the paper book containing copies of all documents, if any, to be relied upon.
4. Three copies of any order of the Tribunal or a High Court or the Supreme Court, relied upon.

The Department may also prefer an appeal before the Appellate Tribunal, only if the tax effect (excluding interest) or the quantum of penalty or the amount of interest in dispute, exceeds Rs.10,00,000. However, where an appeal is not filed only for reason that 'tax effect' being less than the specified limit, it shall not preclude the department

from filing an appeal on the same issue in the case of the same assessee for any other assessment year, or in the case of any other assessee for any assessment year. The monetary limit, however should not be the only guiding factor in deciding whether to file an appeal and it should be decided strictly on merits.

No fee is payable on an appeal filed by the Department.

Where the Department prefers an appeal against the order of the Commissioner (Appeals), to the Appellate Tribunal a notice of the same along with a copy of the appeal shall be served on the assessee. The assessee should furnish a memorandum of cross objections in Form No. 36A, before the Appellate Tribunal, within 30 days of receipt of such notice. No fee is required to be paid for filing the cross objections. The notice no fee is required to be paid for filing the cross objections. The Department also can file cross objections before the Tribunal on an Department also can file cross objections before the Tribunal on an assessee's appeal. The monetary limit of Rs.10 lakhs shall equally apply to cross-objections by the Department. Filing of cross-objections below the limit may not be considered henceforth and where already filed the same should be pursued for dismissal as withdrawn/not pressed.

The Tribunal may hear and decide an appeal within 4 years from the end of the financial year in which such appeal is filed. The Tribunal may, on merits, issue a stay order for a period upto 180 days and the appeal shall be disposed of within the period of stay. However, on an application by the assessee. The period of stay. However, on an application by the assessee, the period of stay may be extended upto a total period (including period of original stay) of 365 days. If the appeal is not disposed of within the period of stay (including the extended period) which shall not exceed 365 days in any case, the stay order shall stand vacated on the expiry of such period even if the delay in disposal of appeal is not attributable to the assessee. [Sec.254]

The Appellate Tribunal may make such order as it deems fit. The Appellate Tribunal may accept or reject the appeal, in which case the appeal is said to be allowed or dismissed, respectively. They have also powers of enhancing the assessed income or penalty. The tribunal can also set aside the assessment or order made by the Assessing Officer and remand the case to the Assessing Officer to enquire and furnish a report on specified matters or to make *denovo* assessment. The cost of an appeal shall be at the discretion of the Tribunal. [Sec.254]

The order of the Appellate Tribunal is final on all matters of facts. However, if the points of law arise from Appellate Tribunal's order, appeal can be made before the

High Court under section 260A, and further appeal before the Supreme Court under Sections 261 and 262.

Special provision fore Avoiding Repetitive Appeals:

Where a question of law arising in the assessee's case, pending before the Assessing Officer or any appellate authority, is also pending in a reference before the High Court of the Supreme Court or in an appeal before the High Court or the Supreme Court, the assessee may furnish to the Assessing Officer or the appellate authority a declaration in Form No. 8 that if the Assessing Officer or the appellate authority agrees to apply, the decision of the H.C. or the S.C. to this case, he will not raise an appeal before any appellate authority or High Court or the Supreme Court. [Sec.158A]

Similarly, where a question of law arising, in the case of an assessee for any assessment year is identical with the question arising in his case for another assessment year pending disposal before the Supreme Court, the department may apply to the Appellate Tribunal within 60 days of receipt of order of Commissioner (Appeals) stating that appeal in the relevant case may be filed after the Supreme Court's decision in the earlier case. Such application may be made only after obtaining assessee's acceptance to the same. If assessee does not give his acceptance, the department may file appeal to the Tribunal.

In case the Supreme Court's decision in the earlier case is decided in favour of the revenue, the department may file appeal before the Tribunal within 60 days of receipt of Supreme Court's order. [Sec.158AA]

Appeal to the High Court:

An appeal shall lie to the High Court from every appellate order passed by the Appellate Tribunal, if the High Court is satisfied that the case involves a substantial question of law. The appeal may be filed by the Department or the assessee. The Department may appeal before the High Court, only if the tax effect (excluding interest) or the quantum of penalty or the amount of interest in dispute, exceeds Rs.20,00,000. However, where an appeal is not filed only for the reason that 'tax effect' being less than the specified limit, it shall not preclude the department from filing an appeal on the same issue in the case of the same assessee for any assessment year. The monetary limit, however, should not be the only guiding factor in deciding whether to file an appeal and it should be decided strictly on merits. The Memorandum of Appeal would precisely state the substantial question of law involving the appeal. An appeal along with a fee (as per Court Fees Act), would be filed within 120 days of the date of receipt of the order

appealed against. The High Court may admit an appeal filed after the said period of 120 days if it is satisfied that there was sufficient cause for the delay. The question of law would be formulated by the High Court, then the appeal would be heard by a bench of at least two judges and decided by majority opinion. Where the High Court had not framed substantial question of law arising in appeal before answering same, the matter was to be remanded to the High Court.

The high Court may review its order passed u/s 260A. [Secs. 260A and 260B]

Note: In case of delay on the part of Department, the High Court should examine the case on merits, and should not dispose of case merely on ground of delay, particularly when huge stakes are involved.

Appeal to Supreme Court:

An appeal lies before the Supreme Court, against an order of the High Court delivered in an appeal. Such appeal can be filed only if the High Court certifies it to be a fit case for appeal to the Supreme Court. If the High Court refuses to grant such a certificate, the assessee can file a Special Leave Petition before the Supreme Court. If the SLP is granted, the Supreme Court will hear and decide the appeal on merits. [Sec.261]

The Department may appeal before the Supreme Court, only if the tax effect (excluding interest) or the quantum of penalty or the amount of interest in dispute exceeds Rs.25 lakhs. However, where an appeal is not filed only for the reason that 'tax effect' being less than the specified limit, it shall not preclude the department from filing an appeal on the same issue nor preclude the department from filing an appeal on the same issue in the case of the same assessee for any other assessment year, or in the case of any other assessee for any assessment year. The monetary limit, however, should not be the only guiding factor in deciding whether to file an appeal and it should be decided strictly on merits.

19.5 REVISION BY THE COMMISSIONER OF INCOME-TAX

Revision on Application by Assessee or *Suo Motu*:

An Assessee may apply to the Commissioner, for revision of any order of any subordinate authority against which no appeal lies, within one year from the date of service of the impugned order. The application shall be accompanied by a fee of Rs.500.

An application by an assessee for revision shall be disposed off within one year from the end of the financial year in which the application is made except where a

revision is made as a consequence of or to give effect to any judgement of the Appellate Tribunal, National Tax Tribunal, High Court or Supreme Court.

The Commissioner may revise an order of a subordinate authority, *suo motu*, within one year from the date of order.

The Commissioner may revise the assessment appropriately. The Commissioner may even set aside the assessment or order, and remand the case to the Assessing Officer to enquire and furnish a report on specified matters or to make *de novo* assessment. However, the order must not be prejudicial to the assessee. [Sec.264]

The Commissioner shall make a report of revision orders passed by him to the Pr. Chief CIT/Chief CIT.

Revision of Orders Prejudicial to Department [Sec.263]:

The Commissioner may revise an order passed by an Assessing Officer, which is erroneous being prejudicial to the interest of revenue, after giving an opportunity of being heard to the assessee, within two years from the end of the financial year in which the impugned order was passed.

An order passed by the Assessing Officer shall be deemed to be erroneous being prejudicial to the interests of revenue, if the order is passed without making requisite inquiries or verification, or the order allows any relief without inquiring into the claim, or the order is not in accordance with any order, direction or instruction of the Board, or the order is not in accordance with any High Court/Supreme Court decision which is prejudicial to the assessee.

19.6 SELF-ASSESSMENT QUESTIONS

A. Short Answer Questions

1. What is a Penalty?
2. Penalty for failure to comply the notices of Income Tax Officer.
3. Penalty for failure to keep or maintain books of accounts
4. Prosecution under Section 276CC
5. Commissioner of Income Tax (Appeals)
6. Appellate Tribunal

B. Essay Questions

1. State five types of penalties that can be imposed under Income Tax Act for the violation of the various provisions of the Act.
2. State five types of punishments that can be imposed under Income Tax Act for the violation of the various provisions of the Act
3. State various types of Appellate authorities under Income Tax Act.
4. Explain the procedure for appeal to the Commissioner of Income Tax (Appeals)
5. Describe the procedure of an appeal to the Deputy Commissioner (Appeals). Give various orders against which the appeal can be preferred.
6. Describe the procedure of constitution of appellate Tribunal. Give the procedure for filing an appeal to the Appellate Tribunal.
7. (a) Write a short note on Reference of a case to High Court and Supreme Court by an assessee
 - (b) Describe the various cases in which the assessment can be revised by the Commissioner.

Chapter – 20

Finance Act, 2018 & Revisionary Problems

Important Amendments made by Finance Act, 2018

BASIC CHARGE	
Section	Significant Changes
9(1)(i) Expl.2	<p>Existing provisions – The existing clause (a) of Explanation 2 of Section 9(1)(i) provides that “business connection” shall include any business activity carried out through a person who, acting on behalf of the non-resident has and habitually exercises in India, an authority to conclude contracts on behalf of the non-resident, unless his activities are limited to the purchase of goods or merchandise of the non-resident.</p> <p>With effect from 1-4-2019 (Assessment year 2019-2020) : The newly substituted clause provides that “business connection” shall include any business activity carried through a person who, acting on behalf of the non-resident has and habitually exercises in India, an authority to conclude contracts on behalf of the non-resident or habitually concludes contracts or habitually plans the principal role leading to conclusion of contracts by the non-resident and the contracts are :</p> <ul style="list-style-type: none"> (a) in the name of the non-resident; or (b) for the transfer of the ownership of, or for the granting of the right to use, property owned by that non-resident has the right to use; or (c) for the provision of services by that non-resident.
9(1)(i), Expln.2A	<p>Newly inserted Explanation 2A – Concept of significant Economic presence included with effect from 1-4-2019 (Assessment Year 2019-2010)</p> <p>To clarify that the significant economic presence of a non-resident in India shall constitute “business connection” of the non-resident in India, the “significant economic presence” for this purpose, shall mean –</p> <ul style="list-style-type: none"> (a) any transaction in respect of any goods, services or property carried out by a non-resident in India including provision of download of data or software in India, if the aggregate of payments arising from such transaction or transactions during the previous year exceeds such amounts as may be prescribed;

	<p>or</p> <p>(b) systematic and continuous soliciting of its business activities or engaging in interaction with such number of users as may be prescribed, in India through digital means</p> <p>Moreover, it is provided that the aforesaid transactions or activities shall constitute significant economic presence in India, whether or not the agreement for such transactions or activities is entered in India or the non-resident has a residence or place of business in India or renders services in India and income as is attributable to such transactions or activities shall be deemed to accrue or arise in India.</p>
Income Exempt from Tax	
10(6D)	With effect from 1-4-2018 (Assessment Year 2018-19) : New clause introduced – Fees for Technical Services or Royalty Income from National Technical Research Organization shall be exempt for Non Resident or a Foreign Company
10(12A)	Existing Provision – 40% Exemption is provided to an employee of the amount received from National Pension system Trust on account of closure of the account or opting out of the pension scheme. With effect from 1-4-2019 (Assessment year 2019-2020) : Similar Exemption is provided to every assessee when he closes such account or opts out of the scheme.
10(23C)	Existing provision : Third proviso to clause 23© provides for exemption in respect of income of the entities in a case where such income is applied or accumulated during the previous year for certain purposes. With effect from 1-4-2019 (Assessment year 2019-2020) : A proviso has been inserted to provide that the provisions of section 40(a)(ia), 40A(3) and 40A(3A) shall apply in computing the aforesaid Application of Income mutatis mutandis as they apply in computing the income chargeable under the head “Profits and gains of business or profession”.
10(38)	Existing Provision – LTCG (Long Term Capital gain) on Sale of Equity shares etc. on which STT are paid both at the time of acquisition and at the time of sale is exempt. With effect from 1-4-2019 (Assessment year 2019-2020) : Such LTCG shall not be exempt in case of transfer of Equity shares etc on or after 1-4-2018
10(46)	Existing Provision : Provides for exemption to specified income arising to a body or authority or Board or Trust or Commission not engaged in

	<p>any commercial activity, established or constituted with the object of regulating or administering any activity for the benefits of the general public.</p> <p>With effect from 1-4-2018 (Assessment year 2018-19) : Similar exemption has been provided to a class of body or authority or Board or Trust or commission also.</p>
10(48B)	<p>Existing provision : Exemption is available for any income accruing or arising to a foreign company on account of sale of leftover stock of crude oil from a facility in India after the expiry of the agreement or arrangement.</p> <p>With effect from 1-4-2019 (Assessment year 2019-2020) : Similar exemption has been provided in case of the termination of the aforesaid agreement or the arrangement.</p>
Income of Charitable Institutions & Trusts	
11(1), Explan.3	<p>Existing provision : Provides for exemption in respect of income derived from property held under trust for charitable or religious purposes to the extent to which such income is applied or accumulated during the previous year for certain purposes.</p> <p>With effect from 1-4-2019 (Assessment year 2019-2020) : Explanation 3 has been inserted to provide that the provisions of Section 40(a)(ia), 40A(3) and 40A(3A) shall apply in computing the aforesaid application of Income mutatis mutandis as they apply in computing the income chargeable under the head "Profits and gains of business or profession."</p>
Income from Salaries	
16(ia)	<p>With effect from 1-4-2019 (Assessment Year 2019-2020) – New Clause (ia) added : In computing the Income from Salaries, lower of the following shall be allowed as deduction –</p> <p>(a) Amount of salary or</p> <p>(b) Rs.40,000</p>
17	<p>Existing Provision : It was provided that any sum paid by the employer in respect of any expenditure actually incurred by the employee on his medical treatment or treatment of any member of his family not exceeding fifteen thousand rupees in the previous year shall not be treated as perquisite in the hands of the employee.</p> <p>With effect from 1-4-2019 (Assessment Year 2019-2020) : The aforesaid amount will no longer be exempt in the hands of employee on account of standard deduction of Rs.40,000 allowed by the Finance Bill. In addition to the above, Conveyance allowance of Rs.16,200 exempt in the hands of the assessee stands withdrawn.</p>

PGBP : Profits and Gains of Business or Profession	
28(ii)(e)	With effect from 1-4-2019 (Assessment year 2019-2020) : The new sub-clause has been inserted to tax any compensation due to or received by any person in connection with the termination or the modification of the terms and conditions of any contract relating to his business under the head "Profits and gains of business or profession."
28(via)	With effect from 1-4-2019 (Assessment year 2019-2020) : The new clause has been inserted to tax the fair market value of the inventory as on the date of its conversion or treatment as capital assets under the head "Profit and gains of business and profession."
36(1)(xviii)	With retrospective effect from 1-4-2017 (Assessment Year 2017-2018) : The new clause has been inserted to allow for deduction in respect of any marked to market loss or other expected loss computed in accordance with the income computation and disclosure standards notified under section 145(2).
40A(13)	With retrospective effect from 1-4-2017 (Assessment year 2017-18) : The new sub-section has been inserted to provide that no deduction or allowance shall be allowed in respect of any marked to market loss or other expected loss except as allowable under the new section 36(1)(xviii).
43	With effect from 1-4-2019 (Assessment year 2019-2020) : New Explanation added : The new explanation provides that the actual cost of the inventory being converted into capital asset which is again used for the purpose of business or profession shall be the fair market value which has been taken into account for the purpose of section 28(via).
43(5)	Existing provision : Clause (e) of the proviso to section 43(5) provides the trading in commodity derivatives carried out in a recognized stock exchange, which is chargeable to commodity transaction tax is a non speculative transaction. With effect from 1-4-2019 (Assessment year 2019-2020) : New proviso added for the purpose of clause (e) of the First proviso : New Proviso provides that the requirement of chargeability to commodity transactions tax shall not apply for transaction in respect of trading in agricultural commodity derivatives.
43AA	With retrospective effect from 1-4-2017 (Assessment year 2017-2018) : New Section inserted – Any gain or loss arising on account of any change in foreign exchange rates shall be treated as income or loss and such gain or loss shall be computed in accordance with the income computation and disclosure standards notified under Section 145(2) Moreover, such gain or loss shall be in respect of all foreign currency

	<p>transactions including those relating to monetary items and non-monetary items or transactions of financial statements of foreign operations or forward exchange contracts or foreign currency transaction reserves.</p>
43CA(1)	<p>Existing provision : The said section provides that the value adopted or assessed or assessable by the stamp valuation authority does not exceed 105% of the consideration received or accruing as a result of the transfer, the consideration so received or accruing shall be deemed to be the full value of the consideration.</p>
43CA(4)	<p>Existing provision : In case where the date of agreement fixing the value of consideration for transfer of the asset and the date of registration of such transfer of asset are not the same, the value assessable by the authority on the date of the agreement for transfer of the asset.</p> <p>With effect from 1-4-2019 (Assessment Year 2019-2010) : Section amended to provide that where the date of agreement fixing the value of consideration for transfer of the asset and the date of registration of such transfer of asset are not the same, the value assessable by the authority on the date of agreement shall be taken if the amount of consideration or a part thereof has been received by way of an account payee cheque or an account payee bank draft or by use of electronic clearing system through a bank account on or before the date of agreement for transfer of the asset.</p>
43CB	<p>With retrospective effect from 1-4-2017 (Assessment year 2017-18) – New section inserted – Profits and gains of a construction contract or a contract for providing services shall be determined on the basis of percentage of completion method in accordance with the income computation and disclosure standards notified under section 145(2). Also, in the case of a contract for providing services with duration upto ninety days, the profits and gains shall be determined on the basis of project completion method. More so, in the case of a contract for provision of services involving indeterminate number of acts over a specific period of time, the profits and gains arising from such contract shall be determined on the basis of a straight line method.</p>
44AE	<p>Existing provision – Presumptive Income in business of plying, hiring or leasing goods carriages – Rs.7,500 for every month or part of a month or an amount claimed to be actually earned by the assessee, whichever is higher, shall be deemed to be the aggregate income.</p> <p>With effect from 1-4-2019 (Assessment Year 2019-2020) – Separate amount for Heavy Goods Vehicle introduced.</p>

	<p>(a) For a heavy goods vehicle – Rs.1,000 per ton of gross vehicle weight or unladen weight for every month or part of a month during which the heavy goods vehicle is owned by the assessee in the previous year or an amount claimed to have been actually earned from such vehicle, whichever is higher.</p> <p>(b) For other vehicles – Rs.7,500 for every month or part of a month during which the goods carriage is owned by the assessee in the previous year or an amount claimed to have been actually earned from such goods carriage whichever is higher.</p> <p>(c) Explanation (aa) introduced to define “Heavy Goods Vehicle” as any goods carriage the gross weight of which exceeds 12,000 kg.</p>
145A	<p>With retrospective effect from 1-4-2017 (Assessment year 2017-18) – method of Accounting for the purpose of determining the income chargeable under the head “Profits and gains of business or profession”.</p> <p>(a) Valuation of inventory shall be made at lower of actual cost or net realizable value determined in accordance with the income computation and disclosure standards notified under section 145(2).</p> <p>(b) Valuation of purchase and sale of goods or services and of inventory shall be adjusted to include the amount of any tax, duty, cess or fee actually paid or incurred by the assessee to bring the goods or services to the place of its location and condition as on the date of valuation.</p> <p>(c) Valuation of inventory being securities not listed on a recognized stock exchange; or listed but not quoted on a recognized stock exchange with regularity from time to time, shall be valued at actual cost initially recognized in accordance with the income computation and disclosure standards notified under section 145(2).</p> <p>(d) Other securities shall be valued at lower of actual cost or net realizable value.</p> <p>(e) Valuation of inventory being securities held by a scheduled bank or public financial institution shall be valued in accordance with the notified ICDS after taking into account the guidelines issued by the RBI.</p> <p>(f) For this purpose of comparison of actual cost and net realizable value shall be done category wise.</p>
Income from Capital Gains	
2(42A)	<p>With effect from 1-4-2019 (Assessment year 2019-2020) : Holding period of an Inventory Converted into Capital Asset referred in section 28(via) shall be reckoned from the date of its conversion or treatment.</p>

47(viiab)	<p>With effect from 1-4-2019 (Assessment year 2019-2020) : New clause added – List enlarged of Transactions not regarded as transfer : Any transfer made on a Recognized Stock Exchange located in any International Financial Services Centre of a capital asset being bond or GDRs or rupee denominated bond of an Indian company or derivative by a non resident and consideration for such transfer is paid or payable in foreign currency.</p>
48	<p>With effect from 1-4-2018 (Assessment Year 2018-2019) : Denial of benefit of first and second proviso – Benefit of first and second proviso to section 48 shall not apply to the capital gain from the transfer of long term capital assets referred to in section 112A</p>
49	<p>With effect from 1-4-2019 (Assessment year 2019-2020) - Cost of Acquisition in case of Inventory Converted into Capital Asset : The cost of acquisition of such asset shall be deemed to be the fair market value which has been taken into account for the purposes of section 28(via).</p>
50C	<p>Existing provision : The said section provides that the value adopted or assessed or assessable by the stamp valuation authority shall be taken as the full value of consideration for the purposes of computing capital gains on transfer of land or building or both, if it is more than the full value of consideration received in case of transfer of such asset.</p> <p>With effect from 1-4-2019 (Assessment year 2019-2020) : New proviso inserted that where the value adopted or assessed or assessable by the stamp valuation authority does not exceed 105% of the consideration received or accruing as a result of the transfer, the consideration so received or accruing shall be deemed to be the full value of the consideration.</p>
54EC	<p>Existing Provision : Capital gain arising from the transfer of a long term capital asset, invested in the long term specified asset at any time within a period of six months after the date of such transfer, shall not be charged to tax.</p> <p>With effect from 1-4-2019 (Assessment year 2019-2020) : Exemption limited to land or building or both : Capital gain arising from the transfer of a long-term capital asset, being land or building or both, invested in the long-term specified asset at any time within a period of six months after the date of such transfer, the capital gain shall not be charged to tax subject to certain conditions specified in the said section.</p>
54EC	<p>Exiting Provision : An Explanation to the said section clarifies expression “long term specified asset’ for making any investment under the said section to mean any bond, redeemable after three years and</p>

	<p>issued on or after the 1st day of April, 2007 by the National Highways Authority of India or by the Rural Electrification Corporation Limited; or any other bond notified by the Central Government in this behalf.</p> <p>With effect from 1-4-2019 (Assessment year 2019-2020) – Lack in period of Bonds amended : Long term specified asset for making any investment under the said section :</p> <p>(a) On or after 1-4-2007 but before 1-4-2018 shall mean any bond, redeemable after three years and issued on or after 1-4-2007 but before 1-4-2018 by the National Highway Authority of India or by the Rural Electrification Corporation Limited or any other bond notified by the Central Government.</p> <p>(b) On or after 1-4-2018 shall mean any bond, redeemable after five years and issued on or after 1-4-2018 by the National Highways Authority of India or by the Rural Electrification Corporation Limited or any other bond notified by the Central Government.</p>
55	<p>With effect from 1-4-2018 (Assessment year 2018-2019) – Cost of Acquisition of Capital Assets referred to in Section 112A –</p> <p>The cost of acquisition of long-term capital asset, being an equity share in a company or a unit of an equity oriented fund or a unit of a business trust acquired before 1-2-2018 shall be higher of cost of acquisition of such asset AND lower of fair market value of such asset or full value of consideration received or accrued.</p>
112A	<p>With effect from 1-4-2019 (Assessment year 2019-2020) Taxation on Long Term Capital gains –</p> <p>Where the total income of an assessee includes any income chargeable under the head “Capital gains” arising from the transfer of a long-term capital asset, being an equity share in a company or a unit of an equity oriented fund or a unit of a business trust, subject to the conditions specified under the section, the tax payable by the assessee on the capital gains exceeding Rs.1,00,000 shall be calculated at the rate of 10%.</p>
Income from Other Sources	
56(2)(x)(b)	<p>Existing provision – Where any person receives any immovable property from any person or persons on or after 1-4-2017 for a consideration which is less than the stamp duty value of the property by an amount exceeding Rs.50,000, the stamp duty value of such property exceeding such consideration shall be charged to tax under the head “Income from other sources.”</p> <p>With effect from 1-4-2019 (Assessment year 2019-2020) – In case where any person receives any immovable property for a consideration less</p>

	<p>than the stamp duty value of the property, then excess amount of stamp duty value over and above the consideration shall be charged to tax under the head "Income from other sources", if the amount of such excess is higher of the following .</p> <p>(a) Rs.50,000 (b) 5% of the consideration</p>
56(2)(x)	<p>Existing Provision – Proviso provides for exemption to certain transactions which are not regarded as transfer u/s 47 where provisions of section 56(x) shall not be applied.</p> <p>With effect from 1-4-2018 (Assessment year 2018-19) – List extended to exclude two more transactions –</p> <p>(a) The transfer of capital asset between holding company and its wholly owned Indian subsidiary company which is not regarded as transfer under section 47(iv).</p> <p>(b) The transfer of capital asset between subsidiary company and its Indian holding company which is not regarded as transfer under section 47(v).</p>
56(2)(xi)	<p>With effect from 1-4-2019 (Assessment year 2019-2020) – New clause inserted</p> <p>Any compensation or other payment due to or received by any person in connection with the termination of his employment or the modification of the terms and conditions relating thereto shall be chargeable to income tax under the head "income from other sources".</p>
Carry Forward and Set off of Losses	
79	<p>With effect from 1-4-2018 (Assessment Year 2018-19) : To include one more exception to carry forward and set off of losses - Provisions of section 79 shall not apply to a company where a change in the shareholding takes place in a previous year pursuant to approved resolution plan under the Insolvency and Bankruptcy Code, 2016 after affording a reasonable opportunity of being heard to the jurisdictional Principal Commissioner or Commissioner.</p>
Deductions from Gross Total Income	
80AC	<p>Existing Provision : Any deduction admissible u/s 80 IA, 80-IAB, 80-IB, 80-IC, 80-ID, or 80-IE shall be allowed to the assessee in computing the total income of the previous year relevant to the assessment year commencing on or after 1-4-2006 only if he furnishes a return of his income for such assessment year on or before the due date specified under section 139(1).</p> <p>With effect from 1-4-2018 (Assessment year 2018-19) – Deduction under any provisions of Chapter VIA under the heading "C" – Deduction in</p>

	<p>respect of certain incomes” shall be allowed in computing the total income of an assessee of the previous year relevant to the assessment year commencing on or after 1-4-2018 only if the return is filed within the due date specified under section 139(1).</p>
80D(2)	<p>Existing provision : Deduction in aggregate of Rs.30,000 shall be allowed for medical insurance or preventive health check-up or the assessee being a senior citizen.</p> <p>Further additional deduction of medical expenditure within the overall limits of Rs.30,000 shall be allowed in the case of any of the parents of the assessee who are very senior citizens.</p> <p>With effect from 1-4-2019 (Assessment year 2019-2020) : The deduction of Rs.50,000 in aggregate shall be allowed to the assessee being a Senior Citizens in respect of medical insurance or preventive health checkup or medical expenditure.</p> <p>Further a deduction of Rs.50,000 in aggregate shall be allowed with respect to any of the parent’s of the assessee being a Senior Citizens.</p>
80D(3)	<p>Existing provision : Deduction of Rs.30,000 shall be allowed for medical insurance or preventive health check-up of a senior citizen being a member of HUF.</p> <p>Further, a deduction of medical expenditure within the overall limits Rs.30,000 shall be allowed in the case of very senior citizens being a member of HUF.</p> <p>With effect from 1-4-2019 (Assessment year 2019-2020) : The deduction of Rs.50,000 in aggregate shall be allowed to Senior Citizens being a member of HUF in respect of medical insurance or preventive health check up or medical expenditure.</p>
80D(4)	<p>Existing provision – Deduction in aggregate of Rs.30,000 shall be allowed for medical insurance or preventive health check up of a senior citizen or a very senior citizen.</p> <p>Further, additional deduction in aggregate of Rs.30,000 shall be allowed for medical insurance, or preventive health check up of any of the parents of the assessee being a very Senior Citizen or Member of HUF being Senior or Very Senior Citizen.</p> <p>With effect from 1-4-2019 (Assessment year 2019-2020) – The deduction of Rs.50,000 in aggregate shall be allowed to Senior citizen or member of HUF who are senior citizens in respect of medical insurance or preventive health check up.</p>
80D(4A)	<p>With effect from 1-4-2019 (Assessment year 2019-2020) – Deduction in case of Lump Sum Payment : A deduction equal to the appropriate fraction of the amount shall be allowed for each of the relevant previous</p>

	years where an amount is paid in lump sum in the previous year to effect or to keep in force an insurance on the health of a person specified therein for more than a year.
80DDB	<p>Existing provision : A deduction is available to an individual and Hindu Undivided family with regard to amount paid for medical treatment of specified diseases in respect of very senior citizen upto Rs.80,000 and in case of senior citizens Rs.60,000.</p> <p>With effect from 1-4-2019 (Assessment year 2019-2020) – Increase in the existing limit of deduction : A deduction of Rs.1,00,000 is available to an individual and Hindu undivided family with regard to amount paid for medical treatment of specified diseases in respect of senior citizen.</p>
80-IAC	<p>Existing Provision – Deduction of 100% of income shall be available to an eligible start up w.r.t the profits derived from the eligible business if it is incorporated on or after 1-4-2016 but before 1-4-2019 and the total turnover of its business does not exceed Rs.25 crores in any of the previous years beginning on or after 1-4-2016 and ending on 31-3-2021.</p> <p>With effect from 1-4-2018 (Assessment year 2018-19) – Deduction shall be available to an eligible start up if it is incorporated on or after 1-4-2016 but before 1-4-2021 and the total turnover of its business does not exceed Rs.25 crores in any of the previous year relevant to the assessment year in which the deduction is claimed.</p> <p>More so, definition of “eligible business” is amended to mean a business carried out by an eligible start up engaged in innovation, development or improvement of products or processes or services or a scalable business model with a high potential of employment generation or wealth creation.</p>
80JJAA	<p>Existing provision – A deduction is available of 30% of emoluments paid to a new employee for three years. In order to claim the deduction, the new employee must be employed for 240 days or more in the year of employment or 150 days or more in case of business of manufacturing of apparel.</p> <p>With effect from 1-4-2019 (Assessment year 2019-2020) – Provision amended to include along with manufacturing of apparel, the business of manufacturing of footwear and lather products also for the minimum number of employment of 150 days in the year of employment.</p>
80JJAA	<p>With effect from 1-4-2019 (Assessment year 2019-2020) Second Proviso inserted – Where a new employee is employed during the previous year for a period of less than 240 days or 150 days in the immediately succeeding year, he shall be deemed to have been employed in the succeeding year and the provision of this section shall apply accordingly.</p>

80PA	<p>With effect from 1-4-2019 (Assessment year 2019-2020) – New Deduction available for Producer Companies – In case of a producer company having a total turnover of Rs.100 crores or less in any previous year and whose gross total income includes any income from the marketing of agricultural produce grown by its members, or the purchase of agricultural implements, seeds, livestock or other articles intended for agriculture for the purpose of supplying them to its members, or the processing of the agricultural produce of its members the whole of the amount of income or profits and gains and business attributable to any one or more of such activities shall be deducted in computing the total income of the assessee for the previous year relevant to any assessment year commencing on or after 1-4-2019 but before 1-4-2025.</p>
80TTA	<p>Existing provision – Deduction is available in respect of interest on deposits in savings account with certain entities in case of an individual or a Hindu Undivided family.</p> <p>With effect from 1-4-2019 (Assessment year 2019-2020) : Consequent to insertion of new section for senior citizens, section 80TTA is amended to exclude assesses referred to in section 80TTB.</p>
80TTB	<p>With effect from 1-4-2019 (Assessment year 2019-2020) – New Section Inserted –</p> <p>A deduction of an amount upto Rs.50,000 shall be allowed to a senior citizen where the gross total income of such assessee includes any income by way of interest on any deposits with a banking company or a co-operativ society engaged in the business of banking or a Post Office.</p>
Miscellaneous	
2(22)	<p>With effect from 1-4-2018 (Assessment year 2018-2019) – Explanation 2A Inserted – Accumulated profits or loss in the hands of the amalgamated company shall be increased by the accumulated profits of the amalgamating company, whether capitalized or not, on the date of amalgamation in the case of an amalgamated company.</p>
115AD	<p>With effect from 1-4-2019 (Assessment year 2019-2020) – New proviso inserted – Section 115AD relating to tax on income of Foreign Institutional Investors from securities or capital gains arising from their transfer has been consequentially amended after insertion of section 112A to tax Long Term capital gains exceeding Rs.1,00,000 at the rate of 10%</p>
115BA(1)	<p>Existing Provision – Section 115BA provides that subject to the fulfillment of conditions specified therein and the provisions of section 111A and 112 of chapter XII, the total income of certain newly set up domestic companies shall be taxed at the rate of 25% from assessment year 2017-2018.</p> <p>With retrospective effect from 1-4-2017 (Assessment year 2017-18) –</p>

	After amendment the provisions of this section shall be subject to the other provisions of the Chapter XII instead of only sections 111A and 112.
115BBE(2)	<p>Existing provision – Deduction in respect of any expenditure or allowance or set off of any loss shall not be allowed to the assessee where the Total Income of the Assessee includes any income u/s 68, 69, 69A, 69B, 69C and 69D reflected in the Return of Income.</p> <p>With retrospective effect from 1-4-2017 (Assessment year 2017-2018) – Beside above deduction in respect of any expenditure or allowance or set off of any los shall not be allowed to the assessee where the Total Income of the Asessee determined by the Assessing Officer includes any income u/s 68, 69, 69A, 69B, 69C and 69D not reflected in the return of Income</p>
145B	<p>With retrospective effect from 1-4-2017 (Assessment year 2017-2018)</p> <p>– Taxability of Certain income –</p> <p>(a) The interest received by an assessee on any compensation or on enhanced compensation shall be deemed to be the income of the year in which it is received.</p> <p>(b) Claim for escalation of price in a contract or export incentives shall be deemed to be the income of the previous year in which reasonable certainty of its realization is achieved.</p> <p>(c) Income referred to in Section 2(24)(xviii) shall be deemed to be the income of the previous year in which it is received, if not charged to income tax for any earlier previous year.</p>
286(2)	<p>Existing Provision : The parent entity or the alternate reporting entity of an international group which is resident in India shall furnish a report in respect of the international group on or before the due date specified under section 139(1) of the relevant accounting year.</p> <p>With retrospective effect from 1-4-2017 (Assessment year 2017-18) : Amendment made to provide that the said report for every reporting accounting year shall be furnished within a period of twelve months from the end of said reporting accounting year.</p>
286(3)	<p>Existing Provision – Specific requirements are provided to be included in the report furnished by parent entity or the alternate reporting entity of an international group.</p> <p>With retrospective effect from 1-4-2017 (Assessment year 2017-18) – Amendment made to provide that the said requirements shall also apply for report to be furnished by constituent entity under section 286(4).</p>
286(4)	<p>Existing provision – Section 286(4) prescribes for conditions when the report is to furnished by constituent entity of an international group.</p> <p>With retrospective effect from 1-4-2017 (Assessment year 2017-2018)</p>

	<p>–</p> <p>(a) Such report shall be furnished within the prescribed period.</p> <p>(b) An additional condition for filing of report by said entity has been prescribed in a case where a country or territory of which the parent entity is resident is not obligated to file the report referred to in Section 286(2).</p>
286(5)	<p>Existing Provision : Section 286(5) provides for exemption to constituent entity in case the alternate reporting entity of an international group has furnished such report with the tax authority of the country or territory of which the such entity is resident within the due date specified in Section 286(2)</p> <p>With retrospective effect from 1-4-2017 (Assessment year 2017-2018) – Section 286(5) has been amended so as to provide that the due date for furnishing of the report by said entity with the tax authority of the country or territory of which such entity is resident would be the due date specified by that country or territory.</p>
286(9)	<p>Existing provision : “Agreement” has been defined under this section of mean an agreement referred to in section 90(1) or Section 90A(1) or any agreement as may be notified by the Central Government</p> <p>With retrospective effect from 1-4-2017 (Assesment Year 2017-18) : Consequentially definition of the term “agreement” has been amended to mean a combination of -</p> <p>(a) An agreement referred to in section 90(1) or section 90A(1)</p> <p>(b) An agreement as may be notified by the Central Government for exchange of the report referred to in Section 286(2).</p>
<p>MAT, AMT : MINIMUM ALTERNATE TAX, ALTERNATE MINIMUM TAX</p>	
115JB	<p>Existing Provision : The said section provides for levy of tax on certain companies on the basis of book profit which is determined after making certain adjustments to the net profit disclosed in the profit and loss account prepared in accordance with the provisions of the Companies Act, 2013.</p> <p>With effect from 1-4-2018 (Assessment year 2018-19) : New clause added – The aggregate amount of unabsorbed depreciation and brought forward loss (other than depreciation) shall be reduced from the book profit in case of a company against whom an application for corporate insolvency resolution process has been admitted by the Adjudicating Authority under the Insolvency and Bankruptcy Code, 2016.</p>
115JB	<p>With retrospective effect from 1-4-2001 (Assessment year 2001-2002) – Explanation 4A inserted - To clarify that the provisions of the this</p>

	section shall not be applicable and shall be deemed never to have been applicable to a foreign company, where its total income comprises solely of profits and gains from business referred to in section 44B, 44BB, 44BBA or section 44BBB and such income has been offered to tax at the rates specified in the said sections.
115JC(4)	<p>Existing provision : In the case of a person other than a company if the regular income tax payable for any previous year is less than the alternate minimum tax payable for such previous year, the adjusted total income shall be deemed to be the total income of that person for such previous year and the assessee shall be liable to pay income tax on such total income at the rate of 18.5%</p> <p>With effect from 1-4-2019 (Assessment year 2019-2020) – New Sub section inserted – In case of the unit located in an International Financial Service Centre and deriving its income solely in convertible foreign exchange, the rate of tax shall be 9%</p>
115JF	With effect from 1-4-2019 (Assessment year 2019-2020) – Definition of certain terms has been amended consequent to changes in Section 115JC.
DDT : Dividend Distribution Tax	
115-O(1)	With effect from 1-4-2018 (Assessment year 2018-19) – New proviso inserted – To provide for levy of tax at the rate of 30% on distributed profits in the nature of dividend under section 2(22)(e).
115-O(1B)	With effect from 1-4-2018 (Assessment year 2018-2019) – New proviso inserted – To exclude the amount of dividend under section 2(22)(e) from the applicability of grossing up provisions of this sub-section
115Q	<p>Existing provision (Assessment year 2018-2019) – Explanation to said section clarifies that the expression dividends shall have the same meaning as is given in section 2(22) but shall not include sub-clause (e) thereof.</p> <p>With effect from 1-4-2018 (Assessment year 2018-2019) : Aforesaid explanation has been deleted consequent to the amendments made to section 115-O</p>
115R(2)	<p>Existing Provision : Any amount of income distributed by the specified company or a Mutual Fund to its unit holder shall be chargeable to tax and such specified company or Mutual Fund shall be liable to pay additional income-tax on such distributed income at the specified rate. However, any distribution made from equity oriented funds is not chargeable to tax under the said section.</p> <p>With effect from 1-4-2018 (Assessment year 2018-19) : Amendment has been made to provide that where any income is distributed to any person</p>

	by an equity oriented funds, the fund shall be liable to pay additional income tax at the rate of 10% on income so distributed.
115T	<p>Existing provision : The said section provides the definition of “Equity oriented fund” to mean the Unit Scheme, 1964 made by the Unit Trust of India and such fund where the investible funds are invested by way of equity shares in domestic companies to the extent of more than 65% of the total proceeds of such fund.</p> <p>With effect from 1-4-2018 (Assessment year 2018-19) : Amendment has been made to define “equity oriented fund” as fund referred to in clause (a) of Explanation to section 112A and the Unit Scheme 1964 made by the Unit Trust of India.</p>
139A(1)	<p>Existing provision : Every person specified in this section and who has not ben allotted a permanent account number shall apply to the Assessing Officer for allotment of a permanent account number.</p> <p>With effect from 1-4-2018 (Assessment year 2018-2019) – List increased –</p> <p>(a) Every person being a resident, not being an individual, which enters into a financial transaction of an amount aggregating to Rs.2,50,000 or more in financial year.</p> <p>(b) Managing Director, Director Partner, Trustee, Author, Founder, Karta, Chief Executive Officer, Principal Officer or Office Bearer of the person referred to in above clause or any person competent to act on behalf of the person referred to in above clause.</p>
140(c)	<p>With effect from 1-4-2018 (Assessment year 2018-19) : The return shall be verified by the insolvency professional appointed by the Adjudicating Authority in respect f a company for which an application has been admitted by such Adjudicating Authority under section 7 or section 9 or section 10 of the Insolvency and Bankruptcy Code, 2016.</p>
Assessment of Income	
143(1)(a)	<p>Existing Provision : Provides for adjustment in respect of addition of income appearing in Form 26AS or Form 16A or Form 16 which has not been included in computing the total income in the Return of income.</p> <p>With effect from 1-4-2018 (Assessment year 2018-19) – Third Proviso Inserted –</p> <p>To provide that aforesaid adjustment shall not be made in respect of any return furnished for the assessment year commencing on or after 1-4-2018.</p>
143	<p>With effect from 1-4-2018 (Assessment year 2018-19) : Three Sub sections (3A), (3B) and (3C) has been inserted in section 143 so as to provide for a scheme for the purpose of making e-assessment of total</p>

	income or loss of the assessee under section 143(3).
TDS : Tax Deducted at Source	
193	<p>Existing provision : Person responsible for paying to a resident any interest on 8% Savings (Taxable) Bonds, 2003 shall deduct income tax if the interest payable on such bonds exceeds Rs.10,000 during the financial year.</p> <p>With effect from 1-4-2018 (Assessment year 2018-2019) – Besides above it is amended that the person responsible for paying to a resident any interest on 7.75% Savings (Taxable) Bonds, 2018 shall deduct income tax if the interest payable on such bonds exceeds Rs.10,000 during the financial year.</p>
194A(3)	<p>Existing Provision – No tax at source is required to be deducted where the amount of income credited or paid during the financial year by the person, does not exceed –</p> <p>(a) Rs.10,000 where the payer is a banking company or co-operative society engaged in carrying on the business of banking or on any deposit with the post office.</p> <p>(b) Rs.5,000 in any other case.</p> <p>With effect from 1-4-2018 (Assessment year 2018-2019) – The aforesaid limit of Rs.10,000 has been increased to Rs.50,000 in case of senior citizen.</p>
Penalty and Prosecution	
271FA	<p>Existing Provision – If a person fails to furnish the Statement of Financial Transaction or Reportable Account within the prescribed time, he shall be liable to pay penalty of Rs.100 or Rs.500 for every day of default.</p> <p>With effect from 1-4-2018 (Assessment year 2018-2019) : Such penalty has been increased from Rs.100 to Rs.500 and from Rs.500 to Rs.1,000 for each day of continuing default</p>
276CC	<p>Existing provision : Proviso to Section 276CC provides that a person shall not be proceeded against under the said section for any assessment year commencing on or after 1-4-1975 if the tax payable by him on the total income determined on regular assessment as reduced by the advance tax and any tax deducted at source, does not exceed Rs.3,000.</p> <p>With effect from 1-4-2018 (Assessment year 2018-2019) : Aforesaid proviso has been amended to provide that the conditions specified therein shall not be applicable in respect of a company.</p>
AAR : Authority for Advance Ruling	
245-O(1)	<p>Existing provision : Constitution of an Authority for Advance Rulings.</p> <p>With effect from 1-4-2018 (Assessment year 2018-2019) : The said Authority shall cease to acts as an Authority for advance Rulings for the</p>

	purpose of Chapter V of the Customs Act, 1962 on and from the date of appointment of Customs Authority for Advance Rulings under Section 28EA of the Customs Act, 1962.
245-O(1A)	<p>With effect from 1-4-2018 (Assessment year 2018-2019) – New Sub section inserted –</p> <p>(a) The Authority for Advance Ratings under Section 245-O shall act as an Appellate Authority for the purpose of Chapter V of the Customs Act, 1962 on and from the date of appointment of Customs Authority for Advance rulings under section 28EA of the Customs Act, 1962.</p> <p>(b) However, the Authority for Advance Rulings under Section 245-O shall not admit any appeal against any ruling or order passed earlier by it in the capacity of Authority for Advance Rulings for the purpose of Chapter V of the Customs Act, 1962 after the date of appointment of Customs Authority for Advance Rulings.</p>
245-O(7)	<p>With effect from 1-4-2018 (Assessment year 2018-2019) – New proviso inserted –</p> <p>In cases where the Authority for Advance Rulings under section 245-O is dealing with an application seeking advance ruling in the matters of the Income Tax Act, the revenue Member of the Bench shall be from the Indian Revenue Service who is or is qualified to the member of the Board.</p>
245Q(1)	<p>Existing Provision – The said section provides for filing of application for advance ruling under Income Tax Act or under Chapter V of the Customs Act, 1962 or under Chapter IIIA of the Central Excise Act, 1944 or under Chapter VA of the Finance Act, 194.</p> <p>With effect from 1-4-2018 (Assessment year 2018-2019) : Consequentially the said section is amended to omit the provisions with regard to admissibility of applications for advance ruling under Chapter V of the Customs Act, 1962.</p>
Appeals	
253(1)(a)	<p>Existing Provisions – It provides that any assessee aggrieved by any of the orders mentioned therein may appeal to the Appellate Tribunal.</p> <p>With effect from 1-4-2018 (Assessment year 2018-2019) – The said section is amended to make an order passed by a commissioner (appeals) under section 271J also appealable to the Appellate Tribunal.</p>

Revisionary Problems

1. Residential Status

1. Mr. Anand came to India for the first time on 15-12-2012. He stayed in India for some period and went to London on 15-4-2014. He, however, returned to India on 1-7-2014 and went to France on 10-12-2015. He again came to India on 5-1-2018 on a service in India. Determine his residential status for Assessment year 2018-19.
2. Mr. Paul, a Canadian, comes to India for the first time during 2014-15. During the previous years 2014-15; 2015-16; 2016-17 and 2017-18 he stayed in India for 55 days, 60 days, 80 days, 160 days and 70 days respectively. Determine his residential status for AY 2018-19.
3. X Ltd., is an Indian company. However it carries on its entire business in the UK. All shareholders are resident of UK. Board's meetings are held in the UK. Even general meeting of the shareholders takes place outside India. Find out the residential status of X Ltd., for the assessment year 2018-19.
4. Rola Company is a Thai based company and non-resident under the Income – tax Act derived the following income by way of royalty. Advise about the taxability of these incomes in India:
 - (a) Government of India paid ₹ 10,00,000 under approved agreement.
 - (b) Kakinada based company paid ₹ 12,00,000 for import of drawings and designs for use in the project being executed in Thailand.
 - (c) Apple Inc., company paid ₹ 5,00,000 for use of know-how in Singapore and ₹ 7,50,000 for the formula used in India.
5. Mrs. Madhuri, a resident in India during the PY 2017-18, furnishes the following particulars of income:

		₹
1.	Income received by way of rent from let – out property in Kakinada	2,00,000
2.	Income from agricultural land situated in Srilanka received in Srilanka	1,00,000
3.	Income by way of rent from the let out property situated in London received in India.	1,50,000
4.	Income from business in Vizag, controlled from Singapore	15,00,000

5.	Income received from business situated in Germany, controlled from Germany	4,00,000
6.	Income from business in Hongkong, controlled in India	5,00,000
7.	Interest income from fixed deposit in State Bank of India in Delhi	50,000

Find out the taxable income of Mrs. Madhuri for the AY 2018-19. Would your answer be different if she was resident but not ordinary resident or a non-resident?

6. Mr. Papa Rao furnishes the following particulars of his income earned during the previous year relevant to the assessment year 2018-19:

	₹
Interest on Bangladesh Development Bonds (two-fifths is received in India)	60,000
Income from agriculture in Srilanka, received there but later on ₹ 50,000 is remitted to India (agricultural activity is controlled from Bangladesh)	1,81,000
Income from property in USA received outside India (₹ 76,000 is used in USA for meeting educational expenses of Papa Rao's Son in Australia and ₹ 10,000 is later on remitted to India)	86,000
Income earned from business in Australia which is controlled from Delhi (₹ 15000 is received in India)	65,000
Dividend paid by a foreign company but received in India on April 10, 2017	46,500
Past untaxed profit of 2007-08 brought to India in 2017-18	10,43,000
Profits from a business in Mumbai and managed from outside India	27,000
Profits on sale of a building in India but received in Nepal	14,80,000
Pension from a former employer in India, received in Hongkong	36,000
Gift in foreign currency from a friend received in India on January 20, 2018	80,000

Find out the gross total income of Mr. Papa Rao, is he is (i) resident and ordinarily resident in India, (ii) resident but not ordinarily resident in India, or (iii) non-resident in India for the assessment year 2018-19.

2. Income from Salaries

1. Mrs. Vanishree was an employee in a company. The following are available regarding her income for the year ending 31.3.2018.

- (i) Salary ₹ 3,000 per month.
- (ii) Entertainment Allowance ₹ 300 per month.
- (iii) She retires from service on 1.1.2017 after 26 years of completed service and received a pension of ₹ 1,500 per month and gratuity of ₹ 52,000.
- (iv) She also received ₹ 52,000 from unrecognised provident fund of which she was a member (this constitutes employee's contribution ₹ 20,000, employer's contribution ₹ 20,000, interest on employee's contribution ₹ 6,000, interest on employer's contribution ₹ 6,000).

Compute the taxable income under the head "Salaries" of Mrs. Vanishree for the assessment year 2018-19 assuming that the salary and pension is due on the last of the month. She is not covered under the Payment of Gratuity Act.

2. On the basis of the following information compute the taxable income of Mr. Rayudu under the head "Salaries" for the assessment year 2018-19:

		₹
(i)	Basic pay	18,400 p.m.
(ii)	Dearness allowance	4,200 p.m.
(iii)	Entertainment allowance	750 p.m.
(iv)	Tribal area allowance	350 p.m.
(v)	His own contribution towards statutory provident fund	1,000 p.m.
(vi)	Employer's contribution	1,000 p.m.
(vii)	Interest credited to SPF @ 10% p.a.	13,000
(viii)	House rent allowance	3,600 p.m.

Mr. Rayudu is an employee of the Government of AP. He is paying ₹ 4,400 p.m. as house rent.

3. Mr. Mohanlal, whose gross total income and total income for the previous year 2017-18 is ₹ 4,86,000, furnishes the following information for the assessment year 2018-19:

		₹
(i)	Contribution to statutory provident fund	60,000
(ii)	Insurance premium paid on own life (sum assured ₹ 50,000)	6,000
(iii)	Insurance premium paid on the life of father	800
(iv)	Insurance premium on own life due on 29.3.2018 but paid on 10.4.2018	2,000
(v)	Repayment of loan taken from bank for purchase of a residential house	65,000
(vi)	Purchase of National Saving Certificate (NSC) (VIII Issue)	5,000
(vii)	Contribution to Sukanya Samriddhi Account	22,000

Compute the deduction allowable under section 80C for the assessment year 2017-18.

4. From the following information compute the deduction allowable to Mr. Chandra kanth under section 80C for the assessment year 2018-19:

		₹
(i)	Premium on his wife's life	15,000
(ii)	Premium on his own life (sum assured ₹ 3,00,000)	40,000
(iii)	Payment of premium on Life Insurance Policy of ₹ 20,000 on married daughter's life	1,600
(iv)	Payment under Unit Linked Insurance Plan	3,000
(v)	Contribution to a recognised provident fund	22,000
(vi)	Repayment of installment of loan taken from LIC for construction of house	42,000
(vii)	Sukanya Samriddhi Account	50,000
		1,73,600

5. Mr. Nanda is Manager of a Company of Hyderabad, since 1990. He has submitted the following particulars of his income for the financial year 2017-18:

- (i) Basic salary ₹ 2,40,000.
- (ii) Dearness Allowance ₹ 5,000 per month (₹ 200 p.m. enters into retirement benefits).
- (iii) Education allowance for two children at ₹ 150 p.m. per child.
- (iv) Commission on sales 1% of turnover of ₹ 10,00,000.
- (v) Entertainment allowance ₹ 700 p.m.
- (vi) Travelling Allowance for his official tours ₹ 30,000. The entire amount is spent on the official tour.
- (vii) He was given cloth worth ₹ 1,000 by his employer free of cost.
- (viii) He resides in the flat of the company. Its market rent is ₹ 12,000 p.m. A watchman and a cook have been provided by the company at the bungalow who are paid ₹ 400 per month each.
- (ix) He has been provided with a motor car of 1.8 ltr. Engine capacity for his official as well as personal use. The running and maintenance costs are borne by the Company.
- (x) Employer's contribution to R.P.F. is ₹ 40,000 and the interest credited to this fund at 13% rate amounted to ₹ 16,250.
- (xi) Contribution by Mr. Nanda to recognised provident fund ₹ 40,000.
- (xii) Rent of house recovered from Mr. Nanda ₹ 1,500 p.m.
- (xiii) Tax deducted at source from the above payments ₹ 6,000.

Compute income from salaries for the assessment year 2018-19. Assume the population of Hyderabad is 60 lakhs as per 2001 census.

6. Mr. Raghavaiah is a Purchase Officer in ITC company in Visakhapatnam. He furnished the following particulars regarding his income for previous year 2017-18:

- (i) Basic salary ₹ 17,000 p.m.;
- (ii) Bonus ₹ 5,000;
- (iii) Dearness allowance ₹ 3,000 p.m.;
- (iv) Traveling allowance ₹ 45,000. He spends ₹ 30,000 for official purposes;
- (v) Reimbursement of medical bills ₹ 25,000 (treatment was done in a Government hospital in India);
- (vi) He lived in a bungalow belonging to the company. Its fair rent is ₹ 15,000 per month. The company has provided this bungalow belonging to the company. The company has provided on this bungalow the facility of a watchman and a

cook each of whom is being paid a salary of ₹ 250 per month. The company paid in respect of this bungalow ₹ 5,000 for electric bills and ₹ 3,000 for water bills.

- (vii) He has been provided with 1.5 ltr. Engine capacity car for official and personal use. The maintenance and running expenses of the car (including driver) are borne by the company.
- (viii) The following amounts were deposited in his provident fund account;
- Own contribution ₹ 24,000,
 - Company's contribution ₹ 30,000, and
 - Interest @ 12% p.a. ₹ 12,600.
 - Rent of house recovered from Raghavaiah ₹ 21,600.

Compute his taxable income from salary for the assessment year 2018-19. Assume the population of Visakhapatnam is 26 lakhs as per 2001 census.

3. Income from House Property

1. Mr. Nagarjuna has following House Properties

Particulars	HP 1	HP 2
Used for	Self – occupied	Partly Self – occupied (60% self occupied)
Municipal Value	10,00,000	20,00,000
Fair rent	12,00,000	18,00,000
Standard rent	15,00,000	16,00,000
Actual rent receivable	-	5,00,000
Municipal Tax	10%	10%
Interest	2,00,000	3,00,000
Date of Borrowing	1-3-2011	1-3-2010
Vacancy Period	-	6 months

2. Mr. K.E. Sainath owns one residential house in Kurnool. The house is having two identical units. First unit of the house is self occupied by Mr. Sainath and another unit is rented for ₹ .8,000 p.m. the rented unit was vacant for 2 months during the year. the particular of the house for the previous year 2017- 18 are as under:

	₹
Standard rent	1,62,000 p.a.
Municipal valuation	1,90,000 p.a.
Fair rent	1,85,000 p.a.
Municipal tax (paid by Mr. Sainath)	15% of municipal valuation
Light and water charges	₹ .500 p.m.
Interest on borrowed capital	1,500 p.m.
Lease money	1,200 p.a.
Insurance charges	3,000 p.a.
Repairs	12,000 p.a.

Compute income from house property of Mr. Sainath for the A.Y. 2018-19.

3. Mrs. Gayathri is the owner of a house. The house was completed on 1.4.2016 and following information is available about this house.

	₹
Municipal value of the house	84,000 p.a.
Fair rental value of the house	90,000 p.a.
Actual rent	7,200 p.m.
Municipal taxes paid	15,000

Let out for the period 1.4.2016 to 30.6.2016 and self-occupied from 1.7.2016 onwards:

	₹
Fire Insurance Premium	1,600
Land Revenue paid	3,000
Interest on Loan for the period	
(a) 1.4.2013 to 31.3.2016	51,000
(b) 1.4.2016 to 31.3.2018	17,000

Calculate income from the house property for the assessment year 2018-19

4. Mr. Akbar owns a house at Karimnagar of the fair rent of ₹ 3,600 p.m. (Municipal value ₹ 30,000). During the previous year 2017-18, the house is let out for residential purpose on a monthly rent of ₹ 4,000 from 1.4.2017 to 30.6.2017 and self occupied for residential purpose for the remaining part of the year. Municipal

taxes ₹ 6,000; fire insurance premium ₹ 3,000. Land revenue ₹ 2,000. Ground rent ₹ 1,000 and collection charges ₹ 600 were paid during the year. A loan of ₹ 50,000 was taken on 1.4.2012 at 10% p.a. For the construction of the house which was completed on 1.1.2014 ₹ 10,000 was paid towards the loan account on 1.4.2014. Find out his taxable income from house property for the assessment year 2018-19.

5. Ms. Mary has two houses, both of which are self-occupied. The particulars of these are given below:

Particulars	Value in ₹	
	House I	House II
Municipal valuation per annum	1,20,000	1,15,000
Fair rent per annum	1,50,000	1,75,000
Standard rent per annum	1,00,000	1,65,000
Date of completion	31.03.1999	31.03.2001
Municipal taxes payable during the year (paid for House II only)	12%	8%
Interest on money borrowed for repair of property during the current year	-	55,000

Compute Mary's income from the house property for the assessment year 2018-19 and suggest which house should be opted by Mary to be assessed as self-occupied so that her tax liability is minimum.

4. Profit and Gains from Business or Profession

I. Profit from Business :

1. Bharath prepared the following profit and loss account for the year ended 31st March, 2018 You are required to ascertain his income form business for the year ended on that date.

	₹		₹
Salaries	6,000	Gross Profit	50,000
Rent	2,400	Rent from House Property	6,000
Loss of theft	2,000		
Discount	1,000		
Charity	1,000		

Reserve for bad debts	1,000		
Life Insurance premium	1,000		
Interest on Loan	2,000		
Interest on Capital	3,000		
Repairs to House Property	500		
Income Tax	2,000		
Net Profit	34,100		
	56,000		56,000

2. Following is the Profit and Loss Account of Suttivelu.

	₹		₹
To Rent	6,000	By Gross Profit	52,300
To Salary to staff	5,400	By Interest from Debtors	2,800
To Divali puja Expenses	200	By Rent from property	2,400
To Interest on Loan	12,500	By Sundry Incomes	1,600
To Sundry Expenses	5,500	By Commission	3,700
To Bad debts	600		
To Charity	100		
To Reserve for bad debts	200		
To Rates	600		
To Entertainments	850		
To Loss by theft	1,400		
To Net profit	29,450		
	62,800		62,800

Notes :

1. Rent includes ₹1,200 of a shop belonging to the assessee himself.
2. Salary to staff include salary of ₹2,400 of a son, who is a B.Com., student and who casually helps in the business.
3. A loan of ₹6,000 @ 15 per cent p.a. is taken from his wife out of funds advanced by him and interest is included in interest on loan.
4. Sundry expenses include ₹900 being expenses incurred on pilgrimage to North India.
5. Entertainment includes ₹150 spent on tea of some guests of a local MLA.
6. Loss by theft took place when a pretended customer stole a necklace worth ₹600, ₹800 were stolen from his house in the night by de-locking.

7. He earned ₹4,000 in gold smuggling not shown in books.
8. Rates include ₹400 for the property let.

Compute the Business income.

3. The following is the profit and loss account of Mr. Ganapathi for the year ended 31-3-2018. Compute his taxable income for the assessment year 2018-19

	₹		₹
To Opening stock	15,000	By Sales	80,000
To Purchases	40,000	By Closing stock	20,000
To Wages	20,000	By Gift from father	18,000
To Rent	6,000	By Sale of Motor car	9,000
To Repair to Motor car	3,000	By Income tax refund	3,000
To Wealth tax paid	3,000		
To Medical expenses	3,000		
To General expenses	10,000		
To Depreciation on Motor car	3,000		
To Advance income tax paid	1,000		
To profit for the year	26,000		
	1,30,000		1,30,000

Following further information is given

1. Mr. Ganapathi carries on his business from rented premises at Delhi half of which is used as his residence.
2. Mr. Ganapathi bought a car during the year for ₹20,000. He charged depreciation on the value of car. The car was sold during the year ₹9,000. The use of the car was 3/4th for the business and 1/4th for personal purposes.
3. Medical expenses were incurred during sickness of Mr. Ganapathi for his treatment.
4. Wages include ₹250 per month on account of Mr. Ganapathi's driver for 10 months.
4. Mr. Rosaiah, a retail trader of Chirala gives the following Trading and Profit & Loss Account for the Year ended 31st March, 2018:

Trading and Profit and Loss Account for the year ended 31st March, 2018.

Particulars	₹	Particulars	₹
To Opening Stock	90,000	By Sales	12,11,500
To Purchases	10,04,000	By Income for UTI	2,400
To Gross profit	3,06,000	By Other business receipts	6,100
		By Closing Stock	1,80,000
	14,00,000		14,00,000
To Salary	60,000	By Gross Profit B/d.	3,06,000
To Rent & rates	36,000		
To Interest on loan	15,000		
To Depreciation	1,05,000		
To Printing & Stationery	23,200		
To Postage & Telegram	1,640		
To Loss on sale of shares (short-term)	8,100		
To Other general expenses	7,060		
To Net Profit	50,000		
	3,06,000		3,06,000

Additional Information:

1. It was found, some stocks were omitted to be included in both the Opening and Closing Stock; the values of which were – Opening stock – ₹ 9,000; Closing Stock – ₹ 180,000.
2. Salary includes ₹ 10,000 paid to his brother, which is unreasonable to the extent of ₹ 2,000.
3. The whole amount of printing and stationery was paid in cash.
4. The depreciation provided in the profit and loss account ₹ 1,05,000 was based on the following information.
5. The WDV of plant and machinery is ₹ 4,20,000. A new plant falling under the same block of depreciation of 15% was bought on 01.07.2017 for ₹ 70,000. Two old plants were sold on 01.10.2017 for ₹ 50,000.
6. Rent and rates includes sales tax liability of ₹ 3,400 paid on 07.04.2018.

7. Other business receipts include ₹ 2,200 received as refund of sales tax relating to 2016-17.
8. Other general expenses include ₹ 2,000 paid as donation to a public charitable trust.
9. Assessee has incurred expenditure relating to exempt income and the same was charged to personal account and not debited to the P & L account.
- You are required to advise Mr. Rosaiah whether he can offer his business income u/s. 44AD i.e., presumptive taxation.

II. Gain from Profession :

5. Dr. Ramesh is a registered medical practitioner. He keeps his books on cash basis, and his cash account for the year ended 31st March, 2018 is as under:

	₹		₹
Balance b/d	1,22,000	Cost of medicines	10,000
Loan from Bank (personal)	3,000	Surgical equipment	2,000
Sale of medicines	25,250	Motor Car	1,20,000
Consultation fees	55,000	Car expenses	6,000
Visiting Fees	24,000	Salaries	4,600
Interest on Securities	4,500	Rent of Dispensary	1,600
Rent from property	3,600	General Expenses	300
		Personal expenses	14,800
		Interest on Bank loan	500
		Deposit in Tatkal	
		Telephone	
		Deposit scheme	30,000
		Balance c/d	47,550
	2,37,350		2,37,350

Compute his income from profession for Assessment Year 2018-19 taking into account the following further information.

- (a) One third of Motor Car expenses are in respect of personal use.
- (b) Depreciation allowable on car 20% and surgical equipment at 25%.

5. Depreciation

1. X Ltd. Owned plant and machinery having w.d.v. of ₹ 2,00,000 on 1-4-2017 An additional machinery was installed on 31-8-2017 costing ₹ 5,00,000. A fire had

broken in the premises of the factory on 31-12-2017 destroying the entire plant and machinery. Insurance company paid a compensation of ₹ 2,40,000. Calculate Depreciation/capital gains.

2. On the basis of the following information is given by a Steel factory for the year ending March 31st, 2018. Calculate depreciation on its assets for the previous year.

	Written down value on 1-4-2017	Rate of Depreciation
Buildings	15,47,380	10%
Godown	2,15,740	10%
Machinery	33,17,695	25%
Motor car	45,700	40%
Fittings	25,170	10%

The factory purchased and installed new machinery for ₹ 4,45,970 on 30-9-2017 and the depreciation rate was 25%. The godown of the factory was destroyed in fire on 1-9-2017 and its written down value on 1-4-2017 was ₹ 1,15,600. The amount received from the Insurance company towards the compensation amounts to ₹ 1,00,000.

3. Siva Ganga Ltd., manufacturers of equipments for power projects as EPC Contractor furnish the following information as on 31.03.2018:

Particulars	₹
W.D.V. of Plant & Machinery as on 01.04.2017	10, Crores
Additions made to Plant & Machinery during 2017-18 (Out of this assets put to use for more than 180 days is ₹ 1.5 cores)	2 Crores

Compute the depreciation admissible for the Assessment year. 2018-19.

4. Raghuram Ltd., a company having its registered office at Hyderabad engaged in the business of manufacture of sports equipments, furnishes the following particulars pertaining to Financial Year 2017-18. Compute the depreciation allowable u/s. 32 as well as the investment allowance allowable u/s. 32AC for Assessment Year 2018-19, while computing its income under the head "Profits

and gains of business or profession". Also, compute the written down value of plant and machinery as on 01.04.2018.

Particulars	₹ (in crores)
1. Written down value of plant and machinery (15% block) as on 01.04.2017	25.00
2. Sold plant and machinery on 20.05.2017 (15% block)	4.00
3. Purchase of second hand machinery (15% block) on 29.05.2017 for business purpose (the machinery was put to use immediately)	12.00
4. Purchased new computers (60% block) on 08.11.2017 for office	0.40
5. Acquired and installed new plant and machinery (15% block) on 31.07.2017 (₹ 50 crores) and on 31.10.2017 (₹ 40 crores)	90.00
6. New air conditioners (15% block) purchased and installed in office premises on 30.06.2017.	0.15

5. Mr. Anand carrying on business as proprietor converted the same into a limited company by name Anand Pipes (P) Ltd. from 01-07-2017. The details of the assets are given below:

	₹
Block – I WDV of plant & machinery (rate of depreciation @15%)	12,00,000
Block – II WDV of building (rate of depreciation @ 10%)	25,00,000

The company Anand Pipes (P) Ltd. acquired plant and machinery in December 2017 for ₹ 10,00,000. It has been doing the business from 01-07-2017. Computer the quantum of depreciation to be claimed by Mr. Anand and successor Anand Pipes (P) Ltd., for the assessment year 2018-19. (**Note:** Ignore additional depreciation.)

6. Capital Gain

1. Mr. Gopichand transfers land and building on 02.01.2018 and furnishes the following information.

Particulars	₹
(i) Net consideration received	14,00,000
(ii) Value adopted by Stamp Valuation Authority	21,00,000
(iii) Value ascertained by Valuation Officer on reference by the Assessing Officer	23,00,000
(iv) This land was acquired by Mr. Gopichand on 1.04.2001. Fair Market value of the land as on 01.04.2001 was	1,10,000
(v) A residential building was constructed on land by Mr. Gopichand at cost of ₹ 3,20,000 (Construction completed on 10.12.2009 during financial year 2009-10)	
(vi) Short term capital loss incurred on sale of shares during financial year 2016-17 b/f of ₹ 1,50,000.	

Mr. Gopichand seeks your advice to the amount to be invested in NHAI bonds so as to be exempted from Capital gains tax under Income tax Act. Cost inflation Indices for the respective years are 2001-02-100; 2009-2010-148; 2017-18-272.

2. Compute the net taxable Capital gains of Mrs. Anuradha on the basis of the following information: A house was purchased on 01.05.2003 for ₹ 4,50,000 and was used as residence by the owner. The owner had contracted to sell this property in June, 2013 for ₹ 10 lakhs and had received an advance on ₹ 70,000 towards sale. The intending purchaser did not proceed with the transaction and the advance was forfeited by the owner. The property was sold in November, 2017 for ₹ 15,00,000. The owner, out of the sale proceeds, invested ₹ 4 lakhs in a new residential house in January, 2018.
3. Mr. Rajendra Prasad furnishes the following data for the previous year ending 31.03.2018:
 - (a) Unlisted equity share of Cadila Health Ltd. 10,000 in number were sold on 31.05.2017 at ₹ 400 for each share.
 - (b) The above shares of 10,000 were acquired by Mr. Rajendra in the following manner:
 - (i) Received as gift from his father on 01.06.1980 (5,000 shares) the market price on 01.04.2001 ₹ 50 per share.

- (ii) Bonus shares received from Cadila Health Ltd., on 21.07.2004 (2,000 shares)
 - (iii) Purchased on 01.02.2008 at the price of ₹ 125 per shares (3,000 shares)
 - (c) Purchased a residential house at ₹ 25 Lakhs, on 01.01.2018 from the sale proceeds of shares.
 - (d) Mr. Rajendra Prasad already owns a residential house, even before the purchase of above house.
- You are required to compute the taxable Capital gain. He has no other source of income chargeable to tax.

4. Ms. Kalpana sold a residential building at Jodhpur for ₹ 15,00,000 on 01.07.2017. The building was acquired for ₹ 1,50,000 on 01.06.2007. She paid a brokerage @ 2% at the time of sale of the building. She invested ₹ 7,00,000 in purchase of a residential building in December, 2017 and deposited ₹ 2,00,000 in NHAI Capital Gains Bond in March 2018. Compute her taxable Capital gain.

6. Income from other Sources

1. Compute the income under the head other sources in the case of following investments made by Mr. Paul.
- (i) Purchase of 12% IDBI debentures of Rs.1,00,000 on 1.10.2017 directly from IDBI. Due date of interest is 31st March every year.
 - (ii) Purchased 100, 12% IDBI debentures on 1.3.2017 from market @ Rs.1,050 per debenture. Face value of debenture is Rs.1,000. Due date of interest is 31st of March every year. IDBI had issued these debentures in 2010.
 - (iii) Purchased 100, 14% debentures of Tirumala Ltd. listed on stock exchange from a broker at Rs.100 each on 30.11.2017. Due dates of interest are 30th of June and 31st of December every year.
 - (iv) Purchased 100, 12% debentures of KCP Ltd. @ Rs.100 each by subscribing to the company directly. Date of issue was 31.10.2016. Interest due on 30th June and 31st of December of every year.
 - (v) Purchased 1,000 shares of face value of Rs.10 of Cadila Ltd. @ 60 per share from market on 15.6.2016. The company declared a dividend @ 20% on 30.9.2017.

2. Mr. Yadav is a businessmen dealing in cloth. On 1.4.2017 the position of his investments was as under :
- Rs.24,000 7.1/2% Government of India Loan 2003.
 - Rs.36,000 10% Debentures of Guntur Jute Mills Ltd (listed).
 - Rs.10,000 12% Debentures of Godavari Ltd.
 - Interest on National Savings Certificate (VIII issue) due of Rs.3,860
 - Rs.25,000 10% Tamilnadu Government Loan
 - Rs.10,000 7% Capital Investment Bonds.
 - The due dates of interest of all the above securities are 1st May and 1st November. Calculate income from other sources for the assessment year 2018-19.
3. During the previous year 2017-18 Mr. Charan Singh had received the following interest on securities held by him:
- Rs.5,040 on unlisted debentures of Neelagiri Textile.
 - Rs.3,600 on debentures of Ayush Ltd. listed on recognized stock exchange.
 - Rs.4,000 on 8% taxable saving bonds.
 - Rs.9,000 on 6% tax-free bonds issued by notified public sector company.
- The interest is paid on 31st December annually. He paid 2% commission to his bank for collection of interest. Calculate his income from other sources for the assessment year 2018-19.
4. Mr. Ramoji furnishes the following particulars of his incomes fort the previous year 2017-18. Compute income under the head "Income from Other Sources".

		Rs.
(i)	Dividend on equity shares	600
(ii)	Dividend on preference shares	3,200
(iii)	Income from letting on hire of building and machinery under one composite lease	17,000
(iv)	Interest on Bank Deposits	2,500
(v)	Directors sitting fees received	1,200
(vi)	Ground rent received	600
(vii)	Income from undisclosed sources	10,000
(viii)	Amount received on account of winnings from lotteries	14,000

	The following deductions are claimed by him	
(a)	Collection charges of preference dividend	200
(b)	Allowable depreciation on Building and Machinery	4,000
(c)	Fire Insurance on Building and Machinery	100

5. Mr. Suman furnishes the following particulars of his income for the financial year ending 31.3.2018

- Dividends in September, 2016 from UTI Rs.2,000
- Dividends received in July, 2017 from Dargiling Tea Co. Ltd., Rs.3,600 (60% of income of the company is agricultural income)
- Amount received on 1.12.2017 in connection with winning from a horse race Rs.5,600.
- Amount received on 1.12.2017 in connection with winning from lottery Rs.28,000. Cost of lottery tickets purchased Rs.2,000.
- Directors fees received in August, 2016 Rs.20,000
- He has rented a residence of Rs.250 per month. Half portion of this house was sub-let on a monthly rent of Rs.250 p.m.

Compute his taxable income for the assessment year 2018-19.

8. Set off and Carry Forward of Losses

1. The following are the particulars of income of an Mr. Bhaskar for the assessment year 2018-19.

	₹
Gold speculation profit	40,000
Agency business loss	2,000
Profits from cloth business (Before charging depreciation of ₹ 20,000)	12,000
Profits in Hardware business	32,000
Income from house property	4,000

Following losses/allowable allowances are brought forward from assessment year 2017-18.

	₹
Silver speculation loss	20,000
Agency business loss	12,000
Unabsorbed depreciation	4,000

Compute his total income for the assessment year 2018-19 indicating the manner of treatment of losses and allowances.

2. Subhash furnishes the following particulars of his income for the previous year 2017-18. Compute the Gross Total Income of Subhash for the *assessment year 2018-19*.

		₹
1.	Income from salary (computed)	68,000
2.	Income from house property	
	Income from House I	(+ 36,000)
	Loss from House II	(-) 24,000
	Loss form House III	(-) 22,000
3.	Profit from Business	
	Profit from Fancy Stores	60,000
	Profit from Medical Shop	70,000
	Profit from share business (speculative)	82,000
	Loss from gold business (speculative)	94,000
4.	Long-term capital gain on sale of shares	22,000
5.	Short-term Capital loss on sale of land	44,000
6.	Income from Card games	22,000
7.	Winnings from Lotteries	60,000
8.	Income from horse races (Gross)	40,000
9.	Loss form horse races in Gandipet	21,000

3. Mr. Naidu has the following particulars of his income, compute his gross total income and losses to be carried forward:

	₹
Income from business A	30,000
Loss from business B	95,000
Income from other sources	20,000

Short term capital loss	16,000
Long term capital gain	85,000
Loss from income from house property	30,000

4. Mr. Ramdev engaged in various types of activities, gives the following particulars of his income for the year ended 31.3.2018.

Particulars	(Rs).
(a) Profit of business of consumer and house – hold products	50,000
(b) Loss of business of readymade garments	10,000
(c) Brought forward loss of catering business which was closed in A.Y.2016-17	15,000
(d) Short-term loss on sale of securities and share	15,000
(e) Profit of speculative transactions entered into during the year	12,500
(f) Loss from speculative transactions of A.Y. 2011-12 not set off till A.Y. 2017-18	15,000

Compute the total income of Mr. Ramdev

5. Mr. A.V. Rao submits the following information relevant for the financial year 2018-19:

Particulars	Profit (Rs).	Loss (Rs).
Salary Income	8,00,000	-
Income from house property:	-	-
House –A	25,000	-
House –B	-	30,000
Profits and gains of business or profession:		
Business –A	12,000	-
Business –B	-	20,000
Business – C (Speculative)	22,000	-
Business – D (Speculative)	-	35,000
Capital gains:		
Short term capital gains	10,000	-

Short term capital loss	-	30,000
Long term capital gains on sale of building	16,000	-
Income from other sources:	-	-
Loss maintenance of race horses	-	15,000

Determine the net income of A.V. Rao for the assessment year 2018-19.

9. Gross Total Income

1. Suresh is working as sales manager of Z Co. Ltd. Bombay. Compute his total income for the assessment year 2018-19.

- Consolidated salary ₹ 1,36,000
- Rent-free furnished accommodation on which the company pays an annual rent of ₹ 15,000. Original cost of furniture in the house ₹ 10,000. Monthly rent for refrigerator in the house paid by the employer ₹ 180.
- A car (1.8 lt.) is provided by the employer, for Suresh official and personal use.
- Suresh contribution to recognized provident fund is 10% on his salary with equal contribution by the employer.

2. Mr. Amar gives you the following details of his income for the previous year 2017-18.

He is employed in a company at Hyderabad and his gross salary for the previous year ₹ 1,50,000. He owns a house in Hyderabad which he uses for his residence. The house is constructed by borrowing a loan of ₹ 2 lakhs from LIC and interest paid on loan during the year amounted to ₹ 12,000. He held the following securities.

- ₹ 1,50,000, 15% Tax free debentures of a Ltd. Company listed in Bombay Stock Exchange.
- ₹ 25,000, 12% A.P. Governmental bonds.
- ₹ 50,000, 16% Less-tax listed debentures Nagarjuna Fertilisers Ltd.

During the previous year he donated ₹ 10,000 Prime Minister National Relief Fund and paid ₹ 5,000 medical insurance premium.

Compute the total income of Mr. Amar for the assessment year 2018-19.

3. Mr. Satish an advocate furnishes the following receipts and payment for the previous year 2017-18.

	₹		₹
To Balance b/d	10,000	By Rent of Office	2,500
To legal fees	90,000	By Salaries to staff	12,500
To Lecture fees	5,000	By Subscriptions to Law Journals	1,500
To Interest on securities	7,500	By Shares purchased	5,000
To Examiner's fees	12,500	By Donation to a School	3,500
To Gifts from clients	15,000	By Income-tax paid	2,000
To Rent received	20,000	By Municipal taxes of house property	800
		By Purchase of court stamps	1,200
		By Life Insurance Premium	1,500
		By Travelling expenses	4,000
		By Office expenses	500
		By Balance c/d	1,25,000
	1,60,000		1,60,000

Notes :

- Gift from clients include a gift of ₹ 2,000 received form his father-in-law.
- School is recognized for I.T. Purposes
- Salaries to staff includes ₹ 2,500 paid to domestic servant.

Calculate the taxable income for the Assessment Year 2018-19.

4. Mr. Chatterjee, an Indian citizen, has furnished the following particulars-

	₹
Business Income	3,00,000
Income from Other Sources	1,50,000
Donation to the following funds & institutions:	
Donation to National Defense Fund	20,000
Donation to Govt. of India for promotion of family planning	40,000
Donation to Prime Minister's National Relief Fund	15,000
Donation to National foundation for communal harmony	7,000
Donation in kind to an approved charitable trust	5,000
Donation to approved charitable trust	22,000

Determine the amount deductible u/s 80 G.

5. Mrs Vani Jayaram, an author of text-books, furnishes the following particulars and requests you to work out his tax liability:

Particulars	₹	₹
Royalty from Printers Ltd. on publication of books		1,20,000
Capital Gains (long term)		60,000
Other Sources:		
Interest on bank deposits	12,000	
Dividend income	3,000	
Income from units UTI	5,000	20,000
Gross Total Income		2,00,000
Deductions:		
(a) Contribution towards		
LIC Pension Scheme		10,000
LIC Premium		10,000
(b) Contribution to Public Provident Fund		10,000
(c) Investment in National Savings Certificates		50,000
(d) Medical treatment of disabled dependent relation		20,000

10. Assessment of Individuals

1. Mrs Meenakshi (45 years) provides the following information. Compute her taxable income from the assessment year 2018 –19 and tax thereon.

	₹
Gross Salary	4,80,000
Rent of house property	1,20,000
Interest on bank deposits	3,14,000
Deposits in PPF	50,000
Tuition fee paid for 3 children @ ₹ 5,000 p. a. per child	15,000
Life Insurance premium paid (Sum assured ₹ 1,00,000)	25,000
Deposited in 5 year Fixed Deposit of SBI	1,00,000

2. Mr. Govindaraju has computed his total income for the assessment year 2018–19 which amounted to ₹ 13,20,000. It includes ₹ 30,000 on account of long – term capital gain and ₹ 20,000 on account of winning of horse races. Compute the tax payable by Sri Govindarajulu. Assuming that (I) he is less than 60 years
(ii) more than 80 years
3. Mr. V. K. Singhania (61 years) has given the following details of his income. Compute his tax liability for the assessment year 2018 –19.

		₹
(i)	Pension from Government	3,67,500
(ii)	Long term Capital gain	36,500
(iii)	Interest on Fixed deposit with bank	1,22,600
(iv)	Deposited ₹ 10,000 in MEP (an Equity linked Savings Scheme) and ₹ 10,000 in PPF	

4. Raghu Nandan had the following incomes during the previous year 2017-18. Compute his total income.
- (i) Gross salary ₹ 9,00,000
 - (ii) Income from house property ₹ 2,00,000
 - (iii) Interest on savings bank deposits ₹ 1,00,000
 - (iv) Casual Income ₹ 1,30,000
 - (v) Winnings from lotteries (gross) ₹ 8,00,000
 - (vi) Donation to National Defence Fund ₹ 80,000
 - (vii) Dividends from companies (gross) ₹ 70,000
 - (viii) Deposited in public provident fund ₹1,20,000
 - (ix) Life Insurance policy taken on 13-10-2014 sum assured ₹10,00,000, premium paid ₹1,50,000.
5. The following are the particulars of the income of Sirisha, a Government Servant for the year ended 31st March, 2018.
- (a) Basic Pay ₹ 26,000 p.m. Dearness Allowance ₹ 20,000 p.m. House Rent allowance ₹ 2,000 p.m. (Actual rent paid ₹ 4,000 p.m.)
 - (b) She owns a bunglow, which is let at ₹ 6,000 p.m. Its annual letting value ₹ 50,000. Municipal taxes paid ₹ 7,000.
 - (c) She received ₹ 20,000 (Gross) as interest on securities and ₹ 10,000 (Gross) as dividend on shares.

(d) Amount deposited in 6 year Fixed Deposit of SBI ₹2,00,000.

During the year 2017-18 she paid ₹ 400 towards professional tax. Compute her total income for the Assessment Year 2018-19.

11. ASSESSMENT HINDU UNDIVIDED FAMILIES

1. The following details have been submitted by the Karta of an HUF. You are required to compute its total income for the assessment year 2018-19.

		₹
(i)	Profits from business (after charging an amount of ₹ 3,000 given as salary to Karta's brother who has been actively participating in it.	20,000
(ii)	Salary income of Karta's another brother who is manager in co-operative bank	11,000
(iii)	Director's fee received by Karta (HUF holds 20% shares in this company)	5,000
(iv)	Bank interest (Gross)	₹ 400
(v)	Long-term capital gain from the transfer of building	2,800
(vi)	Long term capital gains from the transfer of investments	18,000
(viii)	Donation to a school, which is an approved Institution	6,000
(ix)	Rental value of the property let Municipal tax paid in respect of the house ₹ 1,500.	15,000
(x)	Interest on loan taken for repair of house	1,800

2. A Hindu undivided family has three coparceners : A (karta), B and C. The family has the following incomes for the year ending March 31st, 2018.

	₹
Interest on securities (gross)	2,04,600
Rental Income	5,15,200
Rental income of a house (Purchased in 1979 in the name of Mrs.A out of funds of the family)	4,18,000
Income from family business	11,18,000
Bank interest	2,82,500
Salary of B from a company	4,20,000

One third share from a partnership firm in which B is a partner, representing the family	5,12,000
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Determine the total income for the assessment year 2018-19, assuming that the family pays life insurance premium of ₹ 25,000 on the life of A and medical insurance premium of ₹ 11,000 on the life of A.

12. ASSESSMENT OF FIRMS

1. A Firm comprising of four partners A, B, C and D, carrying on business in partnership, sharing profits / Losses equally shows a profit of ₹ 1,00,000 in its book after deduction of the following amounts of the year:

		₹
(a)	Remuneration to partner 'A' who is not actively engaged in business	48,000
(b)	Remuneration to partners 'B; & 'C' actively engaged in business	
	Partner 'B'	60,000
	Partner 'C'	72,000
(c)	Interest to partner 'D' on loan of ₹ 1,50,000	36,000

The deed of partnership provides for the payment of above remuneration and interest to partners. You are required to work out the taxable income of the Firm as well as partners for Assessment year 2018 –19.

2. Work out the Taxable income for the Assessment year 2018-19 of a partnership firm engaged in retail trade from the allowing particulars.
 - (a) Net profit of ₹ 3,65,000 arrived at after debit of interest on capital of partners of ₹ 1,80,000 and salaries to working partners of ₹ 4,80,000
 - (b) Total capital of partners on which interest paid as debited in profit and loss account was ₹ 10,00,000
3. Rama and Company, a firm consisting of three partners namely H, I and G carried on the business of purchase and sale of television sets in wholesale and manufacture and sale of pens under a deed of partnership executed on 1-4-2013. H,I, G were partners in their individual capacity. The deed of partnership provided for payment of salary amounting to ₹ 1,25,000 each to H and G, who were the working partners. A new deed of partnership was executed on 1-10-2017 which apart from providing for payment of salary to the two working partners as

mentioned in the deed of partnership executed to 1-4-2013, for the first time provided for payment of simple interest @ 12% per annum on the balance standing to the credit of the capital accounts of partners from 1-4-2017. The firm was dissolved on 31-3-2018 and the capital assets of the firm were distributed among the partners on 20-4-2018. The net profit of the firm for the year ending 31-3-2017 after payment of salary to the working partners and debit/credit of the following items to the profit and loss account was ₹ 1,50,000.

- (a) Interest amounting to ₹ 1,00,000 paid to the partners on the balances standing to the credit of their current accounts from 1-4-2017 to 31-3-2018.
- (b) Interest amounting to ₹ 50,000 paid to the partners on the balance standing to the credit of their current account from 1-4-2017 to 31-3-2018.
- (c) Interest amounting to ₹ 20,000 paid to the Hindu Undivided family of partner H @ 18% p.a.
- (d) Payment of ₹ 25,000 for purchase of television sets made by crossed cheque on 1-11-2018.
- (e) ₹ 30,000 being the value of gold jewellery received as gift from a manufacturer for achieving sales target.
- (f) Depreciation ₹ 15,000 on motor car bought and used exclusively for business, but not registered in firm name
- (g) Depreciation u/s 32(1)(ii) is ₹ 37,500 of new machinery bought and installed capacity as a result of the installation of the new machinery.
- (h) Interest amounting to ₹ 25,000 received from bank on fixed deposits made out of surplus funds.

The firm furnishes the following information relating to it :

- i. Closing stock was valued at ₹ 60,000 as per the method of lower of cost or market rate consistently followed by it. The market value of closing in trade was ₹ 55,000
- ii. Brought forward business loss relating to the Assessment year 2014-15 was ₹ 50,000
- iii. The FMV of the capital assets as on 31-3-2018 was ₹ 20,00,000 and the cost of their acquisition was ₹ 15,00,000.

Compute the total income of Rama and Co. for the Assessment year 2018-19

13. ASSESSMENT OF COMPANIES

1. Ashwani Company Pvt. Ltd. furnish the following information

	₹
Interest on securities (computed)	10,000
Income from House property (computed)	20,000
(a) Textile manufacturing :	
Profit as per P & L account before depreciation	2,00,000
Depreciation	95,000
(b) Hosiery manufacturing	
Profit as per P & L account before depreciation	75,000
Depreciation	18,000
Agency business loss brought forward from 2005-06	15,000
Income from other sources	25,000

Compute the total income for the assessment year 2018-19.

2. Prakash Traders Limited as a company in which the public are substantially interested. It closes its accounts on 31st March every year. During the current year, it has derived the following income.

- (a) Profit from manufacturing unit at Lucknow ₹ 3,20,000
- (b) Profit from trading activities at Lucknow ₹ 1,00,000
- (c) Interest on debentures issued by another company which is a domestic company producing cement ₹ 25,000 (gross)
- (d) Dividend from a foreign company ₹ 10,000
- (e) Profit from an approved hotel started in 2004-05 at Kanpur ₹ 2,10,500. Capital employed being ₹ 15,00,000 and Normal depreciations ₹ 60,000 has not been charged in the calculation of above profit. The company passed on a certain formula for manufacturing, tiles to another company in Uganda and received royalty there from ₹ 2,10,000
- (f) Brought forward unabsorbed depreciation ₹ 39,000

You are required to calculate total income of the company.

3. An Indian company carries on business in Motor transportation. Its profit and loss account for the previous year 2016-17 show a net profit of ₹ 2,80,650. Find out

Gross Total Income of the company after taking into consideration the following particulars.

- (a) The profit and loss account was debited with the following expenses
- ₹ 2,50,000 as depreciation,
 - ₹ 18,750 as Bad debts reserve
 - ₹ 10,000 spent to obtain a new licence and the company was able to get it.
- The engine of a very old bus was replaced by a new one by spending ₹ 60,000
- Mr. X a retiring director, was paid ₹ 60,000 as gratuity in appreciation of his services. In the past the company never paid such a gratuity to any of its retiring directors and even the service conditions did not provide for the payment of such gratuity.
- (b) The profit and loss account was found credited with following incomes.
- Agricultural receipts of ₹ 65,000
 - ₹ 10,000 interest from an Indian Co. on its debentures (gross)
- (c) Capital gain on sale of Motor car ₹ 20,000 (short term)
- (d) As per the rates applicable in the current year the amount of depreciation comes to ₹ 1,65,000.

Chapter - 21**Model Paper****TAXATION****Time : 3 hours****Max. Marks : 100****SECTION - A (5 x 4 = 20 marks)*****Answer FIVE of the following***

1.
 - (i) Previous Year
 - (ii) Perquisites
 - (iii) Annual Value
 - (iv) Capital Asset
 - (v) Section 80 G
 - (vi) Income Tax Authorities
 - (vii) Self-Assessment
 - (viii) Tax Deducted at Source
 - (ix) Penalties for concealment of Income
 - (x) Revisionary Powers

SECTION - B (4 x 10 = 40 marks)***Answer FOUR of the following***

1. State ten types of incomes exempt from tax under section 10
2. Describe the provisions of Income Tax relating to set-off and carry forward of losses
3. What is re-assessment? Explain the provisions of Income Tax Act relating to reassessment?
4. Mr. Sekhar draws a gross salary of Rs.2,00,000 p.a. for Assessment Year 2018-19. His employer incurred expenditure on medical treatment of Mr. Sekhar and his family members, in a dispensary maintained by him, as follows:

		Rs.
(a)	Mr. Sekhar, Mrs. Sekhar and minor daughter	25,000
(b)	Major son (not dependent)	5,000
(c)	Parents of Mr. Sekhar (dependent)	12,000
(d)	Parents of Mrs. Sekhar (dependent)	8,000
(e)	Brother of Mr. Sekhar (dependent)	3,000
(f)	Sister of Mr. Sekhar (not dependent)	5,000
	Mr. Sekhar also got reimbursement of following expenditure on medical treatment at a private hospital:	
(a)	Mr. Sekhar, Mrs. Sekhar and children	6,000
(b)	Parents of Mr. Sekhar (dependent)	8,000
(c)	Parents of Mrs. Sekhar (dependent)	5,000

5. Smt. Savitri is the owner of a residential house property, construction of which was completed on 1st March, 2014. The particulars of the residential house property are given below:

	Rs.
Municipal rental value	40,000
The building has been let-out on a monthly rent of Rs.6,000 inclusive of Rs.500 as rent of furniture	
Municipal taxes paid for 2017-18 and payable for 2018-19	4,180
Ground rent due but not paid	200
Collection charges actually paid	1,500
Amount spent on the repairs of the house	2,500
Insurance charges paid	150
Interest accrued upto 31st March , 2013 on money borrowed for construction	6,000
Interest for financial year 2017-18	2,000
Interest for financial year 2018-19	1,500
Interest paid during the year on the mortgage loan of Rs.1,50,000 taken for daughter's marriage against the house property	18,000

The house was let out from 1st May, 2017 and remained vacant from 1st February, 2018 to 31st May, 2018. Thereafter it was again let out. Compute the income from house property for the Assessment years 2018-19 and 2019-20.

6. Mr. Goswamy acquired a house on 25.9.2000 for Rs.7,00,000. The fair market value of the house as on 1.4.2001 is ascertained at Rs.7,50,000. On 3.3.2014 Mr. Goswamy entered into an agreement to sell the house for Rs.15 lakhs and received Rs.1,50,000 as advance money, which he forfeited on buyer's failure to pay the balance amount. On 20.5.2017 Mr. Goswamy ultimately sold the house for Rs.20 lakhs. Calculate the value of capital gain.

SECTION - C (2 x 20 = 40 marks)
Answer any TWO of the following

7. The following is the Profit & Loss Account of M/s. Sarada & Co., for the year ending on 31.3.2019. Calculate their taxable income for the year (i.e. A.Y. 2019-20).

Profit & Loss Account

	Rs.		Rs.
To Salary	19,200	By Gross Profit	59,000
To Bonus Paid	1,600	By Interest Received	8,000
To Advertisement	3,500	By Interest on Drawings of Partner (Mr. Y)	1,000
To Entertainment Expenses	2,500		
To Telephone Expenses	6,000		
To Car Expenses	2,000		
To Donations	2,000		
To Misc. Expenses	4,000		
To T.D.S. on Interest	800		
To Income Tax for A.Y. 2018-19	1,600		
To Depreciation			
- Furniture @ 10%	1,000		
- Car @ 15%	18,000		
	19,000		
To Net Profit	5,800		
	68,000		68,000

- (a) The firm has a GST liability of Rs.600 which remains unpaid as on 31.3.2019. The amount is however paid before the due date.

- (b) Out of the donations, only Rs.1,000 is eligible for deduction u/s 80G (approved charitable institution).
- (c) Car was purchased before 30.9.2018.
8. Mr. Narasimhan, aged about 73 years, is a whole-time working Director in First Leasing Company Ltd. at Vijayawada. From the following particulars, calculate the taxable income and income-tax payable for the previous year 2017-18 (A.Y. 2018-19).
- (a) Pay Rs.25,000 p.m.
 - (b) Dearness Allowance 54,000
 - (c) CCA Rs.2,500 p.m.
 - (d) Commission on turnover (@ 0.5% of Rs.1,05,00,000) Rs.52,500.
 - (e) Sitting fee Rs.3,000 p.a.
 - (f) Free use of car (below 1,600cc) for official and personal use with driver. Expenses borne by employer.
 - (g) Rent-free house in Vijayawada, @ Rs.8,000 p.m.
 - (h) Owns a house property in New Delhi which is let out on a monthly rent of Rs.5,000. The municipal taxes of Rs.1,800 for the whole year. Interest payable for 2017-18, on the capital borrowed for the construction of the house is Rs.44,000.
 - (i) Repayment of House Building Advance taken from friends and relatives Rs.15,000 and from LIC Rs.18,000.
 - (j) Bank Interest on Savings Bank A/c Rs.15,260.
 - (k) Interest on PPF A/c Rs.25,000.
 - (l) Interest on Bank FDs Rs.50,000 and Debentures Rs.32,000.
 - (m) Interest on 8% Savings (Taxable) Bonds Rs.40,000 (TDS Rs.4,000)
 - (n) Donations to National Defense Fund Rs.1,000.
 - (o) Health Insurance premium (Mediclip) on self and wife (both above 70 years) Rs.22,000.
 - (p) Expenditure on medical treatment of handicapped daughter Rs.28,000.
 - (q) Deposit in Jeevan Suraksha of LIC Rs.10,000.
 - (r) Investment in LIC, Jeevan Dhara and PPF Rs.85,000.
 - (s) MBA college fees for son Rs.20,000.
 - (t) Deposit in Bank Term Deposit Rs.30,000

9. Profit and loss account of M/s Bhanu & Co. (a firm of chartered accountants) for the year ending March 31, 2018 is as follows:

	Rs.		Rs.
Expenses	59,00,000	Receipts from clients and audit fee	60,00,000
Depreciation	2,95,000	Dividend from foreign companies	2,00,000
Remuneration to partners	2,08,000	Net loss	2,60,000
Interest to partners	57,000		
	64,60,000		64,60,000

Other information:

- Out of expenses of Rs.59,00,000, Rs.34,000 is not deductible by virtue of sections 36 and 37.
- Depreciation as per section 32 is Rs.45,000.
- Interest to partners is fully deductible under section 40(b).
- The firm satisfies all conditions of sections 184 and 40(b).

Find out the amount of net income of the firm for the assessment year 2018-19.

10. Costal Ltd., carrying on business in manufacture, sale and export of tyres, tubes and accessories, has disclosed a net profit of Rs.8,00,000 in its profit and loss account for the period ending March 31, 2018. On the basis of the following particulars furnished by the company and ascertained on inquiry, compute, giving reasons, its total income for the assessment year 2018-19:

- A sum of Rs.50,000 is debited to compensation account. The company had placed an order for machinery to manufacture tyres with a UK company. However, due to a sudden increase in the price of machinery by the UK company, the assessee cancelled the contract. It was required to pay Rs.50,000 as compensation. The company claims the said amount as deduction on revenue account or, in the alternate, as loss under the head "Capital gains" as the payment was made towards extinguishment of right to acquire a capital asset.
- "Loss on export of tyre account" shows a debit of Rs.4,00,000. In this connection it is explained that two trucks belonging to the company carrying tyres and tubes valued at Rs.4,00,000 were intercepted at the international

border and seized by customs authorities for illegal export of tyres and tubes. The goods were confiscated by the customs authorities and a fine of Rs.1,00,000 was levied. The company claims the value of confiscated goods as a trading loss under section 28 and the payment of the fine of Rs.1,00,000 which is debited to rates and taxes account as an expenditure in the course of business under section 37(1).

- (c) The company had set up a separate unit for manufacture of plastic tubes at Bangalore in 1995. The said unit suffered heavy losses. As a result the same was closed down and the plant and machinery were sold away. The company, however, claims unabsorbed depreciation amounting to Rs.5,00,000 in its return of income. It is not debited to the profit and loss account.
- (d) During the previous year 1991-92, the assessee-company acquired 5,000 shares of E Ltd., an Indian company, as a result, the entire share capital of the said company is now held by the assessee-company. In May 2017, the assessee-company sold to E Ltd. plant and machinery for Rs.6,00,000. Cost of acquisition of his machinery as per section 50 is Rs.1,50,000.
- (e) In the years 2013-14 and 2014-15, the Government of India arranged exports of tyres and tubes through the Federation of Tyre Dealers of which the company was a member. The exports which were made to Europe in loss which was shared by all members including the company. The Federation thereafter took up the questions of reimbursement of losses with the Government, which after protracted discussion and correspondence agreed to grant a subsidy calculated at a certain percentage of exports. The assessee-company received its share of subsidy amounting to Rs.3 lakhs in the previous year. The amount stands credited to the "Capital reserve account" and claimed as exempt.
- (f) Under voluntary retirement scheme framed by the company, four of its employees take voluntary retirement during the previous year 2017-18. A compensation of Rs.28 lakhs is paid to them. The entire amount is debited to the profit and loss account. The scheme is not in accordance with the guidelines framed under section 10(10C).