LESSON – 6
INCOME FROM HOUSE PROPERTY

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STRUCTURE

6.0 INTRODUCTION

This lesson deals with income, which falls under the head 'Income from house property'. The scope of income charged under this head is defined by section 22 of the Income Tax Act and the computation of income falling under this head is governed by sections 23 to 27. All the provisions relating to tax treatment of income from house property are explained in this lesson.

6.1 OBJECTIVES

After going through this lesson, you will be able to understand:

- The meaning of house property
- Who is treated as owner of house property
- The treatment of rental income from properties under different circumstances
- Determination of the annual value of a house property
- The expenses deductible from rental/notional income from house property
- Special treatment given to self-occupied house property
- Treatment of income/loss from house property.

6.2 BASIS OF CHARGE (SECTION 22)

The annual value of a property, consisting of any buildings or lands appurtenant thereto, of which the assessee is the owner, is chargeable to tax under the head 'Income from house property'. However, if a house property, or any portion thereof, is occupied by the assessee, for the purpose of any business or profession, carried on by him, the profits of which are chargeable to income-tax, the value of such property is not chargeable to tax under this head.

Thus, three conditions are to be satisfied for property income to be taxable under this head.

1. The property should consist of buildings or lands appurtenant thereto.
2. The assessee should be the owner of the property.
3. The property should not be used by the owner for the purpose of any business or profession carried on by him, the profits of which are chargeable to income-tax.

6.2.1 APPLICABILITY OF SECTION 22

Buildings or lands appurtenant thereto

The term 'building' includes residential houses, bungalows, office buildings, warehouses, docks, factory buildings, music halls, lecture halls, auditorium etc. The appurtenant lands in respect of a residential building may be in the form of approach roads to and from public streets, compounds, courtyards, backyards, playgrounds, kitchen garden, motor garage, stable or coach home, cattle-shed etc, attached to and forming part of the building. In respect of non-residential buildings, the appurtenant lands may be in the form of car-parking spaces, roads connecting one department with another department, playgrounds for the benefit of employees, etc.

All other types of properties are excluded from the scope of section 22. Rental income from a vacant plot of land (not appurtenant to a building) is not chargeable to tax under the head 'Income from house property', but is taxable either under the head 'Profits and gains of business or profession' or under the head 'Income from other sources', as the case may be. However, if there is land appurtenant to a house property, and it is let out along with the house property, the income arising from it is taxable under this head.

Ownership of house property

It is only the owner (or deemed owner) of house property who is liable to tax on income under this head. Owner may be an individual, firm, company, co-operative society or association of persons. The property may be let out to a third party either for residential purposes or for business purposes. Annual value of property is assessed to tax in the hands of the owner even if he is not in receipt of the income. For tax purposes, the assessee is required to be the owner in the previous year only. If the ownership of the property changes in the relevant assessment year, it is immaterial as the tax is to be paid on the income of the previous year.

Income from subletting is not taxable under section 22. For example, A owns a house property. He lets it out to be B. B further lets it (or a portion of it) out to C. Rental income of A is taxable under the head 'Income from house property'. However, since B is not the owner of the house, his income is not taxable as income from house property, but as income from other sources under section 56.

Deemed owner: Section 27 of the Income Tax Act provides that, in certain circumstances, persons who are not legal owners are to be treated as deemed owners of house property for the purpose of tax liability under this head.

1. If an individual transfers a house property to his or her spouse (except in connection with an agreement to live apart) or to a minor child (except a married daughter) without adequate consideration, he is deemed as the owner of the property for tax purposes. However, if an individual transfers cash to his or her spouse or minor child, and the transferee acquires a house property out of the gifted amount, the transferor shall not be treated as the deemed owner of the house property.

2. The holder of an Impartible Estate is deemed to be the owner of all the properties comprised in the estate.

3. A member of a co-operative society, company or association of persons, to whom a property (or a part thereof) is allotted or leased under a house-building scheme of the society, company or association, is deemed to be the owner of such property.

4. A person who has acquired a property under a power of attorney transaction, by satisfying the conditions of section 53A of the Transfer of Property Act, that is under a written agreement, the purchaser has paid the consideration or is ready to pay the consideration and has taken the possession of the property, is the deemed owner of the property, although he may not be the registered owner.

5. A person who has acquired a right in a building (under clause (f) of section 269UA), by way of a lease for a term of not less than 12 years (whether fixed originally or extended through a provision in the agreement), is the deemed owner of the property. This provision does not cover any right by way of a lease renewable from month to month or for a period not exceeding one year.

Ownership must be of the superstructure. It is not necessary that the assessee is also the owner of the land. Thus, when a person obtains a piece of land on lease and constructs a building on it, the income from such building will be taxed in his hands as income from house property.

Property used for own business or profession

The owner of a house property is not liable to tax under this head if the property is used by him for his own business or profession. But the business or profession should be such whose income is chargeable to tax. Chargeability to tax does not mean that the income is actually taxed. It is possible that in a particular year the profits are not sufficient enough to attract tax liability. What it means is that the income from such business or profession is not exempt from tax.

If an employer builds quarters for residential use by his employees and the letting out of these quarters is considered as incidental to his business, the income from such property is not taxable under this head, because the property in this case is considered to be used by the owner for his own business. It shall, therefore, be taxed as business income.

The above position will not change even if the buildings are let out to government authorities for locating their undertakings like Banks, Post Office, Police Station, Central Excise Office, etc., provided the dominant purpose of letting out the accommodation is to enable the assessee to carry on his business more efficiently and smoothly. Also, income from paying-guest accommodation is taxable as income from business.

Where house property owned by a partner is used by the firm (neither it is let out to the firm nor any rent is obtained for it) for its business purposes, the partner is entitled to the exemption.

The reason for this exemption is that the notional rent of property is not allowable as a permissible deduction while computing business income, if a person carries on the business or profession in his own house property.

Composite rent

In some cases, the owner obtains rent of other assets (like furniture) or he charges for different services provided in the building (for instance, charges for lift, security, air conditioning, etc.), apart from obtaining the rent of the building. The amount so recovered is known as composite rent.

If the owner of a house property gets a composite rent for the property as well as for services rendered to the tenants, composite rent is to be split up and the sum which is attributable to the use of property is to be assessed in the form of annual value under section 22. The amount which relates to rendition of the services (such as electricity supply, provisions of lifts, supply of water, watch and ward facilities, etc.) is charged to tax under the head ‘Profits and gains of business or profession’ or under the head ‘Income from other sources’.

If there is letting of machinery, plant and furniture and also letting of the building and the two lettings form part and parcel of the same transaction or the two lettings are inseparable, then such income is taxable either as business income or income from other sources. This happens in the case of letting out of hotel rooms, theatres, auditoriums, etc. It is commonly understood that the charges per day for a room in a hotel are not specifically for the room only. In fact, a major portion of room tariff is for the amenities and services provided in the hotel. Similar is the case where a cinema house is let out at composite rent charged for the building, furniture, machines, equipment, staff, power consumption, etc. In all such cases, the composite rent received by the owner of the property is not to be split up and nothing is taxable as income from house property.

Rental income of a dealer in house property

If a person is engaged in the business of purchasing house properties with the purpose of letting them on high rents and disposing off those properties which are not profitable for this purpose, the rental income from such property will not be taxed as business income. Any rent from house property, whether received by a dealer or a landlord, is taxable under the head ‘Income from house property’. It will remain so even if the property is held by the assessee as stock-in-trade of a business or if the assessee is a company which is incorporated for the purpose of building houses and letting them on rent.

Disputed ownership

If the title of ownership of a house property is disputed in a court of law, the decision as to who is the owner rests with the Income-tax Department. Mere existence of dispute as to title cannot hold up an assessment even if a suit has been filed. Generally the recipient of rental income or the person who is in possession of the property is treated as owner.

House property in a foreign country

A resident assessee is taxable under section 22 in respect of annual value of a property in a foreign country. A resident but not ordinarily resident or a non-resident is, however, chargeable under section 22 in respect of income of a house property situated aboard, provided income is received in India during the previous year. If tax incidence is attracted under section 22 in respect of a house property situated abroad, its annual value will be computed as if the property is situated in India.

Check Your Progress

Activity A:

Explain whether the income from house property will be taxable or not u/s 22 in the hands of X in the following circumstances:

1. X owns a building. It is given on rent to Y, who uses it as his office.

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2. X owns a house property. He uses it as the godown for the goods produced by his factory.

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3. X rents out his property as residential quarters to the workers in his factory at a nominal rent of Rs.500 p.m.

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4. X enters into a written agreement to purchase a property from Y for Rs.25, 00,000. He has paid the consideration and taken the possession of the property but the property is yet to be registered in the name of X.

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5. X owns a property, which is given on lease to Y for a period of 6 years, lease rent being Rs.10, 000 per month. Y has a right to get the lease renewed for a further period of 6 years.

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6. X owns a property, which is given on lease to Y for a period of one month, rent being Rs.5, 000. Y has a right to get the lease renewed for a period of one month, in each subsequent month, and such renewal is possible with mutual consent till 2020.

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7. X owns a property, which is given on rent to Y. Y annually pays Rs. 1,50,000 as rent of the building as well as the charges for different services (like lift, security, etc.) provided by X.

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8. X owns an air-conditioned furnished lecture hall. It is let out, annual rent being Rs.5, 00,000, which includes rent of building as well as rent of air-conditioner and furniture.

6.2.2 PROPERTY INCOMES EXEMPT FROM TAX

Some incomes from house property are exempt from tax. They are neither taxable nor included in the total income of the assessee for the rate purposes. These are:

1. Income from a farm house [section 2(1A) (c) and section 10(1)].
2. Annual value of one palace in the occupation of an ex-ruler [section 10(19A)].
3. Property income of a local authority [section 10(20)].
4. Property income of an approved scientific research association [section 10(21)].
5. Property income of an educational institution and hospital [section 10(23C)].
6. Property income of a registered trade union [section 10(24)].
7. Income from property held for charitable purposes [section 11].
8. Property income of a political party [section 13A].
9. Income from property used for own business or profession [section 22].
10. Annual value of one self occupied property [section 23(2)].

6.3 COMPUTATION OF INCOME FROM LET OUT HOUSE PROPERTY

Income from house property is determined as under:

Gross Annual Value	xxxxxxx
Less: Municipal Taxes	xxxxxxx
Net Annual Value	xxxxxxx
Less: Deductions under Section 24	
- Statutory Deduction (30% of NAV)	xxxxxxx
- Interest on Borrowed Capital	xxxxxxx
Income From House Property	xxxxxxx

6.3.1 DETERMINATION OF ANNUAL VALUE

The basis of calculating Income from House property is the 'annual value'. This is the inherent capacity of the property to earn income and it has been defined as the amount for which the property may reasonably be expected to be let out from year to year. It is not necessary that the property should actually be let out. It is also not necessary that the reasonable return from property should be equal to the actual rent realized when the property is, in fact, let out. Where the actual rent received is more than the reasonable return, it has been specifically provided that the actual rent will be the annual value. Where, however, the actual rent is less than the reasonable rent (e.g., in case where the tenancy is affected by fraud, emergency, close relationship or such other consideration), the latter will be the annual value. The municipal value of the property, the cost of construction, the standard rent, if any, under the Rent Control Act, the rent of similar properties in the same locality, are all pointers to the determination of annual value.

Gross Annual Value [Section 23(1)]

The following four factors have to be taken into consideration while determining the Gross Annual Value of the property:

1. Rent payable by the tenant (actual rent)

2. Municipal valuation of the property.
3. Fair rental value (market value of a similar property in the same area).
4. Standard rent payable under the Rent Control Act.

Actual Rent: It is the most important factor in determining the annual value of a let out house property. It does not include rent for the period during which the property remains vacant. Moreover, it does not include the rent that the tax payer is unable to realize, if certain conditions are satisfied. Sometimes a tenant pays a composite rent for the property as well as certain benefits provided by the landlord. Such composite rent is to be disintegrated and only that part of it which is attributable to the letting out of the house property is to be considered in the determination of the annual value.

Municipal Valuation: Municipal or local authorities charge house tax on properties situated in the urban areas. For this purpose, they have to determine the income earning capacity of the property so as to calculate the amount of house tax to be paid by the owner of the property. But this valuation cannot be treated as a conclusive evidence of the rental value of the property, although such valuation is given due consideration by the Assessing Officer.

Fair Rental Value: It is the rent normally charged for similar house properties in the same locality. Although two properties cannot be alike in every respect, the evidence provided by transactions of other parties in the matter of other properties in the neighborhood, more or less comparable to the property in question, is relevant in arriving at reasonable expected rent.

Standard Rent: Standard Rent is the maximum rent which a person can legally recover from his tenant under a Rent Control Act. This rule is applicable even if a tenant has lost his right to apply for fixation of the standard rent. This means that if a property is covered under the Rent Control Act, its reasonable expected rent cannot exceed the standard rent.

The Gross Annual Value is the municipal value, the actual rent (whether received or receivable) or the fair rental value, whichever is highest. If, however, the Rent Control Act applies to the property, the gross annual value cannot exceed the standard rent under the Rent Control Act, or the actual rent, whichever is higher.

If the property is let out but remains vacant during any part or whole of the year and due to such vacancy, the rent received is less than the reasonable expected rent, such lesser amount shall be the Annual value.

For the purpose of determining the Annual value, the actual rent shall not include the rent which cannot be realized by the owner. However, the following conditions need to be satisfied for this:

(a) The tenancy is *bona fide;*

(b) The defaulting tenant has vacated, or steps have been taken to compel him to vacate the property.

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

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

ILLUSTRATION 6.1

Find the Gross Annual Value in the case of the following properties:

	(1)	(2)	(3)	(4)	(5)
Municipal value	52,000	1, 00,000	60,000	75,000	1, 80,000
Fair rent	60,000	1, 02,000	68,000	70,000	1, 85,000
Standard rent	NA	90,000	70,000	60,000	1, 75,000
Actual rent receivable	55,000	95,000	72,000	72,000	1, 68,000
Unrealized rent	_	_	5,000	_	42,000
Period of vacancy	_	_	_	8 months	1 month

SOLUTION

(1) Since Rent Control Act is not applicable, GAV will be the highest of municipal value, fair rent and actual rent. Hence, the GAV will be Rs. 60,000.

(2) GAV cannot exceed the standard rent or actual rent, whichever is higher. Therefore, GAV will be Rs. 95,000.

(3) Actual rent receivable will be reduced by the amount of unrealized rent i.e. Rs. 72,000 – Rs. 5,000 = Rs. 67,000. Now, GAV will be the highest of municipal value, fair rent and actual rent, subject to the maximum of standard rent. Hence, GAV will be Rs. 68,000.

(4) GAV will be the actual rent receivable adjusted by the loss due to vacancy i.e. Rs. 72,000 – Rs. 48,000 = Rs. 24,000.

(5) Actual rent receivable will be reduced by the amount of unrealized rent and loss due to vacancy i.e. Rs. 1, 68,000 – Rs. 42,000 – Rs. 14,000 = Rs. 1, 12,000. Now, we will take the highest of municipal value, fair rent and actual rent, subject

to the maximum of standard rent. So, GAV will be Rs. 1, 75,000 reduced by the loss due to vacancy i.e. Rs. 1, 75,000 – Rs. 14,000 = Rs.1, 61,000.

CHECK YOUR PROGRESS

Activity B: Explain the various key words that are used in the calculation of Gross Annual Value.

Activity C: Find the Gross Annual Value of a house property whose municipal valuation is Rs. 80,000, fair rent is Rs. 90,000 and standard rent is Rs. 75,000. The house is let out to a third party for a monthly rent of Rs. 7,000 for 10 months and remains vacant for the remaining part of the year.

Deduction of Municipal Taxes

From the annual value as determined above municipal taxes are to be deducted if the following conditions are fulfilled:

- The property is let out during the whole or any part of the previous year

- The Municipal taxes must be borne by the landlord (If the Municipal taxes or any part thereof are borne by the tenant, it will not be allowed).
- The Municipal taxes must be paid during the year (Where the municipal taxes become due but have not been actually paid, it

will not be allowed. Similarly, the year to which the taxes relate to, is also immaterial).

6.3.2 DEDUCTIONS UNDER SECTION 24

Two deductions will be allowed from the net annual value (which is gross annual value less municipal taxes) to arrive at the taxable income under the head 'income from house property'. It has to be borne in mind that the deductions mentioned here (section 24) are exhaustive and no other deductions are allowed. The deductions admissible are as under:

Statutory deduction:
30 per cent of the net annual value will be allowed as a deduction towards repairs and collection of rent for the property, irrespective of the actual expenditure incurred.

Interest on borrowed capital:
The interest on borrowed capital will be allowable as a deduction on an accrual basis if the money has been borrowed to buy or construct the house. Amount of interest payable for the relevant year should be calculated and claimed as deduction. It is immaterial whether the interest has actually been paid during the year or not. However, there should be a clear link between the borrowal and the construction/purchase etc., of the property. If money is borrowed for some other purpose, interest payable thereon cannot be claimed as deduction.

The following points are to be kept in mind while claiming deduction on account of interest on borrowed capital:

1. In case the property is let out, the entire amount of interest accrued during the year is deductible. The borrowals may be for construction/acquisition or repairs/renewals.

2. A fresh loan may be raised exclusively to repay the original loan taken for purchase/ construction etc., of the property. In such a case also, the interest on the fresh loan will be allowable.

3. Interest payable on interest will not be allowed.

4. Brokerage or commission paid to arrange a loan for house construction will not be allowed.

5. When interest is payable outside India, no deduction will be allowed unless tax is deducted at source or someone in India is treated as agent of the non-resident.

Interest attributable to period prior to construction/acquisition

Money may be borrowed prior to the acquisition or construction of the property. In such a case, the period commencing from the date of borrowing and ending on the date of repayment of loan or on March 31 immediately preceeding the date of acquisition or completion of construction, whichever is earlier, is termed as the pre-construction period. The interest paid/payable for the pre-construction period is to be aggregated and claimed as deduction in five equal instalments during five successive financial years starting with the year in which the acquisition or construction is completed. **This deduction is not allowed if the loan is utilized for repairs, renewal or reconstruction.**

ILLUSTRATION 6.2

X takes a loan of Rs. 10, 00,000 @ 12% p.a. on July1, 2001 for the construction of a house property. The construction of the property is completed on January15, 2004. Calculate the amount of interest deductible in the different previous years.

SOLUTION

12% of Rs. 10, 00,000 = Rs. 12,000 will be deductible from the annual value of the house property every year till the loan is repaid.

Interest for the pre-construction period i.e. from July 1, 2001 to March 31, 2003 (immediately preceeding the previous year during which the construction of the house property is completed) will be Rs. 12,000 *21/12 = Rs. 21,000. It will be deductible in 5 equal installments of Rs. 4,200 each starting from the previous year in which the construction is completed i.e. 2003-04. Therefore, the total amount deductible as interest on borrowed capital for the first 5 previous years 2003-04, 2004-05, 2005-06, 2006-07 and 2007-08 will be Rs. 12,000 + 4,200 = Rs. 16,200.

CHECK YOUR PROGRESS

Activity D

X took a loan of Rs. 1, 00,000 @ 15% per annum on May 1, 2004 for the construction of his house. The construction of the house was completed on January 31, 2006. Calculate the amount of interest deductible in the previous year 2005-06.

Activity E:

Arrange the following key terms in the order in which they are used in the calculation of income from house property.

Net Annual Value Gross Annual Value Interest on borrowed capital
Municipal valuation Municipal taxes Actual rent Fair rent

6.4 COMPUTATION OF INCOME FROM SELF – OCCUPIED HOUSE PROPERTY

The annual value of one self-occupied house property, which has not been actually let out at any time during the previous year, is taken as 'Nil' [Section 23(2) (a)]. From the annual value, only the interest on borrowed capital is allowed as a deduction under section 24. The amount of deduction will be:

- Either the actual amount accrued or Rs.30,000/- whichever is less
- When borrowal of money or acquisition of the property is after 31.3.1999 - deduction is Rs.1, 50,000/- applicable to A.Y 2002-03 and onwards.

However, if the borrowal is for repairs, renewals or reconstruction, the deduction is restricted to Rs.30, 000. If the borrowal is for construction/acquisition, higher deduction as noted above is available.

If a person owns more than one house property, using all of them for self-occupation, he is entitled to exercise an option in terms of which, the annual value of one house property as specified by him will be taken at Nil. The other self occupied house property/is will be deemed to be let out and their annual value will be determined on notional basis as if they had been let out.

Annual Value of one house away from work place [Section 23(2) (b)]

A person may own a house property, for example, in Bangalore, which he normally uses for his residence. He is transferred to Chennai, where he does not own any house property and stays in a rental accommodation. In such a case, the house property in Bangalore cannot be used for self-occupation and notional income, therefore, would normally have been chargeable although he derives no benefit from the property. To save the tax payer from hardship in such situations, it has been specifically provided that the annual value of such a property would be taken to be nil subject to the following conditions:

- The assessee must be the owner of only one house property.
- He is not able to occupy the house property because of his employment, business etc., away from the place where the property is situated.
- The property should not have been actually let or any benefit is derived therefrom.
- He has to reside at the place of employment in a building not belonging to him.

Annual Value of a house property which is partly self – occupied and partly let out

If a house property consists of two or more independent residential units, one of which is self – occupied and the other unit(s) are let out, the income from the different units is to be calculated separately. The income from the unit which is self – occupied for residential purposes is to be calculated as per the provisions of Section 23(2)(a) i.e. the annual value will be taken as nil and only interest on borrowed capital will be deductible upto the maximum limit of Rs. 1,50,000 or Rs. 30,000, as the case may be. The income from the let out unit(s) will be calculated in the same manner as the income from any let out house property.

If a house property is self – occupied for a part of the year and let out for the remaining part of the year, the benefit of Section 23(2) (a) is not available and the income from the property will be calculated as if it is let out.

ILLUSTRATION 6.3

X owns two houses. The relevant details are as follows:

	House I	House II
Self – occupied	April 1, 2005 to June 30, 2005	July 1, 2005 to March 31, 2006
Let out	July 1, 2005 to March 31, 2006	April 1, 2005 to June 30, 2005

Rent per month	Rs. 8,000	Rs. 5,000
Municipal valuation	Rs. 90,000	Rs. 60,000
Fair rent	Rs. 1, 00,000	Rs. 65,000
Standard rent	Rs. 1, 00,000	Rs. 50,000
Rent of let out period	Rs. 72,000	Rs. 15,000
Municipal taxes paid	Rs. 12,000	Rs. 8,000
Interest on borrowed capital	Rs. 20,000	Rs. 4,000

Calculate income from house property for the assessment year 2006-07.

SOLUTION

	House I	House II
Gross Annual Value	1, 00,000	50,000
Less: Municipal taxes	12,000	8,000
Net Annual Value	88,000	42,000
Less: Deductions under Section 24		
Statutory deduction (30% of NAV)	26,400	12,600
Interest on borrowed capital	20,000	4,000
Income from house property	41,600	25,400

ILLUSTRATION 6.4

X owns a big house which has three independent units. Unit I (50% of the floor area) is let out for residential purpose on a monthly rent of Rs. 8,000. This unit remains vacant for one month when it is not put to any use. A sum of Rs. 1,500 could not be collected from the tenant. Unit II (25% of the floor area) is used by X for the purpose of his profession, while Unit III (the remaining 25%) is utilized by him for the purpose of his residence. Other particulars of the house are as follows:

Municipal valuation: Rs. 60,000, fair rent: Rs. 70,000, standard rent: Rs. 90,000, municipal taxes: Rs. 13,000, repairs: Rs. 4,000, interest on capital borrowed for renewal of the property: Rs. 36,000 and fire insurance premium: Rs. 15,000. Professional income of X is Rs. 90,000 (without debiting house rent and other incidental expenditure including admissible depreciation on the portion of the house used for profession: Rs. 8,000).

Determine the Gross Total Income of X for the assessment year 2006-07.

SOLUTION

Unit I (let out)

Municipal valuation (50% of Rs. 60,000)		30,000
Fair rent (50% of Rs. 70,000)		35,000
Standard rent (50% of Rs. 90,000)		45,000
Actual rent (Rs. 8,000 x 11 – 1,500)		86,500
(GAV will be the actual rent, since it is the highest)		
Gross Annual Value		86,500
Less: Municipal Taxes (50% of Rs. 13,000)		6,500
Net Annual Value		80,000
Less: Deductions under Section 24		
Statutory Deduction (30% of Rs. 80,000)	24,000	
Interest on borrowed capital (50% of Rs. 36,000)	18,000	42,000
Income from Unit I		38,000
Unit III (self – occupied)		
Annual Value		NIL
Less: Interest on borrowed capital (25% of Rs. 36,000)		9,000
Income from Unit III		- 9,000

Unit II (used for own profession)

Since Unit II is used by X for the purpose of his profession, its annual value will not be charged to tax as income from house property, nor will the notional rent be deductible from professional income. Other expenses relating to the portion of his house used for the purpose of his profession will be deducted from his professional income. Therefore, taxable professional income of X will be calculated as follows:

Professional income		90,000
Less: Municipal taxes (25% of Rs. 13,000)	3,250	
Repairs (25% of Rs. 4,000)	1,000	
Interest (25% of Rs. 36,000)	9,000	
Insurance premium (25% of Rs. 15,000)	3,750	
Depreciation	8,000	25,000
Taxable professional income		65,000
Computation of Gross Total Income		
Income from house property		
Unit I	38,000	
Unit II	- 9,000	29,000
Income from profession		65,000
Gross Total Income		94,000

6.5 SOME SPECIAL PROVISIONS

Taxability of Unrealized Rent recovered later (Section 25A)

Where any rent cannot be realized, and subsequently if such amount is realized, such an amount will be deemed to be the income from house property of that year in which it is received. We have seen earlier that the basic requirement for assessment of this income is the ownership of the property. However, in the cases where unrealized rent is subsequently realized, it is not necessary that the assessee continues to be the owner of the property in the year of receipt also.

Assessment of arrears of rent received (Section 25B)

When the owner of a property receives arrears of rent from such a property, the same shall be deemed to be the income from house property in the year of receipt. 30% of the receipt shall be allowed as deduction towards repairs, collection charges etc. No other deduction will be allowed. As in the case of unrealized rent, the assessee need not be the owner of the property in the year of receipt.

House property owned by co-owners (section 26)

If a house property is owned by two or more persons, then such persons are known as co-owners. Co-owners are not taxable as an association of persons. When the share of each co-owner is definite and ascertainable, it has been provided that each of the owners will be assessed individually in respect of share of income from the property. In other words, income from the property will be determined and allocated to each co-owner according to his share. When each of the co-owners of a property uses it for his residence, each of them will also get the concessional treatment in respect of one self-occupied property.

Loss from house property

If the aggregate amount of permissible deductions exceeds the annual value of the house property, there will be a loss from that property. So far as income from a self-occupied property is concerned, and in respect of a property away from the workplace, the annual value is taken at nil and no other deductions are allowed except for interest on borrowed capital upto a maximum of Rs.30,000 or Rs.1,50,000. In such cases, there may be a loss upto a maximum of Rs.30, 000 or Rs.1, 50,000, as the case may be. However, in respect of a let out house property, there are no restrictions on deductions and therefore, there can be loss of any amount under this head.

The loss from one house property can be set off against the income from another house property. The remaining loss, if any, can be set off against incomes under any other head like salary. In case the loss does not get wiped out completely, the balance will be carried forward to the next assessment year to be set off against the income from house property of that year. However, such carry forward is restricted to eight assessment years only.

6.6 LET US SUM UP

Under section 22 of the Income Tax Act, the annual value of house property, consisting of buildings and lands appurtenant thereto, is taxable under the head

'Income from house property', in the hands of the owner (or deemed owner) of the property, provided that the property is not used by the assessee for the purpose of his own business or profession.

For determining the annual value of the house property, the actual rent received or receivable from the property, the municipal valuation, the fair rental value and the standard rent under the Rent Control Act are taken into account.

From the Gross Annual Value of the property, the Municipal Taxes are deducted to arrive at the Net Annual Value. Section 24 of the Income Tax Act provides that 30% of the NAV and the interest on borrowed capital shall be deducted from the NAV to obtain the taxable income from house property.

As per Section 23(2) of the Income Tax Act, the annual value of one self-occupied house property is taken to be nil. No deductions are permissible from the annual value of such property, except the interest on borrowed capital, subject to the maximum limit of Rs.1, 50,000 or Rs.30, 000 as the case may be.

The above provisions may result in loss from house property, which may be set off against income from another house property or against incomes under the other heads. The balance loss may be carried forward, to be set off against the income from house property, upto a maximum of eight assessment years.

6.7 SELF - ASSESSMENT QUESTIONS

1. What is 'annual value'? How is the annual value of a let out house-property determined?

2. How will you arrive at the annual value of a house property which is partly let out and partly self- occupied during the previous year?

3. Explain the provisions of the Income Tax Act with respect to the computation of income from a self-occupied house property.

4. What deductions are allowed from the annual value in computing the taxable income from house property?

5. Explain the tax treatment of unrealized rent.

6. 'It is only the owner of the house property who is chargeable to tax on income from house property'. Explain.

7. Compute taxable income from house property from the following particulars:

Fair market rent	Rs.80, 000
Actual rent	Rs.72, 000
Municipal valuation	Rs.50, 000
Standard rent	Rs.60, 000
Municipal Taxes	20%
Interest paid	Rs.18, 000

8. X owns a house whose Municipal valuation is Rs.30, 000 and the fair rent is Rs.43, 200 per annum. During the previous year, the house is let out for residential purposes w.e.f. 1st April, 2005 to 30th June, 2005 at the rate of Rs.4, 000 per month and self-occupied for residential purposes for the remaining part of the year. He incurred the following expenses in respect of this house :
   Municipal taxes Rs.6, 000, Ground rent Rs.5, 000 and Fire Insurance Premium Rs.1, 000. A loan of Rs.50, 000 was taken on 1st April, 2000 at the rate of 10% per annum for the construction of the house which was completed on 1st January, 2003. No part of the loan has been repaid so far. Compute his income from house property for the Assessment year 2006-2007.

6.8 SOURCES AND FURTHER READINGS

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