INCOME FROM HOUSE PROPERTY

BASIS OF CHARGES SEC(22)
income tax is chargeable on annual value of property.
Property means:-

a) any building or lands appurtenant thereto.
b) Property of which the assesses is owner (legal owner or deemed owner)
c) Property other property which assessee **may** occupy for his (taxable) business or profession.

Note:

- Income from vacant land is taxable under I/O/S or P/G/B/P.
- Income from sub-letting is taxable under I/O/S or P/G/B/P.
- The assessee should be owner of building; he may or may not be owner of land.
- In case of disputed ownership, the income shall be taxable in the hand of recipient.
- Property held as a stock in trade:-Taxable in H.P. Head.
- If property is let out to carry on main business smoothly, the rental income shall be chargeable under P/G/B/P head. [e.g. police station]
- The property should be completed and ready for purpose of use.
- In case of Partly let out and partly self occupied:- consider the both separate units.

Annual Value [section 23(1)]: Gross Annual Value – Municipal taxes **paid**
Gross Annual Value: Higher of Actual Rent or Expected rent
Expected rent: - higher of Municipal value or fair rent, restricted to Standard Rent.
Note: if Actual rent is less than expected rent due to vacancy, the actual rent shall be taken as Gross Annual Value.

Self Occupied House:- The Net Annual Value of the following shall be nil [section 23(1)]

- A property which is occupied for residence of owner, or
- Which cannot actually be occupied by the owner due to his employment, business or profession carried on at any other place, he has to reside at that other place in a building not belonging to him.

Note: when assessee has more than one property for residence, the NAV of **only one** house shall be considered NIL. The value of other self occupied house shall be computed as given u/s 23(1)

Actual Rent:

- Liabilities payable by tenant paid by owner is deductible in rent.
- Liabilities payable by owner paid by tenant added in rent.
- Non-refundable deposit will include in rent received on prorate basis.
- Advance rent is not a part of rent received.
- **Unrealised Rent:**
  - The unrealized rent shall not be included in the actual rent.
  - If rent receivable has been included in actual rent in any previous year and in any subsequent year it become unrealized rent, it shall be deducted from actual rent in that year.
  - If unrealized rent has been realized subsequently, it shall be taxable in the year of realization, whether or not he is owner in the year of realization. [section 25AA]

Rent shall termed as unrealized only if following conditions are satisfied:

- The tenancy is bonafied.
- The defaulting rent has vacated or has been compelled to vacate the house

- The tenant has not occupied any other property of the assessee.
- All reasonable steps have been taken, and further legal proceedings would be useless.

- **Composite Rent**:- Rent received with other facilities
  - If it is separable than rent will be covered in H.P. Head and other Facilities income covers in Other Sources Head.
  - If it is not separable:-Than all receipt will be cover in other sources head.

- The arrears of rent (was not charges to tax earlier), shall be taxable in year of receipt, and statutory deduction @30% shall be allowed. [section25B]

Deduction from Net Annual Value:

- **Statutory Deduction u/s 24(a)**: 30% of Net Annual Value
- **Interest on borrowing capital u/s 24(b):** interest payable on borrowed capital, by which the property has been **acquired, constructed, repaired, renewed or reconstructed**.
  A) Revenue interest
  B) Preconstruction period interest: interest from date of borrowing to the 31st March immediate preceding the date of completion of construction is to be deducted in 5 equal installments.

Note:

- Interest is restricted to Rs.30000 in case of self occupied property
- If loan taken on or after 1st April 1999 for **purchasing or construction** (construction completed with in 3 years from the end of financial year in which the loan taken), deduction will be maximum Rs.1,50,000/-
- A certificate from the lender is required to be submitted, specifying the amount of interest paid or converted into new loan.
- Interest is deductible if it is due, even if not paid.
- Interest on loan taken for repaying original loan is allowable.
- Interest on unpaid interest is not eligible for deduction u/s 24(b)
- Brokerage or commission etc. paid are not allowable.
- If interest paid outside India than TDS must be deducted. [section 25]

Deemed owner Sec.27 :-

(i) Property transferred to spouse or minor child:- Transferor
However in case of transfer to spouse in connection with an agreement to live apart and transfer to married daughter, transferee
(ii) Holder of impartibly asset
(iii) Property held by a member of Co-operative society/Co./AOP.
(iv) A person who has acquired a property under a power of attorney.
(v) A person who is entitled to take or retain possession of building.
(vi) Person who acquired leasehold property for not less than 12 years. [renewal of lease should not be month to month or for a period less than one year]

Co-Ownership (U/S 26)

If property is co-owned by two or more person, income from the property shall be apportioned among them in their ratio. In case of self occupied property, max. deduction for interest shall be Rs.30000/ Rs.150000 to each person.