This file consist of topics

1. heads of income
2. clubbing of income
3. set of and carry forward

All amendments made up to Finance act 2008 incorporated

File covered with all the provisions of law .Case studies which is useful for final students will be uploaded soon.

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Disclaimer:

Every effort is taken to avoid errors and omissions . If any mistake , error that may have crept in, is unintentional. Author not responsible for any damage or loss any kind arising to any one.

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Gross total income sec 14

Income from Salaries

Income from House property

Profits and gains of Business and profession

Capital gains

Income from other sources

Aggregate of all the 5 heads of income is known as gross total income

Income from Salaries

employee and employer relation,

Income must arise out of employment, past or present.

Preconditions

To charge

one must be an employee.

there must exist a master-servant relationship.

Master and servant relationship exist when

employee works under the direct control

Of employer

employee works under supervision of his employer

receives instructions from his employer

- employer has the right to control the manner in which he carries out the instructions.

Taxability of salary

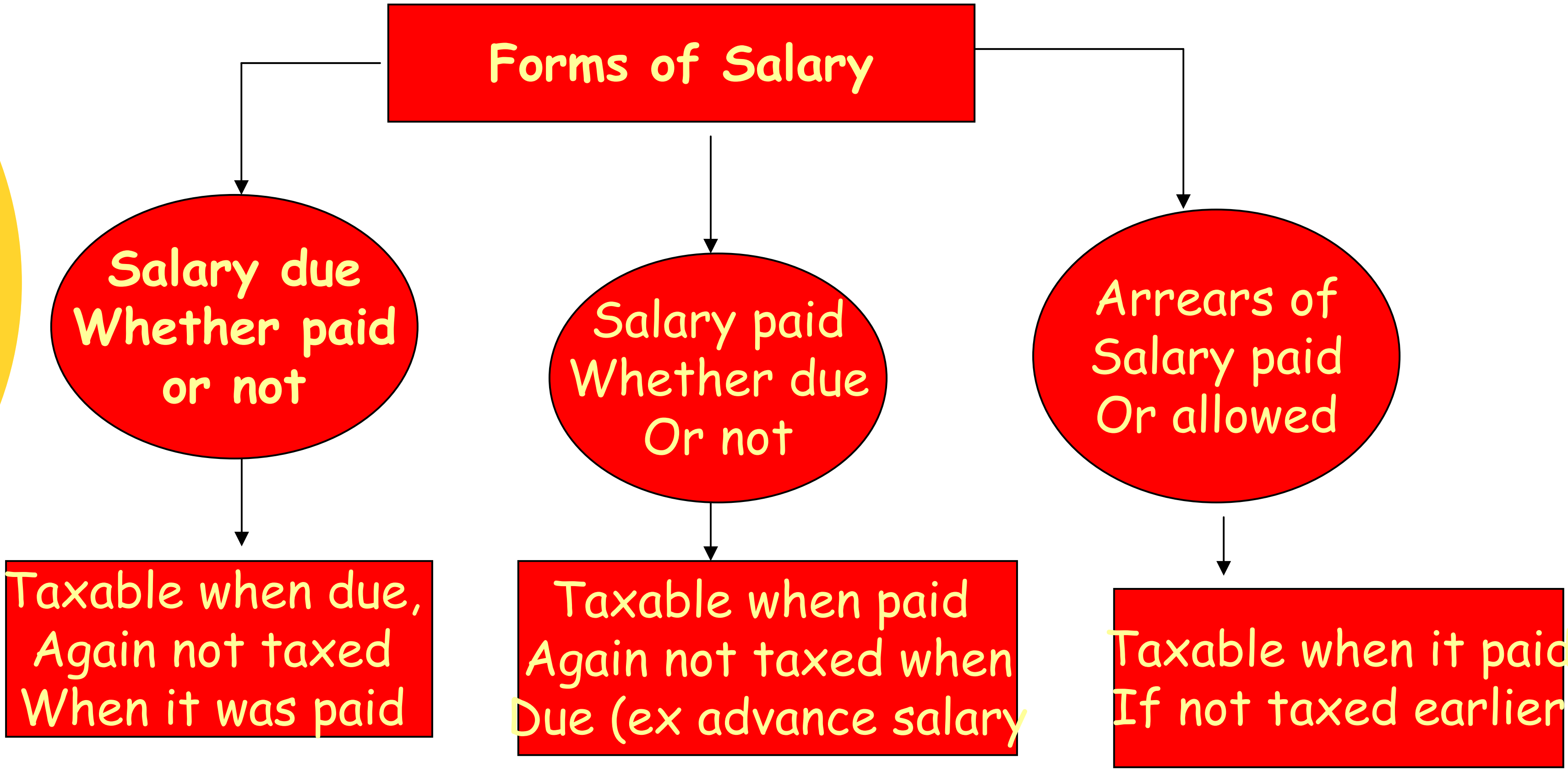
Accrual basis

Or

Receipt basis

Which ever is earlier

- Salary will be taxable on receipt or due basis which ever is earlier as below



Salary is taxable even it is due or received from former Employer. Advance taken against Salary is not taxable when it was paid

Meaning of Salary

Salary includes

- wages,
- Annuity or
- pension,
- gratuity,
- fees, commission,
- perquisites or
- profits in lieu of salary,
- advance salary,
- leave encashment, etc
- Interest earned in excess of 9.5% on Recognized Provident Fund (RPF)
- Amount transferred to Recognized Provident Fund (RPF) in excess of 12% on salary

Components of Salary

Basic salary - Taxable

Dearness Allowance - taxable

Bonus - taxable in the year of receipt.

Salary in lieu of notice - is taxable on receipt basis

Fees or commission Remuneration for extra work-- taxable

Compensation/annuity from employer - for termination of employment or modification of terms of employment is taxable.

Components of Salary

Encashment of unutilized leave on Service -taxable

Salary paid by a foreign Government to its employees serving in India is taxable

City compensatory allowance - taxable

Tiffin allowance / Fixed medical allowance- taxable

Servants allowance - taxable

Allowances fully exempt from Tax

Tour/Travel/ Transfer
Packing allowance
on tour on transfer

Conveyance allowance
for Oficial
Purpose if no free
Conveyance is provided

Helper allowance
If helper engaged
For office purpose

Research/Training
Allowance to...
Pursuit knowlege

Uniform Allowance
For wear
in performing
duties

Allowances to
Govt employees for
Rendering outside
India

Allowances to
High court judges
Coveyance compensatory
Sumptuary etc.

Allowances exempt from Tax based on monetary limits sec 10(14)

S N	Description of Allowance	Exemption
1	Special Compensatory Allowance in specified areas	To the extent specified
2	Tribal Area Allowances in specified states	Up to Rs, 200 p.m
3	For meeting personal expenditure of employee of transport system running transport vehicle provided no daily allowance for the said duty is received.	Up to 70% of allowance maximum of Rs. 6,000 p.m

Allowances exempt from Tax based on monetary limits sec 10(14)

S N	Description of Allowance	Exemption
4	Children educational allowance, maximum of two children	@ Rs. 100 p.m. per Child
5	Children hostel allowance, maximum of two children	@ Rs. 300 p.m. per child
6	Compensatory Field Area Allowance in specified areas,	@ Rs. 2,600 p.m.
7	Compensatory Field Area modified Allowance	@ Rs. 1,000 p.m.
8	Counter insurgency allowance. to members of armed forces.	@ Rs. 3,900 p.m

Allowances exempt from Tax based on monetary limits sec 10(14)

S N	Description of Allowance	Exemption
9	Transport allowance granted for the purpose of commuting between the place of his residence and the place of his duty	Rs. 800 Per Month
10	Transport allowance to an employee who is blind, orthopedic handicapped for the purpose of commuting between the place of his residence and the place of his duty	Rs. 1600 per month

Allowances exempt from Tax based on monetary limits sec 10(14)

S N	Description of Allowance	Exemption
11	Underground allowance granted to an employee who is working in underground coal mines	Rs. 800 Per Month
12	Any special allowance in the nature of high altitude) allowance	
	for altitude of 9,000 to 15,000 feet	Rs. 1,060 per month
	Above 15000 feet	Rs. 1600 per month

Allowances exempt from Tax based on monetary limits sec 10(14)

S N	Description of Allowance	Exemption
13	Any special allowance granted to the members of the armed forces highly active field area allowance	Rs. 4,200 per month
14	Any special allowance granted to the member of the armed forces allowance (Andaman and Nicobar and Lakshadweep Group of Islands)	Rs. 3600 per month

House rent allowance 10(13A) Conditions

The Allowance must be specifically granted for payment of rent in respect of residential accommodation occupied by the employee

- The employee must have actually incurred expenditure on payment of rent.

The employee should not stay in his own residential accommodation

The assessee should pay more than 10% of Salary as rent

H R A Exempt Least of the following

Allowance actually received

Rent paid in excess of 10 per cent of salary

50 per cent of salary in Case of Delhi, Bombay Calcutta and Madras

40 per cent of salary in Case of Other places

Taxable amount= received amount - exempted amount

For Purpose of HRA Salary means

Basic Salary

+

D A counted for Retirement benefits

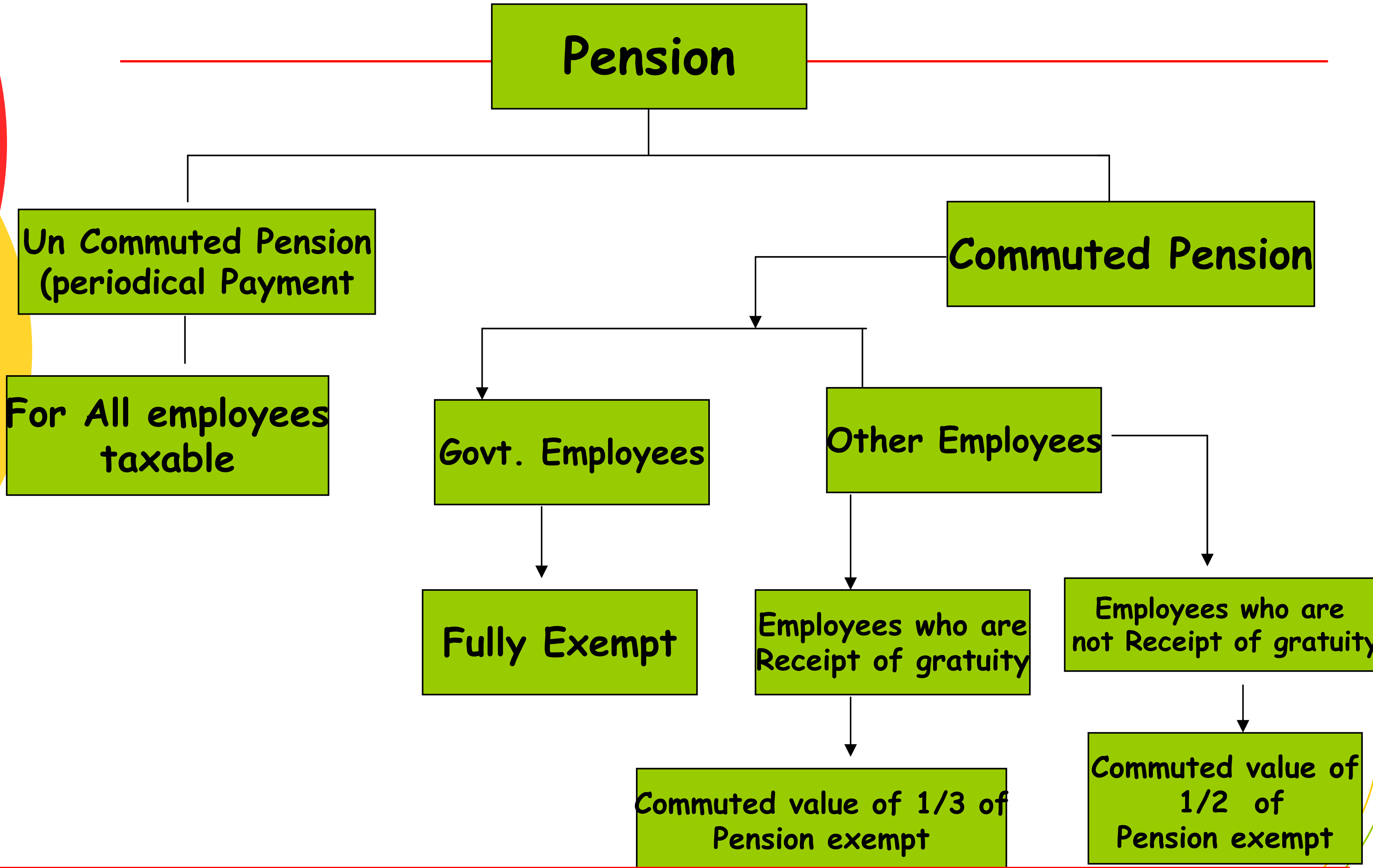
+

Commission fixed %. On turnover

Leave Travel Concession or Assistance (S. 10(5) – Rule 2B)

- available to Indian as well as foreign citizen for himself/spouse/children/dependent parents, brothers and sisters.
- limited to amount actually spent on traveling of employee and his family members.
- during employment or on retirement or on termination.
- for traveling to any place in India.
- allowed twice in a block of four calendar years.
- block commenced from calendar year 1986. (Current block — 2006-2009).
- exemption on travel concession will not be admissible to more than two surviving children of an individual born after 1-10-1998.
- allowance in cases of destination connected by air/rail is restricted to economy class air fare/A.C. first class fare.

Taxability of Pension



Taxable amount= received amount - exempted amount

Taxability of Gratuity

Death cum Retirement gratuity

- **Government Employees**
  - Fully exempt
- **Other employees**
  - **Employees who are Covered Under gratuity Act**

    Least is exempt
    Actual Gratuity
    Rs. 350000
    15 days Salary (denominator 26) For every completed service or Part there of in excess of 6 months (Last drawn salary)
  - **Employees who are Not Covered Under gratuity Act**

    Least is exempt
    Actual Gratuity
    Rs. 350000
    ½ month Salary For every Completed service (fraction ignore)
    10 months average salary (immediately preceding Month Salary)

Seasonal Employment
7 days salary

For Purpose of gratuity Where employee covered under gratuity act Salary means

Basic Salary

+

D A counted for Retirement benefits

Last drawn salary has to consider

In case of piece rate employee last three Months average salary (excluding OT) to consider

For Purpose of gratuity Where employee not covered under gratuity act Salary means

Basic Salary

+

D A as per terms of employment

+

Commission fixed %. On turnover

10 months average salary immediately preceding the month of retirement has to consider
In case of piece rate employee last three Months average salary (excluding OT) to consider

Retrenchment Compensation

Exempt Least of

- 15 days salary based on the last 3 months average salary for every completed year of Service or part there of in excess of 6 months)ID Act)
- Compensation actually received
- Rs 5,00,000

where the scheme is approved by the Central Government the entire amount is exempt

For Purpose of Retrenchment Compensation Salary means

Basic Salary

+

D A as per terms of employment

+

Commission fixed %. On turnover

Taxable amount= received amount - exempted amount

Voluntary Retirement Compensation (S. 10(10C))

Any amount received or receivable by an employee of

- A public sector company, or any other company, or
- An authority established under a Central, State or Provincial Act, or
- A local authority or co-operative society
- A university established under a Central, State or Provincial Act
- An Indian Institute of Technology
- Any State or Central Government; or
- Notified institutions having importance throughout India or in any state or states.
- Notified Institute of Management

Voluntary Retirement Scheme

Conditions:

Employee should be at least 40 years of age.

Exemption will be allowed only for one Assessment Year.

Exempt Least of

- Actual VRS Compensation received
- Last Drawn Salary X 3 X No. of fully completed years of service
- Last Drawn Salary X Balance Number of Months of Service Left
- Rs. 500000/-

Taxable amount= received amount - exempted amount

For Purpose of V R S Salary means

Basic Salary

+

D A counted for Retirement benefits

Last drawn salary has to consider

Unutilized Leave encashment

Received While on service → Taxable for all employees
Can get relief u/s 89

Received at The time of retirement/ resignation → **Government employees Full exempt. Other Exempt up to certain limit**

Leave Encashment (S. 10(10AA))

when received at the time of retirement/resignation for other employees

Conditions:

.Entitlement to earned leave not to exceed 30 days for every year of actual service.

Exempt Least of

- Leave encashment actually received
- Last 10 months salary immediately preceding the month
- Cash equivalent of leave encashment for every completed year of service based on last 10 months average salary
- Rs. 300000/-

Taxable amount= received amount - exempted amount

For Purpose of Leave Encashment Salary means

Basic Salary

+

D A counted for Retirement benefits

+

Commission fixed %. On Salary

Tax treatment of Medical Expenses incurred by employer for employee

Medical expenses in India For self, spouse, dependent parents & Children

- Treatment in hospital Run and maintained By employer
- Treatment in Govt. Hospital
- Treatment in Approved Hospitals ,10 (23C),,11 Inst For specified deceases

→ Fully exempt. No perquisite

- Other Cases

→ Exempt to the Extent of Rs. 15000 Balance taxable

Medical Expenses

Contribution by employer to insurance premium/

reimbursement on the health of employee, spouse, and dependents Fully exempt

Contribution employer to insurance on life of the employee is taxable in the hands of employee

Tax treatment of Medical Expenses abroad, incurred by employer

Medical expenses in Aborad For self, spouse, dependent parents & Children

GTI below Rs 2 lakhs before this perquisite

Fully exempt. No perquisite

GTI Rs 2 lakhs & above before this perquisite

Only one attendant
Fare fully exempt
Other medical to the extent Approved by R B I – exempt
Balance taxable.

Taxable amount= amount actually spent - exempted amount

Perquisites not taxable for all employees

- Free meals provided to all employees in office up to Rs. 50/- per employee or provided by the employer through paid vouchers usable at eating joints.
- Telephone including mobile phone provided to the employee
- Supply of tea and snacks during working hours without any monetary limit.
- Food and non-alcoholic beverages are supplied from employers canteen
- Free food and non-alcoholic beverages provided during working hours in a remote area, or an offshore installation.
- Allotment of shares, debentures or warrants to its employees under ESOP or ESOS in accordance with guidelines issued by Central Government.
- Conveyance facility to High Court/Supreme Court Judges

Perquisites not taxable for all employees

- Rent-free official residence to a High Court or Supreme Court Judge.
- Rent-free furnished residence to official of Parliament Ministers and leader of opposition
- Any accommodation located in a remote area which is provided to an employee working at
- a mining site, or
- an on-shore oil exploration site,
- a project execution site, or
- Any accommodation provided in an offshore site of a similar nature.

Perquisites not taxable for all employees

- Perquisites allowed outside India by the Government to a citizen of India for rendering services outside India.
- Sum payable by an employer to pension or deferred annuity scheme.
- Actual traveling expenses paid/reimbursed for journeys undertaken for business purposes
- Payment of annual premium on personal accident policy, if such policy is taken to safeguard the employer's interest. Employer's contribution to staff group insurance scheme
- Life insurance premium paid by Employer on life of employee and members of the family Where such insurance scheme is approved by IRDA
- Value of gift voucher or token, if it is below Rs. 5,000 in one previous year

Perquisites sec 17

Perquisites taxable in hands of all employees

- Value of rent-free accommodation
- Value of concession in rent
- Amount paid by employer in respect of any obligation which otherwise would have been payable by employee
- Value of any fringe benefit or amenity excluding the fringe benefits chargeable to tax

Perquisites

Perquisites taxable only in hands of specified employees

- Provision of domestic servants [Rule 3(3)]
- Provision of gas/electricity/water [Rule 3(4)]
- Provision of free or concessional educational facilities [Rule 3(5)

Specified Employee

Specified employee

- Following employees are specified employee:
- Director-employee.
- An employee having 20 per cent or more of voting power in employer-company.
- An employee who is drawing salary in excess of Rs. 50,000

For computing the limit of Rs. 50,000 following are excluded/deducted:

- (*a*) Non-monetary benefits.
- (*b*) Deduction on account of profession tax.
- (*c*) Exempt entertainment allowance.
- (*d*) Non-taxable allowance.

Valuation of Rent free unfurnished Accommodation

Govt. employees
License fees
As per rules

Other than Government Employees

- **Accommodation Owned By employer**
  - City population exceeds 25 lakhs → 15% of Salary
  - City population <25 lakhs >10 lakhs → 10% of Salary
  - Other cities → 7.5% of Salary
- **Accommodation taken On lease/rent by employer**
  - 15 % of Salary/ Lease Rental Which ever is less

Consider salary only for the period where the accommodation Occupied by the employee

Valuation of Rent free furnished accommodation:

Valuation of unfurnished
Accommodation as above

+

In case of
Accommodation owned
By employer
10% of cost of furniture

+

In case accommodation
Taken on lease by employer
Actual hire charges

Perquisite Value= Value Calculated minus any recovery From Employee

Valuation in case of hotel accommodation

Perquisite value Least of

- 24% of Salary for the period stay in the hotel
- Actual hotel bill paid

+

Any additional charges paid to hotel for laundry, food, telephone calls- actual

In case of employees proceeding on transfer value of perquisite beyond 15 days stay should be taken.

For Purpose of all perquisites- Salary means

Basic Salary

+

D A as per terms of Employment

+

Commission fixed %. On turnover

+

All taxable allowances Incl. sec 10 above limits Excluding employer contribution to PF

Valuation in case of motor car (w e f 07.11.2007) where No Liability of FBT- Notification No 271/2007

Motor car owned or hired by employer &
Running maintenance expenses borne by employer or
Car owned by employee expenses reimbursed by employer

Exclusively used for Personal/private Purpose

Actual running And Maintenance Exp + dep @10% On cost + Driver salary (if)

Used for Both Official Personal purposes

CC of Engine does Not exceed 1.6 L

Rs. 1200 per month

CC of Engine exceed 1.6 Ltrs

Rs. 1600 per month

Employer own or hire car
If running and Maintenance Expenses fully borne by Employee Rs. 400 instead Of Rs. 1200 or 1600

Add Rs. 600 p.m if driver is also provided

Valuation of Perquisite in case of Tour travel where FBT not liable to pay

Applicable to employee of carriage of goods passengers other than airlines Railways

Expenditure incurred on employee / his family members -for free or Concessional fare on personal private journeys -through own, leased. Arranged vehicle

Such expenditure was not liable for FBT

Perquisite = value of such expenditure/amenity to general Public less amount recovered from employee

Where the employer Provide any tour holiday programme where FBT not paid

Applicable to All employees

Expenditure incurred on employee / his family members -for free or Concessional tour holiday programme

Such expenditure was not liable for FBT

Perquisite = value of such benefit/amenity less amount recovered from employee

Valuation in case of gift where FBT not Liable

Applicable to All employees

Expenditure incurred as a gift, Voucher token to employee / his family members On the occasion of family functions ceremonies or otherwise

Such expenditure was not liable for FBT

Perquisite = value of such gift, voucher, token
No perquisite if the value is below Rs. 5000

Credit card Membership fees or Annual Fess where fbt not liable to pay

Applicable to All employees

Expenditure incurred on employee / his family members towards Credit card annual fees or membership fee

Such expenditure was not liable for FBT

Perquisite = cost of such expenditure
less amount recovered from employee
No perquisite when fees was paid purely official purposes.
Employer has to maintain record.

Any other Benefit where fbt not liable to pay

Applicable to All employees

Expenditure incurred on employee on any other benefit

Such expenditure was not liable for FBT

Perquisite = cost of such expenditure based on arm length transaction less amount recovered from employee

Perquisite in case of interest free loan

Perquisite → Interest as per Market rate of SBI minus interest rate charged employer

Exemption (No perquisite) → **1. Loans up to Rs. 20,000**
2. Loans for medical Treatment of specified deceases

Interest to be calculated on monthly outstanding balances

Perquisite in case of use of movable asset

Perquisite	10%cost of Asset or Actual rental charges Which ever is less Minus Recovery if any from employee
Exemption (No perquisite)	**Computers, Laptops**

Transfer of movable assets

Perquisite Value → Wdv of asset less the sale price of the asset to employee

Depreciation is to be calculated on the cost of asset For every completed year from date of use of asset till The date of transfer. Fraction to be ignored

Depreciation rates for movable assets transfer

SN	Movable asset	Rate of Dep	Method
1	Computer, Laptop, Printers, Digital dairies, electronic items etc	50%	WDV
2	Motor Cars	20%	WDV
3	Other Assets	10%	SLM

Valuation other perquisites

Free domestic Servants Sweeper, gardener, cook watchman	Perquisite- Actual cost to employer ie Salary of servants paid by employer
Supply of gas Electricity	Perquisite- If manufactured - manufacture cost , If purchase- Purchase cost

Any amount recovered from employee will be reduced from perquisite value above

Free or concessional educational facility

Educational institute is maintained/ owned by the employer or education is allowed in other educational institution due to his employment,

→ Perquisite

cost of such education in a similar institution or near the locality

Other cases

→ Perquisite

expenditure incurred by the employer

Where cost per child per month does not exceeds Rs. 1,000 per month No perquisite

Profits in lieu of Salary S. 17(3)

which is taxable as salary,

It includes –

- Any compensation from employer or former employer on termination or modification of the terms of employment.
- Any sum received under a key man insurance policy including the sum allocated by way of bonus on such policy.
- Any sum received before his joining any employment or after cessation of his employment.

Profits in lieu of Salary (S. 17(3)),

- Any receipt from employer/former employer or
- from provident/other fund (other than gratuity, commuted pension, retrenchment compensation, house rent allowance, provident fund or such other funds)
- to extent not consisting of contributions by assessee/
- interest on such contributions

Deductions from Salary – S. 16

Only two

1. Entertainment allowance-

- Allowed only for government employees

least of the following will be allowed as deduction

- Rs. 5,000; or
- 20% of salary; or
- Actual amount of entertainment allowance

2. Tax on employment Actual

Meaning of salary for entertainment allowance -only Basic salary

F B T vs allowances

With the introduction of fringe benefit tax the following perquisites/ allowances will not be taxed in the hands of employee if FBT was payable and paid by employer

- Provision of car and other conveyances [Rule 3(2)]
- Provision of transport facility by transport undertakings [Rule 3(6)]
- Provision of holiday tours [Rule 3(7)(*ii*)]
- Provision of free food and non-alcoholic beverages [Rule 3(7)(*iii*)]
- Provision of gifts [Rule 3(7)(*iv*)]
- Provision of credit card facility [Rule 3(7)(*v*)]
- Provision of club facilities [Rule 3(7)(*vi*)]

Tax treatment of provident fund in case of employee

	Statutory provident fund	*Recognized provident fund*	*Unrecognized provident fund*	*Public provident fund*
1	*2*	*3*	*4*	*5*
Employers contribution to provident fund	Exempt from tax	Exempt up to 12 per cent of salary1. Excess of employers contribution over 12 per cent of salary1 is taxable	Exempt from tax	Employer does not contribute
Deduction u/s 80 C On employee contr.	Available	Available	Not available	Available
Interest credited to provident fund	Exempt from tax	Exempt from tax up taxable (notified rate of interest at present is 9.5 per cent)*	Exempt from tax	Exempt from tax
Deduction under section 80C on employees contribution	Available	Available	Not available	Available
Lump sum payment at the time of retirement or termination of service	Exempt from tax	Exempt from tax in some cases Employee 5 years service. When not exempt total income of employee will be computed as if provident fund is an unrecognized fund from the beginning	Employee cont. exempt Interest- taxable –IFOS Employer contribution taxable-salary	Exempt from tax

Meaning of salary

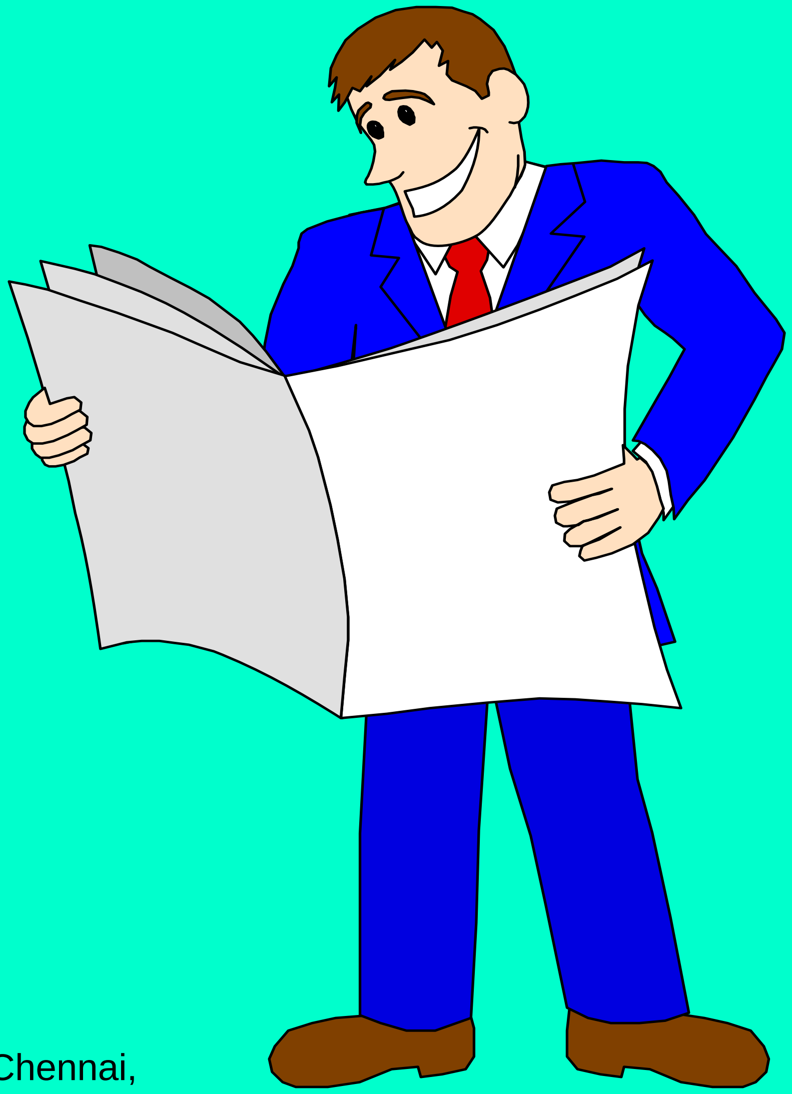
SN	For circumstances	Meaning of Salary
1	Entertainment Allowance	Only Basic Salary
2	For Perquisite rent free etc,	Basic+DA as per terms of employment + Commission on % of Salary + Bonus + taxable allowances excluding perquisites and Employer contribution to PF
3	For allowances u/s 10 (other than VRS, gratuity) employer contribution to PF	Basic+DA as per terms of employment + Commission on % of Salary

Meaning of salary

SN	For circumstances	Meaning of Salary
4	VRS, gratuity	Basic+DA as per terms of employment (in case of Employees not covered by gratuity + commission % of salary)
5	Specified employee	Income under head salary excluding non monetary perquisites

Basic salary		xxxxxx
Dearness allowance		xxxxxx
City compensatory allowance		xxxxxx
Bonus, Commission		xxxxxx
Other Taxable Allowances		xxxxxx
Allowances u/s 10 in excess of exemption		xxxxxx
Retirement benefits- pension gratuity, VRS etc		xxxxxx
Perquisites		
Rent-free furnished accommodation :	xxxxxx	
Motor Car perquisite	xxxxxx	
Perquisite on interest free loan	xxxxxx	
Perquisite in respect of sweeper gardener etc	xxxxxx	
Perquisite in respect of transfer/ use of movable assets	xxxxxx	xxxxxx
Other Perquisites		xxxxxx
Profits in lieu of salary		xxxxxx
Employers contribution to provident fund in excess of 12 per cent of salary		xxxxxx
Gross salary income		xxxxxx
Less: Deductions u/s 16	xxxxxx	
Entertainment Allowance (only for Govt. Employees)	xxxxxx	xxxxxx
Profession tax		
Taxable Salary		xxxxxx

End of Chapter Salaries



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Income from House Property
Charging section 22

1. The Property should consist of building or land appurtenant there to

2. **The assessee shall be owner of the property**

3. **The property shall not be used for the purpose of business or profession carried on by him.**

All the three conditions should be Satisfied to charge income from House property

The Property should consist of building or land appurtenant there to

Meaning of building:

- Building is an enclosure of brick or stone work
- It may consist even mud of walls
- An existence without roof is also building. For example swimming pool, stadium
- An incomplete house without doors, gates and wall cannot be a building

Meaning of land appurtenant there to:

- This may be in the form or approach to roads, compounds, courtyards, backyards, kitchen garden, motor garage and cattle shed etc:

2. Assessee should be Owner

Real/Legal Owner

- Right to receive rent
- Registration in his name not compulsory
- Ownership dispute IT dept will determine

Deemed owner Sec 27

- Asset transfer inadequate consideration
- Holder of impartial estate
- Member of Co-operative society, etc who allotted house under scheme
- Part performance of contract

Co owner Sec 26

- Two or more own
- Definite share
- Each co owner is separately assessed for his share
- If no definite share assessed as A O P

3rd Condition

- The property should not be occupied by the assessee for the purpose of his own business or profession,

for example as a office or godown or a factory.

- If the property is used for his own business purpose and such income will not be charged under the head income from house property.

House property Income exempted from tax

- Income from farmhouse. Sec 10 (1), 2 (1A)
- Annual value of any one palace of ex ruler Sec 10 (19 A)
- Property income of local authority. Sec 10 (20
- Property income of approved scientific research association. Sec 10 (21)
- Property income of educational institutions and hospitals. Sec 10 (23C)
- Property income of trade union. Sec 10 (24)
-

House property Income exempted from tax

- Income from house property held under Charitable trusts Sec. 11
- Property income of a Political Party. Sec 13 A
- Property income of one self occupied Property. Sec 23 (2)

Partly Exemption

- Income derived by Co-operative Society from letting of go down, or warehouse
- Property income of Co-operative Society whose GTI does not exceeds Rs. 20000/-

Concept of Composite Rent

Composite rent means,

Rent for the Building

+

Rent for facilities like lift, furniture, and other assets

taxability of Composite rent

Two separate Agreement
One for Rent & one for
Services or
One agreement Spilt
Of rent/service

Rent amount
Chargeable under H P
Services amount
Chargeable under
Business income or
IFOS

No split & if letting of one is not acceptable
If other is not let out entire amount
Chargeable under
Business income or IFOS

House Property Situated in Foreign Country

- Resident will be chargeable in respect of income from property situated in foreign country.
- A non-resident and not ordinarily resident will be chargeable to tax, if income of foreign property is received in India during the previous year.
- The annual value of such property shall be computed as such the property is situated in India.

Determination of Annual Value

Important terms

Actual rent received/
Receivable

Rent of property
Received/receivable

Minus

Un realized rent
Only If rule 4
Conditions satisfied

Rent received does
Not include
Vacancy rent

Determination of Annual Value

Municipal Valuation means

- Annual value fixed for the property by the local government such as Municipal Corporation, or Municipality.

Fair Rent means

- rent earned by similar property situated in same or similar locality

Standard Rent means

- Rent fixed or rent determined under Rent control Act

Determination of Annual Value

1. Compare fair rent With Municipal Valuation

Take which ever is Higher
Consider it as Fair rent

2.Compare the Step 1 fair rent with Standard rent if Rent control act apply

Take which ever is Lower
Consider it as Reasonable expected rent (RER)

Compare the Step 2 RER with Actual Rent received (AR)

If A R > RER

A R is Annual Value

If A R < RER

If less because of vacancy A R is Annual Value

If less because of Any other reason RER is Annual Value

Determination of Gross Annual value

Step 1		
Municipal valuation	xxxxxxx	
Fair Rent	xxxxxxx	
Higher of the above (Fair rent)	xxxxxxx	
Step 2		
Standard rent	xxxxxxx	
Step 1 amount (fair rent) or standard rent which ever is less (Reasonable expected rent)	xxxxxxx	

Determination of Gross Annual value

Step 3		
Reasonable expected rent	xxxxxxx	
Rent received – un realized (if all rule 4 conditions satisfied	xxxxxxx	
Step 4		
If rent received is higher- rent received is annual value		
If rent received is lower -		
(a) lower is because of vacancy rent received is annual value (b) lower is because of any other reason RER is the annual value		

Considerations in determine gross annual value

- If fair rent is not available Municipal value can be considered as fair rent
- If standard rent not applicable ignore step 2
- Unrealized can be deductible from rent received only when all rule 4 conditions satisfied
- Unrealized can be deductible even from Reasonable expected rent when RER is taken as annual value

Unrealized Rent

Unrealized rent is to be deducted from actual rent received if the following conditions are fulfilled. (Rule 4)

- The tenancy is bonafide
- The defaulting tenant has vacated or steps have been taken to compel to vacate the property.
- The defaulting tenant is not in occupation of any other property of assessee.
- The assessee has taken all reasonable steps to institute the legal proceedings for the recovery of unrealized rent. Or
- satisfies the Assessing Officer that legal proceedings are useless.

Types of properties

- **Let out Property**
  - Annual value taxable
- **Self Occupied un occupied Property**
  - Annual value Nil
- **Deemed Let out property**
  - Annual value Taxable Computation Similar to Let out Property
- **Part of year let out Part of year Self occupied**
  - Annual value Taxable Treated as Let out property. computation Similar to Let out Property
- **Partly Let out Partly Self occupied**
  - **Computation Separately. Annual value of let out Portion taxable Self occupied nil**

Computation of Income from let out property

Gross Annual Value	xxxxx	
Less Municipal taxes	xxxxx	
Net Annual Value		xxxxx
Less : Deductions u/s 24		
Standard deduction- 30% of N A V	xxxxx	
Interest on borrowed capital	xxxxx	
Income from House Property		xxxxx

Deduction of Municipal taxes allowed only

Municipal taxes borne by landlord

Municipal taxes actually paid during the year

Arrears of taxes will also allowed as a deduction in the year of payment

No deduction for taxes if paid by tenant

Deductions U/s 24

- Sec 24 contains only two deductions.
- **30% flat deduction** on Net Annual value
- Interest on Borrowed Capital

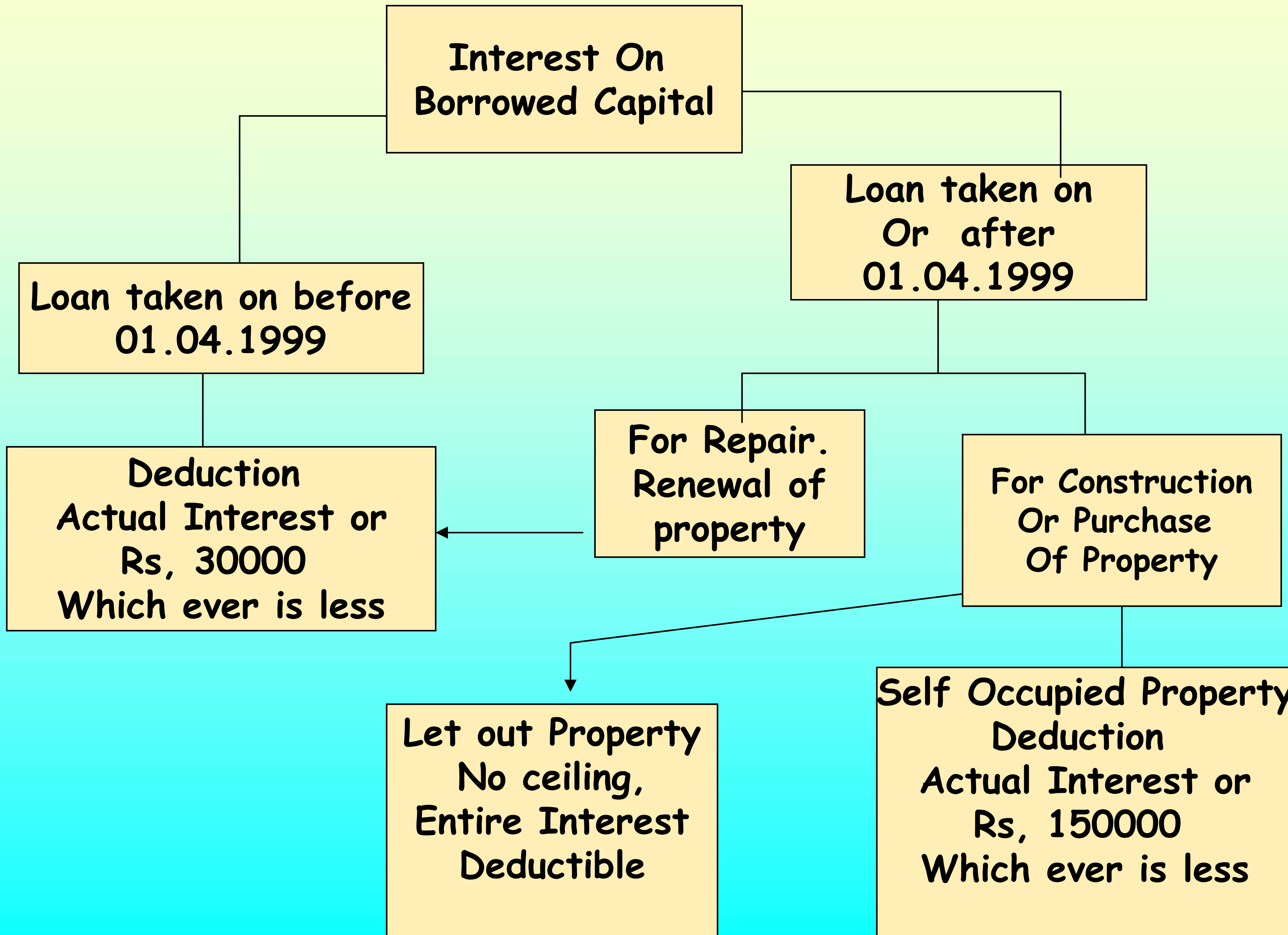
Except the above two no other deductions will be allowed.
For example no deduction in respect of expenses like Electricity charges, ground rent, land revenue, collections charges, and insurance premium etc.

30% flat deduction on Net Annual value

This deduction will be allowed irrespective of the quantum of expenditure incurred.

Deduction will be allowed even no expenditure is incurred or tenant bear to undertake the repairs

Interest on Borrowed Capital



Interest on Borrowed Capital

Additional Conditions to Avail Rs. 150000 deduction for self occupied property

- The acquisition or Construction of property is to made from the end of 3 financial years on which Capital is borrowed
- Assessee should furnish a certificate as proof of interest from financial institution where the Principal is borrowed
- If conditions not satisfied, deduction allowed maximum Rs. 30,000/-

Interest on Borrowed Capital

- Interest is allowed on accrual basis,
- The deduction should be claimed on yearly basis even interest is not paid during the year
- Interest on fresh loan to repay old loan is also eligible for deduction
- Deduction is allowed even Interest or Principal is not charged to Property.
- Interest on Unpaid interest is not deductible.
- No deduction is allowed in respect of any brokerage or commission on arrangement of loan.
- Interest payable out of India will not be allowed as a deduction unless tax has been paid or TDS has been deducted on the Interest (Sec 25)

Interest on Borrowed Capital

Interest on Pre Construction period

- Interest Payable by the assessee
- for the period prior to Previous year in respect of which Property is acquired or
- construction will be allowed in 5 equal annual installments,
- commencing in the previous year in which house is acquired or constructed.

- .

Preconstruction Period.

From

Date of borrowal of loan

up to

March 31 prior to date of Completion of Property/ purchase of property

Or

Date of repayment of loan

Which ever is earlier

Example on preconstruction period

- Loan borrowed Rs. 50 lakhs on 21. 5.2005
- Rate of interest 10.5% p. a.
- Completion of house on 14.07.2007
- Repayment of loan 31.07.2008

The pre-construction period will be

- (a) 21.05.2005 to 31.03.2007 or
- (b) 21.05.2005 to 31.07.2008 which ever is earlier ie
- 21.05.2005 to 31.03.2007
- The interest from 21.05.2005 to 31.03.2007 will be preconstruction period interest
- and it will allowed on 5 equal installments commencing from previous year 07-08.

Self Occupied Property

- Where the Property consists of one house in the occupation of the owner for his own residence,
- the annual value of such property shall be taken as **NIL. Sec 23 (2)(a)**

Subject to the following conditions:

- The property either full or part is not let-out during part or whole of previous year
- No other benefit derived there from
- Only one deductions under Section 24 Interest on borrowed Capital.

Unoccupied Property

Property, which cannot be occupied by the owner by, reason his employment, business or employment at a different place and

- He resides in such other place in a building not belonging to him.
- Such Property will be treated as par with Self Occupied Property.

Computation of Income from self Occupied/un occupied property

Gross Annual Value	Nil	
Less Municipal taxes	Nil (not deductible)	
Net Annual Value		Nil
Less : Deductions u/s 24		
Standard deduction for repairs- 30% of N A V	Nil (not deductible	
Interest on borrowed capital (deductible)	xxxxxxxx	
Loss from House Property		xxxxx

Only one deduction, Interest on Borrowed Capital

Maximum Rs. 1,50,000 subject to conditions

Partly let-out and Party Self occupied

Where Portion is let out and Portion is Self Occupied

- Computation should be made separately for let out and self occupied.
- Annual value and expenses should be apportioned pro rata based on % oc occupation

Where Property is let out part of the year and Self Occupied part of the year

Ex let out for 4 months and self occupied for 8 months

- The property should be treated as let out property
- Computation should be as if it is let out

Deemed Let out Property

- Where the person has occupied more than one house as self occupied,
- Any house according to assessee choice will be treated as Self occupied property and
- All other Properties will be treated as deemed let-out Properties.
- The computation of deemed let-out property is computed similar to that of let-out property.

Taxability of recovery of Unrealized Rent/

- Where the deduction has been allowed in respect of unrealized rent
- Subsequent realization during the any accounting year,
- The realized amount will be treated as income under the head "Income from house property"
- No deductions will be allowed
- Taxable whether the assessee is owner or not of the property in that year.
- Where in respect of recovery of unrealized rent for the A Y 2002-03 onwards it is taxable only to the extent not included in the Annual value

Treatment of Recovery of Arrears of Rent – Sec. 25 B

- Any arrears of rent received by assessee
- Such arrears was not included earlier as a income
- Taxable as income from house property in the previous year such arrears of rent is realized.
- The income will be charged in the hands of assessee whether he is owner or not of the property of that year.
- Only one deduction- is 30% flat of such rent as repairs.
- No other deductions

Business income
Sec 28 to 44 DA

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Profit and gains of Business or Profession

Meaning of Business Sec. 2 (13)

Business includes

- any trade, commerce or
- Manufacture or any adventure or
- concern in the nature of trade,

Meaning of Profession sec. 2(36)

Profession includes vocation.

- Vocation 'includes such activities, which are performed by a person on account of his natural ability for some particular work.

- Any income or profit accrued to the Assessee
- from the operation and exercise of any business or
- profession or vacation
- is chargeable under this head

Shareho

Charging Section 28

PGBP earned By Assessee During P Y (i)

Any compensation termination of a contract of managing agency (ii)

Income derived by a trade professional or similar association from specific services performed for its members. (iii)

Profit on sale of any export incentive, refunds of duty drawback etc

Income from speculative transaction

Charging Section 28

The value of any benefit or perquisite, whether convertible into money or not, arising from business or in exercise of a profession. (iv)

interest, salary, bonus, commission of partner from firm (v)

Any sum received /due in cash or in kind under an agreement for not carrying out activity in relation to any business, or not to share any intangible assets except any sum chargeable under capital gains (va)

Profit on Managing agency

Any sum (including bonus) received under a Key man insurance policy (vi)

Charging Section 41

Deduction allowed Earlier year received/ trading liability incurred earlier now ceased Taxable even in case of successor (1)

Any liability, which is unilaterally written off in the accounts Taxable even in case of successor (1)

Balancing charge In case of power generating units (2)

Profit on sale of Capital Asset used for Scientific Purpose which deduction allowed earlier (3)

Bad debts allowed earlier recovered now (4)

Amount Withdrawn from Special reserves Sec 36(1) viii - (4A)

ADMISSIBLE DEDUCTIONS

Sec	Nature of expenditure	Quantum of deduction
30	Rent, rates, taxes, repairs (Other than Capital expenditure) and insurance for premises	Full
31	Current Repairs (Other than Capital expenditure) and insurance of machinery, plant & furniture.	Full
32	Depreciation on buildings, machinery, plant and furniture and other intangible assets	Full As per note
35	Expenditure on Scientific Research	full As per note

ADMISSIBLE DEDUCTIONS

Sec	Nature of expenditure	Quantum of deduction
35ABB	Capital Expenditure for obtaining license to operate telecommunication services.	Over period of licence
35AC	Expenditure on eligible projects or schemes. .	As per note
35CCA	Payment to associations and institutions for carrying out rural development programmes	As per note

ADMISSIBLE DEDUCTIONS

Sec	Nature of Expenditure	Quantum of deduction
35 D	Preliminary Expenses	1/5- Refer note
35DD	Expenditure incurred on amalgamation or Demerger by an Indian company shall be deductible in each of five years	1/5 (5 installments
35DDA	Amount paid to an employee towards VRS	1/5 5 installments
35E	Expenditure on prospecting etc. for minerals.	10 installments Refer note

ADMISSIBLE DEDUCTIONS

Sec	Nature of Expenditure	Quantum of deduction
36	Insurance on Stock and stores	Full
36	Premium on the life of cattle	Full
36	Premium on health insurance of employees paid by any mode other than Cash (Insurance scheme approved by IRDA)	Full
36	Bonus or Commission to Employee (Subject to Sec 43 B)	Full

ADMISSIBLE DEDUCTIONS

Sec	Nature of Expenditure	Quantum of deduction
36	Interest on Borrowed Capital	Full
36	Interest on borrowed Capital on assets after put to use	Full
36	Employer's Contribution to RPF/ Approved S A F /Gratuity fund/other staff welfare funds	Full
36	Loss on animals in connection of Business	Full

ADMISSIBLE DEDUCTIONS

Sec	Nature of Expenditure	Quantum of deduction
36	Bad debts Actually written off, Condition: Debt have been taken in to a/c and written of during year	Full
36	Bad debts Provision of banks	AS per note
36	Transfer to special reserve of financial corporation	Not exceeding 20% of Profits
36	Family planning expenditure on employees	Revenue exp. Full Capital exp 5 inst

ADMISSIBLE DEDUCTIONS

Sec	Nature of Expenditure	Quantum of deduction
36	Revenue expenditure incurred by entities established under state central provincial Act, subject to condition that expenditure is incurred for objects and purpose as CG notify	Full
36	Any sum paid by a public financial institution by way of contribution to credit guarantee fund trust for small industries notified by C G	Full
36	Banking Cash Transaction tax provided transaction part of Business	Full
36	Securities transaction tax/Commodities transaction tax (W E F Ay 09-10)	Full

Depreciation Sec 32

Depreciation is wear and tear on asset

when it is used over a period of time.

Depreciation is loss and

it will allowed as a deduction in computing profits.

Conditions for Claiming Depreciation

1. Depreciation will be allowed on block of assets concept

2. Asset should be owned wholly or partly by the Assessee. In case of part ownership Prorate depreciation will be allowed

3. Assets should be used for the purpose of the business during Previous Year

4. Depreciation will be allowed on WDV method basis on the block of asset (except for power generating units)

Assets acquired on hire purchase are also eligible for depreciation

Block of asset Sec 2 (ii)

a group of asset falling within a class of asset comprising

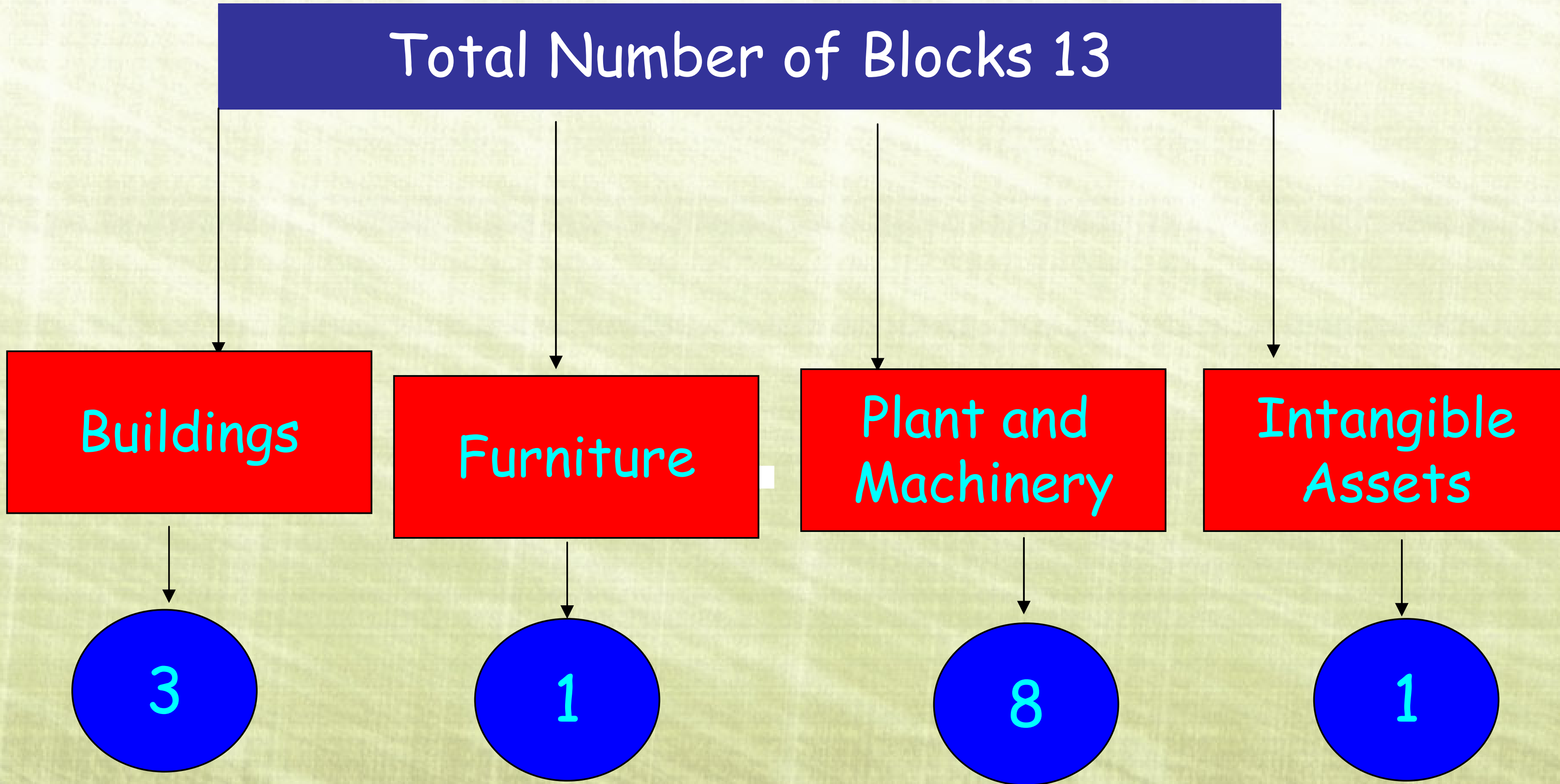
A. Tangible assets

1. Building
2. Plant and Machinery
3. Furniture

B.Intangible Assets

1. Know how
2. Patent
3. trade mark
4. Copy rights
5. License
6. franchise
7. Similar assets

In respect of which Same rate of Depreciation is prescribed


Total Number of Blocks 13
Buildings
Furniture
Plant and Machinery
Intangible Assets
3
1
8
1

Rates of Depreciation

Building (Building include roads, bridges, culverts, wells And tube wells)

3 blocks

used for residential purpose

5%

✓Used for other than Residential

10%

✓Temporary erections

✓Building used for infra structure projects 80 IA (4)- as water treatment s

100%

Furniture(furniture includes electrical fittings)-Only one Block - 10%

Rates on plant and machinery-

Total 8 blocks

Motor-cars (other than running them on hire) two wheelers /office equipment	15%
Ocean going ships, vessels, speed boats	20%
Motor buses, Motor lorries and Motor taxies used in a business of running them on hire.	30%
Aero plane — Aero engines/Life Saving medical equipment	40%
Containers made of glass or plastic used as refills	50%
Computers (including computer software)/ Books other than annual publication for profession/running lending library	60%
Energy saving devices, rollers in flour mills, steel industry, sugar works	80%
Air/Water pollution control equipments/Solid waste control equipments/ Books of annual publication for profession/running lending library	100%

Rates on intangible assets

- Only one block
- All Intangible assets – 25%

Written Down Value of Assets
Sec 43(6)

1	Asset Acquired in the Previous Year	Actual Cost incurred by the Assessee
2	Asset Acquired Before the Previous Year	Actual Cost incurred by the Assessee (-) Depreciation up to-date
3	In Case of Any Block of Asset	Circular No. 469 Dt. 23-09-86 of CBDT) shall be calculated as below

Written Down Value in case of block of Assets

Sec 43(6) Circular No 469

WDV at the beginning of P Y	xxxxxxx
Add: Actual cost of Assets Acquired during the previous year *	xxxxxxx
	xxxxxxx
Less: money received in respect of assets sold discarded demolished	xxxxxxx
Amount available for providing depreciation	xxxxxxx
Less Depreciation at the prescribed %	xxxxxxx
W D V at the close of the year	xxxxxxx

* Asset used less than 180 days in P Y eligible for 50% of total depreciation

W D V in certain circumstances sec 43(6)

S NO	Circumstances	WDV
1	Succession in business or profession	WDV of predecessor = WDV Successor
2	Transfer of block of assets by holding Company to subsidiary or vice-versa	W DV of block of assets of transferor company = WDV to the transferee company
3	Transfer of block of assets on amalgamation	WDV in the case of the amalgamating Company = WDV to the amalgamated company

W D V in certain circumstances sec 43(6)

S NO	Circumstances	WDV
4	Transfer of block of assets on Demerger	WDV for demerged Company- WDV reduced by the WDV value of the assets transferred to the resulting company Written-down value in case of a resulting company- WDV of the transferred assets as per books of demerged company
5	Assets acquired before previous year (FA 2008) retrospective W.E.F AY 2003-04	Does not maintain books or maintain books but does not calculate deprecation- Actual cost Maintain books of accounts-& provide depreciation and not to compute income for earlier previous year (exempt Assessee)= Actual cost +- revaluation – depreciation provided in books

Actual Cost of Asset -Sec 43

S No	Situation	Actual cost
1	Assets Acquired for Price	Cost+non refundable taxes + installation + transportation
2	Asset used for Scientific research	Actual cost as reduced by the amount of any deduction allowed under Scientific research
3	Asset acquired by was of inheritance gift etc	Cost to the Previous owner (-) Depreciation up to date shall be cost to the present owner. Market value on date of gift not relevant.

Actual Cost of Asset -Sec 43

4	Old assets purchased which was previously used by some other person	Cost as Assessed by Assessing Officer
5	Sale and lease back	W D V at the time of transfer from other person.

Actual Cost of Asset -Sec 43

S No	Situation	Actual Cost
6	Re-acquired asset by the Assessee	Actual cost which was original(-) Depreciation up to date, or (ii) actual price for which the asset is reacquired. Least of these two shall be the actual cost:
7	Assessee's building earlier used for other purpose now used for Business/Profession	Original Cost Depreciation (rate appli-cable at the time of actual acquisition).

Actual Cost of Asset -Sec 43

S No	Situation	Actual Cost
8	Transfer of assets in between holding and 100% subsidiary company by each Other	Actual Cost will be. W.D. V. to the transferor company.
9	Assets transferred under a scheme of amalgamation [being Indian Co(s)].	Actual Cost i.e. W.D.V. to the amalgamating company.
10	Asset acquired on partition of H.U.F.	W.D. V. in the hands of coparceners which would have been if the partition would not taken place

Actual Cost of Asset -Sec 43

S No	Situation	Actual Cost
11	Interest in connection with acquisition	Interest up to the date at which the asset is first put to use will be added to cost
12	Asset acquired under refund condition under Customs Tariff Act, and Central Excise Rules	Actual Cost (-) Refund

Actual Cost of Asset -Sec 43

S No	Situation	Actual Cost
13	Subsidy, grant or reimbursement of the cost by Government or others.	Actual Cost (-) such facility
14	Where acquired from outside India By money borrowed in foreign currency	Change in the rate of exchange after the acquisition of such asset, such excess or reduction should be adjusted against the cost of asset

Actual Cost of Asset

Expenses to be capitalized to the cost of Asset

- **Expenses on modification and repairs incurred before the actual use of asset.**
- **Expenses on salaries, rent, lighting etc., relating to the period before production has commenced**
- **Interest paid in connection with purchase of asset and bank charges upto the date of installation Or commissioning of a depreciable asset.**
- **Expenses on site preparation of installation of plant**
- **Other incidental expenses incurred in the acquisition of the relevant asset before the asset could be brought into use**

Depreciation on imported car

acquired on or after 1.4.2001 used for running on hire

Or for business/profession

will be available at normal rate 15%

Depreciation when asset used for part of year

If the Asset in the Block being used for less than 180 Days in the Year of Acquisition

- **the depreciation allowable in respect of such asset shall be restricted to 50% of the amount allowable as depreciation**
- **Any asset put to use after October 3rd of p Y eligible only for 50% depreciation. In case of leap year October 4th**

Depreciation in case of Succession

Depreciation in case of Succession, Amalgamation demerger Conversion of sole proprietor/partnership firm in to Company

- **Depreciation to be calculated as no such succession, amalgamation conversion takes place**
- **The total depreciation calculated, shall be apportioned in the ratio of the number of days for which the assets were used by predecessor and successor,**
- **The aggregate allocated depreciation shall not exceed in any depreciation deductible as if f the succession or the amalgamation or the Demerger, as if in the case that had not taken place**

Example in case of depreciation on succession etc

- Company A is taken over by Company B as on 31.07.2007
- Total Depreciation of the asset for the previous year 07-08 is Rs. 36600
- The depreciation allowable for Company A = 122/366 x 36600= Rs, 12,200
- The depreciation allowable for Company B = 244/366 x 36600=Rs. 24,400

Additional Depreciation *u/s* 32 (1) (iia)

Applicable only for manufacturing Assessee

New Plant and Machinery acquired on or after 31.03.2005
Only one year depreciation allowable extra in addition to normal

Rate of depreciation - 20% of the actual cost

If Asset is used les than 180 days only half the depreciation

Assessee should furnish a certificate about Machines, capacity from C. A. in order to claim deduction

No Additional Depreciation *u/s* 32 (1) (iia)

Old Plant machinery used in India or outside India

Machinery plant installed in office Premises/residential guest house

Any office appliances or road transport vehicles, ships aircrafts

Plant and machinery whose actual cost was fully written of in P. Y

Depreciation In Case of assets of an Undertaking Engaged in Generation or Generation and Distribution of Power *u/s* 32 (l)(i)

- **Depreciation AT SLM of on the actual cost thereof to the Assessee.**
- **The aggregate depreciation allowed in respect of any asset for different assessment year shall not exceed the actual cost of the said asset.**
- **The Assessee, instead of claiming depreciation on SLM, at its option claim depreciation on basis of written down value method at the rate prescribed for each block of assets.**
- **Such option should be exercised before the due date of filing the return of income *u/s* 139(1)**
- **Once the option is made it is final and applicable to all succeeding assessment years.**

Depreciation in case of power Generating units

- Where the power-generating unit claims depreciation on the straight-line basis, where the asset is sold discarded demolished, the treatment as taxation was as below.

Transfer of Asset	Chargeable amount	Head
When the consideration is less the actual cost but more than the WDV	Excess of consideration over WDV is treated as Balancing charge	Profits and Gains of Business or Profession
consideration > actual cost	Excess consideration over actual cost is treated as Short Term Capital gain	Short term Capital gains
consideration < WDV	Shortfall/ Deficit is treated as terminal depreciation u/s 32 in the year of transfer	Allowed as deduction in PGBP

Unabsorbed depreciation

- **If depreciation cannot be fully claimed in a particular year for want of profits the un-absorbed depreciation will be treated as below**

Previous year

- **First it is set off against any profit ny other head except for salaries)**

Succeeding Year

- **carried forward and set off against the income in subsequent years without any time limit**

Other Points

- **There is no condition of continuance of same business in order to carry forward and set off .**
- **No need to file return of Income with in due date to carry forward unabsorbed depreciation.**

Example on Unabsorbed depreciation

To Expenses	78,00,000	BY Gross Profit	80,00,000
To Depreciation	16,00,000	By Net Loss	14,00,000
Total	94,00,000	Total	94,00,000

Assessee able recover the expenses from Gross profit. However depreciation to the extent of 14 lakhs remain as unabsorbed. This 14 lakhs is known as unabsorbed depreciation.

Example on Unabsorbed depreciation and Business Loss

To Expenses	92,00,000	BY Gross Profit	80,00,000
To Depreciation	16,00,000	By Net Loss	28,00,000
Total	1,08,00,000	Total	1,08,00,000

Assessee Not able recover the expenses fully as well as depreciation. The total Loss would be 28 lakhs Out of which 12 lakhs is Business loss and 16 lakhs is unabsorbed depreciation.

Expenditure on scientific research Related to Assessee business sec 35

Revenue/Capital Expenditure (except land)

Fully allowed as deduction/ Capital exp. No dep

Revenue exp prior to 3 year of commencement allowed in year business commence
Capital Expenditure not Absorbed can carry forward As unabsorbed depreciation

Contribution to approved National lab/University /Inst.

Weighted deduction 125%

In-house research Up to 31.03.2012

Weighted deduction 150%

Applicable to Companies drugs- telecom, Pharmacy, computer, chemicals, biotechnology

Approval of Prescribed Authority,(secretary Dept of Science and research) audit of A/cs

Contribution to Indian company for scientific research purpose FA 2008 Effective AY 09-10

Weighted deduction of 125% will be allowed to all Assessee if any sum paid to a company to be used by it for scientific research:

Provided that such company—

(A) is registered in India,

(B) has as its main object the scientific research and development,

(C) is, for the purposes of this clause, for the time being approved by the prescribed authority in the prescribed manner, and

(D) fulfils such other conditions as may be prescribed;";

Payee company (Company received contribution) cannot avail weighted deduction on its payments. However it can avail deduction on revenue capital expenditure incurred by it for scientific research.".

Amortization of Preliminary Expenses Sec 35 D

Preliminary expenses include Expenditure in connection with:

- Preparation of feasibility report/project report;
- Conducting market survey/other survey relating to the business of the Assessee
- .Legal charges for drafting any agreement for getting up or conduct of the business

In case of company,

- Legal charges for drafting/Printing the MOA,AOA
- Fees paid for registering the company;
- Expenses regarding issue of shares /underwriting commission, brokerage/prospectus.

Eligible Amount

Gross Qualifying amount

5% of the Cost of Project or

- 5% of Capital employed or
- actual amount, whichever is lower.

Net qualifying amount

- Deductible 5 equal installment over 5 successive years for expenses

Amortization of Preliminary Expenses Sec 35 D

Cost of the Project ' means:

- Actual cost of the fixed assets,+ any additions in case of extension of business after commencement

Capital employed means:

- issued share capital,+ debentures + long term borrowings for acquiring fixed assets repayable after 7 years
- and additional borrowals in case of extension of business after commencement

Bad Debts Provision of Banks u/s 36(1) (viii-a)

Deduction will be as below

S N	Assessee	Deduction
1	Schedule Banks, Cooperative banks Other than rural banks Primary Agricultural Credit Banks and and non schedule Bank except foreign banks	7.5% of total Income
2	Foreign Banks/ Public financial institutes	5% of Total Income
4	Rural Banks	10% of total advances

Total Income= G TI before this deduction

Deduction in respect of transfer to Special Reserve Sec 36 (1) (viii)

S No	Specified entity	Eligible Business for providing long-term finance for
1	Financial Corporation specified in section 4A of the Companies Act,1956 Financial corporation which is a public sector company	industrial or agricultural development or development of infrastructure facility in India
2	Banking company Co-operative bank (other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank) India	Construction or purchase of houses in India for Residential purposes.

Deduction in respect of transfer to Special Reserve Sec 36 (1) (viii)

S No	Specified entity	Eligible Business for providing long-term finance for
3	A housing finance company	Construction or purchase of houses in India for residential purposes.
4	Any other financial corporation including a public company	Development of infrastructure facility in India.

Deduction will be amount transfer to reserve or 20% of profits which ever is less

However, where the aggregate 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.

Expenditure on eligible projects or schemes (Sec. 35AC)

Eligible project of scheme' means

- **Any amount paid to project or scheme for promoting Social and economic welfare of, or the uplift of, the public notified by Central Government**
- **Any amount paid to a public sector company or a local authority or to an association or institution for the carrying above work approved by the National Committee**

Quantum of Deduction

- **Full**

Condition

- **A Certificate/receipt confirming the payment should enclosed to R OI**

Payments to associations and institution for carrying out rural development programmes (Sec, 35 CCA)

- Assessee pays any sum, to the association, institution
- Institution which has as its object the undertaking of any rural development programme/training of persons for implementing programmes of rural development;
- Association/Institution should be approved by the prescribed authority /notified by Central Government (National Urban Poverty Eradication Fund)
- The Assessee should furnish a certificate from the above mentioned association or institution to the effect that of approval/training along with R O I
- Quantum of Deduction – full
- If allowed under this section No deduction u/s 35-C, 35-CC or section 80-G or any other Section.

No denial of deduction

- No denial of deduction
- after making the payment to associations under
- section 35 AC, 35 CCA and 35 2 A ,
- if such institutes exemption was withdrawn by Commissioner of Income tax

Amortization of expenditure on prospective etc. for minerals (Sec. 35E)

Applicable to

- **Residents Assessee (Indian Company and resident non Corporate)**

Conditions

- **Assessee incurs some expenditure, wholly and exclusively in prospecting of any mineral or on development of a mine or other natural deposit of any such mineral**
- **The expenditure eligible for the deduction must be incurred during 5- year's period ending with the year of commercial production.**

Amortization of expenditure on prospective etc. for minerals (Sec. 35E)

Quantum of deduction

- 10 equal annual installments beginning with the previous year in which commercial production of mineral begins.

Other points

- Where any sale, salvage, compensation or insurance money is realized, net expenditure shall be the allowed as deduction (total expenditure incurred minus amount realized.
- In case of amalgamation, Demerger, the amalgamated Company and resulting company can avail deduction as such Demerger, amalgamation not takes place

Amortization of expenditure on prospective etc. for minerals (Sec. 35E)

The expenditure which qualify for such deduction shall not include:-

- **Any expenditure on the acquisition of the site of the mine or any right in or over it,**
- **Any expenditure on the acquisition of the deposits of such minerals or any right in or over such deposits:**
- **Any expenditure of a capital nature in respect of any building, machinery, plant of furniture for which allowance by way of depreciation is admissible.**

Expenditure for obtaining license to operate telecommunication services Sec. 35(ABB)

Applicable

- **Telecommunication Companies**

Nature of Payment

- **Any capital expenditure is incurred for acquiring a license to operate telecommunication services /expenditure incurred prior to three years before the commencement**

Quantum of deduction

- **Equal installments over the period of licence shall be allowed in every previous year during which the license shall be in force.**

Example 1

- Period of license 10 years- amount paid Rs. 50 lakhs in first year – Deduction available 5 lakhs each for 10 years
- Example 2
- Period of license 10 years- amount paid Rs. 50 lakhs in Second year – Deduction available 50 lakhs/9 =5.55 lakhs for each for 9 years starting from 2nd year

Consequences if license is sold

- If capital sum realised from transfer is less than the expenditure remaining unallowed the balance shall be fully allowed in the year in which it is sold.
- If it is more the balance will be charged to income under PGBP

Tea/ Coffee/Rubber Development Account (Sec. 33-AB)

Applicable to an Assessee carrying on business of growing and manufacturing Tea, Coffee and Rubber in India:-

- Deposits any amount in a special account with the (NABRD) or in 'The Deposit Account' scheme framed by Tea, Coffee and Rubber boards with previous approval by the Central Government;

Time limit to deposit

- With in 6 Months from the end of previous year before filing of the return of income, whichever is earlier.

Amount of deduction:

- Amount so deposited or 40% of the profits which ever is less

Profit means

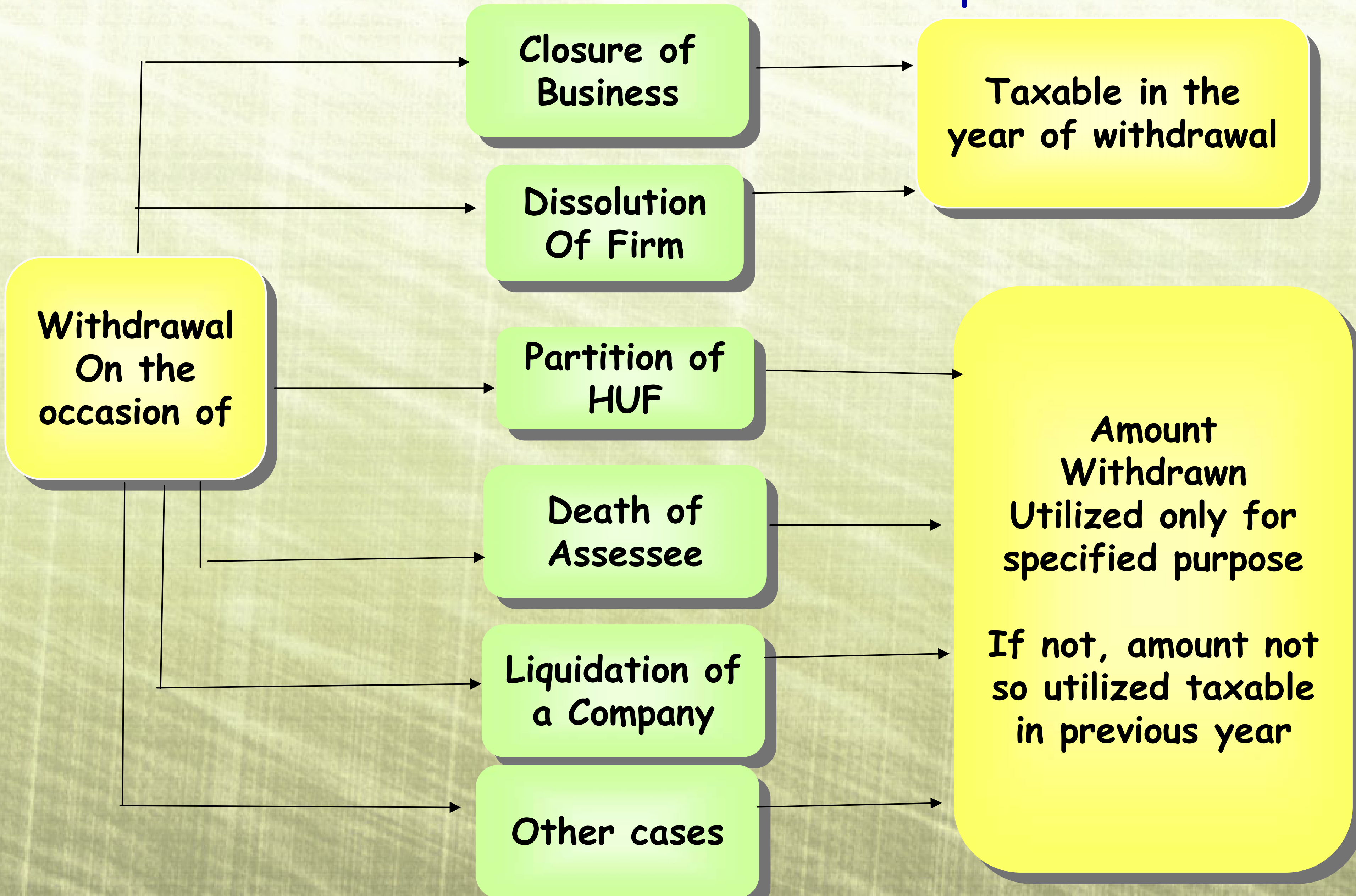
- PGBP before this deduction, and set off of losses u/s 72

Tea/ Coffee/Rubber Development Account (Sec. 33-AB)

Other Points

- If the Assessee is a firm, AOP/BOI, this deduction shall not be allowed to any of its partners or members.
- Deduction shall be admissible to an Assessee only when accounts audited by a Chartered Accountant and furnish the audit report along with the return of income.

Withdrawal of amount from deposit A/c



Withdrawal of amount from Tea deposit A/c

Withdrawal Amount should not be used for

Asset in Office premises /guest house

Office appliances excluding computer

Asset where 100% depreciation is claimed

Low Priority article In 11th schedule

Amount Utilized taxable in previous year which it was utilized

Sale of Asset Acquired from amount of tea development account

Asset acquired as per Scheme (Approved Asset) is sold with in 8 years from the end of Previous year which asset was acquired

Cost of asset where deduction allowed is treated as business profit and taxed in the year of sale

Exception: Not taxable when the sale was to Government, Government company, Local authority, Corporation formed under central state provincial Act/ Sale of whole assets and liabilities by firm to company

Site restoration fund Sec. 33 (ABA)

- An Assessee who is carrying on business of the prospecting for, for extraction or production of, petroleum or natural gas or both in India under an agreement with the Central Government.

Quantum of deduction

- 20% of Profits or amount deposited in SBI or approved fund
- Rest of the points all are same as tea development a/c

Expenditure on prospecting etc. for mineral oils (Sec. 42)

- The Assessee income consists of profits or gains of any business consisting of the prospecting for or extraction or production of mineral oils:
- Assessee should enter in to agreement with the Central Government or participation of the Central Government is required.

Nature of Expenditure

- Expenditure by way of infructuous or abortive exploration expenses in respect of any area surrendered prior to the beginning of commercial production by the Assessee
- Expenditure for drilling or exploration activities or services or in respect of physical assets used in that connection, except assets on which allowance for deprecia-tion is admissible under sec 32 (This expenditure may be before or commencement)

Quantum of deduction

- Full

General deduction for Expenses sec 37

In addition expenditure deductible under sections 30 to 36 the following expenditure will be also allowed as deduction in computing income.

- Not being in the nature of capital expenditure
- Not being the Personal expenses of the Assessee
- Not being the expenditure incurred which is offence or prohibition under law
- Not being Expenditure incurred by an Assessee on advertisement in any souvenir, brochure, tract, pamphlet or the like published by a political party
- And if such expenditure incurred wholly and exclusively for the purposes of the business or profession
- It Will be allowed as deduction

Non Deductible items

S. N.	Sec 40	Transaction	Type of Assessee
1	37(2B _	Advertisement in souvenir, brochure, tract, pamphlet, etc., of political party	All Assessees
2	a(i)(iii)	Interest, Rent royalty, fees for technical services/Salary or other chargeable sum payable outside India or in India to a non-resident or foreign company, on which TDS not deducted/not paid with in time allowed.	All Assessees
3	a(ia)	interest, commission, brokerage, fees for professional services/technical services, payment under works contract on which TDS not deducted/not paid with in time allowed.	All Assessees
4	a(ib)	Securities transaction tax and fringe benefit tax (STT will be allowed as deduction from AY 09-10)0	All Assessees

Deductibility of Expenditure where TDS not deducted/ not paid

S No	Case	Allowability of expenditure
1	TDS deductible in previous year but not deducted	Where such amount is deducted in subsequent previous year , Allowability will be in the previous year which tax was deposited
2	TDS deductible, deducted but not paid during the previous	
	(a) where the payment is relating to march of previous year	Where the tax deposited before due date for filing of return of income, expenditure will be allowed in the respective previous year, Otherwise Allowability will be in the previous year which tax was deposited
	(b) where the payment is relating to April to February of previous year	Allowability will be in the previous year which tax was deposited, (depositing before due not applicable)

Non Deductible items

S N	Sec 40	Transaction	Type of Assessee
5	a(ii)	Rate or tax levied on the profits or gains of any business or profession (Indian Income as well as foreign income, relief claimed under 90 &91)	All Assessees
6	a(iia)	Wealth tax	All Assessees
7	a(iv)	Employer contribution in excess of funds which are chargeable to tax as salaries, where TDS not deducted	Employers
8	a(v)	Tax actually paid by an employer referred to in section 10(*10CC*)	Employers
9	b	Interest, salary, bonus, commission or remuneration paid to partners in excess of limits	Firm
10	ba	Interest, salary, bonus, commission or remuneration paid to members	AOP/BOI

Non Deductible items

S N	Sec 40	Transaction	Type of Assessee
11	A(2)	Expenditure for goods, service, facilities involving payment to relative /director/ partner/ substantially interested person, etc., which, in the opinion of the Assessing Officer, is excessive or unreasonable compared to FMV/legitimate business needs.	All Assessee Refer note
12	A(3)	Payments exceeding Rs. 20,000 made otherwise than by crossed cheque/bank draft subject to certain exceptions . Whole of such expenditure will be disallowed Limit for all the bills per day to be considered.	All Assessee Refer note- exceptions

Non Deductible items

S N	Sec 40	Transaction	Type of Assessee
13	A(7)	Any provision/payment of unapproved provident/welfare funds	Employers
14	A(9)	Any Provision sum paid unrecognized gratuity/Provident fund	Employers

The persons where the payment under the section 40 A (2) will attract

S N	Type of Assessee	Person whom the payment made- cover
1	Individual	Any relative of the individual/Any person where such individual has substantial interest
2	HUF	Any member of HUF Any relative of the such member/Any person where HUF has substantial interest
3	Firm	Any partner/ Any relative of the partner/Any person where such firm has substantial interest
4	AOP/BOI	Any member/ Any relative of the member/Any person where such AOP BOI has substantial interest
5	Company	Any Director Any relative of the Director/Any person where such Company substantial interest

The persons where the payment under the section 40 A (2) will attract

Any Assessee

- To an individual who has substantial interest in the business of Assessee or relative of such individual
- To an Company which has substantial interest in the business of Assessee or to director or relative of such Director
- To Firm/AOP/HUF which has substantial interest in the business of Assessee or to partner, member of Firm/AOP/HUF or relative of such partner, member
- To an Company where any one director has substantial interest in the business of Assessee or payment made to director or relative of such Director
- To Firm/AOP/HUF where any partner, member of Firm/AOP/HUF has substantial interest in the business of Assessee or payment made too partner, member or relative of such partner, member

The persons where the payment under the section 40 A (2) will attract

Meaning of Substantial interest:

if such person is beneficially owner

- **(a) in case of Company at least 20% of equity capital at any time during the previous year**
- **(*b*) in any other case, at least 20% of Profits of the business in concern at any time during the previous year**

Meaning of Relative

- **In case of Individual spouse brother sister any lineal ascendant or descendant**

Exceptions to 40 A(3) payments Rule 6 DD

- RBI /Any banks/Government/Public Financial Institutions
- Any primary agricultural credit society
- Payment made in pursuance in respect of any contract entered into by the Assessee before the 1st day of April, 1969
- Payment is made through Bank by outside India by LOC, TT, Bill of Exchange, and Account transfer
- Where the payment is made for the purchase of agricultural /animal husbandry/Poultry/Cottage industry working without aid of power
- Where the payment is made by way of adjustment against the amount of any liability incurred by the payee for any goods supplied or services rendered by the Assessee to such payee;
- Payment is made in a village or town, where Assessee resides, such payment is not served by any bank, Where the payment was required to be made on a day on which the banks were closed either on account of holiday or strike;

Exceptions to 40 A(3) payments Rule 6 DD

- Where the payment is made by an Assessee by way of salary to his employee after deducting TDS, and when such employee—
- (*A*) Is temporarily posted for a continuous period of fifteen days or more in a place other than his normal place of duty or on a ship; and
- (*B*) Does not maintain any account in any bank at such place or ship
- Payment to Authorized dealers/Money changers for purchase of it purchase of foreign currency or traveler's cheque in the normal course of his business.
- Where the payment is made to an employee of the Assessee or the heirs of any such employee towards termination/retirements/death benefits if the income chargeable under the head "Salaries" of the employee in the immediately preceding financial year did not exceed Rs. 7,500

Certain deductions to be only on actual payment Sec 43 B.

tax, duty, cess or fee, under any law

interest on any loan or borrowing from any Banks /public financial institution/ scheduled bank. Exception interest is converted into a loan or advance, the interest so converted, shall not be deemed as actual payment.

contribution to any provident/superannuation/or gratuity fund /or any other fund for the welfare of employees

Bonus/Commission paid

any leave Salary at the credit of his employee

If the above payments should be paid in P Y or before due date for filing of return of income, If not they will be allowed as deduction in the year of payment

MAINTENANCE OF BOOKS OF ACCOUNT Sec 44 AA

Assessee

- **Professionals**
  - Gross Receipts <= 150000 In any 3 preceding previous years Or likely exceed in Previous year in case of new business
    - Books enable A O To compute income
  - Gross Receipts > 150000 In all 3 preceding previous years Or likely exceed in Previous year in case of new business
    - Rule 6 F, Cash book, journal Ledger ,Copies of bill issued > Rs.25, Payment bill >50, In case of doctors medicines Stock
- **Other Business Category**
  - Mandatory when when Annual Income >1,20,000 Gross receipts/ Turnover >10 lakhs In any 3 preceding previous years Or likely exceed in Previous year in case of new business

MAINTENANCE OF BOOKS OF ACCOUNT Sec 44 AA

Profession include,

legal, medical, engineering, architecture, accountancy or technical consultancy and film artists

Period which books should be retained

Books and documents –at least 6 years

Cash book and ledger-at least 16 years

Compulsory audit of accounts Sec 44 AB

- Business Assessee turnover/receipts > 40 lakhs
- Professional Assesses receipts > 10 lakhs
- **Audit of accounts are compulsory**
- **Assessee has to get his accounts of such previous year audited by a CA and furnish report by specified date**
- **Specified date is 30th September of the relevant assessment year**

Compulsory audit of accounts Sec 44 AB

form of Report of the audit

- In the case business Assessee accounts audited under any other law- Form No. 3CA.
- , In the case business Assessee other than above in Form No. 3CB.
- In the case of a person who carries on profession, is in Form No. 3CC.

The report should contain particulars in

- Business Assessee in Form No. 3CD.
- Professional Assessee in Form No. 3CE

Taxation of specific businesses – Presumptive tax basis

Civil construction business (turnover not > Rs 40 lakh) Sec 44 AD

Applicable

- **All Assessees is engaged in the business of civil construction or supply of labour for civil construction,**

Deemed Income of PGBP of such civil construction business

- **8 % of the gross receipts**

Business of plying, hiring or leasing carriages (receipts Not > 40 lakhs) Sec 44 AE

Applicable

- **All Assessees is engaged in the business of plying, hiring or leasing carriages** does not own **more than 10 vehicles, ,**

Deemed Income of PGBP of such hiring business

Rs 3500/- a month or part of the month owned by assessee in the case of each heavy goods vehicle.

- Rs 3150 a month a month or part of the month owned by assessee each in the case of other vehicles

Taxation of specific businesses – Presumptive tax basis

- Retail business (turnover not > Rs 40 lakhs) Sec 44 AF

Applicable

- All Assessee is engaged in the business of Retail Trade,

Deemed Income of PGBP of such hiring business

5 % of the gross receipts .

Common points for 44 AD/AE/AF

- No need to maintain books of account
- No deduction will be allowable u/s 30 to 38 in computing such income.
- It is assumed that all deductions have deemed to have been allowed.
- In the case of partnership firms, only salary bonus, remuneration and interest paid to partners is deductible while computing the profits of the firm.
- No disallowances u/s 40. (prescribed profit need not to be added back with disallowances)
- prescribed profit can be used to set off losses
- Deductions from Gross total income can be availed

Common points for 44 AD/AE/AF

- Assessee is free to declare higher profits and gains, and pay tax thereon.

If the Assessee declares Less than prescribed profit .

- He has to maintain books of accounts and get the accounts audited by a CA U/s Sec 44 A B .

Deduction of Certain Expenses in case of Reorganization of Cooperative banks Sec 44DB

When reorganization takes place during the year, the following expenses deductible on prorate basis of number of days of predecessor and successor banks

(1) Section 32 (Depreciation);
(2) Section 35D (Amortisation of certain preliminary expenses);
(3) Section 35DD (Amortisation of expenses in case of amalgamation or Demerger);
(4) Section 35DDA (Amortisation of expenditure incurred under voluntary retirement scheme).

For example

- Cooperative Bank A amalgamated with Cooperative Bank B as on 31.12.2007.
- Deduction allowable for the preliminary expenses will be Rs. 36600 in a previous year.
- The deduction available to Bank A = 36600 x 275/366 =27500
- The deduction available to Bank B = 36600 x 91/366 =9100

Business reorganization means

- the reorganization of business involving the amalgamation or Demerger of a co-operative bank with other Cooperative bank

Method of accounting Sec 145.

Applicable to PGBP, IFOS

- Income should be computed as per method of accounting regularly employed by Assessee and as per notified Accounting Standards
- Accounts should be maintained either on mercantile basis or cash basis. Hybrid i.e. mixed system is not permitted..

Notified Accounting Standards for sec 145-

- Accounting Standard 1- Disclosure of Accounting policies
- Accounting standard 5- Prior period and extraordinary items

Failure to comply method of accounting/notified AS

- AO may make best of judgment assessment

Method of accounting in certain cases. Sec 145 A

Applicable to Inventory

- For the purpose of determining the income under the head “PGBP” shall be—
- (a) In accordance with the method of accounting regularly employed by the assessee; and
- (b) The cost to be included tax duty cess and other costs bringing goods in to present location on the date of valuation.

Computation of Business income from the Profit & Loss A/c/ Income and expenditure A/c

	Particulars	Rs.	Rs.
Balance as per profit and loss (P&L Ale) or income and expenditure account (I&E *Ale)*			xxx
Add			
1	Expenses expressly disallowed/not allowed but debited	xxx	
2	Incomes or receipts taxable under this head but not credited	xxx	
3	Capital expenses/personal expenses debited	xxx	
4	Losses not allowed but debited	xxx	
5	Expenses not relating to the previous year but debited/	xxx	
6	Expenses relating other heads of income	xxxx	
7	Under-valuation of closing stock or over-valuation of opening stock	xxx	xxx

Less.			
8.	Expenses expressly allowed but not debited	xxx	
9	Expenses relating to the previous year but not debited	xxx	
10.	Losses allowed but not debited	xxx	
11.	Incomes or receipts not taxable under this head but credited	xxx	
12.	Capital receipts credited	xxx	
13.	Incomes or receipts taxable under other head but credited	xxx	
14	Over-valuation of closing stock or under-valuation of opening stock	xxx	xx
Profits/Income taxable under the head 'Profits and gains from business or profession'			xx

Computation When Receipt & Payment Account is given or Cash or bank A/C is given

1	Check the debit side and consider for only revenue receipts exclude capital receipt.
2	Check credit side and consider for only those revenue expenses, which are pertaining Business/profession and incurred exclude capital expenditure
3	Check the notes given and adjust the amount expenses and income
4	Net Business/ Professional Income = Adjusted income (-) Adjusted expenses

End of Chapter

Capital gains

- 4th head of income
- Taxability is on gain on
- Transfer of
- Capital asset

Capital gains sections

S No	Section	Description
1	2(14)	Capital Asset
2	2(29A)/2 (42A)	Long-term capital asset/short term capital asset
3	2(47)	Transfer
4	10(33)	Exemption of CG on transfer of US 64
5	10(36)	Exemption of CG on transfer BSE 500 index
6	10(37)	Exemption of CG on transfer of Urban agricultural land on compulsory acquisition
7	10(38)	Exemption of CG on transfer Equity shares or units of MF where STT paid
8	45	Charging section of capital gains

Capital gains

S No	Section	Description
9	46	Capital gains on company liquidation
10	46 A	Capital gain on buyback of shares
11	47	Transactions not regarded as transfer
12	47 A	Violating the conditions of transfer
13	48	Computation of Capital gain
14	49,55	Cost of acquisition of capital gain
15	50/50 A	Capital gain of Depreciable asset
16	50 B	Capital gain on slump sale

Capital gains

S No	Section	Description
17	50 C	Full value consideration land/buildings
18	51	Cost of improvement
19	54	Various exemptions on capital gains
20	55 A	Reference to valuation officer
21	111A	Tax rate of STCG suffered STT
22	112	Tax rate of Long term capital gains

Capital Asset sec 2(14)

Property of Every kind Held by Assessee Whether Connected with Business or not

- Movable
- Immovable
- Tangible
- Intangible

But excluding

- Stock in trade In case of business
- Personal effects of Movable nature (except jewellery)
- Agricultural Land in rural area
- Special bearer bonds, gold bonds, defence bonds

Capital Asset sec 2(14)

The following are also Capital assets

jewellery

Personal effects such as archeological collections, Paintings. Drawing, sculptures and work or any art

Transfer sec 2(47), includes

Sale

Exchange

Relinquishment

Extinguishment of any rights in assets

Compulsory acquisition under any law

Conversion of Capital Asset In to stock in trade

Distribution of asset on dissolution of a firm / BOI / AOP.

Transfer of a capital asset by a partner or member to the firm / AOP

Transfer under a gift or an irrevocable trust of shares, debentures etc allotted by a company to its employees under ESOP

Transactions not regarded as transfer sec 47

Transfer of Asset at the time of Liquidation by a company; to its shareholders; on its liquidation, in the context of Company

Any distribution of capital asset by a HUF on total or partial partition of the family

Transfer of Capital Asset on Gift or under irrevocable trust
Exception: - ESOP allotment as a gift by employer to employee

Transfer of Capital Asset by Holding Company to wholly owned subsidiary Company vice versa provided transferee company is a an Indian Company

Transactions not regarded as transfer sec 47

Transfer of Capital Asset in a Scheme of Amalgamation provided amalgamated Company is Indian Company.

Transfer of Capital Asset in a scheme of Demerger provided resulting Company is an Indian Company {Sec. 47 (viB)}

Issue of Shares by Resulting Company to the Shareholders of demerged Company {Sec. 47 (vi)(d)} –

Allotment of Shares in the Amalgamated Company in lieu of shares held in Amalgamating Company {SEC. 47 (vii)}

Transactions not regarded as transfer sec 47

Transfer of Foreign Currency Convertible bonds or GDR by an Non Resident to Another Non Resident . Such transfer should be outside India {SEC. 47 (Viia)

Transfer of Work Art manuscript, Painting, to Government /University National Museum etc {SEC. 47 (ix)}.

Conversion of Bonds or Debentures in to Shares {Sec. 47 (X)}
It may be noted that conversion of preference shares into equity Shares /shares in to bonds is treated as "transfer-

Transfer of Scheme involved in scheme of lending Securities as per guidelines of RBI SEBI {SEC. 47 (xv)} CBDT Circular 751 Dated 10-02-1997

Transfer of Land by Sick Industrial Company which is managed its workers Cooperative {Sec. 47 (xii)

Transfer of Capital Asset being the Shares in Indian Company in a Scheme of Amalgamation of two Foreign Companies (SEC. 47) (via).

Conditions

Persons holding at least 25 per cent (in value) shares in the amalgamating foreign company should become shareholders in the amalgamated foreign company.

The above transaction does not attract tax on capital gains in the country in which the amalgamating company is incorporated.

Transfer of Capital Asset being the Shares in Indian Company in a Scheme of Demerger of two Foreign Companies (SEC. 47) (via).

Conditions

Persons holding at least 75 per cent (in value) shares in the amalgamating foreign company should become shareholders in the amalgamated foreign company.

The above transaction does not attract tax on capital gains in the country in which the amalgamating company is incorporated.

- Transfer of Capital Asset being a membership right held by a member of a recognized stock Exchange in India in exchange of acquiring shares/trading and cleaning rights in SEBI {SEC 47(xiiia)}

- Any transaction of transfer of capital asset on reverse mortgage as notified by Central government scheme. (WEF AY 09-10)

- Conversion of bonds referred in sec 115 AC(1)(a) in shares or bonds of that company WEF AY 09-10
- Bonds referred in 115AC(1)(a) is bonds of Indian company or bonds issued by public sector company purchase in foreign currency

Capital gain on conversion of firm/AOP/BOI in to company

Conditions to be fulfilled

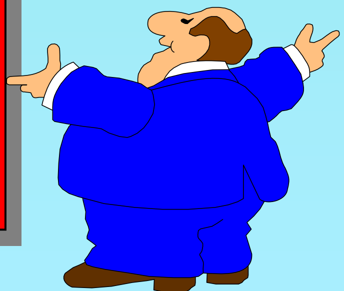
All assets and liabilities taken over

All the partners before conversion become shareholders

Proportion of shareholding of partners same as their capital before conversion

Aggregate shareholding of partners is =>50%

Partner should not Transfer their shareholding for a period of 5 years



No Transfer
No cg tax
When all conditions
Fulfilled.

Capital gain on conversion of proprietorship in to company

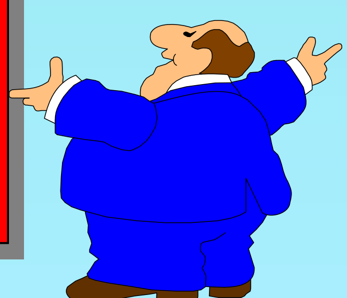
Conditions to be fulfilled

All assets and liabilities taken over

Proprietor receive consideration only

By way of shares

Shareholding of proprietor is =>50%



Proprietor should not Transfer his shareholding for a period of 5 years

No Transfer

No cg tax

When all conditions

Fulfilled.

However PGBP in

Case of stock transfer taxable

Withdrawal of exemption sec 47 A

In case of

Transfer between holding & subsidiary company

After availing exemption, an event occur as With in 8 years from the date of transfer

Ceasing 100% share capital or

Transferee company convert capital assets in stock in trade

Capital gain exempted Earlier Taxable in the Year which transfer Takes place

Cost of acquisition in case of sec 47 A

If the transfer of Asset after 8 years → Cost to the transferor company is the cost to Transferee company

If the transfer of Asset before 8 years → Cost to the Transferee company is the cost of acquisition

Violation of condition after conversion of company sec 47A

Where firm or proprietor
Violate condition
After conversion
Ex: transfer of shares

Capital gain exempted
Earlier Taxable in the
Year which violation takes
place

Taxability in the
hands of successor
as capital gain

Conditions for taxing capital gain

There is a capital asset

There is a transfer of capital asset

Such transfer was not exempt u/s 47

Then only taxability of capital gain

If any one is not satisfied no Capital Gain. No tax

Charging section sec 45

Sec 45(1)- transfer of Capita Asset

Sec 45(1A)- Capital gain on Destruction of asset

Sec 45(2)- Capital gain on Conversion of capital asset In to stock in trade

Sec 45(2A)- Capital gain on Transfer of capital asset by Depository

Sec 45(3)- Capital gain on Transfer of capital asset By partner to firm

Sec 45(4)- Capital gain on Transfer of capital asset By firm to partner

Sec 45(5)- Capital gain on Transfer of capital asset By Compulsory acquisition

Sec 45(6)- Capital gain on Transfer of Mutual fund units To M F fund by unit holder

Transfer of capital asset sec 45 (1)

Transaction

- Transfer of Capital Asset during P y

Consideration

- Transfer price of capital Asset

Chargeability

- Previous year in which transfer takes place

Capital gain on Destruction of asset Sec 45 (1A)

Transaction

- Destruction of Capital Asset during P y by fire accident etc

Consideration

- Insurance claim or FMV of asset given

Chargeability

- Previous year in which Compensation received

Capital gain on conversion of capital asset in to stock sec 45 (2)

Transaction

- Conversion of Capital Asset in to stock in trade

Consideration

- F M V of Capital asset as on conversion

Chargeability

- Previous year in which Stock sold

Capital gain on transfer of capital asset By depository sec 45 (2A)

Transaction

- Transfer of securities during P y through Depository (demat a/c)

Consideration

- Price at which securities sold/transfer

Chargeability

- Previous year in which transfer takes place
- Taxability in hands of beneficial owner not in the hands of depository

Capital gain on transfer of capital asset By partner to firm sec 45 (3)

Transaction

- Transfer of Capital Asset during P y by partner/member to firm/AOP BOI

Consideration

- Amount recorded in the books of firm

Chargeability

- Previous year in which transfer takes place
- Taxable in the hands of partner/member

Capital gain on transfer of capital asset By firm to partner sec 45 (4)

Transaction

- Transfer of Capital Asset during P y

  By firm to partner on dissolution/otherwise

Consideration

- FMV as on the date of transfer

Chargeability

- Previous year in which transfer takes place
- Taxability in the hands of firm/AOP/BOI

Capital gain on transfer of capital asset on Compulsory acquisition 45 (5)

Transaction

- Transfer of Capital Asset during P y On compulsory acquisition

Consideration

- Compensation received on compulsory acquisition

Chargeability

- Previous year in Compensation received

Capital gain on transfer of units of MF to Mutual fund company 45 (6)

Transaction

- Transfer of Mutual fund units during P y By subscriber to mutual fund company

Consideration

- Repurchase price by Mutual fund company

Chargeability

- Previous year in which transfer takes place

Distribution of assets by companies in liquidation to shareholders (Sec 46)

Company Point of view

Not a transfer
No capital gain.

Share holders Point of view

It is transfer Capital gains taxable

- Consideration for Capital gain
- Distribution in Cash: Amount received less deemed dividend u/s.2 (22) (c) :
- Distribution in kind: Fair market value of the asset on the date of distribution less deemed dividend u/s 2(22) (c)

- It is very important to note in the Section 46, the term Asset was used and not Capital Asset
- Capital gains will not charge to tax in case of Company only distribution of assets to Shareholders only.
- Transfer of Capital assets to others on liquidation will attract Capital gains tax.

Capital gain on Buy back of shares by company 46 (2)

Transaction

- Buyback of shares by Company from shareholder

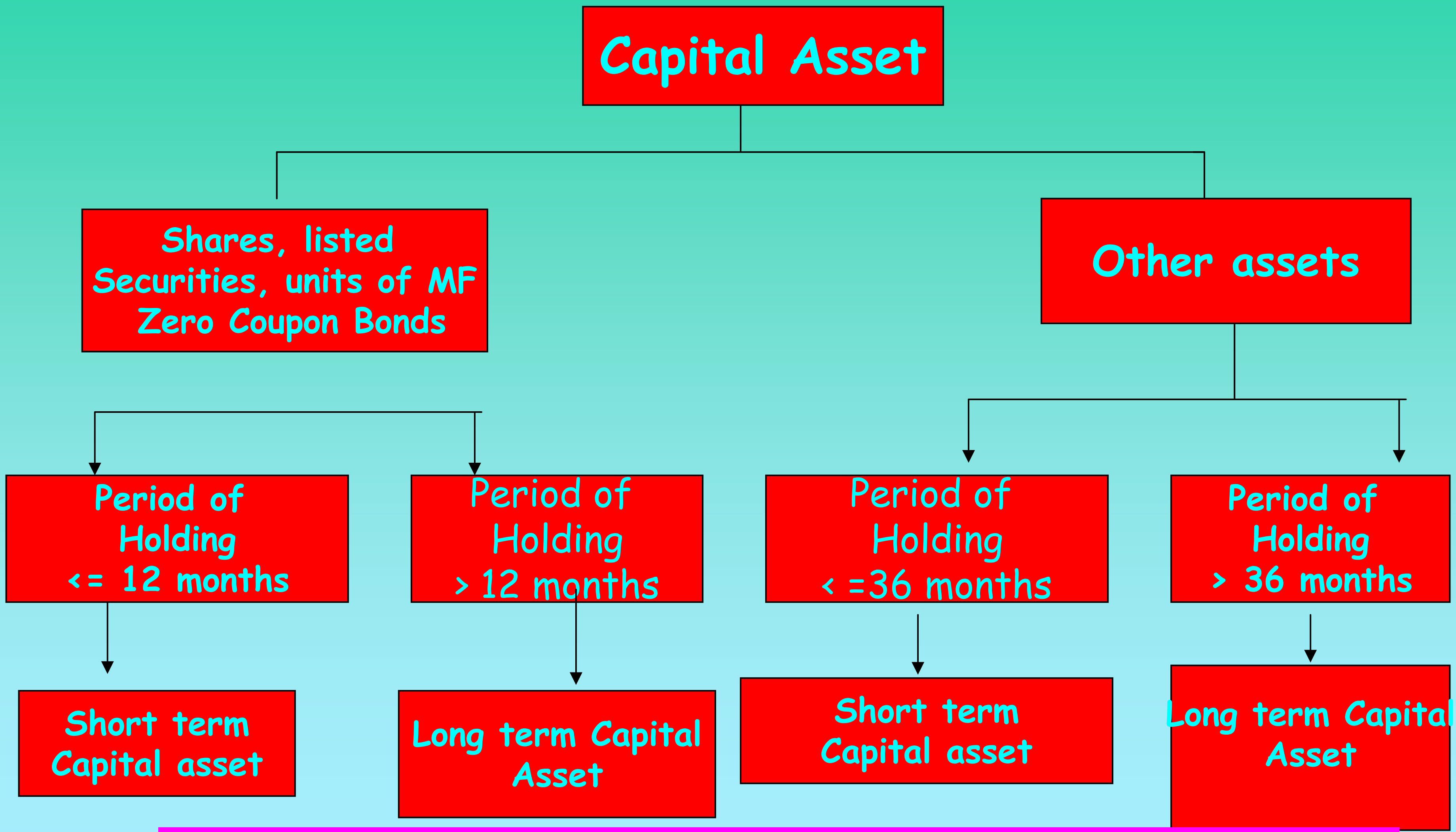
Consideration

- Price at which company paid to shareholder

Chargeability

- Previous year in which shares were bought back
- Taxable in the hands of shareholder
- Sale price minus cost of shares is the gain

Short term/long term Capital Asset



Depreciable Asset Forming part of Block is always STCA

In case of slump sale Period of existence of undertaking is relevant

Determination of Period of Holding :

SNO	Situation	Period of Holding
1	In case of a share Held in a Company in Liquidation	The period subsequent to the date of liquidation shall be excluded.
2	In case of a Capital Asset That Becomes the Property of the Assessee in gift, inheritance etc	The period for which the preceding owner held the asset shall be included.
3	In case of Shares Held in an Amalgamated Indian Company	The period for which the shares in amalgamating company were held, shall be included

Determination of Period of Holding :

SNO	Situation	Period of Holding
4	In case of a share or any other Security, Subscribed to under a Right Issue	The period shall be reckoned from the date of its allotment
5	In case of Capital Asset, Being the Right to Subscribe to a Share or Any Other Security, which is Renounced in Favour of any other person	The period shall be reckoned from the date such right is offered by the issuing company
6	In case of sweat equity shares issued by employer to the employee at free or concessional rate (ESOPS)	The period shall be reckoned from the date of allotment of such shares.
7	In case of Bonus shares or other securities by way of Bonus	The period shall be reckoned from the date of allotment of such bonus or security.

Determination of Period of Holding :

SNO	Situation	Period of Holding
7	In case of shares in a Resulting company Received under a Scheme of Demerger	The period for which the assessee held the shares in the demerged company shall also be included.
8	In case of trading or clearing rights of a recognized stock exchange in India acquired by a person under its demutualisation or corporatisation	The period for which such person was a member of the exchange shall also be included
9	The period for which such person was a member of the exchange shall also be included	The period for which such person was a member of the exchange shall also be included.

Determination of Period of Holding :

SNO	Situation	Period of Holding
10	Transfer of security by depository	The period of holding shall be determined on FIFO method
11	Securities Transacted through Stock Exchanges	Date of Broker note provided delivery of shares is made
12	Securities takes place directly between parties without Stock Exchanges	Date of Contract of sale provided delivery of shares is made.

Computation of Short term Capital gains

Full value of consideration i.e., sale or transfer price of short term capital assets	xxxxxxxx	
Less Expenses incurred wholly and exclusively for such transfer.	xxxxxxxx	
Net Consideration		xxxxxx
Less:		
Cost of Acquisition	xxxxxxxx	
Cost of Improvement	xxxxxxxx	xxxxx
Short term Capital Gains		xxxxxx
Less Exemptions u/s *s 54-B, 54-D and 54 G 54 G A*	xxxxxxxx	
Taxable short term Capital Gains		xxxxxx

Computation of Long term Capital gains

Full value of consideration i.e., sale or transfer price of Long term capital assets	xxxxxxxx	
Less Expenses incurred wholly and exclusively for such transfer.	xxxxxxxx	
Net Consideration		xxxxxxx
Less:		
Index Cost of Acquisition	xxxxxxxx	
Index Cost of Improvement	xxxxxxxx	Xxxxxxx
Capital Gains		xxxxxxx
Less Exemptions u/s *s, 54 54-B, 54-D , 54 EC 54 F, 54 G 54 G A,*	xxxxxxxx	
Taxable Long term Capital Gains		xxxxxxx

Cost of Acquisition in different Situations

S No	Section	Situation	Cost of Acquisition
1	49(1)	Assets Acquired with out price (gift, will, inheritance, partition etc)	Cost to the Previous owner
2	Sec. 49 (2)	Shares of Amalgamated Company **/Amalgamated Cooperative Bank**	cost of acquisition of shares of amalgamating company/Amalgamating Cooperative Bank.
3	Sec. 49 (2A)	conversion of debentures, debenture- stock or deposit certificate.	Cost of original instrument before Such conversion

Cost of Acquisition in different Situations

S No	Section	Situation	Cost of Acquisition
4	Sec.49 (2C) (2D)	Shares in resulting company by virtue of Demerger Company or Cooperative Bank	NBW of Assets Transferred x Original cost of share" NW of demerged company. The above step 1 amount will be cost of shares of resulting company. Original cost of shares - step 1 amount = cost of shares in demegered company.

Cost of Acquisition in different Situations

S No	Section	Situation	Cost of Acquisition
5	49(2AB)	**In case of ESOP securities transferred by employee**	The cost of acquisition shall be the fair market value which has been taken into account for the purpose of computing the value of fringe benefits in the hands of the employer.
6	Sec. 50	Depreciable Assets forming part of block of assets	Opening WDV of block + actual cost of assets acquired during the year.
7	Sec. 50(A)	Depreciable assets being power generating unit	WDV of asset – Terminal depreciation+ Balancing charge.

Cost of Acquisition in different Situations

S No	Section	Situation	Cost of Acquisition
8	Sec.50(B)	slump sale	Net worth of undertaking
9	Sec 51	Forfeited Advance Money	Deducted from Cost of Acquisition
10	Sec 55	Assets Acquired Before 01-04-1981.	Cost of Asset/ FMV as on 1.4.81 at the option of assessee
11	Sec 55(2)(v)	conversion, recon version, division, sub-division of shares in to stock is vice versa.	cost at which original shares/ stock were acquired.

Cost of Acquisition in different Situations

S No	Section	Situation	Cost of Acquisition
12	Sec. 55 (2) (aa)(iii)	Bonus Shares	NIL
13	Sec, 55(2) (a)	Good will	If purchased Purchase price .Self generated nil
14	Sec. 55(2) (a)	Right to Manufacture, produce or process any article or thing or right to carry on any Business. Tenancy Right Route Permits or Loom Hours	If purchased Purchase price other wise nil
15	Sec. 55(2) (a)	*Trade Mark or Brand Name*	If purchased Purchase price, other wise nil

Cost of Acquisition in different Situations

S No	Section	Situation	Cost of Acquisition
16	Sec. 55(2) (aa)	**Right shares**	For Original Owner Amount actually paid the assessee. For other person in whose favour the right is renounced Amount paid for purchasing the right entitlement (+) The cost of Right shares or security
17	Sec. (55 (2) (ab)	**Shares Acquired under Demutualisation or Corporation of Stock Exchange**	Cost of acquisition of his original membership of the exchange. However, cost of any trading or clearing rights shall be deemed to be nil.

Indexation in Capital Gains

Indexation

- Index cost/Index improvement will be applicable only for long term Capital Assets
- Indexation is applicable to cost of asset or Cost of improvement,
- Index factors notified by government considering year 1981 as base

Indexation not applicable

- Short term capital Assets
- Foreign exchange asset held by Non resident
- Slump sale
- Capital Index Bonds

Indexation for Cost of Acquisition

Index Cost in case of asset acquired on or before 01.04.1981

$$\frac{\text{Cost or FMV as on 01.04.1981} \times \text{Index in the year of transfer}}{100}$$

Index Cost in case of asset acquired after 01.04.1981

$$\frac{\text{Cost of acqusition} \times \text{Index in the year of transfer}}{\text{Index in the previous year in asset acquired by Assessee}}$$

Indexation for Cost of improvement

$$\text{Index Cost in case of asset acquired after 01.04.1981} = \frac{\text{Cost of Acquisition} \times \text{index in the year of transfer}}{\text{Index in the previous year in asset acquired by Assessee}}$$

Cost of improvement made before 01/04/81 is ignored totally

Capital Gains

Capital Gain in case of Non – Resident Sec (48)

- Applicable for Shares or debentures of an Indian Company acquired in foreign currency

Capital Gain is to be computed in foreign currency as below

- For cost of acquisition, expenses on transfer and sale consideration the average telegraphic transfer of selling and buying rate on respective dates to be adopted.
- The amount of capital gain so computed shall be reconverted in to Indian currency.
- For capital gain amount reconversion buying rate of telegraphic transfer as on the date of transfer to adopted.

Other Points

- No deduction for STT
- No indexation
-

Short term capital gain in case of depreciable asset sec 50

Sec 32 Vs Sec 50

Sec 50 applicable only

When there is no amount to provide Depreciation in the block or

Block cease to exist

(No asset in the block)

Computation of C G in case of depreciable asset Sec 50

Step 1
Full value consideration
(Sale price of block of assets)

Step 2
Find Total of
a. expenses on transfer
b. opening WDV of block
C. additions of assets in the block

If
Step 1 amount $>$ Step 2= Short term capital gain
Step 1 amount $<$ Step 2= Short term capital Loss

– Special provision for cost of acquisition in case of depreciable asset Being power Generating units Sec. 50A

Transfer of Asset	Chargeable amount	Chargeable under the Head
When the consideration is less the actual cost but more than the WDV	Excess of consideration over WDV is treated as Balancing charge	Profits and Gains of Business or Profession
When consideration is more than the actual cost	Excess consideration over actual cost is treated as Short Term Capital gain	Capital gains
When consideration is less than the WDV	Shortfall/ Deficit is treated as terminal depreciation u/s 32 in the year of transfer	Profit and Gains of Business or Profession

Capital gain on Slump Sale -Sec 50 B

Meaning of Slump Sale Sec. 2(42C)

- the transfer of one or more undertakings as a for a lump sum consideration without values being assigned to the individual assets and liabilities

value of an asset or liability for the sole purpose of payment of stamp duty, registration fees, etc., shall not be regarded as assignment of values

Slump Sale Sec 50 B

Consideration

- Price at which undertaking was sold

Cost of Acquisition

- Net Worth(Assets minus liabilities -- depreciable assets WDV, Other Assets book value. Revaluation ignore)

Nature of Asset

- Existence of undertaking is more than 36 months LTCA less than 36 months STCA (period of holding assets not relevant)

Other Points

- No indexation
- A report from Chartered Account certifying net worth attaching to ROI

Full value consideration in case of lands and building Sec 50 C

Applicable for Land/Building or Both

Provide for determining Sale consideration

Declared Sale value < Stamp value

Stamp value is Full value consideration

Assessee claims Stamp value > FMV of Asset

AO refer Value To Valuation officer

Assessee Should not prefer Appeal on stamp value With the state Govt.

Value determined by VO or stamp value Which ever is lower is Full value consideration

Cost of Improvement u/s 55 (1) (b)

An expenditure of capital nature incurred by Assessee after acquiring an asset is - cost of improvement.

If FMV as on 01/04/81 is as cost of acquisition, then while calculating L.T.C. cost of improvement before 01-04-81 will be ignored and shall not be indexed.

Where the capital asset was acquired prior to 1.4.81 either by the Assessee or by the previous owner whose cost of acquisition is adopted for computation, the cost of improvement incurred after 1.4.81 only can be taken into account for computation. *CBDT in Circular No.636 dated 31.8.92*.

Cost of improvement in respect of

- Goodwill of a business;
- Right to Manufacture, produce any article or thing;
- Right to carryon any business.

Shall be taken as Nil.

<u>Capital gains will be exempt and no capital gains tax</u>

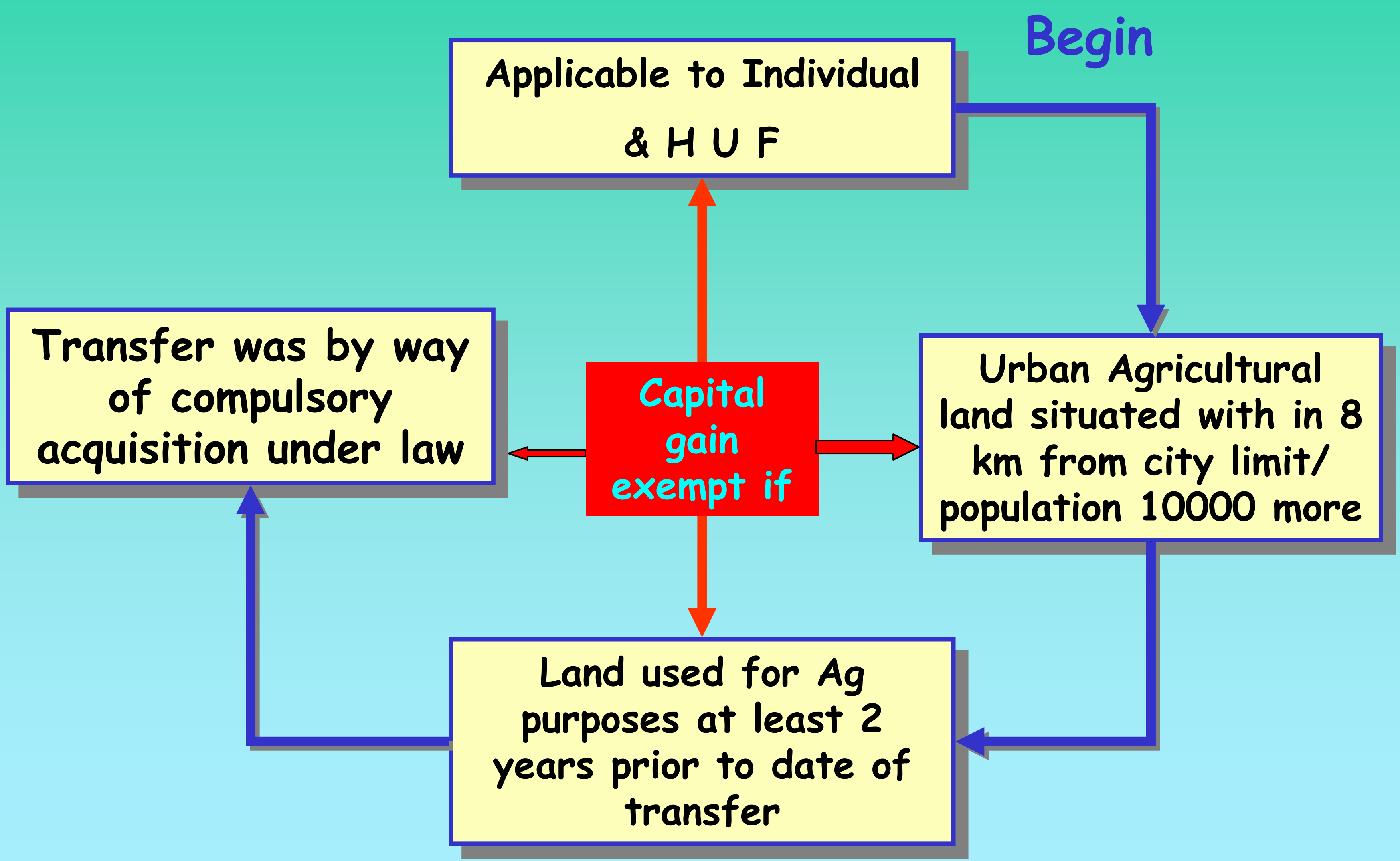
Transfer of units of UTI. - Sec 10(33)

- Transfer of capital asset being Units under UTI 1964 if transfer takes place after 1.4.2002

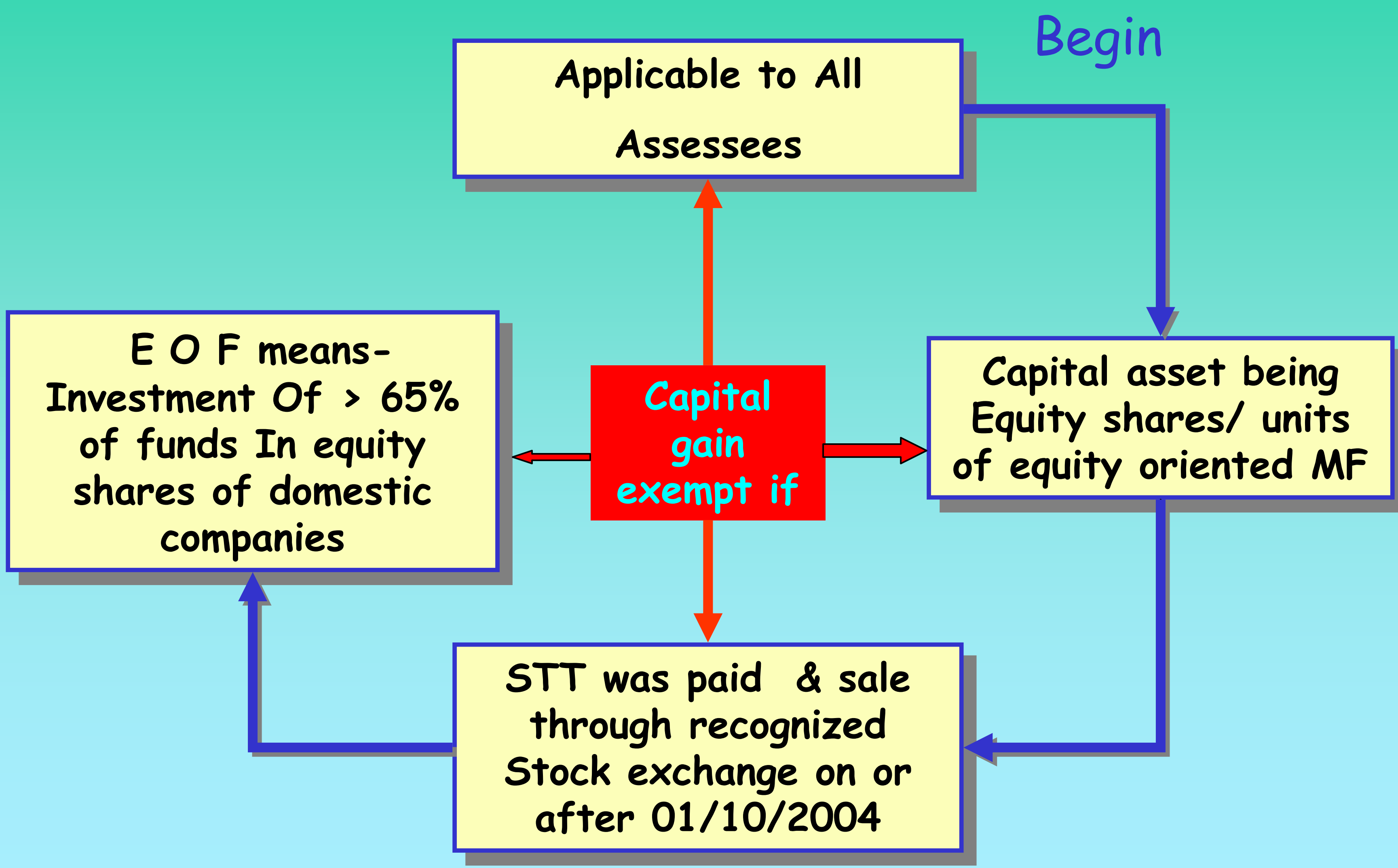
Transfer of Listed BSE 500 Equity Shares - Sec 10 (36)

- Capital gain on listed equity shares purchased after 1.3.2003 but before 1.3.2004, (BSE 500 index)
- if transaction purchase and sale entered through recognized stock exchange in India
- provided period of holding is more than 12 months

Capital Gain on Transfer of urban Agricultural land - on compulsory acquisition Sec 10 (37)



Capital Gain on Transfer of Equity shares /Units of MF Sec 10 (38)



Capital Gains from Transfer of a Residential House (Sec. 54)

Sr. No	Particulars	Particulars
1	Applicable	Individual & HUF
2	Nature of capital Assets	L T CA being Residential house property where income chargeable under H P
3	What to Invest to get exemption	Amount of Capital Gains
4	Mode of Investment:	Investing in New residential House+ Deposit in C G Scheme
5	Time Limit for investment/utilization of C G scheme money	Purchase with in one year before two years after/ Construction with in 3 years from the date of transfer
6	Quantum of Exemption	Investment or Capital Gain Which ever is less
7	Other Conditions	New house should not be transferred for a period of 3 years

Capital Gains from Transfer of a Urban agricultural Land (Sec. 54 B)

Sr. No	Particulars	Particulars
1	Applicable	Individual
2	Nature of capital Assets	L T CA/STCA being urban agricultural land
3	What to Invest to get exemption	Amount of Capital Gains
4	Mode of Investment:	Investing in New Ag land+ Deposit in C G Scheme
5	Time Limit for investment / utilization of C G scheme money	Purchase with in two years after from the date of transfer
6	Quantum of Exemption	Investment or Capital Gain Which ever is less
7	Other Conditions	Use of ag land at least 2 years for ag purpose before transfer New Ag land should not be transferred for a period of 3 years

Capital Gains from Compulsory Acquisition of Industrial Undertaking (Sec. 54D)

S.N	Particulars	Particulars
1	Applicable	All Assessee
2	Nature of capital Assets	L T CA/STCA being the land/building of Indl. Undertaking compulsory acquisition
3	What to Invest to get exemption	Amount of Capital Gains
4	Mode of Investment:	Investing in New land/building + Deposit in C G Scheme
5	Time Limit for investment / utilization of C G scheme money	Purchase with in three years after receipt of Compensation
6	Quantum of Exemption	Investment or Capital Gain Which ever is less
7	Other Conditions	Transferred l & B used by assesse for industrial purpose at least 2 years before transfer New land building used for the purpose of indl undertaking & should not be transferred for a period of 3 years

Exemption Capital Gains for investment in Rural Development and Development of Highways (sec. 54EC)

SN	Particulars	Particulars
1	Applicable	All Assessee
2	Nature of capital Assets	Any L T CA
3	What to Invest to get exemption	Amount of Capital Gains
4	Mode of Investment:	Investing in 3 years Bonds of NHAI, REFC + C G Scheme Maximum limit Rs. 50 Lakhs
5	Time Limit for investment / utilization of C G scheme money	with in six months from the date of transfer
6	Quantum of Exemption	Investment or Capital Gain Which ever is less
7	Other Conditions	New bonds should not be transferred for a period of 3 years

Capital Gains from an Asset Other Than Residential House (Sec. 54F)

SN	Particulars	Particulars
1	Applicable	Individual & HUF
2	Nature of capital Assets	L T CA Other than Residential house property
3	What to Invest to get exemption	Amount of Net Consideration
4	Mode of Investment:	Investing in New residential House+ Deposit in C G Scheme
5	Time Limit for investment / utilization of C G scheme money	Purchase with in one year before two years after/ Construction with in 3 years from the date of transfer
6	Quantum of Exemption	If Investment is less than Capital Gain exemption will be Cost of New Asset x C G/ N C
7	Other Conditions	Assessee should not own more than one residential house/Should not buy or construct New house should not be transferred for a period of 3 years

Capital Gains from Shifting of an Industrial Undertaking from Urban Area to Rural Area (Sec. 54G)

SN	Particulars	Particulars
1	Applicable	ALL Assessee
2	Nature of capital Assets	L T CA/STCA being land building Machinery of Indl. Undertaking
3	What to Invest to get exemption	Amount of Capital Gains
4	Mode of Investment:	Investing in New land building Machinery + shifting exp+ Deposit in C G Scheme
5	Time Limit for investment / utilization of C G scheme money	Purchase with in one year before/ 3 years after from the date of transfer
6	Quantum of Exemption	Investment or Capital Gain Which ever is less
7	Other Conditions	New Assets should not be transferred for a period of 3 years

Capital Gains from Shifting of an Industrial Undertaking from Urban Area to SEZ Area (Sec. 54G A)

SN	Particulars	Particulars
1	Applicable	ALL Assessee
2	Nature of capital Assets	L T CA/STCA being land building Machinery of Indl. Undertaking
3	What to Invest to get exemption	Amount of Capital Gains
4	Mode of Investment:	Investing in New land building Machinery + + Deposit in C G Scheme
5	Time Limit for investment / utilization of C G scheme money	Purchase with in one year before/ 2 years after from the date of transfer
6	Quantum of Exemption	Investment or Capital Gain Which ever is less
7	Other Conditions	New plant machinery land building should not be transferred for a period of 3 years

Capital Gains scheme

- To whom it is Applicable: The scheme is open to all tax – payers who wish to claim exemption u/s 54, 54B, 54D, 54F, 54G & 54 GA. 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.
- The deposit should be made with 6 months from the end of previous year or before due date for filing of R O I which ever is earlier
- Utilization of amounts withdrawn, the amount withdrawn must be utilized within 60 days, for the purposes specified under the relevant section. Unutilized amount should be redeposit.
- If the amount cannot be utilized for specified purpose within specified time, the capital gains attributed to unutilized amount shall be treated as capital gains of the previous year in which the specified period expires.
- 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.

Reference to valuation officer Sec 55 A

Assessing Officer can refer to valuation officer To determine Value of asset

If value of Asset Was estimated By Registered Valuer

If estimated value Is less than FMV of asset

Other Cases

FMV > by Rs25,000 Than declared value FMV > by 15% of declared value

The value determined by Valuation officer will binding on the Assessing Officer.

Example for reference

- Declared Value Rs. 1, 00,000 Fair Market Value Rs. 1,20,000
- Since FMV is exceeding by more than 15% of Declared value, hence Assessing Officer will refer matter to valuation officer.

Declared value Rs. 5,00,000 Fair Market Value Rs. 5,50,000 Here criterion to refer the matter to valuation officer is F.M.V. is greater by Rs. 25,000 than Declared value.

Capital Gains

- **Tax on short term capital gains in certain cases – Sec. 111 A**

- Where the an assessee has an income of short term Capital gains", arising from the transfer an equity share in a company or a unit of an equity oriented fund and—

- If the transaction takes place on or after 1.10.2004 and transaction suffer STT

- Tax payable on such gains will @ 10%;

- In case of resident individual/HUF if the basic exemption is not exhausted, gain exceeding the limit will be chargeable @ 10%
- No deduction under Chapter VI A

Tax on long term capital gains - Sec 112

- Chargeable to tax at Flat rate of 20%
- No deductions under Chapter VI A
- In case of resident Individuals and HUF, if the basic exemption is not exhausted by any other income, then Long-term capital gains will be reduced by unexhausted basic exemption limit and balance will be taxable only at 20%.
- In case of listed securities 20% with index or 10% without index at the option of Assessee
- .

- *CBDT Circular No.721 dated 13.09.1995*
- If there is a loss from any source of Income or any other head of income, which is eligible to setoff,
- such loss can be set off against long term Capital gain and balance can be taxed after considering the basic exemption:

Listed securities

- listed securities" means the following securities listed in recognized Stock exchange in India
- Shares, scrip's, stocks, bonds, debentures debenture stock and other marketable securities of like nature
- Government Securities
- Rights or interest in Securities.

End of Chapter

Income from Other Sources

Charging Section
Sec 56 (1)

There is an income

↓

Income is not exempt
From tax

↓

Such income is not
Chargeable under
Salary, HP. PGBP & Capital gains

Charging Section
Sec 56 (2)- list of incomes

Dividends declared paid by foreign company/Dividend Paid out of India by domestic company

Any Winning from: Lottery, Race including horse races, Crossword Puzzles Card games, (including television game shows Gambling and betting

Any sum received from Employees towards contribution to any Provident Fund (PF) and Employees State Insurance (ESI)

Interest on Securities if it is not charged under Income from business or Profession

Charging Section
Sec 56 (2)- list of incomes

Letting out of plant and machinery (if not chargeable under PGBP

Income from letting or hire any building in which plant and machinery is situated and letting of building is inseparable from letting of plant and machinery

Sum received from Key man Insurance Policy including bonus if
•such some is not chargeable under head Salaries or PGBP

Sum of money in excess of Rs.50000/- received without consideration. (Gifts)

Income from Other Sources

Illustrations for Income chargeable under other sources u/s 56(1)

- Agricultural Income from land situated outside India
- Any amount received by an employee from a person other than his employer i.e. (a) Examination remuneration,
- Income from sub-letting of a house property; Ground rent;
- Income from services rendered as writer or examiner due to non-professional assessee such as examination remuneration to a teacher
- Royalty income; Income from fisheries;
- Interest on securities of foreign authorities;
- Causal Income;
- All kinds of interest received except provided u/s 56(2)
- Family Pension received by the legal heirs of employee,
- clubbed income etc.
- Deemed Incomes.

Income from Other Sources

Meaning of Dividends

- It is the amount paid by a company to its shareholder in proportion to their shareholding in the company.

Forms of Dividends:

- Dividends payable in form of shares is know as 'CAPITAL BONUS' or 'CAPITAL DIVIDEND' and shares received as such are called 'BONUS SHARES'

..

Income from Other Sources

Definition u/s 2(22) of I.T.Act 1961.

The following distributed to share holders out of accumulated profits whether capitalized or not are included in dividend:

- Any distribution if it entails the release of all or any part of its assets;
- Any distribution of debentures, debenture stock or deposit certificate in any form, whether with or without interest
- Any distribution of bonus shares made by a company
- Any distribution made by a company on its liquidation to the extent to which the distribution) of the company immediately before its liquidation;
- Any distribution by a company to its shareholders on the reduction of its capital

Deemed dividend sec 2(22) e

- Any payment by way of loan or advance
- made by a closely held company to a shareholder
- who is the beneficial owner of at least 10% equity shares of the company, or
- to any concern (HUF, Firm, Company, AOP or BOI), in which such shareholder is a member or a partner or has substantial interest (beneficial owner of at least 20% profits of the concern), or
- any payment by any such company on behalf of or for the benefit of such shareholder, to the extent of the company's accumulated profits

Income from Other Sources

Exemption of Dividend declared or distributed after 31/3/2003

- It is not taxable in the hands of shareholders.
- On such dividend the company declaring dividend will pay dividend tax u/s 115.O. And, no tax will be deducted at source
- Where a loan or advance is given after 31/3/2003, which is deemed as dividend u/s 2(22) (e), then such loan or advance is taxable u/s 56 as "dividend" in the hands of recipient without claiming any deduction . Tax at source will be, deductible.

Income from Other Sources

Taxation of Casual Income :(Winning from Lotteries, Crossword Puzzles, Races, Horse Races, Card Games, Gambling, T V programmes etc.) Sec 115BB

- Such income will be charged at Flat rate of 30%
- No deduction from in computing the income
- No deductions from Gross Total Income

Income from Other Sources

Interest on Securities

Definition of Security

- 'Security' is a documentary evidence of a debt which is issued by a debtor in favour of his creditor
- in which the amount of loan, rate of interest, conditions for the repayment of loan and the time of repayment is specifically and clearly noted and
- which is signed by the debtor himself or any other person authorized in his behalf

Income from Other Sources

Interest on Securities Sec. 2(28B)

- Interest on securities of the Central Government or a State Government:

Interest on debentures or other securities for money issued by or on behalf of:

- a local authority,(such as Municipality, Municipal Corporation, District Board, Post Commissioner, Improvement Trust or Cantonment Board etc).;
- a company, trading or non-trading, private or public or a Government company etc).; or
- corporation established by a Central, State or Provincial Act(such as debentures or securities issued by LIC, GIC and IFC etc.)

Income from Other Sources

Securities not Included Under the head Securities definition But Chargeable Under IFOS

- Interest on securities issued by a foreign government;
- Interest on securities issued by a local authority of a foreign state;
- Interest on securities issued by an individual, a firm or a HUF;
- Interest on bank deposits and Other loans;
- Interest on debentures issued by a Land Mortgage Bank or a co-operative society;
- Interest on company deposits;

Taxability of Interest on Securities

- Securities held as stock in', interest chargeable Under PGBP
- Securities held as investments interest chargeable under IFOS'.
- When ever tds has been deducted, tds amount to be added back to arrive gross amount of interest for tax purpose.

Income from Other Sources

Taxation of Gifts in the hands of receiver:

- Gifts received in cash in Aggregate in excess of Rs.50000(inserted with effect from 13.07.2006) {The limit was Rs. 25000 from 1.09.2004 to 12.07.2006} taxable as income under IFOS
- Where any sum of money in aggregate exceeding Rs.50,000 is received without Consideration, the whole of such sum shall be chargeable to tax

Taxation of Gifts in the hands of receiver :

Exception
(Non taxability)

Gifts received
In cash
Aggregate
Rs, 50000/-
In a previous
Year
Taxable
As IFOS

- From any relative;
- On the occasion of the marriage of the individual;
- Under a will or by way of inheritance;
- In contemplation of death of the payer.
- any sum of money received by any local authority u/s 10(20)
- any sum of money received By 10(23C) Institutions
- any sum of money received by any trust or institution registered under section 12AA.

Important Consideration with regard to Gifts

Applicable to individual and Huf, including Nonresident individual and Huf

Gifts received from relatives irrespective of occasion are outside the tax purview

Sum of money includes cheque, drafts, FD, NSS Certificates etc).

Gifts on the occasion of marriage is exempt, but it appears gifts on occasion of festivals, birthday and on other family functions is taxable

Important Consideration with regard to Gifts

Gifts in kind will not cover.

Aggregation provision will apply. the Limit of Rs 50,000 is applicable for receipt from all the persons in a financial year

It is important to note gifts received in excess of Rs 50,000/ entire amount is taxable and not the excess amount of Rs. 50,000/

The words" Consideration" and" in contemplation of death" should be understood from Indian Contract Act and Indian Succession Act

Income from Other Sources

Examples of Income chargeable under the head of income from other Sources

- Reimbursement of taxes on salary – Z Zizlaw Skakuz Vs. CIT 158 ITR 420 (AP);
- Interest on employees' contribution to un recognized provident fund - CIT Vs. Hyatt 80 ITR 177 (SC).
- Interest on bank deposits of idle business funds – Collis Line P. LtJ. Vs. ITO 135 ITR 390 (Ker.);

Examples of Income chargeable under the head of income from other Sources

- Interest on deposit of share capital in bank before commencement of business – Traco Cable Co. Ltd. Vs. CIT 72 ITR 603 (Kar.);
- Interest on realizations put by liquidator of company in fixed deposits – Vijay Lakshmi Sugar Mills Ltd. Vs. CIT 86 ITR 402 (All.);
- Salary due to MP, MLA's – Circular of CBDT No. 40/29/67/IT (A-1) of 22/05/67;
- Compensation received for use of business assets – Sultan Bros. Vs. CIT 51 ITR 353 (SC)
- Rent received from leasing out trade-mark – CIT Vs. Lal Chand Jain ITR 65 (Del.)
- Income by way of gratuity of non-employee director of a company – CIT Vs. L.A. Smith 14 ITR 606 (Bom.).

Income from Other Sources

Deductible Expenses from Other Sources Income U/S 57

In the case of dividend income and interest on securities:

- any reasonable sum paid by way of remuneration or commission for the purpose of realizing, dividend and collection charges paid,
- Interest on borrowed capital if required for investment in shares or securities.

Income from Other Sources

In the case of income from machinery, plant or furniture let on hire:

- Current repairs to building u/s Sec. 30(a) (ii);
- Current repairs to machinery, plant of furniture and insurance premium u/s Sec. 31;
- Depreciation on building, machinery, plant or furniture u/s Sec.32; and **(iv)** Unabsorbed depreciation u/s Sec.32(3).
- Premium of the insurance against risk of damages and destruction of the premises.
- Any other expenditure (not being a personal or capital expenditure) expended wholly and exclusively for the purpose of earning such income.

Income from Other Sources

In case of income in the nature family pension:

- Rs.15,000 or 33.33% of such income whichever is less.

In case of amount received from Employee's towards contribution to any fund

- the amount credited by assessee to the employee account before the due date.

In case of income from horse races

Any allowance or expense in connection with income from horse races, spent in the activity of owning and maintaining such horses.

Income from Other Sources

- Any other expenditure expended wholly and exclusively for making or earning such income under the following conditions

The expenditure must have been incurred solely and exclu-sively for the purpose of earning income or making profit.

- The expenditure should not be in the nature of a capital expenditure.
- The amount in question should not be in the nature of personal expenses of the assessee.
- The expenditure should be incurred in the accounting year.
- There must be a clear nexus between the expenditure incurred and the income sought to be earned.

Income from Other Sources

CBDT Circulars:

- Salary received by an M.P. will not be chargeable to income tax under the head 'Salaries' but as 'Income from other sources' under section 56 Letter : F. No. 40/29/67-IT(A-I), dated 22-5-1967.
- Interest on cumulative deposit schemes –
- Interest on cumulative deposit schemes of Government undertak-ings should be taxed on accrual basis annually. Circular : No. 371, dated 21-11-1983
- .

Income from Other Sources

- Interest on cumulative deposit schemes of private sector under-takings should be taxed on accrual basis annually.Circular:No.409[F.No. 178 / 2/85-IT(A-I)],dated12-2-85.
- Gross dividend is taxable –
- The gross dividend (net dividend plus the tax deducted at source) receivable by the registered shareholder on behalf of the beneficial shareholder will be assessed in the hands of the latter as 'income from other sources' in the year in which it is declared, distributed or paid. Circular : No. 3 dated 30-3-1967. Circu-lar : No. 648, dated 30-3-1993.

Expenditure Not Deductible (Sec 58)

Personal expenses

Expenditure in connection with any income tax proceedings before any income tax authority, Tribunal or Court-

wealth tax

No deduction for Any expenses or allowances for the income winnings from lotteries, etc

- Not applicable for owner of horse races

Interest payable outside India without deducting TDS irrespective whether there is a person in India who may be treated as agent Of N R I

Salary payable outside India on which no tax has been paid or deducted at source

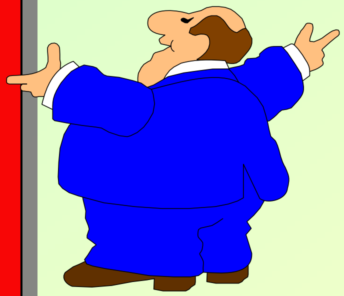
Any amount u/s 40A (2).

Taxation of anonymous donations
Sec 115 BBC

New section applicable from 01.04.2006

Meaning

Any voluntary contribution where, the recipient has not maintained a record of the identity of the contributory or donor indicating his name and address and other particulars as may be prescribed



Applicable:

- Sec 10(23)C institutions other than financed by Govt.
- Fund or institution established for other than charitable purposes
- Notified Trust (including legal obligation) or institution only for public religious purposes

Not Applicable:

- Scientific institutions 10 (21).
- Fund or institution established for charitable purposes
- Trust created wholly for charitable & religious purposes

Anonymous donations

- No exemption even applied for objects
- Anonymous Corpus donations are also taxable
- For ascertaining 85% of income Anonymous donations are to be excluded since they are separately taxed and not eligible for the exemption.
- Anonymous donations, which are taxed, can be accumulated without any limit, since the tax has already been paid
- Anonymous donations will have to be invested in the manner stipulated in sections 11 to 13 or the other applicable provisions of the Act, so that the trust is able to retain the exemption in respect of its other income.

- *Rate of tax* –
- Flat rate 30%+ SC+ EC

Tax Avoidance and its Prevention

Bond Washing Transactions & its Prevention [Sec.94 (1)

- Merely a paper transaction by which a security is alleged to have been transferred whereas in fact it is not so.
- Securities are neither given nor taken back.
- (HIG Class) assessee sells their securities to their kith & keens few days before the due date and takes back after the due date is over.
- Thee transferee becomes the owner of securities on the due date of interest and interest received on such securities becomes taxable in the hands of transferee.

Bond Washing Transactions & its Prevention [Sec.94 (1)

- When transferee (LIG Class) whose income is below taxable limit, either does not pay income tax or pays at a very low rate as compared to the transferor. The transferor may reimburse the tax payable by the transferee.
- Bond-washing transactions reduce the tax-liability of an assessee. This is termed as 'avoidance of tax'.
- In such cases sec 94(1) provides, the income from such security will be deemed to be the income of the transferor and not to the income of the transferee.

Tax Avoidance and its Prevention

Cum-interest Sale of Security & its Prevention Sec. 94(2)

- Interest on securities does not accrue from day to day, but it accrues on certain fixed dates.
- When securities are purchased cum-interest, the price paid includes net accrued interest from the last due date of interest to the date of purchase.
- But the purchase is entitled to pay tax on the entire interest due to him on the next interest date, as he is the legal owner of such securities on such date.

Cum-interest Sale of Security & its Prevention Sec. 94(2)

- Thus, the seller of cum-interest securities is not chargeable to tax on the amount he receives from the purchaser as net accrued interest, and he escapes from his tax-liability on such interest.
- As per Section 94(2) then, the income from such securities for such year (not income up to the date of transfer) shall be deemed to be the income of the transferor

Zero Coupon Bonds

Bonds notified by the Govt.

Issued on or after 01.06.2005 by

Infrastructure Capital Company/
Infrastructure Capital Fund/
Public sector company

No payment or benefit received
Before Maturity

Taxability of ZCB

Issuer of Bond

- Deduction for discount will be allowed on prorata during the life of bond sec 36
- No TDS is to be deducted on maturity payment

Investor (buyer) of bond

- Held as stock in trade- PGBP
- Held as Investment Capital gain
- Long term or short term depend upon the period of holding and taxed accordingly

CLUBBING OF INCOME Sec 60

Transfer of Income → Without transferring Asset

↓

Income taxable In the hands of Transferor

CLUBBING OF INCOME Sec 61

Transfer of Income by → Revocable transfer of Asset

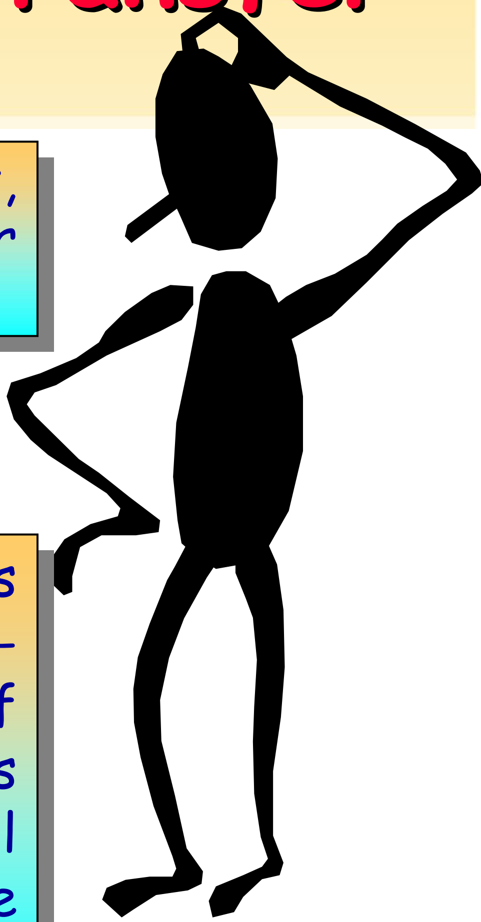
↓

Income taxable In the hands of Transferor

Transfer and revocable transfer

Transfer means → any settlement, trust, covenant, agreement or arrangement

Revocable Transfer means → any provision contains whole or part re-transfer of income/asset or gives right to Resume Control of income/asset to the transferor



revocable transfer, does not include

Revocable Transfer Does not Include

- In case of transfer by trust → Trust not revocable during Life time of beneficiary
- In other cases → Trust not revocable during Life time of transferee, unless until the power to revoke transfer arises

Taxability of income in the hands of transferee

Income taxed In the hands Of transferee

Non revocable trusts/tranfers (trust is not revocable during the life time of beneficiary

Transferor does not derive any direct/indirect benefit from such income

CLUBBING OF INCOME

Income to Spouse by way of Salary, Commission, and Fees etc. from the concern sec 64(1) (ii)

Conditions:

- If such receipt is made from the concern in which the individual assesses has substantial interest.

What is substantial interest:

- if he along with his relatives, holds at least 20% voting power (in a company) or has at least 20% share in profits of the concern.

Who's Income to be included:

- The spouse having greater income before such income

Exceptions (When not clubbed):

- When spouse possesses technical or professional qualification, and
- Income is attributable to these qualifications and experiences.

CLUBBING OF INCOME

Income from Asset Transferred Without Adequate Consideration by an Individual to Spouse Sec. 64(1)(iv

- Any income arising to spouse out of assets (Other than house property) transferred for inadequate Consideration
- Any interest on the Capital funded by individual to spouse will also be clubbed
- If the asset is invested in business prorated interest/income out of spouse total income from the income will be clubbed (spouse income from business x investment of gifted assets/ total spouse investment in business)
- Clubbing will apply even the asset converted in to different form

Exception (No clubbing)

- Transfer in agreement to live apart
- Transfer with adequate consideration
- Pre marital transfers(NO relationship at the time of income accrual and at the time of transfer)
- Income earn out of income
- Any accretion to assets
- transfer of asset by Karta of HUF his wife(coparcener)
- Income of wife out of her pin money (savings of house hold expenses)
- Bonafide loan/ advance given to spouse

CLUBBING OF INCOME

Similar Provisions will be Applicable when assets transferred for inadequate consideration

- to Son's wife
- To any person or AOP for the benefit of Spouse/son wife

Clubbing of Minor Income

- Clubbed with the parent income whose income is higher before minor income
- Once it is clubbed with one of the parent subsequent years it will be clubbed with the same parent unless A O justifies clubbing with other parent.
- If marriage of the parents does not subsist, in the income of parent who maintains the minor child
- Clubbing of income includes clubbing of Loss

Clubbing of Minor Income

Exceptions (No Clubbing)

- Minor child who is totally blind, mentally retarded, physically handicapped,
- When it is derived through Minor's manual work skill, talent or specialized knowledge and experience.
-

Clubbing of Minor Income

- Minor attained Majority during previous income will be clubbed until date of minority
- any income accruing or arising thereafter shall not be clubbed in the parent's income.

Transfer of Individual Property to HUF u/s 64(2)

- Where any person has converted his own property into the joint family property,
- any income arising to the spouse of such person from such property when received on the partition of the HUF,
- shall be assessed in the hands of the person who originally converted such property into HUF property.

Liability of Person in Respect of Income Included in the Income of another Person u/s 65

- Where the clubbing of income provisions is attracted,
- income of other persons is included in the total income of the assessee.
- the actual recipient of income is liable, on the service of notice of demand, to pay the tax assessed in respect of income included in the income of other person (where the Income Tax Officer so desires)

Cash credit etc

- **The following transactions will be treated as income of the assessee in the previous year in which they have occurred, when Assessee offers no explanation or offer explanation which is not satisfactory in the opinion of A O**
- Cash Credits in the books sec 68
- Unexplained investment which are not recorded in the books sec 69
- Unexplained Money – Sec. 69A assessee is found to be the owner of any money, bullion, jewellery or other valu-able article and such money, bullion, jewellery or valuable article is not recorded in the books of account
- Amount of investments not fully disclosed in books of account – Sec. 69B (recording at less Value) – The difference between the value and amount recorded
- Unexplained Expenditure – Sec. 69C – (Such expenditure will not be allowed as deduction under any head of income)

Amount borrowed or repaid on hundi – Sec. 69D

- Where any amount is borrowed on a *hundi* from,/or repaid amount due on hundi otherwise than through an account payee cheque drawn on a bank, the borrowed amount repaid amount shall be deemed to be the income for the previous year in which the amount was borrowed or repaid
- The amount repaid shall include the amount of interest paid on the amount borrowed.
- Once it was treated as income at the time of borrowed again it will not be taxed at the time of repayment

Set off and carry forward of Losses

Treatment of Losses (Set off) in Same AY

Loss from Business Other than Speculation Sec 72 →	Any head except Salaries
Unabsorbed Depreciation Sec 32 →	Any head except Salaries
Loss From Speculation business Sec 73 →	Only Speculation Profit
Loss from Short term Capital gains Sec 70/74 →	Short term/Long term Capital gains

Set off and carry forward of Losses

Treatment of Losses (Set off) in Same AY

Loss	Set off against
Loss from Long-term capital gain Sec 74	Only Long term Capital gain
Loss from house Property Sec 71 B	Any head
Loss From owning and Maintaining horse races	Only Profit from owning and Maintaining horse races
Loss from IFOS (Except All Winnings)	Any Head (No carry forward)

Once Losses are Carry forward to Next year I.e. (All brought forward losses) Set off against same Head of Income

Set off and carry forward of Losses

Time Limit to carry forward

Loss from Speculation business/ Loss from Owning and maintaining Horse races	4 A Y S
Loss from Business/ Loss from Capital gains/Loss from Capital gains	8 A Y S
Unabsorbed Depreciation	No time Limit
Loss from IFOS	Cannot be carry forward

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Steps in Setoff the Losses

1. Intra Head Adjustment

2. Inter Head Adjustment

3. Carry forward to Next Year. In case of Business Loss, Capital gains loss. Return of Income is to be filed in due date

4. Set off loss in next year in the same head after step 1

Example - A Y 08-09

Loss from Business A Rs. 10 lakhs

Profit from Business B Rs. 15 Lakhs

Loss from House property 8 lakhs

Step 1. Intra head adjustment

Net Income from Business =15-10 = 5 lakhs

Step 2 Inter head adjustment

Adjust loss from H P against business income to the extent of Rs. 5 lakhs.

G T I A Y 08-09 -NIL

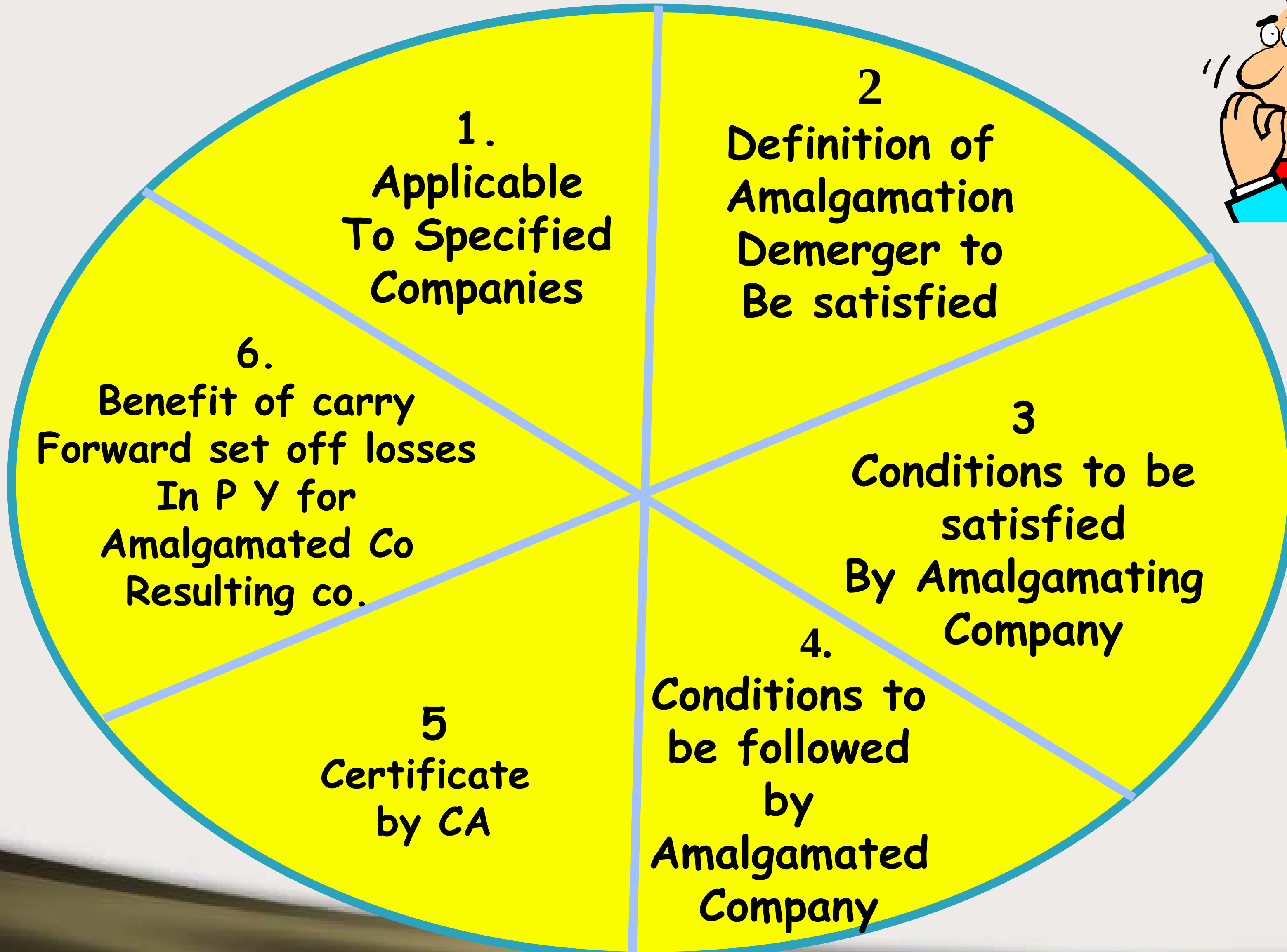
Step 3- Carry forward of Loss

House property Rs. 3 lakhs to AY 09-10

The effect of depreciation, business loss should be given in the following order

- Current year's Depreciation
- Unabsorbed Business loss
- Unabsorbed Depreciation

Set off /carry forward losses in case of amalgamation demerger sec 72 A

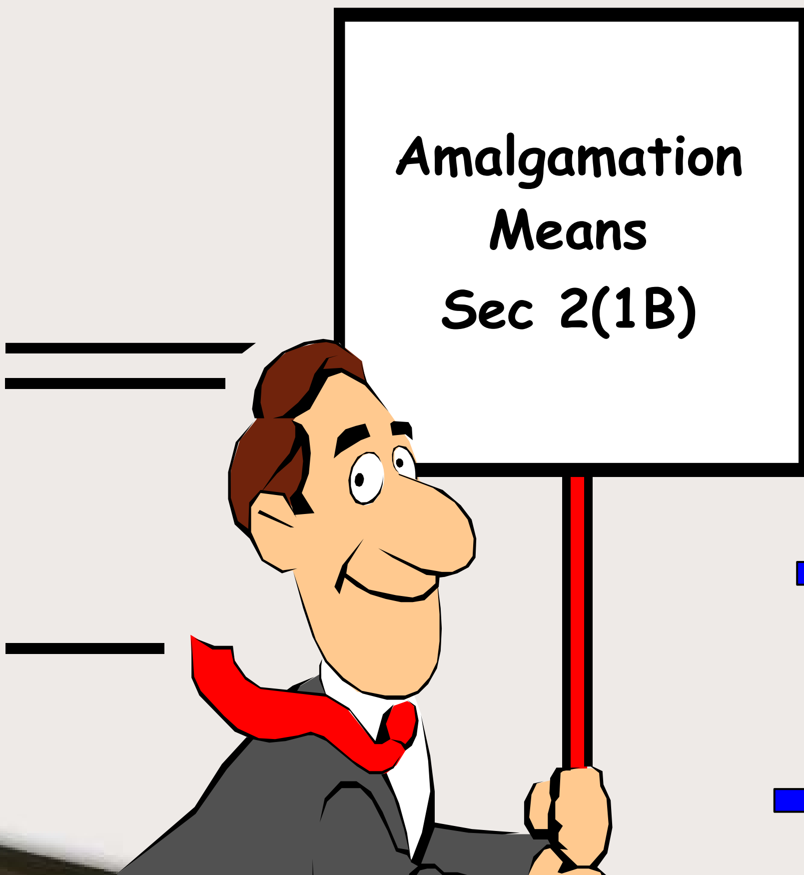


Applicable

any undertaking which is engaged in

- the manufacture or processing of goods
- computer software;
- the business of generation or distribution of electricity or any other form of power;
- the business of providing telecommunication services
- mining;
- the construction of ships,
- aircrafts or rail systems
- Hotel, Shipping Company
- Banking Companies and
- Air lines

- Other than the Specified list
- Not eligible to get the benefit
- Example Companies in Retail sector



merger of either one or more companies with another company

merger two or more companies To form another company

All Assets and Liabilities of Amalgamating Co should become Assets and Liabilities of Amalgamated Company

Share Holders getting 75% Value of Amalgamating Co should become share holders of of Amalgamated Company

Demerger Means

Sec 2(19AA)

All Assets and Liabilities of Undertaking should become Assets and Liabilities of resulting Company

All Assets and Liabilities of Undertaking should transferred At book value (Except in case of revaluation_)

Resulting company issued to share Holders on proportionate basis

Share Holders minimum 75% Value of undertaking Co should become share holders of resulting Company

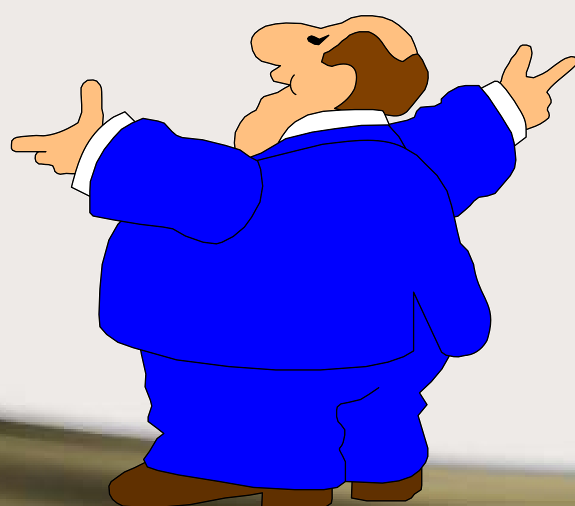
Transfer of under taking is as Going concern basis

The demerger is for genuine business purpose

Conditions to be satisfied by the amalgamating company

Existence of business 3 or more year where Losses remains unabsorbed,

Hold continuously as on the date of the amalgamation at least three-fourths of the book value of fixed assets held by it two years prior to the date of amalgamation;



Conditions to be followed by Amalgamated/resulting Company

Hold continuously for
A period of 5 years
At least 75% of B V of
Fixed asset acquired in
scheme

Continues the Business of amalgamating company for a period of 5 years.

The amalgamated Company shall achieve the level of Production at least 50% of installed Capacity (as on the date of amalgamation) with in 4 years from the date of amalgamation and

maintain the minimum level of production for a period of 5 years.

Amalgamation is for Genuine business purpose

A report from CA Certifying that Conditions fulfilled in form No 62.

Ascertainment of losses of undertaking in case of demerger

Loss of undertaking Separately Ascertainable → Such ratable/Ascertained Loss can be carry forward

Loss of undertaking Not known Separately → Loss can be carry forward Based on prorate of Fixed Assets

↓

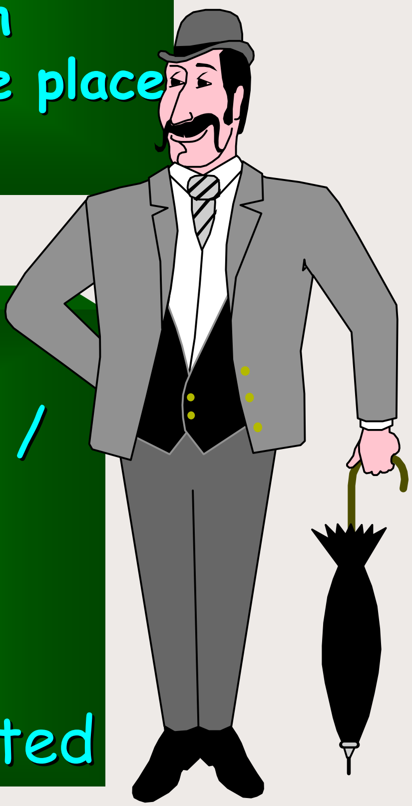
$$\text{Loss of the company} \times \frac{\text{FA of Utk. sold}}{\text{Total F A of the co.}}$$

Benefit of Amalgamation demerger

Accumulated Losses of Amalgamating company = Accumulated Losses of Amalgamated company /Resulting Company in P Y in which Amalgamation/demerger take place

Subsequent Violation of conditions

Losses so set of by Amalgamated company / Resulting company Will be deemed to be income in P Y in which conditions violated



Set off of losses in case of amalgamation demerger of cooperative banks 72 AB

New section introduced by Finance Act 2007.
Which provide for Merger of cooperative Banks with the Cooperative Bank

The conditions and other things are similar to Sec 72 A

Carry forward and set off of losses in the case of closely held companies. Sec 79

Condition

Persons holding not less than 51% of the voting power on the last day of the previous year which loss was incurred continue to hold the same voting power on the last day of previous year which losses were to be setoff.

Exceptions

1. The death of a shareholder or
2. transfer of shares by way of gift to any relative of the shareholder
3. Change in shareholding of Indian company which is subsidiary of foreign Company, due to amalgamation/demerger provided that 51% of share holders continue remain in the shareholders of amalgamated company/ resulting company.

Condition is applicable only to setoff Business loss And not for unabsorbed depreciation

Carry forward of loses in case of conversion of proprietor ship and firm in to company

Conditions laid under 47 transactions not
Regarded as transfer should on conversion should
Be complied

Any subsequent violation of conditions
The losses so set off will be deemed to be
The income in the year of violation of condition

Loss in case of change in constitution of firm

The firm can carry forward loss only
the loss of retiring partner
only his share of loss exceeding his share of profit.

Total Loss to be set off against profits	Rs 4,50,000
	============
Share of loss of retiring partner out of above	150000.
Less: share of retiring partner profit	80000.

Excess share of loss of retiring partner over his Profit	70000

The loss that the carry forward and set off the firm
= 4,50,000-1,50,000+70,000 = Rs.3,70.000

Loss in case of Succession of firm

- No carry forward of losses in case of Succession of firm
- Successor firm cannot carry forward the losses of predecessor firm

Where succession was by way of inheritance

- Successor firm can carry forward the loss, provided , the successor, can continue predecessor business

End of Chapter