LESSON 3
INCOME EXEMPT FROM TAX

Ms. Monica Singhania

STRUCTURE

3.0 INTRODUCTION

However, every income is taxable under income tax law, whether it is received in cash or in kind, whether it is capital or revenue income, but still some incomes are given exemption from tax. In this lesson we will study those incomes which are exempt from tax.

3.1 OBJECTIVES

After going through this lesson you should be able to understand the various incomes which are exempt from tax.

3.2 INCOME EXEMPT UNDER SECTION 10

In the following cases, income is absolutely exempt from tax, as it does not form part of total income.

The burden of proving that a particular item of income falls within this section is on the assessee.

3.3 AGRICULTURAL INCOME

As per section 10(1), agricultural income is exempt from tax if it comes within the definition of "agricultural income" as given in section 2(*1A*). In some cases, however, agricultural income is taken into consideration to find out tax on non-agricultural income.

3.4 RECEIPTS BY A MEMBER FROM A HINDU UNDIVIDED FAMILY

As per section 10(2), any sum received by an individual as a member of a Hindu undivided family either out of income of the family or out of income of estate belonging to the family is exempt from tax. Such receipts are not chargeable to tax in the hands of an individual member even if tax is not paid or payable by the family on its total income.

Illustration 3.1 - X, an individual, has personal income of Rs. 56,000 for the previous year 2005-06. He is also a member of a Hindu undivided family, which has an income of Rs. 1, 08,000 for the previous year 2005-06. Out of income of the family, X gets Rs. 12,000, being his share of income. Rs. 12,000 will be exempt in the hands of X by virtue of section 10(*2*). The position will remain the same whether (or not) the family is chargeable to tax. X shall pay tax only on his income of Rs. 56,000.

3.5 SHARE OF PROFIT FROM PARTNERSHIP FIRM

As per section 10(2A), share of profit received by partners from a firm is not taxable in the hand of partners.

3.6 CASUAL AND NON-RECURRING INCOME

This exemption is not available from the assessment year 2003-04.

3.7 LEAVE TRAVEL CONCESSION

As per section 10(5), the amount exempt under section 10(5) is the value of any travel concession or assistance received or due to the assessee from his employer for himself and his family in connection with his proceeding on leave to any place in India. The amount exempt can in no case exceed the expenditure actually incurred for the purposes of such travel. Only two journeys in a block of four years is exempt. Exemption is available in respect of travel fare only and also with respect to the shortest route.

3.8 FOREIGN ALLOWANCE

As per section 10(7), any allowance paid or allowed outside India by the Government to an Indian citizen for rendering service outside India is wholly exempt from tax.

3.9 TAX ON PERQUISITE PAID BY EMPLOYER

As per section *10(10CC)*, the amount of tax actually paid by an employer, at his option, on non-monetary perquisites on behalf of an employee, is not taxable in the hands of the employee. Such tax paid by the employer shall not be treated as an allowable expenditure in the hands of the employer under section 40.

3.10 AMOUNT PAID ON LIFE INSURANCE POLICIES

As per section *10(10D)*, any sum received on life insurance policy (including bonus) is not chargeable to tax. Exemption is, however, not available in respect of the amount received on the following policies -

a. any sum received under section 80DD (3) or 80DDA (3);

b. any sum received under a Keyman insurance policy;

c. any sum received under an insurance policy (issued after March 31, 2003) in respect of which the premium payable for any of the years during the term of policy, exceeds 20 per cent of the actual sum assured.

In respect of (*c*) (*supra*) the following points should be noted -

1. Any sum received under such policy on the death of a person shall continue to be exempt.

2. The value of any premiums agreed to be returned or of any benefit by way of bonus or otherwise, over and above the sum actually assured, which is received under the policy by any person, shall not be taken into account for the purpose of calculating the actual capital sum assured under this clause.

3.11 EDUCATIONAL SCHOLARSHIPS

As per section *10(16),* scholarship granted to meet the cost of education is exempt from tax. In order to avail the exemption it is not necessary that the Government should finance scholarship.

3.12 DAILY ALLOWANCES OF MEMBERS OF PARLIAMENT

Clause (*17*) of section 10 provides exemption to Members of Parliament and State Legislature in respect of the following allowances:

Cases	*Nature of allowance*	*How much is exempt*
Case 1	Daily allowance	Entire amount is exempt
Case 2	Any other allowance received by a Member of Parliament under the Members of Parliament (Constituency Allowance) Rules, 1986	Entire amount is exempt
Case 3	All allowances received by any person by reason of his member- ship of any State Legislature or any Committee thereof	Up to Rs. 2,000 per month in aggregate

3.13 FAMILY PENSION RECEIEVED BY MEMBERS OF ARMED FORCES

As per section 10(19), family pension received by the widow (or children or nominated heirs) of a member of the armed forces (including para-military forces) of the Union is not chargeable to tax from the assessment year 2005-06, if death is occurred in such circumstances given below—

a. acts of violence or kidnapping or attacks by terrorists or anti-social elements;

b. action against extremists or anti-social elements;

c. enemy action in the international war;

d. action during deployment with a peace keeping mission abroad;

e. border skirmishes;

f. laying or clearance of mines including enemy mines as also mine sweeping operations;

g. explosions of mines while laying operationally oriented mine-fields or lifting or negotiation mine-fields laid by the enemy or own forces in operational areas near international borders or the line of control;

h. in the aid of civil power in dealing with natural calamities and rescue operations; and

i. in the aid of civil power in quelling agitation or riots or revolts by demonstrators.

3.14 INCOME OF MINOR

As per section 10(32), in case the income of an individual includes the income of his minor child in terms of section 64(1A), such individual shall be entitled to exemption of Rs. 1,500 in respect of each minor child if the income of such minor as includible under section 64(1A) exceeds that amount. Where, however, the income of any minor so includible is less than Rs. 1,500, the aforesaid exemption shall be restricted to the income so included in the total income of the individual.

3.15 CAPITAL GAIN ON TRANSFER OF US 64

As per section 10(33), any income arising from the transfer of a capital asset being a unit of US 64 is not chargeable to tax where the transfer of such assets takes place on or after April 1, 2002. This rule is applicable whether the capital asset (US64) is long-term capital asset or short-term capital asset.

If income from a particular source is exempt from tax, loss from such source cannot be set off against income from another source under the same head of income.

Consequently, loss arising on transfer of units of US64 cannot be set off against any income in the same year in which it is incurred and the same cannot be carried forward.

3.16 DIVIDENDS AND INTEREST ON UNITS

As per section *10(34)/ (35),* the following income is not chargeable to tax—

a. any income by way of dividend referred to in section 115-O [*i.e.*, dividend, not being covered by section 2(*22*) (*e*), from a domestic company];

b. any income in respect of units of mutual fund;

c. income from units received by a unit holder of UTI [*i.e.,* from the administrator of the specified undertaking as defined in Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002];

d. income in respect of units from the specified company.

3.17 CAPITAL GAIN ON COMPULSORY ACQUISITION OF URBAN AGRICULTURAL LAND

As per section *10(37),* in the case of an individual/Hindu undivided family, capital gain arising on transfer by way of compulsory acquisition of urban agricultural land is not chargeable to tax from the assessment year 2005-06 if such compensation is received after March 31, 2004 and the agricultural land was used by the assessee (or by any of his parents) for agricultural purposes during 2 years immediately prior to transfer.

3.18 LONG-TERM CAPITAL GAINS ON TRANSFER OF EQUITY SHARES/UNITS IN CASES COVERED BY SECURITIES TRANSACTION TAX

As per section 10(38), Long-term capital gains arising on transfer of equity shares or units of equity oriented mutual fund is not chargeable to tax from the assessment year 2005-06 if such a transaction is covered by securities transaction tax.

The securities transaction tax is applicable if equity shares or units of equity-oriented mutual fund are transferred on or after October 1, 2004 in a recognized stock exchange in India (or units are transferred to the mutual fund). If the securities transaction tax is applicable, long-term capital gain is not chargeable to tax; short-term capital gain is taxable @ 10 per cent (*plus* SC and EC). If income is shown as business income, the taxpayer can claim rebate under section 88E.

3.19 LET US SUM UP

The lesson discusses in brief few selected income, which are exempt from income-tax in India. The few important in today age include agricultural income, income of minor, family pension; leave travel commission and dividend income.

3.20 GLOSSARY

Deduction: While deduction is available from gross total income, exemptions are not included in gross total income.
Agricultural income from a foreign country: Indian agricultural income is exempt from tax by virtue of section 10(1). Agricultural income from a foreign country is treated as non-agricultural income in India.

3.21 SELF ASSESSMENT EXERCISES

1. Name any five incomes which are exempt from tax.
2. Explain briefly the exemption from income-tax available in the case of a minor child.
3. Discuss the exemption with respect to agricultural income from India
4. Explain briefly the exemption from income-tax available in the case of dividend income received from an Indian company.

3.22 FURTHER READINGS

Income-tax Act, 1961, Taxmann Publications Pvt.Ltd., New Delhi (latest edition).

Singhania, Vinod. K. and Monica Singhania, *Students Guide to Income-tax,* Taxmann Publications Pvt.Ltd., New Delhi (latest edition).