# ***Taxability of Income from House Property***

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# Income from House Property : - Basic

- For income to be chargeable under income from house property the following conditions must be satisfied:
  - There should be a building or land appurtenant thereto;
  - The building or land appurtenant thereto should be **owned *** by the assessee;
  - The property should not be used by the owner for the purpose of any business or profession carried on by him, the profits of which are chargeable to tax.

***ownership includes deemed ownership (refer slide 3)**

- Income from letting out of property in Income from house property
- Income from sub-letting of property is income from other sources

# Income from House Property : - Basic

- Deemed ownership means a person will be treated as the owner of a house property for the purpose of Income tax Act, though legally he is not the owner.

- A person shall be deemed to be the owner of a house property in the following situation:

| Particulars | Amount of exemption |
|---|---|
| Property transferred to spouse **(not being in connection with an agreement to live apart)** | If the property is transferred for inadequate consideration the transferor will be deemed to be the owner of the property transferred |
| Property transferred y to a minor child **(not being a married daughter)** | If the property is transferred for inadequate consideration the transferor will be deemed to be the owner of the property transferred. |
| Impartible estate | The holder of impartible estate shall be deemed to be the individual owner of all properties comprised in the estate |
| Property in a co-operative society | The member of the co-operative society to whom a building or part thereof is allotted or leased shall be deemed to be owner of that building |
| Possession of property u/s 53A of the Transfer of Property Act,1882 | The person in possession of property under section 53A of the Transfer of Property Act,1882 shall be deemed to be its owner |
| Leased property | If the lease is for a period of not less than 12 years the lessee will be deemed to be owner of the leased property **(The above provisions excludes any rights by way of a lease from month to month or for a period not exceeding one year.)** |

# Exemption

# Income from House Property : - Exempt house property income

- Farm houses outside the specified area-section 10 (1);
- Annual value of any one palace of an ex-ruler section 10(19A)
- Buildings owned by an educational institution and Hospital 10(23C)
- House property held for charitable purpose- section 11;
- Buildings owned by a trade union-section 10 (24);
- Buildings owned by a political party in-section 13A;
- Buildings owned by a local authority-section 10 (20); and
- Buildings owned by Approved scientific research institution-section 10(21).

*ownership includes deemed ownership refer slide 3

# Annual Value

# Income from House Property : - Annual value

- Step 1 – Computation of reasonable expected rent

| Particulars | Amount | Amount |
|---|---|---|
| (a) Fair Rent of the House | xxx | |
| (b) Municipal Value of House | xxx | |
| (c) Whichever is more of (a) and (b) | | XXX |
| (d) Standard Rent | | xxx |
| **Reasonable Expected Rent [whichever is less of (c) and (d)]** | | **XXX** |

- Municipal Valuation :- For collecting municipal taxes, local authorities make a periodical survey of all building in their jurisdiction. Such valuation may be taken as strong evidence representing the earning capacity of a building.

- Fair Rent of the Property :- Fair rent of the property can be determined on the basis of a rent fetched by a similar property in the same or similar locality

- Standard Rent :- Standard rent is the maximum rent which a person can legally recover from his tenant under a Rent Control Act.

# Income from House Property : - Annual value

- Step 2 – Computation of Actual rent received or receivable

| Particulars | Amount | Amount |
|---|---|---|
| Actual rent receivable per month multiplied by number of **months for which the property is available for let out** | xxx | |
| Less:- Unrealised rent ( refer note below) | xxx | |
| **Actual rent received or receivable** | | **XXX** |

- Unrealized rent shall be deductible in the hands of the assessee subject to satisfaction of all the below mentioned conditions:
  - The tenancy is bonafide;
  - The defaulting tenant has vacated (left) the property or steps have been taken to force him to vacate the property;
  - The defaulting tenant is not in occupation of any other property of the assessee;
  - Legal proceedings have been initiated to recover unpaid rent or the assessing officer is satisfied that legal proceedings would be useless.

# Income from House Property : - Annual value

- Step 3 – Deduction on account of loss due to Vacancy

| Particulars | Amount | Amount |
|---|---|---|
| (a) Reasonable expected rent (as arrived in slide 7) | xxx | |
| (b) Actual rent received or receivable (as arrived in slide 8) | xxx | |
| (c) Whichever is more of (a) and (b) | | XXX |
| (d) Loss due to vacancy | | xxx |
| **Gross Annual Value** | | **XXX** |
| Less Municipal taxes | | xxx |
| **Net Annual value** | | **XXX** |

- Loss due to vacancy can arise only when the property is ready to be let out but is vacant
  - E.g if a property is occupied by the assessee for part of the year and let out for the remaining part of the year the period for which the property was occupied by the assessee cannot be claimed as vacant
  - Loss due to vacancy shall be computed by multiplying the "**rent for which the property is let out"** with the number of months the property was vacant
- Only Municipal taxes paid by the assessee is deductible
- Municipal taxes is deductible in the previous year in which the payment is actually made by the assesee (i.e municipal taxes is deductible on payment basis)

# Self occupied property

# Income from House Property : - Self occupied property

- Self-occupied property ("SOP") means;
  - ➢ A house occupied by the owner for his own residence, or a house which could not be occupied by the owner for his residence due to his employment, business or profession at a place different than the place where the house is situated and the owner resides at that other place in a building not belonging to him.

  ***(Provided the house is not actually let out during the whole or part of the previous year and no other benefit is derived there from by the owner)***
- The NAV of a SOP is **NIL**.
  - ➢ No Municipal tax deduction available
  - ➢ Standard deduction not available

- If there are more than one house which satisfy the above conditions the assessee may at his option specify on of such house as SOP.
- The annual value with respect to other house or houses shall be determines as if such house or houses have be let out.

# Deduction

# Income from House Property : - Deductions allowed

- Standard deduction : - 30% of NAV **(not available to SOP)**
- Interest payable on capital borrowed for acquisition, construction, repair, reconstruction:
  - Deduction allowed on accrual basis
  - In case of LOP or DLOP the interest expense payable is deductible without limit
  - In case of SOP interest payable is deductible to the extent of:
    - Rs. 1,50,000 if some conditions are satisfied, or
    - Rs. 30,000.
- Pre construction interest:
  - Pre construction interest is deductible in 5 equal installment (for LOP, DLP and SOP) starting from the previous year in which the property is constructed or acquired
  - Pre construction interest means the interest payable / paid for the period starting from the date of loan and ending on 31st March of the year preceding the year in which the property is constructed or acquired
  - In the case of self occupied property the amount of deduction in a previous year for interest (including pre-construction interest ) cannot exceed 1,50,000 or 30,000 as the case may be.

- Interest payable outside India is not deductible unless tax has been deducted at source.
- Interest on loan taken to repay earlier housing loan is allowed as deduction.

# Others

# Income from House Property : - Other concepts

- Unrealized rent realized subsequently:-
  - Rent realized pertains to previous year 2000-01 or before:
    - If it was earlier allowed as deduction from income from house property the entire realized amount will be charged to tax in the year of receipt without any deduction.
  - Rent realized pertains to previous year 2001-02 or after:
    - If the rent realized was allowed as deduction earlier it shall be charged to tax without any deduction.
    - **Shortcut -** If in the year (to which the unrealized rent pertains) actual rent received or receivable was the GAV it means that the entire unrealized rent was allowed as deduction and any such rent realized is fully taxable.
- Arrears of rent received:-
  - It is taxable as income from house property after deduction of **30%** in the year of receipt

* **Unrealized rent realized and Arrears of rent are taxable as income from house property whether or not the assessee is teh owner of the house property in the year of receipt**

Arrears of rent - It means rent pertaining to prior years received in the current year. It could be due to reasons like "Increase in rent with retrospective effect“

Unrealized Rent – The Rent that could not be realized by the owner from his tenant for reasons like absconding of tenant, Insolvency of tenant etc.

# Income from House Property : - Other concepts

- Composite rent:-
  - ➢ Composite rent – When a building has been let out along with the furniture , then such letting out is called composite letting.  As per sec 56(2) , when the rent is inseparable it is to be treated as income from other sources.
- Co ownership of house property:-
  - ➢ Share  of co-owners definite, ascertainable  respective share is taxable in the hands of the co owner.
  - ➢ Share  of co-owners not definite, ascertainable entire income is taxed as the income of AOP.

# Imp hints

# Income from House Property : - Hints

- In a case where the house property is self occupied for part of the year was also let-out for part of the year and was also vacant for part of the year remember the following: **(refer problem 69.1-4p1 on page 226)**
  - The actual rent received or receivable shall be computed for the period during which the property was let out and was vacant.
  - The Reasonable expected rent will be for the entire year
  - Incase municipal valuation or fair rent is not given the actual rent multiplied by 12 will be the reasonable expected rent.
- In a case where the house property is acquired in the middle of a previous year (e.g 1st July) remember the following: **(refer problem 72 p8 on page 243)**
  - In case the annual municipal valuation and annual fair rent is given consider only proportionate i.e from 1July to 31$^{st}$ March
  - The actual rent received or receivable will also be computed for the period 1$^{st}$ July to 31$^{st}$ March

# Thank You