Income from "House Property"
A Complete Revision

(With amendments)

1. Chargeability[Section 22]:

Annual value of any house property comprising of building or land appurtenant thereto, of which the assessee is owner, is chargeable to tax under this head.

2. Conditions of Chargeability:

- **i.** Property should consist of any building or land s appurtenant thereto.
- **ii.** Assesse must be owner of property.
- **iii.** Should not be use by assessee for the purpose of any business or profession carried out by him.
- **iv.** Property held as stock in trade etc.

Exceptions:

- **a) Letting out is supplementary to main business:** Where a property is let out with an object to carrying on the business of the assessee in an efficient manner, then rental income is taxable as business income, provided letting is supplementary to main business but not the main business.
- **b) Letting out of building with other facilities:** Such other facilities and services are taxable as business income.

3. Composite Rent

- **i. Meaning:** Composite rent means rent received in respect of building as well as –
  - **a)** Other assets like say, furniture, plant and machinery.
  - **b)** For different services like lift, security, power backup etc.

  The amount so received is known as "Composite Rent".

- **ii. Tax treatment of composite rent:**
  - **A.** Where composite rent includes rent of building and charges for different services (lift, security etc.) –
    - **a)** Sum attributable to **use of *property*** – Taxable as Income from House Property.
    - **b)** Sum attributable to **use of *services*** – Taxable under the head "Profit and Gain from Business or Profession" or "Income from Other Sources"
  - **B.** Where composite rent includes rent of building and other assets (like furniture) –
    - **a) If two lettings are *not separable*** – Taxable as business income or income from other sources, even if two lettings are fixed separately.
    - **b) If two lettings are *separable*** – Income from letting out of building is taxable as Income from House Property.
      Letting out of other assets are taxable as business income or income from other sources.

4. Income from House Property Situated Outside India:

- **i. In case of resident of India**: Taxable Whether brought in India or Not.
- **ii. In case of Non Resident or Resident but not ordinarily resident in India**: Taxable only if it is received in India.

5. Determination of Annual Value [Section 23]:

This involve following three steps:

Step 1 – Determination of Gross Annual Value (GAV).

Step 2 – From the gross annual value computed in step 1, deduct municipal tax paid by the owner during the previous year.

Step 3 – The balance will Net Annual Value (NAV).

I. Determination of annual value of different types of house properties:

i. Where property is let out throughout the year –

- **Calculation of GAV:**

  Where a property is let out for the whole year, then the GAV would be higher of –
  - **a)** Expected Rent (ER) and
  - **b)** Actual rent received or receivable during the year

- **Calculation of Expected Rent:**

  Expected rent would be higher of –
  - **a.** Fair rent and
  - **b.** Municipal rent

  But subject to Standard Rent

  - **Fair Rent:** Fair rent means rent which similar property in the same locality would fetch.
  - **Standard Rent:** It means rent fixed by Rent Control Act.

- **Computation of Income From House Property –**

PARTICULARS			Amount
Computation of GAV			
Step 1	Computed ER ER = Higher of MV and FR But Restricted to SR		
Step 2	Computed Actual rent received/ receivable. Actual rent received/ receivable less unrealised rent as per Rule 4		
Step 3	Compare ER and actual rent received/ receivable		
Step 4	GAV is higher of ER and Actual rent received/ receivable		
Gross Annual Value (GAV)			A
Less:	Municipal Taxes (paid by the owner during the previous year)		B
Net Annual Value (NAV) = (A-B)			C
Less:	Deductions u/s 24		
	a) 30% of NAV	D	
	b) Interest on borrowed capital (Actual without celling limit)	E	
Income from House Property (C-D-E)			F

ii. Where let out property is vacant for part of the year[Section 23(1)(c)]:

- **GAV -** Where let out property is vacant for part of the year and owing to vacancy, the actual rent is lower than the ER, then such actual rent will be the GAV of the property.

➢ **Computation of Income From House Property under this category –**

PARTICULARS		Amount
Computation of GAV		
Step 1	Computed ER ER = Higher of MV and FR But Restricted to SR	
Step 2	Computed Actual rent received/ receivable. Actual rent received/ receivable for let out period less unrealised rent as per Rule 4	
Step 3	Compare ER and actual rent received/ receivable	
Step 4	If actual rent is lower than ER owing to vacancy, then actual rent is GAV If actual rent is lower than ER due to other reasons, then ER is the GAV However, in spite of vacancy, if the actual rent is higher than the ER, then actual rent is GAV.	
Gross Annual Value (GAV)		A
Less:	Municipal Taxes (paid by the owner during the previous year)	B
Net Annual Value (NAV) = (A-B)		C
Less:	Deductions u/s 24 a) 30% of NAV D b) Interest on borrowed capital E (Actual without celling limit)	
Income from House Property (C-D-E)		F

iii. In case of self-occupied property or unoccupied property [Section 23(2)]:

➢ In this case annual value of hose property will be Nil.
➢ This exemption is available only to an individual/ HUF.
➢ No deduction of municipal taxes is allowed.

➢ **Income from House Property-**

Particulars		Amount
Annual value under Section 23(2)		Nil
less	**Deduction under section 24** **Interest on borrowed capital** a) Interest on loan taken for acquisition or construction of house on or after 1.4.99 and same was completed within ***5 Years*** from the end of the financial year in which capital was borrowed, interest paid or payable subject to maximum of ₹ 2, 00,000 (Including apportioned pre-construction interest). b) In case where loan is taken before 1.4.99 or loan taken for repair, renovation or reconstruction at any point of time, interest paid or payable is subject to a maximum of ₹30,000	xxxx
Income from House Property		xxxx

iv. Where a house property is let out for part of the year and self-occupied for part of the year [Section 23(3)]:

- If a single unit of a property is self-occupied for part of the year and let out for remaining part of the year, then the ER for the whole year shall be taken into account for determining the GAV
- Property taxes for whole year is allowed as deduction provided that it is paid by the owner during the previous year.
- Calculation of Income from House Property-

PARTICULARS			Amount
Computation of GAV			
Step 1	Compute ER for the whole year ER = Higher of MV and FR But Restricted to SR		
Step 2	Computed Actual rent received/ receivable. Actual rent received/ receivable for the period let out less unrealised rent as per Rule 4		
Step 3	Compare ER for whole year with the actual rent received/ receivable for the let out period		
Step 4	GAV is higher of ER and Actual rent received/ receivable		
Gross Annual Value (GAV)			A
Less:	Municipal Taxes (paid by the owner during the previous year)		B
Net Annual Value (NAV) = (A-B)			C
Less:	Deductions u/s 24		
	a) 30% of NAV	D	
	b) Interest on borrowed capital (Actual without celling limit)	E	
Income from House Property (C-D-E)			F

v. In case of deemed to be let out property [Section 23(4)]:

- Where an assessee owns more than one property for self-occupation, then the income from any one such house property, at the option of the assessee, shall be computed under self-occupied property category and its annual value will be Nil. The other self-occupied/ unoccupied property shall be treated as "deemed let out properties".
- This option can be change year after year.
- In this case ER shall be taken as GAV.
- Municipal taxes allowed as deduction.

- **Computation of Income from House Property –**

Particulars		Amount
Gross Annual Value (GAV)		A
ER is GAV of the House property		
ER = Higher of MV and FR But Restricted to SR		
Less: Municipal Taxes (paid by the owner during the previous year)		B
Net Annual Value (NAV) = (A-B)		
Less: Deductions u/s 24		
a) 30% of NAV	D	

b) Interest on borrowed capital (Actual without celling limit) E	
Income from House Property (C-D-E)	F

vi. In case of a house property, a portion let out and a portion self-occupied:

- Income from any portion of a house property which is let out shall be computed separately under the "let out property" category and the other portion or part which is self-occupied shall be computed under the "self-occupied property" category.
- Municipal valuation/ fair rent/ standard rent, if not given separately, shall be apportioned between the let out portion and self-occupied portion either on plinth area or build up floor space or on such other reasonable basis.

II. Treatment of unrealised rent:

- Unrealised rent should not be included in actual rent received or receivable.
- Following conditions of Rule 4 should be satisfied –
  - The tenancy is bona fide;
  - The defaulting tenant has vacated, or steps have been taken to compel him to vacate the property;
  - The defaulting tenant is not in occupation of any other property of the assessee;
  - The assessee has taken all reasonable step to institute legal proceeding foe the recovery of the unpaid rent or satisfies the Assessing Officer that legal proceedings would be useless.

III. Property taxes (Municipal Taxes)

i. Property taxes allowed as deduction if following conditions are satisfied –
   a) It should be borne by the assessee (owner); and
   b) It should be actually paid during the previous year.

ii. If such taxes are not paid then not allowed as deduction for that period.

iii. If in any subsequent year, arrears are paid, then, the amount so paid is allowed as deduction.

6. Deductions from Annual Value [Section 24]:

There are two types of deduction from annual value. They are –

i. 30% of NAV; and
ii. Interest on borrowed capital

i. 30% of NAV is allowed as deduction under section 24(a)

- This is flat deduction and is allowed irrespective of the actual expenditure incurred.
- In case of self-occupied property where the annual value is nil, the assessee will not be entitled to deduction of 30%, as the annual value itself is nil.

ii. Interest on borrowed capital is allowed as deduction under section 24(b)

- Interest payable on loan borrowed for the purpose of construction, acquisition, repairs, and renewal and reconstruction is allowed as deduction.
- Interest payable on a fresh loan taken to repay the original loan raised earlier for the aforesaid purpose is also allowed as deduction.
- Interest payable on borrowed capital for the period prior to the previous year in which the property has been acquired or constructed, can be claimed as deduction over the period of 5 years in equal instalments commencing from the year of acquisition of completion of construction.

Deduction in respect of self-occupied property where annual value is nil:

(a)	Where the property has been acquired, constructed, repaired, renewed, or reconstructed with borrowed capital before 1.4.99	Actual Interest payable subject to maximum of **₹30, 000.**
(b)	Where the property is acquired or constructed with the capital borrowed on or after 1.4.99 and such acquisition or construction is completed within **5 years** from the end of the financial year in which capital was borrowed.	Actual Interest payable subject to maximum of **₹2, 00,000.**
(c)	Where the property has been acquired, constructed, repaired, renewed, or reconstructed with borrowed capital on or after 1.4.99.	Actual Interest payable subject to maximum of **₹30, 000.**

7. Inadmissible deductions [Section 25]:

Interest chargeable under this act which may be payable outside India shall not be allowed as deduction if –

a) Tax has not been paid or deducted from such interest and
b) There is no person in India who may be treated as an agent under section 163.

8. *Arrears of Rent and Unrealised Rent [Section 25A]*

Arrears of Rent and Unrealised Rent received subsequently is chargeable to tax under this head.

New section 25A	
Arrear of Rent/ Unrealised Rent	
i.	***Taxable in the year of receipt/ realisation.***
ii.	***Deduction @30% of rent received/ realised.***
iii.	***Taxable even if assessee is not the owner of the property in the financial year of receipt/ realisation.***

9. Treatment of income from co-owned property [Section 26]:

a) **In case of self-occupied property-**
The annual value of the property of each co-owner will be Nil and each co-owner shall be entitled to deduction of ₹30, 000/ 2, 00,000, as the case may be, under section 24(b) on the account of interest on capital borrowed.

b) **In case of let out property**
In this case, the income from such property is computed as it is owned by one owner and thereafter apportioned amongst each co-owner as per their specific share.

10. Treatment of income from property owned by a partnership firm:

Such income should assessed in the hands of firm only and not in hand of individual partner.

11. Deemed Ownership [Section 27]

i. **Transfer to a spouse [Section 27(i)]**
In case of transfer of house property by an individual to his or her spouse for inadequate consideration transferor is deemed to be the owner of the property.
Exception – In case of transfer to spouse in connection with an agreement to live apart, the transferor will not be deemed to be owner of the property.

ii. **Transfer to minor child [Section 27(i)]**
In case of transfer of house property by an individual to his or her spouse for inadequate consideration transferor is deemed to be the owner of the property.
Exception – In case of transfer to a minor married daughter, the transferor will not be deemed to be owner of the property.

iii. **Holder of an impartible property**
iv. **Member of a co-operative society**
v. **Person in possession of a property**
vi. **Person having rights in property for a period not less than 12 years**

12. Cases where income from house property is exempt from tax

i. Income from any farm house forming part of agriculture income.
ii. Annual value of any one palace in occupation of an ex-ruler.
iii. Income from house property of a local authority.
iv. Income from house property of an approved scientific research association.
v. Property income of universities, educational institution , etc.,
vi. Property income of any registered trade union.
vii. Income from house property held for charitable or religious purpose.
viii. Property income of any political party.
ix. Property used for own business or profession
x. One self-occupied property of an individual/ HUF.

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