

INCOME-TAX

Assessment Year 2017-18

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HEADS OF INCOME

Income from Salary

Income from House Property

*Income from Business or
Profession*

Capital Gain

Income from Other Source

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Income From Salary

1. Meaning

Salary means –

- Every payment,
- Made by employer to his employee,
- For the service rendered by him would be chargeable to tax.
- It includes both monetary payments (e.g. basic salary, bonus , commission, allowances etc.) as well as non-monetary facilities (e.g. housing accommodation, medical facility, interest free loan etc.)

Employer-Employee relationship – Relationship of employer and employee should be exist between payer and payee.

Examples:

- a) Sujatha, an actress, is employed in Chopara Films, where she is paid monthly remuneration of ₹ 2 lakh. She acts in various films produced by various film producers. The for acting in such films is directly paid by Chopara Films by the different producers, in this case, ₹ 2 lakh will constitute salary in the hands of Sujatha, since the relationship of employer and employee exists between Chopara films and Sujatha.
- b) In the above example, if sujatha acts in various films and gets fees from different producers, the same income will be chargeable as income from profession since the relationship of employer and employee does not exist between Sujatha and film producers.
- c) Commission received by a Director from a Company is salary if the Director is an employee of the company.
- d) Any salary, bonus, commission or remuneration by whatever name called due to or received by partner of a firm shall not be regarded as salary.

Full time or part-time employment: It does not matter whether the employee is full time employee or part-time employee.

Forgoing of Salary: Once salary accrues, the subsequent waiver by the employee does not absolve him from liability of income-tax.

Surrender of Salary: If an employee surrenders his salary to the central government, the salary so surrender would be exempt from tax.

Salary paid tax-free: It means employer bears the burden of tax on the salary of the employee and income from salary in the hand of employee will consist the salary income and also the tax paid by the employer on this salary.

2. Definition of Salary

'Salary' under **section 17(1)**, includes the following

- i. Wages,
- ii. Any annuity or pension,
- iii. Any gratuity,

- iv. Any fees, commission, perquisite or profit in lieu of or in addition to any salary or wages,
- v. Any advance of salary,
- vi. Leave salary or leave encashment,
- vii. Contribution to Recognised Provident Fund to the extent it is taxable,
- viii. Transfer balance in Recognised Provident Fund to the extent it is taxable,
- ix. Contribution made by the government or other employer under a pension scheme referred in section 80CCD.

3. Basis of charge

- Salary is chargeable to tax either –
‘due’ basis
or
‘receipt’ basis
Whichever is **earlier**.
- Salary, paid in advance, is assessed in the year of payment, it cannot be subsequently brought to tax in the year in which it becomes due.
- If the salary paid in arrears has already been assessed on due basis, the same cannot be taxed again when it is paid.

4. Place of accrual of salary

✓ Section 9(1)(ii)

Salary earned in India is deemed to accrue or arise in India even if –

- It is paid outside India, or
- It is paid or payable after the contract of employment in India comes to an end.

Example:

If an employee gets pension paid abroad in respect of the services rendered in India, the same will be accrue in India. Similarly, leave salary paid abroad in respect of the leave earned in India is deemed to be accrue or arise in India.

✓ Section 9(1)(iii)

Salary payable by the government to a citizen of India for the services outside India shall be deemed to be accrue or arise in India.

✓ Section 10(7) :

Any allowances or perquisite paid or allowed outside India by the government to citizen of India for rendering services outside India will be fully **exempt**.

5. Profits in lieu of salary [Section 17(3)]

It includes the following :

- i. Compensation due to or received by an employee from his employer or former employer at or in connection with the termination of his employment.
- ii. Compensation due to or received by an employee from his employer or former employer at or in connection with the modification of the terms and condition of the employment.

- iii. Any payment due to or received by an assessee from his employer or former employer from a provident or other fund, to the extent to which it does not consist of employee's contribution or interest on such contributions.

6. Advance Salary

Advance salary is taxable when it is received by the employee irrespective of the fact whether it is due or not.

7. Loan or Advance against salary

When an employee takes any loan from his employer, then such loan amount cannot be brought to tax as salary of the employee.

Imp.- Advance against salary is different from advance salary. It is an advance taken by the employee from his employer. This advance is generally adjusted with his salary over a specified time period. It cannot be taxed as salary.

8. Arrears of salary

It is charged on due basis.

9. Annuity

- Annuity is a sum payable in respect of a particular year.
- As per the definition of salary, 'annuity' is treated as salary.
- Annuity received from present employer is to be taxed as salary.
- Annuity received from past employer is taxable as profit in lieu of salary.
- Annuity received from a person other than employer is taxable as 'Income from Other Sources'.

10. Gratuity [Section 10(10)]

Gratuity is voluntary payment made by employer in appreciation of service rendered by the employee.

Exemption:

- ✓ **Central/ State Government Employees:**
Any death cum retirement gratuity is **fully exempt** from tax.
- ✓ **Non-Government employees:**
 - **For employees covered under the Payment of Gratuity Act, 1972-**
Gratuity is exempt from tax to the extent of least of the following:
 - i. ₹ 10,00,000
 - ii. Gratuity actually received
 - iii. 15 days' salary based on last drawn salary for each completed year of service or *part thereof in excess of 6 months. i.e.*

$$\left\{ \frac{15}{26} \times \text{Last drawn salary} \times \text{No. of completed years of service or part thereof in excess of 6 months} \right\}$$

Note :- For this purpose salary means basic salary and dearness allowance (whether provided in terms of retiring benefit or not)

➤ **For the employees not covered under the Payment of Gratuity Act, 1972-**

Gratuity is exempt from tax to the extent of least of the following:

- i. ₹ 10,00,000
- ii. Gratuity actually received
- iii. Half month's salary (based on last 10 months' average salary) for each completed year of service. (Fraction is to be ignored)

$$\left\{ \frac{15}{26} \times \text{Last drawn salary} \times \text{No. of completed years of service} \right\}$$

Note :- For this purpose salary means basic salary and dearness allowance (if provided in the terms of employment for retiring benefits) and commission which is expressed as a fixed percentage of turnover.

Notes: -

- Gratuity received during the period of service is fully taxable.
- If gratuity received from 2 or more employer in the same year then aggregate amount of gratuity exempt cannot be exceed ₹10,00,000.
- If gratuity is received in any earlier year from former employer and again received from another employer in a later year, the limit of ₹10,00,000 will be reduce by the amount of gratuity exempt earlier.
- This exemption is available even if the gratuity is received by the widow, children or dependent of deceased employee.

11. Pension [Section 10 (10A)]

Uncommuted Pension: Fully taxable in the hands of both govt. and non-govt. employees.

Commuted Pension: It means lump sum amount taken by commuting the whole or part of the pension.

a) **For Govt. employees :** Fully exempt.

b) **For Non-Govt. employees:**

✓ If employee is in receipt of gratuity –

Exemption = 1/3rd of whole amount of pension.

$$\left\{ \frac{1}{3} \times \frac{\text{commuted pension received}}{\text{commutation\%}} \times 100\% \right\}$$

✓ If employees does not received any gratuity

Exemption = 1/2 of the whole amount of pension.

$$\left\{ \frac{1}{2} \times \frac{\text{commuted pension received}}{\text{commutation\%}} \times 100\% \right\}$$

12. Leave Salary [section 10 (10AA)]

For Govt. employees : Fully Exempt.

For Non-Govt. employees : Leave salary is exempt from tax to the extent of least of the following:

- i. ₹3,00,000,
- ii. Leave salary actually received,
- iii. 10 month's salary (on the basis of average salary of last 10 month)
- iv. Cash equivalent of leave (based of average salary of last 10 month) to the credit of the employee. earned leave entitlement cannot be exceed 30 days for every year.

Notes :

- i. salary received during the period of service is fully taxable.
- ii. Leave If leave salary received from two or more employer in the same year, then aggregate amount of leave salary exempt from tax cannot exceed ₹3,00,000.
- iii. Leave salary received from former employer in any earlier year and again received from another employer in later year, the limit of ₹3,00,000 will bereduce by the amount of leave salary exempt earlier.
- iv. Salary means basic salary and dearness allowance(if provided in the terms of retirement benefits) and commission which is express as fixed percentage of turnover.

13. Retrenchment Compensation [saction10 (B)]

$\frac{15}{26} \times \text{Avg. salary of last 3 months} \times \text{completed year of service or part thereof in excess of 6 months}$

OR

₹ 5,00,000

Whichever is lower.

14. Compensation received on Voluntary Retirement (VRS) [Section10 (10C)]

➤ **Exemption:**

- ₹5,00,000,
- Voluntary compensation actually received,
- Monthly salary $\times$ 3 Months $\times$ Numbers of completed years of service,
- Monthly salary (At the time of retirement) $\times$ balance months of service.

➤ This exemption willll be available even if such compensationis received in installments.

➤ **Conditions :**

- Employee must completed 10 years of service or completed 40 years of age.
(This requirement is not applicable in case of an employees of a pubic sector company under the scheme voluntary seperetion framed by the company)
- The retireing employee of a company shall not be employed in another company or concern belonging to same management.

15. Provident Fund

The tax treatment of provident fund is given below :

Particulars	Recognised PF	Unrecognised PF	Statutory PF	Public PF
Employers contribution	Amount in excess of 12% of salary is taxable.	Not taxable yearly	Fully exempt.	N.A. (as there is only assessee's own contribution)
Employee's Contribution	Eligible for deduction u/s 80C	Not eligible for deduction	Eligible for deduction u/s 80C	Eligible for deduction u/s 80C
Interest Credited	Amount in excess of 9.5% p.a. is taxable	Not taxable yearly	Fully exempt	Fully exempt
Amount received on retirement, etc.	See Note (i), (ii)	See Note (v), (vi)	Fully exempt u/s 10(11)	Fully exempt u/s 10(11)

Notes:

- Amount received on maturity of RPF is fully exempt in case of an employee who has rendered continuous services for a period of 5 years or more.
- If termination taken place within 5 years then amount received would be fully exempt only if the services had been terminated due to employee's health or discontinuance or contraction or employer's business or other reason beyond the control of employee.
- If an employee, after termination of his employment with one employer, obtain the employment under another employer, then so much of accumulated balance in his provident fund account will be exempt which is transferred to his individual account in a recognised provident fund maintained by the new employer.
- In such case, the period of service with the former employer shall also be taken into account for computing the period of five years' continuous service.
- Employee's contribution is not taxable but interest thereon is taxable under 'Income from Other Sources'.
- Employer's contribution and interest thereon is taxable as salary.
- Salary means : Basic Salary + Dearness Allowances (If provided in the terms of employment) + commission (If provided as a percentage of turnover).

16. Approved Superannuation Fund

The tax treatment of contribution and exemption of payment from tax are as follows:

- Employers contribution is exempt from tax in the hands of employees **upto ₹1,00,000 per employee per annum.**
- Employees' contribution qualifies for deduction under section 80C.
- Interest on accumulated balance is exempt from tax.

17. Salary from United Nations organisation

Salaries and emoluments, Pension received from UNO under United Nations Act, 1947 is **exempt** from tax.

18. Allowances

Allowances		
Fully Taxable	Partly Taxable	Fully Exempt
i. Entertainment Allowance ii. Dearness Allowance iii. Overtime Allowance iv. Fixed Medical Allowance v. Fixed Medical Allowance vi. City Compensatory Allowance vii. Interim Allowance (to meet increased cost of living in cities) viii. Servent Allowance ix. Project Allowance	i. House Rent Allowances [u/s 10(13A)] ii. Special Allowances [u/s 10(14)]	i. Allowances granted to Government employees outside India. ii. Stamp duty Allowances granted to high Court or supreme Court Judges. iii. Allowances paid by the United Nations Organisation. iv. Compensatory Allowances received by a Judge.
x. Tiffin/ Lunch/ Dinner Allowance xi. Any Other Cash Allowance xii. Warden Allowance xiii. Non-practicing Allowances		

Allowances which are partially taxable:

- i. **House rent allowances [Section 10(13A)]:** HRA granted to an employee is exempt to the extent of least of the following:

Metro Cities (i.e. Delhi, Kolkata, Mumbai, Chennai)	Other Cities
1) HRA actually received.	1) HRA actually received.
2) Rent paid – 10% of salary for the relevant period.	2) Rent paid – 10% of salary for the relevant period.
3) 50% of salary for the relevant period.	3) 40% of salary for the relevant period.

Notes:

- i. Exemption is not available to an assessee who lives in his own house, or in a house for which he has not paid any rent.
- ii. Salary means = Basic Salary + Dearness Allowances (If provided in the terms of employment) + commission (If provided as a percentage of turnover).
- ii. **Special Allowances [Section 10(14)(ii)]:**
- **Special compensatory (Tribal Areas/ Schedule Areas/ Agency Areas) Allowance** - ₹ 200 per month.
 - **Children Education allowances** - ₹ 100 per month per child up to two children.
 - **Children Hostel Expenditure Allowance** - ₹ 300 per month per child upto a maximum of two children.

- **Transport Allowance** - For the purpose of communicating between the place of his residence and place of his duty - ₹ 1,600 per month.
To an employee who is blind or orthopaedically handicapped with disability of the lower extremities of the body - ₹ 3,200 per month.

19. Perquisites

i. Valuation of Rent-Free Concessional Accommodation –

Sl. No.	Circumstances	Unfurnished Accommodation	Furnished Accommodation
(1)	(2)	(3)	(4)
1	Where accommodation provided by government	License fee determined by government as reduce by the rent actually paid by the employee.	Value of perquisite as determined under column (3) + 10% per annum of the cost of furniture. If such accommodation taken on hire, the actual hire charges payable reduce by any amount paid or payable
2	Where the accommodation is provided by any other employer – i. Where accommodation is owned by the employer – a) In cities having population up to 10 lakh b) In cities having population exceeding 10 lakh and up to 25 lakh c) In cities having population exceeding 25 lakh ii. Where accommodation is taken on lease or rent by the employer	- 7.5 % of salary - 10 % of salary - 15 % of salary Actual lease rent paid payable Or	Value of perquisite as determined under column (3) + 10% per annum of the cost of furniture. If such accommodation taken on hire, the actual hire charges payable reduce by any amount paid or payable

		15 % of salary Whichever is lower As reduce by the amount actually paid by the employee	
3	Where accommodation provided by any employer in a Hotel .	Not Applicable	24 % of salary Or Actual Charges Whichever is Lower As reduce by the amount recovered from employee. However if such accommodation provided for a period not exceeding fifteen days on the account of transfer from one place to another, there would be no perquisite

Notes:

- “Salary” includes pay, allowances, bonus or commission payable monthly or otherwise but it does not include following-
 - a) Dearness allowances if not in terms of retiring benefits;
 - b) Employer’s contribution to the provident fund of employee;
 - c) Allowances which are exempted from tax;
 - d) Perquisite value of Rent-Free Accommodation;
 - e) Any other expenses which are specifically excluded from payment of tax.
- If an employee provide any accommodation on the account of his transfer from the one place to another, at the new place of posting while retaining the accommodation at the other place, the perquisite value shall be determined with the reference to only one such accommodation which has lower perquisite value for a period of 90 days and thereafter, the value shall be charged for both such accommodations.

ii. Motor Car:

Perquisite value of motor car will be determined as under

A. Where the motor car is owned or hired by employer –

Sl No.	Circumstances	Engine Cubic Capacity	
		Up to 1.6 litres	Exceed 1.6 litres
1.	Used wholly or exclusively in the performance of his official duties	Not a perquisite	Not a perquisite
2.	Used exclusively for the private or personal purpose of employee	Expenditure incurred by the employer on running and maintenance + chauffeur	Expenditure incurred by the employer on running and maintenance + chauffeur
3.	Used partly in the performance of duties and partly for private or personal purpose a) If running and maintenance are met or reimburse by employer	₹1,800 + ₹ 900 (if chauffeur is provided)	₹ 2,400 + ₹ 900 (if chauffeur is provided)
	b) If running and maintenance are met or reimburse by assessee/ employee	₹ 600 + ₹ 900 (if chauffeur is provided)	₹ 900 + ₹ 900 (if chauffeur is provided)

B. Where Motor Car is owned by employee but running and maintenance charges are met by employer -

Sl No.	Circumstances	Engine Cubic Capacity	
		Up to 1.6 litres	Exceed 1.6 litres
1.	Used wholly or exclusively in the performance of his official duties	Not a perquisite	Not a perquisite
2.	Used partly in the performance of duties and partly for private or personal purpose	Amount actually incurred – ₹1,800 + ₹ 900 (if chauffeur is provided)	Amount actually incurred – ₹ 2,400 + ₹ 900 (if chauffeur is provided)

Note: If more than one Motor Car is provided, then perquisite value shall be calculated only in respect of one car as per above rules and other cars are treated as used wholly for personal purpose.

iii. Valuation of benefit of provision of domestic servant:

Perquisite value shall be actual cost to employer (Salary to servant) reduce by the amount recovered from employee.

iv. Valuation of gas, electricity or water supplied by employer:

- Perquisite value shall be the sum equal the actual cost to employer.
- If such resources are owned by employer, then perquisite value shall be the manufacturing cost per unit incurred by the employer.

Reduce by amount recovered from employer.

v. Valuation of free or concessional education educational facilities:

- Value of such benefit shall be equal to the amount of expenditure incurred by employer on this behalf.
- Where educational institution is maintained and owned by employer, the value of benefit shall be the cost of such education in a similar institution in or near locality
- Such value shall be reduce by the amount recovered from employer
- However, there would be **no perquisite** if cost of such educational facility per child is **not exceeding ₹ 1,000 per month**.

vi. Free or concessional tickets:

Where an employer who is engage in business of carriage of passengers or goods,
Provide to any employee or to any member of his household,
Personal or private journey free of cost or at concessional fare,
In any conveyance owned or leased or any other arrangement,
The value of perquisite shall be the value at which such benefits are offered by employer to public as reduce by amount recovered from employee.

vii. Interest-free or concessional loan:

Value of such benefit shall be determined as sum equal to the interest computed at the rate charged per annum by the State Bank of India, as on the 1st day of the relevant previous year on the maximum outstanding balance reduce by the amount of interest received.

However, there would be **no perquisite** if such loan is taken for the purpose of medical treatment of prescribed diseases (like Cancer) or where amount of loan **not exceeding ₹ 20,000** in aggregate.

viii. Travelling, touring and accommodation:

- Value of such benefit shall be sum equal to the amount of the expenditure incurred by employer in this behalf.
- If such facility is maintained by the employer and not available uniformly to all employee, the value of benefit shall be taken to be the value at which such facilities are offered by other agencies to the public.
- Where an employee is on official tour and expenses incurred in respect of any member accompanying him, the such expenses is also treated as fringe benefit
- Where an official tour is extended as vocation, then fringe benefit shall be limited to only such extended period.

ix. Free or concessional food and non-alcoholic beverages:

- Value of benefit shall be amount of expenditure incurred by employer.
- However, there would be no perquisite if –
 - a. Amount of such expenditure is not exceeding ₹ 50 per meal or
 - b. Tea or snacks provided during working hour or
 - c. Provided in a remote area or off-shore area.

x. Value of gift, voucher or token:

No perquisite up to ₹ 5,000 l aggregate during the previous year. If exceeding ₹ 5,000 amount actually incurred.

xi. Credit card expenses: Amount of expenditure incurred by employee as reduce by the amount received from employee.**xii. Club expenditure:** Amount of expenditure incurred by employee as reduce by the amount received from employee.**xiii. Use of movable assets:**

Asset given	Value of benefit
1. Use of laptop and computer	Nil
2. Movable asset , other then – a. Laptop and computers; and b. Assets already specified	10% p.a. of actual cost of such asset Or The amount of rent or charges paid or payable by the employer, As the case may be

xiv. Transfer of movable assets:

Assets transferred	Value of perquisite
computers and electronic items	Depreciated value of asset [Depreciation is computed @ 50% on WDV for each completed year of usage]
Motor-Cars	Depreciated value of asset [Depreciation is computed @ 20% on WDV for each completed year of usage]
Any other Asset	Depreciated value of asset [Depreciation is computed @ 10% on SLM for each completed year of usage]

xv. Value of sweat equity shares:**A. In case of listed shares:**

- In a case where, on the date of exercising the option, the share of the company is listed on a recognised stock exchange, the fair market value shall be the average opening and closing price of the share on that date on the said stock exchange
- If shares are listed more than one recognised exchange, the fair value shall be the average of opening and closing price of that recognised exchange which records highest volume of trading in shares.
- If on the date of exercising, there is no trading-
 - Fair market value shall be closing price of any recognised stock exchange.
 - If listed in more than one recognised stock exchange, closing price of that stock exchange which records highest volume of trading.

B. If shares are not listed:

Value shall be determined by **merchant banker**.

xvi. Value of securities other than shares:

As determined by Merchant Banker.

xvii. Medical facilities:

- Fully exempt:
 - In a hospital maintained by employer.
 - In government hospital.
 - Treatment of prescribed disease in a hospital approved by chief commissioner.
 - Insurance premium paid by employer on health of employee (Approved by IRDA)
- There would be **no perquisite up to expenditure ₹ 15,000**.
- If medical treatment is outside India –
 - Medical treatment + Travel and Stay abroad of employee or any member of his household + Travel and Stay abroad of one attendant.
 - It will be **exempt** only to **extent permitted by the RBI**.
 - Travelling of patient and attendant is exempt if employee's gross total income as computed before including the said expenditure is not exceeding ₹ 2 lakh.
 - Family means spouse and children + parents (Wholly or mainly dependent).

20. Deductions from Salary**i. Entertainment Allowance [Section 16(ii)]:**

- **Non-govt. employees:** Fully taxable
- **Government employees:** Deduction will be lower of following -
 - a. 20 % of salary (one fifth) or
 - b. ₹ 5,000 or
 - c. Entertainment allowance received.
- Entertainment allowances first to be included in salary and then allowed as deduction.

ii. Professional Tax:

- Deduction is allowed only when actually paid.
- Paid by employer is first to be included in salary and then allowed as deduction.

Income from House Property

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. Assessee 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 ceiling 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 (Actual without ceiling limit)	E
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 house 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).	xxxx
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	
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	D E
a) 30% of NAV	
b) Interest on borrowed capital (Actual without ceiling limit)	
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)	
Net Annual Value (NAV) = (A-B)	B
Less: Deductions u/s 24	
a) 30% of NAV	D
b) Interest on borrowed capital	E
(Actual without ceiling limit)	
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 for 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.
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(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 –

- Tax has not been paid or deducted from such interest and
- 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.	<i>Taxable in the year of receipt/ realisation.</i>
ii.	<i>Deduction @30% of rent received/ realised.</i>
iii.	<i>Taxable even if assessee is not the owner of the property in the financial year of receipt/ realisation.</i>

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 be 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(ii)]

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.



Income from Business or Profession

1. Meaning [Section 2(13)]:

'Business' include any trade, commerce, or manufacture or any adventure or concern in nature of trade, commerce or manufacture.

The term 'Profession' includes vocation as well.

2. Admissible deductions

Following deductions are allowed -

1) Rent, Repairs and Insurance for building [Section 30]:

- Deduction is allowed in respect of rent, taxes, repairs and insurance of building used by the assessee for the purpose of his business or profession.
- Where premises are used partly for business and partly for other purpose, only proportionate deduction is allowed
- Where assessee sublet the part of premises, difference between the rent paid by assessee and the rent recovered from sub-tenant is allowed as deduction.
- Expenses in respect of repairs are allowed as deduction.
- Expenses by way of land revenue, local taxes, municipal taxes and insurance in respect of premises is allowed as deduction. Taxes levied by foreign govt. is also allowed deduction.
- If such expenses are not utilized wholly for the purpose of business or profession, then only proportionate deduction is allowed.

2) Repairs and insurance of machinery, plant and furniture [Section 31]

- Expenses on current repairs and insurance of machinery, plant and equipment is allowed as deduction.
- Even if asset is used for part of the year, assessee is entitled to the deduction of the full amount of the expense on repairs and insurance charges.

Explanation: Explanation to section 30 and 31 provides that the amount paid on the account of cost of repairs and the amount paid on the account of current repairs shall not include any expenditure in nature of capital expenditure.

3) Depreciation [Section 32]

a) Assets must belong to following categories –

- I. **Tangible Assets** – Buildings, Machinery, Plants or Furniture
- II. **Intangible Assets** – Know-how, Patents, Copyrights, Trademark, Licences, franchise or any other business or commercial rights of similar nature.

Notes -

- No depreciation allowed on cost of land on which the building is erected.

- Plant includes books, vehicles, scientific apparatus and surgical equipment.
- Plant does not include an animal, human body or stock-in-trade.

b) Assets should be used by the assessee for his business during the previous year –

- The asset must be put into use at any time during the previous year.
- Amount of depreciation is not proportionate to the period of use during the previous year.

Asset used for less than 180 days - If an asset is put into use for less than 180 days during the previous year, then only 50 % of the depreciation calculated at prescribed rates is allowed as deduction.

This restriction is applied only to the year of acquisition and not for the subsequent year.

c) The assessee must own the assets, wholly or partly –

- Depreciation is allowable not only in respect of assets “wholly” owned by the assessee but also in respect of assets “partly” owned by him and used for the purposes of his business or profession.
- No depreciation will be allowed to an assessee in respect of an asset which he does not own but only uses or hires for the purpose of his business.
- Explanation 1 to section 32 provides that if an assessee carried out his business in a building which is not owned by him and assessee incurred and capital expenditure (construction of structure, extension, renovation or improvement) to the building, then such capital expenditure is allowed as deduction.

d) In case of succession of firm/sole proprietary concern by a company or amalgamation or demerger of companies –

- In this case, aggregate amount of depreciation allowed is not exceed the amount of depreciation calculated at the prescribed rates.
- Such deduction shall be apportioned between the two entities (Predecessor and successor) in the ratio of the number of days for which the assets were used by them.

Block of Assets: As per section 2(11), a block of asset is a group of assets falling within a class of assets comprising –

- a. Tangible Assets, being Buildings, Machinery, Plants or Furniture
- b. Intangible Assets, being Know-how, Patents, Copyrights, Trademark, Licences, franchise or any other business or commercial rights of similar nature.

e) Rates of depreciation: All assets have been divided into four main categories and rates of depreciation are given below –

PART A TENGIBLE ASSETS

I. Buildings

Block 1.	Buildings which are mainly for residential purpose	5%
Block 2.	Building other than residential purpose	10%
Block 3.	Purely temporary erections such as wooden structures	100%

II. Furniture and fittings

Block 1.	Furniture and Fittings including electricity fittings	10%
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III. Plant and Machinery

Block 1.	Motor Buses, motor lorries, motor taxies used in running them on hire	30%
Block 2.	Motor car other than running on hire	15%
Block 3.	Aeroplanes , aero engines	40%
Block 4.	Specified air, water pollution control equipment, solid waste control equipment and solid waste recycling	100%
Block 5.	Energy saving devices (as specified)	80%
Block 6.	Computers including computer software	60%
Block 7.	Annual publication	100%
Block 8	Books owned by assessee carrying on business in running lending libraries	100%
Block 9.	Books, other than annual publications, owned by assessee carrying on a profession	60%
Block 10.	Plant and Machinery (General rate)	15%

IV. Ships

Block 1.	Ocean-going ships	20%
Block 2.	Vessels ordinarily operating on inland water	20%
Block 3.	Speed boats operating on inland water	20%

PART B INTANGIBLE ASSETS

Know-how, patents, copyrights, trademarks, licences, franchise or any other business or commercial rights of similar nature	25%
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Notes:

- i. Windmills and any specially designed device which run on windmills installed on or after 1.4.2014 would be eligible for depreciation @ 80%
- ii. Likewise, any special device including electronic generators and pumps running on wind energy installed on or after 1.4.2014 would be eligible for depreciation @ 80%.
- iii. If such devices (mentioned in above two points) installed on or before 31.3.2014, rate of depreciation is 15%.

f) Additional depreciation [Section 32(1)(iia) –

Additional depreciation allowable on new plant and machinery (other than ships and aircraft) acquired and installed on or after 1.4.2005 by an assessee who is engaged in manufacture or production of any article or thing or in business of generation, **transmission** or distribution of power @ 20% of actual cost of such plant and machinery.

Additional depreciation will not be available in respect of –

- i. Such plant and machinery previously used by any other person whether in India or outside India; or
- ii. Machinery installed in office premises, residential accommodation, or in any guest house; or
- iii. Office appliances or road transport vehicle; or
- iv. Any plant or machinery, the whole or part of actual cost of which is allowed as deduction (whether by way of depreciation or otherwise) in computation of income under this head in any previous year.

If such plant and machinery is put into use for less than 180 days then only 50% of additional depreciation is allowed as deduction and balance 50% is allowed in immediately succeeding previous year i.e. in next previous year.

Proviso to Section 32(1) (iia) -

Additional depreciation @35% to be allowed to assessee setting up manufacturing units in **notified backward areas** of specified states and acquiring and installing of new plant & machinery.

- g) Actual cost** - The expression “actual cost” means the actual cost to the assessee reduced by the amount directly or indirectly met by any other person or authority.

Actual cost in certain special situations [Explanations to Section 43(1)] –

Explanation	Asset	Actual Cost (For the purpose of depreciation)
Explanation 1	Asset is used for the purpose of business after it ceases to be used for the scientific research related to the business.	Actual cost to the assessee less deduction allowed under section 35(1)(iv)
Explanation 2	Asset acquired by way of gift or inheritance.	Written down value (WDV) to previous owner.
Explanation 3	Assets is previously used by any other person, and assessing officer is satisfied that asset is transferred to the assessee for the purpose of reducing tax liability by claiming depreciation on enhanced cost.	Actual cost shall be amount determined by assessing officer with the previous approval of joint commissioner.
Explanation 4	An asset which is transferred by assessee and re-acquired by him	Actual cost to the assessee shall be – a. The written down value at the time if original transfer; or

		b. The actual price for which asset was re-acquired by him. Whichever is less.
Explanation 4A	A person (Mr. A) use the asset for the purpose of his business and claim depreciation on such asset. He transfer such asset to another person (Mr. B) and re-acquire from him by way of lease, hire or otherwise.	Actual cost of such asset to Mr. A shall be the same WDV of the said asset at which he transfer the such asset to Mr. B.
Explanation 5	Building of the assessee brought into use for the purpose of business.	Actual cost of building to the assessee less amount equal to depreciation calculated at the rate in force.
Explanation 6	Capital assets transferred by holding company to its subsidiary of vice-versa	Actual cost of transferred capital asset to transferee company is same cost as to transferor company.
Explanation 7	Capital Assets transferred by amalgamating company to amalgamated company.	Actual cost of transferred capital asset to amalgamated company is same cost as to amalgamating company.
Explanation 7A	Capital assets transferred by a demerged company to its resulting company.	Actual cost of transferred capital asset to resulting company is same cost as to demerged company.
Explanation 8	Amount paid as interest in connection with the acquisition of the asset and relatable to the period after asset put into use	Such interest shall not be included in actual cost of the asset and shall have never been included in actual cost of the asset.
Explanation 9	Asset is or has been acquired by the assessee	Actual Cost of asset shall be reduce by the amount of excise duty or additional duty.
Explanation 10	Where cost of an asset directly or indirectly met by the govt. or any authority established under any act or by any other person, in form of subsidy or grant or reimbursement.	Such subsidy or grant or reimbursement is not to be included in actual cost of asset.

Explanation 11	Assets acquired by a non-resident assessee and brought into India.	Actual cost of asset to the assessee less amount equal to depreciation calculated at the rate in force.
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a) Written down value [Section 43(6)] –

- In the case of asset acquired by the assessee during the previous year, the written down value means the actual cost to the assessee.
- In case where asset acquire before the previous year, the written down value would be the actual cost to the assessee less aggregate amount of depreciation.

4) Deduction for investment in new plant and machinery [Section 32AC]:

- As per section 32AC(1A) , a **manufacturing company** is entitled for deduction @15% of investment in new plant or machinery if it is –
 - a. Engaged in the business of manufacture of an article or thing; and
 - b. Acquires new pant or machinery and cost of such new plant or machinery **exceeds 25 crore**.
- The deduction would be available for the three assessment years i.e. 2015-16, 2016-17, and 2017-18. Such plant or machinery **must be installed on or before 31-03-2017**.
- Where the installation of the new asset is in the year other than the year of acquisition, the deduction under this sub-section shall be allowed in the year in which the new asset is installed, provided that installation on or before 31-03-2017.

Example –

Company	Actual cost of new plant and machinery (₹)	Previous year of acquisition	Previous year of installation	Assessment year in which deduction u/s 32AC can be claimed	Deduction u/s 32AC (₹)
A Ltd.	40 crore	P.Y. 2015-16	P.Y. 2016-17	A.Y. 2017-18	6 crore
B Ltd.	50 crore	P.Y. 2016-17	P.Y. 2016-17.	A.Y. 2017-18	7.50 crore
C Ltd.	60 crore	P.Y. 2016-17	P.Y. 2017-18	-	-

- Deduction under this section is in addition to the depreciation and additional depreciation allowable under section 32(1).
- **“New plant or machinery” does not include –**
 - i. Such plant and machinery previously used by any other person whether in India or outside India; or
 - ii. Machinery installed in office premises, residential accommodation, or in any guest house; or
 - iii. Office appliances (including computer or computer software) or road transport vehicle; or
 - iv. Ships or aircraft; or
 - v. Any plant or machinery, the whole of the actual cost of which is allowed as deduction (whether by way of depreciation or otherwise) in computation of income under this head in any previous year.

- The new plant and machinery in respect of which deduction has been claimed under section 32AC **cannot be sold or otherwise transferred for a period of 5 years** from the date of installation. If sold or otherwise transferred within this period deduction allowed earlier would be deemed as income chargeable the head "Profit and gain from business or profession" in the year in which such machinery transferred.

5) Deduction for investment in new plant & machinery in notified backward areas –

- Under this section, deduction **@15%** of the actual cost of new plant & machinery is allowed to an assessee subject to following conditions –
 - Assessee set up an undertaking or enterprise for manufacture or production of any article or thing on or before 1st April, 2015 in notified backward areas of Andhra Pradesh or Bihar or Telangana or west Bengal.
 - Assessee acquire and install new plant and machinery for such enterprise.
- Where the **assessee is a company**, it claim deduction under section 32AC as well as under section 32AD.
- For the purpose of this section, **"New plant or machinery" does not include –**
 - Such plant and machinery previously used by any other person whether in India or outside India; or
 - Machinery installed in office premises, residential accommodation, or in any guest house; or
 - Office appliances (including computer or computer software) or road transport vehicle; or
 - Ships or aircraft; or
 - Any plant or machinery, the whole of the actual cost of which is allowed as deduction (whether by way of depreciation or otherwise) in computation of income under this head in any previous year.
- The new plant and machinery in respect of which deduction has been claimed under section 32AC **cannot be sold or otherwise transferred for a period of 5 years** from the date of installation. If sold or otherwise transferred within this period deduction allowed earlier would be deemed as income chargeable the head "Profit and gain from business or profession" in the year in which such machinery transferred.

6) Tea Development Account/ Coffee Development Account/ Rubber Development Account [Section 33AB]:

- Where an assessee, who is engage in business of growing and manufacture tea or coffee or rubber in India,
- Before the expiry of six months from the end of the previous year or before the due date of furnishing the return of income, Whichever is earlier –
- Deposit in following account –
 - Deposit with NABARD any amount in special account maintained by the assessee with that bank in accordance with the scheme approved Tea Board or Coffee Board or Rubber Board;

Or

 - Deposited any amount to be known as Deposit Account opened by the assessee in accordance with the scheme framed by the Tea Board or Coffee Board or Rubber Board.
 - Assessee shall be allowed a deduction of –

A sum equal to deposit made

Or

40% of the profit of such business computed under the head 'Profit and Gain from Business or Profession' before making deduction under this section

Whichever is less.

7) Expenditure on Scientific Research [Section 35]:

Deduction allowable under this section consist of –

✓ Section 35(1) (i) – Revenue Expenditure on Scientific Research –

- Any **revenue expenditure** incurred by the assessee,
- On the scientific research related to his business or profession,
- Such expenditure incurred during the three years immediately preceding the relevant previous year on payment of salary or material input for such research.
- **100%** deduction is allowed in respect of such expenditure.

✓ Section 35(1) (ii) – Donation for Scientific Research –

- Any sum paid to a university, college, or other institution or research association and,
- Such university, college, or institution or association is approved for this purpose by the central govt. in Official Gazette.
- **175%** weighted deduction of such sum paid is allowed as deduction.
- Deduction is allowable irrespective of whether – it is related with assessee's business or not, and the payment is of revenue nature or of capital nature.

✓ Section 35(1) (iia) – Amount paid to a Company –

- Any amount paid to a company **main objective** of which is carried out the **scientific research & development** and approved by prescribed authority,
- **125%** of such some paid is allowed as deduction.
- Company approved under this section cannot claim deduction under section 35(2AB).

Deduction to be restricted to **100%** from **P.Y. 2017 – 18** (i.e. A.Y. 2018-19)

✓ Section 35(1) (iii) – Social Science or Statistical Research –

- Any sum paid to a university, college, or other institution or research association approved by central govt. in Official Gazette,
- For the purpose of carried out **Social science research** or **Statistical research**.
- **125%** of such sum paid is allowed as deduction.

Deduction to be restricted to **100%** from **P.Y. 2017 – 18** (i.e. A.Y. 2018-19)

✓ Section 35(1) (iv) – Capital expenditure on Scientific Research –

- Any **Capital expenditure** incurred by the assessee,
- On the scientific research related to his business or profession,

- Such expenditure incurred during the three years immediately preceding the relevant previous year on payment of salary or material input for such research.
- **100%** deduction is allowed in respect of such expenditure.
- **No deduction** shall be allowed in respect of **capital expenditure** incurred on acquisition of land.

✓ **Section 35(2AA) – Sum paid to a National Laboratory or University or IIT –**

- Under this section, any sum paid to a National Laboratory or University or Indian Institute of Technology (IIT) for carried out scientific research programme will be eligible for weighted deduction of **200%** of the amount so paid.
- If deduction is allowed under this section, then no any other deduction is allowed under any provision of the act.

Deduction to be restricted to **150%** from **P.Y. 2017 – 18 to P.Y. 2019-20** (i.e. A.Y. 2018-19 to A.Y. 2020 -21)

✓ **Section 35(2AB) – Company engage in business of Drugs, Electronics Equipment, etc. –**

- Under this Section, deduction is allowed to a company engage in business of bio-technology or in business of manufacture or production of any article or thing, not being an article or thing specified in the eleventh schedule.
- If such company incurred any expenditure on scientific research on in house research and development facility.
- Weighted deduction of a sum equal to **200%** of expenditure incurred will be allowed.
- Such expenditure should not be in nature of cost of any land or building.

Deduction to be restricted to **150%** from **P.Y. 2017 – 18 to P.Y. 2019-20** (i.e. A.Y. 2018-19 to A.Y. 2020 -21)

8) Expenditure for obtaining licence to operate telecommunication services [Section 35ABB]:

- Where any capital expenditure has been incurred for acquiring any right to operate telecommunication service and
- For which 'payment has actually been made',
- Deduction of such expenditure is allowed in equal annual installments over the years for which licence in force.
- 'Payment has actually been made' means the actual payment of expenditure irrespective of the previous year in which liability of expenditure was incurred.
- Expenditure incurred before actual commencement of business is also eligible for deduction.
- **In case of transfer of licence –**
 - Where the licence is transferred at a consideration less than the expenditure remaining unallowed, difference between expenditure remaining unallowed and amount of consideration is allowed as deduction in the year of transfer.
 - Where the whole or part of the licence is transferred at a consideration exceed the amount of expenditure incurred, then such excess amount is chargeable to tax in the year of transfer under this head.
 - Where a part of the licence is transferred in a previous year, the proceeds of transfer will be subtracted from the expenditure remaining unallowed. Such balance amount is

allowed as deduction over the remaining year for which licence remains in force in equal instalments.

9) Tax treatment of spectrum fee [Section ABA]:

- Where any capital expenditure has been incurred for acquiring any right to use spectrum for telecommunication services either before the commencement of business or thereafter at any time during the previous year
- For which 'payment has actually been made',
- Deduction of such expenditure is allowed in equal annual installments over the years for which spectrum is in force.
- 'Payment has actually been made' means the actual payment of expenditure irrespective of the previous year in which liability of expenditure was incurred.
- **In case of transfer of spectrum –**
 - Where the spectrum is transferred at a consideration less than the expenditure remaining unallowed, difference between expenditure remaining unallowed and amount of consideration is allowed as deduction in the year of transfer.
 - Where the whole or part of the spectrum is transferred at a consideration exceed the amount of expenditure incurred, then such excess amount is chargeable to tax in the year of transfer under this head.
 - Where a part of the spectrum is transferred in a previous year, the proceeds of transfer will be subtracted from the expenditure remaining unallowed. Such balance amount is allowed as deduction over the remaining year for which licence remains in force in equal instalments.

10) "Investments-linked tax incentives" for specified Businesses [Section 35AD]:

Following "specified business" would be eligible for weighted deduction **@150%** of the capital expenditure incurred (including capital expenditure incurred before commencement of the business) –

- i. Setting up and operating a cold chain facility;
- ii. Setting up and operating a warehousing facility for storage of agriculture produce;
- iii. Building and operating hospital in India with at least 100 bed capacity;
- iv. Developing and building a housing project under affordable housing scheme;
- v. Production of fertilizer in India.

Following "specified business" would be eligible for weighted deduction **@100%** of the capital expenditure incurred –

- i. Laying and operating a cross-country natural gas or crude or petroleum oil pipeline network for distribution, including storage facilities;
- ii. Building and operating a hotel of two-star or above in India;
- iii. Developing and building a housing project under a scheme for slum redevelopment or rehabilitation;
- iv. Setting up and operating an inland project;
- v. Bee-keeping and production of honey and beeswax;
- vi. Setting up and operating a warehouse facility for storage of sugar;
- vii. Laying and operating a slurry pipeline for transportation of iron ore;
- viii. Setting up and operating a semiconductor wafer fabrication manufacturing units.

11) Contribution for Rural Development [Section 35CCA]:

Under this section deduction is allowed in respect of following expenditure –

- i. Payment to an association having the objective of undertaking programmes of rural development.
- ii. Payment to an association or institution having object of training of person for rural development.
- iii. Payment to Rural Development fund set up and notified by CG.
- iv. Payment to 'National Urban Poverty Fund' set up and notified by CG.

12) Expenditure incurred on notified agriculture extension project [Section 35CCC]:

- Under this section a weighted deduction of a sum equal to **150%** of the expenditure incurred by assessee on agriculture extension project is allowed.
- If deduction is allowed under this section, then no deduction in respect of such expenditure is allowed under any other provision of the act in any assessment year.

13) Expenditure incurred by the companies on notified skills development project [Section 35CCD]:

- Under this section a weighted deduction is allowed of a sum equal to **150%** the expenditure (Not being expenditure in nature of cost of any land or building) on the skills development project by the **company**.
- If deduction is allowed under this section, then no deduction in respect of such expenditure is allowed under any other provision of the act in any assessment year.

14) Amortisation of Preliminary Expenses [Section 35D]:

- This section applies to –
 - a. Only to Indian companies and resident non-corporate assessee;
 - b. In the case of new companies – To expenses incurred before the commencement of business.
 - c. In the case of extension of existing undertaking – To expenses incurred till the extension is completed.
 - d. In the case of setting up of new unit – To expense incurred till the new unit commences production or operation.
- Such preliminary expenses are amortised in **five equal installments** in five successive years i.e. $\frac{1}{5}$ th of such expenditure is allowable as deduction for each of the five successive years beginning with the previous year in which the business commences or, the extension is completed or, new unit commences production or operation, as the case may be.
- **Eligible expenses** – Following expenditure is eligible for amortization –
 - i. Preparation of feasibility report
 - ii. Preparation of project report
 - iii. Market survey
 - iv. Engineering services
 - v. Legal charges
 - vi. Drafting of MoA and AoA
 - vii. Printing of MoA and AoA
 - viii. Registration fees
 - ix. In connection with issue, public subscription

- x. Underwriting commission, brokerage and drafting & printing of prospectus
- **Overall Limit** – Maximum aggregate amount of the qualifying expenses that can be amortised has been 5% of the cost of project.
In case of an Indian company, or, at the option of the company, 5% of the capital employed in the company, which is higher.
- For this purpose **cost of the project** means-
 - In case of expenditure before commencement of business the actual cost of fixed assets, being land, buildings, plants, machinery, fittings, railway sidings which are shown in the books of the assessee on the last day of the previous year in which business commence.
 - In the case of extension or setting up of new business unit In case of expenditure before commencement of business the actual cost of fixed assets, being land, buildings, plants, machinery, fittings, railway sidings which are shown in the books of the assessee on the last day of the previous year in which extension is completed or new unit start production, as the case may be.

15) Amortisation of the expenses for Amalgamation/ Demerger [Section 35DD]:

- Assessee shall be allowed a deduction equal to **one-fifth** of such expenditure for the five successive previous years beginning with the previous year in which amalgamation takes place.
- No any other deduction is allowed in respect of such expenditure under any other provision of the Act.

16) Amortisation of the expenditure incurred under Voluntary Retirement Scheme (VRS) [Section 35DDA]:

Assessee shall be allowed a deduction equal to **one-fifth** of such expenditure for the five successive previous years beginning with the previous year in which such expenditure incurred.

17) Other deductions:

✓ Section 36(1) (i) - Insurance premium paid:

Premium paid on insurance policy taken on damage or destruction of the stock or store of the business or profession is allowed as deduction.

✓ Section 36(1) (ib) – Premium paid by the employer for health insurance of employees:

- Premium paid by the employer to keep in force an insurance on the health of employees is allowed as deduction.
- Premium must be paid in any mode other than cash.
- Insurance should be in accordance with a scheme framed by – (i) the General insurance corporation of India and Approved by CG; or (ii) any other insurer and approved by the IRDA.

✓ **Section 36(1) (ii) – Bonus and commission:**

Bonus and commission is allowed as deduction provided the sum paid to the employees as bonus or commission shall not be payable to them as profit or dividend if it **not** had been **paid as bonus and commission**.

✓ **Section 36(1) (iii) – Interest on Borrowed Capital:**

- Deduction of the interest is allowed as deduction in respect of capital borrowed for the purpose of business or profession.
- Interest paid on the capital borrowed for the purpose of acquisition of assets, from the date on which such capital borrowed till the date on which assets first put into use, is not allowed as deduction.

✓ **Section 36(1) (iiia) – Discount on Zero Coupon Bond:**

This section provides a deduction in respect of discount on Zero Coupon Bond on the pro-rata basis having regard to the period of life of the bond to be calculated in prescribed manner.

✓ **Section 36(1) (iv) and (v) - Contribution to provident fund or other fund:**

Contribution to provident fund or other fund is allowable as deduction subject to following conditions –

- i. Fund should be settled upon a trust.
- ii. In case of Provident or Superannuation or Gratuity Fund, it should be one recognised or approved under the Fourth Schedule to the Income-Tax Act, 1961.
- iii. The amount contributed should be periodic payment.
- iv. The fund should be for exclusive benefit for the employees.

✓ **Section 36(1) (iva) – Contribution to pension scheme referred under section 80CCD:**

- Under this section deduction is allowed in respect of contribution made to the account of an employee under a pension scheme as referred to in section 80CCD would be allowable as deduction while computing business income.
- Deduction would be restricted to **10%** of the salary of the employee.
- For this purpose salary means Basic Salary + Dearness Allowances (If provided in the terms of employment).

✓ **Section 36(1) (vi) – Allowances for animals:**

- Deduction is allowed in respect of animals which have **died or become permanent useless**.
- Amount of allowance is the difference between actual cost of animals and price realised on the sale of animals themselves or carcasses.

✓ **Section 36(1) (vii) – Bad debts:**

- Under this section, bad debts actually written off as irrecoverable in the books of accounts of the assessee is deductible.
- In the case of entities for which provision for bad and doubtful debts is allowable under section 36(1) (viiia), amount of deduction would be amount of bad debts in excess of provision for bad and doubtful debts.

- No deduction shall be allowed unless the assessee has debited the amount of the debt or part of such debt in that previous year to the provision for bad and doubtful debts account made under section 36(1) (viia).
- Deduction is subject to following conditions –
 - a. The debts or loans should be in respect of business which is carried out by the assessee.
 - b. The debts should be taken into account in computation of income of the assessee in the previous year in which such debt is written off or of an earlier year.

✓ **Section 36(1) (viia) – provision for bad and doubtful debts:**

- **In case of schedule banks** – Following deductions will be allowed –
 - 7.5% of total income before allowing deduction under this clause and Chapter VI-A, and
 - 10% of aggregate average advances made by the rural branches of such bank.
- **In case of Foreign Banks** –
 - 5% of total income before allowing deduction under this clause and Chapter VI-A.
- **In case of public financial institution** –
 - 5% of total income before allowing deduction under this clause and Chapter VI-A.
- **In case of Non-banking Financial Companies** –
 - 5% of total income before allowing deduction under this clause and Chapter VI-A.

✓ **Section 36(1) (viii) – deduction to specified Entities engaged in eligible Business:**

- This Section provides a deduction in respect of any special reserve created and maintained by a specified entity.
- Eligible business for different entities specified are given in the table below -

	Specified entities	Eligible Business
1.	Financial corporation specified in section 4A of companies Act, 1956 Financial corporation which is a public sector company Banking company Co-operative bank	Business of providing long-term finance for – i. Industrial or agriculture development or infrastructure facility in India. ii. Development of infrastructure facility in India or iii. Development of housing in India.
2.	A housing finance company	Business of providing long term finance for the construction or purchase of house in India for residential purpose.
3.	Any other financial corporation including a public company	Business of providing long term finance for Development of infrastructure facility in India

- **Quantum of Deduction** – Up to **20%** of the profit derived from the eligible business computed under the head 'Profit or Gain from Business or Profession'.
- If **amount of reserve > 2 x (Paid-up share capital + General Reserve)**, then no deduction shall be allowed in respect of such excess amount.

✓ **Section 36(1) (ix) – Expenses on Family Planning:**

- Under this section deduction is allowable to a company in respect of expenditure incurred to promoting family planning among its employees.
- **Quantum of deduction** –
 - Revenue Expenditure – 100% deduction is allowed in the year of expenditure incurred.
 - Capital expenditure – Deduction is allowed in five equal installments in five successive years.
- Assessee would be entitled to carry forward and set-off the unabsorbed part of the allowance.

✓ **Section 36(1) (xv) – Securities Transaction Tax:**

Securities Transaction Taxes is allowed as deduction.

✓ **Section 36(1) (xvi) – Commodity Transaction tax:**

CTT is allowed as deduction.

✓ **Section 36(1) (xvii) – Expenditure incurred by a Co-operative society for purchase of sugarcane:**

Under this section, deduction is allowed to a co-operative society engage in business of manufacture of sugar, for the expenditure incurred on purchase of sugarcane at a price fixed or approved by the government.

18) Residuary Expenses (General Deduction) [Section 37]:

- **Conditions for allowance:** The following conditions should be fulfilled in order that a particular item of the expenditure may be deductible under this section:
 - a) The expenditure should not be in the nature described in sections 30 to 36.
 - b) Expenditure should be incurred wholly or exclusively for the purpose of business or profession of the assessee.
 - c) Expenditure should be incurred after commencement of business.
 - d) Expenditure should not be in the nature of any personal expenditure of the assessee.
 - e) It should not be in the nature of capital expenditure.
 - f) Expenditure should not be incurred by the assessee for any purpose which is an offence or is prohibited by law.
- As per section 37(2B), no deduction shall be allowed in respect of expenditure incurred on advertisement in any souvenir, brochure, tract or the like published by a political party.
- No deduction shall be allowed in respect of CSR expenditure.

3. Inadmissible Deductions [Section 40]:**Section 40(a)** – Following expenditure are not allowed as deduction-

- Any interest, royalty, fees for technical services or any other sum chargeable to tax, which is payable –
 - a. Outside India;
 - b. In India to a Non-resident, not being a company or to a foreign company,
- On which tax is deductible at source under Chapter XVIIIB and if
 - Tax has not been deducted; or
 - Such tax, after deduction, before the due date of filling of return of Income.
- Such sum is allowed as deduction in the year in which such tax has been paid by the assessee.

Section 40(a) (ia) –

- **30%** of the any sum payable to a resident, on which tax is deductible at source under chapter XVII-B, shall be disallowed if –
 - Tax has not been deducted; or
 - Such tax, after deduction, before the due date of filling of return of Income.
- Deduction in respect of such 30% is allowed in the previous year in which such tax has been paid by the assessee.

Section 40(b) – In case of Partnership Firm:

- **In case of Interest –**
 - Simple interest up to **12%** is allowed as deduction
 - This restriction is not applicable if a person is a partner in his representative capacity in the firm and he receives interest from the firm in his individual capacity.
 - Similarly, the restriction is also not applicable if a person who is a partner in his individual capacity receives interest for or on behalf of someone else from the firm in which he a partner.
- **In the case of salary. Bonus, commission or remuneration paid by a firm to its working partners** – It should not exceed the amount specified in the table below –

For all firms	
a. On the first ₹3,00,000 of the book profit or in case of loss	₹1,50,000 or 90% of book profit, whichever is more
b. On the balance of the book profit	@60%
- **Conditions:** In the case of partnership firm, the deduction on the account of interest and salary paid to its partners are subject to the following restriction contained in section 40(b) –
 - i. It should be authorised by and in accordance with the terms of partnership deed.
 - ii. It should not be relate to a period before the date of such deed.
 - iii. Remuneration should be paid to a working partner.

4. Expenses or payments not deductible in certain circumstances [Section 40A]:**Section 40A (2) – Payment to relative and associates:**

As per this section, where the assessee incurs any expenditure in respect of which a payment has been or is to be made to relative or to an associate concern so much of such expenditure as is considered to be excessive or unreasonable shall be disallowed by the assessing officer.

Section 40A (3) – Cash payment in excess of ₹ 20,000:

- According to section 40A (3), where the assessee incurs any expenditure in respect of which payment or aggregate of payments made to a person in a day otherwise than account payee cheque drawn on the bank or by an account payee cheque draft **exceeds ₹20,000**, such expenditure shall not be allowed as deduction.
- Where the payment has been made to **transport operator** for playing, hiring, or leasing goods carriages, the limit of ₹20,000 has been raised to **₹35,000**.
- **Rule 6DD** provides for cases and circumstances in which payment or aggregate of payment exceeding ₹ 20, 000 or ₹35,000, as the case may be shall be allowed as deduction –
 - a. Where payment is made to -
 - The reserve bank of India or nay banking company;
 - The State bank of India or any Subsidiary bank;
 - Any Co-operative bank or land mortgage bank;
 - Any primary agriculture credit society or any primary credit society;
 - The LIC of India;
 - Payment is made to govt. and rules made framed by it.
 - b. Where payment by -
 - Any letter of credit arrangement through a bank;
 - A mail or telegraphic transfer through a bank;
 - A book adjustment form any account in a bank to any other account in that or any other bank;
 - A bill of exchange made payable only to bank;
 - The use of electronic clearing system through a bank account;
 - A credit card;
 - A debit card;
 - c. Payment is made for purchase of –
 - Agriculture or forest produce; or
 - The produce of animal husbandry or dairy or poultry farming; or
 - Fish or fish products; or
 - The product of horticulture or apiculture,

To cultivator, grower or producer of such article, produce or products;
 - d. Where payment is made to producer for the purchase of the product manufacture without the aid of power in a cottage industry.
 - e. Payment is made in a town or village no banking facility is available.
 - f. Where payment is required to be made on a day on which the banks were closed due to holiday or strike;
 - g. Where payment I made by an authorised dealer or a money changer against purchase of foreign currency or travellers cheques in the normal course of his business.
 - h. Payment of salary after deducting income tax.

- i. Payment is made by employer to employee in connection with retirement, retrenchment, resignation, discharge or death, of such employee, on account of gratuity, retrenchment compensation or similar terminal benefits or aggregate of sum payable not exceed fifty thousand rupees.

Section 40A (7) – Disallowances of provision for gratuity

This section provides that no deduction shall be allowed in respect of any provision made by an employer towards payment of gratuity to his employees on their retirement or termination of their employment for any reason.

Section 40A (9) to (11) – Contribution by employers to funds, trust etc.:

- As per this section, no deduction shall be allowed where the assessee pays in his capacity as an employer, any sum towards setting up or as contribution to any fund, trust, company, AOP or BOI etc.
- However, sum paid in respect of fund covered by Sections 30(1) (iv), 36(1) (iva) and 36(1) (v) is allowed as deduction.

5. Profits chargeable to tax [Section 41]:**Section 41(1) – Remission or cessation of loss, expenditure etc.**

- As per this section, any recovery, remission or cessation of any loss, expenditure or trading liability shall be chargeable to tax in that previous year.
- It does not matter whether the business or profession in respect of which the allowances or deduction has been made is in existence or not.
- In case of succession, successor will be liable to be taxed in respect of any benefit received by him during a subsequent previous year.

Section 41(4) – Recovery of Bad Debts:

- If a deduction has been allowed in respect of a bad debts under section 36, and subsequently the amount recovered in respect of such bad debts is more than the amount due after the allowances has been made, the excess shall be chargeable to tax in tat previous year in which it is recovered.
- It does not matter whether the business or profession in respect of which the allowances or deduction has been made is in existence or not.

6. Changes in rate of exchange of currency [Section 43A]:

- This section provides that -
 - Where an assessee has acquired any asset from a foreign country for the purpose of his business or profession, and
 - Due to change thereafter in the exchange rate of two currencies involved,
 - There is an increase or decrease in liability (Expressed in Indian rupees) of the assessee at the time of making the payment,
 - The following values may be changed accordingly with the respect to the increase or decrease in such liability –
 - i. The actual cost of the asset under section 43(1)

- ii. The amount of capital expenditure on scientific research under section 35(1)(iv).
- iii. The amount of capital expenditure on acquisition of patents or copyright.
- iv. The amount of capital expenditure incurred by a company for promoting family planning amongst its employees
- v. The cost of acquisition of the non-depreciable capital asset under section 48.
- The amount arrived at after making the above adjustments shall be taken as amount of capital expenditure or cost of acquisition of the capital asset as the case may be.
- The amount of such adjustment shall be equal to the change in liability at the time of making payment.

7. Certain deduction to be made only on Actual Payment [Section 43B]:

The following sums are allowed as deduction only on actual payment within the time limit specified in Section 43B –

- i. Any sum payable by way of tax, duty, fee or cess, under any law for the time being in force.
- ii. Any sum paid by employer by way of contribution to any provident fund or superannuation fund or any other fund for welfare of employees.
- iii. Bonus or commission to employees.
- iv. Interest on loan or borrowing from any public financial institution or state financial corporation or a State Industrial Investment Corporation.
- v. Payment of leave salary under section 10(10AA).
- vi. **Sum payable to Indian railways for use of railway asset.**

8. Cost of acquisition of certain Assets [Section 43C]:

- Where an asset acquired under a scheme of amalgamation is sold by an amalgamated company as its stock-in-trade;
- In this case, in computation of profit or gain arise on such sale of Stock-in-trade;
- The cost of acquisition of stock-in-trade to the amalgamated company shall be the cost of acquisition of such stock-in-trade or asset to the amalgamating company is taken.
- Such cost should be increased by, if any, the cost of improvement or expenditure incurred wholly or exclusively in connection with such transfer.

9. Full value of consideration in case of transfer of Land or Building as Stock-in-trade [Section 43CA]:

As per section 43CA, where amount of consideration on transfer of land or building as stock-in-trade is less than the stamp duty value, then the stamp duty value shall be taken as full value of consideration for the purpose of computation of business income.

Further, where the date on agreement for fixing the value of consideration and date of registration for transfer are not same, stamp duty value on the date of agreement for transfer is taken as full value of consideration provided whole or part of consideration has been received by any mode other than cash on or before the date of agreement.

10. Income of Public Financial Institution [Section 43D]:

In case of public financial institution or a schedule Bank or state financial corporation or a State Industrial Investment Corporation, the income by way of interest shall be chargeable to tax in the previous year in which –

It is credited to the profit & loss account

Or

Actually received by the said institution

Whichever is earlier.

11. Special provisions in case of certain associations [Section 44A]:

- This section provides that where the expenditure incurred by an association solely for the purpose of protection or advancement of the common interest of its members, and
- Amount of such expenditure exceed the amount collected by the association from the members whether by way of subscription or otherwise,
- The resulting deficiency shall be allowed as deduction in computing the income of the association.

12. Compulsory maintenance of accounts [Section 44AA]:

- As per **rule 6F**, every person carrying on –
 - Legal
 - Medical
 - Engineering
 - Architectural
 - Accountancy
 - Technical consultancy
 - Interior decoration
 - Authorised representative
 - Film artist

Shall keep and maintain the books of account and other documents in following cases:

- ✓ If his gross receipt exceed **₹1,50,000** in all the 3 years immediately preceding the previous year;
- Or
- ✓ If, where the profession has been newly set up in the previous year, the gross receipt likely to exceed ₹ 1, 50,000 in that year.
- Every taxpayer carrying on any business or profession (**Other than specified above**) must maintain their books of accounts in following circumstances –
 - a. In case where the income from business or profession exceeds ₹1,20,000, or the sales turnover or gross receipt exceed ₹10,00,000 in any of three years immediately preceding the accounting year; or
 - b. In case where the business or profession is newly set up in the previous year, if his income from business or profession is likely to exceed ₹1,20,000 or his total sales turnover or gross receipt are likely to be exceed ₹10,00,000. During the previous year;
 - c. In case where assessee is covered under section 44AE or 44BB or 44BBB and the he has claimed that his profit or gain from business is lower than the profit or gain computed on presumptive basis.
 - d. In case where the assessee is under section 44AD and the assessee has claimed that his profit or gain form business is lower than the profit or gain computed on presumptive basis and his income exceed basic exemption limit.

- Following books of account and other documents are required to be maintained –
 - i. A cash book;
 - ii. A journal, if accounts are maintain on mercantile basis;
 - iii. A ledger;
 - iv. Carbon copies of bills and receipt, if exceed ₹25
- The above books of accounts and documents shall be kept and maintained for a minimum of 6 year from the end of the relevant assessment year.

13. Audit of books of accounts [Section 44AB]:

In the following cases for a person carrying on business or profession to get his account audited before the specified date by a Chartered Accountant –

- a. If the total sales, turnover or gross receipt in business exceeds ₹100 lakh i.e. 1 crore in any previous year; or
- b. If the gross receipt in profession exceed ₹25 lakh in any previous year; or
- c. In case where assessee is covered under section 44AE or 44BB or 44BBB and the he has claimed that his profit or gain from business is lower than the profit or gain computed on presumptive basis.
- d. In case where the assessee is under section 44AD and the assessee has claimed that his profit or gain form business is lower than the profit or gain computed on presumptive basis and his income exceed basic exemption limit.

14. Computation of profit and gain of business on presumptive basis [Section 44AD]:

- This section covers all small businesses with total turnover/ gross receipt of up to 200 lakh i.e. **2 Crore**
- The presumptive rate of tax would be **8%** of total turnover or gross receipt. However assessee has an option to declare the higher income.
- All deduction from section 30 to 38 is deemed to have been allowed in full and no further deduction shall be allowed.
- In case of firm, salary and interest not to be allowed.
- Assessee those opting for presumptive scheme are not required to maintain books of account under section 44AA or get them audited under section 44AB.
- Advance tax to be paid on or before 15th march of the financial year.
- An assessee with the turnover up to ₹ 2 Crore, who shows an income below the presumptive rate, and if his total income exceed basic exemption limit, he required to be maintain books of account under section 44AA and get them audited under section 44AB.

15. Computation of profit or gains of business of playing, hiring or leasing goods carriage [Section 44AE]:

- This section covered the assessee who is owner of goods carriages form playing, hire or leasing of such goods carriages;
- This scheme applies to person owing not more than 10 goods vehicle at any time during the previous year;
- The presumptive income from each goods vehicle will be deemed to be **₹7,500** for every month or part of a month.

- All deduction from section 30 to 38 is deemed to have been allowed in full and no further deduction shall be allowed.
- Assessee those opting for presumptive scheme are not required to maintain books of account under section 44AA or get them audited under section 44AB.
- An assessee who shows an income below the presumptive rate, and if his total income exceeds basic exemption limit, he is required to maintain books of account under section 44AA and get them audited under section 44AB.

16. Computation of profit or gain of shipping business in case of Non-resident [Section 44B]:

- **7.5%** of the aggregate of the following amount must be deemed to be profit and gain of the shipping business-
- The amount paid or payable, whether in India or outside India to the assessee or any other person on his behalf on the account of carriage of passengers, livestock, mail or goods shipped at any port in India.
- The amount received or deemed to be received in India by the assessee himself or by any other person on his behalf on the account of carriage of passengers, livestock, mail or goods shipped at any port outside India.

17. Computation of profit or gain of operation of aircraft business in case of Non-resident [Section 44B]:

- **5%** of the aggregate of the following amount must be deemed to be profit and gain of the shipping business-
- The amount paid or payable, whether in India or outside India to the assessee or any other person on his behalf on the account of carriage of passengers, livestock, mail or goods shipped at any port in India.
- The amount received or deemed to be received in India by the assessee himself or by any other person on his behalf on the account of carriage of passengers, livestock, mail or goods shipped at any port outside India.

18. Computation of business income in cases where income is partly agriculture and partly business in nature**✓ Income from manufacture of rubber [Rule 7A]:**

35% of such income derived for sale of rubber shall be deemed to be liable to tax.

✓ Income from manufacture of coffee [Rule 7B]:

- Sale of coffee grown and cured – **25%** of such income shall be deemed to be income liable to tax.
- Sale of coffee grown, cured, roasted, and grounded - **40%** of such income shall be deemed to be income liable to tax.

✓ Income from manufacture of tea [Rule 8]:

40% of the income derived from the sale of tea shall be deemed to be business income.

Capital Gain

1. Capital Asset:

Definition: According to Section 2(14), a capital asset means –

- Property of any kind held by the assessee, whether or not connected with his business or profession.
- Any security held by a Foreign Institutional Investor which has invested in such securities in accordance with the SEBI Regulation even held as stock-in-trade.

However, it does not include –

- i. Any stock-in-trade, consumable store or raw material held for the purpose of business or profession; personal effect i.e. movable property held for personal use of the assessee or any member of his family, but it **does not include** –
 - a) Jewellery;
 - b) Archaeological collection;
 - c) Drawing;
 - d) Painting;
 - e) Sculpture; or
 - f) Any work of art.
- ii. Rural agriculture land in India
- iii. Gold deposit Bonds.

Rural Agriculture Lands:

- Agriculture land situated in an area having population of not less than ten thousand according to last preceding census, or
- Agriculture land situated in an area within such distance, measured aerially, in relation to the range of people according to the last preceding census as shown hereunder –

	Shortest aerial distance from the local limits of a municipality or cantonment board to in item (a)	Population according to the last preceding census of which the relevant figures have been published before the first day of the previous year.
(i)	≤ 2 Kilometres	>10,000 ≤ 1,00,000
(ii)	≤ 6 Kilometres	>1,00,000 ≤ 10,00,000
(iii)	≤ 8 Kilometres	>10,00,000

2. Short-term and long-term capital assets:

- **Short term capital asset** – A Capital Asset (Other than unlisted shares) which is held by the assessee for not more than 36 months immediately preceding the date of its transfer is a short-term capital asset.

In the case of **unlisted shares**, if held for not more than **24 months**, then it is a short-term capital asset.

- **Long-term capital asset** - A capital asset other than short term capital asset i.e. a capital asset which is held by the assessee for more than 36 months (24 months in case of unlisted shares).

In case of listed security, or a unit of an equity oriented fund or a unit of UTI, or Zero Coupon Bond will be consider as long term capital asset if they are held for more than 12 months immediately preceding the date of its transfer.

Determination of Period of holding:

	Capital Asset	Period of Holding
(i)	Shares held in company in liquidation.	Period up to the date of liquidation.
(ii)	Asset received on partition of HUF or as Gift or under a will or succession or inheritance etc.	Period for which asset was held by the previous owner shall be taken into account.
(iii)	Shares held in an amalgamated company in lieu of shares in the amalgamating company	Period shall be from the date of acquisition of shares in the amalgamating company.
(iv)	In case of shares or any other security where such right is renounced in favour of any other person	Period shall be calculated form the date of allotment of such shares or securities.
(v)	Financial asset allotted without payment	Period shall be calculated form the date of allotment.
(vi)	Shares in an Indian company, which become the property of assessee in the consideration of a demerger	Period of holding shall include the period for which the shares are held in demerged company by the assessee.
(vii)	In case of specified security or sweat equity shares allotted by the employer to his employees at free of cost or at concessional rate	Period shall be reckoned from the date of allotment or transfer of such shares or securities.

3. Transfer: What its means [Section 2(14)]:

As per section 2(47) of Income Tax Act, 1961, transfer in relation to a capital asset, includes –

- i. The sale, exchange or relinquishment of the asset; or

- ii. The extinguishment of any right therein; or
- iii. The compulsory acquisition thereof under any law; or
- iv. Conversion of a capital asset into stock-in-trade; or
- v. The maturity or redemption of zero coupon bond; or
- vi. Any transaction allowing of the possession of any immovable property to be taken or retained in part performance of a contract; or
- vii. Any transaction which has the effect of transferring or enabling the enjoyment of, any immovable property.

4. Scope and year of chargeability [Section 45]:

✓ **Section 45(1) - General provision:**

Any profit or gain arise on transfer on transfer of any capital asset in previous year shall be chargeable to tax in that previous year in which such transfer took place.

✓ **Section 45(1A) – Receipts from insurance parties:**

- Where any person receives any money or other assets under any insurance from an insurer
- On account of damage to or destruction of any capital asset, as a result of flood, typhoon, hurricane, cyclone, earthquake, or any other convulsion of nature, accidental fire etc.,
- Then any profit or gain arise from receipt of such money or other asset chargeable to tax in that previous year in which such transfer took place.
- For this purpose, value of such money or fair market value of the other asset on the date of receipt shall be taken as full value of consideration.

✓ **Section 45(2) - Conversion or treatment of a capital asset as stock-in-trade:**

- Profit or gain arise on transfer from conversion or treatment of a capital asset as stock-in-trade will be chargeable to income-tax as his income of previous year in which such stock-in-trade is sold or otherwise transferred by him.
- For this purpose, fair market value on the date of conversion or treatment shall be deemed to be taken as full value of consideration.

✓ **Section 45(3) – Introduction of capital asset as capital contribution:**

- Where a person transfer a capital asset to a firm, AOP or BOI;
- In which he is already a partner/ member or is to become partner/ member by way of capital contribution or otherwise;
- The profit or gain arise from transfer will be chargeable to tax as income of the previous year in which such transfer took place.
- For this purpose, the value of the consideration will be the amount recorded in the books of account of the firm, AOP or BOI as the value of the capital asset.

✓ **Section 45(4) – Distribution of capital assets on a firm's dissolution:**

- Profit or gain arising from transfer of capital assets by way of distribution of capital asset on the dissolution of a firm or AOP or BOI or otherwise shall be chargeable to tax as income of the firm etc. of the previous year in which such transfer took place.
- For this purpose, the fair market value of the asset on the date of such transfer shall be full value of consideration.

✓ **Section 45(5) – compensation on compulsory acquisition:**

In this case, the consideration for the transfer is determined by the central government. When central govt. pays the above compensation, capital gain may be arise. Such compensation shall be chargeable as income of the previous year in which such compensation is received.

Enhance compensation –

- If the court awards a compensation which is higher than the original compensation, the difference thereof will be chargeable to capital gain in the year in which the same is received from the government
- For this purpose, cost of acquisition and cost of improvement shall be taken to be nil.

5. Capital gain on distribution of asset by companies in liquidation [Section 46]:

✓ **Section 46(1):**

- Where the asset of a company are distributed to its shareholders on its liquidation, such distribution shall not be regarded as transfer by the company for the purpose of section 45.
- However, liquidator sells the asset of the company resulting in a capital gain and distributes the fund so collected, the company will be liable to pay tax on such gains.

✓ **Section 46(2):**

- Any money or other asset received by a shareholder from company on its liquidation shall be chargeable to tax in the hands of shareholders.
- The portion of the distribution which is attributable to the accumulated profits of the company is to be treated as dividend income of the shareholder under section 2(22) (c)
- The same will be deducted from the amount received/ fair market value for the purpose of determining the consideration for computation of capital gains.

✓ **Section 46(3) – Capital gains tax on subsequent sale by shareholders:**

- If the shareholders, after the receipt of any such asset on liquidation of the company,
- And transfer it within the meaning of section 45 at a price which is in excess of his cost of acquisition determined in the manner aforesaid,
- Such excess becomes taxable in his hands under section 45

6. Capital gains on buyback, etc. of shares [Section 46A]:

(1)	(2)	(3)
Taxability in the hands of the -	Buyback of unlisted shares by domestic companies	Buyback of shares other than shares referred to in column
Company	Subject to additional income-tax @ 23.072% (tax @20% + surcharge @12% + cess@3%)	Not subject to tax in the hands of the company.

Shareholder	Income arising to shareholders exempt under section 10(34A)	Income arising to shareholders taxable as capital gains under section 46A.
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7. Transaction not regarded as transfer [Section 47]:

- Any distribution of capital asset on total or partial partition of HUF.
- Any transfer of capital asset under a gift or will or an irrevocable trust.
- Any transfer of capital asset by subsidiary company to its holding company or holding company to its subsidiary company provided that **Transferee Company** must be an Indian company. This exemption is not applicable in case where capital asset is transfer as stock-in-trade.
- Any transfer of a capital asset under the scheme of amalgamation by the amalgamating company to amalgamated company if the amalgamated company is an Indian company.
- Any transfer in a scheme of amalgamation of shares held in an Indian company by the amalgamating foreign company to the amalgamated foreign company.

Conditions:

- At least 25% of the shareholders of the amalgamating foreign company must continue to remain shareholders of amalgamated foreign company.
- Such transfer should not attract capital gain in the country in which the amalgamating company incorporated.
- Any transfer by way of conversion of bonds, debenture, debenture stock, deposit certificate of a company, into shares or debenture of that company.
- Any transfer of a capital asset in a scheme of reverse mortgage under a scheme made and notified by the CG.
- Any transfer of any of following capital asset to the Government or to the University or the National Museum, National Art Gallery, National Archives or any other public museum or institution notified by the Central govt. –
 - Work of art
 - Archaeological, scientific or art collection
 - Book
 - Manuscript
 - Drawing
 - Painting
 - Photography or
 - Print
- Any transfer by way of conversion of Foreign Currency Exchangeable Bond into shares or Debentures of a company.

8. Mode of computation of capital gains [Section 48]:

➤ Computation of long term capital gain –

Gross sale consideration	----
Less: Expenditure incurred wholly or exclusively in connection with such transfer (for example – brokerage on sale etc.)	----
Net Sale consideration	----
Less: Indexed cost of acquisition or indexed cost of improvement	----

Less: Exemption under sections 54/ 54B/ 54EC/ 54F/ 54G	----
Long term capital gain	----

Notes:

- Deduction on account of securities transaction tax paid will not be allowed.
- **Indexed cost of acquisition =**

$$\text{Cost of acquisition} \times \frac{\text{CII for the year in which the Asset is transferred}}{\text{CII for the year in which the asset was first held by the assessee or 1981 – 82, whichever is later}}$$

- **Indexed cost of improvement =**

$$\text{Cost of improvement} \times \frac{\text{CII for the year in which the asset is transferred}}{\text{CII for the year in which the improvement took place}}$$

- The benefit of indexation will not apply to long term capital gains from transfer of bonds or debenture other than capital indexed bonds issued by the government.

➤ **Computation of short-term capital gains:**

Gross sale consideration	----
Less: Expenditure incurred wholly or exclusively in connection with such transfer (for example – brokerage on sale etc.)	----
Net Sale consideration	----
Less: Indexed cost of acquisition or indexed cost of improvement	----

Less: Exemption under sections 54B/ 54D/ 54G	----
Long term capital gain	----

Shifting base year from 1981 to 2001 for computation of capital gains:

In order to revise the base year for computation of capital gains, it is proposed to amend section 55 of the Act so as to provide that the cost of acquisition of an asset acquired before 01.04.2001 shall be allowed to be taken as fair market value as on 1st April, 2001 and the cost of improvement shall include only those capital expenses which are incurred after 01.04.2001. Consequential amendment is also proposed in section 48 so as to align the provisions relating to cost inflation index to the proposed base year.

These amendments will take effect from 1st April, 2018 and will, accordingly, apply in relation to the assessment year 2018-19 and subsequent years.

9. Ascertainment of cost of acquisition in special circumstances [Section 49]:

- In the following cases, the cost of acquisition of the asset shall be deemed to be cost for which the previous owner acquired the asset as increased by the cost of any improvement of the asset incurred or born by the previous owner or the assessee, as the case may be –
 - Where the capital asset become the property of the assessee:
 - On any distribution of asset on the total or partial partition of HUF;
 - Under a gift or will or a recoverable or an irrevocable trust;
 - By succession, inheritance or devaluation;
 - On any distribution of asset on the liquidation of a company;
 - Transfer by holding company to its 100% subsidiary company or by subsidiary company to its 100% holding company;
 - Transfer under a scheme of amalgamation by the amalgamating company to the Indian amalgamating company.
 - Any transfer in a scheme of amalgamation of shares held in an Indian company by the amalgamating foreign company to the amalgamated foreign company.
 - Transfer of capital asset or intangible asset by a private company or unlisted company to a LLP as a result of conversion of the company into LLP;
 - On succession of a firm or sole proprietorship concern by a company in a business carried out by it
 - By conversion by an individual of his separate property into a HUF property.
- Indexed cost of acquisition would be determined by taking CII for the year in which asset is first held by the assessee.

Exception:

As per the view express by the Bombay High Court in CIT v. Manjula J. Shah 16 Taxman 42 that indexed cost of acquisition in case of gifted asset has to be computed with the reference to the year in which the previous year in which the previous owner first held the asset and not the year in which the assessee become the owner of the asset. If this view is consider, indexation benefit in respect of gifted asset would be available from the year in which asset was first acquired by the previous owner.

10. Cost of improvement [Section 55]:

- **Goodwill of business, etc.:**

In relation to capital asset being good will of a business or a right to manufacture, produce or progress any article or thing, or right to carry business, the cost of improvement shall be taken to be nil.

▪ **Any other capital assets:**

- Where the capital asset become the property of the previous owner or the assessee before 01-04-1981, the cost of improvement means all expenditure of a capital nature incurred in making nay addition or alternation to the capital asset on or after the said date by the previous owner or the assessee
- In any other case, cost of improvement means all expenditure of a capital nature incurred in making nay addition or alternation to the capital asset by the assessee after it become his property.
- However, cost of improvement does not include any expenditure which is deductible in computing the income chargeable under the head "Income from other sources", "Income from House Property", or "Income from Business or Profession".

11. Cost of acquisition [section 55]:

- **Goodwill of the business or a trademark or brand name associated with a business or a right to manufacture, produce or process any article or thing or to carry on any business, tenancy rights, stage carriage permit and loom hours –**

In the case of above assets, if the assessee has purchased them from a previous owner, the cost of acquisition means the amount of the purchase price.

▪ **Self-generated asset:**

In the case of self-generated assets, the cost of acquisition will be taken to be *nil*.

▪ **Other assets:**

In the following cases, cost of acquisition shall be the cost for which previous owner of the property acquired it:

- Where the capital asset become the property of the assessee:
- On any distribution of asset on the total or partial partition of HUF;
- Under a gift or will or a recoverable or an irrevocable trust;
- By succession, inheritance or devaluation;
- On any distribution of asset on the liquidation of a company;
- Under any such transfer referred to in sections 47(iv), (v), (via) or (viaa).
- Where assessee is a HUF, by made referred to in section 64(2).

12. Computation of capital gains in case of depreciable asset [Section 50 & 50A]:

- Where the capital assets is transfer during the previous year for a consideration **exceed** the aggregate of following amount namely:

Expenditure incurred wholly or exclusively in connection with such transfer;

+

WDV of the block of the asset at the beginning of the previous year;

+

The actual cost of the asset falling within the block of the assets acquired during the previous year.

- Such excess shall be deemed to be the capital gains arising from the transfer of short-term capital assets.
- In case where all the asset of a block is transferred and block ceases to exist, difference between the sale value of the asset and WDV of the block of asset will be deemed to be the capital gain arise on transfer of short term capital asset.

13. Capital gains in respect of slump sale [Section 50B]:

- Any profit or gain arising from the slump sale during the previous year shall be taxable as capital gain arising from transfer of long term capital asset and shall be deemed to be income of the previous year in which the transfer took place.
- **Short-term capital gains** – Any profit or gain arising from such transfer of one or more undertakings held by the assessee for not more than 36 months shall be deemed to be short-term capital gains.
- The net worth of the undertaking, shall be deemed to be the cost of acquisition or cost of improvement.
- **Net worth** = Total Asset of Division – liabilities of the division.

Note: For this purpose, revaluation of assets shall be ignored.

14. Full value of consideration in certain cases [Section 50C]:

- Where the consideration received on transfer of a capital asset, being a land or building, is less than the valuation adopted by the Stamp Valuation authority, the valuation as adopted by the valuation authority will be considered as full value of consideration for the purpose of computation of capital gain arise on transfer of land or Building or Both.
- Where the assessee claims before the income tax assessing officer that value so adopted or assessed by the stamp valuation authority exceeds the fair market value of the asset and appeal to appoint a valuation officer to ascertain the value of the property, then in such case if value ascertained by the valuation officer exceeds value so adopted or assessed by the stamp valuation authority, the value so adopted by stamp valuation authority shall be taken as full value of consideration.
- But if the value ascertained by the valuation officer is less than the stamp duty value, then value ascertained by the valuation officer shall be taken as full value of consideration.

15. In case where the consideration is not determinable [Section 50C]:

In this case fair market value on the date of transfer of capital asset shall be deemed to be full value of consideration.

16. Advance money received [Section 51]:

Sometimes due to break-down of negotiation for transfer of capital asset, the assessee may retained the advance money. This section provides the following tax treatment of such advance money forfeited –

- **If before 1-Apr-2014** – Any such sum of money forfeited will be deducted from the cost of acquisition for computing capital gains.

- **If on or after 1-Apr-2014** – Such sum shall be chargeable to tax under the head “Income from Other Sources”, and negotiation do not result in transfer of capital asset and do not deducted from the cost of asset.

17. Exemption of Capital gains

A. Capital gains on sale of residential house [Section 54]:

- **Eligible assessee** – Individual & HUF
- **Conditions to be fulfilled** -
 - There should be transfer of residential house (Building or lands appurtenant thereto).
 - It must be long term capital asset.
 - Income from such house property should be chargeable under the head “Income from House Property”
 - One residential house in India should be -
 - Purchase within 1 year before or 2 year after the date of transfer (or)
 - Constructed within a period of 3 years after the date of transfer.
- **Quantum of Exemption** –
 - If the cost of new residential house $\geq$ capital gains, entire capital (Short-term or Long-term) gain is exempt.
 - If the cost of new residential house $<$ capital gains, capital gains (Short-term or Long-term) to the extent of cost of new residential house is exempt.
- **Consequences of transfer of new asset before 3 years** –

If new asset is transferred before 3 years from the date of its acquisition, then cost of asset will be reduced by capital gains exempted earlier for computing short-term capital gains.

B. Capital gain on transfer of agriculture land [Section 54B]:

- **Eligible assessee** – Individual & HUF
- **Conditions to be fulfilled** -
 - There should be transfer of urban agriculture land.
 - Such land must have been used for agriculture proposed by the assessee, being an individual or his parents, or a HUF in the immediately preceding years.
 - He should purchase another agriculture land (urban or rural) within 2 years from the date of transfer.
- **Quantum of Exemption** –
 - If the cost of new agriculture land $\geq$ capital gains, entire capital gain (Short-term or Long-term) is exempt.
 - If the cost of new agriculture land $<$ capital gains, capital gains (Short-term or Long-term) to the extent of cost of new agriculture land is exempt.

- **Consequences of transfer of new agriculture land before 3 years –**
 - If new asset is transferred before 3 years from the date of its acquisition, then cost of asset will be reduced by capital gains exempted earlier for computing short-term capital gains.
 - However if the new agriculture is a rural agriculture land, there would be no capital gain on transfer of such land.

C. Capital gains on transfer by way of compulsory acquisition of land and building [Section 54D]:

- **Eligible assessee –** Any assessee
- **Conditions to be fulfilled –**
 - There must be compulsory acquisition of land and building forming part of an industrial undertaking.
 - The land and building should have been used by the assessee for the purpose of his business of the industrial undertaking in the 2 years immediately preceding the date of transfer.
 - The assessee must purchase any other land or building or construct any building within 3 years from the date of transfer.
- **Quantum of Exemption –**
 - If the cost of new agriculture land $\geq$ capital gains, entire capital (Short-term or Long-term) gain is exempt.
 - If the cost of new agriculture land $<$ capital gains, capital gains (Short-term or Long-term) to the extent of cost of new agriculture land is exempt.
- **Consequences of transfer of new asset before 3 years –**

If new asset is transferred before 3 years from the date of its acquisition, then cost of asset will be reduced by capital gains exempted earlier for computing short-term capital gains.

D. Capital gain not chargeable on investment in certain bonds [Section 54EC]:

- **Eligible assessee –** Any assessee
- **Conditions to be fulfilled –**
 - There should be transfer of a long term capital asset.
 - Such asset can also be a depreciable asset held for more than 36 months.
 - The capital gain arising from such transfer should be invested in eligible bonds redeemable after 3 years, of National Highway Authority of India (NHAI) or the Rural Electrification Corporation of India (RECL) within 6 months from the date of transfer.
 - The assessee should not transfer or convert or avail loan or advance on the security of such bonds for a period of years from the date of acquisition of such bonds.
- **Quantum of Exemption –**
 - Capital gain or amount invested in specified bonds, whichever is lower.
 - The maximum investment can be made up to ₹ 50 lakhs.
- **Violation of condition:**

In case of transfer or conversion of such bonds or availing loan or advance on security of such bonds before expiry of 3 years, the capital gain exempted earlier shall be taxed as long-term capital gain in the year of violation of conditions.

In order to widen the scope of the section for sectors which may raise fund by issue of bonds eligible for exemption under section 54EC, it is proposed to amend section 54EC so as to provide that investment in any bond redeemable after three years which has been notified by the Central Government in this behalf shall also be eligible for exemption.

This amendment will take effect from 1st April, 2018 and will accordingly, apply in relation to the assessment year 2018-19 and subsequent years.

E. Exemption of long-term capital gain on investment in notified units of specified fund [Section 54EE]:

- **Objective:**
For incentivising the start-up ecosystem in India, the 'start-up India Action Plan' envisages establishment of a fund of funds which intends to raise ₹2,500 crores annually for four years to finance the start-ups.
- **Conditions to be fulfilled -**
 - Investment of LTCG in units of specified fund.
 - Investment within 6 months from the date of transfer.
 - Units should not be transferred for a period of 3 years.
- **Quantum of Exemption –**
 - Capital gain or amount invested in notified units of specified funds, whichever is lower.
 - The maximum investment can be made up to ₹ 50 lakhs.
- **Violation of condition:**
In case of transfer or conversion of such units or availing loan or advance on security of such units before expiry of 3 years, the capital gain exempted earlier shall be taxed as long-term capital gain in the year of violation of conditions.

F. Capital gain in cases of investment in residential house [Section 54F]:

- **Eligible assessee –** Individual & HUF.
- **Conditions to be fulfilled -**
 - There should be transfer of a long term capital asset not being a residential house.
 - Transfer of plot of land is also eligible for exemption.
 - One residential house in India should be -
 - Purchase within 1 year before or 2 year after the date of transfer (or)
 - Constructed within a period of 3 years after the date of transfer.
 - The assessee should not own more than one residential house on the date of transfer
 - The assessee should not –

- Purchase any other house within a period of one year or
 - Construct any other residential house within a period of 3 years
- From the date of transfer of original asset.

▪ **Quantum of Exemption –**

- If the cost of new residential house $\geq$ Net sale consideration or original asset, entire capital gain is exempt.
- If the cost of new residential house $<$ Net sale consideration of original asset, only proportionate capital gain is exempt i.e.

$$LTCC \times \frac{\text{Amount invested in new residential house}}{\text{Net sale consideration}}$$

▪ **Consequences of transfer of new residential house before 3 years –**

If new house is transferred before 3 years from the date of its acquisition, then capital gain exempted earlier would be taxable as long term capital gains.

G. Capital gain on shifting of industrial undertakings from urban area [Section 54G]:

▪ **Eligible assessee –** Any assessee.

▪ **Conditions to be fulfilled -**

- There should be shifting of industrial undertaking from urban area to any other area.
- There should be transfer of machinery, plant, building or land from urban area to other area due to shifting.
- The capital gain should be utilized for any of following purpose within 1 year before or 3 years after the date of transfer –
- Purchase of new plant and machinery
- Acquisition of building or land or construction of building
- Expense on shifting of the industrial undertaking from the urban area to other area
- Such other expenses as the central govt. may specify.

▪ **Quantum of Exemption –**

- If the cost of new asset plus expenses incurred for the specified purpose $\geq$ capital gains, entire capital gain is exempt.
- If the cost of new asset plus expenses incurred for the specified purpose $<$ capital gains, capital gain to the extent of such cost and expenses is exempt.

▪ **Consequences of transfer of new asset before 3 years –**

If new asset is transferred before 3 years from the date of its acquisition, then cost of asset will be reduced by capital gains exempted earlier for computing short-term capital gains.

H. Capital gain on shifting of industrial undertakings from urban area to any SEZ [Section 54GA]:

▪ **Eligible assessee –** Any assessee.

▪ **Conditions to be fulfilled -**

- There should be shifting of industrial undertaking from urban area to any SEZ.

- There should be transfer of machinery, plant, building or land from urban area to SEZ due to shifting.
- The capital gain should be utilized for any of following purpose within 1 year before or 3 years after the date of transfer –
 - Purchase of new plant and machinery
 - Acquisition of building or land or construction of building
 - Expense on shifting of the industrial undertaking from the urban area to other area
 - Such other expenses as the central govt. may specify.
- **Quantum of Exemption –**
 - If the cost of new asset plus expenses incurred for the specified purpose $\geq$ capital gains, entire capital gain is exempt.
 - If the cost of new asset plus expenses incurred for the specified purpose $<$ capital gains, capital gain to the extent of such cost and expenses is exempt.
- **Consequences of transfer of new asset before 3 years –**

If new asset is transferred before 3 years from the date of its acquisition, then cost of asset will be reduced by capital gains exempted earlier for computing short-term capital gains.

18. Short-term capital gain tax in respect of equity shares/ units of an equity oriented fund [section 111A]:

- This section provides for a concessional rate of tax **@15** on the short-term capital gains on transfer of –
 - An equity share in a company or
 - A unit of an equity oriented mutual fund or
 - A unit of a business trust
- Such transaction should be chargeable to securities transaction tax.

19. Tax on long-term capital gains [Section 112A]:

Long-term capital gain shall be taxable **@20%**.

20. Exemption of long-term capital gains on sale of equity shares/ Units of an equity oriented funds [Section 10(38)]:

- This section exempts long-term capital gains on transfer of equity shares of a company or unit of equity oriented fund or units of a business trust.
- This exemption is available only if such transaction is chargeable to securities transaction tax.

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Income from Other Source

1. Introduction

This head is the residuary head of income and brings within its scope all the taxable income, profits or gains of an assessee which fall outside the scope of any other head.

2. Income chargeable under this head [Section 56]:

The following income shall be chargeable only under this head –

- Dividend income
- Casual income in the nature of winning from lotteries, crossword puzzles, horse races, card game and other game of any sort, gambling, betting etc. such winning income shall be chargeable to tax at a flat rate of **30%** under section 115BB.
- The table below summaries the scheme of taxability of gifts –

	Nature of asset	Particular	Taxable value
1	Money	Without consideration	The whole amount if the same exceed ₹50,000
2	Movable property	Without consideration	The aggregate fair market value of the property, if it exceeds ₹50,000.
3	Movable property	Inadequate consideration	The difference between the aggregate fair market value and the consideration, if such difference exceeds ₹50,000.
4	Immovable property	Without consideration	The stamp value of the property, if it exceeds ₹50,000.
5	Immovable property	Inadequate consideration	The difference between the aggregate fair market value and the consideration, if such difference exceeds ₹50,000.

- However, the any sum of money or value of property received **would be outside the ambit of section 56(2) (vii).**
 - From any relative; or
 - On the occasion of the marriage of the individual; or
 - Under a will or by way of inheritance; or
 - In contemplation of death of the payer or donor, as the case may be; or
 - From the any local authority; or
 - From any fund or foundation or university or other educational institution or hospital or other medical institution or any trust or institution referred to in section 10(23C); or
 - From any trust or institution registered under section 12AA.
- The term “**relative**” for the purpose of section 56(2) (vii) would mean –
 - In case of an **individual** –

- i. Spouse of individual;
- ii. Brother or sister of the individual;
- iii. Brother or sister of spouse of the individual;
- iv. Brother or sister of either of the parents of the individual;
- v. Any lineal ascendant or descendant of the individual;
- vi. Any lineal ascendant or descendant of spouse of the individual;
- vii. Spouse of any person referred to above.

- In case of **HUF**, any member thereof.

3. Transfer of shares without consideration or for inadequate consideration in case of recipient firm and companies [Section 56(2) (viiia)]:

- If such share are received without consideration, the aggregate fair market value on the date of transfer would be taxed as the income of the recipient firm or company, if it exceed ₹50,000.
- If such shares are received without consideration, the difference between the aggregate fair market value and the consideration would be taxed as income of the recipient form or income, if such difference exceeds ₹50,000.
- However, the provisions of section 56(2) (viiia) would not be apply in case of transfer of shares –
 - Of a company in which the public are substantially interested; or
 - To a company in which the public are substantially interested.

4. Interest received on compensation/ enhanced compensation [Section 56(2) (viii)]:

Section 56(2) (viii) provides that income by way of interest received on compensation or on enhanced compensation shall be assessed as “Income from other sources” in the year in which it is received.

5. Advance forfeited due to failure of negotiation of transfer of capital asset [Section 56(2) (ix)]:

Any advance received or forfeited on or after 1- Apr- 2014 would be subject to tax under section 56(2) (ix).

6. The following income is chargeable under the head “Income from Other Sources” only if such income is not chargeable under the head “Profit and Gain from Business or Profession”-

- i. Any sum received by an employer-assessee from his employees as contributions to provident fund, superannuation fund for welfare of the employees.
- ii. Interest on securities
- iii. Income from letting out on hire, machinery, plant or furniture.
- iv. Where letting out of building is inseparable from the letting out of machinery, plant or furniture, the income from such letting.
- v. Any sum under a keyman insurance policy.

- vi. Income chargeable to tax under the act, but not falling under any other head. For example – Salary of MLAs/ MPs will not be chargeable under the head ‘Salary’ but will be chargeable as ‘Income from other Sources’ under section 56.

7. Bond washing transactions and dividend stripping [Section 94]:

➤ **Bond washing transactions –**

- A bond washing transaction is a transaction where securities are sold some time before the due date of interest and reacquired after the due date is over.
- This practice is adopted by persons in the higher income group to avoid tax by transferring the securities to their relative/ friends in the lower income group just before the due date of payments of interest.
- This section provides that where the owner of security transfer the security just before the due date of interest and buy back the same immediately after the due date and interest is received by the transferee, such interest income will be deemed to be the income of the transferor and would be taxable in his hands.

➤ **Dividend stripping –**

Section 94(7) provides that where –

- Any person buys or acquires any securities or unit within a period of three months prior to record date and
- Such person sale or transfer –
 - i. Such securities within a period of three months after such dates, or
 - ii. Such unit within a period of nine months after such date and
- The dividend or income on such securities or unit received or receivable by such person is exempted,

Then, the loss, if any, arising therefrom shall be ignored for the purpose of computing his income chargeable to tax such loss should not exceed the amount of dividend or income received or receivable on such securities or unit.

8. Applicable rate of tax in respect of casual income [Section 115BB]:

- This section provides that Casual income in the nature of winning from lotteries, crossword puzzles, horse races, card game and other game of any sort, gambling, betting etc. such winning income shall be chargeable to tax at a flat rate of **30%** plus surcharge, if applicable, plus education cess plus secondary and higher education cess.
- No expenditure or allowances can be allowed from such income.
- Deduction under chapter VI-A is not allowable from such income.
- Adjustment of unexhausted basic exemption limit is also not permitted against such income.

9. Deduction allowable [Section 57]:

- Any reasonable sum paid by way of commission or remuneration to a banker or any other person for the purpose of realising dividend or interest or dividend on behalf of assessee.
- Any recovery from employees as contribution to any provident fund etc.
- The amount paid on account of any current repairs to the machinery, plant or furniture.
- Insurance premium paid on damage or destruction of the machinery or plant or furniture.
- The normal depreciation allowable in respect of the machinery, plant or furniture, due thereon.

- In case of family pension, a deduction of a sum equal to $33\frac{1}{3}$ of such income or ₹15,000, whichever is less, is allowable.
- Any other expenditure not being in the nature of capital expenditure laid out or expended wholly and exclusively for the purpose of making or earning such income.
- 50% of income by way of compensation or enhance compensation received chargeable to tax under section 57 in respect of such income.

10. Deduction not allowable [Section 58]:

Following expenses are not allowed as deduction –

- In the case of any assessee –
 - Any personal expenses of the assessee;
 - Any interest chargeable to tax under the Act which is payable outside India on which tax has not been paid or deducted at source.
 - Any payment taxable in India as salaries, if it is payable outside India unless tax been paid thereon or deducted at sources.
- Any payment made in a single day in exceed ₹20,000 in aggregate other than by way of account payee cheque or draft covered under section 40A.
- Income-tax and wealth-tax paid.
- No deduction is allowed in respect of casual income such as lottery, puzzle etc.

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