# TAXATION

**Fast Track Revision**


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**Features:**
- ✓ All chapters at a glance
- ✓ According to Arihant Spirals
- ✓ All important aspects has been covered
- ✓ Maximum try to avoid mistakes
- ✓ According to provisions of AY 2010-2011

# CONTENTS AND WEIGHTAGE IN PREVIOUS EXAMS



**** Not in IPCC course***

# 1. BASIC CONCEPTS AND DEFINATIONS

**1)** The Income-tax Act, 1961 came into force with effect from 1/4/1962. It has XXIII chapters and 298 sections in all.

**2)** **India: Section 2(25A)** India means the territory of India as referred to in Article 1 of the Constitution, its territorial waters, seabed and subsoil underlying such waters, continental shelf, exclusive economic zone or any other maritime zone as referred to in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other maritime Zones Act, 1976 and the air space above its territory and territorial waters.

**3)** **Person: Section 2(31)** includes seven types of persons namely an individual, a Hindu undivided family (HUF), A company, A firm, An association of persons (AOP) or a body of individuals (BOI), A local authority, Every artificial juridical person not falling within any of the preceding sub clauses.

**4)** The 2 basic differences between **AOP and BOI** are:
- **a)** In BOI there are only individuals but in AOP there can be any type of persons.
- **b)** BOI is creation of law whereas AOP can be created by different persons coming together for doing some income producing activity on the voluntary basis.

**5)** **Assessee: Section 2(7)** means any person by whom tax, interest or penalty is payable under any provision of this act and includes:
- **a)** deemed assessee
- **b)** assessee in default
- **c)** Person against whom any income tax proceedings have been started for the assessment of his income or loss or the income of some other person or the loss for whom he is liable.

**6)** **Assessment year: Section 2(9)** means the period of 12 months starting from 1$^{st}$ April every year and ending on 31$^{st}$ march of the succeeding year.

**7)** **Previous year: Section 2(34)** means the year immediately preceeding to assessment year. Income for the previous year is always taxed in the assessment year. The following are the exceptions to the general rule that income of every previous year is chargeable to tax in the relevant assessment year.

| | |
|---|---|
| Section 172: | Shipping business of a non-resident; |
| Section 174: | Person leaving India; |
| Section 174A: | An AOP formed for the purpose of a particular event. |
| Section 175: | Persons likely to transfer property to avoid tax; |
| Section 176: | Discontinued business or profession |

**8)** **Income includes the gifts** received in excess of Rs.50000. If anyone has received gift in cash exceeding Rs.50000 from a non-relative then whole of such amount received shall be considered his income.

**9)** However gifts received from relatives shall not be covered in the said 8) point above.

**10)** **Section 14:** Gross total income is the aggregate of income from all five heads of Income, namely
Income under the head salary
Income under the head house property
Income under the head business and profession
Income under the head capital gains
Income under the head other sources

**11)** **Section 14A:** while computing total income no deduction shall be allowed for that expenditure which has been incurred to earn exempted income.

**12)** **Section 2(45):** Total income is income after reducing the deduction under chapter VI-A from the gross total income. This income is also called taxable income on which tax has to be imposed.

**13)** **Section 288A:** The total income shall be rounded off in the multiples of Rs. 10.

**14)** **Application of income v/s diversion of income:** Application of income means spending the money after it has been earned by the assessee. Such an amount is always included while computing taxable income in the hands of assessee. In other words once an income has been earned it could not be excluded on the grounds that it has been applied for some purpose. On the other hand diversion of income is the process of diverting the income before it is earned by the assessee.

**For Example:** J Ltd sells a unit of a product at Rs.100 with very clear message to customer that out of Rs.100 Rs.5 will go to the charitable institution. Now only Rs.95 shall be regarded as the income in the hands of company and Rs.5 will be known as diversion of income.

**For Example:** Mr. J inherited property from his father but subject to the right of residence in favour of mother of Mr. J. This means that Mr. J has the right over the ownership of the property but mother has right over residence in the house. If the house is to be sold then for the effective sale of house both should transfer their rights in house. From the total sales consideration Mr. J cannot be held liable for the tax on that portion which represents the right of his mother.

15) **Revenue Vs Capital:** Any receipt of money can either be categorized as revenue or capital. Revenue receipts are always fully taxable unless specific exemption has been provided for that. Capital receipts are never taxable. That's why amount received from insurance company at the time of maturity is not taxed under Section 10(10D). Similarly loan taken is also not taxed. However, some of the capital receipts are taxable since they have been specifically provided in the definition of Income such as tax on Capital gains on sale of Capital asset.

**DIFFERENCE BETWEEN CAPITAL RECEIPT AND REVENUE RECEIPT**

| Capital Receipt | Revenue Receipts |
|---|---|
| Capital receipt is generally referable to fixed capital. For e.g., Sale price on the sale of assets, which assessee uses as a fixed asset in his business is a capital receipt | Revenue receipt refers to circulating capital. For e.g., Sale price of the stock in trade is a revenue receipt |
| Payment received towards the compensation for the extinction of a profit earning source is a capital receipt | Payment received to compensate loss of earnings is a revenue receipt |
| A receipt in lieu of source of income is a capital receipt. For e.g., Compensation for the loss of employment is a capital receipt. | A receipt in lieu of income is a revenue receipt |
| Capital receipts are exempt from tax unless they are expressively taxable like in the case of capital gains | Revenue receipts are always taxable unless expressly exempt from tax under section 10 |

16) For the purposes of Income Tax Act Company has very wide meaning as compared to what has been defined under the company law. The term company has been defined under section 2(17) and it has been further classified into:
   - **(a)** Domestic company : Section 2(22A)
   - **(b)** Foreign company : Section 2(23A)
   - **(c)** Indian company : Section 2(26)
   - **(d)** A Company in which public is substantially interested : Section 2(18)

# 2. RESIDENTIAL STATUS

1) **Section 6(1):** An Individual can be resident or a non-resident in India. To be a resident he has to satisfy one of the following conditions:
   - **a)** Stay in India ≥ 182 days in a PY OR
   - **b)** Stay in India ≥ 60 days in a PY and Stay in India ≥ 365 days in preceeding 4 PYs.
2) For the b) condition above, we have 3 exceptional cases. In all these 3 cases 60 days shall be taken as 182 days:
   - **(a)** A citizen of India who leaves India for the employment purposes.
   - **(b)** A citizen of India who leaves India as a member of crew of Indian ship.
   - **(c)** An Individual who is a citizen of India OR is a person of Indian origin who comes to India on a visit.
3) **Section 6(6)(a):** A Resident individual can be ROR or NOR. ROR is one who satisfies both of the following conditions
   - **a)** Resident in 2/10 preceeding PYs.
   - **b)** Stay in India ≥ 730 days in a 7 preceding PYs.
4) For an individual, residential status is determined based on the period of stay in India. However, for HUF, Firm, AOP and other non-corporate entities the control and management is critical in determining residential status.
5) While determining residential status of HUF period of stay of karta is not at all relevant. What is important is whether control and management of such HUF is situated in India or not. Further to check whether HUF is ROR or NOR residential status of karta as an individual becomes relevant.

6) An Indian company is always regarded as a Domestic Company. A company incorporated outside India may also be treated as a domestic company if certain conditions are fulfilled.
7) An Indian company is always a resident. A Company incorporated outside India is treated as 'resident' only if control and management is wholly in India.
8) Resident and ordinarily resident is taxed on his global income.
9) Not ordinarily resident is taxed in respect of Indian Income. In respect of foreign income he is taxed only if it is from business controlled in India or profession set up in India.
10) Non-resident is taxed in respect of Indian Incomes only.
11) Remittance in India is never taxed in India, since it is the second receipt.
12) Agriculture income from a land in India is always exempt from tax. However, if land is not in India then agriculture income will be taxed in India.
13) Dividend from Domestic Company is not taxed but from foreign company it is fully chargeable to tax. Dividends from cooperative societies are fully taxable.

# 3. CALCULATION OF INCOME TAX

1) Income of every person is chargeable to tax at the rates prescribed in the Finance Act such as slab rates. However some of the income tax rates are not mentioned in Finance Act but they have been mentioned in Act itself, such as Tax on lottery income is 30% as per section 115BB and tax on long-term capital gains is 20% as per section 112 and if equity shares are sold after 1/10/2004 the STCG are taxable at 15% as per section 111A.
2) Individuals, HUF, AOP, BOI and every artificial juridical person get their income taxable on the basis of slab rate.
3) Surcharge @ 10% is leviable on the tax liability in the case of individual and HUF where their taxable income exceeds Rs. 10 lakhs and Rs. 100 Lakhs in case of firms and companies for the AY 2009-2010.
4) Firms & domestic companies are chargeable at a flat rate of 30%.
5) Surcharge leviable for the AY 2009-2010 has been 10% except in case of foreign companies where it is 2.5%.
6) No surcharge is imposed on local authority and co-operative societies.
7) Every person whose total income of the assessment year exceeds the maximum amount not chargeable to tax shall pay the tax as per the rates mentioned in the finance act, in the previous year itself. Such total income is to be calculated on the basis of the residential status of a person.
8) Education cess for the AY 2009-2010 is 2% for primary education and 1% for higher and secondary education. We should not calculate and charge education cess at 3%, it would be principally wrong.

# 4. INCOME UNDER THE HEAD SALARY

1) **Employer – Employee relationship:** Income is taxable as income from salary if there is an employer - employee relationship between 2 persons. Partners are not employees of partnership firm and that's why salary received from the firm is not taxable as salary income but it is taxable as income from business and profession. Similarly members of parliament have no employer and therefore sitting fees received by them for attending parliament session shall be taxable as income from other sources.
2) **Contract of service vs. Contract for service:** Wherever there exists employer-employee relationship there is a **"contract of service".** In this employer can control and direct the work to be performed by employee. In this case income received by a person shall be regarded as salary. Where there is **no employer-employee relationship** then two people enjoy the relationship of **"contract for service".** In this the contractee can only be told what is to be done. There can be no specific instructions about how it is to be done. In this case income shall be taxable as income of business and profession or income of other sources.
3) 'Contract of Service' creates employer – employee relationship whereas 'contract for service' doesn't result in such a relationship. Therefore any Income from such relation is not to be taxed under this head of Income.
4) **TDS on salary vs. Tax free salary:** Under the concept of TDS employer will calculate and deduct tax on the monthly basis before handing over salary to employee. But in case of tax free salary employer will pay tax on the salary income of employee out of his own pocket and therefore such amount of tax is added in the salary of the employee.
5) **Advance salary vs. advance against salary:** Under the concept of advance salary employee gets salary from the employer before salary gets due to him. But in case of advance against salary employer giver loan to

employee on a condition that installment of such loan would be deducted from the monthly salary of employee.

6) **Section 15:** Salary income is taxable on due or receipt basis whichever is earlier. But if it is taxed on due basis it will not be again taxed when it is received.
7) **Section 9(1):** Salary is always accrued at a place where the services are rendered. However in case of government employee who is working outside India, his salary shall always be accrued in India.
8) **Surrender and forgoing of salary:** Is salary is surrendered in favor of the government then such salary is not taxed. However if employee forgoes his salary in favor of some other employee then such salary is taxable in hands of employee.
9) **Salary from more than 1 employer:** If salary is received from more than 1 employer then aggregate of salary from all employers shall be taxed.
10) **Profits in lieu of salary:** Amount of compensation from any person before assessee joining any employment with that person or after cessation of his employment with that person is profit in lieu of salary and taxable under Section 17(3).
11) **Tax paid by employer on the perquisite value of non-monetary perquisites:** If employer pays tax on behalf of employee then salary paid to employee will know as tax free salary. Such amount of tax paid by employer on behalf of employee shall be employee's income and will be added to his gross salary. However if employer pays such amount of tax on non-monetary perquisites then so much of tax shall NOT be included in gross salary of employee---Section 10(10CC).
12) **Entertainment allowance** is given a deduction only to government employees. Government employees mean employees of Central Government and State Government→Section 16(ii).
13) **Professional tax** is imposed by the State Government and never by Central Government. Professional Tax is allowed as deduction under Section 16(iii) on the payment basis and not on accrual basis. Professional Tax is given a deduction even if amount has been paid by employers although it will be first included in the gross salary.
14) **Gratuity—Section 10(10)** For government employees, gratuity is fully exempt from tax at the time of retirement. Government employees mean employees of Central Government, State Government, Local Authority. For other maximum exemption for the life time is Rs.350000. Gratuity received anytime before retirement shall be fully taxable and gratuity at death is exempt from tax.
15) **Commuted Pension—Section 10(10A):** For government employees or non-government employees uncommuted pension is always fully taxable. Pension is allowed to be commuted to the maximum of 40% of the future 100 months. Commuted pension is always fully exempt from tax for government employees but for non-government employees its exemption depends on whether assessee has received gratuity or not at retirement. Government employees mean employees of Central Government, State Government, Local Authority and Statutory Corporation.
16) **Family pension:** After the death of the employee pension shall be paid to his family members and such pension is called family pension. After death of member of armed forces who was winner of gallantry award pension given to his family members shall be fully exempt from tax under section 10(18). If member of armed forces die during combat duties then pension given to his family members shall be fully exempt from tax under section 10(19). In all other cases family pension is regarded as income from other sources and is exempt from tax under section 57 to the lower of:
    - **a)** 1/3 of family pension received.
    - **b)** Maximum limit of Rs. 15000
17) **Leave salary—Section 10(10AA):** Encashment of leave during tenure of job is always fully taxable for all kinds of employees whether government or non-government. Encashment of leave at retirement is exempt for maximum of Rs.300000. Government employee means employee of Central Government and State Government. Leave encashment given to family members after the death of the employee shall be fully exempt from tax.
18) **Provident Fund:** Contribution of employer to SPF is fully exempt from tax. Further interest accrued on SPF is also fully exempt from tax under section 10(11). Contribution of employer to RPF account of employee is exempt up to 12% of salary and interest thereon is exempt up to 9.5% of total contribution. Contribution to URPF and interest thereon is fully taxable at the time of retirement or withdrawal.
19) **LTC:** Exemption under Section 10(5) in respect of leave travel concession or allowance is with reference to 2 trips in a block of 4 calendar years.
20) **Foreign allowances and perquisites:** Any allowances or perquisite given to employee of government outside India shall be fully exempt from tax under section 10(7). Such an allowance is also known as foreign allowance.
21) **ESOPs** are not taxable as perquisite if issued in accordance with the guidelines specified by the Central Government.

**22)** The following is the tax treatment for various allowances:

**A) HRA under Section 10(13A) RWR 2A—**Exempt up to the least of

1. Actual HRA received.
2. Rent paid in excess of 10% of salary i.e. rent paid –10% of salary.
3. 50% of the salary in metros and 40% in other places.
   Salary would mean BS+DA(R)+commission on fixed % basis of sales.

**B)** Official allowances under Section 10(14): **all these allowances are exempt up to the lower of:**

a) **Amount received or**
b) **Actual amount spent for the official purposes**

***Conveyance Allowance, Academic Allowance, Traveling Allowance, Helper Allowance, Uniform Allowance, Daily Allowance***

**C) Allowances which are exempt to the lower of amount received and limit set by law.**

**(i)** Hostel Expenditure Allowance: exempt up to Rs.300 p.m. per child up to a maximum of two children. Children will include adopted and step children but shall not include grand-children. That means allowance for grand-children shall be fully taxable.
**(ii)** Underground Allowance: exempt up to Rs.800 Per month.
**(iii)** Tribal Area Allowance: It is exempt up to Rs.200 per month.
**(iv)** Children Education Allowance: It is exempt up to Rs.100 p.m. per child for maximum of 2 children. Children may include adopted or step children but shall not include grandchildren. Children can be any 2 children.
**(v)** Counter Insurgency allowances: Exempt up to Rs.3900 pm.
**(vi)** Transport Allowance: Exempt to the extent of Rs.800 p.m. but if the employee is physically handicapped then the amount exempt is Rs.1600 pm.
**(vii)** Outstation allowance: The amount of exemption shall be: (a) 70% of such allowance or (b) Rs.6 000 p.m. whichever is less.

**D) Allowances which are fully taxable are**

Dearness allowances (DA), Overtime allowance, City compensatory allowance (CCA), Servant allowance/ warden allowance, Lunch allowance/Tiffin allowance, Family allowance, Medical allowance is always fully taxable irrespective of any amount spent on medical treatment, Entertainment allowance, Deputation allowance, Split duty allowance, dating allowance etc.

**23) The following are exempt perquisites:**

**(i)** Interest free loan in respect of medical treatment for specified ailments.
**(ii)** Holiday home Health club sports and similar facilities made uniformly available to all employees.
**(iii)** Hotel accommodation up to 15 days on transfer.
**(iv)** Motorcar and Conveyance facility.
**(v)** Medical facility in own hospital; public hospital; Government hospital or approved hospital.
**(vi)** Car credit card and club facility.
**(vii)** Use of computers and laptop.
**(viii)** Expenses on phones including mobile phones i.e. telephone facility.
**(ix)** Newspapers and periodicals.
**(x)** Meals Tea coffee snacks etc. provided.
**(xi)** Amount spent on the training of employee or on refreshment course.
**(xii)** Any kind of good of which employer is a producer and is supplied by him to his employee at concessional rate.
**(xiii)** Recreational facility provided by employer to employee.
**(xiv)** Perquisites outside India to citizen of India who is government employee.
**(xv)** Payment of the premium on the accidental policy of employee.
**(xvi)** RFA provided to judges of HC or SC or official of parliament or union minister or leader of opposition in parliament.
**(xvii)** Conveyance provided to judges of HC or SC.

**24) The following perquisites are exempt if the value does not exceed the prescribed limit.**

1. Interest on petty loans not exceeding Rs. 20000 in aggregate
2. Educational benefit not exceeding Rs. 1000 per child per month.
3. Medical reimbursement up to Rs. 15000 in a year.

**25) Perquisites taxable only for specified employees – Section 17(2) (iii)**

| | |
|---|---|
| Gardner, watchman, sweeper or any other personal attendant | → Rule 3(3) |
| Gas, electricity, water facility | → Rule 3(4) |
| Educational facility | → Rule 3(5) |

**26) Employee is specified employee if he falls under any 1 of the following 3 categories:**

- **(a)** He is any director of the company and is also employee of company.
- **(b)** He is the employee with the substantial interest in the company i.e. he holds 20% or more of the voting power.
- **(c)** His income under the head "salaries" excluding non-monetary perquisites exceeds Rs.50000.

**27) Perquisites taxable for all kinds of employees:**

| | |
|---|---|
| **1.** RFA | → Section 17(2)(i) RWR 3(1) |
| **2.** Accommodation at concessional rate | → Section 17(2)(ii) RWR 3(1) |
| **3.** Employee's obligation met by employer | → Section 17(2)(iv) |
| **4.** Amount of premium paid by employer on behalf of employee | → Section 17(2)(v) |
| **5.** Fringe benefits | → Section 17(2)(vi) RWR 3(7) |

- **a)** Interest free or concessional loan
- **b)** Use of movable asset belonging to employer
- **c)** Transfer of a movable asset by employer to employee.

# 5. FRINGE BENEFIT AND NEW PERQUISITES

**1)** This chapter relates to the fringe benefits provided by employer to employee and up on which employer will be liable to pay tax.

**2)** A company, partnership firm, AOP, BOI, local authority and artificial judicial person arte regarded as employers and FBT is levied on them.

**3)** An individual, a HUF, central government, state government, a political party and trusts shall not be regarded as employer and no FBT is levied on them..

**4)** Every employer shall be liable to pay FBT of 30% on the value of fringe benefits provided to employee or deemed to have been provided to employee during the PY. Further surcharge shall be applicable if the value of fringe benefits exceeds Rs. 100 lakhs and education cess shall also be applicable.

**5)** Section 115WB (1) and (2) defines the nature of fringe benefits and section 115WC defines the value of fringe benefits.

**6)** WEF AY 2008-2009, the concept of advance tax has been made applicable to FBT also. The amount of FBT shall be paid in installments in the previous year itself under section 115WJ(2).

**7)** If advance tax of FBT is not paid then assessee shall be charged simple interest of 1% pm for the delay in the payment of FBT under section 115WJ (3), (4) and (5).

**8)** The perquisite of car shall be taxable for employee if employer is not liable for FBT.

**9)** The perquisite value of car taxable for employee will depend on the ownership of car and who has incurred expenses for the running and maintenance of car.

**10)** If car is used exclusively for the official purposes then perquisite value of car shall be Nil and nothing shall be taxable for employee but for this few documents have to be maintained.

**11)** If employer has provided more than 1 car to employee and all cars are used partly for official and partly for personal purposes then one car shall be taxable as per the rules of POPP purposes and all other cars shall be taxable as per the rules of car used for personal purposes.

**12)** Pick and drop facility provided by the employer to employee shall be fully exempt from tax for employee.

**13)** Facility of travelling, touring and accommodation shall be taxable for employee and for this PV shall be the value at which these facilities are available to general public.

**14)** PV of the meals provided shall be the actual expenditure incurred by the employer but Rs. 50 per meal shall be exempt from tax.

**15)** PV of tea and snacks provided by the employer during office hours shall be fully exempt from tax but which are provided after office hours shall be fully taxable.

**16)** Gifts received from employer by the employee in kind are exempt up to Rs. 5000 pa. But gift is cash or in convertible in cash shall be fully taxable.

**17)** Perquisite value of credit card and club shall be fully exempt from tax for employee if use of card or club is for exclusive for official purposes. But is use is personal or partly official and partly personal then it shall be fully taxable.

**18)** The car is taxable for the employee is employer is liable for FBT and employee is a s specified employee. The detailed taxability of motor car provided to the employee is as follows

**1. If the car is owned/hired by employer and is used by employee**

**1.1 Car if used only for the official purposes**: Its PV shall be NIL provided some specified documents have been maintained.

**1.2 Car is used only for the private purposes:** Its PV shall be aggregate of following:

| | | |
|---|---|---|
| | Actual running and maintenance charges | …… |
| *Add* | Actual chauffer charges (driver's salary) | …… |
| *Add* | Wear and tear charges, which shall be 10% of the historical cost of car | …… |
| | | …… |

**1.3 Car is used partly for official and partly for personal purposes:** Its PV value shall be calculated as follows:

**A) If running and maintenance charges are met by employer then:**

**i)** If car's engine capacity is of 1600 cc or less → Rs. 1200 pm.

**ii)** If car's engine capacity is of more than 1600 cc → Rs.1600 pm.

**B) If running and maintenance charges are met by employee then:**

**i)** If car's engine capacity is of 1600 cc or less → Rs. 400 pm

**ii)** If car's engine capacity is of more than 1600 cc → Rs.600 pm

**NOTES:**

**1)** If along with car chauffer is also provided then 600 pm has to be added in both of the above cases.

**2)** Power of car can be defined in terms of cc (cubic capacity) or in terms of liters. Therefore 1600 cc may be said as 1.6 liters of engine capacity.

**2. If employee owns car and is used by employee himself and expenses are met by employer or reimbursed by him**

**2.1 Car if used only for the official purposes:** Its PV shall be NIL provided some specified documents have been maintained.

**2.2 Car is used only for the private purposes:** Its PV shall be taxed under section 17(2)(iv) i.e. it shall be fully taxable for both specified as well as non-specified employees.

**2.3 Car is used partly for official and partly for personal purposes:** Its PV value shall be calculated as follows:

| | | |
|---|---|---|
| | Actual expenditure done by employer | …… |
| *Less* | 1200 pm OR 1600 pm as the case may be depending upon cubic capacity of car | (……) |
| *Less* | 600 pm for chauffer | (……) |
| | | …… |

**NOTES:**

**1) Fraction of month:** For computing the PV of a car the fraction of the month shall be excluded.

**2) Meaning of month:** Month has to be reckoned in respect to the British calendar. For this purpose month shall be understood in this manner: 15/5/2009 to 14/6/2009 or 19/8/2009 to 18/9/2009 or 2/10/2009 to 1/11/2009 and likewise.

**3) Amount recovered by employer from employee:** If an employee has paid any amount back to the employer then it shall not be reduced from the PV of car, if the car has been used for POPP purposes. But if the car has been used for the personal purposes then the amount returned by employee to employer shall be reduced to calculate the PV.

**4) Pool of cars:** If the employer has provided more than 1 car for partly official and partly personal purposes then it will be a case of Pools of Car. In such a case any one car will be taxed as per the rules of POPP and remaining car(s) will be taxed as per the rules of personal use.

**5) Vehicle other than car:** If employer has provided any other vehicle other than car then its PV shall be 600 pm.

**6) Pick and drop facility:** If employer has provided pick and drop facility then its PV shall be exempt from tax.

**7) Specified documents means:**

**1)** A Logbook, which contains complete details of journey undertaken for the official purpose, which may include date of journey, destination, mileage and the amount of expenditure, incurred thereon.

**2)** The employer gives a certificate that the expenditure was incurred wholly and exclusively for the official purposes.

**8)** Personal purposes include the benefit to members of household of employee. Members of household mean spouse, children, spouse(s) of children, parents, servants and dependents

# 6. INCOME FROM HOUSE PROPERTY

1. House property must comprise of building OR lands attached to such building to attract taxability under this head of income.
2. This is the only head of income where income may get computed on notional basis and taxed.
3. Taxability arises in the hands of the owner or deemed owner as defined under section 27.
4. NAV is computed under Section 23 and for this purposes the following steps are followed:
   - **a)** Step 1: Higher of Municipal value and Fair Rent.
   - **b)** Step 2: Lower of Standard rent and value at step 2.
   - **c)** Step 3: Value of step 2 less Loss of rent due to vacancy of property.
   - **d)** Step 4: Higher of value at step 3 and actual rent received is GAV.
   - **e)** Step 5: From GAV calculated at step 4 we reduce municipal taxes paid by landlord on or before 31/3/PY
5. Municipal taxes are deducted on payment basis and not on the accrual basis. Further taxes which are paid by landlord are to be reduced and not which have been paid by tenant.
6. Section 24(a) allows 30% flat deduction on NAV and section 24(b) allows interest on capital borrowed.
7. In case of one self-occupied property, net annual value is nil but interest on borrowed capital under Section 24(b) is allowed as a deduction up to Rs. 30,000, if loan was taken before 1/4/99.
8. If loan is taken on or after 1/4/99 and purchase or construction of house is completed within 3 years from the end of the financial year of obtaining the loan, then the limit of Rs. 30000 is substituted by Rs. 1,50,000.
9. Interest on loan borrowed which is payable outside India shall be allowed as deduction only if tax is deducted or paid at source.
10. In case of house property which is vacant, municipal taxes are allowed to be reduced and thus we can have negative NAV.
11. Unrealized rent does not form part of actual rent if all the conditions of Rule 4 are satisfied.
12. If subsequently unrealized rent is received it is taxed under Section 25AA in the year of receipt without any deduction under Section 24.
13. Arrears of rent received from a tenant shall be taxed under Section 25B but subject to 30% deduction of such arrear.
14. Co-owner's share of income from property is included in each co-owners individual assessment and is not assessable as on AOP.
15. In case where the property is partly self-occupied and partly let out on the basis of area then MV, FR, SR,MT paid and Interest on borrowed capital has to be bifurcated on the basis of area. However, if property is PLO/PSO on the basis of time period then nothing has to be bifurcated.
16. Net annual value of a property can be negative provided municipal taxes paid are higher than the amount of GAV.
17. If assessee has the main business of letting out property or dealing in property even then the rental income is to be taxed under this head of income and not under the head of PGBP.
18. In case assessee received composite rent for letting out the property as well as facilities along with such property then it has the following tax treatment:
    - **a)** If letting out of building and facilities is separable then rent of the property is to be taxed under the head of HP and rent of facilities under the head PGBP or OS as the case may be.
    - **b)** If letting out of building and facilities is not separable then rent of the property as well as rent of facilities is to be taxed under the head PGBP or OS as the case may be.
19. Following HP are not chargeable to tax under the head of HP:
    - **a)** Income from a farmhouse.
    - **b)** Property held by a charitable trust
    - **c)** Property used for own business or profession.
    - **d)** A SO or a vacant house.
    - **e)** A palace of ex ruler.
20. Advance rent received by the assessee shall be taxable in the year to which it relates.
21. In the case of house property which is vacant, municipal taxes are allowed to be reduced.

# 7. INCOME FROM BUSINESS & PROFESSION

1) **Section 145:** Profits and gains of Business or Profession shall be computed either on cash basis or mercantile basis of accounting.
2) Speculation Business income should to be computed separately as loss from such business cannot be set off against any other business income.
3) Revenue loss or expenditure incidental to business is excludable in the computation even though there is no specification provision. For example expenditure on stationery is deductible even though there is no specific section for this.
4) All the assets use for business can be classified as under:
   **Tangible:** (a) Land – it is not eligible for depreciation.
   (b) Building, machinery, plant and furniture are eligible for depreciation.
   **Intangible:** Know-how, patents, copyrights, trademarks, licenses, franchises are eligible for depreciation.
5) Revenue expenses incurred in relation to the assets mentioned in point 4) should be considered for deduction under Section 30, 31 and 37(1). Capital expenditure not qualifying under these provisions may be capitalized and depreciation under Section 32 can be claimed if eligible.
6) Only in the case of undertakings engaged in the business of generation or generation and distribution of power, there is an option to avail depreciation on straight-line method. This option is for only those assets, which have been purchased after 31/3/98. In all other cases depreciation is deductible only on written down value method. The option has to be exercised in the beginning and shall apply to all the subsequent assessment years.
7) If depreciation has been charged as per SLM basis as mentioned in 6) above and then block of asset has been sold:
   **(a)** For the value less than the value of block then we get terminal depreciation, which can be debited, to PL account.
   **(b)** For the value more than the value of block then up to the amount of depreciation debited to the day is treated as PGBP income and balance if any is treated as STCG.
8) Interest on loan borrowed for acquiring on asset used in the business has to be treated as under:
   **a)** Before the commencement of production/Business has to be capitalized.
   **b)** Interest relating to the period after the asset is first put to use shall never form part of the cost of the asset. As per Section 43(1) it shall be allowed as revenue expenditure.
9) Unabsorbed depreciation is treated as part of current year depreciation and therefore, can be set off against income under other heads of income as well (except income of salary and casual incomes). It can be carried forward indefinitely even if the business is discontinued.
10) As per section 50 there shall be always STCG on sale of a depreciable asset.
11) In case of asset being destroyed and insurance company gives a similar asset to assessee then the value of such asset destroyed shall not be reduced from the block as per the SC case of **CIT Vs. Kasturi and Sons Ltd.**
12) The deduction of scientific research expenditure under Section 35 shall be as follows:

| | **Particulars** | **Deduction permissible.** |
|---|---|---|
| 1 | Expenditure incurred for own business:<br>* Under Section 35(2AB) – special activities such as pharmaceuticals, bio-technology, computers etc.<br>* Under Section 35 – Other cases | Weighted deduction of 150%<br><br>Deduction of 100% |
| 2 | Contribution to Government's, approved universities', college or institution's laboratory | Weighted deduction of 125% |

13) Generally, revenue expenditure is deductible in the year when expenditure has been incurred and capital expenditure is capitalized. The concept of deferred revenue expenditure is not prevalent in Indian income tax structure. However, such principle is made applicable under the following sections:
   **A) Section 35D** – Amortization of preliminary expenditure – write it off over 5 years. Qualifying amount shall be follows:
   **a.** For non-corporate assessee it cannot exceed 5% of cost of project
   **b.** For a Company it cannot exceed 5% of cost of project OR 5% capital employed which ever is higher.
   **B) Section 35DD** – Expenses incurred for amalgamation and demerger – write off over 5 years.
   **C) Section 35DDA** – Voluntary Retirement Service compensation – write off over 5 years.

**D) Section 37(1)** – Discount/ premium on redeemable preference shares or bonds or debentures can be spread over the life of the instrument **– Madras Industrial Investment Corporation Ltd.**

**14)** The bad debts written off during preceding previous years and which are recovered during the previous year then recovery is fully taxable in the year of recovery provided it is recovered by the same assessee who has incurred such bad debt as was decided by **SC in the case of P. K. Kaimal.**

**15)** Expenditure on advertisement in souvenir, brochure, pamphlet etc. published by a political party is not allowed as deduction. However a deduction for the same or/and similar expenditure is allowed as deduction under section 80GGB and 80 GGC.

**16)** Expenses not deductible are as follows:

1. **Section 40(a)** –Any payment outside India on which no TDS has been done or has been paid.
2. **Section 40A(2)** – Excessive and unreasonable expenditure where a relative and substantial interest holding is involved.
3. **Section 40A(3)** – Expenditure paid in excess of Rs.20000 otherwise than by account payee cheque or bank draft subject to rule 6DD.
4. **Section 40A(7)** – Provision for gratuity.
5. **Section 40A(9)** – Contribution to unapproved funds.
6. **Section 43B** – Certain expenses not paid within the stipulated time limit. This applies irrespective of method of accounting.

**17)** Where the partnership deed stipulates terms of interest and salary to partners, the amount authorized by the deed or the limit prescribed by Section 40(b), whichever is lower, shall be allowed as deduction. This limit is as follows:

| BOOK PROFITS OF PROFESSIONAL FIRMS | BOOK PROFITS OF OTHER FIRMS | REMUNERATION AS % OF BOOK PROFITS |
|---|---|---|
| On first Rs.100000 or in case of Loss | On first Rs.75000 or in case of Loss | Rs.50000 or 90% of book profits whichever is higher |
| On next 100000 | On next 75000 | 60% |
| On Balance | On Balance | 40% |

**18) Under Section 44AA** the assessee needs to maintain books of account in the following cases:

**a)** Notified professions – Gross receipts exceed Rs. 1.5 lakhs.
**b)** Other professions/business– Income exceeds Rs. 12 lakhs or turnover exceeds Rs. 10 lakhs.

**19) Under Section44AB** Audit is mandatory if

**(a)** Profession gross receipts exceed Rs. 10 lakhs.
**(b)** Presumptive cases covered by 44AD; 44AE & 44AF. 44BB and 44BBB, where the income is less than prescribed limit.

**20)** Presumptive business income provisions are as follows:

| Provision | Section44AD | Section44AE | Section44AF |
|---|---|---|---|
| Nature & Eligibility | Civil construction business having Turnover ≤ 40 lakhs. | Transport business-having no. of vehicles ≤ 10 | Retail Traders having Turnover ≤ 40 lakhs. |
| Deemed Income | 8% or more of turnover. | Heavy vehicle – Rs. 3,500 or more. Others Rs. 3,150 or more (p.m. or part of the month) | 5% or more of Turnover. |

# 8. INCOME FROM CAPITAL GAINS

**1)** In order to attract taxability under this head of income there must be 'capital asset' and it must be covered under the term of 'transfer'.

**2)** As per section 2(14) stock in trade, personal effects and agricultural land in rural area are not considered as capital asset and hence there shall be no capital gains on their transfer.

**3)** Transactions constituting 'transfer' are illustrated under Section 2(47) some of which are as follows:
- **a.** Sale, exchange or relinquishment of a capital asset
- **b.** Extinguishments of any right in asset
- **c.** Compulsory acquisition by of capital asset by government
- **d.** Conversion of capital asset into stock in trade
- **e.** Any transaction as referred as to in Section 53A of Transfer Of Property Act 1882.

**4)** These transactions are not regarded as 'transfer' under Section 47, therefore no capital gains shall be charged
- **i.** Transfer under gift or will
- **ii.** Distribution of assets on partition of HUF
- **iii.** Transfer of the artistic, scientific work etc. to the government, university, museum etc.
- **iv.** Conversion of the bonds, debentures, deposits etc. into shares or the debentures of that company.
- **v.** Transfer of shares held by shareholders under the amalgamation if:
  - **1.** Amalgamated company is an Indian company.
  - **2.** Transfer is made in consideration of allotment to him of the shares in the amalgamated company.

**5)** A capital asset is treated as long-term capital asset on the basis of period of holding as follows:
- **(a)** Shares, listed securities, Units of UTI and mutual funds recognized under Section 10(23D) – 12 months or more.
- **(b)** All other capital assets–36 months or more (Depreciable assets are always treated as STCA)

**6)** In case of LTCA, COA is to be indexed with the factor for that year in which the asset was for the first time acquired by the assessee.

**7)** Section 48's provisos:
- **a)** 1st Proviso applies to non-residents on transfer of shares and debentures only.
- **b)** 2nd proviso applies to all kinds of LTCA.
- **c)** 3rd proviso applies to bonds and debentures and indexation is not done.

**8)** Benefit of indexation is not available in case of:
- **a)** Short term capital assets;
- **b)** Bonds and debentures since 3rd proviso to section 48 is applicable.
- **c)** Slump sale under Section 50B

**9)** There are 8 self-generated assets in respect of which the **cost of acquisition** shall be adopted as **nil** in case an assessee has not incurred any cost for acquisition them. These assets are self generated goodwill; tenancy right; route permit; Loom hours; Right to manufacture, produce or process any article or thing; Bonus shares acquired after 1/4/81; Right to subscribe to shares ; trademark or brand name.

**10)** In the case of bonus shares acquired before 1/4/1981, it is possible to avail fair market value as on 1/4/1981 as the cost of acquisition. In fact, it is the only asset; among the 8 assets referred to above for which fair market value as on 1/4/1981 can be availed if the bonus shares have been acquired prior to that date. **In the case of the other assets, even if they are acquired prior to 1/4/1981, cost will be taken as nil.**

**11)** In case of gift or will or inheritance cost of acquisition shall be the cost at which the previous owner acquired the asset. Further in while calculating the period of holding the period for which the asset was held by previous owner and current owner shall be added together.

**12)** The differential treatment between long term and short term capital assets shall be as follows:-

| **Particulars** | **Long Term** | **Short Term** |
|---|---|---|
| Indexation benefit | Available | Not available |
| Exemption under Section 54, 54EC,54F & 54G<br>Exemption under Section 54B, 54D, 54G & 54GA | Available<br>Available | Not available<br>Available |
| Concessional tax rate under Section 112 | Available in case of securities | Not available |
| Basic exemption limit (Individual & HUF) | Available to residents if incomes except LTCG are less than basic exempt limit | Available |
| Deductions of section 80C to 80U | Not available | Available |

13) **Section 45(1A):** Capital gains tax normally arises in the year of transfer except in the case of insurance compensation where it is taxed in the year of receipts.

14) **Section 45(2):** Conversion of capital asset into stock-in-trade is taxed in the year of sale of such stock-in-trade but while indexing the cost of acquisition shall taken for the year in which conversion took place.

15) **Section 45(5):** In case of compulsory acquisition capital gain is taxed in the year of receipt of compensation or part of the compensation. In case of enhanced compensation CG shall have the same nature as that of original compensation. In case of reduction of compensation, the tax on original compensation or enhanced compensation shall be revised.

16) Values to be considered for the adoption for computation of capital gains are as:
   - **a) Section 45(2)** Conversion of capital asset into stock – Fair market value on date of conversion.
   - **b) Section 45(3)** Partner or member introducing asset to firm or AOP – Book value recorded in firm.
   - **c) Section 45(4)** Dissolution of firm and distribution of assets – Fair market value on the date of distribution. In other cases, actual consideration to be adopted.

17) Computation of capital gains in case of non-depreciable assets shall be calculated under Section 48 and in the case of depreciable assets it shall be as under:
   - **(i) Section 50:** In case of depreciable assets used for the business and professional purposes.
   - **(ii) Section 50A**, where straight-line method is adopted by power sector undertaking.
   - **(iii) Section 50B**, where slump sale is affected.

18) **Section 50C** of valuation for the Stamp Duty Act we have to take higher of:
   - **a)** Sale consideration
   - **b)** Value as fixed under that act.

19) Benefit of indexation is not available in case of:
   - **a)** Short term capital assets;
   - **b)** Bonds and debentures since 3rd proviso to section 48 is applicable.
   - **c)** Slump sale under Section 50B

20) **Exemptions of capital gains available only to individual and/or HUF assessees:** ***Section 54, 54B and 54F***

| Provisions | Capital gains on sale of residential property used for residential property: Section 54 | Capital gains on sale of urban agricultural land and used for another agriculture land Section 54B | Capital gain on sale of LTCA not to be charged in case of investment in residential house: Section 54F |
|---|---|---|---|
| **(a) Assessee** | Individual/HUF | Individual | Individual/HUF |
| **(b) Asset transferred** | Residential house property being buildings or lands appurtenant thereto. | Agricultural land used by individual or his parent for agricultural purposes during 2 years preceding date of transfer | Any capital asset not being residential house property. Exemption is not available if assessee owns more than 2 residential houses including a new house. |
| **(c) Nature of Asset** | LTCA | LTCA / STCA | LTCA |
| **(d) New Asset to be purchased/ constructed** | Residential house property i.e. buildings or lands appurtenant thereto | Agricultural land (in urban or rural area) | Residential house property i.e. buildings or lands appurtenant thereto |
| **(e) Time-limit for purchase/ construction** | Purchase: Within 1 year before or 2 years after the date of transfer. Construction: complete construction within 3 years year from date of transfer | Purchase within 2 years from the date of transfer | Purchase: Within 1 year before or 2 years after date of transfer; and Construction: Complete construction within 3 year from date of transfer |
| **(f) Deposit scheme (Discussed later)** | Applicable | Applicable | Applicable |
| **(g) Amount of Exemption** | Lower of – Capital gains or investment in | Lower of – capital gains or cost of new asset | Cost of new house × Capital Gains ÷ Net |

| | | | |
|---|---|---|---|
| | new asset | | consideration being Full Value of consideration less Expenses on transfer |
| **(h) Withdrawal of Exemption on** | If transfer of the new asset within 3 years from its purchase/ construction | If transfer of the new asset within 3 years from its purchase | (a) if assessee purchases within 2 years or constructs within 3 years from date of transfer of original asset, a residential house other than new house; or<br>(b) transfer new asset within 3 years from date of its purchase/ construction |
| **(i) Taxability on Withdrawal** | Amount of exemption claimed earlier shall be reduced from the cost of acquisition of new asset. | Exemption claimed earlier shall be reduced from cost of acquisition of new asset. | Amount exempted earlier shall be taxable as long-term capital gains in previous year in which – (a) another residential house is purchased or constructed, or (b) the new asset is transferred. |

**21) Exemptions in respect of capital gains available to all assessees:** ***Section 54D, 54EC, 54G and 54GA***

| **Provisions** | **Compulsory acquisition of land & buildings Section 54D** | **Investment in certain bonds: Section 54EC** | **Shifting of undertaking to rural area: Section 54G** | **Shifting of undertaking to SEZ: Section 54GA** |
|---|---|---|---|---|
| **a) Assessee** | Any person | Any person | Any person | Any person |
| **b) Asset transferred** | Compulsory acquisition of land or building which was used in the business of industrial undertaking during 2 years prior to date of transfer. | Any long term capital asset | Transfer of plant, machinery or land or building for shifting industrial undertaking from urban area to rural area | Transfer of plant, machinery or land or building for shifting industrial undertaking from urban area to Special Economic Zone |
| **c) Nature of Asset** | Short term/ Long term | Long term | Short term/ Long term | Short term/ Long term |
| **d) New Asset to be purchased/ constructed** | New land or buildings for the industrial undertaking. | Bonds, redeemable after 3 years issued –<br>(a) by National Highway Authority of India; or<br>(b) by Rural Electrification Corporation, maximum exemption limit being Rs. 50 lakhs (Amended by FA, 2007 w.e.f. 1-4-08) | (a) Purchase/ Construction of plant, machinery, land or building in such rural area or, (b) Shifting original assets to that area or, (c) Incurring notified expenses | (a) Purchase/ Constructed of plant, machinery, land or building in such SEZ or, (b) Shifting the original assets to SEZ or, (c) Incurring notified expenses. |
| **e) Time-limit for purchase/ construction of new asset.** | Within 3 years from date of receipt of initial compensation. | Within 6 months from the date of transfer of original asset. | Within 1 year before or 3 years after the date of transfer. | Within 1 year before or 3 years after the date of transfer. |

| | | | | |
|---|---|---|---|---|
| **f) Deposit scheme** | Applicable | - | Applicable | Applicable |
| **g) amount of Exemption** | Lower of – capital gains or investment in new asset. | Lower of – capital gains or investment in new asset | Lower of – Capital gains, or Cost incurred for (a) to (c) of point 4. | Lower of Capital gains, or Cost incurred for (a) to (c) of point 4. |
| **h) Withdrawal exemption** | Transfer of new asset within a period of 3 years from the date of its acquisition or construction. | Transfer of new asset, conversion thereof in money of taking loan or advance on its security within 3 years from date of its acquisition | Transfer of new or shifted asset within a period of 3 years from the date of its acquisition or construction or shifting | Transfer of new or shifted asset within a period of 3 years from the date of its acquisition or construction or shifting |
| **i) Taxability on Withdrawal of Exemption** | Amount of exemption claimed earlier shall be reduced from the cost of acquisition of new asset. | Exempted capital gain will taxable as long-term capital gains in previous year in which such transfer/conversion takes place. | Amount of exemption claimed earlier shall be reduced from the cost of acquisition of new or shifted asset. | Amount of exemption claimed earlier shall be reduced from the cost of acquisition of new or shifted asset. |
| **Note:** If exemption has been claimed under Section 54EC in respect of investment in a new asset, no deduction shall be allowed under Section 80C with reference to the amount of investment for which exemption has been claimed. | | | | |

**22)** Indexation factors to be used for indexation of LTCA are:

| Previous Year | Indexation Factor | Previous Year | Indexation Factor | Previous Year | Indexation Factor |
|---|---|---|---|---|---|
| 1981-1982 | 100 | 1991-1992 | 199 | 2001-2002 | 426 |
| 1982-1983 | 109 | 1992-1993 | 223 | 2002-2003 | 447 |
| 1983-1984 | 116 | 1993-1994 | 244 | 2003-2004 | 463 |
| 1984-1985 | 125 | 1994-1995 | 259 | 2004-2005 | 480 |
| 1985-1986 | 133 | 1995-1996 | 281 | 2005-2006 | 497 |
| 1986-1987 | 140 | 1996-1997 | 305 | 2006-2007 | 519 |
| 1987-1988 | 150 | 1997-1998 | 331 | 2007-2008 | 551 |
| 1988-1989 | 161 | 1998-1999 | 351 | 2008-2009 | 582 |
| 1989-1990 | 172 | 1999-2000 | 389 | 2009-2010 | 632 |
| 1990-1991 | 182 | 2000-2001 | 406 | 2010-2011 | 711 |

# 9. INCOME FROM OTHER SOURCES

**1)** The following incomes are always taxable as income from other sources:
- **(a)** Dividend income from foreign company.
- **(b)** Casual income such as wining from lottery, crossword puzzles, gambling, card games, winning from horse races etc.
- **(c)** Contribution of PF received by the employee and not deposited with the PF.
- **(d)** Interest on securities.
- **(e)** Rent from letting of plant and machinery along with building.
- **(f)** Sum received by Keyman from Keyman insurance policy if employer and employee relation is absent.
- **(g)** Income from subletting of house property.
- **(h)** Gifts in cash received exceeding Rs. 50000 from non-relatives. But gifts on the occasion of marriage are not taxable. Similarly gifts given in anticipation of death shall not be taxable.

**2)** **Section 145:** Income under the head of other sources shall be calculated on the cash basis or accrual basis of accounting whichever is followed by the assessee.

**3)** Following are some of the incomes which are taxable under the head of other sources:
- **a)** Director’s fee.
- **b)** Agriculture income from outside India.
- **c)** Rent of open plot of land.
- **d)** Salary payable to members of parliament.

**e)** Family pension received by family members of deceased employee is taxable as income from other sources. But an exemption of 15000 or 1/3 of such income shall be allowed as per section 57.
**f)** Interest on employee's own contribution in URPF when he gets retired.
**g)** Any income from undisclosed sources.
**h)** Any other casual income.
**i)** Income from royalty.
**j)** Ground rent.
**k)** Examination fees received by a teacher from a person other than his employer.

**4)** Dividends received by shareholders from a domestic company other than those covered by section 2(22)(e) is exempt from tax under Section 10(34) for shareholder since company has to pay CDT.
**5)** Income from Other Sources is a residuary head of income, which includes all income which is not covered by other heads of income and which are not exempt from tax.
**6)** While income from building property and land appurtenant thereto is taxable under the head 'Income from house property', if vacant land is let out, the rent is assessable under the head 'Income from other sources'.
**7)** Income from agricultural activities is exempt from tax under Section 10(1), if agriculture land is situated in India but if land is outside India then income shall not be exempt but it will be taxable as the income from other sources.
**8)** Apart from the specific deductions permissible under Section 57, any expenditure wholly and exclusively incurred for the purpose of earning any income assessable under this head is also allowable and deduction.
**9)** If the assessee receives pension after retirement, the same is assessable under the head 'Salaries'. Whereas, if family pension is received by the legal heir of the deceased employee, it is taxable under this head subject to 1/3 of family pension or Rs. 15,000 whichever is less.
**10)** Winnings from lottery, crossword puzzles, races, etc. shall be taxed at the rate of 30% (plus surcharge and education cess) under Section 115BB.
**11)** From the casual incomes no kind of expenses are allowed to be deducted and gross amount is taxable.

# 10. CLUBBING OF INCOMES

**1)** **Section 60:** If income is transferred without transfer of the asset then such income shall be taxable for the transferred and not for the transferee.
**2)** **Section 61:** In the case of revocable transfer, income from the asset shall be taxable for the transfer and not for the transferee but if the transfer is not revocable then it shall be taxable for the transferor.
**3)** **Section 64(1)(ii):** An individual is chargeable to tax in respect of any salary, commission, fees or any other form of remuneration received by the spouse from a concern in which the individual has substantial interest except in case where income of spouse is earned only due to application of technical or professional knowledge or experience.
**4)** **Section 64(1)(iv):** if person has transferred an asset to spouse and spouse earns some income from such asset then such income shall be taxable for the transferor of the asset.
**5)** Income on the asset transferred is clubbed but not the income on accretion to the asset.
**6)** **Section 64(1A)**: Any income accruing or arising to a minor child is liable to be clubbed with the income of father or mother whose so ever has higher total income before such clubbing.
**7)** Income derived by a minor child out of skill and talent or by way of salary and wages shall not be clubbed. However, if such income is invested and income is earned thereon, such income shall be clubbed.
**8)** Clubbing ceases to operate when the minor becomes a major.
**9)** There is no clubbing of income in the case of a minor child who is eligible for deduction under Section 80U.
**10)** Similarly, where a minor child does not have parents, clubbing of income does not arise. The minor child will be assessable in his own case. Guardian will be representative assessee for assessment purposes.
**11)** If the income is to be clubbed then it shall be computed first in the hands of receiver under relevant head and then it shall be included in the total income individual under same head.

# 11. SET OFF & CARRY FORWARD OF LOSSES

1) **Section 70:** Loss from one source can be set-off against income from another source under the same head in the same year except
    - **a.** Speculation loss.
    - **b.** Long-term capital loss.
    - **c.** Loss from owning and maintaining racehorses.
    - **d.** No loss to be set off from income, which is exempt from tax.
    - **e.** No loss to be set off from income of lotteries, card games, races etc.
    - **f.** Loss of PGBP cannot be set off from salary income
2) **Section 71:** Loss under one head of income can be set-off against income under another head of income in the same year except those which are mentioned in 1) above.
3) The question of computing loss under the head 'salaries' does not arise. Under all other heads, there is a possibility that the net result of computation is a loss. Such loss remaining unabsorbed after set-off can be carried forward up to 8 assessment year (4 years in the case of loss from the activity of owing and maintaining race horses and speculation business loss) to be set-off against income under the same head.
4) Speculation loss, long-term capital loss and loss from the activity of owning and maintaining racehorses can be set-off only against income of the same nature.
5) **Section 72A:** In the case of amalgamation the unabsorbed loss and depreciation is treated as that of the amalgamated company. Therefore, carry forward of loss is available for subsequent 8 assessment years and depreciation can be carried forward indefinitely. This period of 8 years is irrespective of the period of loss, which has been, carry forwarded by amalgamating company.
6) In the case of demerger, the loss attributable to the resulting company shall be carried forward for the unexpired period of 8 years.
7) If business is succeeded by way of inheritance, loss of the predecessor from such business can be carried forward by the successor.
8) **Section 79:** Closely held company can carry forward loss only if 51% of voting right is held by the same shareholders.
9) Carry forward benefit of business loss; speculation loss; loss under 'capital gains' and loss from the activity of owning and maintaining race horses can be availed only if the return of loss is furnished within the due date under Section 139(1). This condition does not apply to unabsorbed depreciation under Section 32(2) and loss from house property under Section 71B.

# 12. INCOME FROM AGRICULTURE INCOME

1) As per section 10(1) agriculture income is exempt from income tax if agricultural land is situated in India. If agriculture land is outside India then the agricultural income shall be taxable.
2) Power to tax agriculture income has been given to state governments by the constitution of India.
3) Definition of agriculture income is given in section 2(1A).
4) To term any activity as agricultural activity both basic conditions and subsequent conditions have to be satisfied as was decided by SC in the case of Raja Binoy Kumar Sahas Roy.
5) Activities which are allied activities to agriculture such as animal husbandry, dairy farming, fishery etc. are not regarded as agricultural activities and therefore income from these sources are not exempt. They are taxable as income from business and profession.
6) If a partnership is having main activity of agriculture then remuneration and interest received by the partners from such firm shall be regarded as agriculture income and hence not chargeable to tax but share in the post-tax profits of firm is not agriculture income as was decided by the  in the case of R. M. Chidambaram Pillai.
7) Income from sale of rubber, coffee and tea shall be bifurcated as business income and agriculture income as per rule 7, rule 7B and rule 8.
8) In case of Individual, HUF, AOP and BOI agriculture income and non-agriculture income have to be clubbed together to calculate tax on the non-agriculture income. This shall be done when agriculture income exceeds Rs. 5000 pa and non agriculture income exceeds basic exempt limit. This leads to partial taxation of agriculture income.
9) We can say that agriculture income is not fully exempt from tax but it is partially taxable in some special cases.

# 13. DEDUCTIONS FROM GTI

1) Deductions under section 80C to 80U are not allowed to be deducted from Long Term Capital Gain and casual incomes such as winning of Lotteries, races etc.
2) Aggregate of all deductions cannot exceed GTI. In other words we cannot have loss due to deductions.
3) **Under section 80C** deduction shall be allowed to an individual (whether resident or non-resident) or HUF (whether resident or non-resident). Individual can be a foreign national.
4) Deduction under section 80C is allowed for savings and investments done. These savings and investments can be made from taxable income or from exempted income. However maximum deduction allowed is Rs. 100000.
5) **Under section 80CCC** Deduction is available only to an Individual who can be either resident or can be a non-resident or can be a foreign national. Deduction is available if individual has in the PY deposited any amount out of his taxable income (which can be from current year's income or preceeding year's income) towards annuity plan of LIC or any other insurer for receiving pension. Maximum deduction allowed is Rs. 100000.
6) **Under section 80CCD** deduction is allowed to individual who is employee of central government or any other employer, for the contribution to new pension scheme. Deduction is allowed subject to maximum contribution of 10% of salary by employee and employer.
7) **As per section 80CCE,** aggregate deduction under section 80C, 80CCC, 80CCD cannot be more than Rs. 100000.
8) **Under section 80D** deduction is allowed to individual and HUF whether resident or non-resident for the medical insurance premium paid by any mode other cash. Deduction allowed shall be maximum of Rs. 15000 but in case of senior citizen Rs. 20000.
9) **Under section 80DD** deduction is allowed to individual and HUF whether resident or non-resident for the medical, rehabilitation, nursing expenses incurred for the dependent who is suffering from disability. Deduction allowed is Rs. 50000 but in case of severe disability deduction allowed is Rs. 75000.
10) **Under section 80DDB** deduction is allowed to resident Individual or resident HUF for the medical expenses incurred on the treatment of dependent. Deduction allowed is maximum of Rs. 40000 but in case of senior citizen deduction allowed is maximum of Rs. 60000.
11) **Under section 80E** deduction is allowed to resident or non-resident individual for the interest paid on the loan taken for the higher education for the studies of self, spouse or children. Only interest is allowed as a deduction for the consecutive period of 8 years.
12) **Under section 80G** deduction is allowed to all assessees whether resident or non-resident for the donations given. No deduction is allowed for the donations given in kind. Some donations given are allowed 100% deduction and some other are allowed 50% deduction.
13) **Under section 80GG** deduction is allowed to individual who is resident or a non-resident for the rent paid for a self-occupied residential house where he is not entitled to HRA from his employer. Maximum deduction allowed is Rs. 2000 pm.
14) **Under section 80GGA** deduction is allowed to all assesses whether resident or non-resident for the 100% of donations given for scientific research where assessee is not having income from business or profession.
15) **Under section 80GGB and 80GGC** deduction is allowed for the donations given to political party by Indian company and other assessees.
16) **Under section 80JJA** deduction is allowed for 100% of profits earned from the business of collection and processing of bio-degradable waste. Deduction is allowed to all assessees for consecutive period of 5 years.
17) **Under section 80JJAA** deduction is allowed only to Indian Company which has the business of manufacturing any article or thing. Deduction allowed is 30% of the salary for 3 years paid to workmen who have been employed after initial 100 workmen.
18) **Under section 80LA** deduction is allowed to banking companies having branch located in offshore area or SEZ. Deduction allowed is 100% of the profits earned for first 5 years and 50% of the profits earned for next 5 years.
19) **Under section 80P** deduction is allowed to co-operative society.
20) **Under section 80QQB** deduction is allowed to resident individual who is a professional author. Deduction allowed is for the royalty income earned from sale of books subject to maximum of Rs. 300000.
21) **Under section 80RRB** deduction is allowed to resident individual who is an inventor of a technology which is registered under Patents Act 1970. Deduction allowed is for the royalty income earned from such invention subject to maximum of Rs. 300000.

22) **Under section 80U** deduction is allowed to resident individual who is suffering from a physical disability. Deduction allowed is Rs. 50000 but in case of severe disability deduction allowed is Rs. 75000.

# 14. EXEMPTED INCOMES

1) **Section 10:** All of the following incomes are exempt from tax
   - **a)** Agriculture income from land in India.
   - **b)** Share of income of HUF for member of HUF.
   - **c)** Share of income of firm for the partner of firm.
   - **d)** Compensation from disasters [w.e.f section 10 (10BC)].
   - **e)** Amount received on the maturity of life insurance policy.
   - **f)** Scholarships received for meeting cost of education.
   - **g)** Income from awards.
   - **h)** Income from dividends from shares and units of mutual funds.
   - **i)** Income from international sporting events.
2) **Section 10A:** Provisions for newly established undertakings in free trade zones, or special economic zone.
3) **Section 10AA:** Special provisions in respect of newly established units in special economy zone.
4) **Section 10B:** Provisions in respect of newly established 100% export oriented undertaking.
5) **Section 10BA:** Deduction in respect of export of artistic handmade wooden articles

# 15. ASSESSMENT PROCEDURE

1) **SECTION 139(1):** It is compulsory for every company and a partnership firm to file its return of income on or before due date irrespective of level of income. Further in case of loss also they have to file return of income in the prescribed format.
2) It is compulsory for every person other than a company and partnership firms to file return of income on or before the due date if his total Income or total income of some other person in respect of which he is assessable during the year exceeds the basic exempt limit.
3) Where the assessee is company, partnership firm, a person (other than company) whose accounts are required to be audited, a co-operative, the person is working partner of a firm whose accounts are required to be audited, due date is 31/September/AY and in any other case due date is 31/ July/AY.
4) If an assessee has defaulted in filing return of income then he shall be liable to pay interest under section 234A and to pay penalty under section 271F.
5) If the ROI is furnished after the due date or is not furnished at all then assessee has to pay interest under section 234A @ 1% pm or part of the month. Interest shall be paid for the period starting from the date next to the due date of ROI and ending on the date when ROI is filed.
6) **Section 139(3):** It is not mandatory to file a return of loss, as there is no taxable income. However losses of "Non speculative business under section 72(1)" ; "Speculative business under section 73(2) ; "Capital Gains under section 74" ; "losses from the activity of owning and maintaining of race horses under section 74A" can be carried forward only if a return of loss is filed. However, Loss under "House Property" and "Unabsorbed Depreciation" can be carried forward even if return of loss is filed after due date.
7) **Section 139(4):** If ROI is not filed within the time allowed under Section 139(1) the AO can issue a notice requiring the assessee to furnish ROI within the time specified by him. If the return is not furnished within time allowed under Section 139(1) or within the time allowed under notice issued by AO still assessee can file ROI and such ROI shall be know as belated return. Belated ROI can be filed before:
   **(i)** End of one year from the end of relevant AY or
   **(ii)** Before completion of assessment **whichever is earlier.**
8) **Section 139(5):** If assessee discovers any omission or wrong statement in return filed under Section 139 (1) or under Section142 (1) he may furnish a revised return. ROI can be revised
   - **i)** Before the end of one year from the end of the relevant assessment year OR
   - **ii)** Before the completion of assessment **whichever is earlier.**
9) Belated return can't be revised as was decided by SC in case of **KUMAR JAGDISH CHANDRA SINHA.**
10) Return of loss can be revised and as many number of times as one desires but if done within the time limit specified
11) Every person who has been allotted PAN shall quote it:

**(a)** While receiving income on which TDS has to be done and shall be told to the person doing TDS. This is not required where income is not chargeable to tax.
**(b)** In all return and correspondence with income tax dept.
**(c)** Sale/Purchase of Motor Vehicle (Excluding 2 wheelers).
**(d)** Sale/Purchase of any immovable property for 5 lakhs or more.
**(e)** Sale/Purchase of securities exceeding Rs. 1 lakhs.
**(f)** Application for telephone connection.
**(g)** Opening of a Bank Account.
**(h)** Payment to hotels or restaurant of bill exceeding Rs. 25,000 at one time.
**(g)** Time deposits with a bank or post office exceeding Rs.50,000.
**(h)** Payment in cash for the bank draft for Rs. 50000 or more.
**(i)** Cash deposit of Rs. 50000 or more in a bank in one day.
**(j)** Payment in cash exceeding Rs. 25000 in connection with the travel to the foreign country.

**12)** Types of return forms applicable are:

| **Form no.** | ***Form applicable to*** |
|---|---|
| **ITR 1** | Individual having income from one or more of the following sources:<br>**a)** Salary.<br>**b)** Family pension.<br>**c)** Interest income chargeable as income from other sources. |
| **ITR 2** | An individual or HUF not having income under the head of PGBP |
| **ITR 3** | An individual or HUF being a partner in a partnership firm and whose income under the head PGBP comprises only of interest or remuneration received or receivable from that firm. |
| **ITR 4** | Individual or HUF deriving income from proprietary business or profession. |
| **ITR 5** | Any person other than<br>**a)** Individual<br>**b)** HUF<br>**c)** Company.<br>**d)** Person for whom ITR& is applicable<br>In other words this form is applicable to partnership firms, AOP/BOI and artificial juridical persons. |
| **ITR 6** | Company except that company for which ITR7 is applicable. |
| **ITR 7** | Any person including company (whether or not registered under section 25 of the companies act 1956) required to file a return under section 139(4A), (4B), (4C) or (4D) |
| **ITR 8** | A person who is not required to furnish the return of income but is required to furnish the return of fringe benefits. |

# 16. ADVANCE TAX AND INTEREST PAYABLE

1) **Section 207:** Advance tax is payable on the income of the current year including on the income of capital gains and casual incomes.
2) **Section 208:** Advance tax is payable if the income tax after TDS is Rs. 5000 or more.
3) **Section 209:** From the income tax liability, TDS has to be reduced and the balance shall be payable as per instalments mentioned in section 211.
4) **Section 210:** income tax is payable by the assessee if assessing officer sends him a notice for the same. This notice can be sent latest by the last day of the February of the previous year.
5) **Section 211:** Advance tax shall be payable as per following instalments.

| **Due date of installment** | **Amount payable** |
|---|---|
| **Companies** | |
| On or before 15/06/PY | 15% of advance tax payable |
| On or before 15/09/PY | 45% of advance tax payable as reduced by any amount already paid. |
| On or before 15/12/PY | 75% of advance tax payable as reduced by any amount already paid. |
| On or before 15/03/PY | 100% of advance tax payable as reduced by the amount already paid. |
| **Other than Companies** | |
| On or before 15/09/PY | 30% of advance tax payable |
| On or before 15/12/PY | 60% of advance tax payable as reduced by any amount already paid. |

| | |
|---|---|
| On or before 15/03/PY | 100% of advance tax payable as reduced by the amount already paid |

6) **Section 211B:** If assessee does not pay advance tax when he is liable to pay then he will be deemed to be assessee in default.
7) Consequences for non-payment of advance tax shall be
   a) Assessee is known as assessee in default.
   b) Assessee shall be liable to pay interest under section 234C and section 234B.
   c) Assessee shall be liable to pay penalty under section 140A(3) which can be maximum of 100% of such tax.
8) **Section 234A:** If the ROI is furnished after the due date or is not furnished at all then assessee has to pay interest under section 234A @ 1% pm or part of the month. Interest shall be paid for the period starting from the date next to the due date of ROI and ending on the date when ROI is filed.

9) **Section 234B:** If assessee has paid advance tax less than the 90% of the assessed tax then he shall be liable to pay interest under section 234B at rate of interest payable shall be 1% pm or part of the month. Interest shall be paid for the period starting from the 1/4/AY and ending on the date when such tax is paid.
10) **Section 234C:** If any person has not paid his advance tax on the due dates as mentioned in section 211 then such person has to pay interest under section 234C at the rate of interest shall be 1% per month or for part of the month. The period of interest shall be 3 months but for the last installment the period shall be only 1 month.

# 17. TAX DEDUCTED AT SOURCE

1) Total income of the assessee for the previous year is taxable in the assessment year. However income tax is recovered from the assessee in the manner of advance payment of taxes in different installments or by tax deducted at source.
2) **TDS on salaries: Section 192:** TDS to be done by employer at the time of payment of salary except in case where salary income is less than basic exempt limit. Before deducting TDS the employer should calculate the total income of employee and for this deduction under section 80C,80CCC, 80D, 80DD, 80E, 80G, 80GG and 80U should be allowed. Salary income shall be reduced by loss of house property before TDS if employee declares such loss. However he can't declare any other loss.
3) **TDS on interest on securities: Section 193:** TDS is to be done at time of credit or payment whichever is earlier. No TDS is to be done on debenture interest of if interest does not exceed Rs.2500 for the previous year. TDS shall be done by the payer @ 10% in case of listed debentures and in case of non-listed debentures @ 20%. If the recipient is a domestic company then TDS shall be done @ 20%. Surcharge and education cess as applicable shall also be charged.
4) **TDS on dividends: Section 194:** The domestic company-paying dividend of section 2(22)(e) to a resident shareholder shall do TDS @ 20% and no TDS on dividend income of resident individual if it is paid by A/C payee cheque and amount does not exceed Rs.2500 during the previous year.
5) **TDS on interest other than securities: Section 194A:** TDS shall be done at the time of credit or payment whichever is earlier @ of 20% if recipient is company and if recipient is a resident non-company assessee then TDS shall be done @ 10%. No TDS shall be done if interest payable by a bank, co-operative society and post office is Rs. 10000 or less , in other cases where interest payable is Rs. 5000 or less.
6) **TDS on winning of lottery/games: Section 194B:** TDS shall be done at the time of payment and shall be done @ 30%. But if the winning are Rs. 5000 or less then no TDS is required to be done.
7) **TDS on winning from horse races: Section 194BB:** TDS shall be done at the time of payment and shall be done @ 30% but if the winning are Rs. 2500 or less then no TDS is required to be done.
8) **TDS on payment to contractor/sub-contractor: Section 194C:** In case of specified payers TDS shall be done at the following rates:
   **a.** 1% and surcharge and education cess of gross receipt in case of advertising and
   **b.** 2% and surcharge and education cess of gross receipt in any other case
   Payments covered are the payment for work contract and shall be done at the time of payment or credit whichever is earlier. No TDS shall be done if the single payment is Rs. 20000 or less and the aggregate payment does not exceed Rs. 50000 during the financial year. Where a resident contractor has to make a payment to another resident contractor the TDS has to be done in every case @ 1% plus surcharge and

education cess as applicable. No TDS shall be done if the single payment is Rs. 20000 or less and the aggregate payment does not exceed Rs. 50000 during the financial year.

9) **TDS on insurance commission: Section 194D:** TDS shall be done at the time of payment or credit of commission whichever is earlier and shall be done @ 10% if recipient is resident non-corporate assessee and if recipient is resident company then TDS shall be done @ 20%. There shall be no TDS if payment is Rs. 5000 or less.

10) **TDS on payment to nr sportsmen and sports institutions: Section 194E:** Any person making a payment to a non resident sportsman or a sports association. Shall do TDS at the time of making payment or at the time of credit which ever is earlier. Rate of TDS shall be 10%.There is no exemption limit under this Section

11) **TDS on payment in respect of national saving scheme: Section 194EE:** TDS has to be done by post office for the payment of NSS to any person. TDS shall be done on both principal and interest. TDS has to be done by post office at the time of making payment @ of 20%. No TDS has to be done by post office is the payment is less than or equal to Rs. 2500 or Payment is made to legal heirs of the depositor.

12) **TDS on commission on sale of lottery tickets: Section 194G:** TDS has to be done by any person paying commission on sale of lottery tickets to any other person. TDS has to be done at the time of payment or credit whichever is earlier at the rate of 10%. No TDS has to be done where the payment is less than or equal to Rs. 1000.

13) **TDS on commission on brokerage: Section 194H:** TDS has to be done by any person paying commission or brokerage. TDS has to be done at the time of payment or credit whichever is earlier. TDS has to be done at 10%.No TDS has to be done where the payment is less than or equal to Rs. 2500. Further no TDS shall be done on the payments of commission or brokerage payable by BSNL or MTNL to their public call office franchisees.

14) **TDS on rent: Section 194-I:** TDS has to be done at the time of payment or credit whichever is earlier but No TDS has to be done where the payment is less than or equal to Rs. 10000 pm and no TDS if the payee is a government or a local authority. TDS shall be done at rate of 10% on rent of plant and machinery. TDS shall be done at the rate of 15% on the rent of land, building, furniture and fitting if the recipient is individual or HUF but at the rate of 20% in case of any other recipient.

15) **TDS on fee of professional or technical services: Section 194-J:** TDS shall be done on fees for technical, professional services or on royalty income, at the time of payment or credit whichever is earlier. No TDS shall be done if the payment for technical, professional services or of royalty income is Rs. 20000 or less during the financial year. **Rate of TDS:** TDS has to be done at 10%. Professional services means services of legal, medical, engineering, accountancy, interior decoration and Technical services means services of managerial, consultancy services.

16) **In all of the above cases the rate of TDS shall be increased by surcharge and education cess.**

# 18. CHARITABLE OR RELIGIOUS TRUSTS

1) Trust means obligations attached to the ownership of the property which arises out of the confidence reposed by one person to some another person. The person who imposes such confidence is called Author of trust and who accepts such confidence is called Trustee and the property in respect of which obligation is attached is called Trust property.

2) The income of capital gains, voluntary contributions received by trust and similar institutions which are registered as companies under section 25 of companies act shall be exempt from tax if trusts is a registered trust and its accounts are audited.

3) Trust must utilized 85% of its income within the same previous year for acquiring assets or to promote the objects of the trust. A trust can use the money for revenue or capital expenditure provided the expenditure is done for the purpose of promoting the objects of trust.

4) If the funds can not be used then funds can be accumulated but accumulation is not allowed for the period exceeding 5 years. Further the amount so accumulated should be invested in the specific investments such as in any account in the post office, deposit in any account of a scheduled bank, Units of UTI, Securities issued by central or state government.

5) Anonymous donations (when name and address of donor is not maintained) shall not be exempt and hence shall be taxable at the rate of 30%. However in the case of religious trust it shall not be taxable.

6) Trust has to submit application for registration to CIT before the expiry of 1 year from the date of creation of trust. CIT after satisfying himself about the genuineness of the activities of the trust shall pass the orders in

writing registering the trust. The time limit for passing the orders is 6 months from the end of the month in which the application was made.

# 19. SERVICE TAX

**1)** Services tax was imposed by chapter V of Finance Act 1994 and there is no separate "Service Tax Act". Service tax is imposed every year by making amendment to the Finance Act 1994. Central excise department has been entrusted to look after the administration of service tax.
**2)** Service tax extends to whole of India except the state of Jammu and Kashmir. There shall be no service tax on the services provided/consumed in the state of Jammu and Kashmir. However if service provider is in the state of Jammu and Kashmir and provides services to anyone outside the state of Jammu and Kashmir then service tax shall be imposed on such services rendered.
**3)** Service tax is imposed on taxable services provided or to be provided in future by the service provider. Services to be provided in future shall be chargeable to service tax only if the advance payment for it is received.
**4)** Taxable services are mentioned in section 65(105) of Finance Act 1994.
**5)** Service tax is charged at the rate of 12% and education cess as applicable.
**6)** WEF 1/4/2008 a threshold limit of Rs. 10 Lakhs has been prescribed. Till this limit value of all taxable services provided by the service provider is fully exempt from service tax.
**7)** The method of payment of service tax is mentioned in Service Tax Rules 1994. Service tax has to be paid by the service provider on the receipt of consideration. If any advance has been received then service tax shall be imposed on such advance amount.
**8)** **Valuation of taxable services: section 67**
- **a)** Service tax shall be charged on gross amount charged. It shall mean only the amount received from the service receiver and not the amount which has been billed to him.
- **b)** The service provider is required to show the service tax separately in the invoice/bill. If it is not shown separately then the value of the services shall be taken as an inclusive of service tax.
- **c)** If the service provider has paid any excess service tax to the government, in respect of that services which have not been provided for any reason then such excess service tax paid can be adjusted against service tax payable by him for any subsequent period. This shall be applicable only if the service provider has refunded service tax to the person from whom it was received.
- **d)** If the amount charged by the service provider includes value of the goods and material sold then service tax is not payable on the value of such goods sold. There should be proper documentary evidence showing value of the goods and material sold. However in some cases supply of goods is integral part of the services and supply of goods can't be separated from the services rendered. In such case service tax shall be charged on the full amount including the value of goods.
- **e)** The service provider often claims reimbursement of certain expenses incurred by him (like expenses on travelling, boarding and loading etc) while providing a taxable service. These are often termed as out of pocket expenses. All such expenses will be includible in the value of taxable services.
- **f)** Expenses which are incurred by the service provider on the behalf on service receiver (as a pure agent) shall not be part of value of the services.
- **g)** If the services are provided free of cost, there shall be no service tax payable even if services are taxable.
- **h)** Service provided during the warranty period of the goods is taxable services and it is subject to service tax.
- **i)** If consideration of services has been received in kind then the service tax shall be imposed and for this the value of the identical services provided shall be deemed to be the value of such services which have been provided and for which consideration has been received in kind.

**9) Exemption from service tax**
- **(a)** Small service providers providing aggregate services up to Rs. 10 lakhs are exempt from paying service tax.
- **(b)** Even if the service provider crosses turnover of Rs. 10 lakhs in current year, he will be liable to service tax only on turnover exceeding Rs. 10 lakhs and not on entire turnover. However, if taxable turnover in current exceeds Rs. 10 lakhs, there will be no exemption from service tax in next financial year.
- **(c)** There is no service tax on export of services, if service is exported
- **(d)** Services provided to United Nations & International Agencies is exempt from service tax.
- **(e)** All services provided to foreign diplomatic missions or consular posts in India are fully exempt provided services are use for their official purposes.

- **(f)** Exemption from service tax has been provided to all taxable services provided by Reserve Bank of India
- **(g)** Sometimes the gross amount of contract shall include the amount charged for services as well as some other facilities provided. In such case service tax is payable at lower rates, i.e. partial abatement is available from gross value.

**10) Registration under Service Tax**

- **(i)** No registration is required till turnover exceeds Rs. 9 lakhs.
- **(j)** Time limit to apply for registration is 30 days from the levy of service tax or start of the business as the case may be.
- **(k)** Registration is provided in 7 days and if not then deemed to have been provided after $7^{th}$ day.
- **(l)** No document except PAN issued by the income tax Deptt is required.
- **(m)** Service tax registration no is 15 digits alphanumerical no.
- **(n)** Rules for centralized registration and non centralized registration exist.
- **(o)** In case of more than 1 service, single registration covering all services is done.

**11) Payment of service tax**

- **(a)** Service tax is payable at the time of realization of the amount for services from the client.
- **(b)** Service tax is payable on the advance money received.
- **(c)** Where there is short recovery of the billed amount, service provider should revise the bill otherwise he shall be liable to pay service tax on the full amount which has been billed to service receiver.
- **(d)** Where there is excess recovery from a client or customer then such excess amount can be refunded to such client or customer

**12) Due dates for the payment of service tax**

- **(a)** If the assessee is an individual or proprietary firm or partnership firm, the service tax shall be paid to the Central Government by the $5^{th}$ of the next month immediately following the quarter in which the payments are received, towards the value of taxable services. **In case e-payment is made, due date is $6^{th}$.**
- **(b)** In all other cases service tax received during any calendar month shall be paid to the Central Government by the $5^{th}$ of the month immediately following the calendar month in which payments are received, towards value of taxable services. **In case e-payment is made, due date is $6^{th}$.**
- **(c)** If the service tax on the value of taxable services is received during the month of March, or the quarter ending in March, as the case may be, shall be paid to the Government by the $31^{st}$ day of March of the calendar year.

**13) Service Tax To Be Paid Electronically:** Where the assessee has paid service tax of Rs. 50 lakhs or more during the preceeding financial year or has already paid service tax of Rs. 50 lakhs in current financial year, he shall deposit the service tax liable to be paid by him electronically, through internet banking.

**14) Special provision for the payment of service tax in case of life insurance business:** An insurer carrying on life insurance business who is liable for paying service tax has the option to pay an amount calculated @ 1% of the gross amount of premium charged by him towards the discharge of his service tax liability instead of paying service tax @ 12%.

**15)** Service tax return shall be submitted on half yearly basis on $25^{th}$ October and $25^{th}$ April every year.

**16)** Service tax return can be revised within 90 days from filling of original return.

**17)** Belated service tax return is also allowed upon the payment of prescribed fees which is as follows:

1. If delay is up to 15 days from the due date of return: Fess of Rs. 500 is to be paid.
2. If delay is beyond 15 days but up to 30 days from due date: Fees of Rs. 1000 is to be paid.
3. If delay is beyond 30 days from the due date: Fees of Rs. 1000 is to be paid + rs. 100 for every day from the $31^{st}$ day till the date of furnishing of return but subject to the maximum of Rs. 2000.

# 20. VALUE ADDED TAX (VAT)

**1)** Under the system of VAT the sales tax levied and collected at each stage of sale only the value added at every stage.

**2)** As commonly understood this is a method by which final consumer shall be taxed at different stages of production and distribution in various installments. For this difference between the sale price and purchase price is taken as value added and a tax is imposed at every level where there is some value addition.

**3) Need for VAT in India**

- **(a)** Avoids distortions in the economy due to uniformity all across the channel.
- **(b)** Prevents cascading effect (multiple taxation) by providing credit of Input taxation.
- **(c)** VAT is just and logical way of taxing all dealers in equitable manner whereby all dealers share burden of tax.

- **(d)** This system leads to easy computation and compliance.
- **(e)** Credit of input taxation leads to cost efficiency.

**4) Merits of VAT**

- **(a)** Eliminates multiple taxation.
- **(b)** No tax evasion.
- **(c)** Simple method.
- **(d)** Lowering tax burden.
- **(e)** Transparency.
- **(f)** Better revenue collection and stability.
- **(g)** Better accounting systems.

**5) Demerits of VAT**

- **(a)** VAT does not cover services.
- **(b)** Non integration of central VAT with state VAT.
- **(c)** Accounting burden.
- **(d)** Cost of administration for government.
- **(e)** Exemptions on goods.

**6) Concept of input tax credit:** The main feature of system of VAT is that it provides the benefit of set off of input tax from the main output tax. The value added tax is based on the value addition to the goods, and the related VAT liability of the dealer is calculated by deducting input tax credit from the tax collected on sales during a particular period.

**7) Variants of VAT:** VAT could be levied under three variants. Gross product variant, Income variant, Consumption variant. These variants could be further distinguished according to their methods of calculation and they are addition method and subtraction method. The subtraction method could be further divided into direct subtraction method, intermediate subtraction method, and indirect subtraction method.

**8) Methods for computation of VAT:** VAT is form of a sales tax and is charged at each stage on the 'Value Added' to the goods. 'Value Added' is the difference sales and purchases of the business. There are several methods to calculate the 'Value Added' to the goods for levy of tax. The three commonly used methods are addition method, invoice method (tax credit method) and subtraction method.