FOR CA–IPCC

AY 2012-13

ONE STEP AHEAD

# TAXATION

## SUPER SUMMARY

PREPARED BY:

BHAVIN PATHAK

FOR CA-IPCC MAY-NOVEMBER 2012 EXAMINATION

INCOME TAX | SERVICE TAX | VAT → TAXATION

Features:

* Based on the Study Modules
* More enhanced, easy & Reader Friendly
* All Chapters Covered
* Written according to suggestions and requirements
* Revised according to amendments applicable for May-Nov. 2012 exams

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There is no tax on helping eachother

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# Preface

This booklet adopts a fresh and reader friendly approach to the study of TAXATION for IPCC. It has been prepared in a remember yourself style, strictly following reader friendly approach and is essentially meant to serve as a tutor at home

The distinct features of the booklet are as follows:

- **Simple language:** The text is presented in the simplest language, meant to serve for beginners
- **Clear demarcation of topics:** Each concept has been arranged under a suitable heading for easy retention of concepts
- **Tabular form:** Whenever possible the text matter relating to a particular topic/sub-topic has been presented in an easy to remember tabular format
- **Eye-catching screens:** All important provision, conceptual topics and steps have been presented in bold-italic manner in unique background colour.
- **Uniform format of chapters:** Each chapter has been uniformly organized under given headings, viz., Text Supported by Suitable Examples, Provisions and Sections
- **Tips:** At the end of the booklet, Do's and Don'ts given for examination purpose.

I am confident that these features would make this booklet an invaluable asset to students leaning Taxation for the first time. I respect all the student who are studying by themselves and this booklet is prepared for those specially.

I wish to express my sincere thanks to several individuals who have been a source of inspiration and support both personally and professionally including CA Sunil Sanghvi and CA Sunil Jain.

Any criticism or suggestions for further improvement of this booklet will be gratefully acknowledged and appreciated

**Rules of My Life:**
"Don't use anyone, but be useful for everyone."
"There is no tax on helping each other."
"If you light a lamp for somebody, it will also brighten your path."
"Happiness is a by-product of an effort to make someone else happy."

DEDICATED TO FRIENDS

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# PART 1: INCOME TAX

SUPER SUMMARY

**FOR IPCC MAY/NOVEMBER 2012**

**(INCLUDING AMENDMENTS)**

FOR AY 2012-13

**Prepared by:** Bhavin Pathak

# 1. BASIC CONCEPTS AND IMPORTANT DEFINITIONS

| Section | Provision |
|---|---|
| Sec. 2(31) | *Person* |
| Sec. 3 | *Previous Year* |
| Sec. 2(9) | *Assessment Year* |
| Sec. 2(7) | *Assessee* |
| Sec. 2(24) | *Income* |
| Sec. 2(45) | *Total Income* |

**Indian Taxation System**

The Income-tax Act, 1961 came into force with effect from **1/4/1962**. It has **XXIII chapters** and **298 Sections** in all. The Indian taxation structure is a mix of number of provisions either governed by *income tax law* and at some stages by number of mercantile and corporate laws. A number of amendments in the structure have made the taxation structure very complex and difficult to handle, the subject is not that easy to digest.

**India** **[Sec. 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.

**Person** **[Sec. 2(31)]**

*Person includes **seven** types of persons namely*

(1) Individual,
(2) Hindu undivided family (HUF)
(3) Company,
(4) Firm,
(5) Association of persons (AOP) or a body of individuals (BOI),
(6) Local authority,
(7) Every artificial juridical person not falling within any of the preceding sub clauses.

**Association of person Vs. Body of individual**

The **2** basic differences between **AOP** and **BOI** are:

→ In BOI there are **only individuals** but in AOP there can be any type of persons.
→ 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.

**Assessee** **[Sec. 2(7)]**

Assessee 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.

**Assessment Year** **[Sec. 2(9)]**

Assessment year means the period of 12 months starting from 1st April every year and ending on 31st march of the succeeding year.

**Previous Year** **[Sec. 2(34)]**

Previous year means the year immediately preceeding to assessment year. Income for the previous

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year is always taxed in the assessment year.

**Income of one PY taxable in same 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.

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

**Gross total income** **[Sec. 14]**

*Gross total income is the aggregate of income from all five heads of Income, namely:*

(1) Income under the head salary
(2) Income under the head house property
(3) Income under the head business and profession
(4) Income under the head capital gains
(5) Income under the head other sources

**Taxability of gift**

Income includes the gifts received in excess of ₹ 50000. If anyone has received gift in cash exceeding ₹ 50000 from a non-relative then whole of such amount received shall be considered his income. *However gifts received from relatives shall not be covered in this.*

**Total/Taxable Income** **[Sec. 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.

**Computation of total income of …… For AY 2012-13**

| | ***Particulars*** | ***Amt. (₹)*** |
|---|---|---|
| | Income under the head Salary | …… |
| *Add:* | Income under the head House Property | …… |
| *Add:* | Income under the head Business and Profession | …… |
| *Add:* | Income under the head Capital Gains | …… |
| *Add:* | Income under the head Other Sources | …… |
| | ***Gross Total Income*** | …… |
| *Less:* | Deduction under Chapter VI-A [Sec. 80C-80U] | …… |
| | ***Total/Taxable Income*** | …… |

**Rounding off of total income** **[Sec. 288A]**

The total income shall be rounded off in the multiples of ₹ 10.

**Rounding off of tax liability** **[Sec. 288B]**

The amount payable by the assessee and the amount of refund due, under the provisions of the Income Tax Act, 1961 shall be rounded off to the nearest ₹ 10.

**Cess**

Education cess for the AY 2012-13 is **2%** for primary education and **1%** for higher and secondary education.

**Charitable trust** **★[Sec. 2(15)]**

The definition u/s. 2(15) has been amended to enhance the current monetary limit in respect of receipts from commercial activities from ₹ 10,00,000 to ₹ 25,00,000. Hence, the charitable trust who are registered under the category of "advancement of any other object of general public

utility shall continue to be treated as charitable trust if gross receipts from such trade, commerce or business does not exceed ₹ 25,00,000.

## 1.1: TAX RATES FOR AY 2012-13

| **Individual/HUF/AOP/BOI and every artificial juridical person** | | | |
|---|---|---|---|
| Upto ₹ 1,80,000 | | | NIL |
| ₹ 1,80,000 to ₹ 5,00,000 | | | 10% |
| ₹ 5,00,000 to ₹ 8,00,000 | | | 20% |
| Above ₹ 8,00,000 | | | 30% |
| **For resident women below the age of 60 years at any time during the previous year** | | | |
| Upto ₹ 1,90,000 | | | NIL |
| ₹ 1,90,000 to ₹ 5,00,000 | | | 10% |
| ₹ 5,00,000 to ₹ 8,00,000 | | | 20% |
| Above ₹ 8,00,000 | | | 30% |
| **For resident individuals of the age of 60 years or more but less than 80 years at any time during the previous year** | | | |
| Upto ₹ 2,50,000 | | | NIL |
| ₹ 2,50,000 to ₹ 5,00,000 | | | 10% |
| ₹ 5,00,000 to ₹ 8,00,000 | | | 20% |
| Above ₹ 8,00,000 | | | 30% |
| **For resident individuals of the age of 60 years or more but less than 80 years at any time during the previous year** | | | |
| Upto ₹ 5,00,000 | | | NIL |
| ₹ 5,00,000 to ₹ 8,00,000 | | | 20% |
| Above ₹ 8,00,000 | | | 30% |
| ***Note:*** *Surcharge* : NIL<br>*Education Cess* : 3% *(Primary Edu. Cess 2%+Secondary & Higher Seco. Edu. Cess 1%)* | | | |
| **Co-operative society** | | | |
| Upto ₹ 10,000 | | | 10% |
| ₹ 10,000 to ₹ 20,000 | | | 20% |
| Above ₹ 20,000 | | | 30% |
| ***Note:*** *Surcharge* : NIL<br>*Education Cess* : 3% *(Primary Edu. Cess 2%+Secondary & Higher Seco. Edu. Cess 1%)* | | | |
| **Partnership firms/Limited Liability Partnership** | | | 30% |
| **Company** | | | |
| ***Type*** | ***Particulars*** | ***Surcharge**** | ***Rate*** |
| Domestic | Whole of total income | 5% | 30% |
| Foreign | Specific royalties and technical services | 2% | 50% |
| | On balance | | 40% |
| ***Note:*** *Education Cess* : 3% *(Primary Edu. Cess 2%+Secondary & Higher Seco. Edu. Cess 1%)*<br>**Surcharge should be payable only if total income exceeds ₹1,00,00,000* | | | |
| **Special rates of Income Tax** | | | |
| On Short-Term Capital Gain (STCG) covered under Sec. 111A | | | 15% |
| On Long-Term Capital Gain (LTCG) covered under Sec. 112 | | | 20% |
| On winning of lotteries, crossword puzzles, card games etc. [Sec. 115BB] | | | 30% |

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# 2. RESIDENTIAL STATUS

| Section | Provision |
|---|---|
| Sec. 2(26) | *Indian Company* |
| Sec. 2(30) | *NR-Individual* |
| Sec. 5(1) | *Incidence of Tax on R/RO/RNOR* |
| Sec. 5(2) | *Incidence of Tax NR* |
| Sec. 6(1) | *Residential Status of Individual* |
| Sec. 6(2) | *Residential Status of HUF/Firm/AOP/BOI* |
| Sec. 6(3) | *Residential Status of Company* |
| Sec. 6(4) | *Residential Status of other persons (Local Authority/Artificial Judicial Person)* |
| Sec. 6(6)(a) | *RNOR – Individual* |
| Sec. 6(6)(b) | *RNOR – HUF* |
| Sec. 115C | *Person of Indian origin* |

| ***Type of person*** | ***Can be*** | |
|---|---|---|
| ***(1) Individual*** <br> ***(2) HUF*** | Resident | Ordinarily Resident |
| | | Not Ordinarily Resident |
| | Non-resident | |
| ***(3) Company*** <br> ***(4) Firm*** <br> ***(5) AOP/BOI*** <br> ***(6) Other person*** | Resident | |
| | Non-resident | |

| **For Individual** | **[Sec. 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:<br>**(a)** Stay in India ≥ 182 days in a PY OR<br>**(b)** Stay in India ≥ 60 days in a PY and Stay in India ≥ 365 days in preceeding 4 PYs.<br><br>*For the condition (b) above, we have 3 exceptional cases. In all these 3 cases second condition does not apply:*<br>**(a)** A **citizen** of India who leaves India for the **employment purposes**.<br>**(b)** A **citizen** of India who leaves India **as a member of crew of Indian ship.**<br>**(c)** An Individual who is a **citizen of India OR** is a person of Indian origin who comes to India on a **visit**. | |
| **ROR & RNOR** | *ROR is one who satisfies both of the following conditions:*<br>**(a)** Resident in 2 out of10 preceding PYs.<br>**(b)** Stay in India ≥ 730 days in a 7 preceding PYs.<br>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. |

| **For HUF** | **[Sec. 6(2)]** |
|---|---|
| While determining residential status of HUF period of stay of Karta (कर्ता) 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.<br>HUF becomes non-resident if entire control and management is situated outside India. If Karta satisfies the following conditions HUF becomes ROR:<br>(a) Resident in 2 out of10 preceding PYs.<br>(b) Stay in India ≥ 730 days in a 7 preceding PYs.<br>Otherwise HUF shall be RNOR. | |

| **For Indian Companies** | **[Sec. 6(3)]** |
|---|---|
| → 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.<br>→ 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. | |

| **Taxability of Income** |
|---|
| → Resident and ordinarily resident is taxed on his global income.<br>→ 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.<br>→ Non-resident is taxed in respect of Indian Incomes only. |

| **Taxability of remittance** |
|---|
| Remittance in India is never taxed in India, since it is the second receipt. |

| **Treatment of agricultural income** |
|---|
| 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. |

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# 3. HEADS OF INCOME

## 3.1: INCOME UNDER HEAD SALARY

| Section | Provision |
|---|---|
| Sec. 15 | *Chargeability section* |
| Sec. 16(ii) | *Deduction for Entertainment Allowance* |
| Sec. 16(iii) | *Deduction in respect of Professional/Employment Tax* |
| Sec. 17(1) | *Meaning of Salary* |
| Sec. 17(2) | *Meaning of Perquisites* |
| Proviso to Sec. 17(2) | *Treatment of Medical Facility* |
| Sec. 17(3) | *Profit in lieu of Salary* |
| **Rule** | **Valuation of Perquisites under Income Tax Rules, 1962** |
| Rule 3(1) | *Valuation of rent free accommodation* |
| Rule 3(2) | *Valuation of car facility* |
| Rule 3(3) | *Valuation of servant facility* |
| Rule 3(4) | *Valuation of gas, electricity, water facility* |
| Rule 3(5) | *Valuation of education facility* |
| **Section** | **Exemption under the head Salary** |
| Sec. 10(5) | *Exemption for leave travel concession* |
| Sec. 10(10) | *Exemption for Gratuity* |
| Sec. 10(10A) | *Exemption for Commuted Pension* |
| Sec. 10(10AA) | *Exemption for Leave Encashment upon retirement* |
| Sec. 10(10B) | *Exemption for retirement compensation* |
| Sec. 10(10C) | *Exemption for VRS* |
| Sec. 10(13A) | *Exemption for HRA* |
| Sec. 10(14) | *Exemption for other Allowances* |
| **Schedule IV** | ***Provident Fund*** |

**Basic Concept**

*Any amount received by an individual shall be treated as salary only if the relationship between payer and payee is that of an employer and employee. The employee may be a full time employee or part-time employee.*

**Basis of charge** **[Sec. 5]**

- → For charging tax under income under the salary the foremost requirement is that the relationship of employer and employee must subsist between the payer and payee.
- → Even if the person is in employment with more than one employer, all kinds of benefits extracted from such kind of contract would be taxable under income under the head salaries.
- → The basic difference one must remember between forgone and surrender of salary is that even if forgone, salary is taxable but when salary is voluntarily transferred to the central government, such salary is not taxable.
- → **Salary is taxable on due or receipt basis whichever is earlier. Accounting method of employee is not relevant.**

**Salary** **[Sec. 17(1)]**

It means any kind of:

- → Wages
- → Annuity
- → Gratuity, fees, bonus, commission, perk or profit in lieu of salary or wages
- → Any advance of salary
- → Any amount on account of leave encashment

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- → Any contribution to RPF to the extent it is taxable
- → Any interest on RPF to the extent it is taxable
- → Any contribution under Sec. 80CCD under scheme framed by CG

**Place of accrual**

*Salary is Deemed to accrue at place where service is rendered , however there is an exception to the same:*

- → Where an Indian National is rendering service outside on behalf of government of India outside India such salary is deemed to accrue and arise in India Itself and allowances and Perks to such person are also exempt from tax. And on the principle of reciprocity any salary or wages paid in India to a foreign national in this behalf shall also not be taxable in India.
- → Also Salary received from UNO would not be taxable in India.

**Taxation of Advanced Salary and Arrears of Salary**

- → Any advance salary received would be taxable in the previous year in which it is received on receipt basis and any arrears of salary received which is not taxed earlier would be taxable in the year in which they are allowed , however recipient would be entitled to claim relief under Sec. 89 in respect of such arrears.
- → **However it is to be noted that Advance salary is different from advance against salary and such advance against salary is taxable when salary becomes due.**

| **Gratuity** | | **[Sec. 10(10)]** |
|---|---|---|
| ***Government Employees*** | ***Employees covered under The Payment of Gratuity Act, 1972*** | ***Any other employees*** |
| Fully exempt | *Minimum of*<br>(1) Actual received<br>(2) $\frac{15}{26} \times$ Last drawn Salary $\times$ No. of completed years plus excess of 6 months<br>(3) ₹ 10,00,000 | *Minimum of*<br>(1) Actual received<br>(2) $\frac{15}{26} \times$ Avg. Salary of 10 months $\times$ No. of completedyears<br>(3) ₹ 10,00,000 |

| **Pension** | | | **[Sec. 10(10A)]** |
|---|---|---|---|
| ***Un-commuted*** | ***Commuted*** | | |
| Fully Taxable | ***Govt. employees*** | ***Non-Govt. Employees*** | |
| | Fully exempt | ***Received gratuity also*** | ***Not received gratuity*** |
| | | $\frac{1}{3}$ of full value of pension | $\frac{1}{2}$ of full value of pension |

| **Leave Salary** | **[Sec. 10(10AA)]** |
|---|---|
| ***Govt. employees*** | ***Non-govt. employees*** |
| Fully exempt | *Minimum of*<br>(1) Actual received<br>(2) Avg. salary of last 10 months $\times$ Balance leave calculated on the basis of 30 days<br>(3) Avg. salary $\times$ 10 months<br>(4) ₹ 3,00,000 |

| **Retirement compensation** | **[Sec. 10(10B)]** |
|---|---|
| *Minimum of*<br>(1) Actual received<br>(2) Amount calculated in accordance with Industrial Dispute Act, 1947<br>(3) ₹ 5,00,000 | |

**Voluntary retirement compensation**

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| ***Conditions:*** | **[Rule 2BA]*** | ***Exemption:*** | **[Sec. 10(10C)]** |
|---|---|---|---|
| (i) 10 years of service or 40 years of age<br>(ii) For all employees<br>*(except directors of the company)*<br>(iii) Reduction in number of employees<br>(iv) Not to be filled up<br>(v) No same management<br>** Rules refers to Income Tax Rules, 1962* | | *Minimum of*<br>(1) Actual received<br>(2) $\frac{\text{Last drown salary}}{} \times 3 \text{ months} \times \frac{\text{No.of completed years of services}}{}$<br>(3) $\frac{\text{Last drown salary}}{} \times \frac{\text{Balance months' services left}}{}$<br>(4) ₹ 5,00,000 | |

| **Provident fund** | |
|---|---|
| *Recognised Provident Fund* | → Employer's contribution – excess of **12%** salary *(Taxable)*<br>→ Interest on provident fund – excess of **9.5%** *(Taxable)* |
| *Unrecognised Provident Fund* | → Employer's contribution – Taxable *(Salary)*<br>→ Interest on Employer's contribution – Taxable *(Salary)*<br>→ Interest on Employee's contribution – Taxable *(Other sources)* |

| **Allowances** | |
|---|---|
| ***(1) Fully Taxable Allowance*** | |
| ***Dearness Allowance*** | As is clear by its name, this allowance is paid to compensate the employee against the rise in price level in the economy. Although it is a compensatory allowance against high prices, the whole of it is taxable. |
| ***City Compensatory Allowance*** | This allowance is paid to employees who are posted in big cities. The purpose is to compensate the high cost of living in cities like Delhi, Mumbai etc. However, it is fully taxable. |
| ***Tiffin/Lunch Allowance*** | It is fully taxable. It is given to employees for lunch as coupons or added as part of salary |
| ***Overtime Allowance*** | When an employee works for extra hours over and above his normal hours of duty, he is given overtime allowance as extra wages. It is fully taxable. |
| ***Fixed Medical Allowance*** | Medical allowance is fully taxable even if some expenditure has actually been incurred for medical treatment of employee or family. |
| ***Servant Allowance*** | It is fully taxable whether or not servants have been employed by the employee. |
| ***Other Allowance*** | There may be several other allowances like family allowance, project allowance, marriage allowance, education allowance, and holiday allowance etc. which are not covered under specifically exempt category, so are fully taxable. |
| ***(2) Partly Exempt Allowance*** | |
| ***Interest on Post Office Savings Bank Account*** | **[Sec. 10(15)]** |
| Individual Account ₹ 3,500 and<br>Joint account ₹ 7,000 | |
| ***House Rent Allowance*** | **[Rule 2A]** **[Sec. 10(13A)]** |
| Minimum of<br>(1) Actual allowance received<br>(2) Rent paid – 10% Salary<br>(3) 50% of salary – If accommodation is in Mumbai, Kolkata, Delhi, Chennai [Metro City]<br>40% of salary – For any other place | |
| ***Exempt Minimum of***<br>**(1) Actual amount received**<br>**(2) Amount spent** | |
| *(i) Travelling (ii) Daily (iii) Conveyance (iv) Helper (v) Academic (vi) Uniform* | |
| ***Exempt Minimum of***<br>**(1) Actual amount received**<br>**(2) Limit Specified** | |
| *(i) Children education allowance* – ₹ 100 p.m. per child (maximum 2 children) | |

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*(ii) Hostel expenditure allowances* – ₹ 300 p.m. per child (maximum 2 children)
*(iii) Transport allowance* – ₹ 800 p.m. (₹ 1600 for blind/handicapped)
*(iv) Allowance allowed to transport employees (who not received daily allowance)*
(a) 70% of such allowance *or* (b) ₹ 10,000 p.m. (*whichever is less*)
*(v) Allowance allowed to Chairmen/Member of UPSC ★ [Sec. 10(45)]*
(a) Serving chairmen/member of UPSC
1. Value of *conveyance facilities including transport allowance*
2. *Sumptuary allowance*

(b) Retired chairmen/member of UPSC
1. Maximum ₹ 14,000 p.m. for meeting expenses incurred towards secretarial assistance

*(vi) Tribal area allowance* – ₹ 200 p.m.
*(vii) Underground allowances* – ₹ 800 p.m.
*[**Note:** ★ signed content refers to Amendment, important for AY 12-13 and May/Nov. 2012 IPCC]*

| ***(3) Fully Exempt Allowance*** | |
|---|---|
| ***Foreign (Govt.) Employees*** | This allowance is usually paid by the government to its employees being Indian citizen posted out of India for rendering services abroad. It is fully exempt from tax. |
| ***HC & SC Judges*** | Allowance to **High Court and Supreme Court Judges** of whatever nature are exempt from tax. |
| ***UNO*** | Allowances from **UNO organisation to its employees** are fully exempt from tax. |

| **Perquisites** | | | **[Sec. 17(2)]** |
|---|---|---|---|
| **(1) Taxable in the hands of all employees** | | | |
| **Rent Free Accommodation** | | | **[Rule 3(1)]** |
| ***Govt. Employee*** | ***Non-Govt. Employee*** | | |
| As per Govt. Rules | *Owned by employer* | *Not owned by employer* | |
| | **In cities population above 25,00,000:** 15% of salary<br>**In cities population 10,00,000 to exceeding 25,00,000:** 10% of salary<br>**In other place:** 7.5% of salary | ***Minimum of***<br>(1) Actual Rent<br>(2) 15% of Salary | |
| **Valuation of monetary obligation of employee** | | | |
| Actual expenditure | | | |
| **Perquisites received by Chairmen/Member of UPSC:** | | | **★ [Sec. 10(45)]** |
| (a) Serving chairmen/members of UPSC:<br>1. The value of rent free official residence<br>2. The value of leave travel concession<br>(b) Retired chairmen/members of UPSC:<br>1. Free telephone connection + Up to 1500 calls p.m.<br>*[**Note:** ★ signed content refers to Amendment, important for AY 12-13 and May/Nov. 2012 IPCC]* | | | |
| **Interest free loan** | | | |
| (1) Interest Rate of SBI OR (2) 12%<br>*(Maximum exemption loan: ₹ 20000)* | | | |
| **Use of Movable Assets** | | | |
| (1) 10% p.a. of actual cost OR (2) Actual rental charge | | | |
| **Transfer of Movable Assets** | | | |
| *Computer & electronic items* | Dep. @ 50% for completed years (WDV) | | |
| *Motor car* | Dep. @ 20% for completed years (WDV) | | |
| *Other assets* | Dep. @ 10% for completed years (SLM) | | |
| **Valuation of Car Facility** | | | **[Rule 3(2)]** |
| Car owned/*hired* by → Employer<br>Expenses incurred by→ Employer | ***Use*** | ***Exemption*** | |
| | Official use | Exempt | |

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| | | |
|---|---|---|
| *(Running & Maintenance)* | Private use | 10% of cost OR Actual hire charges<br>*Add:* Running and Maintenance exp.<br>*Less:* Amount recoverable |
| | Partly official partly private | For/below 1.6 ltr. CC → ₹ 1,800 p.m.<br>Above 1.6 ltr. CC → ₹ 2,400 p.m.<br>*(Nothing deductible on account of amount recovered)* |
| Car owned by → Employer<br>Expenses incurred by → Employee<br>*(Running & Maintenance)* | ***Use*** | ***Exemption*** |
| | Official use | NIL |
| | Private use | 10% of cost OR Actual hire charges<br>*Less:* Amount recoverable |
| | Partly official partly private | For/below 1.6 ltr. CC → ₹ 600 p.m.<br>Above 1.6 ltr. CC → ₹ 900 p.m.<br>If chauffer provided → ₹ 900 p.m.<br>*(Nothing deductible on account of amount recovered)* |
| Car owned by → Employee<br>Expenses incurred by → Employee | ***Nothing is taxable.*** | |
| Car owned/*hired* by → Employer<br>Expenses incurred by→ Employer<br>*(Running & Maintenance)* | ***Use*** | ***Exemption*** |
| | Official use | NIL |
| | Private use | Amount of expenditure |
| | Partly official partly private | Expenditure<br>*Less:* (For/below 1.6 ltr. CC: ₹ 1,800 p.m.; Above 1.6 ltr. CC : ₹ 2,400 p.m.)<br>*Less:* If chauffer provided: ₹ 900 p.m.<br>*(Greater deduction can be allowed if as per official records it is established that expenditure was for official use)* |
| Any other automotive owned by Employer | ***Use*** | ***Exemption*** |
| | Official use | NIL |
| | Private use | Expenditure incurred |
| | Partly official partly private | Expenditure<br>*Less:* ₹ 900 p.m.<br>*(Greater deduction can be allowed if as per official records it is established that expenditure was for official use)* |
| *Conditions:* | → When such a facility is provided to high court or supreme court judges, it is exempt from taxation<br>→ When such a facility is provided for commuting between residences to office, it is exempt from taxation. | |
| *Documents to be maintained by employee:* | 1. Complete details of journey undertaken for official purposes<br>2. Employer's certificate that expenditure was incurred wholly for official use.<br>***Note:*** *When 2 or more cars are provided, the value for one car would be as provided for partly official partly private and for other cars as purely for personal purposes.* | |
| **(2) Taxable in the hands of specified employees**<br>*Specified employees means–Director, 20% (beneficial ownership), salary more than ₹50,000 p.a.* | | |
| *Sweeper, gardener or watchman* | Actual Cost | |
| *Gas, electricity or water suppliers* | **[Rule 3(4)]** | (1) Actual cost OR (2) Manufacturing cost |
| *Education facilities* | **[Rule 3(5)]** | ₹ 1,000 p.m. *(exempt)* |
| **(3) Tax free perquisites in the hands of all employees** | | |

| **Medical facilities** | |
|---|---|
| ***Medical treatment in India*** | ***Medical Treatment Outside India*** |
| → Employer's hospital, Govt. Hospital, Notified hospital, Group medicine insurance, medical insurance u/s 80D *(fully exempt)*<br>→ Any other medical expenditure-maximum of ₹ 15,000 | → Medical treatment and stay expenses abroad-exempt *(If permitted by RBI)*<br>→ **Travel expenditure is fully exempt if**<br>• GTI upto ₹ 2,00,000<br>• GTI above ₹ 2,00,000 |
| **Leave travel concession** | **[Sec. 10(5)]** |
| Maximum of 2 journeys in block of 4 years by air/first class air-conditioned in train by shortest distance | |

| **Deductions from Salary** | |
|---|---|
| **Entertainment Allowance** *(Only for Govt. Employees)* | **[Sec. 16(ii)]** |
| *Minimum of*<br>(c) Actual amount<br>(d) 20% of Basic Salary<br>(e) ₹ 5,000 | |
| **Professional Tax/Employment Tax** | **[Sec. 16(iii)]** |
| Actual amount paid | |

| **Meaning of salary in deferent cases** | |
|---|---|
| (1) For entertainment allowances | Basic Salary only |
| (2) Gratuity for employees (Covered under Gratuity Act) | Basic Salary + DA |
| (3) Gratuity for employees (not covered under Gratuity Act) | Basic Salary<br>+ DA (if forming part of retirement benefit)<br>+ Commission as a fixed percentage turnover |
| (4) Leave Salary | |
| (5) Voluntary retirement compensation | |
| (6) Contribution to RPF | |
| (7) House rent Allowances | |
| (8) Rent free accommodation | Basic salary + DA (for R.B.) + Bonus or commission + Taxable Allowances |
| (9) Employer's contribution towards employee pension scheme referred u/s. 80CCD ★**[Sec. 36(1)(iva)]** *[w.e.f A.Y 2012-13]* [see page no. 29 for more information] | Basic salary + DA (forming part of salary)<br>*(Excludes all Allowances and perks)* |

**Salary Structure of Employee**

| *S.L. No.* | *Name of Employee* | *Basic Salary* | *D.A.* | *HRA* | *Other Allowance* | *Commission* | *Gross Salary* | *Deduction* | | | | | *Net Salary* |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | *Loan* | *Income Tax* | *Professional Tax* | *P.F.* | *Total* | |
| | | **A** | **B** | **C** | **D** | **E** | **F = (A+B+C +D+E)** | **G** | **H** | **I** | **J** | **L = (G+H+ I+J)** | **M = (F–L)** |

**Common doubt:**

**Q. 1:** ***Whether exemption of ₹ 1,000 is available while computing taxable value of perquisites of Education facility and balance amount is taxable?***

**Ans.:** It was held in case of ***Delhi Public School*** that in case of Education Facility if the cost of education of similar school exceeds ₹ 1000, the entire amount is taxable. Otherwise nothing taxable. E.g, if the cost of similar school ₹ 1200 p.m, then ₹ 1200 p.m is taxable and not just ₹ 200 p.m.

A contrary view was held in case of ***Bal Bharati Public School*** that 1000 exemption should be given. E.g., cost of similar school ₹ 1200 p.m then only ₹ 200 p.m is taxable.

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| **Format: Computation of Income under the head Salary** | | |
|---|---|---|
| ***Particulars*** | ***Amt.*** **(₹)** | ***Amt.*** **(₹)** |
| **Basic Salary** | | ..... |
| **Dearness Allowance/Pay** | | ..... |
| **Bonus** | | ..... |
| **Commission** ***(Based on turnover)*** | | ..... |
| **Commission** ***(Fixed or Other)*** | | ..... |
| **Other Taxable Allowances** | | |
| *Medical allowance* | ..... | |
| *Add: City compensation allowance* | ..... | |
| *Add: Split duty allowance* | ..... | |
| *Add: Tiffin/lunch allowance* | ..... | |
| *Add: Deputation allowance* | ..... | |
| *Add: Overtime allowance* | ..... | |
| *Add: Servant or warden allowance* | ..... | |
| *Add: Non-practicing allowance* | ..... | ..... |
| **Allowances exempt with conditions** | | |
| *Amount received* | ..... | |
| *Less: Exempt amount* | (.....) | ..... |
| **Allowances exempt without conditions** | | |
| *Amount received* | ..... | |
| *Less: Exempt amount* | (.....) | ..... |
| **Employers contribution to RPF** | ..... | |
| *Less: Exempt amount* | (.....) | ..... |
| **Interest on balance of RPF** | ..... | |
| *Less: Exempt amount* | (.....) | ..... |
| **Employer's contribution to notified pension fund** | | ..... |
| **Value of perquisites** | | ..... |
| **Leave encashment** *(Current Year)* | | ..... |
| **Retirement benefit** | | |
| **Gratuity** | ..... | |
| *Less: Exempt amount* | (.....) | ..... |
| **Leave encashment upon retirement** | ..... | |
| *Less: Exempt amount* | (.....) | ..... |
| **Pension:** | | |
| *Un-commuted pension* | | ..... |
| *Commuted pension* | ..... | |
| *Less Exempted amount* | (.....) | ..... |
| *Compensation under VRS* | ..... | |
| *Less: Exempted amount* | (.....) | ..... |
| *Retrenchment compensation* | ..... | |
| *Less: Exempted amount* | (.....) | ..... |
| **Amount received from URPF upon retirement** | | ..... |
| ***GROSS SALARY*** | | ..... |
| *Less:* ***Deduction under Sec. 16*** | | |
| *Deduction for Entertainment Allowance [Sec. 16(i)]* | | (.....) |
| *Deduction for Professional/Employment Tax [Sec. 16(ii)]* | | (.....) |
| ***INCOME UNDER THE HEAD SALARY*** | | ..... |

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# 3.2: INCOME UNDER HEAD HOUSE PROPERTY

| Section | Provision |
|---|---|
| Sec. 22 | *Basis of charge (i.e. Charging Section)* |
| Exp. to Sec. 23(1) | *Unrealised rent* |
| Sec. 24(a) | *Statutory deduction* |
| Sec. 24(b) | *Interest on borrowed capital* |
| Sec. 25A<br>Sec. 25AA | *Recovery of unrealised rent* |
| Sec. 25B | *Arrears (Outstanding) rent received* |
| Sec. 26 | *Property owned by co-owners* |
| Sec. 27(i) | *Deemed ownership – Transfer to Spouse* |
| Sec. 27(ii) | *Deemed ownership – Holder of an impartible estate* |
| Sec. 27(iii) | *Deemed ownership – Member of co-operative society etc.* |
| Sec. 27(iiia) | *Deemed ownership – Person in profession of property as per Sec. 53A of Transfer of Property Act, 1882* |
| Sec. 27(iiib) | *Deemed ownership – Person having right in property for a period not less than 12 years* |

| **Basis of charge** | **[Sec. 22]** |
|---|---|
| → There must be a property consisting of building or land appurtenant thereto<br>→ The Assessee should be owner of that property<br>→ Such property should not be used for Business or profession of assessee the profits of which are chargeable to tax | |
| ***Some important points*** | |
| → It must be noted that the word property or part thereof means part or unit of that property<br>→ If there is any income from vacant piece of land such income would be charged under Profits and gains from business and profession or under income from other sources depending upon nature of the case.<br>→ Property not owned by assessee should not be charged under house property, stating and example we mention that income from subletting is charged under income from other sources. | |

| **Ownership** |
|---|
| It includes legal owner as well as deemed owner. *The term ownership includes ownership of any kind and includes:*<br>→ Freehold Property<br>→ Leasehold property<br>→ Deemed ownership |

| **Deemed Ownership** | **[Sec. 27]** |
|---|---|
| *The various cases in which owner would be counted as deemed owner of property are as follows:-* | |
| *Transfer to spouse:* | Where an individual transfers his/her house property to his/her spouse without any adequate consideration ***(except in an agreement to live apart)***, the transferor would be deemed to be owner of such house property. It is to be noted that only house property is transferred and not any cash through which House property is purchased, in such a case, clubbing provisions will apply. |
| *Transfer to minor child* | Where property is transferred to minor child ***(except married minor daughter)***, Transferor would be deemed to be owner of that house property. |
| *Holder of an impartible estate* | Such holder would be deemed to be owner of that property. |
| *Member of co-operative estate* | Person holding property under a co-operative estate as leasehold or freehold property would be deemed to be owner of that property. |
| *Person holding* | ***Conditions:*** |

| | |
|---|---|
| *some rights of property under Sec, 53A of Transfer of Property Act, 1882* | → There is an agreement in writing<br>→ Purchaser has paid consideration or agreed to pay the same<br>→ Purchase has taken possession of the property |
| *Person holding lease of a property for not less than 12 years* | Such a person would be deemed to be owner of that property provided that lease is renewed after a minimum period of 12 months. |
| *Disputed property* | A person who holds the possession of a disputed property or enjoys income from that property is deemed to be owner of that property. |

**Use of House Property and its impact on Taxation**

*House property may be used for either commercial or residential purposes. Some cases of taxation are as follows:*

→ Where property is held as Stock in trade then also taxed under house property
→ When it is business to give property on rent, then also it is taxed under this head of house property
→ When hotel or P.G. accommodation building is given on rent then also taxed under house property but where separate rooms are given on rent then it is taxed either business or profession or under income from other sources.
→ Some exceptions to general rule of taxation under house property are:
- Where property is used for business of assessee
- Where P.G. or hostel accommodation is run by assessee
- Where property is given on rent for efficient conduct of business
- Where H.P. is given on rent to Govt. agency for locating branch, etc. for conducting business efficiently, it is taxed under income from business and profession.
- Where it is a case of composite rent.

**Income from House Property not chargeable to tax**

→ House Property use for Business of Assessee
→ Building held for charitable purposes
→ Self-occupied property
→ Property of registered trade union
→ Palace of ex ruler
→ Income from Farm house:
***Conditions:***
- Farm house in India
- In immediate vicinity of agricultural land
- Used as a dwelling or store house

**Cases of composite rent**

***Composite rent can be on amount of***
→ ***Provision of facilities with House Property***
→ ***Provision of assets with House Property***

(a) Rent On account of House Property and Other facilities like gas, etc. should be separated and rent on account of House Property would be taxed under income from House Property and rest would be taxable under either under the head Business & Profession or income under the head other sources.
(b) Rent on account of House Property and hire charges of assets is treated as follows:
⇨ If assets form an integral part of lending, whole of the rent should be taxed under either Income under the head "Profits and gains from Business and Profession" (PGBP) or Income under the head "Income from Other Sources" as the case may be.
- If asset do not form an integral part of lending, rent should be separated into :-
- Rent for H.P. and should be taxed under H.P.

- Rent for assets must be taxed under P.G.B.P. or income from other sources

| **Annual Value** | **[Sec. 23]** |
|---|---|
| **Step 1** | **Take higher of**<br>(a) Expected rent (which is computed by taking higher of municipal value or fair rent whichever is higher but limited to standard rent) or,<br>(b) Actual rent received or receivable<br>(c) But in this clause c, we compute actual rent which would have been there if there would have been no vacancy, if such rent is higher than expected rent, then rent computed under this clause (c) would be used otherwise rent computed in clause (a) that is the expected rent would be used. |
| **Step 2** | From this Calculate GAV by taking rent as per above provisions and subtracting vacancy allowance on the basis of actual rent from the same. |
| **Step 3** | This is our **Gross Annual Value (GAV)** |
| **Step 4** | From GAV deduct Standard deduction @ 30% of GAV and municipal taxes actually paid and borne by the owner during the previous year. |
| **Step 5** | Finally we have computed our *Net Annual Value or annual value* |

**Unrealised rent** **[Rule 4]**

Sometimes owner is not able to recover some portion of rent from the tenant such a rent is called as unrealized rent, *Unrealized rent is allowed as a deduction only when following 4 conditions given in Rule 4 are satisfied:*

→ Tenancy is bonafide
→ Every step has been taken to get the property vacated
→ Every step has been taken to recover unrealized rent
→ Tenant is not in occupation of any other property of Owner

There are a number of conflicting views regarding treatment of unrealized rent due to difference of opinion created by income tax law and income tax return form, However Taking in to account the provisions of law; the appropriate provisions are written below:

***Just deduct amount of unrealized rent from Step 1 Point (b) and Point (c) of above Steps i.e. While Computing figures for actual rent, these are allowed as a deduction. The Rest of Steps Follow in the same manner as written above.***

**Vacancy**

→ In point "Annual Value", everything regarding vacancy clause has been discussed in the 5 steps for computation of annual value, so we are not discussing the same separately.
→ It is to be noted that there is a difference of opinion among authors regarding vacancy allowance, rest necessary and commonly accepted provisions have been discussed in point "Annual Value".

**House property let out during part of year and part of year self-occupied**

→ The Income from such property is calculated as if let out for whole of the year. In This case, expected rent would be taken for whole year but actual rent would be taken for let out period only and no special allowance for this purpose is allowed.
→ *However where property is acquired during the year itself, expected rent would be taken for only that portion for which property has been owned by assessee and rest provisions remains the same.*

**Treatment of Vacancy + Unrealised rent**

If the problem is such that adjustment is required both for Vacancy and unrealized rent then following treatment follows which is a combination of provisions written in Point "Unrealised rent" and Point "Vacancy" above:

→ The amount of unrealized rent would be deducted from Step 1 Point (b) and Point (c)
→ Next, the treatment of unrealized rent is same as per provisions written in point "Annual Value" in the next steps.

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**Income from House Property – Self Occupied for Residence**

*When property is:*

→ Self-occupied for residence or

→ Cannot be self-occupied for residence owing to reason of employment and he has to reside at some other place not belonging to him

Then, Annual Value of such property would be taken to be NIL.

**Annual value not NIL:**

→ House Property Actually let out during the year

→ Any other benefit is derived from property.

***Case where more than one house is for self-occupation:***

Then the assesse has option to take any of the above houses as self-occupied and the other one would be treated as deemed let out property.

***Notes:***

- Annual value here denotes value after municipal taxes.
- This option is available only to individuals and Hindu undivided families.
- Where An assessee let's out his house to the employer and the employer in return allots the same to assessee only then, then tax treatment would be as follows:-
- Tax on income of house property and
- Tax on the matter of rent free or concessional accommodation provided by employer taxable under income under the head salaries.

**Deductions from Income from House Property** **[Sec. 24]**

**(1) Standard deduction:** A Standard Deduction of 30% of Net Annual Value Would Be allowed as a deduction from net Annual Value, irrespective Of expenditure incurred. No other deduction on account of any expenditure is allowed.
***However such deduction would not be allowed when annual value is negative.***

**(2) Deduction on account of interest:** Any Kind of interest on borrowed capital would be allowed as a deduction from H.P. income on "accrual" basis. Interest includes pre construction period interest installment.
***However Interest would not be allowed as a deduction if such interest is paid out of India and No TDS has been deducted from it and there is no person in India who can be assessed in respect of person to whom interest is paid.***

**Notes:**

- Loan can be for any purpose like repairs, construction or any kind of extension to house property but should be connected with H.P.
- Fresh loan to merely repay original loan would be counted as if like original loan and interest would be allowed as a deduction.

**Pre-construction period:** Period starting from date on which capital is borrowed and ending on

→ 31st march immediately preceding the date on which construction of property is completed or

→ Date on which borrowed capital is repaid, whichever is earlier.

→ Pre-construction period interest is allowed as deduction in 5 equal installments commencing from year in which construction is completed.

***Example:***

*If capital is borrowed on June 30, 2010 and construction of property is completed on 30th July 2012, then interest from period June 30, 2010 to 31st March 2012 would be counted as pre-construction interest and would be allowed a deduction in 5 equal installments and interest from 1st April 2012 would be counted as interest for the current period.*

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**Deductions in case of Self-occupied Property**

Deductions as written above are not fully applicable in case of a self-occupied property. The changes case of self-occupied property are as follows: -

(1) *No standard deduction* of 30% would be allowed

(2) *Deduction in case of money borrowed:* Here also deduction is allowed subject to certain terms and conditions:-

***These conditions are as follows:***

→ Money is borrowed after 1-4-1999

→ Money is borrowed for construction or acquisition of property

→ Construction or acquisition of property is completed within 3 years from end of financial year in which money is borrowed

→ Creditor gives a certificate that amount was borrowed for construction or acquisition of property.

In Case above 4 provisions are satisfied the amount of deduction is Actual interest (inclusive of pre-construction period interest) or ₹ 150000 otherwise the amount of interest deduction would be ₹ 30000.

***However, Interest would not be allowed as a deduction if such interest is paid out of India and No TDS has been deducted from it and there is no person in India who can be assessed in respect of person to whom interest is paid.***

**Recovery of unrealised rent and arrears of rent:**

| *Recovery of unrealised rent* | *Recovery of arrears of rent* |
|---|---|
| → This provision is applicable only if unrealized rent is allowed as a deduction earlier.<br>→ Any amount recovered on account of unrealized rent should be directly added to house property income.<br>→ No Standard Deduction or any kind of deduction is allowed.<br>→ No other deduction is allowed on account of any expenditure.<br>→ This provision is applicable whether property exists or not. | → This income is chargeable to tax under house property income.<br>→ Standard Deduction of 30% is allowed to the assessee.<br>→ No other deduction is allowed on account of any expenditure.<br>→ This Provision is applicable whether property exists or not. |

**Co-owners property:**

→ If shares of co-owners are definite, then such property would be assessed in hands of individual persons.

→ If shares of individual owners are not definite then such property would be assessed as body of individuals/association of persons.

→ In case property is self-occupied than each co-owner would be allowed a deduction of ₹ 150,000 / ₹ 30,000.

→ In case property is let out, we will ignore co-ownership and compute income and in the next step we will distribute the income among co-owners in ratio of co-ownership.

**Can Annual Value be negative?** **[Common Doubt]**

Yes annual value can be negative.

**In Case of Self-occupied property:** Yes, annual value of a property can be negative but only to the extent of ₹ 1,50,000 / ₹ 30,000

**In Case of Let-out property:** The annual Value can be negative Because of deduction on account of municipal taxes and interest.

***There is no limit to which such income can be negative.***

| **Format: Computation of Income under the head House Property** | | | |
|---|---|---|---|
| | ***Particulars*** | ***In case of Let out property* (₹)** | ***In case of Self-occupied property* (₹)** |
| | Gross Annual Value | …… | …… |
| ***Less:*** | Municipal Taxes | (……) | (……) |
| | Net Annual Value | …… | (…… |
| ***Less:*** | Deduction under Sec. 24 | | |
| | Standard Deduction @ 30% | (……) | Not Allowed |
| | Deduction on account of Interest | (……) | 1,50,000/30,000 |
| | **Income under the head House Property** | …… | …… |

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# 3.3: INCOME UNDER HEAD PROFIT AND GAINS FROM BUSINESS & PROFESSION

| Section | Provision |
|---|---|
| Sec. 28 | *Income chargeable as PGBP* |
| Sec. 29 | *Computation sheet of PGBP* |
| Sec. 30 | *Deduction for expenses in relation to building* |
| Sec. 31 | *Deduction for expenses in relation to plant, machine and furniture* |
| Sec. 32(1)(i) | *Depreciation by SLM for electricity company* |
| Sec. 32(1)(ii) | *Depreciation by WDVM for other assessees* |
| Sec. 32(1)(iia) | *Deduction for additional depreciation for manufacturing concern* |
| Sec. 32(1)(iii) | *Deduction for terminal depreciation (Under SLM)* |
| Sec. 32(2) | *Deduction for unabsorbed depreciation* |
| Sec. 33AB | *Special deduction for Tea Growing and Manufacturing concern* |
| Sec. 33ABA | *Deduction for Site Restoration fund* |
| Sec. 35 | *Deduction for the activities of scientific research* |
| Sec. 35A | *Deduction for expenses on patent and copyrights (old provision)* |
| Sec. 35ABB | *Deduction for acquisition of telecommunication licenses* |
| Sec. 35AC | *Deduction in respect of eligible project* |
| Sec. 35AD | *Deduction in respect of expenditure for specific businesses* |
| Sec. 35CCA | *Deduction in respect of donation to RDP or NUEF* |
| Sec. 36(1) | *Other revenue deductions* |
| Sec. 37(1) | *General deductions* |
| Sec. 37(2B) | *Disallowance of payment to political party* |
| Sec. 38 | *Disallowance of expense on assets not wholly (used) for business* |
| Sec. 40(a) | *Certain expenditure disallowed* |
| Sec. 40(b) | *Remuneration and Interest allowed to Partner from Firm* |
| Sec. 40A(2) | *Disallowance of payment made to related party* |
| Sec. 40A(3) | *Disallowance @ 20% on certain cash payments* |
| Sec. 40A(7) | *Disallowance of provision for gratuity* |
| Sec. 41(1)/(2)/(3)/(4) | *Certain income chargeable to tax as PGBP* |
| Sec. 43(1) + Exp. | *Actual cost of depreciable asset under different situation* |
| Sec. 43(6) | *Meaning of WDV for charging depreciation on WDVM* |
| Sec. 43B | *Certain expenses allowed on payment basis only* |
| Sec. 44AA | *Requirements of maintenance of books of accounts* |
| Sec. 44AB | *Requirements of tax audit* |
| Sec. 44AD/AE/AF | *Presumptive taxation* |
| Sec. 50 | *Capital gains on depreciable assets (WDVM)* |
| Sec. 50A | *Capital gains on depreciable assets (SLM)* |
| Sec. 145 | *Method of Accounting [AS 1 & AS 2: Cash System OR Mercantile (Accrual)]* |

**Basis of charge** *[Essential conditions]* **[Sec. 28]**

→ Profit from Business or Profession
→ Any Compensation received or receivable
  (a) Termination or Modification of affairs other than Indian Company
  (b) Termination or Modification of affairs of Indian Co.
  (c) Rested power on Agencies/ Corporation
→ Profit on sale of import license
→ Any Subsidy received from Govt.
→ Profit from Speculation Business
→ Salary, Bonus, Commission, of Partner
→ Tax on Non-monetary perquisites
→ Income from key man insurance policy

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| | |
|---|---|
| **Business** | → Have skills, talent, knowledge<br>→ Special qualities<br>→ Carried on business with intension of profit |
| **Occupation** | → Don't have skill or talent<br>→ No qualitative<br>→ Bonus or commission earned |

| **Computation of Business Profit** | | **[Sec. 29]** | |
|---|---|---|---|
| **Balance as per profit and loss or Income - expenditure account** | | | …… |
| ***Add:*** | *Expenses expressly disallowed but not debited to P & L A/c* | …… | |
| | *Expenses not allowed but debited to P&L A/c* | …… | |
| | *Incomes or receipts taxable under this head but not credited to P& L A/c* | …… | |
| | *Capital expenses debited to P & L A/c* | …… | |
| | *Personal expenses debited to P & L A/c* | …… | |
| | *Expenses in excess of the allowed amount, debited to P & L A/c* | …… | |
| | *Losses not allowed but debited to P & L A/c* | …… | |
| | *Expenses not relating to the previous year but debited to P & L A/c* | …… | |
| | *Under-valuation of closing stock or over-valuation of opening stock* | …… | …… |
| ***Less:*** | *Expenses expressly allowed but not debited to P & L A/c* | …… | |
| | *Expenses relating to the previous year but not debited to P & L A/c* | …… | |
| | *Losses allowed but not debited to P & L A/c* | …… | |
| | *Incomes or receipts not taxable under this head but credited to P & L A/c* | …… | |
| | *Capital receipts credited to P & L A/c* | …… | |
| | *Incomes or receipts taxable under other head but credited to P & L A/c* | …… | |
| | *Over-valuation of closing stock or under-valuation of opening stock* | …… | |
| | *Profits taxable under the head incomes from business or profession.* | …… | (……) |
| ***INCOME UNDER THE HEAD PGBP*** | | | …… |

**Keyman insurance policy**

→ **Meaning:** Keyman insurance policy is taken by a business concern **on the life of an employee (keyman) whose services contribute substantially to the success of the business**.

→ **Objective:** The object of the keyman insurance is to **indemnify a business concern from the loss of earning resulting from the death of a valuable employee**.

→ **Determine the amount:** The amount of keyman insurance can be estimated as the monetary value of the likely setback to profits of the concern due to the death of the keyman.

→ **Tax impact:** Any sum received under a keyman insurance policy including the sum allocated by way of bonus is also taxable.

| ***Sum received by*** | ***Employee-employer relationship*** | ***Taxable under the head*** |
|---|---|---|
| ***Employee*** | Exist | Salary |
| | Does not exist | Other Sources |
| ***Management*** | | PGBP |

## 3.3.1: ALLOWABLE DEDUCTIONS [SEC. 30 TO SEC. 37]

| **Rent, rates, taxes, repairs and insurance for building** | | **[Sec. 30]** |
|---|---|---|
| ***Nature of expenditure*** | ***Deduction if building is taken on rent*** | ***Deduction if building is owned*** |
| Rent ***paid**** | Allowed | – |
| Cost of repairs *(Revenue nature)* | Allowed | Allowed |
| Cost of repairs *(Capital nature)* | Not Allowed | Not Allowed |
| Land revenue, Municipal Tax, Local Rates | Allowed | Allowed |
| Premium on insurance of building against damage or destruction | Allowed | Allowed |
| *For the purpose of Sec. 28 to 43 the word paid* means **actually paid** or **incurred** according to the **method of accounting** upon the basis of which income is computed under the head PGBP* | | **[Sec. 43(2)]** |

| **Repairs and insurance of plant and machinery** | **[Sec. 31]** |
|---|---|
| ***Nature*** | ***Deduction*** |
| Repairs *(Revenue nature)* | Allowed |
| Repairs *(Capital nature)* | Not Allowed |
| Insurance against damage/destruction | Allowed |
| ***Note:*** *Any expenses incurred for increasing efficiency of machinery will be also treated as revenue nature and it will be deductible.* | |

| **Depreciation** | **[Sec. 32]** |
|---|---|
| ***In respect of*** **Block of Asset [Sec. 2(11)]** | **(1) Tangible Assets**: Building, machinery, plant or furniture<br>**(2) Intangible Assets:** Know-how, patents, copyright, trademarks, licenses, franchises or any other business or commercial rights of similar nature (acquired on or after 1/4/1998) |
| ***Conditions*** | → *Owned wholly or partly* by the assessee and used *for the purpose of the business and profession*<br>→ *Depreciation* shall be *allowed* on the ***WDV*** of the *block* of assets *at prescribed percentage* |
| ***Some important points kept in mind while calculation of Depreciation*** | |
| **When 50% Depreciation?** | |
| *In following cases assesses can claim only half rate of deprecation if he fulfil following conditions:*<br>1. If asset acquired during the PY<br>2. Applicable only for the year of acquisition *(purchase)*<br>3. Put to use not more than 180 days | |
| **Capital expenditure** | **[Explanation to Sec. 32(1)]** |
| → Assesse carried on business on lease<br>→ Any Capital expenditure incurred by him<br>→ Treated him as owner of the building | |
| **Additional Depreciation** | **[Sec. 32(1)(iia)]** |
| *If following conditions fulfil by assessee then he can claim additional **20%** deprecation on original cost value:*<br>1. If new plant & machinery acquired for industrial undertaking purpose<br>2. Assessee must be engage in manufacturing or production of any article or thing<br>3. Installed after 31st march 2005. | |

| ***Aggregated Depreciation*** | |
|---|---|
| ***In case of*** | ***Depreciation allowable to*** |
| Succession [under Sec. 47(xiii) or Sec. 47(xiiib) or Sec. 47(xiv) or Sec. 170]* | Predecessor and the successor |

| | |
|---|---|
| Amalgamation | Amalgamating company and amalgamated company |
| Demerger | Demerged company and resulting company |

*When AOP/Firm/individual/ business acquired by company or firm then deprecation will be calculated day wise not month wise. In case of amalgamation of companies, number of days of use of assets in ratio will be kept in mind.*

| | |
|---|---|
| ***Sec. 47(xiii)**** | Transfer of a capital asset by *a firm to a company* as result of **succession** of a firm by a company |
| ***Sec. 47(xiiib)*** | Transfer of a capital asset by a *private company/unlisted public company to LLP (Limited Liability Partnership)* as a result of **conversion** of private company/unlisted public company |
| ***Sec. 47(xiv)*** | Transfer of a capital asset by a *partnership concern to a company* result of **succession** of partnership concern by a company |
| ***Sec. 170*** | **Succession of business/profession otherwise than on death:** Where a person succeeds business/profession of any other person:<br>→ Predecessor *(Seller)* shall be assessed in respect of the income of the PY in which the succession took place up to the date of succession &<br>→ Successor *(Purchaser)* shall be assessed in respect of the income of PY after the date of succession |

**Written Down Value** **[Sec. 43(6)]**

| | ***Particulars*** | ***Amt.* (₹)** |
|---|---|---|
| | WDV of block of assets as on PY (i.e. as on 1/4/2011) | …… |
| *Add:* | ***Actual Cost*** of the asset falling within the block acquired during the PY | …… |
| | | …… |
| *Less:* | ***Money Payable*** in respect of asset sold/discarded/demolished/destroyed during the PY and the amount of scrap value | …… |
| | WDV of the block at the end of PY (i.e. as on 31/3/2012) for the purpose of charging depreciation for the PY | …… |
| *Less:* | Depreciation for PY 2011-12 [AY 2012-13] | …… |
| | WDV of the block at the beginning of next PY [i.e. 1/4/2012] | …… |

***Depreciation = Closing WDV** (WDV of the block at the beginning of next PY) × **Rate of depreciation***

1. ***Actual cost*** means the actual cost of the asset to the assessee, reduced by the portion of the cost which has been directly or indirectly met by any other person or authority
2. ***Money payable*** means Sale Price and it includes insurance compensation
3. The reduction of ***money payable*** shall only be to the extent that WDV becomes NIL.
4. Depreciation on fractional ownership is allowed.
5. No depreciation is admissible where WDV has been zero, though the block of assets does not cease to exist *(block of assets is not empty)* on the last day of PY.
6. If a block of asset cease to exist or if all asset of the block have been transferred and the ***block of the asset is empty*** on the last day of the PY, no depreciation will be admissible in such case.

**Special provision for computing Capital Gains in case of depreciable assets** **[Sec. 50]**

*Computation of capital gain/loss can be made only in following two situation:*

1. On the last day of PY, ***WDV of the block of assets is zero***, although block of assets is not empty because all assets in the block are not transferred during the PY.
2. When ***block of assets is empty on the last day of PY*** because all assets in that block are transferred during the PY.

| | ***Computation of capital gain*** | ₹ | ₹ |
|---|---|---|---|
| | Sales consideration | | …… |
| ***Less:*** | WDV of block of assets at the beginning of **PY** (i.e. as on 1-4-2011) | …… | |
| | ***Actual Cost*** of the asset falling within the block acquired during the PY | …… | |
| | Transfer expenses | …… | …… |
| | ***Short term capital gain*** | | …… |

***Notes:***

1. It is not necessary that depreciation is allowed for the year under consideration. If the depreciation is allowed in the current year *(or any earlier years)*, Sec. 50 will be applicable.
2. If Sec. 50 is not attracted *(affected)* then the expenditure on transfer of assets shall be allowed as business expenditure under Sec. 37(1). It shall not be reduced from Sales consideration.
3. As per Sec. 45(1A), value of any money or FMV of assets received as compensation from insurance company shall be deemed to be full value of consideration received as a result transfer of asset which was destroyed.

| **Set-off and carry forward of unabsorbed depreciation** | **[Sec. 32(2)]** |
|---|---|
| **Step 1** | Depreciation allowance of the current PY is first deductible from Income under PGBP head |
| **Step 2** | If depreciation allowance is not fully deductible under the head PGBP because of absence or inadequacy of profit, it is deductible from income chargeable under other heads of income *(except income under the Salary)* of the current PY |
| **Step 3** | If depreciation allowance still remains unabsorbed, it can be carry forward to the subsequent AYs by the same assessee. |

*Same head → Any head of income other than salary → Carry forward to any number of years*

***Notes:***

1. Unabsorbed depreciation can be carry forward and set off, even ROI *(Return of Income OR Income Tax Return)* is filed after ***due date*** of furnishing the return of Income.
2. No time limit is fixed for the purpose of carrying forward of unabsorbed depreciation, *it can be carried forward for indefinite period, if necessary*.
3. In the subsequent AYs, unabsorbed depreciation can be set off against any income whether chargeable under the head PGBP or under any other head *(except income under the head Salary)*
   In the matter of set-off, the following order of priority is followed in subsequent AYs:
   (a) Depreciation of current PY
   (b) Brought forward business loss
   (c) Brought forward unabsorbed depreciation
   If in the subsequent AYs, there is no ***brought forward loss***, brought forward unabsorbed depreciation can be added to ***depreciation of current PY*** for the purpose of claiming deduction.
4. For claiming depreciation, the assessee should be ***beneficial owner*** of the asset. It is not necessary that he should be registered owner.
5. Revaluation of assets does not have any impact on Income Tax Act, 1961. For the calculation of depreciation, ***revaluation should be ignored***.

**Depreciation for power generating undertakings** **[Sec. 32(1)(i)]**

1. They have option to claim depreciation
   (a) SLM on ***each*** *assets* OR (b) WDVM on ***block*** *assets*
2. Put to use less than 180 days: Same as block asset concept
3. Depreciation allowed shall not exceed actual cost of the asset
4. Open to such undertaking to opt the depreciation under WDVM
5. Above option is not exercised depreciation is allowed on the basis of SLM

**Terminal Depreciation** **[Sec. 32(2)(iii)]**

→ Depreciation claimed under Sec. 32(1)(i) → Sold, destroyed or discarded
→ Sale consideration < [Actual Cost – Depreciation Allowed]
→ Difference of above shall allowed as terminal depreciation in PY in which asset sold, destroyed or discarded

| ***Computation of Terminal Depreciation*** | | **₹** |
|---|---|---|
| | Written Down Value (WDV) | …… |
| ***Less:*** | Insurance received | …… |
| | ***Terminal Depreciation*** | …… |

**Balancing charge** **[Sec. 41(2)]**

→ Depreciation claimed under Sec. 32(1)(i) → Sold, destroyed or discarded
→ Sale consideration > [Actual Cost – Depreciation Allowed]
→ *Minimum of* following will be treated as ***Balancing charge***
(a) Cost *Less* WDV OR (b) Sales consideration *Less* WDV

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| **Capital Gain on the transfer of Capital Asset on which SLM depre. charged** | **[Sec. 50A]** |
|---|---|
| Sales consideration exceeds actual cost of such assets | |
| ***Computation of Capital Gain on the transfer of Capital Asset on which SLM depre. charged*** | **₹** |
| Sales consideration | …… |
| ***Less:*** Actual cost of Assets | …… |
| **Capital Gain on the transfer of Capital Asset on which SLM depre. charged** | …… |

## APPENDIX

| **Rates of depreciation for various block of assets** | | |
|---|---|---|
| ***Block No.*** | ***Name of Asset*** | ***Rate of Depreciation*** |
| ***Class 1: Buildings*** *[included roads, bridges, culverts, wells and tube-wells]* | | |
| **Block 1** | Residential buildings | **5%** |
| **Block 2** | Non-residential buildings *(e.g. office, factory, godown etc.)* | **10%** |
| **Block 3** | Purely temporary erections such as wooden structures | **100%** |
| ***Class 2: Furniture and fittings*** | | |
| **Block 1** | Furniture and fittings include ***electronic fittings*** ***[Electronic fittings*** *include electrical wiring, switches, sockets and other fittings and fans etc.**]*** | **10%** |
| ***Class 3: Plant and machinery*** | | |
| **Block 1** | (a) Motor cars *(other than those used in business of running them on hire)* (b) Any other plant and machinery *(other than those covered by Block 2 to 8 below)* | **15%** |
| **Block 2** | Ocean-going ships, vessels ordinarily operating on inland waters including speed boats | **20%** |
| **Block 3** | (a) Motor buses, motor lorries and motor taxis used in a business of running them on hire (b) Moulds used in rubber and plastic goods factories (c) Machinery used in semi-conductor industry | **30%** |
| **Block 4** | (a) Aeroplanes – Aero-engines (b) Specified life-saving medical equipment | **40%** |
| **Block 5** | Containers made of glasses or plastic used as re-fills | **50%** |
| **Block 6** | (a) Computer including computer software (b) Books (other than annual publication) owned by professional (c) Gas cylinders (d) Plant used in field operation by mineral oil concerns (e) Direct fire gas melting furnace used in glass manufacturing concerns | **60%** |
| **Block 7** | (a) Energy saving devices *(e.g., Automatic Voltage Controller)* (b) Renewal energy devises *(e.g., Flat Plate Solar Collectors)* (c) Rollers in flour mills, sugar works and steel industry | **80%** |
| **Block 8** | (a) Air pollution control equipment (b) Water pollution control equipment (c) Solid waste control equipment (d) Wooden parts used in artificial silk manufacturing machinery (e) Cinematograph films, bulbs of studio lights (f) Wooden watch frames in match factories (g) Some plants used in mines, quarries and salt works (h) Books (annual publication) owned by professional (i) Books (may or may not be annual publication) owned by assessees carrying on business in running libraries | **100%** |

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| *Class 4: Intangible assets* | | |
|---|---|---|
| **Block 1** | Know-how, patents, copyrights, trademarks, licenses, franchises or any other business or commercial rights of similar nature | **25%** |

| | **Tea Development Account** | **[Sec. 33AB]** | **Site restoration fund Account** | **[Sec. 33ABA]** |
|---|---|---|---|---|
| *Applicable* | Tea or Coffee or rubber | | Petroleum or natural gas | |
| *Time Limit* | Six months of end of P/Y or before ROI | | Before end of P/Y | |
| *Deposit* | NABARD or TCR board | | SBI or Scheme of Ministry of P & G | |
| *Deduction* | 40% of profits of such business (max. limit) | | 20% profit of such business (mix. limit) | |
| **Common provision in case of Sec. 33AB & 33ABA** | | | | |
| ***Deduction withdrawn*** → Purchase for office or residence, office appliances *(other than computer)*<br>***Deduction allowed*** → In one year, XI$^{th}$ Schedule, sale before 8 years from end of PY | | | | |

| **Expenditure on scientific research** | | **★[Sec. 35]** |
|---|---|---|
| ***Purpose*** | ***Donee*** | ***Deduction*** |
| Specific research | National laboratories, IIT, specified person | 200% of donation |
| Specific research | Research association, university, college, other institutions | 175% of donation |
| Specific research | Company (company's main object being is to carry on scientific research) | 125% of donation |
| Research in social sciences, statistical research | Research association, university, college, other institutions | 125% of donation |
| ***Special business:*** Bio-technologies or companies engaged in the business of manufacturer or production of an article or thing except those specified in the XIth Schedule of the Income Tax Act.<br>***Unabsorbed expenditure:*** Same Treatment as unabsorbed depreciation<br>*[**Note:** ★ signed content refers to Amendment, important for AY 12-13 and May/Nov. 2012 IPCC]* | | |

**The XI$^{th}$ (Eleventh) schedule: List of articles or things**

1. Beer, wine and other alcoholic spirits.
2. Tobacco and tobacco preparations, such as, cigars and cheroots, cigarettes, biris, smoking mixtures for pipes and cigarettes, chewing tobacco and snuff.
3. Cosmetics and toilet preparations.
4. Tooth paste, dental cream, tooth powder and soap.
5. Aerated waters in the manufacture of which blended flavouring concentrates in any form are used.
   ***Explanation:*** "Blended flavouring concentrates" shall include, and shall be deemed always to have included, synthetic essences in any form.
6. Confectionery and chocolates.
7. Gramophones, including record-players and gramophone records.
8. Projectors.
9. Photographic apparatus and goods.
10. Office machines and apparatus such as typewriters, calculating machines, cash registering machines, cheque writing machines, intercom machines and teleprinters.
    ***Explanation:*** The expression "office machines and apparatus" includes all machines and apparatus used in offices, shops, factories, workshops, educational institutions, railway stations, hotels and restaurants for doing office work 16[and for data processing (not being computers within the meaning of section 32AB
11. Steel furniture, whether made partly or wholly of steel.
12. Safes, strong boxes, cash and deed boxes and strong room doors.
13. Latex foam sponge and polyurethane foam.
14. Crown corks, or other fittings of cork, rubber, polyethylene or any other material.
15. Pilfer-proof caps for packaging or other fittings of cork, rubber, polyethylene or any other material.

| **Expenditure on acquisition of Patent Rights *or* Copy Rights** | **[Sec. 35A]** |
|---|---|
| Before 1/4/1998 → Allowed in 14 equal annual instalments<br>On or after → Depreciation at 25% *(WDV)* | |

| **Expenditure for Obtaining license to Operate Telecommunication Services** | **[Sec. 35ABB]** |
|---|---|
| Actual payment made to obtain a license, shall be allowed as deduction in equal instalments during the number of years for which the license is in force. | |
| ***If licence fee (amt.) paid <u>before</u> commencement of business*** | ***If licence fee (amt.) paid <u>after</u> commencement of business*** |
| Amt. of deduction = $\frac{\text{Actual amt. (fee) paid}}{\text{Total no. of license period}}$ | Amt. of deduction = $\frac{\text{Actual amt. (fee) paid}}{\text{Remaining no. of license period}}$ |

| **Treatment after sale of license *(for capital gain purpose)*** | | | | |
|---|---|---|---|---|
| ***Fully license right sold*** | | | ***Partly license right sold*** | |
| ***SV>AV*** | | ***SV>WDV*** | ***SV>WDV*** | ***SV<WDV*** |
| Sale value<br>– Org. cost<br>Capital Gains | Org. cost<br>– WDV<br>Business income | Org. cost<br>– WDV<br>Business income | Sale Value<br>– WDV<br>Business income | WDV<br>– Sale Value<br>WDV |

| **Expenditure *(Donation)* on eligible project or schemes** | **[Sec. 35AC]** |
|---|---|
| (1) Eligible expenditure → Payment to public sector company, local authority, approved association, direct expenditure incurred on eligible project *(For Company only)*<br>(2) Amount deduction → Actual payment *OR* Actual expenditure<br>(3) Disallowance unless assessee furnishes along with his Return of Income Tax a certificate<br>→ In Form No. 58A from entity in respect of contribution *(Expenditure or Donation)* made<br>→ In case where the expenditure is directly incurred *(only for companies)*, a certificate from the Chartered Accountant. | |

| **Deduction in respect of certain specified business** | **★[Sec. 35AD]** |
|---|---|
| → ***Investment-linked tax incentive for specified business-cold chain facilities, warehousing facilities for storage of agriculture produce, and***<br>→ ***Cross-country natural gas or crude or petroleum oil pipeline network for distribution, including storage facilities*** | |

| **Specified business** | **Eligible assessee** | **Date of commencement of business on or after** |
|---|---|---|
| *Setting up & operating a cold chain facility for agricultural produce, meat, poultry products, processed food, etc.* | Any | April 1, 2009 |
| *Setting up & operating a warehousing facility for storage of agricultural produce* | Any | April 1, 2009 |
| *Laying & operating a cross-country natural gas pipeline network for distribution including storage facilities* | Indian co. OR Consortium of such co. | April 1, 2007 |
| *Laying & operating a cross-country crude/ petroleum oil pipeline network for distribution including storage facilities* ***(Approval required from Petroleum and Natural Gas Regulatory board notified by CG)*** | Indian co. OR Consortium of such co. | April 1, 2009 |
| *Building & operating, anywhere in India, a hotel of 2 star or above* ***(w.e.f. AY 2011-12)*** | Any | April 1, 2010 |
| *Building & operating, anywhere in India, a hospital with atleast 100 beds* ***(w.e.f. AY 2011-12)*** | Any | April 1, 2010 |
| *Developing & building a housing project under a scheme for redevelopment or rehabilitation* | Any | April 1, 2010 |

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| | | |
|---|---|---|
| *Developing and building a housing project under a scheme for affordable housing* ***(w.e.f. AY 2012-13)*** | Any | April 1, 2011 |
| *Production of fertilizer in India* ***(w.e.f. AY 2012-13)*** | Any | April 1, 2011 |

| | |
|---|---|
| **Deduction:** | → 100% deduction of capital expenditure incurred during the previous year.<br>→ 100% of capital expenditure incurred prior to commencement of business shall be allowed in year of commencement of business only if same has been capitalized on the date of commencement of business.<br>→ Capital expenditure shall not include land, goodwill & financial instrument.*<br>[* **Sec. 28(vii): Any sum, whether received or receivable, on account of capital assets *(other than land or goodwill or financial instrument)* being demolished, destroyed, discarded or transferred, if the whole of the expenditure on such capital asset has been allowed as deduction under Sec. 35AD shall be treated as income of assessee chargeable to income under the head PGBP.]** |
| **Other Provisions** | → Business should be new business i.e. should not be formed by splitting/ reconstruction of old business.<br>→ Business should not be set up by transfer of old plant & machinery. Old plant & machinery should not be more than 20% of total plant & machinery used for the business.<br>→ Deduction u/c VI-A shall not be allowed in respect of such business for any assessment year.<br>→ Actual cost of the asset for which deduction has been allowed u/s 35AD shall be taken as NIL<br>→ Further, receipts on account of sale of these assets shall be taxable u/h PGBP only, whatever the amount may be. |
| ***Explanation regarding amendment*** | → Since the word "new" is deleted, therefore the hotels (2 star or above) and hospital (100 or more bed) carried on by assessee before 1.4.2010 is now covered under "Specified business". However, no deduction under this section is available because one of the conditions for claiming deduction is the business must be operate on or after 1.4.2010.<br>→ But the assessee is eligible to set off the loss with the profit of earlier hotel business u/s. 73A. Because, section 73A allow to set off of losses of one specified business with the profit of another specified business. Hence, for set off what is important is only "Specified business" and whether such specified business is eligible to claim deduction u/s. 35AD or not is immaterial. |

| **Expenditure by way of payment to associations and institutions for carrying out rural development programmes** | **[Sec. 35CCA]** |
|---|---|
| *Assessee contribute for*<br>(i) National fund for Rural Development<br>(ii) National Urban poverty Eradication fund,<br>The assessee shall be allowed a deduction of the amount of such expenditure incurred during the PY. | |

| **Amortisation of certain preliminary expenses** | | **[Sec. 35D]** |
|---|---|---|
| ***Meaning of expenses:***<br>**Q. Who can claim?**<br>**A.** Resident person<br>OR<br>Indian company | Any expenses incurred before commencement of business sections<br>(1) Preparation of feasibility report/project report<br>(2) Conducting market surveys or any other surveys necessary for business<br>(3) Legal charges for drafting any agreement/registering the compant<br>(4) Legal charges for drafting MoA/AoA<br>(5) Printing of MoA/AoA<br>(6) In connection with the issue, for public subscription of shares and debentures, underwriting commission<br>(7) Engineering services relating to business of the assessee | |
| ***Amount of*** | ***Expenditure incurred*** | *Minimum of* |

| | | |
|---|---|---|
| ***deduction:*** | ***on or before 1-4-1998* (Avail for 10 successive years)** | (1) $\frac{1}{10} \times \left[ \textit{Maximum of} \text{ (a) } 2.5\% \text{ of project value OR (b) } 2.5\% \text{ of Capital Employed} \right]$<br>(2) Actual expenditure |
| | ***Expenditure incurred on or after 1-4-1998* (Avail for 5 successive years)** | *Minimum of*<br>(1) $\frac{1}{5} \times \left[ \textit{Maximum of} \text{ (a) } 5\% \text{ of project value OR (b) } 5\% \text{ of Capital Employed} \right]$<br>(2) Actual expenditure |
| ***Some important terms*** | ***Cost of project*** | All fixed cost *(Actual)* |
| | ***Capital employed*** | Equity share capital<br>*Add:* General reserve<br>*Add:* Debenture<br>*Add:* Preference share |

| **Expenditure of amalgamation/demerger** | **[Sec. 35DD]** |
|---|---|
| ***Who can claim?*** | Indian companies |
| ***Deduction:*** | $\frac{1}{5}$th of expenditure (in 5 equal installments) |

| **Expenditure incurred on compensation under VRS** | **★[Sec. 35DDA]** |
|---|---|
| ***Deduction:*** | $\frac{1}{5}$th of expenditure (in 5 equal installments) |
| ***Amended [on AY 2011-12]*** | → Where a private company or unlisted company is succeeded (purchased) by a LLP, the provision of Sec. 35DDA shall apply to the successor (purchaser) LLP, as they would have applied to predecessor (sold) company.<br>→ However, as per Sec. 35DDA (5), no deduction under Sec. 35DDA shall be allowed to the predecessor (sold) company in the PY in which conversion takes place. |

| **Other Deductions** | **[Sec. 36]** |
|---|---|
| (a) Insurance premium on **stock/stores** used in Business or Profession *(only in year of payment)* | |
| (b) Insurance premium on **life of cattle** *(only in year of payment)*<br>Amount of deduction = Actual cost of animal ***less*** Amount realized on sale of animals | |
| (c) Insurance premium on **health of employee** under following schemes:<br>*Mode of payment: Other than cash* | |
| (1) General Insurance Corporation of India approved by CG | |
| (2) Any other insurer approved by IRDA | |
| (d) **Interest** on *capital borrowed* for business purpose | |
| (e) Contribution by **employer** to recognised P.F. or Approved Superannuation fund *Subject to limit specified in those fund* | |
| (f) Contribution to approved **Gratuity Fund** for exclusive benefits of employees | |
| (g) Contribution from employees → on *or* before the due date under the relevant Act | **[Sec. 36(1)(va)]** |
| (h) Bonus or commission paid to an employee for service rendered | |
| (i) Bad debts → only actual bad debts allowed | **[Sec. 36(1)(vii)]** |
| (j) Family planning expenses → only for company assesse<br>• Revenue expenditure → fully allowed<br>• Capital expenditure → Allowed in 5 years in equal instalments<br>• Unabsorbed family planning expenditure → same manner as unabsorbed depreciation | **[Sec. 36(1)(ix)]** |
| (k) Discount on zero coupon bonds → on the basis of life of the bonds and on ***pro-rata basis*** | **[Sec. 36(1)(iiia)]** |
| (l) Banking transaction tax on taxable banking transaction by assessee | **[Sec. 36(1)(xiii)]** |
| (m) Securities Transaction Tax | **[Sec. 36(1)(xv)]** |

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| | |
|---|---|
| (n) Employer's contribution towards employee pension scheme referred u/s. 80CCD<br>*Minimum of*<br>(1) Amount contributed<br>(2) 10% of Salary [Here, Salary=Basic Salary+DA]<br>[Meaning of salary in different cases: Page no. 11] | ★**[Sec. 36(1)(iva)]** |

| **General clause for deductions** | **[Sec. 37(1)** |
|---|---|
| *Any expenditure other than referred under Sec. 30 to 36 shall allowed provided following conditions are satisfied:*<br>1. It should not be in the nature of capital expenditure<br>2. It should not be in the nature of personal expenditure<br>3. Incurred wholly and exclusively for the purpose of business or profession<br>***Note:*** *Any expenditure incurred for any purpose which is an offence or which is prohibited by law (e.g., extortion money, protection money, hafta, bribes etc.) shall not be allowed under Sec. 37(1)* | |
| Expenditure on advertisement in any souvenir, brochure, tract, pamphlets or like that published by any ***political party*** will not allowed | **[Sec. 37(2B)]** |

## 3.3.2: DISALLOWED EXPENDITURES [SEC. 40 TO SEC. 43B]

| **Expenses not deductible** | **[Sec. 40(a)]** |
|---|---|
| (1) Salary, Interest, Royalty, etc. for non-resident *(without TDS)*<br>(2) Interest, Commission, Royalty, etc. for resident *(without TDS)*<br>(3) Fringe benefit tax<br>(4) Income tax/Dividend tax<br>(5) Wealth Tax | |

| **Disallowance for partnership firms** | **[Sec. 40(b)]** |
|---|---|
| → Payment of interest to any partner → *Minimum of* (1) as per deed or (2) **12%** p.a.<br>→ For payment of salary, bonus to working partner: | |
| **Specified Profession Firm** | **Other Firm** |
| On the first ***₹ 3,00,000*** of the book profit or in case of loss | ***₹ 1,50,000*** or at the rate of 90% of the book profit, whichever is more |
| On the balance of the book profit | 60% of book profit |

| **Payment to specified persons** | **[Sec. 40A(2)]** |
|---|---|
| → A.O. may disallowed → excessive or unreasonable (*fair market value*) | |

| **Cash Payment in respect of expenditure exceeding ₹ 20,000** | **[Sec. 40A(3)]** |
|---|---|
| Payment in excess of ₹ 20,000 *(for transporter ₹ 35,000)* otherwise **Account Payee** cheque *or* Demand Draft → 100% disallowed<br>**Note: Sec. 40A(3)** will not apply if assessee purchase a capital asset.<br>***Exceptions:*** Payment made to bank and financial institutions, Govt., Banking Holiday, Employees *(not exceed ₹ 50,000)*, village not served by any bank, book adjustment, producer of agriculture, Poultry farm, Dairy, Cottage Industry *(without aid of power)* | |

| **Disallowance in provision for gratuity** | **[Sec. 40A(7)]** |
|---|---|
| → Provision for Gratuity<br>→ Approved gratuity fund (*allowed*), actual payment of gratuity (*allowed*) | |

| **Certain deduction on actual payment basis** | **[Sec. 43B]** |
|---|---|
| Certain deduction are made only on actual payment on or before the due date of ROI<br>→ Any tax, duty, cess, Interest on loans from scheduled bank or any public financial institution, | |

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→ Any bonus or commission or leave encashment to employees, contribution to PF

| **Profit chargeable to tax** | **[Sec. 41(1)]** |
|---|---|

(a) Where any loss or expenditure has been allowed as deduction and subsequently any amount is received and then the amount so received shall be deemed to be the Income of the P/Y in which such amount is received.
(b) Where a deduction has been allowed in respect of a trading liability and subsequently there is a remission or cessation of the trading liability then the amount of trading liability so ceased shall be deemed to be the income of the P/Y in which such remission or cessation took place.
*[**Note:** The above provisions shall apply even if the business is not in existence]*

| **Recovery of bad debts** | **[Sec. 41(4)]** |
|---|---|

Where a deduction has been allowed in respect of bad debts and the bad debts is subsequently recovered, and then the amount so recovered shall be deemed to be the income of P/Y in which the amount is recovered.
*[**Note:** The above provision shall apply even if the business is not in existence]*

| **Special provisions regarding mutual concern** | | | | **[Sec. 44A]** |
|---|---|---|---|---|
| ***Trade/professional*** | | | ***Other*** | |
| *Specific services to members* | *General services to members* | *General/specific services to non-members* | *General services to members* | *General/specific services to non-members* |
| Taxable | Exempt | Taxable | Exempt | Taxable |

*[**Note:** The tax rate applicable to a mutual concern shall be the same as applicable to an individual (except where the Mutual Concern is incorporated as a company)]*

| **Maintenance of accounts by person carrying on profession or business** | **[Rule 6F]** | **[Sec. 44AA]** |
|---|---|---|

(1) ***Business assesse (Other than notified profession)***: Income from business or profession exceeds ₹ 1,20,000 *Or* Total sales/gross receipts exceeds ₹ 10,00,000.
In any of 3 preceeding P/Y or likely to exceeds in case of newly setup business or profession. Assessee is required to maintain → books of account and other documents (*for computation of income*)
(2) Not required to maintain any books if specified amount are not exceeded.

**Notified Professions:** Profession of Law, Medicine, engineering, accounting, CA, CS, etc.
(i) Gross receipts exceeding ₹ 1,50,000 *(in all three years immediately preceeding the PY or likely to exceed if the profession is newly setup)*
***Assessee is required to maintain Specified books*** → Cash Book, Journal, Ledger, Carbon Copies of Bills exceeding ₹ 25, Original Bill for expenditure exceeding ₹. 50
*In case of medicine profession*: Daily Cash Register, Medicine Inventory Register
(ii) In other cases: Assessee is required to maintain such books of account and other documents as may enable the Assessing Officer to compute income

| **Compulsory Tax Audit of accounts** | | **[Sec. 44AB]** |
|---|---|---|

(1) Applicability → (a) For business total sales or gross receipts exceed ₹ 60,00,000
(b) For profession gross receipts exceeds ₹ 15,00,000
(c) Business referred to *u/s 44AD/AE/AF* and declaring lower income
(2) Filling of report → Audit report of CA on or before 30th September of the relevant A/Y
(3) If accounts audited under any other law → Report with audit report under any law
(4) Consequence of non-compliance → Defective return **[Sec. 139(9)]**

| **Penalty:** *Failure to Keep/maintain books of account, documents etc.* | **[Sec. 271A]** | ₹ 25,000 |
|---|---|---|
| **Penalty:** *Failure to get accounts audited/to furnish audit report* | **[Sec. 271B]** | ₹ 1.5 lakh |

| **Due dates for getting books audited or submission of audit report and its Form No.** | | | | |
|---|---|---|---|---|
| ***Different Taxpayes*** | ***Audit Form No.*** | ***Statement of particulars*** | ***Due dates for getting books audited*** | ***Due dates for submission of audit report*** |
| In the case of a person who carries on Business or Profession and who is required by or under any law to get his accounts audited | Form No. 3CA | Form No. 3CD | 30th September of the AY | 30th September of the AY |
| In the case of a person who carries on Business or Profession but not being a person referred above | Form No. 3CB | Form No. 3CD | 30th September of the AY | 30th September of the AY |

**Special provision for computing profits and gains of business on presumptive basis [Amended AY 2011-12]** **★[Sec. 44AD]**

Notwithstanding anything to the contrary contained in ***Sections 28 to 43C***,

→ In the case of an ***eligible assessee***[#] engaged in an ***eligible business****,

→ A sum equal to 8% of the total turnover or gross receipts of the assessee in the previous year on account of such business or, as the case may be, a sum higher than the aforesaid sum claimed to have been earned by the eligible assessee,

→ Shall be deemed to be the profits and gains of such business chargeable to tax under the head Profits and gains of business or profession.

***Effect of this amendment:*** Now not only retail business but all business covered so scope of this section is very wide. That is also evident from the fact , that just because of this amendment, a new ITR has come called "Sugam"

**#Eligible assesse:**

1. An individual, HUF or a partnership firm, who is **resident**, but not LLP as define in Sec. 2(1)(n) of the Limited Liability Partnership Act, 2008 and
2. Who has not claimed deduction under any of Sec. 10A, 10AA, 10B, 10BA or 80HH to 80RRB

***Eligible Business:**

**1.** Any business except the business of plying, hiring or leasing goods carriages referred to in Sec. 44AE; and

**2.** Whose total turnover or gross receipts in the previous year does not exceed an amount of sixty lakh rupees.

There is specific Turnover limit of ₹ 15 Lakhs for Profession under ***Section 44AB***, which means that profession is totally separate from Business.

**The assessee is bound to get the books of accounts audited, if the following two conditions are satisfied:**

**1.** His profits and gains from the eligible business are lower than the profits and gains specified in sub-section (1) i.e. his net profit is lower than 8% of turnover

And

**2.** Whose total income exceeds the maximum amount which is not chargeable to income-tax

| | |
|---|---|
| **Sec. 10A** | Special provision in respect of newly established undertaking in free trade zone or export processing zone. |
| **Sec. 10AA** | Special provision in respect of newly established undertaking in free trade zone who begins to manufacture or produce articles or things or provide any services during the PY relevant to any AY commencing on or after 1-4-2006. |
| **Sec. 10B** | Special provision in respect of newly established 100% export oriented undertaking. |
| **Sec. 10BA** | Special provision in respect of export of certain things or articles. |

**Things to kept in mind with above provisions:**

(1) Deduction under *Section 30-38 (deemed to be allowed)*

(2) Depreciation *(deemed to be allowed)*

(3) Turnover for under *(Sec. 44AB not to considered)*

(4) Option for lesser amount *(Section 44AA & 44AB applicable)*
(5) Partner's – Interest, salary *(allowed)*
(6) Deduction under *Section 80C-80U (allowed)*

| **Special provision to computing profit and gains of business of plying, hiring or leasing goods carriage on presumptive basis [Amended AY 2011-12]** | **★[Sec. 44AE]** |
|---|---|

Heavy goods vehicles: ₹ **5,000** per month/ part of month for each heavy goods vehicle.
Other vehicles: ₹ **4,500** per month/ part of month for each light goods vehicle *(Maximum 10 goods carriage)*

**Common doubts:**

**Q. 1:** ***Whether Depreciation is allowed in respect of "Goodwill"?***
**Ans.:** It was held in case of ***Raveendran Pillai Vs. CIT (2010)*** that if the goodwill is specifically purchased then depreciation is allowed. However, In case of self-generated Goodwill no depreciation is allowed.

**Q. 2:** ***Whether computer printers and scanner are eligible to get higher rate of depreciation of 60% as computer or only general rate of 15%?***
It was held in case of ***Samiran Majumdar*** that for the purposes of depreciation computer printers and scanners to be regarded as computers and eligible for 60% rate and not 15%.

**Format: Computation of Income under the head Profits and Gains from Business or Profession**

| ***Particulars*** | ***Amt.*** (₹) | ***Amt.*** (₹) |
|---|---|---|
| **Net profit as per Profit and Loss A/c** | | …… |
| *Add:* Expenses debited to Profit and Loss A/c but not allowed as deduction | | …… |
| *Less:* Expenses not debited to Profit and Loss A/c but allowed as deduction | | (……) |
| *Less:* Incomes credited to Profit and Loss A/c but either exempt or taxable under other heads of income | | (……) |
| *Add:* Incomes not credited to Profit and Loss A/c but taxable under other heads of Profit and Gain from Business or Profession | | …… |
| *Add:* Adjustment of over-valuation of opening stock | | …… |
| *Less:* Adjustment of under-valuation of opening stock | | (……) |
| *Add:* Adjustment of under-valuation of closing stock | | …… |
| *Less:* Adjustment of over-valuation of closing stock | | (……) |
| *Add:* Adjustment of goods withdrawn by proprietor | | |
| Cost Price | …… | |
| *Less:* Price charged | (……) | …… |
| *Less:* Adjustment of goods withdrawn by proprietor | | (……) |
| Price charged | …… | |
| *Less:* Cost Price | (……) | …… |
| *Add:* Depreciation as per books of accounts | | …… |
| *Less:* Depreciation as per Income Tax Rules | | (……) |
| ***PROFITS AND GAINS FROM BUSINESS OR PROFESSION*** | | …… |

# 3.4: INCOME UNDER HEAD CAPITAL GAINS

| Section | Provision |
|---|---|
| Sec. 45(1) | *Basis of charge (i.e. charging Section)* |
| Sec. 2(14) | *Meaning of capital asset* |
| Sec. 2(42A) | *Short-term capital asset* |
| Sec. 2(29A) | *Long-term capital asset* |
| Sec. 2(42B) | *Short-term capital gain* |
| Sec. 2(29B) | *Long-term capital gain* |
| Sec. 2(47) | *Definition of transfer* |
| Sec. 48 | *Method of calculating capital gain* |
| First proviso to Sec. 48 | *Computation of capital gain from transfer of shares or debentures of Indian company held by NR assesse and purchased in foreign currency* |
| Rule 115A | *Method of conversion* |
| Second proviso to Sec. 48 | *Indexation* |
| Sec. 55 | *Cost of acquisition* |
| Sec. 47 | *Certain transaction not regarded as transfer* |
| Sec. 49(1) | *Cost with reference to certain modes of acquisition* |
| Sec. 49(2AA) | *Where the capital gain arises from the transfer of specified security or sweat equity shares referred to in Sec. 17(2)(vi), the COA of such security or shares shall be the FMV which has been taken into account for the purpose of said Sec. 17(2)(vi)* |
| Sec. 49(4) | *Where the capital gain arises from the transfer of a property which has been subject to income-tax under Sec. 56(2)(vii), the COA of such property shall be deemed to be the value which has been taken into account for the purpose of said Sec. 56(2)(vii)* |
| Sec. 2(42A) | *Period of holding* |
| Sec. 55 | *Cost of improvement* |
| Sec. 50C | *Adoption of stamp duty for transfer of land or building or both* |
| Sec. 111A | ***STCG** on transfer of **equity shares or units of equity-oriented mutual fund** taxable @ 15%* |
| Sec. 112 | *Tax on LTCG @ 20%* |
| Proviso to Sec. 112 | ***In case of listed securities or units (units may be listed or unlisted) or zero coupon bonds**, Tax on LTCG shall be minimum of following:*<br>*(1) **20%** of LTCG after Indexation*<br>*(2) **10%** of LTCG before Indexation* |
| Sec. 51 | *Advanced money forfeited* |
| Sec. 45(1A) | *CG shall not be taxable in the year in which the asset is destroyed but shall be taxable in the year in which money is received or an asset is received from insurance company* |
| Sec. 45(2) | *CG arising from the transfer (conversion) of capital asset into stock-in-trade shall be charged to tax in the PY in which stock-in-trade is sold or otherwise transferred* |
| Sec. 45(2A) | *CG from transfer of securities held in DEMAT form shall be taxable as the income of beneficial owner in the PY in which transfer took place* |
| Sec. 45(3) | *Where a partner of a firm transfers an asset to the firm by way of capital contribution on normal sale, CG chargeable as tax in PY in which transfer took place* |
| Sec. 45(4) | *CG arising from the transfer of a capital asset by way of distribution of capital asset to partner on dissolution or 'otherwise'* |
| Sec. 145A(b) | *Interest received on original/enhanced compensation, shall be deemed to be income of the year in which it is received, irrespective of the method of accounting followed by the assessee* |

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| | |
|---|---|
| Sec. 56(2)(viii) | *Interest received on original/enhanced compensation is taxable under the head **IOS*** |
| Sec. 57(iv) | *In case of interest received on original/enhanced compensation, a deduction of sum equal to 50% of such income shall be allowed* |
| Sec. 54 | ***Exemption** – Residential house property* |
| Sec. 54B | ***Exemption** – Agricultural land* |
| Sec. 54D | ***Exemption** – Land or building compulsorily acquired by the Government* |
| Sec. 54EC | ***Exemption** – Any long-term capital asset other than residential H.P.* |
| Sec. 54F | ***Exemption** – Land, building, plant or machinery in order to shift in an industrial undertaking from urban area to rural area* |
| Sec. 54GA | ***Exemption** – Land, building, plant or machinery in order to shift in an industrial undertaking from urban area to any Special Economic Zone* |
| Sec. 10(33) | ***Exemption** – Unit Scheme, 1964* |
| Sec. 10(37) | ***Exemption** – Urban agricultural land compulsorily acquired by Govt.* |
| Sec. 10(38) | ***Exemption** – Equity share or units of an equity oriented fund* |

| **Basis of charge** | **[Sec. 45(1)]** |
|---|---|
| Profit or gain arising from the transfer of capital asset during PY is chargeable under the head Capital Gains if following conditions are satisfied: | |
| **Condition 1** | There should be a ***capital asset*** |
| **Condition 2** | There is ***transfer*** of capital asset |
| **Condition 3** | Transfer takes place ***during the PY*** |
| **Condition 4** | Any profit or gain arises as a result of transfer |
| **Condition 5** | Such profit or gain is not exempt from tax under Sec. 54, 54B, 54D, 54EC, 54F, 54G and 54GA |

**Meaning of capital asset** **[Sec. 2(14)]**

Capital asset means property of any kind, whether or not connected with business or profession of assessee but ***does not include***:

(1) Any stock-in-trade

(2) Personal effects meaning
- → Movable property
- → Held for use by assessee or member of family dependent upon him
- → The following assets can never be personal effects:
  - Jewellery
  - Archaeological collection
  - Drawings
  - Paintings
  - Sculptures
  - Any other work of art
  - Does not include house property as it is immovable property

(3) Rural agricultural land
- → Within municipal limits and population less than 10,000
- → If outside municipal limits at least 8 km away from municipal limits

(4) $6\frac{1}{2}\%$ Gold Bonds, 1977 or 7% Gold Bonds, 1980 or National Defence Gold Bonds, 1980 issued by Central Govt.

(5) Special Bearer Bonds, 1991 issues by Central Govt.

(6) Gold deposit bonds issued under a Gold Deposit Scheme, 1999

**Transfer** **[Sec. 2(47)]**

It includes (1) Sales (2) Exchange (3) Relinquishment of the asset (4) Extinguishment of any rights therein (5) Compulsory acquisition of any capital assets by Govt. (6) Conversion of capital assets into

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stock-in-trade.

***Exceptions:*** *However following transfer are specified excluded for definition of transfer that is in following case no capital gain shall attracted:*

1. Distribution of any assets by Indian company at the time of liquation to his shareholder sec.46(1) from company point of view it is not transfer but from shareholder point of view it is transfer of share & same shall be subject to capital gain after considering deemed divided [Sec 2(22)(c)]
2. Transfer of assets by way of gift, will, inheritances however w.e.f. 01/10/2009 in certain gift are treated as IOS in hand of receiver under Sec. 56(2)(vii)
3. Any transfer of assets by HUF to its members at the time of partition
4. Transfer of capital assets by holding company to its holding (100%) owned Indian subsidiary company
5. Transfer of capital assets by subsidiary company to its holding owned (100%) Indian holding company

   ***Restriction:*** *In above 4 & 5 following two restriction*

   *(i)* Holding company should continue to hold 100% shares for at list 8 years from the date of transfer of capital assets

   *(ii)* The transferee company should not convert such capital assets in to stock in trade ( if either or both condition/s are/is not fulfilled than capital gain shall be taxed in year in which condition violated)
6. Surrender of share of Amalgamation company under the schemas of Amalgamation where the consideration received only from of shares of Amalgamated company
7. Conversion of debenture or debenture stock in to shares
8. Transfer of assets by the proprietor or firm is succeeded by a company [Sec. 47(xiii)and(xiv)] conditions

   *(i)* All the assets & liabilities of proprietor or firm should be transfer to the company.

   *(ii)* Consideration should be received only in the form of shares.

   *(iii)* Shareholding of firm/partner/proprietor should be at list 50%

   *(iv)* 50% beneficiary right in the company of the partner/proprietor should continue at list 5 years &

   *(v)* In case of firm the shareholder of the partnership firm should be same proportion in which there capital account is standing in books at the time of suction.
9. Any transfer of capital assets being any work of art, archaeological collation ,art collection, books, drawing, painting transfer to Govt. or university or national museum, national art gallery etc.
10. *Reverse mortgage* – In case of reverse mortgage any amount received by the assessee either in installment or in lump-sum is not treated as transfer

| **Computation of Capital Gains** | **[Sec. 2(48)]** |
|---|---|
| **(1) Computation of Short Term Capital Gain:** Full value of consideration ***Less*** Transfer expenses, COA, COI, Exemption u/s 54B, 54D & 54G<br>**(2) Computation of Long Term Capital Gain:** Full value of consideration ***Less*** Transfer expenses, ICOA, ICOI, Exemption u/s 54-54H | |
| **Types of Capital Assets** | |
| ***Short Term Capital Assets*** | ***Long Term Capital Assets*** |
| Asset held by assessee for not more than 36 months immediately preceding date of transfer | An asset which is not a short term capital asset. |

***Notes:***

(1) In case of following assets the period of 36 months is reduced by 12 months:-
- → Equity or preference shares
- → Any other security on recognized stock exchange
- → Units of UTI or mutual fund
- → Zero coupon bonds

(2) For calculating period of 36 months or 12 months, the date of transfer should be excluded.

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| **Types of Capital Gain** | |
|---|---|
| ***Short Term Capital Gain*** | ***Long Term Capital Gain*** |
| On transfer of Short Term Capital Asset | On transfer of Long Term Capital Asset |
| *The need for such distinction arises because STCG is taxable at normal rates and added to gross total income whereas LTCG is taxable at concessional rate of 20%.* | |

| ***How to know Short Term Capital Assets (STCA), Long Term Capital Assets (LTCA)& Short Term Capital Gain/Loss (STCG/L) or Long Term Capital Gain/Loss (LTCG/L)?*** | | | |
|---|---|---|---|
| ***STCG/L*** | | ***LCG/L*** | |
| ***Transfer of STCA*** | **[Sec. 2(42A)]** | ***Transfer of LTCA*** | **[Sec. 2(29A)]** |
| **A List** | **B List** | **A List** | **B List** |
| 1. Shares<br>2. Listed securities<br>3. Unit of UTI/Unit of Mutual funds specified under Sec. 10(23D)<br>4. Zero coupon bond<br>↓<br>**Hold up to 12 months** | (Capital Assets other than **A List**)<br>1. Urban agricultural land<br>2. Unlisted securities<br>3. Jewellery, drawing, painting, any art work, archaeological collection, Sculptures<br>↓<br>**Hold up to 36 months** | ↓<br>**Held for more than 12 months** | ↓<br>**Held exceeding 36 months** |
| *[**Note:** As per Sec.50 Capital Gain/Loss arising/incurred on transfer of Depreciable Asset it always short Term irrespective of period of holding.]* | | | |

| **Determination of holding period:** *The total period for which asset was held by assessee together with the period of ownership by previous holder under Sec. 49(1) is called period of holding.*<br>***[Note: While calculating it date of acquisition is included and date of transfer is excluded.]*** | |
|---|---|
| ***Transaction/Situation*** | ***Inclusion/Exclusion***<br>***[What to include & what not to]*** |
| *Assets transfer by the Assessee which was acquired by him by way of Gift ,will or inherent* | The period of holding pervious holder shall also include for determining whether assets is Short Term (ST) or Long Term (LT) |
| *Transfer of shares/security of Amalgamated company which was earlier held in Amalgamating company* | The period of holding of shares Amalgamating company should be also including for determining whither assets is ST or LT |
| *Transfer of ownership on in security which was acquired base on holding of original shares/security.* | The period of holding shall be considered form the date of allotment security & not from the date of security allotment of original shares/security. |
| *Considerations received from company on the liquidation base of shares holding in the company.* | The capital gain is taxable in the year in which consideration is received but period of holding is considered only up to the date of liquidation. |
| *Transfer of right renounces in favour of assessee base on existing shares holding.* | The period of holding shall be considered from the date right renounces in favour of assessee from the date on which share & security base on which right allotted.(date on which right is given for purchase of shares) |
| *Transfer of right which was acquiring right from the existing shares holder.* | The period of holding shall be considered from the date when the shares were allotted to assessee irrespective of date of purchase of right *(date on* |

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| | |
|---|---|
| | *which shares are purchase)* |
| *Transfer of share which was acquiring in IPO.* | The period of holding shall be considered from date of allotment of share not from date of application. |
| *In case of DEMAT account if assessee has purchase the shares of same script on different date FIFO method is follows determining which lot transfer.* | **Must Remember** |

| **Capital gain to non-resident on transfer of shares or debentures of Indian company** | **[First proviso to Sec. 48]** |
|---|---|

→ Capital gain arising to non-resident
→ On transfer of shares or debentures of Indian company
→ Such shares are bought in foreign currency
→ **Here for computing LTCG, no indexation is allowed.**
→ *Further Capital gain is computed in following manner:*

- **COA** shall be converted in foreign currency used for purchasing such securities **using average of TT buying and selling rate on date of acquisition**
- **Expenses of transfer** shall be converted into same foreign currency using **average of TT buying and selling rate on date of transfer**
- **Consideration** is also converted in foreign currency using **average of TT buying and selling rate on date of sale**
- **Capital gain is computed in such foreign currency**
- Such amount of **capital gain is converted into Indian rupees using TT buying rate only on date of transfer** of capital asset. This capital gain may be short term or long term.

| **Indexation** | **[Second proviso to Sec. 48]** |
|---|---|

→ Indexation is available only to the long term capital assets (LTCA) excluding Debentures (listed or non-listed) bonds however capital indexed bonds issued by Govt. are eligible to indexation
→ Indexation benefit shall be available only for the period in which assessee himself it's the owner & nature of assets not be change.

| ***Indexation Period:*** | The indexation period is either equal to or less than period of holding but it newer exceeds period of holding.<br>**Example:**<br>*If assets transfer by the assessee was acquired was acquired by way of gift, will, inheritance the period of holding previous owner is also considered to determined assets is ST/LT but indexation benefit is available only from the year in which assessee become owner.* |
|---|---|

**Certain cases where indexation is not allowed**

→ Transfer of bonds other than capital index bonds
→ Transfer of shares or debentures of an Indian company acquired by non-resident in foreign currency
→ Slump sale
→ Transfer of UTI funds purchased in foreign currency by non-resident
→ Transfer of GDR's purchased in foreign currency by non-residents or bonds of Indian company or public company
→ Transfer of GDR's purchased in foreign currency by resident or employee of Indian company
→ Transfer of securities of foreign institutional investors
→ Transfer of foreign exchange asset by Non-resident Indian

| **Cost of Acquisition** | **[Sec. 55]** |
|---|---|

The cost incurred to acquire any asset by the assessee is called as it's cost of acquisition. It is to be noted that cost of acquisition includes deemed cost of acquisition where asset was acquired by some other person other than assessee but was gradually passed on to assessee and in such a case cost means cost incurred by previous owner.

***Cost of acquisition for assets acquired on or before 1-4-1981:***

It would be any one of:

Cost incurred OR
Fair market value on 1–4–1981 } *Whichever is beneficial to assessee*

| ***COA of Goodwill, Trademark, Patent, Rights etc.*** | | ***COA of Right Shares*** | ***COA of Bonus Share*** |
|---|---|---|---|
| ***If acquired*** | ***If self-generated*** | → Cost at which such shares are purchased<br>→ If right is sold, whole amount is capital gain and COA is NIL<br>→ Sale of shares by such person acquiring right:<br>***COA = Cost of Purchase Right + Payment to Company for Purchase of Shares*** | → Here COA is NIL<br>→ But if such shares acquired on or before 1/4/1981, cost on 1/4/1981 can be taken as COA |
| Take Actual Cost *[Cost on 1/4/1981 is not allowed in this case.]* | Cost of such asset is assumed to be NIL. | | |

**Treatment of Advanced Money forfeited** **[Sec. 51]**

***If self-generated:*** Cost of such asset is assumed to be nil
***If acquired:*** Take actual cost.
*[Cost on 1-4-1981 not allowed in this case]*
*If assessee has received any advance money for sale of asset but later on such sale could not completed and as a r4esult some advance money was forfeited by assessee such advance money would be treated as follows:*

→ It would be deducted from cost of asset
→ If such amount is received by previous owner, it would not be deducted
→ Such amount would be deducted before indexation.
→ If advance money is more than COA, such advance money received would be a capital receipt and hence not taxable however capital gain on sale would be taxable.

**Cost of Improvement** **[Sec. 55]**

Cost incurred to add value to the asset is called its cost of improvement. It is calculated as follows:

→ If asset acquired before 1-4-1981 it is always NIL
→ In relation to Goodwill or right to manufacture any product or right to carry on business it would always be NIL
→ In all other cases it is expenditure actually incurred by assessee or the previous owner
→ It does not include routine expenditure on repairs, etc. which are allowed in PGBP, other sources, house property.

**ICOA**

→ Indexation benefit is available in case of LTCG only.

$$= \text{COA} \times \frac{\text{Cost of the year in which asset is transferred}}{\left.\begin{array}{c}\text{CII of the first year in which } \textbf{\textit{asset was first held by assessee}} \\ \textit{OR} \\ \text{CII of the year beginning on 1/4/1981}\end{array}\right\} \text{Whichever is later}}$$

**ICOI**

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

*No indexation benefit in case of LTCG on bonds and debentures. However benefit of indexation available for Capital Indexed Bonds.*

**Cost Inflation Index**

*The Central Govt. has notified the CII for the purpose of LTCG as follows:*

| Financial Year | CII | Financial Year | CII | Financial Year | CII | Financial Year | CII |
|---|---|---|---|---|---|---|---|
| 1981-82 | 100 | 1991-92 | 199 | 2001-02 | 426 | ★ 2011-12 | 785 |
| 1982-83 | 109 | 1992-93 | 223 | 2002-03 | 447 | | |
| 1983-84 | 116 | 1993-94 | 244 | 2003-04 | 463 | | |
| 1984-85 | 125 | 1994-95 | 259 | 2004-05 | 480 | | |
| 1985-86 | 133 | 1995-96 | 281 | 2005-06 | 497 | | |
| 1986-87 | 140 | 1996-97 | 305 | 2006-07 | 519 | | |
| 1987-88 | 150 | 1997-98 | 331 | 2007-08 | 551 | | |
| 1988-89 | 161 | 1998-99 | 351 | 2008-09 | 582 | | |
| 1989-90 | 172 | 1999-00 | 389 | 2009-10 | 632 | | |
| 1990-91 | 182 | 2000-01 | 406 | 2010-11 | 711 | | |

**Capital gain on zero coupon bonds** **[Sec. 2(48)]**

(a) Issued *(on or after 1/6/2005)* → Infrastructure capital company or infrastructure capital fund or public sector company or scheduled bank
(b) No payment and benefit → before maturity or redemption
(c) Central government → Notification in the Official Gazettee
(d) If period of holding more than 12 months, it is regarded as LTCG otherwise as STCG.
LTCG on such bonds: Taxable @ 10% without indexation.

**Capital Gain on money received from insurer**

→ Where any person receives during year any amount from insurer on account of damage, destruction, etc. of a capital asset
→ Such damage, destruction, etc. would be regarded as transfer.
→ Capital gain shall arise in the year when amount or asset is actually received from insurer
→ However period f holding would be up to date of damage, destruction, etc. which is regarded as date of transfer
→ Indexation is also done up to date of transfer.

**Full value of consideration:**

- Money received or
- Value of asset received

*However, in case of block of asset system, capital gain treated as per section 50 but liability to pay same arises only when money is actually received from insurance company.*

**Capital gain on conversion of capital asset into stock in trade:**

→ This section is applicable when capital asset (not personal effect) is converted into stock-in-trade.
→ Transfer shall be in year in which asset is sold
→ Indexation shall be done till date of conversion
→ FMV on date of transfer is sale consideration
→ Sale price less FMV on date of transfer is business income.

**Capital asset transfer to firm, AOP/BOI as capital contribution or otherwise:**

Transfer and capital gain both in the year of transfer
***Full value of consideration:*** Amount recorded in books on such transfer.

**Firm/AOP transfers capital asset to members on dissolution:**

→ Capital gain is chargeable to firm
→ ***Full value of consideration:*** FMV on date of transfer instead value at which it is given to partner
→ There can be LTCG/STCG
→ But cost of acquisition by partner is the amount at which it is given to the partner not the deemed

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value for taxation.

**Distribution of stock in trade to partners on dissolution:**

Such income of the firm is taxed as business income.

**Computation of Capital Gain on Compulsory Acquisition of Asset:**

→ This section deals with compulsory acquisition of an asset
→ It does not include compulsory acquisition of urban agricultural land
→ Period of holding till date of acquisition
→ Capital gain taxable in year when either whole or part of amount is actually received.
→ ***Enhanced compensation:***
- Capital gain in nature of original capital gain
- COA is NIL
- Expenses of realization allowed

→ If the amount of compensation is in dispute then also taxable at original value first. And if amount of compensation is subsequently reduced, the capital gain would be recomputed by A.O. and necessary relief would be provided.

**Conversion of debenture into shares:**

→ It would not be regarded as transfer
→ On sale of such shares, COA of these shares would be deemed to be that part of cost of debentures as surrendered by the assessee.

***Period of holding of shares:*** Date of allotment of shares to date of sale of such shares.

**Conversion of preference share into equity shares:**

→ This transaction is regarded as a transfer
→ Capital gain on date of allotment of shares

***Sale consideration:*** FMV of equity on date of transfer

**Transfer of goodwill, trademarks, right to carry on business etc.:**

The following assets are covered under this section: -

→ Goodwill of business, not of profession *(there is no capital gain on sale of self-generated goodwill of profession,*
  → ***Goodwill of profession is not Taxable – B. Srinivas Setty; SC Judge***
→ Trademark or brand name associated with business
→ Right to manufacture or process any article, example:- patents, copyrights
→ Right to carry on business
→ Tenancy rights
→ Route permits
→ Loom hours

| ***Cost of Acquisition*** | ***Cost of improvement*** |
|---|---|
| *If self-generated:* NIL<br>*If acquired:* Price paid by owner or previous owner [Sec. 49(1)] | *Not allowed for* goodwill, right to carry on business, right to manufacture any articles, etc.<br>*Allowed for* Trademark, tenancy right, loom hours, route permits |

**Capital Gain on Depreciable Assets on Block of Assets System:**

Capital gain in case of block of assets is always short term capital gain

***COA:*** WDV of the block

***Short term capital loss:*** In this case, it is possible only when whole or part of block is transferred for a value exceeding WDV of the block at the end of the year.

| **Capital Gain on Depreciable Assets of Electricity Company:** |
|---|
| Such capital gain can be long term capital gain or short term capital gain<br>***COA:*** Actual cost<br>*Rest is same as explained in "profits and gains from business and profession"* |

| **Slum sale:** | |
|---|---|
| **If acquired** | **If self-generated** |
| Price paid by owner or previous owner u/s 49(1) | It is always assumed to be NIL |
| **Allowed for** | **Not allowed for** |
| Trademark, tenancy rights, loom hours, route permits. | Goodwill, right to carry on business, right to manufacture any article, etc. |

→ When whole of undertaking or part of undertaking is sold, it is called as slump sale
→ Part of undertaking means any division or unit of undertaking
→ Undertaking when owned and held for more than 36 months, it is Long term capital gain otherwise short term capital gain
→ ***COA:*** COA in this case is "net worth" of the unit or undertaking. Net worth is value of assets of organization less value of liabilities of the organization; in valuation any change in value on account of revaluation is ignored.
→ Every assessee in case of slump sale has to furnish a report by Chartered accountant in the relevant form indicating that net worth has been correctly arrived at.
→ Capital gain in year in which sale is effected
→ ***Arriving at value of assets:***

| ***In case of depreciable assets*** | ***In case of assets whole cost is allowed or allowable u/s 35AD*** | ***In case of any other assets*** |
|---|---|---|
| What would have been value if this would have been only asset in the block. However aggregate of the value computed can't exceed WDV of the block. | NIL | Book value of asset |

| **Cost of Acquisition of different types of shares** | | **[Sec. 55]** |
|---|---|---|
| **Particulars of Assets** | **Date of acquisition/Holding Period** | **Cost of Acquisition** |
| (1) Shares originally purchased: | | |
| (a) Primary market | Date of Allotment | Allotment price |
| (b) Secondary market | | |
| (i) Transaction trough share broker | Date of broker's note | Amount paid + Brokerage charges + Adjustment for exp. & com. + dividend/interest |
| (ii) Transaction between parties directly | Date of contract of sale | As above (*excluding brokerage*) |
| (2) Bonus share | Date of allotment | NIL |
| (3) Shares acquired in different lots at different point of time | FIFO method | FIFO method |
| (4) Shares held in depositary system *(taxable in hands of beneficial owner)* | FIFO method | FIFO method |
| (5) Right shares offered to existing shareholders and subscribed by them | Date of allotment | Offer Price |
| (6) Right share acquired by a person by way of | Date of allotment | Offer price + Amount paid for renouncement |

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| | | |
|---|---|---|
| renouncement | | |
| (7) Renouncement of right shares in favour of another person | Holding period is date of offer of such right to the date of renouncement *(always STCG)* | NIL |
| (8) Financial asset acquired without any payment | Date of allotment of such financial assets | NIL |

| **Reference of a valuation officer** | **[Sec. 55A]** |
|---|---|
| (1) Sale consideration<FMV<br>(2) Difference between FMV and sale consideration *(more than ₹25,000 or 15%)* | |

| **Exemption on compulsory acquisition of agriculture land** | **[Sec. 10(37)]** |
|---|---|
| → Individual or HUF<br>→ Holding period 2 year or more | → Consideration determined by CG or RBI<br>→ On or after 1/4/2004 |

| **Exemption on LTGC from shares** | **[Sec. 10(38)]** |
|---|---|
| Transfer on or after 1/10/2004 → Through recognized stock exchange → Security transaction tax applicable | |

| **Tax on STCG from shares** | **[Sec. 111A]** |
|---|---|
| Tax @ 15% on STCG → Transfer on or after 1/10/2004 → Through recognized stock exchange → Security transaction tax applicable | |

| **Tax on LTCG on listed securities** | **[Sec. 112]** |
|---|---|
| *Minimum of*<br>(1) Tax @ 20% on LTCG after Indexation *or*<br>(2) Tax @ 10% on LTCG without indexation | |

**Exemption to NRI's on account of LTCG arising by transfer of foreign exchange asset** **[Sec. 115F]**

→ NRI transfers long term foreign exchange asset,
→ He can claim exemption u/s 115F
→ Foreign exchange asset means:
- Shares of Indian company
- Debentures of Indian company not a private company
- Deposit with Indian public limited co.
- Central govt. securities
- National Saving Certificates – VI and VII issue.

***Conditions for claiming exemption:***
*He (the NRI) has invested the whole or any part of net consideration in any new foreign exchange asset within a period of six months from date of transfer of original asset.*

***Quantum of exemption:***
*The exemption in this case shall be computed in the following manner:*
→ If amount invested is more than net consideration, whole of capital gain is exempt
→ Otherwise, exemption is calculated in the following manner

$$= \frac{\text{Amount invested}}{\text{Net consideration}} \times \text{Long Term Capital Gain}$$

*Net consideration* = Consideration ***Less*** Expenses of transfer

***Withdrawal of exemption:*** If the new asset is transferred within 3 years of its date of acquisition, the exemption so granted u/s 115F would be withdrawn. It would be deemed to be income of the year in which such asset is transferred.

<table>
<tr><th colspan="4">Summarised provisions relating to securities in case of capital gains</th></tr>
<tr><th colspan="4">Securities of resident</th></tr>
<tr><th colspan="2">Short Term</th><th colspan="2">Long Term</th></tr>
<tr><td rowspan="2">Securities mentioned in Sec.111A sold RSE and STT paid: Taxable @15%</td><td rowspan="2">Rest of securities: Taxable @ normal rates of STCG</td><td>Non-listed</td><td>Listed and Mutual Fund</td></tr>
<tr><td>Taxable at normal rates of LTCG @ 20%</td><td>Not sold through RSE</td><td>Sold through RSE</td></tr>
<tr><td colspan="2"></td><td></td><td>Min. of<br>(1) Limit of 10%<br>(2) 20<br>(as per Sec. 112)</td><td>Exempt under Sec. 10(38)</td></tr>
<tr><th colspan="4">Securities of non-resident</th></tr>
<tr><th colspan="2">Short Term</th><th colspan="2">Long Term</th></tr>
<tr><td rowspan="2">Securities mentioned in 111A sold through RSE and STT paid: Taxable @ 15%. However calculation of capital gain has to be made (as per first proviso in Sec. 48 in case of an Indian co.)</td><td rowspan="2">Rest of securities: Taxable @ normal rates of STCG. However calculation of capital gain has to be made as per first proviso in Sec. 48 in case of an Indian co.</td><td>Non-listed</td><td>Listed and Mutual Fund</td></tr>
<tr><td>Taxable at normal rates of LTCG i.e. @ 20%. However Due care in calculation as per first proviso in Sec. 48</td><td>Not sold through RSE</td><td>Sold through RSE</td></tr>
<tr><td colspan="2"></td><td>Taxable @ of 10% and Due care in calculation as per first proviso in Sec. 48</td><td>Exempt under Sec. 10(38)</td></tr>
<tr><td colspan="4">Note: In case Of NRI certain benefit of exemption as per Sec. 115F in case of long term foreign exchange asset has been given.[RSE – Recognised Stock Exchange]</td></tr>
</table>

**Tax rates on capital gain income:**

- → **STCG:** Simply taxed at normal rates and added to income of assessee.
- → **STCG Referred in Sec. 111A:** Taxable at special rate of 15% and No deduction under chapter VI A is allowed from this income.
- → **LTCG:** Taxable at special rate of 20% and No deduction under chapter VI A is allowed from this income
- → Besides this there are some rates prescribed in "Tax on LTCG from listed Securities" which are to be taken care of.
- → It is to be noted that above rates are exclusive of education cess, secondary and higher education cess and surcharge which re charged separately at the normally prescribed rates.

| Computation of capital Gain in special cases: | | | |
|---|---|---|---|
| **Section** | **Nature of Transaction** | **Year of taxability** | **Computation of Capital gain** |
| Sec. 45(1A) | Insurance claim on loss of assets | Year of receipt of claim | Insurance claim received ***Less*** COA or COI |
| Sec. 45(2) | Conversion of capital assets into Stock-in-trade (*Key note:* Indexation based on year of conversion, not on year of sale) | Year of transfer of converted stock | FMV of the capital asset on conversion ***Less*** COA or ICOA<br>Business income= Sale consideration ***Less*** FMV considered as above |
| Sec. 45(2A) | Sale of shares held as depository *(FIFO method)* | Year of transfer | Consideration for transfer ***Less*** COA or ICOA |
| Sec. 45(3) | Introduction of capital assets by partner into firm | Year of distribution | Amount credited in partners' capital a/c in the books of the firm ***Less*** COA or ICOA |
| Sec. 45(4) | Distribution of capital asset by partners/ members on dissolutions of firm/AOP/BOI | Year of first receipt | FMV on date of transfer ***Less*** COA or ICOA |
| Sec. 45(5) | Compulsory acquisition of capital asset by Government | | |
| | (a) Normal compensation | Year of first receipt | Whole of normal compensation received or receivable ***Less*** COA or ICOA |
| | (b) Enhanced compensation | Year of receipt of claim | Enhanced compensation ***Less*** Expenses incurred |
| Sec. 45(6) | Redemption 80CCB Units | Year of repurchase | Repurchase price ***Less*** Amount invested *(no indexation)* |
| Sec. 46 | Receipts of Assets/cash from company on liquidation | Year of receipt | FMV of asset received ***Add*** Amount received in Cash ***Less*** Deemed dividend *u/s 2(22)(c)* ***Less*** COA or ICOA of hares |
| Sec. 46A | Repurchase/bay back of shares/Specified securities | Year of repurchase | Consideration for transfer ***Less*** COA or ICOA |
| Sec. 50B | Sale or undertaking as a going concern or Slump sale | Year of transfer | Lump sum consideration ***Less*** Net worth |
| Sec. 50C | Transfer of land or building or both at less than stamp duty authority value | Year of transfer | Value determined by stamp duty authority ***Less*** COA or ICOA |

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## 3.4.1: EXEMPTIONS FROM CAPITAL GAINS

| *Exemption available only to Individual and/or HUF Assessees* | | | |
|---|---|---|---|
| ***Provisions*** | ***Capital gains on sale of residential property used for residential property*** | ***Capital gains on sale of urban agricultural land and used for another agricultural land*** | ***Capital gain on sale of LTCA not to be charged in case of investment in residential house*** |
| | **[Sec. 54]** | **[Sec. 54B]** | **[Sec. 54F]** |
| **Assessee** | Individual/HUF | Individual | Individual/HUF |
| **Nature of assets** | LTCA | LTCA/STCA | LTCA |
| **Assets transferred** | Residential house property being building or land appurtenant thereto. | Agricultural land used by individual or his parents for agricultural purposes during 2 years of transfer | Any capital assets not being residential house property. Exemption is not available if assessee owns more than 2 houses including new house. |
| **New assets to be purchased or constructed** | Residential house property i.e. building, land appurtenant thereto. | Agricultural land *(in rural or urban area)* | Residential house property i.e. building, land appurtenant thereto. |
| **Time limit of purchased or constructed** | ***Purchase:*** Within 1 year before or 2 years after the date of transfer; and<br>***Construction:***<br>Complete construction within 3 years from date of transfer | ***Purchase:*** Within 2 years of the date of transfer | ***Purchase:*** Within 1 year before or 2 years after the date of transfer; and<br>***Construction:***<br>Complete construction within 3 years from date of transfer |
| **Deposit scheme** | Applicable | Applicable | Applicable |
| **Amount of exemption** | *Min. of*<br>(1) Capital gains<br>(2) Investment | *Min. of*<br>(1) Capital gains<br>(2) Cost of new asset | $\text{Cost of new house} \times \frac{\text{Capital gains}}{\text{Net consideration}}$ |

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| *Exemption available only to All assessees* | | | | |
|---|---|---|---|---|
| ***Provisions*** | ***Compulsory acquisition of land and building*** | ***Investment in certain bonds*** | ***Shifting of undertaking to rural area*** | ***Shifting of undertaking to SEZ*** |
| | **[Sec. 54D]** | **[Sec. 54EC]** | **[Sec. 54G]** | **[Sec. 54GA]** |
| **Assessee** | Any person | Any person | Any person | Any person |
| **Nature of Asset** | STCA/LTCA | LTCA | STCA/LTCA | STCA/LTCA |
| **Assets 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 LTCA | 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 |
| **New assets to be purchased or 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,<br>Maximum exemption limit being ₹ 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,<br>(b) Shifting original assets to that area or,<br>(c) Incurring notified expenses | (a) Purchase/ Construction of plant, machinery, land or building in such SEZ or,<br>(b) Shifting original assets to that area or,<br>(c) Incurring notified expenses |
| **Time limit of purchased or constructed** | 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. |
| **Deposit scheme** | Applicable | Applicable | Applicable | Applicable |
| **Amount of exemption** | *Min. of*<br>(1) Capital gains<br>(2) Amt. invested | | | |

| | |
|---|---|
| **Key note:** | *Under all above sections, amount deposited in Capital Gains Account Schemes, if not utilised with prescribed time, it will be taxed in the PY in which prescribed period expires* |

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| **Big debate:** | |
|---|---|
| **Topic:** | In case of gift or inheritance the Cost of acquisition and period of holding is taken when the previous owner has acquired the assets. However, the indexation shall be done when the assessee/current owner acquired/received the assets. **[We follow this as per the provisions of the Act]** |
| **Argument:** | **However,** it was held in the case of **Mrs. *Puspa Devi Sofat* (Chandigarh Tribunal)** that the indexation shall also be done when the previous owner has acquired the assets. A similar view has been taken in case of ***Kamal Mishra*** by Mumbai tribunal and also in the case of Munjal Shaw. |

| **Format: Computation of Income under the head Capital Gains** | | |
|---|---|---|
| ***Particulars*** | ***Amt.* (₹)** | ***Amt.* (₹)** |
| **Sale consideration** | | …… |
| *Less:* Cost of Acquisition (COA) | …… | |
| Cost of Improvement (COI) | …… | |
| Transfer Expenses | …… | (……) |
| | | …… |
| *Less:* Exemption under Sec. 54B, 54D, 54G & 54GA | | (……) |
| ***SHORT-TERM CAPITAL GAIN*** | | …… |

| ***Particulars*** | ***Amt.* (₹)** | ***Amt.* (₹)** |
|---|---|---|
| **Sale consideration** | | …… |
| *Less:* Indexed Cost of Acquisition (ICOA) | …… | |
| Indexed Cost of Improvement (ICOI) | …… | |
| Transfer Expenses | …… | (……) |
| | | …… |
| *Less:* Exemption under Sec. 54, 54B, 54D, 54EC, 54F 54G & 54GA | | (……) |
| ***LONG-TERM CAPITAL GAIN*** | | …… |

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# 3.5: INCOME UNDER THE HEAD OTHER SOURCES

| Section | Provision |
|---|---|
| Sec. 56(1) | *Basis of charge* |
| Sec. 145 | *Method of accounting* |
| Sec. 8 | *Basis of charge of dividend income* |
| Sec. 56(2) | *Specified incomes chargeable under the head IOS* |
| Sec. 57 | *Deductions of expenses from specific incomes chargeable under the head IOS* |
| Sec. 58 | *Amount not deductible in computing the income under the head IOS* |
| Sec. 59 | *Deemed income chargeable under the head IOS* |
| Sec. 115BB | *Special rate of income-tax in case of winning from lotteries, crossword puzzles, races including horse races, card games and other games of any sort or gambling or betting of any form or nature whatsoever* |
| Sec. 56(2)(vii) | *Income to include gift of money and/or **property*** |
| Sec. 56(2)(viii) | *Income to include transfer of shares in case of recipient firms and companies* |

**Basis of charge** **[Sec. 56(1)]**

Income which is **not exempt** and which **cannot be taxed under any other head of income** is taxable under the head 'Income from Other Sources'

**Some specified incomes included (chargeable) under this head** **[Sec. 56(2)]**

- → *Dividends*,
- → Winning from *lotteries, crossword puzzles, races, card games, gambling or betting* of any form,
- → *Interest* on securities, compensation or on enhanced compensation
- → Income from *letting* of machinery, plant or furniture
- → Sum received under a *keyman insurance policy* including bonus.
- → *Gift* Received by an individual or an HUF.
- → Where a firm or a *private company receives shares of closely held company*, without consideration or for inadequate consideration, FMV of which exceeds ₹ 50000 or FMV of which exceeds inadequate inconsideration by ₹ 50000, the aggregate of such sum shall form part of income.

**Other incomes which is normally included (chargeable) under this head:**

- → Income from sub-letting of a house property by a tenant
- → Casual income
- → Insurance commission
- → Family pension
- → Interests on bank deposits

**Deemed dividend** **[Sec. 2(22)]**

Dividend includes disbursements by the company to the shareholders, to the extent of accumulated profits, whether capitalized or not:

(a) Any distribution by a company if such distribution ***reduces company's assets***

(b) Distribution of debenture/ deposit certificates to shareholder and ***bonus shares to preference shareholders***

(c) Distribution of accumulated profits at the time of ***liquidation*** except to preference shareholders

(d) Distribution of accumulated profits on ***reduction of share capital*** to preference shareholders

(e) Any ***advance/loan*** by a ***closely held company*** to

  a. An equity shareholder, or to any person on behalf of such equity shareholder, who ***holds not less than 10% voting power***.

  ***b.*** ***Any concern*** in which such shareholder is ***having not less than 20% voting power or 20% profit sharing***

  → Such advance/loan shall be considered to be dividend in the hands of shareholder but ***only***

***to the extent of accumulated profits excluding capitalized profits.***

- → If any such advance/loan has been ***repaid*** by the shareholder, even in that case, ***it will be considered to be dividend***
- → However, if any such company has business of lending money i.e. ***it is a banking company, then provisions of Sec. 2(22)(e) shall not apply***.

Dividends covered under section 2(22)(a), (b), (c), (d) are exempt u/s 10(34) in the hands of shareholder but ***dividends under section 2(22)(e) shall be taxable*** in the hands of employees under the head 'Income from other sources'

| **Method of accounting** | **[Sec. 145]** |
|---|---|
| Income chargeable under this head shall be computed on the basis of books of accounts maintained by the assessee and the ***assessee has the option*** to maintain the books of accounts either on the basis of ***mercantile system of accounting OR on cash basis***. | |

| **Deductions allowed** | | **[Sec. 57]** |
|---|---|---|
| ***Income*** | ***Deduction Allowed*** | |
| Interest/dividend | Commission or remuneration of realization of such income or interest on money borrowed for such investment. | |
| Family pension | Family pension received by legal heir of deceased employee, taxable under the head "other source. Standard deduction to legal heirs is allowed. | |
| | (i) 33.33% of pension<br>(ii) ₹ 15,000<br>} Whichever is lower | **[Sec. 37(iia)]** |
| Income for letting | Deduction of repair, insurance and depreciation | |
| *[**Note:** Any other expenditure incurred wholly and exclusively for earning such income]* | | |

| **Interest on securities *(Rates of TDS)*** | |
|---|---|
| ***Types of Security*** | ***Rate of TDS*** |
| (1) CG/SG securities | No TDS |
| (2) Listed securities | 10% |
| (3) Unlisted Securities | 20% |
| *[**Note:** In case of tax free non-government securities → Grossing up* of interest]* | |
| * Grossing up in this way: $\frac{\text{Interest income received}}{100 - \text{Rate of TDS}} \times 100$ | |

| **Expenses not allowed** | **[Sec. 58]** |
|---|---|
| → ***Personal*** Expenses<br>→ Interest/Salary paid ***outside India*** on which ***tax has not been deducted at source***<br>→ Expenditure referred to in ***Sec. 40A***<br>→ *Income Tax/ Wealth Tax paid*<br>→ Any expenditure or allowance in connection with ***winning of lottery, crossword puzzles, etc.***<br>However, expenditure incurred by the assessee for the ***activity of owning and maintaining race horses*** shall be allowed as deduction. | |

| **Deemed income** | **[Sec. 59]** |
|---|---|
| If any expense was ***claimed*** by the assessee in any year and subsequently it was ***recovered*** by him, it shall be ***included in his income***. | |

| **Gifts received by an Individual/HUF** | | **[Sec. 56(2)(vii)]** |
|---|---|---|
| Gifts received by an individual/HUF ***from unrelated person or persons*** shall be taxable u/s 56(2)(vii) | | |
| ***Gift received*** | ***Consideration*** | ***Taxable Amount*** |
| Any sum of money | Without consideration | Whole of such sum if it exceeds ₹ 50000 |

| | | |
|---|---|---|
| Immovable property | Without consideration | If Stamp duty value of such property exceeds ₹ 50000, then income shall be stamp duty value |
| Movable property | Without consideration | If FMV of such property exceeds ₹ 50000, then income shall be FMV of property |
| | Inadequate consideration | If difference between the consideration and FMV is more than ₹ 50000, then income shall be difference between consideration paid and FMV. |

**Gifts received by an Individual/HUF not taxable in certain cases**

When the sum of money or any property is received:

→ From any relative*
→ On the occasion of the marriage of the individual
→ Under a will or by way of inheritance
→ In contemplation of death of the payer or donor
→ From any local authority, trust or university etc.

*[*__Note:__ For the purpose of this clause 'relative' means:*

*(1) Spouse of the individual*
*(2) Brother or sister of the individual*
*(3) Brother or sister of the spouse of the individual*
*(4) Brother or sister of either of the parents of the individual*
*(5) Any lineal ascendant or descendant of the individual*
*(6) Any lineal ascendant or descendant of spouse of the individual*
*(7) Spouse of persons referred to in items (1) to (6) above.]*

**Bond washing transaction** **[Sec. 94(1)]**

If owner of ***any security*** sell it ***just before due date*** and ***again acquires*** them after due date, he will be able to avoid payment of tax on interest.
In such case, ***interest would be deemed to be income of the transferor and not transferee***.
***Exceptions:***

→ If there is no avoidance of tax
→ Avoidance of tax is exceptional or is unsystematic.

**Dividend Stripping in case of Shares/Units** **[Sec. 94(7)]**

If any person has ***purchased shares/units within 3 months prior*** to record date and after receiving the dividends, the ***shares were sold within 3 months or the units were sold within 9 months after*** the record date, in such cases, ***any loss incurred*** to the extent dividend were received ***shall not be taken into consideration***.

**Bonus Stripping in case of Shares/Units** **[Sec. 94(8)]**

If any person has ***purchased units within 3 months*** prior to record date and after receiving the ***additional units***, the original units were ***sold within 9 months*** after the record date, in such cases, any ***loss incurred shall not be taken into consideration***.

**Rates of tax in case of winning from lottery etc.** **[Sec. 115BB]**

30% of such income

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# 4. CLUBBING OF INCOME

| Section | Provision |
|---|---|
| Sec. 60 | *Transfer of income when there is no transfer of asset* |
| Sec. 61 | *Revocable transfer of assets* |
| Sec. 62 | *Transfer of asset which is revocable during the lifetime of the beneficiary/transferee* |
| Sec. 63 | *Meaning of 'revocable transfer'* |
| Sec. 64(1)(ii) | *Clubbing of income of spouse* |
| Sec. 64(1)(iv) | *Clubbing of income from asset transferred to spouse* |
| Sec. 64(1)(vi) | *Clubbing of income from asset transferred to son's wife for inadequate consideration* |
| Sec. 64(1)(vii) | *Clubbing of income from asset transferred for inadequate consideration to any person for the benefit of the spouse* |
| Sec. 64(1)(viii) | *Clubbing of income from asset transferred for inadequate consideration to any person on or after 1/4/1973 for the benefit of the son's wife* |
| Sec. 64(1A) | *Clubbing of income of minor child* |
| Sec. 10(32) | *Exemption of ₹ 1,500 for each minor child to parent whose Total Income (excluding minor's income) is greater* |
| Sec. 64(2) | *Conversion of self-occupied property into HUF property* |
| Sec. 288A | *Rounding off of total income* |
| Sec. 288B | *Rounding off of tax etc.* |

| **Transfer of Income without transferring assets** | **[Sec. 60]** |
|---|---|
| Where there is a ***transfer of income*** by a person to another person, ***without the transfer of asset***, such income shall be ***taxable in the hands of transferor***. | |

| **Revocable transfer of assets** | **[Sec. 61]** |
|---|---|
| If there is ***revocable transfer*** of an asset by one person to another, then income from such assets shall be ***taxable in the hands of transferor***. | |

| **No clubbing if transfer is irrevocable** | **[Sec. 62]** |
|---|---|
| → If any person has transferred any asset through ***irrevocable transfer***, in such cases, ***clubbing provisions shall not apply***.<br>→ If any person has transferred any asset for the ***lifetime of the transferee***, it will be considered to be irrevocable and ***clubbing provisions shall not apply***. | |

| **Definition of Revocable Transfer** | **[Sec. 63]** |
|---|---|
| ***Transfer shall be deemed to be revocable*** if:<br>(1) If whole or any part of the income or assets ***can be re-transferred*** to transferor<br>(2) If transferor can ***re-assume power*** over the whole or any part of income or assets | |

| **Income of Individual to include income of spouse, minor child etc.** | | | **[Sec. 64]** |
|---|---|---|---|
| **Remuneration of Spouse** | | | **[Sec 64(1)(ii)]** |
| If spouse of an individual is receiving salary, commission, fees or any other remuneration from any concern in which the individual is having ***substantial interest*** then such salary etc. shall be included in the income of the individual. | | | |
| ***Exceptions:*** | There shall be no clubbing of income if the salary etc. paid to the spouse is due to his/her technical or professional qualifications or knowledge or experience. | | |
| ***Substantial Interest:*** | ***Company:*** | If individual along with his relatives (Spouse, brother, sister or any lineal ascendant or descendant of the individual) holds not less than ***20% equity shares beneficially***. | |
| | ***Others:*** | If individual along with his relatives is entitled to ***at least 20% of profits*** | |

| | |
|---|---|
| | However, if both husband and wife have substantial interest in the concern and both are receiving remuneration from the same concern, then the remuneration of both the person shall be clubbed in the hands of that spouse whose total income is greater, before clubbing such income. |
| **Income from Assets transferred to Spouse** | **[Sec 64(1)(ii)]** |
| If an individual ***transfers any asset*** other than house property ***to his/her spouse***, income from such assets shall be ***clubbed in the hands of transferor***. | |
| ***Exceptions:*** | → Transfer is for adequate consideration<br>→ Transfer is under an agreement to live apart<br>→ If the relationship of husband and wife does not exist either at the time of transfer or at the time of accrual of income. |
| ***Cross transfer:*** | If any person has transferred any asset to the spouse of some other person and such other person has transferred the asset to the spouse of the first person, in this case clubbing provisions shall apply. |
| ***Important points:*** | → If any person has transferred the asset to the spouse, income from the asset shall be clubbed in the hands of the transferor. But if such income is further invested, any ***subsequent income shall not be clubbed***.<br>→ If transferred asset is invested by the spouse in any business, then income from such business shall be clubbed in the hands of transferor.<br>$\text{Income from business} \times \frac{\text{Amt. invested out of asset transferred}}{\text{Total invt. of transfaree in the beginning of the year}}$ |
| **Income from Assets transferred to Son's Wife** | **[Sec. 64 (1)(vi)]** |
| Income arising from an asset transferred by an individual to his son's wife, without adequate consideration, shall be clubbed in the hands of transferor. | |
| **Income from Assets transferred to any person for the benefit of the spouse or Son's Wife** | **[Sec. 64(1)(vii) Sec. 64(1)(viii)]** |
| Income from assets transferred to any person for the immediate or deferred benefit of the spouse or son's wife, without adequate consideration, shall be taxable in the hands of the transferor. | |

| **Clubbing of Income of Minor Child** | **[Sec. 64 (1A)]** |
|---|---|
| ***All such income*** which accrues or arises to the minor child is to be clubbed in the hands of that parent whose total income (excluding the income of minor child) is greater. However, if the marriage of parents does not subsist, it shall be included in the income of that parent who maintains the child. | |
| If the income of child is so included, the parent shall be entitled to an exemption of maximum ₹ 1500 in respect of each minor child. | **[Sec. 10 (32)]** |
| Where any income is once included in the total income of either parent, it will continue be clubbed in the hand of that parent only, in all future years, unless the assessing officer is satisfied that income shall be clubbed in the hands of other parent. | |
| ***However, income of minor child shall not be clubbed in following cases:*** | |
| → Child is suffering from any ***disability*** of the nature specified in Sec. 80U, like physically disabled, totally blind etc.<br>→ Income accruing to child on account of ***manual work*** or activity involving application of his ***skills, talent or specialized knowledge and experience***. | |

| **Income from self-acquired property converted into joint family property** | **[Sec. 64 (2)]** |
|---|---|
| If an Individual, who is a member of HUF, converts his self-acquired property into HUF property then income derived by HUF from such property shall be included in the hands of transferor. | |
| *Implication in case of subsequent partition:* ***After partition of HUF, income arising from any asset received by the spouse shall be clubbed in the hands of transferor.*** | |

| **Liability of person (transferor and transferee)** | **[Sec. 65]** |
|---|---|
| Even though the income arising from the transfer of assets is clubbed in the hands of transferor, ***tax on such income may also be demanded from the transferee***. | |

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# 5. SET-OFF OR CARRY FORWARD AND SET OFF OF LOSSES

| Section | Provision |
|---|---|
| Sec. 70 | *Set-off of loss from one source against income from other source under the same head of income (i.e. **Intra-head adjustment**)* |
| Sec. 71 | *Set-off of loss from one head against income from other head (i.e. **Inter-head adjustment**)* |
| Sec. 71B | *Carry forward and Set-off of loss from House Property* |
| Sec. 72 | *Carry forward and Set-off of loss from non-speculative business* |
| Sec. 72A | *Unabsorbed loss and unabsorbed depreciation of Amalgamating Co./Pvt Co./Unlisted Public Co. shall be deemed to be the losses and depreciation of Amalgamated Co./LLP of the PY in which amalgamation or conversion took place* |
| Sec. 41(5) | ***"Loss" of business or profession of the PY** in which business was discontinued can set-off against the Income under **Sec. 41(1), 41(3) and 41(4)** arising subsequent to the discontinuance of business* |
| Sec. 41(1) | *Recovery of loss or expenditure allowed as deduction & remission and cessation of trading liability* |
| Sec. 41(3) | *Profit on sale of scientific research asset* |
| Sec. 41(4) | *Bad debt recovery* |
| Proviso to Sec. 72(1) | *Where business is discontinued due to flood, cyclone, earthquake, riots etc. and re-established before expiry of 3 years from the end of PY in which business discontinued, then the loss of such business **including brought forwarded loss** can be set-off against non-speculative business income in the AY relevant to the year in which business is re-established and balance in 7 succeeding AY* |
| Sec. 73 | *Losses of Speculation Business* |
| Sec. 74 | *Losses under the head Capital Gains* |
| Sec. 74A | *Losses from activity of owning and maintaining of race horses* |
| Sec. 80 | *Return of loss should be filed on or before due date of furnishing return as prescribed under Sec. 139(1)* |
| Sec. 73A | *Set-off or carry forward & Set-off of losses by specified business referred to in Sec. 35AD* |

| **Set-off of loss from one source against income from other source under the same head of income (i.e. Intra-head adjustment)** | **[Sec. 70]** |
|---|---|
| Loss from one source in any head of income can be set off against income from any other source falling under the ***same head***. | |
| ***Exceptions:*** | Following losses can be set off from the same income only<br>→ Long term capital loss<br>→ Loss from speculative business<br>→ Loss from maintaining and owning race horse<br>→ Loss from specified business u/s 35AD |

| **Set-off of loss from one head against income from other head (i.e. Inter-head adjustment)** | **[Sec. 71]** |
|---|---|
| If the loss cannot be set-off within same head, assessee is allowed to set off such loss against income under ***any other head***. | |
| ***Exception*** | → Loss u/h PGBP cannot be set off against income from salary<br>→ Loss of specified business u/s 35AD can be set off only against income of specified business<br>→ Loss u/h capital gains cannot be set off against income of any other head<br>→ Loss from maintaining and owning horse races cannot be set off against any other |

| | |
|---|---|
| | type of income.<br>→ No loss can be adjusted against Income of winning from lottery etc. |

| **Carry forward and Set off of loss of House Property** | **[Sec. 71B]** |
|---|---|
| → ***Unadjusted loss of House Property*** shall be allowed to be carried forward to the subsequent assessment year for a ***maximum period of 8 years*** following the assessment year in which loss was computed.<br>→ Carry forward loss of House property can be adjusted only ***against income of house property*** in subsequent years. | |

| **Carry forward and Set-off of loss from (non-speculative) business** | **[Sec. 72]** |
|---|---|
| → Unadjusted loss under the head 'Profits and Gains of Business or profession'(Except loss in speculation business) shall be allowed to be carried forward to the subsequent assessment year for a ***maximum period of 8 years*** following the assessment year in which loss was computed.<br>→ Carry forward loss of PGBP (other than speculation loss) can be adjusted ***only against income of PGBP*** in subsequent years.<br>→ ***Unabsorbed depreciation u/s 32(2) or scientific research expenditure u/s 35*** can be carried forward for ***unlimited period*** and is allowed to be ***adjusted against any other income*** *(except casual income like winning of lotteries etc.)*<br>***Expenditures, losses and depreciation shall be adjusted in the order given below:***<br>(1) Current year business expenditure<br>(2) Current year depreciation, capital expenditure on family planning or scientific research<br>(3) Brought forward loss of PGBP<br>(4) Brought forward depreciation/ unabsorbed expenditure on scientific research/ family planning | |

| **Carry forward and Set off of loss in case of amalgamation/demerger/ Conversion of proprietorship/ partnership firm into company etc.** | **[Sec. 72A]** |
|---|---|
| ***Amalgamation*** | The unadjusted loss and unabsorbed depreciation of the amalgamating company shall be deemed to be the loss of the amalgamated company ***as if incurred in the year of amalgamation***, if :<br>→ The amalgamated company ***continues the business*** of amalgamating company for a period of ***at least 5 years***<br>→ The amalgamated company continues to hold at least ***75% of the book value of assets*** for a period of ***5 years***.<br>→ Fulfil other conditions as prescribed |
| ***Demerger*** | Unadjusted losses and depreciation of the demerged company is allowed to be carried forward and set off by the resulting company for the ***remaining period***. |
| ***Conversion of proprietorship or partnership firm into company*** | Unadjusted losses and depreciation of the proprietorship/ partnership firm shall be deemed to be the losses of company ***as if incurred in the year of conversion***, if conditions laid down u/s 47 are complied with. |
| ***Conversion of private or unlisted company into LLP*** | Unadjusted losses and depreciation of the private or unlisted company shall be deemed to be the losses of LLP ***as if incurred in the year of conversion***, if conditions laid down u/s 47 are complied with. |

| **Losses in Speculation Business** | **[Sec. 73]** |
|---|---|
| → Loss from speculative business is allowed to be set off only ***against profits of speculative business****.<br>→ Unadjusted loss of Speculative business shall be allowed to be carried forward to the subsequent assessment year for a ***maximum period of 4 years*** following the assessment year in which loss was computed and is allowed to be set-off ***only against profits of speculative business*** in subsequent years. | |

| **Meaning of speculative business*** | **[Sec. 41(5)** |
|---|---|
| Speculative business means such business transactions in which a contract for the purchase or sales of any commodity including stocks and shares is settled otherwise than by the actual delivery. | |

| **Carry Forward and Set off of Losses by specified business u/s 35AD** | **[Sec. 73A]** |
|---|---|
| → Loss from specified business u/s 35AD is allowed to be set off ***only against profits of any other specified business***.<br>→ Unadjusted loss of Specified business shall be allowed to be carried forward to the subsequent assessment year for ***unlimited period*** and is allowed to be set-off ***only against profits of specified business in subsequent years***. | |

| **Losses under the head Capital Gains** | **[Sec. 74]** |
|---|---|
| → ***Short term capital loss*** can be set off ***either from STCG or LTCG***, but ***long term capital loss*** can be adjusted ***against LTCG only***.<br>→ Losses under the head capital gain are ***not allowed to be set off against any other head*** of income.<br>→ Unadjusted loss of Capital Gains shall be allowed to be carried forward to the subsequent assessment year for a ***maximum period of 8 years*** following the assessment year in which loss was computed.<br>→ Carry forward loss u/h Capital Gains can be adjusted only against income under the head Capital Gains in subsequent years. Short term capital loss can be adjusted from STCG or LTCG but long term capital loss can be adjusted against LTCG only. | |

| **Losses under the head Income from Other Sources** | **[Sec. 74A]** |
|---|---|
| → Losses from activities under the head other sources (except maintaining and owning race horses) is allowed to be set-off within same head or any other head except casual income.<br>→ ***Carry forward of loss u/h other source is not allowed.***<br>→ Losses from owning and maintaining race horses is allowed to be set off ***only against profit of owning and maintaining race horses*** and unadjusted losses is allowed to be carried forward for a ***maximum period of 4 years*** and it can be set-off only against the profit of owning and maintaining race horses in subsequent years. | |

| **Carry forward of losses - Change in constitution of firm or on succession** | **[Sec. 78]** |
|---|---|
| → If there is change in the constitution of a firm, then the ***loss proportionate to the share of retired or deceased partner shall not be allowed to be carried forward*** by the firm. This provision does not apply to unabsorbed depreciation.<br>→ Where any person carrying on any business or profession has been succeeded in such capacity by another person otherwise than by inheritance, such other person cannot carry forward and set off against his income, any loss incurred by the predecessor. However, in case of inheritance, ***legal heirs are entitled to carry forward and set off the loss of predecessor***. | |

| **Carry forward and Setoff of losses in case of closely held companies** | **[Sec. 79]** |
|---|---|
| Losses of closely held companies shall be allowed to carried forward only if the shareholder holding ***at least 51% of voting power*** are the same as on the last day of the year in which the loss has been incurred and as on the last day of the year in which the loss is to be set off.<br>***This provision does not apply in following cases:***<br>→ Unabsorbed depreciation<br>→ Change in shareholding is due to death of shareholder<br>→ Change in shareholding is due to gift of share by shareholder to his relative. | |

| **Submission of return of losses** | **[Sec. 80]** |
|---|---|
| Losses (except losses under the head House Property) can be ***carried forward only if loss has been determined as per a return of loss filed on or before the date u/s 139(1)***. | |

| *Nature of Income* | | *Set-off* | | | *Carry forward for AY* | *Set-off from* |
|---|---|---|---|---|---|---|
| | | **Same source under same head** | **Inter-source under same head** | **Inter-head** | | |
| **Salary** | | NA | NA | NA | NA | NA |
| **PGBP** | *Non-speculative* | ✓ | ✓ | ✓ *Except Salary* | 8 years | Same head |
| | *Speculative* | ✓ | ✓ | | 4 years | Same head |
| **Capital gains** | *Short term* | ✓ | ✓ | × | 8 years | Same head |
| | *Long term* | ✓ | ✓ | × | 8 years | Same head |
| **Other Sources** | *Owning and maintenance of race horses* | ✓ | ✓ | × | 4 years | Same head |
| | *Winning from lottery etc.* | × | × | × | | |
| | *Interest etc.* | ✓ | ✓ | ✓ | | |

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# 6. DEDUCTION FROM GROSS TOTAL INCOME

| Section | Provision |
|---|---|
| Sec. 80C | *Deduction in respect of LIP, contribution to P.F. etc.* |
| Sec. 80CCC | *Deduction in respect of contribution to certain pension funds* |
| Sec. 80CCD | *Deduction in respect of contribution to Pension Scheme of Central Govt.* |
| Sec. 80CCE | *Aggregate amount of deduction under Sec. 80C, 80CCC and 80CCE cannot exceed ₹1,00,000* |
| Sec. 80CCF | *Deduction in respect of Subscription to long term infrastructure bonds* |
| Sec. 80D | *Deduction in respect of medical insurance premium* |
| Sec. 80DD | *Deduction in respect of maintenance including medical treatment of dependent being person with disability* |
| Sec. 80DDB | *Deduction in respect of medical treatment etc.* |
| Sec. 80E | *Deduction in respect of repayment of loan taken for higher education* |
| Sec. 80G | *Deduction in respect of donation to certain funds, charitable institutions etc.* |
| Sec. 80GG | *Deduction in respect of rent paid* |
| Sec. 80GGB | *Deduction in respect of contribution given by Indian Co. to political parties* |
| Sec. 80GGC | *Deduction in respect of contribution given by any person to political parties* |
| Sec. 80JJA | *Deduction in respect of profit and gains from business of collecting and processing of bio-degradable waste* |
| Sec. 80U | *Deduction in case of a person with disability* |

**General condition**

*Deductions from Gross Total Income are **not allowed** from the following incomes:*

→ Long Term Capital Gain
→ Short Term Capital Gain u/s 111A
→ Winning from lotteries, horse races etc.

**Deductions for Life Insurance Premium, Provident Fund etc.** **[Sec. 80C]**

Deduction u/s 80C is allowed ***only to individual or HUF***, up to a ***maximum limit of ₹1,00,000*** and the deduction is allowed only when the amount has ***actually been paid*** by the assessee.

***Following amounts paid or deposited are allowed as deduction u/s 80C:***

→ Any sum paid by an individual as ***Life insurance premium*** on life of himself, spouse and children or paid by an HUF for any member of his family.
However premium paid in excess of ***20% of the capital sum assured*** shall be ignored.
→ Contribution to ***statutory provident fund or recognized provident fund***
→ Contribution to ***superannuation fund***
→ Contribution/subscription to ***PPF, NSC, NSS, ULIP, ELSS***
→ ***Fixed Deposit*** with any schedule bank for at least ***5*** years
→ Subscription to notified ***bonds of NABARD***
→ Payment of ***tuition fees*** (excluding development fees or donation etc) for maximum two children for full time education to university, college, school or other educational institution situated in India.
→ Repayment of ***principal amount of loan taken for purchase/construction of residential house property*** from Central/State Govt., Bank, LIC, National Housing Bank or from employer *(where employer is statutory corporation, public company, university, college, or local authority or co-operative society)*
→ Payment of ***stamp duty*** for the purpose of transfer of residential house property to the assessee.
→ Amount invested in ***deposit scheme*** of public company engaged in ***infrastructure facility*** or approved ***mutual fund***
→ Any sum deposited in an account under the ***Senior Citizens Saving Scheme***.
→ Any sum deposited as ***five years' time deposit*** in an account under the ***Post Office Time Deposit***.

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| **Contribution to Certain Pension Funds** | **[Sec. 80CCC]** |
|---|---|
| Deduction is allowed for payment made by ***individual*** towards ***annuity plan*** of insurance company for ***receiving annuity or pension*** and it is allowed up to a maximum limit of ***₹1,00,000***. | |

| **Contribution to Pension Scheme of Central Government** | | **★[Sec. 80CCD]** |
|---|---|---|
| ***Self-employed*** | ***Employees*** | |
| | ***Employer's contribution*** | ***Employees contribution*** |
| (1) ***Minimum of***<br>(a) Amount contributed<br>(b) 10% of GTI<br>(2) Deduction subject to ***maximum ₹1,00,000*** | (1) Taxable under salary and then, deduction u/s. 80CCD ***Min. of***<br>(a) Amount contributed or<br>(b) 10% of Salary<br>(2) Deduction is available without the ***maximum limit of ₹1,00,000 u/s. 80CCE.*** | (1) ***Min. of***<br>(a) Amount contributed or<br>(b) 10% of Salary<br>(2) Deduction is available without the ***maximum limit of ₹1,00,000 u/s. 80CCE.*** |
| **[Salary = Basic + DA** *(forming part of retirement benefit)*] | | |

| **Limits of deduction under Sec. 80C, 80CCC and 80CCD** | **★[Sec. 80CCE]** |
|---|---|
| The aggregate amount of deduction u/s 80C, 80CCC and 80CCD (except employer contribution) shall not, in any case, exceeds ***₹1,00,000.*** | |

| **Subscription to long term infrastructure bonds** | **★[Sec. 80CCF]** |
|---|---|
| Deduction is allowed to an ***individual/HUF*** for payment towards subscription to ***long-term infrastructure bonds*** as notified by Central Government, but up to a maximum limit of ***₹20,000*** | |

| **Deduction in respect of medical insurance premium** | **[Sec. 80D]** |
|---|---|
| Deduction is allowed to an ***individual/HUF*** for payment towards ***Medical Insurance Premium*** or to any contribution made to the Central Government Health Scheme) by any mode ***other than cash***. | |
| ***Quantum of deduction*** | → Maximum ***₹15,000*** (For insurance of Individual, Spouse, Dependent Children) or ***₹20,000*** in case of senior citizen, and<br>→ Maximum ***₹15,000*** (For insurance of Parents) or ***₹20000*** if parents are senior citizen. |

| **Deduction in respect of maintenance including medical treatment of a dependent who is a person with disability** | **[Sec. 80DD]** |
|---|---|
| Deduction is allowed to a ***resident individual/HUF*** for payment towards ***Medical treatment or training and rehabilitation of a dependent relative who is a person with disability***. Deduction is also allowed for payment towards deposit in a scheme for receiving annuity or lump sum amount for the benefit of such disabled person. | |
| ***Quantum of deduction*** | Deduction of ***₹50,000***, ***irrespective of the actual amount*** spent or deposited. In case of ***severe disability*** deduction allowed shall be ***₹1,00,000***, irrespective of the amount spent or deposited. |
| **** Relative*** | Relative, for individual, shall include spouse, children, brothers, sisters and parents. Relative, for HUF, shall be its members. |

| **Deduction in respect of medical treatment, etc.** | **[Sec. 80DDB]** |
|---|---|
| → Deduction is allowed to a ***resident individual/HUF*** for payment towards ***Medical treatment*** of specified disease of self or dependent relative or member of HUF.<br>→ Deduction is allowed for the amount actually spent or ***₹40000*** (***₹60,000*** in case of senior citizen), whichever is less.<br>→ Deduction shall be reduced by the amount received from the insurer or employer. Further, a certificate from doctor of government hospital has to be furnished for claiming the deduction. | |

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| **Deduction of interest paid on loan taken for pursuing higher education** | **[Sec. 80E]** |
|---|---|
| → Deduction is allowed to an ***individual*** for payment of ***interest on loan*** taken for pursuing higher education* of himself or relative**.<br>→ Loan must have been taken from financial ***institutions or approved charitable institution***. There is no maximum limit prescribed under this section and also deduction can be claimed for ***maximum period of 8 years*** starting from the year in which payment of interest on the loan begins. | |
| * ***Higher education*** | *Higher education means any course of study pursued after passing Senior Secondary Examination.* |
| ** ***Relative*** | *Relative means spouse, children or the student for whom; he/she is the legal guardian.* |

| **Deduction in respect of donation** | **[Sec. 80G]** |
|---|---|
| → Deduction is allowed to ***all assessee*** for payments made to specified funds/ institutions<br>→ Donation shall be sum of money; Donation in kind is not deductible. Further proof of payment shall be furnished with the return | |
| **Part A:** | **Donations made to following are eligible for 100% deduction without any qualifying limit:** |
| → National Defence Fund set up by the Central Government<br>→ Prime Minister's National Relief Fund<br>→ Prime Minister's Armenia Earthquake Relief Fund<br>→ Africa (Public Contributions - India) Fund<br>→ National Foundation for Communal Harmony<br>→ A University or any educational institution of national eminence as may be approved by the prescribed authority<br>→ Chief Minister's Earthquake Relief Fund, Maharashtra<br>→ Any fund set up by the State Government of Gujarat exclusively for providing relief to the victims of earthquake in Gujarat<br>→ Zila Saksharta Samiti constituted in any district<br>→ National Blood Transfusion Council<br>→ Any fund set up by a State Government to provide medical relief to the poor<br>→ Army Central Welfare Fund or the Indian Naval Benevolent Fund or the Air Force Central Welfare Fund<br>→ Andhra Pradesh Chief Minister's Cyclone Relief Fund<br>→ National Illness Assistance Fund<br>→ Chief Minister's Relief Fund or the Lieutenant Governor's Relief Fund<br>→ National Sports Fund set up by the Central Government<br>→ National Cultural Fund set up by the Central Government<br>→ Fund for Technology Development and Application set up by the Central Government National<br>→ Trust for Welfare of Persons with mental retardation and multiple disabilities. | |
| **Part B:** | **Donations made to following are eligible for 50% deduction without any qualifying limit:** |
| → Jawaharlal Nehru memorial fund<br>→ Prime Minister's Drought Relief Fund<br>→ National Children's Fund<br>→ Indira Gandhi Memorial Trust<br>→ Rajiv Gandhi Foundation | |
| **Part C:** | **Donations made to following are eligible for 100% deduction subject to qualifying limit:** |
| → Donation to Government or any approved local authority, institution or association to be utilized for promoting family planning<br>→ Donation made by a company to Indian Olympic Association or to any other notified institution, for development of infrastructure for sports in India. | |

| **Part D:** | **Donations made to following are eligible for 50% deduction subject to qualifying limit:** |
|---|---|
| → Donation to Government or any approved local authority, institution or association to be utilized for any other charitable purpose other than promoting family planning<br>→ Donation to any approved charitable institution which satisfies the condition of Section 80G.<br>→ Donation to any authority for satisfying the need for housing accommodation or any corporation for promoting interest of minority community.<br>→ Donation to any notified temple, mosque, gurudwara, church or other place notified by the Central Government to be of historical, archaeological or artistic importance for renovation or repair of such place. | |
| [**Note:** Donations under **Part C** and **Part D** above ***shall not exceed*** the qualifying limit.*] | |
| * ***Qualifying limit*** | Qualifying limit means ***10% of adjusted Gross Total Income***** |
| ** ***Adjusted GTI*** | *Gross Total Income*<br>***Less:*** *Long Term Capital Gains*<br>***Less:*** *Short Term Capital Gains under Sec. 111A*<br>***Less:*** *Deduction under Sec. 80C to 80U* ***except Sec. 80G*** |

| **Deduction for payment of rent** | **[Sec. 80GG]** |
|---|---|
| Deduction is allowed to an ***individual*** in respect of ***rent paid*** for his ***residential accommodation*** subject to fulfilment of following conditions:<br>(i) He is a ***self-employed*** person or if he is an ***employee***, he is ***neither getting HRA nor rent free accommodation***<br>(ii) Assessee, spouse, minor child or HUF ***does not own*** any residential accommodation in the city where he lives or where he works.<br>The deduction in respect of rent paid is allowed to the extent of ***minimum of*** the following:<br>(1) Rent paid over 10% of Adjusted Gross Total Income<br>(2) 25% of the Adjusted Gross Total Income*<br>(3) ₹ 2,000 per month | |
| * ***Adjusted GTI*** | *Gross Total Income*<br>***Less:*** *Long Term Capital Gains*<br>***Less:*** *Short Term Capital Gains under Sec. 111A*<br>***Less:*** *Deduction under Sec. 80C to 80U* ***except Sec. 80GG*** |

| **Deduction in respect of donations for scientific research or rural development** | **[Sec. 80GGA]** |
|---|---|
| Deduction is allowed to all assessee provided the assessee does not have income under the head PGBP. Deduction is allowed equal to the amount of donation or contribution given below:<br>(1) Donation to notified scientific research association as per Sec 35<br>(2) Donation to notified institution for the purpose of eligible project as per Sec 35AC.<br>(3) Donation given to notified institution for rural development or to national urban poverty eradication fund as per Sec. 35CCA | |

| **Deduction in respect of contribution given by companies to political parties** | **[Sec. 80GGB]** |
|---|---|
| Any sum contributed by ***Indian Company*** to ***political party or electoral trust*** is allowed as deduction. | |

| **Deduction in respect of contribution given by any person to political parties** | **[Sec. 80GGC]** |
|---|---|
| Any sum contributed by ***any person*** (except local authority or artificial juridical person) to ***political party or electoral trust*** is allowed as deduction. | |

| **Deduction in respect of profits and gains from business of collecting and processing of bio-degradable waste** | **[Sec. 80JJA]** |
|---|---|
| → Deduction is allowed to ***all assessee*** who are engaged in the ***business of collecting/ processing or treating etc. of bio-degradable waste*** for generating power or to make pellets for fuel or to use it in organic manure or to use it in bio-gas plant etc.<br>→ Deduction is allowed equal to ***100% profit***s of such business for the ***5 consecutive AYs*** beginning | |

| |
|---|
| with the year in which such business is commenced. |

| **Deduction in respect of employment of new workmen** | **[Sec. 80JJAA]** |
|---|---|
| → Deduction is allowed to ***Indian Company***, equal to ***30% wages of the new regular workman for 3 AYs*** including the year in which the employment is provided.<br>→ Companies shall be engaged in the ***manufacture or production of any article or thing*** and accounts must be audited by Chartered Accountant and the report shall be furnished with the return of income. | |
| ***Wages qualifying for deductions*** | → ***In the case of new company:*** Wages paid to workers ***in excess of 100***<br>→ ***In the case of existing company:*** Wages paid to workers ***in excess of 100***, ***but*** there should be ***at least 10% increase in number of workers***, as employed on the last day of the preceding year. |
| ***Regular workmen does not includes*** | (1) Person employed in ***managerial or administrative*** capacity or<br>(2) Workman employed as a ***casual workman*** or ***contract labour*** or<br>(3) Any other workman employed for a period of ***less than 300 days*** during the PY |

| **Deduction in respect of certain incomes of Offshore Banking Units and International Financial Services Centre** | | **[Sec. 80LA]** |
|---|---|---|
| ***Deduction is allowed to*** | (1) A scheduled bank having an offshore banking unit in SEZ or<br>(2) Any bank, incorporated under the laws of a foreign country and having an offshore banking unit in SEZ or<br>(3) A unit of International Financial Services Centre (IFSC) | |
| ***Quantum of deduction*** | ***For the first 5 consecutive years:*** | ***100%*** of such income beginning with the previous year in which<br>(a) The permission under the ***Banking Regulation Act*** was obtained or<br>(b) The permission under the ***SEBI Act, 1992*** was obtained or<br>(c) Permission or registration under ***any relevant law*** was obtained |
| | ***For the next 5 years:*** | ***50%*** of such income |
| ***Conditions*** | (1) ***A report of Chartered Accountant***, certifying that the deduction has been correctly claimed, should be submitted with return of income<br>(2) ***Copy of permission obtained*** under the Banking Regulation Act, 1949 should be furnished along with the return of Income. | |

| **Deductions in respect of co-operative societies** | | **[Sec. 80P]** |
|---|---|---|
| **[1]** | **Income from following activities shall be allowed 100% deduction in case of co-operative societies:** | |
| (1) Income from business of banking or providing credit facilities to its members<br>(2) Income from cottage industry<br>(3) Income from marketing of the agricultural produce grown by its members<br>(4) Income derived from the purchase of agricultural implements, seeds, livestock or other articles intended for agriculture<br>(5) Income from processing without the aid of power<br>(6) Income from fishing or allied services<br>(7) Income from supplying milk, oilseeds, fruits & vegetables raised by its members to federal milk co-operative society | | |
| **[2]** | **Co-operative societies engaged in a business other than those mentioned above shall not be liable to pay tax on:** | |
| ***In case of consumer co-operative society:*** | Maximum up to ***₹1,00,000*** of income | |
| ***In other case*** | Maximum up to ***₹50,000*** of income | |
| **[3]** | **Deduction allowable to all co-operative societies:** | |
| (1) Any ***interest, dividend*** income derived from its investments with ***any other co-operative society*** | | |

(2) Income derived from ***letting out*** of godown or warehouses for storage, processing or facilitating the marketing of commodities
(3) 100% of the income from interest on securities or income from house property in case of co-operative society not being
*(i) A housing society or*
*(ii) An urban consumer society or*
*(iii) Society carrying on transport business or*
*(iv) Society engaged in the performance of any manufacturing operating with the aid of power, provided its GTI does not exceed Rs. 20000*

| **Deduction in respect of Royalty Income etc. of books** | **[Sec. 80QQB]** |
|---|---|

Deduction is allowed to ***resident individual*** for royalty income from assignment of copyright of books, maximum up to ***₹3,00,000***.
(1) Books should be a work of literary, artistic or scientific nature. Books ***shall not include*** text books, diaries, commentaries, journals etc.
(2) Royalty in ***excess of 15%*** of the value of the books sold during the previous year shall be ignored. However, this condition is ***not applicable*** where the royalty is received in lump sum.
(3) If royalty is received from ***outside India***, then to claim deduction, it must be ***brought into India within 6 months*** from the end of the PY in which such income is earned.

| **Deduction in respect of Royalty Income on patents** | **[Sec. 80RRB]** |
|---|---|

→ Deduction is allowed to ***resident individual***, who is a ***patentee***, for royalty income of patents but maximum upto ***₹3,00,000***.
→ If royalty is received from ***outside India***, then to claim deduction, it must be brought into India ***within 6 months*** from the end of the previous year in which such income is earned.

| **Deduction in case of a person with disability** | **[Sec. 80U]** |
|---|---|
| ***Conditions*** | (1) The deduction is available to ***resident individual***<br>(2) He is a ***person with disability***<br>(3) He is certified by the medical authority to be a person with disability ***at any time during PY***<br>(4) For claiming the deduction, the assessee shall have to ***furnish a copy of certificate issued by medical authority along with Return of Income*** |
| ***Quantum of deduction*** | (1) Fixed deduction of ₹ 50,000<br>(2) ₹ 1,00,000 for a person with severe disability |

## 6.1: SUMMARY OF DEDUCTIONS UNDER SEC. 80C-80U

| | *Sec.* | *Applicability* | *Nature of Payment/Receipt* | *Amount of deduction* |
|---|---|---|---|---|
| | 80C | Individual/HUF | Life insurance premium, contributions to PF, etc. | Max. ₹ 1,00,000 |
| | 80CCC | Individuals | Contribution to certain pension funds | *Min. of:*<br>(1) Amt. paid or (2) ₹ 1,00,000 |
| ★ | 80CCD | CG or other or self-employees | Contribution to CG pension schemes | *Min. of:*<br>(1) Amt. paid or<br>(2) 10% of salary<br>*Self-employees max. 10% of GTI* |
| ★ | 80CCE | 80C+80CCC+80CCD | | Max. ₹ 1,00,000 |
| ★ | 80CCF | Individuals/HUF | Long-term infrastructural bonds | Max. ₹ 20,000 |
| | 80D | Individuals/HUF | Central Govt. Health Scheme (CGHS) amended for AY 2011-12 | ***General:*** *Min. of*<br>(1) Premium paid or<br>(2) ₹ 15,000<br>***For parents:*** ₹ 15,000<br>***Senior citizen:*** *Min. of*<br>(1) Premium paid or |

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| | | | | |
|---|---|---|---|---|
| | | | | (2) ₹ 20,000 |
| | 80DD | Resident Individual/HUF | Expenditure on handicapped dependent relative | Disability: ₹ 50,000,<br>Severe Disability: ₹ 1,00,000 |
| | 80DDB | Resident Individual/HUF | Expenditure on specified diseases | ***General:***<br>*Min. of*<br>(1) Actual or<br>(2) ₹ 40,000<br>Senior citizen:<br>(1) Actual or<br>(2) ₹ 60,000 |
| | 80E | Individuals | Interest on payment of loan taken for Higher Education | Actual Interest (max. 8 AY) |
| | 80G | All Assessees | Deduction in respect of Donation | → 100% deduction without Qualifying Limit*<br>** (10% of Adj. GTI)*<br>→ 50% deduction without Qualifying limit<br>→ 100% deduction without Qualifying limit<br>→ 50% deduction without Qualifying limit |
| | 80GG | Individuals | Assessee should not be entitled to HRA, not own any residential at work space | *Min. of*<br>(1) Rent paid ***less*** 10% of Adj. GTI<br>(2) 25% of Adj. GTI<br>(3) ₹ 2000 p.m. |
| | 80GGA | All Assessees (no PGBP income) | Donations | Same as Sec. 35/35CCA/35AC |
| | 80GGB | Indian Companies | Donation to Political Party or Electoral Trust | Actual amt. donated |
| | 80GGC | Other than Indian Company (except local authority, AJP) | Donation to Political Party or Electoral Trust | Actual amt. donated |
| ★ | 80IA | Industrial Undertaking | Infrastructural facility, telecommunication, industrial park, distribution of power | 100% of profit for 10 years [available if operation started on or before 31/03/2012] |
| | 80JJA | All Assessees | Business of processing of Bio-degradable waste | 100% of profit for first 5 AY |
| | 80JJAA | Indian Companies | Deduction for additional employment | 30% of Additional wages for 3 years |
| | 80LA | Off shore banking units of banks | Income from Off-shore banking unit | First 5 years:100%,<br>Next 5 years: 50%<br>} of such income |
| | 80P | Co-operative society | Cottage industries, marketing of the agricultural produce, fishing | ***Co-operative society engaged in other activities:*** ₹ 50,000<br>***Consumer's co-operative society:*** ₹ 1,00,000 |
| | 80QQB | Resident Individual | Royalty income from book | Least of whole of such income of ₹ 3,00,000 |
| | 80RRB | Resident Individual | Income from patent registered after 1/4/2003 | Least of whole of such income of ₹ 3,00,000 |
| | 80U | Handicapped Resident Individual | | ***General:*** ₹ 50,000<br>***Severe Disability:*** ₹ 1,00,000 |

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# 7. COMPUTATION OF TOTAL INCOME AND TAX PAYABLE

| Sections | Provisions of |
|---|---|
| Sec. 15 to 17 | *Income under the head Salaries* |
| Sec. 22 to 27 | *Income under the head House Property* |
| Sec. 22 to 44DB | *Income under the head Profit and Gains from Business or Profession* |
| Sec. 45 to 55A | *Income under the head Capital Gains* |
| Sec. 56 to 59 | *Income under the head Income from Other Sources* |
| Sec. 80C to 80U | *Deductions under Chapter VIA* |

| **Total income** | **[Sec. 2(25A)]** |
|---|---|
| The Total income of an individual is arrived at after making deductions under Chapter VIA from the Gross Total Income. Gross Total Income is the aggregate of the net income computed under the 5 heads of income, after giving effect to the provisions for clubbing of income and set-off and carry forward and set-off of losses. | |

| **Income to be considered while computing total income of individuals** | |
|---|---|
| ***Capacity in which income is earned by an individual*** | ***Treatment of income earned in each capacity*** |
| *In his personal capacity (under the 5 heads of income)* | Income from salaries, Income from house property, Profits and gains of business or profession, Capital gains and Income from other sources. |
| *As a partner of a firm* | (i) Salary, bonus etc. received by a partner is taxable as his business income.<br>(ii) Interest on capital and loans to the firm is taxable as business income of the partner.<br>*The incomes mentioned in (i) and (ii) above are taxable to the extent they are allowed as deduction to the firm.*<br>(iii) Share of profit in the firm is exempt in the hands of the partner. |
| *As a member of HUF* | (i) Share of income of HUF is exempt in the hands of the member<br>(ii) Income from an impartible estate of HUF is taxable in the hands of the holder of the estate who is the eldest member of the HUF<br>(iii) Income from self-acquired property converted into joint family property |
| *Income of other persons included in the income of the individual* | (i) Transferee's income, where there is a transfer of income without transfer of assets<br>(ii) Income arising to transferee from a revocable transfer of an asset.<br>*In cases (i) and (ii), income is includible in the hands of the transferor.*<br>(iii) Income of spouse as mentioned in Sec. 64(1)<br>(iv) Income from assets transferred to son's wife or to any person for the benefit of son's wife.<br>(v) Income of minor child as mentioned in Sec. 64(1A) |

| **Special provision for spouses governed by Portuguese civil code** | **[Sec. 5A]** |
|---|---|
| This section relates to the computation of total income of husband and wife governed **by the system of community** of property as in force in the **State of Goa and in the Union Territories of Dadra and Nagar Haveli and Daman and Diu**. Such income shall not be assessed as that of the community of property. The income under each head of income (other than under the head 'Salaries') should be apportioned equally between the husband and wife and should be included separately in their | |

respective total income. However, in the case of salary income, it will be assessed in the hands of the spouse who has actually earned it.

| **Computation of Total Income and Tax Liabilities of Individuals** | |
|---|---|
| **Step 1:** | *Determination of residential status* |
| **Step 2:** | *Classification of income under different heads* |
| **Step 3:** | *Exclusion of income not chargeable to tax* |
| **Step 4:** | *Computation of income under each heads* |
| **Step 5:** | *Clubbing of income of spouse, minor child etc.* |
| **Step 6:** | *Set-off and carry forward and set-off of losses* |
| **Step 7:** | *Computation of Gross Total Income* |
| **Step 8:** | *Deduction from GTI under Sec. 80C to 80U / Chapter VIA* |
| **Step 9:** | *Total Income* |
| **Step 10:** | *Application of the rates of tax on the total income* |
| **Step 11:** | *Education Cess and Secondary and Higher Secondary Education Cess* |
| **Step 12:** | *Credit of advance tax and TDS* |

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# 8. AGRICULTURAL INCOME

| Section | Provisions |
|---|---|
| Sec. 2(1A)(a) | *Any **rent** or **revenue** derived from land which is situated in India and used for agricultural purpose* |
| Sec. 2(1A)(b) | *Any income derived from such land by agricultural operations including processing of the agricultural produce, raised or received as rent-in-kind so as to render it fit for the market, or sale of such produce* |
| Sec. 2(1A)(c) | *Income attributable to a farm house subject to the condition that the building is situated on or, in the immediate vicinity of the land and is used as dwelling house, store house or other outbuilding and the land is assessed to land revenue or local or, alternatively, the building is situated on or the immediate vicinity of land, which (though not assessed to land revenue or local rate) is situated outside the **urban areas*** |
| Sec. 10(1) | *Exemption of agricultural income* |
| Rule 7 | ***Any other case (e.g. sugarcane)***<br>*Market value of any agricultural produce, raised by the assessee or received by him as rent-in-kind an utilised as raw material in his business, is deducted* |
| Rule 7A | *Income derived from sale of centrifuged latex or cenex or latex based crepes or brown crepes or technically specified block rubbers manufactured or processed from field latex or coagulum obtained from rubber plants grown by the seller in India* |
| Rule 7B | *Income derived from the sale of coffee **grown** and **cured** by the seller in India* |
| Rule 7B(1A) | *Income derived from the sale of coffee **grown, cured, roasted** and **grounded** by the seller in India, with or without mixing chicory or other flavouring ingredients* |
| Rule 8 | *Income from sale of tea **grown** and **manufactured** by the assessee in India* |

**Basic concept:**

Agricultural income is ***exempt from tax under Sec. 10(1)*** of the income tax act, 1961. However for computing tax on non-agricultural income, ***agricultural income is added to non-agricultural income***.

**Meaning of Agricultural Income** **[Sec. 2(1A)]**

***Agricultural income includes:***

(a) Rent or revenue derived from land
(b) Income derived from such land by way of agriculture or forming process of marketing process by way of sale of such produce
(c) Income from a farm building

**Meaning of Agricultural Income** **[Sec. 2(1A)(a)]**

Any rent or revenue whether in kind or in cash derived from land situated in India which is used for agricultural processes as indicated above is wholly exempt from tax.

**Income derived from such land by way of agriculture or forming process of marketing process by way of sale of such produce** **[Sec. 2(1A)(b)]**

Any income derived by cultivator or receiver of rent in kind from agriculture by sale of agricultural produce on which necessary operations( may be or may not be needed) are carried on to render the produce fit for consumption and taking it to market is called as agricultural income. Such income is exempt from taxation. However in case operations performed are not in the nature as mentioned above, income has to be separated so as to compute tax on non-agricultural income. The operations mentioned above are called as agricultural or marketing operations.

**Income from a farm building** **[Sec. 2(1A)(c)]**

→ Farm house situated in India
→ In immediate vicinity of land used for agricultural purposes
→ Is occupied by cultivator or receiver of rent in kind
→ Land used as dwelling house, store house or other out building.

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→ Land is assessed to land revenue at local rates, if not subject to land revenue, it is not situated in urban areas.
→ However if land is used for any other purpose other than those mentioned in (d) it would not be deemed to be agricultural income.

**Necessary conditions for income to be agricultural income**

(1) Income should be ***derived from land***
(2) Land must be ***situated in India***
(3) Land must be used for ***basic operations of agriculture***. Land may also be used for subsequent operations but such subsequent operations can only be with ***conjunction or together*** with the basic operations. These are what are called as agricultural ***operations and classified into basic and subsequent operations***.
(4) Income from nursery *(It is always **exempt**)*

**Scheme of partial integration**

Though agricultural income is exempt from tax, however there is special method of partial integration applicable for computing tax on non-agricultural income. This method is applicable only when:
(1) Net agricultural income exceeds ₹ 5,000
(2) Non-agricultural income exceeds maximum amount non chargeable to tax i.e. the exemption limit
*If scheme of partial integration is applicable, tax liability will be determined as follows:*

**Computation of tax**

| | |
|---|---|
| **Step 1:** | *Add agricultural income to non-agricultural income and calculate tax as if this is total income* |
| **Step 2:** | *Add agricultural income to maximum amount non- chargeable to tax and calculate tax as if this is total income.* |
| **Step 3:** | *Deduct tax computed in step 2 from tax computed in Step 1.*<br>The amount so computed is the **Actual Tax Payable**. |
| **Step 4:** | *Add surcharge, education cess and secondary and higher education cess.* |

**Format: Computation of tax liability**

| ***Particulars*** | ***Amt. (₹)*** |
|---|---|
| Total/Net/Taxable Income | …… |
| Total income subject to special tax rates | …… |
| Total income ***(including agricultural income)*** subject to normal tax rate | …… |
| Tax on Total Income subject to special tax rates | …… |
| Tax Total income ***(including agricultural income)*** subject to normal tax rate | …… |
| ***Less: Income tax on agricultural income plus maximum amount not chargeable to tax at normal rates*** | …… |
| Income tax | …… |
| *Add:* EC @ 2% | …… |
| *Add:* SHEC @ 1% | …… |
| *Add:* Interest / Penalty | …… |
| *Less:* Prepaid taxes (i.e. Advanced Tax, TDS, etc.) | …… |
| **Tax Payable/Refund** | …… |

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| **Income which is partially agricultural and partially from business** | | | |
|---|---|---|---|
| ***Income-tax Rule, 1962*** | ***Nature of Income*** | ***Amount of agricultural income*** | ***Amount of business income*** |
| **Rule 8** | *Income from sale of tea **grown** and **manufactured** by the assessee in India* | 60% | 40% |
| **Rule 7A** | *Income derived from sale of centrifuged latex or cenex or latex based crepes or brown crepes or technically specified block rubbers manufactured or processed from field latex or coagulum obtained from rubber plants grown by the seller in India* | 65% | 35% |
| **Rule 7B** | *Income derived from the sale of coffee **grown** and **cured** by the seller in India* | 75% | 25% |
| **Rule 7B(1A)** | *Income derived from the sale of coffee **grown, cured, roasted** and **grounded** by the seller in India, with or without mixing chicory or other flavouring ingredients* | 60% | 40% |
| **Rule 7** | ***Any other case (e.g. sugarcane)***<br>*Market value of any agricultural produce, raised by the assessee or received by him as rent-in-kind an utilised as raw material in his business, is deducted* | | |

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# 9. PAYMENT OF ADVANCE TAX, INTEREST AND TAX DEDUCTED AT SOURCES

## 9.1: PROVISIONS REGARDING ADVANCE TAX AND INTEREST

| Section | Provisions |
|---|---|
| Sec. 208 | *Conditions of liability to pay advance tax* |
| Sec. 209 | *Computation of advance tax* |
| Sec. 211 | *Due dates for payment of advance tax* |
| Sec. 234A | *For default in furnishing of return of income* |
| Sec. 234B | *For default in payment of advance tax* |
| Sec. 234C | *For deferment of advance tax* |

| **Conditions of liability to pay advance tax** | **[Sec. 208]** |
|---|---|
| Advance tax shall be payable during a financial year in every case where the amount of such tax payable by the assessee during that year, as computed in accordance with the provisions of this Chapter, is ₹ 10,000 or more. | |

| **Computation of advance tax** | | **[Sec. 209]** |
|---|---|---|
| ***Particulars*** | ***Amt. (₹)*** | ***Amt. (₹)*** |
| Income under the 5 heads of income | | …… |
| Adjustment in respect of B/F loss and allowance | | …… |
| *GROSS TOTAL INCOME* | | …… |
| *Less:* Deduction admissible under Chapter VI-A | | (……) |
| ***TAXABLE INCOME*** | | …… |
| Tax on Taxable Income | …… | |
| *Less:* Rebate under Sec. 88E | (……) | |
| Tax Payable | …… | |
| *Add:* Surcharge | …… | |
| *Add:* EC @ 2% | …… | |
| *Add:* SHEC @ 1% | …… | |
| Net Tax Payable | …… | |
| *Less:* Relief under Sec. 89, 90, 90A, 91 | (……) | |
| Tax liability | …… | |
| *Less:* TDS/TCS | (……) | |
| *Less:* MAT Credit under Sec. 115JAA | (……) | |
| ***ADVANCE TAX*** | …… | |

| **Due dates for payment of advance tax** | | **[Sec. 211]** |
|---|---|---|
| ***Due date of installments: On or before*** | ***Companies*** | ***Other assessee*** |
| 15th June | *Not less than 15% of Adv. Tax liability* | – |
| 15th Sept. | *Not less than 45% of Adv. Tax liability* | *Not less than 30% of Adv. Tax liability* |
| 15th Dec. | *Not less than 75% of Adv. Tax liability* | *Not less than 60% of Adv. Tax liability* |
| 15th March | *The whole amt. of Adv. Tax Liability* | *The whole amt. of Adv. Tax Liability* |
| **Note:** *Any amount paid by way of advance tax on or before the 31st day of March shall also be treated as advance tax paid during the financial year ending on that day for all the purposes of this Act.* | | |

| **Liability to pay interest for default in furnishing Return of Income** | **[Sec. 234A]** |
|---|---|

(1) Where the Return of income of any AY is furnished after due dates as per Sec. 139(1) or not furnished, the assessee shall be liable to pay simple interest @ 1% for every month or part of a month

(2) The interest shall be payable for the period commencing from the next date after the due date and ends on-
   (a) Where the return of income furnishes after the due date of filling of return; or
   (b) When no return has been furnished after the due date, the date of completion of assessment *(Normally the best judgement assessment under Sec. 144)*

(3) The interest is calculated on total income **minus** Advance Tax (paid up to 31st March of PY) **minus** TDS

(4) The total tax is calculated on the returned income. However, the income is changed subsequently, due to assessment/reassessment/appeal/revision/rectification, then the total tax should be calculated on the changed income (assessed income) and the interest would be recalculated.

| **Procedure to be followed in calculating interest** | **[Rule 119A]** |
|---|---|

In calculating interest payable by the assessee, the amount of tax, penalty or other sum in respect of which interest is to be calculated will be rounded off to the nearest multiple of ₹ 100 ignoring by fraction of ₹ 100. And accordingly, for calculating the interest under Sec. 234A, 234B and 234C, this procedure of round off should be followed.

| **Liability to pay interest for default in payment of advance tax** | | | **[Sec. 234B]** |
|---|---|---|---|
| ***When interest is payable?*** | ***Amount on which interest is payable*** | ***Rate of interest*** | ***Period of which interest is payable*** |
| An assessee who is liable to pay advance tax has failed to pay such tax | Interest is payable on assessed tax | Simple interest @ 1% for every month or part of month | From 1st April of the AY to the date of determination of income under Sec. 143(1) or where regular assessment is made to the date of regular assessment |
| An assessee who has paid advance tax* but the amount of advance tax paid by him is less than 90% of assessed tax | Assessed tax **minus** Advance tax | | |

***Note 1:** ***Assessed Tax*** means the tax on total income determined on the basis of summary assessment under Sec. 143(1) or regular assessment as reduced by TDS (Tax Deducted at Sources) or TCS (Tax Collected at Sources) on any income which is take into account in computing advance tax. *If interest under Sec. 234B is to be calculated for the purpose of self-assessment under Sec. 140A**, then 'assessed tax' means tax on returned income*

| **Adjustment when tax is paid before regular assessment** | **[Sec. 140A]**** |
|---|---|

If before the date of determination of total income under Sec. 143(1) or completion of a regular assessment, tax is paid on the basis of self-assessment under Sec. 140A or otherwise (periodical payments on adhoc basis), the interest shall be calculated up to the date on which the tax is paid and thereafter the interest shall be calculated only on the reduced amount.

| **Liability to pay interest for deferment of advance tax** | | | | | | **[Sec. 234C]** |
|---|---|---|---|---|---|---|
| ***When interest is payable?*** *[If adv. Tax paid on or before…]* | ***In case of non-corporate assessee*** | | | ***In case of corporate assessee*** | | |
| | ***Rate of Simple interest*** | ***Period of interest*** | ***Amt. on which interest is payable*** | ***Rate of Simple interest*** | ***Period of interest*** | ***Amt. on which interest is payable*** |
| **(1)** | **(2)** | **(3)** | **(4)** | **(2)** | **(3)** | **(4)** |
| 15th June | NA | | | 1% | 3 months | 15% (a–b) – c |
| 15th Sept. | 1% | 3 months | 30% (a–b) – c | 1% | 3 months | 45% (a–b) – d |
| 15th Dec. | 1% | 3 months | 60% (a–b) – d | 1% | 3 months | 75% (a–b) – e |
| 15th March | 1% | 1 months | 100% (a–b) – e | 1% | 1 months | 100% (a–b) – f |

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| **Note for above provisions:** | ***In case of non-corporate assessee*** | ***In case of corporate assessee*** |
|---|---|---|
| | a. Tax on **Total income declared in the return** filled by assessee<br>b. TDS or TCS<br>c. Adv. Tax paid on or before 15th Sept. for the FY in immediate preceding the AY<br>d. Adv. Tax paid on or before 15th Dec. for the FY in immediate preceding the AY<br>e. Adv. Tax paid on or before 15th March. for the FY in immediate preceding the AY | a. Tax on **Total income declared in the return** filled by assessee<br>b. TDS or TCS<br>c. Adv. Tax paid on or before 15th June for the FY in immediate preceding the AY<br>d. Adv. Tax paid on or before 15th Sept. for the FY in immediate preceding the AY<br>e. Adv. Tax paid on or before 15th Dec. for the FY in immediate preceding the AY<br>f. Adv. Tax paid on or before 15th March. for the FY in immediate preceding the AY |

| **Payment of Advance Tax in case of Capital Gains/casual income** | **[Proviso to Sec. 234C]** |
|---|---|

→ Advance tax is payable on all types of income, including capital gains and winnings of lotteries, crossword puzzles, etc.

→ However, it is not normally possible for an assessee to estimate his capital gains or winnings from lotteries, etc. which are generally unexpected. Therefore, it is provided that if any such income arises after the due date of any instalment, then, the entire amount of tax payable (after deduction of tax at source, if any) on such capital gain or casual income should be paid in remaining instalments of advance tax which are due or where no such instalment is due, by 31st March of the relevant Financial Year.

→ If the entire amount of tax payable is so paid, then no interest on late payment will be leviable

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# 9.2: PROVISIONS REGARDING TAX DEDUCTED AT SOURCES [TDS]

| *Sec.* | *Nature of payment* | *Person responsible to deduct tax* | *Maximum limit on which TDS is not deductible* | *Time of deduction of TDS* | *Rates of TDS** |
|---|---|---|---|---|---|
| **192** | Salary | All assesse | ₹ 1,80,000/ ₹ 1,90,000/ ₹ 2,50,000 | At the time of payment | As applicable to an individual |
| **193** | Interest on securities | Local authority or Statutory corporation | Exempt categories listed | At the time of Payment or credit whichever is earlier. | 10% |
| | | Central Govt. in case of 8% (taxable) saving bonds, 2003 | ₹ 10,000 | | 10% |
| | | Company | Monetary limit of ₹ 5,000 in case of listed debenture; otherwise no minimum | | *Listed Deb.:*10% (20% in case the payee is a company) *Non-Listed Deb.:* 20% |
| **194A** | Interest other than interest on securities | All Assessee (except those individual & HUF who are not covered u/s 44AB(a) or 44AB(b) in the preceding P Y) | ₹ 5,000, (₹ 10,000, in case the payer is a banking co./co-operative bank/post office) | At the time of Payment or credit whichever is earlier. | Non-co.: 10% Co.: 20% |
| **194B** | Winnings from lotteries, crossword puzzles, etc. | All Assessees | ₹ 10,000 | At the time of payment | 30% |
| **194BB** | Winnings from horse races | Any person being a book maker or a person who is a licensee | ₹ 5,000 | At the time of payment | 30% |
| **194C** | Consideration of any work contract | Specified persons/all assessees except those individuals and HUF (also AOP and BOI) who are not covered u/s 44AB(a) or 44AB(b) in the preceding P.Y | ₹ 30,000 for single payment or aggregate amount in the financial year does not exceed ₹ 75,000 | At the time of payment or credit whichever is earlier | In case of Advertising contract: 1% In other Case: 2% In case of sub-Contractor: 1% |
| **194D** | Insurance commission | Insurance companies | ₹ 20,000 | At the time of payment or credit whichever earlier. | If payee is a Company: 20% If payee is Other than Company: 10% |
| **194G** | Commission on sale of lottery tickets | Stockist, distributor, etc. of lottery tickets | ₹ 1,000 | At the time of payment or credit whichever earlier. | 10% |
| **194H** | Commission or brokerage | All Assessee (except those individual & HUF who are not covered u/s 44AB(a) or 44AB(b) in the preceding P Y) | ₹ 5,000 | —do— | 10% |
| **194I** | Rent | All Assessee (except those individual & HUF who are not covered u/s 44AB(a) or 44AB(b) in | Exceeds ₹ 1,80,000 in a financial year | At the time of payment or credit whichever | For use of P & M: 2% For use of other asset: 10% |

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| | | | | | |
|---|---|---|---|---|---|
| | | the preceding P Y) | | earlier. | |
| **194J** | Fees for professional or Technical Services or royalty or non-compete fee | —do— | ₹ 30,000 each in a financial year | At the time of payment or credit whichever earlier. | 10% |
| **★194LB** | Income by way of interest from infrastructure debt fund | Non-resident or to a foreign company. | Any amount | At the time of payment or credit whichever earlier. | 5% |

* Education cess @ 2% and SHEC @ 1% shall also be added.

***Notes*:**

1. Where amount is credited on the last day of accounting year, the tax amount thereon is to be deposited within two months from the end of the month in which credit is made.
2. If the amount is credited on the last day of the accounting year then the TDS certificate in Form No. 16A may be issued within one week from the end of two months from the last day of the month in which amount is credited.
3. The person responsible for deducting tax may (on request of payee) issue one consolidated certificate for tax deducted during the whole of the financial year within one month from the close of such financial year.
4. e-filing of statements is mandatory in case of:
   (a) Office of the Government, or
   (b) A company, or
   (c) A person required to get his accounts audited under section 44AB in the immediate preceding financial year or
   (d) If the number of deductees in an immediate preceding quarter is 50 or more, and optional for other assessees.

   The quarterly statement filed on computer media should be accompanied by following forms:
   Quarterly statement : Form No. 27A
   Quarterly statement of TCS : Form No. 27A
   Where other assessees file paper return, it should be accompanied by copies of the receipted challans and TDS certificates.
5. Where interest/income is credited to any account, whether called interest account, suspense account or by any other name in the books of accounts of the person liable to pay such income, such crediting shall be deemed to be credit of such income to the account of the payee.

| **Rules and forms for TDS/TCS returns** | |
|---|---|
| Verification of e-TDS/TCS | Form 27A, 27B |
| Quarterly TDS/TCS under Sec. 200(3) and proviso to Sec. 206C(3) | Form 26Q, 27EQ |
| TDS/TCS returns under Sec. 206 and 206C(5A) | Form 24Q , 26Q, 27, 27E |
| Statement of TDS/TCS to be issued to taxpayer under Sec. 203AA or Second proviso to Sec. 206C(5) | Form 26AS |

# 10. RETURN OF INCOME

| Section | Provision |
|---|---|
| Sec. 139(1) | *Company, firm and other person (if total income exceeds maximum amount which is not chargeable to tax) are required to file ROI on or before due date* |
| Sec. 139(1C)★ | ***Specified class or classes of person exempt from filing return of income***<br>*For reducing the compliance burden of small taxpayers, the Central Government has been empowered to notify any class or classes of persons who will be exempted from the requirement of furnishing a return of income.* |
| Exp. 2 to Sec. 139(1) | *Due date of filing of ROI* |
| Rule 12 | *Forms of filing the ROI* |
| 4th proviso to Sec. 139(1) | *Individual, HUF, AOP/BOI and Artificial Judicial Person required to file ROI on or before due date if GTI before claiming deductions under Sec. 10A, 10B and 10BA exceeds maximum amount not chargeable* |
| Sec. 139(3) | *Loss return* |
| Sec. 80 | *Notwithstanding anything contained in **Chapter VI,** the loss which has not been determined in pursuance of a return filed in accordance with the provisions of Sec. 139(3), shall not be allowed to be '**carried forward and set off**' under Sec. 72 or 73 or 74 or 74A* |
| Sec. 139(4) | *Belated return* |
| Sec. 139(4A) | *If the **total income** of charitable or religious trust or institution, **before exemption under Sec. 11 and 12**, exceeds the maximum amount not chargeable to tax, then the trust or institution is under an obligation to furnish the ROI within the time allowed under Sec. 139(1)* |
| Sec. 139(4B) | *In the **total income** of a political party, before exemption under Sec. 13A, exceeds maximum amount not chargeable to tax, then the political party is under an obligation to furnish the ROI within the time allowed under Sec. 139(1)* |
| Sec. 139(4C)★ | ***Return of Income of certain associations and institutions***<br>*The following amendments has been made under this Section*<br>*a. Body or authority or Board or Trust or Commission referred to in Section 10(46);*<br>*b. Infrastructure debt fund referred to in section 10 (47), shall,*<br>*furnish a return of such income of the previous year in the prescribed form and prescribed manner, if the total income before giving exemption exceeds maximum exemption limit* |
| Sec. 139(5) | *Revised return* |
| Sec. 139(9) | *Defective return* |
| Sec. 139B | *New scheme to facilitate submission of returns through Tax Return Preparers* |
| Sec. 139C | *Power of CBDT to dispense with furnishing of documents* |
| Sec. 139D | *Power of CBDT to make rules for filing of returns in e-form* |
| Sec. 140 | *Who shall sign the return?* |

| **Submission of Return of Income** | **[Sec. 139(1)]** |
|---|---|
| *Every person*<br>(a) Being a ***company*** or a ***firm***; or<br>(b) Being a ***local authority***, if its total income during the previous year exceeds the maximum amount | |

which is not chargeable to income tax; or

(c) Being a ***person other than*** a company or a firm or a local authority, if

(i) his total income or

(ii) the total income of any other person

during the previous year (without giving effect to provisions of Chapter VI-A), exceeds the maximum amount which is not chargeable to income-tax.

shall, furnish a return of his income or the income of such other person.

Such return of income must be furnished on or before the due date, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed.

| **Due date of furnishing return of income** | | **★[Expl. 2 to Sec. 139(1)]** |
|---|---|---|
| **Particulars** | | **Due date (of AY)** |
| **Company** | *Not undertaking international transaction* | 30th September |
| | *Undertaking international transaction* | 30th November |
| **Other than company** | *Where the accounts of the assessee are required under this Act or any other law to be audited or where the assessee is a working Partner in a firm whose accounts are required to be audited under this Act or under any other law for the time being in force* | 30th September |
| | *In case of other assessee* | 30th July |

**Tax Returns Preparers** **[Sec. 139B]**

→ CBDT may, by way of notification, frame a scheme providing that such persons may furnish their returns of income through a Tax Return Preparer authorised to act as such under the scheme.

→ This scheme is not applicable for a company or a person who is required to undergo a 'tax audit' or 'audit under any other law'.

→ It has also been provided that a TRP may be an ***individual*** other than a person who is

- Any officer of a scheduled bank in which the assessee maintains a current account or has regular dealings.
- A legal practitioner or
- A chartered accountant (CA).

**Return of Loss** **[Sec. 139(3)]**

→ Loss under the head PGBP or under the head Capital Gains or loss on account of owning & maintaining race horses can be carried forward only if a return of loss is furnished by the assessee within the time prescribed under Sec. 139(1).

→ Loss under the head House Property and unabsorbed depreciation can be carried forward even if the return of loss is filled after due date.

→ In short, ***for carry forward of loss it is necessary that return is filed by due date***

| **Return is *necessary* for carry forward for** | **Return is *not necessary* for carry forward for** |
|---|---|
| → Business loss | → House property loss |
| → Speculation business loss | → Loss of business specified u/s 35AD |
| → Capital gain loss | → Unabsorbed depreciation, etc. |
| → Loss on account of owning and maintaining horses | |

**Note:** (1) Sec. 139(3) read with Sec. 80 do not stop set off of loss in current year even if return is not filed it just prohibits carry forward of such loss

(2) It is to be noted that current year loss cannot be carried forward if return is not filed but in this case, losses pertaining to preceding years can be carried forward if return for these years is filed by due date.

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| **Belated Return** | **[Sec. 139(4)]** |
|---|---|

If an assessee has not submitted his return of income
→ on or before the due date mentioned under Sec. 139(1) or 142(1),
→ he can still file the return of income to be called as belated return
→ at any time before the expiry of following on the basis of whichever is earlier
- 1 year from **end of the relevant AY**, or
- before the **completion of the assessment**

} Whichever is earlier

| **Return of income of Charitable Trust and Institution** | **[Sec. 139(4A)]** |
|---|---|

*Every person who is in receipt of following income:*
→ Income from property held under trust whose income is wholly or In part only for religious or charitable purposes
→ Income by way of voluntary contribution on behalf of such trust.
→ *Must file return of income in ITR-7 if such income before allowing exemption under Sec. 11 and 12 exceeds the exemption limit must file his return of income by 30th September.*

***Consequences of failure to file return:*** Penalty of **₹ 100 per day** till default continues

| **Return of income of political party** | **[Sec. 139(4B)]** |
|---|---|

The CEO of every political party shall,
→ if the total income of the political party (computed before allowing exemption under Sec. 13A)
→ exceeds the maximum amount not chargeable to income-tax,
Furnish a return of income within the time period prescribed under Sec. 139(1).

| **Return of income of certain association and institutions** | **[Sec. 139(4C)]** |
|---|---|

The following associations or institutions are also required to furnish a return of income if their respective income (before exemption u/s 10), exceeds the maximum amount which is not chargeable to income-tax:
(1) Scientific research association referred to Sec. 10(21);
(2) News agency referred to Sec. 10(22B);
(3) Association or institution referred to in Sec. 10(23A);
(4) Any institution referred in Sec. 10(23B);
(5) Fund or institution referred to in Sec. 10(23C);
(6) Trade union referred to in Sec. 10(24)

| **Mandatory filing return of income/loss** | **[Sec. 139(4D)]** |
|---|---|

Every university, college or other institution referred to in Sec. 35,
→ Which is not required to furnish return of income or loss under any other provision of this section,
Shall furnish the return in respect of its income or loss in every previous year and all the provisions of this Act shall be treated as return furnished under Sec. 139(1).

| **Revised return** | **[Sec. 139(5)]** |
|---|---|

If an assessee, after furnishing the return of income:
(a) Under Sec. 139(1), or
(b) In pursuance of to a notice under Sec. 142(1),
Discovers any omission or any wrong statement in the return filed, he may furnish a revised return at any time
- before the expiry of 1 year from **end of the relevant AY**, or
- before the **completion of the assessment**

} Whichever is earlier

| **Landmark judgements** | |
|---|---|
| **A belated return filed under Sec. 139(4) cannot be revised**. | ***Kumar Jagdish Chandra Sinha v CIT (SC)*** |
| **A revised return can be further revised, i**f the assessee discovers any omission or any wrong | ***Niranjan Lal Ram Chandra v CIT (All)*** |

| | |
|---|---|
| statement in a revised return. | |
| **Revised return substitutes the original return** | ***Dhampur Sugar Mills Ltd. v CIT (All)*** |

| **Power of Board to dispense with furnishing documents, etc. with the return** | **[Sec. 139C]** |
|---|---|

The Board may make rules providing for
- → A class or classes of persons
- → Who may not be required to furnish documents, statements, receipts, certificates, reports of audit or any other documents, which are required to be furnished, along with the return
- → But on demand to be produced before the Assessing Officer.

| **Filing of return in electronic form** | **[Sec. 139D]** |
|---|---|

The Board may make rules providing for
(a) The class or classes of persons who shall be required to furnish the return in electronic form;
(b) The form and the manner in which the return in electronic form may be furnished;
(c) The documents, statements, receipts, certificates or audited reports which may not be furnished along with the return in electronic form but shall be produced before the Assessing Officer on demand;
(d) The computer resource or the electronic record to which the return in electronic form may be transmitted.

| **Permanent Account Number [PAN]** | **[Sec. 139A]** |
|---|---|

(1) Every person who has not been allotted a permanent account number shall, within such time, as may be prescribed, apply in Form No. 49A to the Assessing Officer for the allotment of a permanent account number in the following cases:
  (a) if his total income or the total income of any other person in respect of which he is assessable under this Act during any previous year exceeded the maximum amount which is not chargeable to income-tax; or
  (b) if he is carrying on any business or profession whose total sales, turnover or gross receipts are or is likely to exceed ₹ 5,00,000 in any previous year; or
  (c) he is required to furnish a return of income under Sec. 139(4A)
(2) The Assessing Officer, having regard to the nature of the transactions as may be prescribed, may also allot a PAN, to any other person (whether any tax is payable by him or not), in the manner and in accordance with the procedure as may be prescribed.
(3) Any other person may apply for the allotment of a PAN.

| *Power delegated to the Central Government to notify class or classes of persons for whom it will be obligatory to apply for permanent account number (PAN)* | **[Sec. 139A(1A) Sec. 139A(1B)]** |
|---|---|

| **Time limit for applying for PAN** | |
|---|---|
| *Whose Total income Exceeds exemption limit and covers the case where he is assessable for any other person* | On or before 31st May of the assessment year for which income is assessable |
| *Whose Receipts of his business and profession exceeds ₹5,00,000* | On or before end of that accounting year |
| *Trust or charitable institutions* | |
| *In any other cases* | |

**Transactions where quoting of PAN has been made compulsory**

(a) Sale/purchase of any immovable property valued at ₹ 5 lakhs or more;
(b) Sale/purchase of motor vehicle (other than two wheeled vehicles);
(c) Time deposit exceeding ₹ 50,000 with a bank/banking company/banking institution;
(d) Deposits exceeding ₹ 50,000 in Post Office Savings Bank;
(e) Contract for sale/purchase of securities exceeding ₹ 1,00,000;
(f) Opening an account with a bank;
(g) Application for installation of a telephone connection including cellular connection;
(h) Payment to hotels/restaurants of bills exceeding ₹ 25,000 at any time;

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(i) Payment in cash for purchase of bank draft or pay orders or banker's cheques for an amount aggregating ₹ 50,000 or more during any one day;
(j) Deposit in cash aggregating ₹ 50,000 or more, with a banking company during any one day;
(k) Payment in cash in connection with travel to any foreign country of an amount exceeding ₹ 25,000 at any one time.
(l) Making an application for issue of a credit card;
(m) Payment of an amount of ₹ 50,000 or more to
  (i) A mutual fund for purchase of its units, or
  (ii) A company for acquiring shares issued by it, or
  (iii) A company or an institution for acquiring debentures or bonds issued by it, or
  (iv) The Reserve Bank of India for acquiring bonds issued by it.

| **Return by whom to be signed** | **[Sec. 140]** |
|---|---|
| *Individual* | (1) The individual himself; or<br>(2) Where he is mentally incapacitated from attending to his affairs, by his guardian or any other person competent to act on his behalf;<br>(3) Where he is absent from India, by the individual himself or by some person duly authorised by him on his behalf; |
| *HUF* | (1) Only by the Karta<br>(2) Any other adult member of the family where the Karta is absent from India |
| *Company* | → The managing director or any director, if no MD or MD is not in India |
| *Firm/LLP* | → The managing partner or any partner, if no MP or MP is not in India |
| *Local authority* | → The principal officer |
| *Political party* | → The chief executive officer of such party |
| *Any other association* | → Any member of the association or the principal officer |
| *Any other person* | (1) That person or<br>(2) Some person competent to act on his behalf. |

| **Return by whom to be signed** | **[Sec. 140A]** |
|---|---|
| Every person, before submitting a return of income is under an obligation<br>→ To make a self-assessment of his income and<br>→ After taking in account the amount of tax, if any, already paid,<br>→ Pay the self-assessment tax, if due.<br>*Self-assessment tax = Total Tax Liability including interest, if any – Advance Tax Paid – TDS – TCS* | |

| **Form** | **Description** |
|---|---|
| ITR-1: SAHAJ | For individuals, whose total income includes chargeable under the head –<br>(a) "Salaries" or income in the nature of family pension under Sec. 57(iia)<br>(b) "Income from house property", where the assessee does not own more than one house property and does not have any brought forward loss under the head;<br>(c) "Income from other sources", except winnings from lottery or income from race horses. |
| ITR-2 | For individuals & HUFs not having income from Business or Profession. |
| ITR-3 | For individuals/HUFs being partners in firms and not carrying out business or profession under any proprietorship |
| ITR-4 | For individuals & HUFs having income from a proprietary business or profession. |
| ITR-4S: SUGAM | For presumptive business income covered under Sec. 44AD and 44AE |
| ITR-5 | For firms, AOPs and BOIs |
| ITR-6 | For Companies other than companies claiming exemption under Sec. 11 |
| ITR-7 | For persons including companies required to furnish return under Sec. 139(4A) or Sec. 139(4B) or Sec. 139(4C) or Sec. 139(4D). *(Not available for e-Filing)* |

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| | |
|---|---|
| ITR-V | **Indian Income Tax Return Verification Form:** This Form is to be used where the data of the Return of Income in Form ITR-1, ITR2, ITR- 3, ITR-4 and ITR-5 transmitted electronically without digital signature. |

# APPENDIX

## ASSUMPTIONS

***Note:*** *If nothing mentioned clearly in the question then make following assumptions*

| No. | Particulars | Assumption |
|---|---|---|
| **INCOME FROM SALARY** | | |
| 1. | Govt./Non-Govt. | Assume non-govt. employee |
| 2. | Gratuity | Employee is not covered under Payment of Gratuity Act |
| 3. | Pension | Un-commuted pension |
| 4. | Employees PF contribution | Basic salary is gross without deducting employees' contribution |
| 5. | Dearness Allowances | It is not under terms of employment |
| 6. | Dearness Pay | It is under terms of employment |
| 7. | Specified Allowances (*Travelling Allowances*, *Daily Allowances*) | If expenditure not given assume that fully expended for official purpose |
| 8. | HRA, city in which house taken on rent | Assume 40% (*For any other place*) |
| 9. | Rent free Accommodation | If nothing is mentioned or only Fair Rent Value given than assume that owned by employer and if Actual Rent or Lease Rent given then not owned by employer |
| 10. | Rent free Accommodation | If owned by employer and population not given then assume that in city of more than 25,00,000 |
| 11. | Interest free loan | If rate of interest of SBI not given assume to be 12% p.a. |
| 12. | Education facility | Employer has no contract with the school and it is not maintained by employer |
| 13. | Medical facility | In any other hospital and exemption upto ₹ 15,000 |
| **INCOME FROM HOUSE PROPERTY** | | |
| 1. | Interest for self-occupied property | Loan was taken before 1/4/1999 |
| 2. | Recovery of unrealized rent | Covered u/s 25A |
| **INCOME FROM OTHER SOURCES** | | |
| 1. | Debentures | Non-listed at any recognized stock exchange |
| **SET-OFF OR CARRY FORWARD OF LOSSES** | | |
| 1. | Business Losses | Non-speculation Business Losses |

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# MEANING OF RELATIVES

| *No.* | *Particulars* | *Meaning of Relative* |
|---|---|---|
| | **INCOME FROM SALARY** | |
| **1.** | Prescribed fringe benefits | Member of household<br>(a) Spouses<br>(b) Children and their spouses<br>(c) Parents<br>(d) Servants and dependents |
| **2.** | Medical facilities and leave travel concession | (a) The spouses & children<br>(b) Parents, brothers and sisters of the individual wholly or mainly dependent on the individual |
| | **PROFIT & GAIN FROM BUSINESS OR PROFESSION** | |
| **1.** | Payment to specified persons [Sec. 40A(2)] | Specified person means relative, partner, director or person having substantial interest or relative of any such person (*Any relative i.e., spouse, any brother, sister lineal ascendant or descendant of such individual*) |
| | **INCOME FROM OTHER SOURCES** | |
| **1.** | Gifts (in money) [Sec. 56(2)] | (a) Spouse of the individual<br>(b) Brother or sister of the individual<br>(c) Brother or sister of spouse of the individual<br>(d) Brother or sister of either of the spouse or the individual<br>(e) Any lineal ascendant or descendant of the individual<br>(f) lineal ascendant or descendant of spouse of the individual<br>(g) Spouse of the person referred to in clauses (b) to (f) |
| | **CLUBBING OF INCOME** | |
| **1.** | Substantial Interest | Individual, spouse, brother, sister or lineal ascendant & descendant |
| | **DEDUCTIONS** | |
| **1.** | Life Insurance Premium [Sec. 80C] | LIP on life of himself, spouse and children.<br>In HUF: any member of family |
| **2.** | Medical Insurance Premium [Sec. 80D] | (1) Individual, spouse, parents (whether dependent or not), dependent children<br>(2) In case of HUF: in the name of any member |
| **3.** | Sec. 80DD & Sec. 80DDB | (i) Individual, spouses, children, parents, brother and sister<br>(ii) In case of HUF, any member of HUF |
| **4.** | Sec. 80E | Spouse, children of individual |

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# AMENDMENTS HIGHLIGHTS

| Section | Amendments |
|---|---|
| *Rates* | Refer Page No. 3 |
| 2(15) | The **monetary Limit of permissible receipt from trading activity** for an institution with an object of "*Advancement of* ***any other object*** *of general public utility*" and engaged in charitable purpose u/s 2(15) have been **increased from ₹ 10 lakh to ₹ 25 lakh** to retain its "charitable status" w.e.f. A Y 2012-13. |
| 10(45) | **New clause 45** to Sec. 10 has been inserted to enable the exemption of specified allowance to **Chairman** or a **retired chairman** or any other **member or retired member of Union Public Service Commission** for the **allowance and perquisites as noti fied** by central government. (WEF retrospectively from AY 2008-09) |
| 10(46), 10(47), 139 (4c) | → **New clause 46** to Sec.-10 has been inserted to enable the exemption of **income arising to a notified body or authority or Board or Trust or Commission to the extent as notified** by central government. (WEF 1st June-2011)<br>→ **New clause 47** to Sec. 10 has been inserted to enable the **exemption of income of notified infrastructure debt fund by central government.** (WEF 1st June-2011).<br>→ **Filing of return to such body or authority** would be liable **u/s 139(4C)** which has been amended via Finance Act, 2011, **within time period prescribed u/s 139(1), if its total income exceed above basis exemption limit without giving effect of Sec. 10(46), 10(47).** |
| 35(2AA) | The limit of **weighted average** deduction has been increased from **175% to 200%** WEF AY 2012-13. |
| 35AD | → The scope **have been extended** to include the following to **Developing and building a house project** under a **notified scheme** of CG and SG. **Production of fertilizer in India** (**The new plant or new capacity should be started on or after 1st April, 2011**) effective from AY 2012-13(In respect of existing provision to this section **in the business of hotels and hospitals** the word **"New" have been removed from the definition of specified business** .<br>→ Loss of assessee claiming deduction u/s 35AD **can be set-off** against the profit of any other ***specified business*** u/s 73A ***irrespective of whether any other specified business is eligible for deduction u/s 35AD or not.*** |
| 36(1), 40A(9), 80CCE | → **Employers contribution** to the account of the employee under a pension scheme **to in Sec. 80CCD** will be **deductible as a business expendi ture** under newly inserted clause (iva) in Sec. 36(1) subject to maximum of 10% salary of employee in PY (For this purpose salary will include DA, if the terms of employment provides so) WEF AY 2012-13<br>→ Consequently Sec. **40A(9) has been amended to provide the effect to the above proviso**.<br>→ **Sec. 80CCE has also been amended** to provide the effect to the above proviso where the deduction of sum provided under this proviso to employee will be over and above the limit of ₹ 1 lakh. |
| 80CCF | **Extension in duration** for investment in long-term infrastructure bond **for one more year**. |
| 80IA | The **time limit u/s 80-IA(4)(iv) have been extended by one year** i.e. **from 31.3.11 to 31.3.12** to enable the undertakings which have started the power business during the period from 1.4.11 to 31.03.12 |
| 80IB | A new sunset clause has been added under the Sec. 80IB(9) under which **no deduction will be allowed under this Sec. for the commercial production of mineral oil for which the license under a contract have been awarded after 31st March, 2011.** ***Effective from AY 2012-12*** |
| 92C | ***5%*** **variation %** ***have been substituted with as such % notified by CG.*** From AY 12-13 |
| 92CA | The **powers of Transfer Pricing Officer have been broaden** to empower him **to determine the ALP of other international transaction, identified subsequently in course of proceedings before him and conduct a survey upon income-tax authority u/s 133A** .(Effective from 1st June, 2011) |
| 94A | ***New Sec. 94A:-*** To **discourage assesses** from **entering into transaction** with **persons located into countries and territories where no effective mechanism of communication exist with India.** CG have been empowered to notify any such country as NJA (Notified Jurisdictional Area). **Any transaction done with person located in NJA would be deemed to be an international transaction** and all parties will be deemed to be associated enterprises and all the **provision of the transfer pricing will be applicable to such transaction except the benefit of Sec. 92C(2)** ***(Effective from 1st June, 2011)*** |
| 115JB | **MAT has been increased from 18% to 18.5%.** WEF AY 2012-13 |
| 115JBBD | ***New Sec. 115BBD:- Concessional rate of tax on dividend*** Where any **specified foreign company** |

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| | |
|---|---|
| | (the foreign company in which Indian company holds 26% or more in nominal value of the equity share capital of the company) **declares dividend and such dividend** (gross dividend that no expenses will be allowed in such respect) **is received by Indian company** then it shall be subject to **concessional rate of 15% as against the existing rate of 30%.** W.e.f. AY 2012-13 |
| 115O, 115JB, 10(34) | A sunset clause for SEZ have been introduce to **remove for MAT exemption from AY 2012-13** and **remove DDT exemption for dividend declared, distributed or paid on or after 1st June, 2011**. Since DDT will be levied u/s 115O in that case dividend declared, distributed or paid on or after 1st June, 2011 by SEZ or dividend received by SEZ will be exempt in the hand of recipient u/s 10(34) ***(dividend declared before 1st June, 2011 and paid on or after 1st June, 2011 would not attract DDT provision)*** |
| 115R | Increase in rate of additional Income-tax on income distributed by a **debt fund, mutual fund, money market fund or liquid fund to a person other than individual or HUF** has been increased from **25% to 30%** w.e.f. 1st June, 2011. (Income from equity oriented fund is exempt from tax) |
| 115JC to 115JF | **New Sec. (Alternate Minimum tax on LLPs) LLP to be subject to AMT @ 18.5%.** A report on or before due date u/s 139(1) from chartered accountant required certifying that adjusted total income and AMT have been computed according to provision of this chapter. All other provision of advance tax, interest etc. shall continue to apply. Carry forward and set-off up to a maximum period of 10 AYs. No interest will be paid on such tax credit. ***Effective from AY 2012-13*** |
| 131, 133, 153 & 153B | **(Powers for facilitating collection of information on request from tax authorities outside India)** The time limit of six month or actual receive of information, whichever is less have been removed in getting the information from the income-tax authorities outside India. **(Effective from 1st June, 2011)** |
| 139(1) | → **Extension of due date for the *corporate assesse* for filing of report u/s 92E in the Form 3CEB and return u/s 139(1) undertaking the *international transaction* extended from 30.09.11 to 30.11.2011.**<br>→ **Time limit u/s 43B & TDS deposit to avoid disallowance u/s 40(a)(ia) also extended to 30.11.2011. w.e.f. AY 2012-13** |
| 139(1), 296 | CG empowered to notify the class or classes of persons exempted from the requirement of filing of return. |
| 143 | **The time limit for issue of notification by CG u/s 143(1B) extended from 31.3.11 to 31.3.12.** |
| 245C | The limit for applying to Settlement Commission in case of Sec. 153A, 153B and 153C the limit of **₹ 50 lakh of specified person against who is subject matter to search. Where the applicant is related person/entities to the specified person** and proceeding also have been initiated in his case as a result of search can apply before settlement commission if add. Income tax on income disclosed exceed **₹ 10 lakh**. **Effective from June 2011** |
| 245D | The settlement commission may amend any order passes by it u/s 245D to rectify any mistake apparent from record within six month from the date of order and follow natural justice principle ***(Effective from June, 2011)***<br>***Note: A similar amendment have been made in Wealth-tax Act-1957*** |
| 282B | **Omission of Sec. 282B of requirement to quote DIN by Finance Act, 2011** |
| 285 | ***A new Sec. 285:*** W.e.f. 1st June, 2011 Non-resident to file a statement to AO, within 60 days from the end of financial year, providing the details in respect of activities carried out by the liaison office in India |
| Sch. 4 | The time limit for a recognized provident fund, where the recognition have been received on or before 31.03.2006, for satisfying conditions has been extended from 31.12.2010 to 31.03.2011 |

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# PART 2A: SERVICE TAX

SUPER SUMMARY

**FOR IPCC MAY/NOVEMBER 2012**

**(INCLUDING AMENDMENTS)**

FOR AY 2012-13

**Prepared by:** Bhavin Pathak

# PART 2A. SERVICE TAX

## 1. BASIC CONCEPTS

| **Important Sections, Rules and Forms** | | |
|---|---|---|
| ***Section*** | ***Particulars (Sections referred to Finance Act, 1994)*** | |
| Section 64 | Extent, commencement and application | |
| Section 65(105) | Taxable Services | |
| Section 66 | Charge of Service Tax | |
| Section 67 | Valuation of Taxable services for charging Service Tax | |
| Section 68 | Payment of Service Tax | |
| Section 69 | Registration | |
| Section 70 | Furnishing of return | |
| Section 71 | Scheme for Submission of Returns through Service Tax Preparer | |
| Section 72 | Best Judgment Assessment | |
| Section 73A | Service Tax collected from any person to be deposited with Central Government | |
| Section 73B | Interest on amount collected in excess | |
| Section 74 | Rectification of mistake | |
| Section 75 | Interest on delayed payment of Service Ta | |
| Section 76 | Penalty for failure to pay service tax | |
| Section 77 | Penalty for contravention of rules and provisions of Act for which no penalty is specified elsewhere | |
| Section 78 | Penalty for suppressing value of taxable service | |
| Section 80 | Penalty not to be imposed in certain cases | |
| Section 93 | Power to grant exemption from service tax | |
| ***Rules*** | ***Particulars*** | ***Related Section*** |
| Rule 2 | Forms | Section 68 |
| Rule 4 | Registration | Section 69 |
| Rule 5 | Records | Section 70 |
| Rule 6 | Payment of Service tax | Section 68 |
| Rule 7 | Returns | Section 70 |
| Rule 7B | Revision of return | |
| Rule 7C | Amount to be paid for delay in furnishing the prescribed return | |
| ***Forms*** | ***Particulars*** | |
| ST 1 | Application | |
| ST 2 | Registration Certificate | |
| ST 3-3A | Return | |
| TR 6-GAR 7 | Payment of Service Tax | |

**Why Service Tax?**

- → Services constitute a very good spectrum of economic activities.
- → The share of the services sector in the real GDP s higher than agriculture and industrial sector.

**Why Service Tax Needed?**

- → With the increasing role of service sector and its contribution to GDP, the government felt that this sector should not be untaxed
- → This decision also make tremendous revenue potential to the government
- → It is expected that in due course, service tax would be reduce the tax burden on international trade and domestic manufacturing sector
- → So a planned growth of service tax would be commensurate with the goals of economic utilization and globalization

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**Beginning**

Service tax in India made a humble beginning from 1st July, 1994 with only three services being covered in the organized sector like telephone, general insurance and stock broking

**Deferent approaches to Service Tax**

→ There are two approaches to service tax\
  - **Selective approach:** Only selective services are subjected to service tax. Till Finance Year 2012 India follows the selective approach of taxing selected service only.
  - **Comprehensive approach:** All services are taxable and a negative list is specified for services, which are not taxable *(This will apply from FY 2012).*

→ Service tax is levied on the specified service and is paid by the service provider except in a few cases when the service receiver pays it\
→ The liability to pay service tax is there even if it is not collected from customer\
→ Central board of excise & Customs (CBEC) regulates service tax matter

**Nature of Service Tax**

→ Service tax is a tax on service.\
→ Service means value addition to a product that is intangible\
→ If there is no service, there is no tax.\
→ There is no service tax act; service tax is imposed by amending chapter V of finance act 1994 from time to time.\
→ There is also no provision of deduction of tax at source from service tax\
→ For charge of service tax, one has to know
  - What is taxable service and,
  - Value of service.

→ Service tax is payable only and only on taxable service.

**Features of Service Tax**

→ Indirect tax\
→ No separate act: Central govt. has power to make rules to carry out ST act\
→ Administrated by CBEC\
→ Uniform rate: 10% Service tax + 2% EC + 1% SHEC = 10.30% actually\
→ No double taxation\
→ Service falling under two or more sub clauses can't taxed twice\
→ Not applicable in Jammu & Kashmir\
→ Chargeable on taxable service\
→ Small service provider excluded: A threshold limit of ` 10 lakh has been provided\
→ Taxable service/value: Taxable service and value have been specially defined\
→ Tax is generally payable by service provider\
→ Self-assessment\
→ Exemption by notification: Power have been given to government to exempt from service tax in appropriate cases by special notification\
→ Voluntary compliance: There is reliance on collection of tax primarily through voluntary

**Extent and Application** **[Sec. 64]**

→ Service tax introduced by virtue of Chapter V of the Finance Act, 1994, extends to the whole of India except to the state of Jammu and Kashmir\
→ Service provided in the state of Jammu and Kashmir from any other state are not subject to service tax. However service provided from Jammu and Kashmir to other state are subject to service tax\
→ Service provided beyond the territorial waters of India were not liable to service tax provision but under a notification issued in 2002, the service tax provisions have been extended to designated areas in the continental shelf and exclusive economic zones of India. The exclusive economic

zone extends up to 200 nautical miles inside the sea from base line.
→ Service provided within the territorial water of India are subject to service tax in the same way as services provided in India are taxable.
→ India includes territorial waters extended up to 12 nautical miles from the Indian land and mass

| **Basis of charge of Service Tax** |
|---|
| → The rate of service tax is applied on the value of taxable services provided or to be provided |
| → There is a uniform rate of service tax on all services currently it is 10.30% |
| → The cess paid on input services is allowed as credit for payment of cess on output services. |

| **Valuation of Taxable Services** | |
|---|---|
| → The consideration for a taxable service shall be the gross amount charged by service provider for the service provided or to be provided. | |
| → *Consideration in terms of money:* Gross amt. charged by service provider | |
| → *Consideration is not in terms of money:* The value of taxable service shall be the amount of money as with addition of service tax charged, is equivalent to consideration | |
| **Consideration is not ascertainable than value of taxable service will be on valuation basis like** | |
| ***When service provider provides similar service to any other*** | valuation on the basis of charged by the service provider from other person |
| ***In any other case*** | Shall determine equivalent money value of such consideration |

→ If service provider not charged service tax separately n invoice than,

$$\text{Valuation of taxable services} = \frac{\text{Gross amt. charged}}{100+10.30} \times 100$$

→ When any expenditure are incurred by the service provider in the course of a providing taxable service, all such expenditure are included in the value for the purpose of charging service tax on said services however, the value of any taxable service does not include the following
- Expenditure incurred by service provider as a pure agent of recipient of service
- Deposit made by the subscriber of telephone connection
- Air fare collected by air travel agent in respect of service provided by him
- Rail fare collected by rail travel agent in respect of service provided by him
- Interest of loans
- Amount collected by service provider on account of late payment by the recipient.

→ The gross amount charged for the taxable service can be restricted before, during or after the provision of taxable service.
→ Gross amount charged includes payment by cheque, credit card, deduction from account and any form of payment by issue of credit notes and book adjustments.

| **Computation of Service tax** | |
|---|---|
| **Step 1:** | Find out value of taxable service |
| **Step 2:** | 10.30% value of taxable service is the quantum of service tax |
| **Step 3:** | Again the tax liability calculated & Step 2, one can claim credit for service tax paid on input service subject to a few condition. |

| **Partial abatement of Service Tax** | | | |
|---|---|---|---|
| ***Service*** | ***Who can take benefit*** | ***Rate*** | ***Is it optional*** |
| *Air travel agent* | Person liable for paying service tax in relation to service provided by an air travel agent | 0.6% - domestic booking<br>1.25% - international booking | If ones this potion select than, It charged for a whole FY and for all bookings. |
| *Life insurance* | Policy holder | 1% of gross amount of premium | Only for risk cover premium |
| *Purchase or sale of foreign* | Authorized money changer or foreign | 0.25 % of gross amount of currency exchanged | |

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| | | | |
|---|---|---|---|
| *currency, money changer* | exchange broker | | |
| *Works contract* | Person liable to pay service tax | 4 % gross amount charged for work contract | If one exercise it shall be applied for entire contract. |
| ***Partial abatement available vides notification no. 1/2006:*** 1st march, 2006 service tax abatement is available in some cases. However service tax provider cannot take CENVET credit of such duty/tax on inputs. Input service & Capital goods used for providing such taxable service | | | |

**How service tax is paid?**

→ Service tax is payable on receipt basis. As is an indirect tax, it s payable by the service provider but it is recovered from recipient of service
→ *Credit for Input Service:* Output and input service fall within the same category
→ Registration
- Person liable to pay service tax is required to register.
- In case of non-resident, who do not have office in India but liable to pay service tax in India, this burden of shifted to recipient of service

→ *Payment Schedules of service tax:* Every person providing taxable service is liable to pay service tax to the central government

**Exception**

| ***Notified service*** | ***Person liable to paying*** |
|---|---|
| *Telecommunication* | Director general of post & Telegraph<br>MTNL chairmen<br>Any person who granted license by Govt. for service |
| *General Insurance business* | Insurer or reinsurance providing such service |
| *Insurance auxiliary service provider by an insurance agent* | Person who carrying general insurance business or life insurance business |
| *Service provided by any person from a country other than India* | Recipient of such service |
| *Service in relation to transport of goods by road in a goods carriage* | Any person who pays or liable to pay freight either himself or through his agent. |
| *Sponsorship Service* | Who receive such sponsorship service |

**Registration requirements**

The following person must
→ Person liable to pay service tax
→ Input service distributor: Head office
→ Every provider of taxable service whose aggregate value of taxable service in a FY exceeds ₹ 9 Lakh

**Form of application**

The application for registration is required to be made in duplicate form ST-1 with
→ A copy of PAN
→ Proof of address
→ Constitution of applicant (Partnership Deed, AOA, MOA)

***Time limit for making application***

| ***Particular*** | ***Time*** |
|---|---|
| ***Person who liable to pay service tax*** | Within 30 days from the date on which charge of service tax is bought into force |
| ***Input Service distributor*** | Within a period of 30 days of the commencement of business or 16th June 2005 whichever is later |

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| | |
|---|---|
| ***Small Service Provider*** | Within a period of 30 days of the date in FY on which the aggregate value of service exceeds ₹ 9 Lakh |

**Time limit for granting registration**

→ The department is required to issue the registration certificate in form ST-2, within 7 days of the receipt of the application
→ In case failure to issue certificate assessee can carry his activities with a "deemed" registration.

**Centralized Registration Process**

Central office or premises registered if accounting is centralized.

| ***Particular*** | ***Situation*** |
|---|---|
| When more than one service is provided | Single application is sufficient |
| When information is to be change or added | Writing an application to assistant of CBSE within 30 days of such change |
| When assessee stop to provide taxable service | Surrender the registration certificate immediately |

**Tax to be paid on amounts actually received**

→ Service provider charges service tax on the amount of bill raised on his client, service tax is payable to the government on the amount actually received towards value of taxable service.
→ It is thus, not payable on amount charged in the Bills/Invoice but on the amount actually received

**No Service Tax on free services**

If service is given free of charge than service tax is not payable.

**Payment of service tax if not collected from client**

$$\text{Service tax} = \frac{\text{Gross amt. charged}}{100+10.30} \times 10.30$$

$$\text{Valuation of taxable tax} = \frac{\text{Gross amt. charged}}{100+10.30} \times 100$$

**Service tax payments received on advance**

→ Service tax is payable as soon as advance is received even if service I provided later
→ If when service is not taxable at the time of receipt of advance but become taxable at the time of providing service than advance received is apportioned between two periods *(When Service was not taxable and become taxable)* and tax is paid on the part of service which is provided on or after the service becomes taxable
→ If advance is received but no service provided than Service tax paid in advance shall be refunded.
  - Payment of service tax collected in excess to be paid to the central government.

**Due dates for payment of Service Tax**

| ***Individual, Proprietary, Partnership Firm*** | | | ***Any Other (Corporate Assessee)*** | | |
|---|---|---|---|---|---|
| *Quarter* | *E-payment Due* | *Due Date* | *Month* | *E-payment due* | *Due date* |
| 1st Apr. to 30th June | 6th July | 5th July | April | 6th May | 5th May |
| 1st July to 30th Sep. | 6th Oct. | 5th Oct. | May | 6th June | 5th June |
| 1st Oct. to 31st Dec. | 6th Jan. | 5th Jan. | | | |

**Manner of payment of Service Tax**

→ Assesses has to pay service tax in the bank designated by CBEC in form TR-6, or any other manner is prescribed by CBEC.
→ Form TR-6 is yellow in colour.
→ Multiple service providers can use a single TR Challan.
→ E – Payment of Service Tax
  - GR – 7 challan used instead of TR-6 Challan

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- From 1st January 2006. In case of assesses who paid service tax of ₹ 50 Lakh or more in the preceding FY have already paid during current year must make payment through E-payment

→ Payment By Cheque: The cheque should be deposited with the designated bank on or before the due date

→ Rounding off
- Includes 50 paisa or more rounded off to ₹ 1
- Less than 50 paisa ignored

**Adjustment of service tax**

| *When no service tax is paid* | *When excess amount of service tax is paid for other reason* |
|---|---|
| Service provider can adjust the excess service tax paid by him against his service tax liability for the subsequent period if the following two condition are satisfied<br>→ Assesses has no rendered service wholly or partly<br>→ Value of taxable service along with service tax has been refunded by the service provider | → A assesses is allowed to adjust the excess service tax paid by him for the subsequent period. *(With effect from 1st march 2007)*<br>→ Self-adjustment facility has been extended to all assesses subject to following condition<br>• If adjustment are other than interpretation of law, taxability, classification, valuation on applicability of any exemption notifications<br>• Adjusted amount should be made only in succeeding month/Quarter.<br>• Adjustment amount should not exceed ₹ 1,00,000 for the relevant month/Quarter<br>• The detail of self-adjustment should be intimated to officer within 15 days from the date of adjustment.<br>→ Centralized registration can adjust the excess service tax paid without any monetary limit |

**Provisional payment of Service Tax**

→ If assesses is unable to correctly estimate the amount of tax payable by him, he can request in writing to the commissioner of CBSE for payment of service tax on provisional basis

→ In such cases, the assesses has to submit a memorandum in form ST-3A giving detail of difference between service taxes deposited and service tax to be paid for each month/Quarter.

**Interest on late payment of Service Tax** **[Sec. 75]**

In case of delay in payment of service tax, interest shall be charged @ **18% p.a.** after the expiry of the due date till the date of payment of tax.

★ However, a concessional rate of 15% p.a. is available for an assessee whose taxable value of turnover does not exceed ₹ 60 lakhs during any of the year covered in the notice or the preceding financial year. *[Inserted by the Finance Act, 2011 w.e.f 8.4.2011]*

**General exemptions from Service Tax** **[Sec. 93]**

*The central government can grant total or partial exemptions to taxable services following are general exemptions:*

→ Services provided by united nation or an in international organizations

→ Service provided to developer or units of special economic zone
- The central government has granted full exemption to the service provider who provided taxable service to a developer of SEZ
- He exemption is granted subject to the following condition
  - The developer has been approved by the board
  - The unit of SEZ has been approved by the development commission of SEZ

- The developer or unit of SEZ shall maintain proper account of receipt & utilization of the said taxable services

→ Goods & materials sold by service provider to recipient of service
- If provider sold goods than that amount is not included in the taxable service amount
- The sale value of goods and material sold as a part of service must be shown separately in the bills raised on the recipients.

→ Exemption for small service provider
- The service provider whose turnover is less than ₹ 10 lakh in the previous year will be exempt from service tax up to ₹ 10 lakh in next FY

→ Service provided by reserve bank of India

→ Exemption to technology business Incubator, Science and Technology Entrepreneurship park (STEP) and Incubates
- STEP – Software developer Company
- Incubates - Who help for development of IT
- Exemption is granted to incubates subject to following condition
  - Incubates should be located within the premises of the incubator
  - Total business turnover of incubates entrepreneurship does not exceed ₹ 50 Lakh during the preceding financial year.
  - The exemption is avail to incubate for a period of 3 year.

→ Services provided by a digital cinema service provider.
- If service rendered by satellite, microwave or global communication line that's only exempt but physical means including CD/DVD that's not exempt.

→ Service provided by Residential welfare association
- Monthly contribution does not exceed ₹ 3000 p.m.

→ Drug & Medicine Produces

**What is provision pertaining to returns?**

**Furnishing of returns:** Who paid tax are must file the return

**Form of Return:** ST-3

**Periodicity for filing return:** Half year basis – April to September
October to March

**Due dated for filing return**

→ 1st April to 30th Sep. – 25th Oct is Due Date

→ 1st Oct. to 31st Mar. – 25th April is Due Date

→ If the 25th April or 25th Oct. is a public holiday, than filled on the immediately succeeding working day.

**Contents of Return**

→ Half Year Period detail

→ Name of the Assesses, Registration No.

→ Category of Taxable Service

**Documents submitted along with return**

→ Copies of TR-6 challan indicate payment of service tax for Month/Quarter

→ Memorandum in form ST-3A (in case of Provisional Assessment)

**First Return:** At first time furnish all the accounts which maintained by assesses are inform to the officer

**Return when no service provided:** Must file a NIL return

**Return in case of multiple service:** Service wise detail should be given in the return instead of Single figure

**Revised Return:** According to Rule 7B of Service tax rules it allows to assesses to rectify mistakes and file a revised return in form ST-3, in triplicate within 90 days from the date of filing the original return

**E-Filing of return:** Assesses should have a 15 digit STP code for e-filing

**Penalty for late filing of return:** Overall maximum limit is ₹ 2,000

| *Delay* | *Penalty* |
|---|---|
| Up to 15 Days | ₹ 500 |
| 15 to 30 Days | ₹ 1000 |
| 31 Days and On | ₹ 1000 to ₹ 100/day from 31st day onwards but the total penalty cannot exceed ₹ 2000 |

| **When person is liable to pay tax?** | |
|---|---|
| ***Particular*** | ***Penalty*** |
| *For non-Payment or Late Payment* | • ₹ 200 per day during which failure contains, or } Whichever<br>• Interest is charge 2%p.m. which the failure contains } is higher<br>But the penalty cannot exceed the amount of service tax which was payable. penalty can be waived or reduced if proper cause is shown |
| *Penalty for non-Obtain Registration for not furnishing required information* | • ₹ 5,000 or } Whichever<br>• ₹ 200 per day } is higher |
| *For non-maintenance of books of account and documents. For Failure to pay tax electronically when required. Penalty for issuing incorrect invoice.* | Liable to penalty which may extent to ₹ 5000 |
| ***Other Points:***<br>→ Interest and penalty paid within 30 days from the date of communication of order of the central excise officer. The amount of above penalty shall be 25%<br>→ If this penalty is payable, penalty for non-payment or late payment service tax cannot be imposed. | |

| **What is a role of Chartered Accountant?** |
|---|
| → Advising Clients<br>→ Procedural Requirements<br>→ Personal representation: Appear before the assessment authority for appeal<br>→ Certification and Audit<br>→ Constant updating of Law and Provisions |

| **Challenges before the Service Tax Administration in India** |
|---|
| → Service tax is said to be the tax of 21st century because of its potential to raise revenue for the government it is open for a number of challenges.<br>→ A few of them are related to the nature and growth while others to procedural aspects of the service tax collection.<br>→ In order to speed up and smoothen the service tax administration in India, it is required that exists a separate legislation along with distinct mechanism that exclusively looks after collection of Service tax<br>→ A separate legislation would bring greater clarity in service tax procedure and promote govt. revenue from tax collection along with tax environment<br>→ The twin goal of revenue maximization introduction of the culture of voluntary tax compliance also throw up major challenge before the service tax administration in the country.<br>→ Services are by nature, intangible & Spread across the nation in both organized and unorganized sector.<br>→ Service provides in all sectors cannot easily identified & Brought under the Tax Net<br>→ Some services are provided by people with low education level who cannot easily follow the tax administration provision. |

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# 2. POINT OF TAXATION RULES, 2011

**Applicability**

The Point of Taxation Rules, 2011 shall not be applicable-

(a) Where the provision of service is completed; or

(b) Where invoices are issued, prior to 1.4.2011.

Further, While this rules shall come into force from 01.04.2011. However, there is an option to the assessee under rule 9 to pay tax on payment basis as per old provisions till 30.6.2011, for those services which are provided on or before 30.6.2011 or for those services for which invoices are issued upto 30.6.2011.

(c) "Invoice" means the invoice referred to in rule 4A of the Service Tax Rules, 1994 and shall include any document as referred to in the said rule;

**Rule 4A** **Time limit for issue of invoice/bill/challan:**

The invoice/bill/challan shall be issued within 14 days from the date of completion of service or payment receipt, whichever is earlier. However, ***in case of continuous supply of service, the invoice/bill/challan shall be issued within 14 days of the date when each event specified in the contract, which requires the service receiver to make any payment to service provider, is completed.***

**Rule 3** **General rule for determination of point of taxation**

***Unless otherwise provided the point of taxation shall be***

| *If invoice is issued within 14 days from the date of completion of service* | *If Invoice is not issued within 14 days from the date of completion of service.* |
|---|---|
| Date of invoice or Date of payment — whichever is earlier | Date of completion of services or Date of payment — whichever is earlier |

***Explanation:*** Where any advance is received by whatever name known is received by the service provider towards providing taxable service, the point of taxation shall be the ***date of receipt of each such advance.***

**Rule 7** **Point of taxation in case of receipt basis in certain cases**

**Notwithstanding anything contained in these rules, in the following cases the point of taxation shall be on receipt basis.**

**(a) In case of Export of Service:** However, this rule is not applicable where payment is not received within the period specified by the RBI.

**(b) Cases where recipients are liable to pay service tax:** However, this rule is not applicable where the payment is not made within a period of 6 months of the date of invoice.

**(c)** Individuals or proprietary firms or partnership firms providing taxable services in respect to –

(i) Architect Service
(ii) Interior decorator service
(iii) Practicing CA/CWA/CS Service
(iv) Scientific or technical consultancy service
(v) Legal Consultancy Service;
(vi) Consulting Engineer

**Proviso to Rule 7** **Point of taxation in case of associate enterprise**

In case of "associated enterprises", where the person providing the service is located outside India, the point of taxation shall be the date of credit in the books of account of the person receiving the service or date of making the payment whichever is earlier.

***Note:*** "Associated enterprises" shall have the meaning assigned to it in section 92A of the Income Tax Act, 1961

**Rule 5** **Payment of tax in case of new services**

Where a service (except services covered under rule 6), is taxed for the first time, then, –
(a) No tax shall be payable to the extent the invoice has been issued and the payment received against such invoice before such service became taxable;
(b) No tax shall be payable if the payment has been received before the service becomes taxable and invoice has been issued within the period referred to in rule 4A of the Service Tax Rules, 1994.

**Rule 6 Point of taxation in case of continuous supply of services**

(1) The point of taxation shall be same as that of Rule 3.
(2) How to determine the date of completion of service in case of "Continuous Supply of service"?

**Notwithstanding anything contained in rules 3, 4 or 8**, In case of "***continuous supply of service***" where the provision of the service is determined periodically on the completion of an event in terms of a contract, which requires the service receiver to make any payment to service provider, the date of completion of each such event as specified in the contract shall be deemed to be the date of completion of service.

For instance, in the case of construction services if the payments are linked to stage-by-stage completion of construction, the provision of service shall be deemed to be completed in part when each such stage of construction is completed. [Example given under CBEC Circular]

"**Continuous supply of service**" means–
(a) Telecommunication service
(b) Commercial or industrial construction
(c) Construction of residential complex
(d) Internet Telecommunication Service
(e) Works contract service
(f) Any other service, which is provided, or to be provided continuously, under a contract, for a period exceeding 3 months

**Rule 4 Point of taxation in case of change in effective rate of tax**

*Notwithstanding anything contained in rule 3, the point of taxation in cases where there is a change in effective rate of tax in respect of a service, shall be determined in the following manner, namely:*

**[A]** ***Where service has been provided before the change in effective rate of tax***

| ***Situation*** | ***Point of taxation rules*** |
|---|---|
| *(Invoice issued + Payment received) after the change in effective rate of tax.* | Date of payment or issuing of invoice, whichever is earlier |
| *Invoice issued before but payment is received after the change in effective rate of tax.* | Date of issuing of invoice |
| *Invoice issued after but Payment is received before the change in effective rate of tax.* | Date of payment |

**Note:** ***For practical point of view you may remember point of taxation shall be earlier of the following – whatever may be the situation***
**(1) Issue of invoice; or (2) Date of payment.**

** As per Rule 5B of Service Tax Rules, 1994, the applicable rate of duty shall be the rate prevailing at the date of point of taxation.*

**[B]** ***Where service has been provided after the change in effective rate of tax***

| ***Situation*** | ***Point of taxation rules*** |
|---|---|
| *(Invoice issued + Payment received) before the change in effective rate of tax.* | Date of receipt of payment or date of issuance of invoice, whichever is earlier |
| *Invoice issued before but payment received after change in effective rate of tax.* | Date of payment |
| *Invoice issued after but Payment is received before the change in effective rate of tax.* | Date of issuing of invoice |

***Notes:*** "**Change in effective rate of tax**" shall also include change in that portion of value on which tax is payable in terms of an exemption notification or rules made in this regard.

Therefore it includes
(1) Change in rate of service tax
(2) Change in rate of abatements from the value of service (including grant thereof or withdrawal)
(3) Change in rate of composition scheme.[i.e., either the values or the rates]
(4) Any other notification which is issued, rescinded or amended and has the effect of altering the taxability of any service.

| **Rule 8** | **Point of taxation in case of copyrights etc.** |
|---|---|
| In respect of royalties and payments pertaining to copyrights, trademarks, designs or patents, where the whole amount of the consideration for the provision of service is not ascertainable at the time when service was performed, and subsequently the use or the benefit of these services by a person other than the provider gives rise to any payment of consideration, the service shall be treated as having been provided each time when a payment in respect of such use or the benefit is received by the provider in respect thereof, or an invoice is issued by the provider, whichever earlier. | |

## 3. TAXABLE SERVICES FOR IPCC MAY/NOV. 2012 EXAMINATION

| **[1]** | **Commercial Training and Coaching Services** | **[Sec. 65(105)(zzc)]** |
|---|---|---|
| ***Means*** | Any Institute or establishment providing commercial training or coaching for imparting skill or knowledge or lessons on any subject or field with or without issuance of a certificate & includes coaching or tutorial classes. | |
| ***Includes*** | (1) Coaching or training center providing commercial coaching by sending individuals to the premises of service receivers.<br>(2) Postal coaching (including the amount of postal charges).<br>(3) A computer-training institute,<br>(4) Commercial training or coaching services provided for preparing applications for Board examinations and competitive exams.<br>(5) Payment made by employers hiring an outside commercial training or coaching centre for imparting training to their employees.<br>(6) Any centre or institute, by whatever name called, where training or coaching is imparted for consideration, whether or not such centre or institute is registered as a trust or a society or similar other organisation under any law for the time being in force and carrying on its activity with or without profit motive and the expression "commercial training or coaching" shall be construed accordingly. | |
| ***Excludes*** | (1) Pre-school coaching,<br>(2) Sports,<br>(3) Vocational training institutes,<br>(4) Recreational training institute,<br>(5) Individuals providing services at the premises of a service receiver,<br>(6) Issuing certificate under any law,<br>(7) Certain recognised institutes have delegated some part of training to other coaching centers. If the training is essential part of courses of such certificate, such training will be exempt,<br>(8) Sale value of standard textbooks which are priced and shown separately in invoice.<br>(9) ★ ***Donations and Grants-in-aid received by a Charitable Foundation imparting free livelihood training to the youth not liable to service tax.*** | |
| ***Notes*** | (1) "*Computer training institute*" means a commercial traning or coaching centre which provides coaching or training relating to computer software or hardware;<br>(2) "*Recreational training institute*" means a commercial training or coaching centre which provides coaching or training relating to recreational activities such as dance, signing, martial arts, hobbies.<br>(3) "*Vocational training institute*" means an Industrial Training Institute (ITI) / Industrial Training Centre (ITC) affiliated to the National Council for Vocational Training, offering courses in designated trades as notified under the Apprentices | |

| | |
|---|---|
| | Act, 1961. |
| ***List of designated trades*** | • Cutting and tailoring trades<br>• Beautician trades<br>• Agricultural trades<br>• Electrical trades<br>• Glass and ceramic trades<br>• Heat engine trades<br>• Hi-tech trades |
| ***Exemption*** | The above exemption from the service tax has been extended to the commercial training or coaching centre services provided in relation to "Modular Employable Skill courses" provided by a vocational training provider registered under 'Skill Development Initiative Scheme' with the Directorate General of Employment and Training. Ministry of Labour and Employment. |

| **[2]** | **Information Technology Software Services** | **[Sec. 65(105)(zzze)]** |
|---|---|---|
| ***Means*** | It means any representation of instructions, data, sound or image, including source code and object code, recorded in a machine readable form, and capable of being manipulated or providing interactivity to a user, by means of a computer or an automatic data processing machine or any other device or equipment. | |
| ***Taxable Services*** | → If the above service is provided in the course, or furtherance, of business or commerce, it is chargeable to service tax.<br>→ ★ The scope of the taxable services has now been expanded to tax such service even if the service provided is used for purposes other than business or commerce. ***(w.e.f. 1/7/2010)*** | |
| ***Includes*** | (1) Development of information technology software;<br>(2) Study, analysis, design and programming of information technology software;<br>(3) Adaptation, upgrade, enhancement, implementation and other similar services related to information technology software;<br>(4) Providing advice, consultancy and assistance on matters related to information technology software, including conducting feasibility studies on implementation of a system, specifications for a database design, guidance and assistance during the start-up phase of a new system, specifications to secure a database, advice on proprietary information technology software;<br>(5) Providing the right to use information technology software for commercial exploitation including right to reproduce, distribute and sell information technology software and right to use software components for the creation of and inclusion in other information technology software products;<br>(6) Providing the right to use information technology software supplied electronically. | |
| ***Excludes*** | (1) Service provided to government or<br>(2) Charitable institutions. | |
| ***Exemption*** | *Exemption to right to use the packaged/canned software subject to certain specified conditions*<br>The taxable service of providing the right to use the packaged/canned software, pre-packed in retail packages intended for single use has been exempted from the service tax under 'information technology software services' subject to the following conditions:<br>(1) The document providing the right to use such software is packed along with the software.<br>(2) ***In case of import:*** The importer has paid the custom duty on the entire amount received from the buyer.<br>***In case of domestic production:*** The manufacturer/duplicator/the person holding the copyright to software has paid the excise duty on the entire amount received from the buyer.<br>(3) The benefit under the following notifications has not been availed:-<br>→ Notification No. 17/2010 Dated 27.02.2010.<br>→ Notification No. 31/2010 Dated 27.02.2010. | |

| [3] | **Practicing Chartered Accountant Services** | **[Sec. 65(105)(s)]** |
|---|---|---|
| ***Means*** | A person who is a member of the Institute of Chartered Accountants of India and is holding a certificate of practice granted under the Chartered Accountants Act, 1949 and includes any concern. | |
| ***Taxable Services*** | Any service provided or to be provided to any person by a practicing Chartered Accountant in his professional capacity, in any manner. | |
| ***Includes*** | Service tax is payable on following services<br>(1) Accounting and auditing<br>(2) Cost accounting and cost auditing<br>(3) Secretarial auditing<br>(4) Certification under Companies Act<br>(5) Certification for exchange control purpose under FEMA and<br>(6) Certification in respect of valuation of instruments or assets under wealth tax.<br>(7) Verification of declaration of compliance for obtaining certificate of commencement of business under the Companies Act.<br>(8) ★ Fee charged for representing a client before any statutory authority in the course of proceeding under any law shall now be covered under Service Tax. ***(w.e.f. 1/05/2011)*** | |

| [4] | **Consulting Engineering Services** | **[Sec. 65(105)(g)]** |
|---|---|---|
| ***Means*** | A professionally qualified engineer, anybody corporate, any other firm | |
| ***Taxable services*** | Any service provided or to be provided to any person, by a consulting engineer in relation to advice, consultancy or technical assistance in any manner in one or more disciplines of engineering. | |
| ***Includes*** | Advice or consultancy or technical assistance in any discipline of engineering ***including hardware and software*** engineering. | |
| ***Excludes*** | Service provided on transfer of technology is exempt from service tax to the extent of amount of cess paid on transfer of technology under the Research and Development Cess Act. | |

| [5] | **Scientific and Technical Consultancy Services** | **[Sec. 65(105)(g)]** |
|---|---|---|
| ***Means*** | Scientific or technical consultancy means –<br>→ Any advice, consultancy or scientific or technical assistance,<br>→ Rendered in any matter, either directly or indirectly,<br>→ By a scientist or a technocrat or any science or technology institution or organisation,<br>→ To any person,<br>→ In one or more disciplines of science or technology. | |
| ***Taxable services*** | *Taxable service means any service*<br>(a) Provided or to be provided to any person by a scientist or technocrat or any science or technology institution or organisation,<br>(b) In relation to scientific or technical consultancy in any manner. | |
| ***Includes*** | (1) Public funded research institutions like CSIR, ICAR, DRDO, IITs, IISc., regional engineering colleges, etc. are liable to service tax, if they provide any scientific or technical consultancy service to anyone (including a government department) on payment basis.<br>(2) However, in case they receive grant or aids from the Government for conducting research/project work, then, such activity is not liable to service tax, as it doesn't involve any service. | |
| ***Excludes*** | Services rendered by doctors, medical colleges, nursing homes, hospitals, diagnostic and pathological labs, etc. as they are not commonly known as 'scientist or a technocrat or any science or technology institution or organisation'. | |

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| [6] | Technical Testing and Analysis Service | [Sec. 65(105)(zzh)] |
|---|---|---|
| ***Means*** | Any service<br>(a) In relation to physical, chemical, biological or any other scientific testing or analysis of<br>(1) Goods or<br>(2) Material or<br>(3) Information technology software or<br>(4) Any immovable property<br>(b) But does not include any testing or analysis service provided in relation to –<br>(1) Human beings or<br>(2) Animals | |
| ***Includes*** | Testing and analysis undertaken for the purpose of clinical testing of drugs and formulations | |
| ***Excludes*** | *Testing or analysis for the purpose of*<br>(1) Determination of the nature of diseased condition,<br>(2) Identification of a disease,<br>(3) Prevention of any disease or disorder in<br>(4) Human beings or<br>(5) Animals | |
| ***Exemption*** | (a) Testing of water quality by Government Laboratory<br>(b) Clinical trials of new drugs<br>(c) Seed Testing Lab or Seed Certification Agency | |
| ***Notes*** | **Technical Testing and Analysis Agency:** Technical Testing and Analysis Agency means any agency or person engaged in providing service in relation to technical testing and analysis. | |

| [7] | Mandap Keeper Service | [Sec. 65(105)(m)] |
|---|---|---|
| ***Means*** | Mandap keeper means a person who allows temporary occupation of a Mandap for consideration, for organizing any official, social or business function. | |
| ***Included*** | (1) Hotels and Restaurants which let out their banquet halls, rooms, gardens etc. for holding or organising any marriages, parties etc. are covered within the definition of a 'Mandap Keeper'.<br>(2) *Marriage is a social function:* The expression social function has been defined to include marriage, accordingly, Mandap keeper service in relation to marriage are also liable to service tax. | |
| ***Taxable Services*** | Any service provided or to be provided to any person, by a Mandap keeper in relation to the use of Mandap in any manner including the facilities provided or to be provided to such person in relation to such use and also services, if any, provided or to be provided as a caterer. | |
| ***Abatement*** | Abatement of 40% shall be given if providing catering service also i.e. supply of food etc. | |
| ***Exemption*** | (1) Exempt at religious places.<br>(2) Letting of only furniture or any other item no taxable. | |

| [8] | Business Exhibition Service | [Sec. 65(105)(zzo)] |
|---|---|---|
| ***Means*** | "Business Exhibition" means an exhibition–<br>→ to market; or<br>→ to promote; or<br>→ to advertise; or<br>→ to showcase;<br>any product or service, intended for the growth in business of the producer or provider of such product or service, as the case may be. | |
| ***Taxable Services*** | Any service provided or to be provided;<br>→ To an exhibitor, | |

| | |
|---|---|
| | → By the organiser of a business exhibition,<br>→ In relation to business exhibition. |
| ***Includes*** | *Business Exhibition includes*<br>→ Trade fairs,<br>→ Road shows, Fashion shows,<br>→ Display showcases kept in airports, railway stations, and hotels |
| ***Exemption*** | (1) Display of consumer goods in shops or shopping centers by the shop keepers for displaying such goods for customers, to select and purchase, will not be covered under this taxable service, as normally no separate charge are collected by the shopkeepers for displaying such goods. However, in case any amount is collected for merely displaying an item, the same would be chargeable to service tax.<br>(2) Services provided by an organizer of business exhibition for holding a business exhibition outside India. Such service will be exempt from the whole of service tax. |

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# PART 2B: VALUE ADDED TAX

SUPER SUMMARY

**FOR IPCC MAY/NOVEMBER 2012**

**(INCLUDING AMENDMENTS)**

FOR AY 2012-13

**Prepared by:** Bhavin Pathak

# PART 2B. VALUE ADDED TAX

**Justification of VAT**

The VAT not only provides full set-off for input tax as well as tax on previous purchases, but it also abolishes the burden of several other taxes, such as turnover tax, surcharge on sales tax, additional surcharge, special addition tax etc. In addition central sales tax is also going to be phased out.

**Bird eye view for VAT**

| | |
|---|---|
| Total of tax element in respect of Sales voucher | A |
| Total of tax element in respect of Purchase voucher | B |
| VAT Payable by dealer | **A *minus* B** |

**VAT is a tax on Value Added**

→ The Method consists of levying a tax on value added to product at each stage of its production & distribution. For this purpose value added is taken as the difference between the sales and purchase of intermediate product or goods for resale of a business.

→ On the face of if the simplest way to levy a VAT is to tax the value assed in a business process embodied in the difference between q business's sales and purchase

**Need of VAT**

(1) VAT is more equitable way of taxing as well as all dealers share the tax burden
(2) VAT is more transparent as easy procedures exist under it and only two rates are there
(3) Simpler – easy communication and easy compliance
(4) Credit for input taxation leading to cost efficiency
(5) Better compliance through self-policing
(6) Prevents cascading effect by providing input rebate
(7) Avoids distortions in trade and economy due to uniform tax rates.

**Benefits of VAT in brief**

(1) Set-off will be given for input tax as well as tax paid on previous purchase
(2) Other taxes, such as turnover tax, surcharge, additional surcharge etc. will be abolished
(3) Overall tax burden will be rationalized
(4) Prices will in general fall
(5) There will be self-assessment by dealers
(6) Transparency will increase
(7) There will be higher revenue growth.

**Merits of VAT**

1. **Eliminates multiple Tax:** Set off will be given for the input tax as well as tax paid on previous purchase
2. **Simple:**
   - → It is based on simply on transaction and not on a base that required complicated definition like income or wealth
   - → VAT has the merit of certainty and is required ease to understand
   - → In most countries, the pre-VAT commodity tax systems are found to be very complicated, in fact all those countries that have gone in for VAT had a genuine need for simplifying their tax systems.
3. **Lowering of TAX burden:** VAT reduces tax burden and helps in reduce price
4. **Fairness:**
   - → VAT is a move towards more efficiency, equal competition and fairness in the tax system
   - → VAT helps common people, trade, industry & also the government.
5. **Tax Evasion will be reduced:**
   - → There is a self-assessment and therefore better tax compliance being less chances of tax

evasion
- → It has the merit of 'self-policing' in that it induces business to demand invoice from the supplier to enable them to obtain credit for the tax paid on their purchase against their total tax liability.

6. **Tax transparency:**
   - → The buyer knows, out of the total consideration paid for purchase of material, what is tax component. Thus, the system ensures transparent also.
   - → This transparency enables the state govt. to know as to what is the exact amount of tax coming at each stage. Thus, it is a great aid to the govt. wheich takng decisions regard to rate of tax etc.
7. **Higher Tax revenue:** Higher revenue growth
8. **Uniformity:** Greater uniformity in this system
9. **Simpler System:** VAT system is comparatively simpler than the sales tax system of taxation as there would be no dispute regarding taxable stage of sale and classification of goods at a particular rate of tax and there would be minimum requirement of declaration form.
10. **Neutral:**
    - → The greatest virtue of VAT lies in its neutrality that is, non-interference with the choices or decisions of economic agents in the matter of location of business, as well as business organization
    - → Under VAT, the allocation of resources is left to be decided by the free play of market forces and competition and not driven by tax consideration
11. **Stable source of revenue:** In OECD countries t was found that every 1% point of VAT yields 0.4% of GDP in revenue.

**Demerits of VAT**

To get maximum benefit of VAT should
1. Extends through the production and distribution chain aright up to the retail stage.
2. Has its base as broad as possible
3. Permits registered firms to obtain full and immediate credit for VAT paid on inputs
4. Limits the extent of rate differential and,
5. Follows the destination principle.

**Demerits in Indian Context**

1. **It does not cover goods as well as service:** VAT extends to the retail stage, its base is nor comprehensive enough to compare all goods and services that go into final consumption
2. **Exemptions:** Under continuous pressure from various quarters the number of commodities, which are now being exempted from VAT in various states.
3. **Floor Rate**
   - → There are supposed to applied uniformity in all states and so although they are describe as "floor rates, the states will have no discretion to go below as above the prescribed rates, country to what a floor rate ordinary implies.
   - → There is also an exempted category, which will bear no tax, but no rebate will be given for taxes paid on their purchase at the time of sale at a final consumer.
4. **General rate of 12.5%**
   - → Unduly its high rate
   - → A high rate became all the more necessary on revenue considerations because a large number of commodities and industrial inputs have been included in 4% categories.
5. **Classification of capital goods:** Classification of goods under different lists is, in many instance arbitrary and leaves wide room for doubts and disputes as to whether a particular item comes within the lower rate category or not.
6. Another major flaw of the rate structure is the inclusion of capital goods and industrial inputs in the 4% list.

| Input Tax | Output Tax |
|---|---|

| | |
|---|---|
| It is the tax paid or payable in the course of business on purchase of any goods made from registered dealer on the state. | Output tax means tax charged or chargeable under the act, by a registered office dealer for the sale of goods in the course of business |

**Input VAT Credit**

The input tax credit in relation to any period means setting off the amount of input tax by a registered dealer against the amount of its output tax.

**Coverage of Set-off input tax credit**

Input tax credit is generally given for the entire VAT paid within the state on purchase of taxable goods meant for resale/manufacture of taxable goods.

*However, generally no credit is available in respect of purchases given below*

1. Goods purchased from unregistered dealer
2. Goods purchased from other states/countries
3. Purchase of goods used in manufacture of exempted goods
4. Purchase of capital goods (n some cases credit is avail in installments)
5. Purchase of goods used in fuel and power generation
6. Purchase of goods used in manufacture of goods to be dispatched outside any state as branch transfer/consignments.
7. Purchase of goods in cases where the dealer does not have invoices showing amounts of tax charged separately by the selling dealer.
8. Purchase of non-creditable goods
9. Purchase from a dealer who has opted for composition scheme

**Carrying over of Tax Credit**

- → If the tax credit exceeds the tax payable on sales in a tax period, it shall be carried over to the next tax period. If there is any excess unadjusted input tax credit at the end of the financial year; it shall be eligible for refund.
- → VAT collected in a tax period is lower than input tax credit in respect of local purchases and inter-state purchases, only the balancing amount is carried forward to the next period and it will be adjusted in the next tax period on the same basis.
- → However, unadjusted tax credit at the end of the financial year is generally refunded.
- → Tax credit on capital goods may be adjusted over a maximum of 36 equal monthly installments.
- → There is a negative list for capital goods not eligible for input tax credit.

**Treatment of export**

- → For all exports made out of the country, VAT paid within the state will be generally refunded in full within stipulated periods (generally it is 3 months).
- → Units located in SEZ and EOU will be generally granted either exemption from payment of in put tax or refund of the input tax paid within the aforesaid period.

| **Variants of VAT** | |
|---|---|
| ***Gross Product Variant*** | → This variant allows deductions for all purchases of raw materials and components but no deduction is allowed for capital inputs.<br>→ In this way, capital goods such as plant and machinery are not deductible from the tax base in the year of purchase and depreciation on the plant and machinery in not deductible in the subsequent years.<br>→ Capital goods carry a heavier tax burden as they are taxed twice.<br>→ Modernization and upgrading of plant and machinery is delayed due to this dual tax treatment. |
| ***Income Variant*** | → Deduction are allowed for purchase of raw materials and components as well as depreciation on capital goods<br>→ In practice there are many difficulties connected with specification of any method measuring depreciation, which basically depend on the life of assets as well as on the rate of inflation |

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| | |
|---|---|
| ***Consumption Variant*** | → Under this variant, deduction is allowed for purchase for all business purchases including capital assets.<br>→ In other words, the economic base of the tax is equivalent to total private consumption.<br>→ It does not distinguish between capital and current expenditure. |

| **Methods of computation of VAT** | |
|---|---|
| ***Addition method*** | → This method is based on the identification of value added, which can be estimated by summation of all the elements of value added.<br>→ This method is also known as the income approach.<br>→ This method is that is does not require matching of invoices in order to check tax evasion |
| ***Subtraction method*** | → The subtraction method estimates value-added by means of difference between outputs and inputs<br>→ This is also known as the product approach<br>→ Subtraction method has further variants in the way subtraction is attempted among<br>1. **Direct subtraction method** is equivalent to a business transfer tax whereby tax is levied on the difference between the aggregate tax exclusive value of sales and aggregate tax exclusive value of purchase.<br>2. **Intermediate subtraction method** is based on deduction of the aggregate tax-inclusive value of purchase from the aggregate tax-inclusive value of sales and the taking difference between them<br>3. **Indirect subtraction method** |
| ***Tax-credit method*** | → The tax credit method, the tax on inputs is deducted from the tax on sales to arrive at the VAT payable by the dealer.<br>→ This method is also known as the invoice method |

**What are administrative procedures which are generally adopted by different cities**

1. **Compulsory issue of tax invoice, cash memo or bill:**
   - → Serially numbered tax invoice with prescribed particulars
   - → Tax invoice will be signed & dated by the dealer or his employer with required particular
   - → The dealer keeps a duplicate of such tax invoice duly signed and dated
   - → Failure to comply with the above will attract penalty
2. **Registration, Small dealers & Composition Scheme:**
   - → Registration of small dealer with gross annual turnover above a specified limit (Say RS. 5 Lakh) is compulsory
   - → All dealer under the old system of locals sales tax have been automatically registered
   - → A new dealer is generally allowed 30 days time from the date of liability.
   - → Small dealers with gross annual turnover not exceeding a specified amount, who are otherwise liable to pay VAT, shall however have the option for a composition scheme with payment of a tax at a small percentage of gross turnover.
   - → The dealers who obtain composition scheme will not be entitled to input tax credit.
3. **Taxpayer's identification No.:**
   - → It consists of a 11 digit numerous throughout the country
   - → First 2 character will be represented the state code by the govt. of India
   - → Next 9 characters will be different in different states.
4. **Return:**
   - → Files monthly/quarterly as specified in the state acts with payment Challan
   - → Every return furnished by dealer will be scrutinized and if any technical mistakes are detected, the dealer will be required to pay the deficit appropriately.
5. **Procedures to self-assessment of VAT liability:**
   - → VAT liability will be self-assessed by the dealer themselves

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- → Voluntary return will be submitted after setting off the tax credit.

6. **Audit:**
   - → Correctness of self-assessment will be checked through a system of departmental audit.
   - → However evolution detected on audit, they concerned dealer may be taken up for audit for previous period also.
   - → The audit team will conduct its work as a time bound manner and audit will be completed within a stipulated period.
   - → The audit report will be transparently sent to the dealer also
   - → Simultaneously, a cross checking computerized system is being worked out on the basis of co-ordination between central excise & income tax authority.
   - → This cross-checking system will help to reduce tax evasion and also lead to significantly growth of tax revenue
7. **Declaration form:** There will be no need for any provision for concessional sale under the VAT act, since the provision for setoff makes the input zero rated, hence there will be no need for declaration
8. **Other taxes:** Other taxes like turnover, surcharge and additional surcharge have been abolished.
9. **Penal provision:** Penal provisions under the VAT are not more significant than in the sales tax system.
10. **Coverage of goods under VAT:**
    - → All the goods, including declared goods will be covered under VAT and will get the benefit of input tax credit.
    - → Generally exempted category includes liquor, lottery ticket, petrol, diesel, aviation fuel and other motor spirit since there price are not fully market determined.
11. **VAT rate and classification of commodities:**
    - → Only two rate is exist one is 4% and other is 12.5%
    - → Exempted categories generally include natural and unprocessed products in unorganized sector, items which are legally barred from taxation and items which have social implications.
    - → Included in this exempted category is set of commodities flexibly chosen by individual states?

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## Some Important Tips for the Examination

### Do's

1. **Starting Question Should be Correct:** First Read the Question Paper thoroughly. Choose from that question that's you know very well. Because you first impersonation should be good.
2. **Start each Question or his part from a fresh Page:** As like if you are going to solve Q. No. 3 part (a), it should be mention on the top of the page in Center with Bold Letter. After that for Q. No. 3 (b) always use new page and mention full Q. No. in place of only (b).
3. **True or False Question:** Always start your Answer from the heading True or False and reason should be given from the Second Line.
4. **Optional Question:** Start this Question with Your Heading **"Correct Answer–( )"** and reason should be given from the Second Line.
5. **Final Answer:** After properly solve your question again read the last part of Question and find that what is the demand of Question, if in question asked for exempt Amount, your Answer end point should be in Bold Letter "Exempt Amount ₹ .....".
6. **Theoretical Question:** Always Answer point to point and try your best that starting point of your answer should be fully correct. As like for any question, if you know only three points fully confident out of 5 point your answer should be start from that point.

### Don't

1. **Start from a Large Question:** If you are not fully confident that you may solve that question correctly, never start from this question.
2. **Marking of the Question at left side of Answer Book:** Always Mark your Answer No. most visible place, due to this it's clear in the mind of Examiner that your answer is for this particular No. of Question.
3. **True/False Question:** Never start your answer with YES/NO. It should be TRUE/FALSE.

## ABOUT ME: BHAVIN PATHAK

I am Bhavin Pathak. Made for friends and to live for them and ever-ready to help CA friends and my friends! I am also CA-IPCC student at Ahmedabad, Gujarat. I am studying in Arihant Institute Pvt. Ltd for CA. I got 131 marks in my CA-CPT and in HSC I got 75%. I am a straightforward guy willing to live peaceful life. I am least money minded & materialistic but quality performance (within my limitation of knowledge) at professional level. My motto of life is that "success or failure itself is the best motivator to further succeed" so far in my case (though Lord says that one should feel indifferent between success & failure). I believe that "Living for others is more joyful rather than living for ourselves."

**Rules of My Life:**
"Don't use anyone, but be useful for everyone."
"There is no tax on helping each other."
"If you light a lamp for somebody, it will also brighten your path."
"Happiness is a by-product of an effort to make someone else happy."

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