

Deductions from Gross Total Income

Some Key Points : Recent Amendments

Deduction cannot exceed income [Section 80A(4)]

Where profits and gains are eligible for deduction under section 10AA or under any other provision of Chapter VI-A under the heading "C – Deductions in respect of certain incomes" no further deduction shall be allowed under any other provision of the Act and deduction shall in no case exceed the profits and gains of such undertaking or unit or enterprise or eligible business, as the case may be.

No deduction when it is not claimed in the return [Section 80A(5)]

Where the assessee is eligible for deduction under sections 10AA or under any provisions of Chapter VI-A under the heading "C – Deductions in respect of certain incomes" but has failed to make a claim in his return of income, no deduction shall be allowed to him.

No further deduction in respect of specified business [Section 80A(7)]

Where a deduction under Chapter VI-A is claimed and allowed in respect of profits of any specified business referred to in section 35AD for any assessment year, no deduction shall be allowed under the provisions of section 35AD in relation to such specified business for the same or any other assessment year.

Furnishing of return before the due date [Section 80AC]

Any assessee eligible for deduction under sections 80-IA or 80-IAB or 80-IB or 80-IC or 80-ID or 80-IE shall file his return before the due date specified under section 139(1). Where the return is not filed before the due date, the assessee cannot claim the benefit of deduction under these provisions.

Contributions to pension scheme of Central Government [Section 80CCD]

In addition to Central Government employees, any person in employment under any employer (State and private sector) or any other assessee (including self employed) being an individual is eligible to claim deduction under this provision. The limit is 10% of salary in case of employees (Central, State or private sector) and 10% of gross total income in the case of others (self employed, etc).

Such contribution of employer to the pension scheme, allowable as deduction under section 80CCD(2) in the hands of the employee, would now be outside the limit of ₹ 1,00,000 stipulated under section 80CCE.

Subscription to long term infrastructure bonds [Section 80CCF]

Subscription to notified long-term infrastructure bonds would qualify for deduction under

section 80CCF for the assessment year 2012-13 also. The maximum amount eligible for deduction under this provision is ₹ 20,000.

Clarification regarding definition of new infrastructure facility for the purpose of section 80-IA(4)

The CBDT has, vide Circular No. 4/2010 dated 18.5.2010, clarified that widening of an existing road by constructing additional lanes as a part of a highway project by an undertaking would be regarded as a new infrastructure facility for the purpose of section 80-IA(4)(i). However, simply relaying of an existing road would not be classifiable as a new infrastructure facility for this purpose.

Extension of sunset clause for tax holiday under section 80-IA for power-sector undertakings [Section 80-IA(4)(iv)]

The time limit for generation or generation and distribution of power or renovation and modernization of the existing network of transmission or distribution lines has been extended by Finance Act, 2011, with effect from A.Y. 2012-13, by one year i.e., from 31st March, 2011 to 31st March, 2012, to enable undertakings which start generation, or transmission or distribution of power during the period between 1st April, 2011 and 31st March, 2012 or which undertakes substantial renovation and modernization of the existing network of transmission or distribution lines between 1st April, 2011 and 31st March, 2012 to avail benefit of deduction under this section.

Sunset clause for tax holiday in respect of certain undertakings engaged in commercial production of mineral oil [Section 80-IB(9)]

A sunset clause for tax holiday in respect of certain undertakings engaged in commercial production of mineral oil has been inserted by the Finance Act, 2011, effective from A.Y. 2012-13. Accordingly, the above deduction for commercial production of mineral oil will not be available for blocks licensed under a contract awarded after 31.3.2011 under the New Exploration Licensing Policy or in pursuance of any law for the time being in force or by the Central or a State Government in any other manner.

Regional Rural Banks are not eligible for deduction under section 80P [Circular No. 6/2010 dated 20.9.2010]

Question 1

CG Ltd. is engaged in the business of conversion of jumbo rolls of films into saleable packets/rolls of standard size. The company seeks your opinion on whether the said process amounts to "manufacture" for the purpose of claim deduction under Section 80-IB?

Answer

The issue in this case is whether conversion of jumbo rolls of films into saleable packets/rolls of standard size would amount to "manufacture" of an article or thing for the purpose of claiming deduction under section 80-IB.

11.3 Direct Tax Laws

As per section 2(29BA), “manufacture” with all its grammatical variations, means a change in a non-living physical object or article or thing :-

- (a) resulting in transformation of the object or article or thing into a new and distinct object or article or thing having a different name, character and use; or
- (b) bringing into existence of a new and distinct object or article or thing with a different chemical composition or integral structure.

The conversion of Jumbo rolls of films into rolls of standard size/saleable packets would not amount to “manufacture”, as there is no transformation of the original article/thing i.e. jumbo rolls. Rolls of standard size will not have a different character or use. Therefore, the activity of conversion of jumbo rolls of film into rolls of standard size does not amount to “manufacture” for the purpose of deduction under section 80-IB.

Note- Deduction under section 80-IB is available to any industrial undertaking which, *inter-alia*, manufactures or produces any article or thing. It is possible to take a view that even though conversion of jumbo rolls of films into rolls of standard size does not fall within the meaning of “manufacture”, it may fall within the meaning of production, which has a wider connotation than the word “manufacture”, hence, be entitled to deduction under section 80-IB.

Question 2

“Samode Oil Refineries Ltd.”, the assessee, has started commercial production of mineral oil from 1st June, 2011 of three wells in a licensed block. The company, for the purpose of claiming deduction under section 80-IB(9), contends that each well is a separate industrial undertaking entitled to deduction. Examine critically in the context of the provisions, the correctness of the contention.

Answer

Sub-section (9) of section 80-IB provides for deduction in respect of profits and gains derived from, *inter alia*, commercial production or refining of mineral oil.

Explanation to sub section (9) of section 80-IB, put forth a condition that for the purposes of claiming deduction under sub-section (9), all blocks licensed under a single contract, which has been awarded under the New Exploration Licensing Policy VIII announced by the Government of India or has been awarded in pursuance of any law for the time being in force or has been awarded by the Central or a State Government in any other manner, shall be treated as single “undertaking”.

In view of the above amendment, the assessee’s contention is not correct. Each well in a block cannot be regarded as separate industrial undertaking. The entire block has to be treated as a single industrial undertaking.

Question 3

Can the aggregate of the deductions under the various provisions of the Income-tax Act, 1961 exceed the profits and gains of the undertaking or unit or enterprise or eligible business, as

the case may be? Explain briefly the provisions introduced in section 80A of the Act in this regard to prevent abuse of tax incentives.

Answer

The profit-linked deductions in Chapter VIA were susceptible to sizable manipulation by the taxpayers who have, in the past, resorted to claiming deduction under more than one section in respect of the same profits by taking advantage of the overlap of provisions of the different sections.

In order to prevent such manipulation by tax payers, provisions were introduced under section 80A has been amended to provide that -

- (1) the profits and gains allowed as deduction under section 10AA or under any provision of Chapter VIA under the heading "C.-Deductions in respect of certain incomes" in any assessment year, shall not be allowed as deduction under any other provision of the Act for such assessment year.
- (2) the deduction, referred to in (1) above, shall not exceed the profits and gains of the undertaking or unit or enterprise or eligible business, as the case may be.
- (3) No deduction under any of the provisions referred to in (1) above, shall be allowed if the deduction has not been claimed in the return of income.

Question 4

What is the effect of contribution made by an individual to electoral trust on his taxable income?

Answer

The scope of section 80GGC has been widened so as to enable an individual to claim deduction from gross total income in respect of amount of contribution made by him to an electoral trust during the year.

Question 5

Gurudev Engineers Pvt. Ltd. is running an industrial undertaking whose profits are eligible for deduction under section 80-IA of the Income-tax Act, 1961. During the year ended 31.03.2012, the undertaking was engaged in eligible business referred to in section 80-IA(4), which however, consisted solely of executing works contract awarded by the State Government. Is the assessee eligible to claim deduction under section 80-IA(4) in respect of profits derived from this undertaking?

Answer

Section 80-IA(1) provides a ten year tax holiday in respect of profits and gains derived by an undertaking or an enterprise from an eligible business i.e., business referred to in sub-section (4).

The *Explanation* to the said section clarifies that the tax holiday under section 80-IA would not be available in relation to a business referred to in sub-section (4) which is in the nature of a

11.5 Direct Tax Laws

works contract awarded by any person (including the Central or State Government) and executed by the undertaking or enterprise referred to in section 80-IA(1).

Therefore, the assessee cannot claim deduction under section 80-IA(4) in respect of the profits derived from this undertaking for the assessment year 2012-13, since, during the year ended 31.3.2012, the undertaking was solely engaged in executing works contract awarded by the State Government.

Question 6

Following issues have been raised by Navi Limited in connection with its eligibility for claiming deduction under section 80-IB for your consideration and advice for the assessment year 2012-2013.

- (i) *It operates two separate industrial units. One unit is eligible for deduction under section 80-IB, while the other unit is not eligible for such deduction. If the eligible unit has profit and the other unit has loss, should it claim deduction after setting off the loss of the other unit against profit of the eligible unit?*
- (ii) *Its profit from one unit includes sale of import entitlement, duty drawback and interest from customers for delayed payment. Is it permissible to claim deduction on these items of income?*

Answer

- (i) Section 80-IB(13) provides that the provisions contained in section 80-IA(5) shall, so far as may be, apply to the eligible business under section 80-IB. Accordingly, for the purpose of computing the deduction under section 80-IB, the profits and gains of an eligible business shall be computed as if such eligible business was the only source of income of the assessee.

Therefore, Navi Limited should claim deduction under section 80-IB on profit from the eligible unit without setting off loss suffered in the other unit. It may be noted that the aggregate deduction under Chapter VIA, however, cannot exceed the gross total income of the assessee.

- (ii) Under section 80-IB, where the gross total income of an assessee includes any profits and gains derived from an industrial undertaking referred to in the section, there shall be allowed, in computing the total income of the assessee, a deduction from such profits and gains at the specified percentage and for such number of years as specified in the section. In *CIT vs. Sterling Foods (1999) 237 ITR 579 (SC)* and *Liberty India vs. CIT (2009) 317 ITR 218 (SC)*, it was held that sale of import entitlement and duty drawback cannot be construed as income derived from industrial undertaking. Therefore, such income cannot be included in computing income for the purpose of deduction under section 80-IB.

Interest income derived by an undertaking on delayed collection of sale proceeds shall be treated as income derived from the industrial undertaking, and therefore, the same

would be eligible for deduction under section 80-IB. [*Phatela Cotgin Industries Private Limited vs CIT (2008) 303 ITR 411 (P & H)*].

Question 7

Mr. Srinivasan, aged 68 years, furnishes the following particulars for the year ending 31.03.2012:

- (a) Life Insurance Premium paid – ₹ 30,000, actual capital sum of the policy assured for ₹ 1,20,000;
- (b) Contribution to Public Provident Fund – ₹ 40,000 in the name of father;
- (c) Tuition fee payment – ₹ 8,000 each for 2 sons pursuing full time graduation course in Calcutta; Tuition fee for daughter pursuing PHD in Kellogs University, USA – ₹ 2.50 Lacs;
- (d) Housing loan principal repayment – ₹ 32,000 to Axis Bank. This property is under construction at Calcutta as on 31.03.2012;
- (e) Principal repayment of housing loan taken from a relative – ₹ 70,000. The property is self-occupied situated at Pune;
- (f) Deposit under Senior Citizens Savings Scheme – ₹ 15,000;
- (g) Five-year deposits in an account under Post Office Time Deposit Scheme – ₹ 20,000;
- (h) Investment in National Savings Certificate – ₹ 25,000;
- (i) Subscription to notified long term infrastructure bonds ₹ 30,000.

Compute the deduction eligible under appropriate provisions of Chapter VI-A for A.Y. 2012-13.

Answer

Computation of eligible deduction under section 80C for A.Y.2012-13

Particulars	Amount eligible for deduction u/s 80C ₹
Life Insurance Premium (See Note 1)	24,000
Contribution to Public Provident fund (See Note 2)	Nil
Tuition fee of 2 sons for graduation course (See Note 3)	16,000
Housing loan principal repayment (See Notes 4 & 5)	Nil
Senior Citizen Savings Scheme deposit (See Note 6)	15,000
Post Office Time Deposit Scheme (See Note 6)	20,000
Investment in National Savings Certificate	25,000
Gross amount eligible for deduction under section 80C	1,00,000

Deduction U/s.80CCF : Amount invested in notified infrastructure bond is eligible for deduction subject to a maximum of ₹ 20,000.

11.7 Direct Tax Laws

Notes:

1. Any amount of life insurance premium paid in excess of 20% of capital sum assured shall be ignored for deduction under section 80C. In the given case, 20% of actual capital sum assured is ₹ 24,000, whereas, the premium paid during the year is ₹ 30,000. Therefore, the excess premium of ₹ 6,000 does not qualify for deduction.
2. In the case of an individual, contribution to PPF can be made in his name, or in the name of his spouse or children to qualify for deduction under section 80C. **As the contribution was made in the name of his father, deduction is not allowable.**
3. Tuition fee paid is eligible for deduction under section 80C for a maximum of two children. Therefore, ₹ 16,000 shall be allowed as deduction. **Tuition fee paid to an educational institution situated outside India is not eligible for deduction.**
4. In order to claim the principal repayment on loan borrowed for house property as deduction, the construction of such property should have been completed and should be chargeable to tax under the head "Income from house property". In the given case, since the property is under construction, principal repayment does not qualify for deduction.
5. Repayment of principal on housing loan is not allowed as deduction in case the loan is borrowed from friends, relatives etc. In order to qualify for deduction, the loan should have been obtained from Central Government / State Government / bank / specified employer / institution.
6. The following investments are also eligible for deduction under section 80C:-
 - (1) five year time deposit in an account under Post Office Time Deposit Rules, 1981; and
 - (2) deposit in an account under the Senior Citizens Savings Scheme Rules, 2004.

Question 8

(a) Mr. Harsh, aged 42 years, furnishes the following information relating to premium on mediclaim policy paid by cheque for the year ending 31.03.2012 :

- (i) for self – ₹ 8,000;
- (ii) for spouse, aged 35 years – ₹ 8,000;
- (iii) for non-dependent father, aged 70 years - ₹ 21,000;
- (iv) for dependent mother-in-law, aged 65 years - ₹ 11,000.

Compute his eligible deduction under section 80D for A.Y.2012-13. Would your answer be different, in case the premium was paid in cash?

(b) Mr. Ravi, a Cost Accountant, derives ₹ 4,12,000 as taxable professional income. Income of Mr. Ravi from other sources is ₹ 21,000. He pays medical insurance premium of ₹ 28,000 for insuring the health of his non-dependant parents who are senior citizens; ₹ 17,000 for self and spouse and ₹ 4,000 for his sister. He incurs expenditure of ₹ 25,000 on medical treatment of his dependant mentally retarded (severe disability)

brother in an approved hospital duly certified. He pays rent of ₹ 4,000 per month. Calculate his total income for the assessment year 2012-13.

Answer

- (a) In the given case, Mr. Harsh has paid ₹ 16,000 in aggregate towards self and spouse's mediclaim premium, deduction in respect of which shall be restricted to ₹ 15,000. Mediclaim premium of ₹ 21,000 paid for insuring the health of his father, who is a senior citizen, is eligible for additional deduction of up to ₹ 20,000 even though his father is not dependent on him. Therefore, total deduction of ₹ 35,000 [i.e., ₹ 15,000 + ₹ 20,000] shall be allowed to Mr. Harsh under section 80D.

It may be noted that, ₹ 11,000 paid for dependent mother-in-law is not allowable, since the definition of the term 'family' does not include mother-in-law.

Section 80D requires payment of premium on health insurance by any mode other than cash. In case the payment is made by cash, the amount paid cannot be availed as deduction.

(b) **Computation of total income of Mr. Ravi for the A.Y. 2012-13**

Particulars	₹	₹
Professional income		4,12,000
Income from other sources		<u>21,000</u>
Gross Total Income		4,33,000
Less: Deductions under Chapter VI A		
1. Medical insurance premium paid under section 80D – (15,000 + 20,000) [See Note 1]	35,000	
2. Expenditure for dependant mentally retarded - section 80DD [See Note 2]	1,00,000	
3. Rent paid under 80GG [See Note 3]– least of the following is eligible for deduction -		
(i) Excess of rent paid over 10% of total income (48,000 - 29,800) = 18,200		
(ii) 25% of total income = 74,500		
(iii) Ceiling limit ₹ 2,000 p.m. = 24,000	<u>18,200</u>	<u>1,53,200</u>
Total income		<u>2,79,800</u>

Notes -

- (1) Medical insurance premium paid for self and spouse would qualify for deduction under section 80D subject to a maximum of ₹ 15,000.

Mediclaim insurance premium paid for parents shall qualify for additional deduction under section 80D, subject to a maximum of ₹ 20,000 (since they are senior citizens), irrespective of whether they are dependent or non-dependent on Mr. Ravi.

11.9 Direct Tax Laws

Medical insurance premium paid for insuring the health of sister does not qualify for deduction under section 80D, since sister does not fall within the definition of “family”.

- (2) Deduction under section 80DD is a flat amount of ₹ 1,00,000, irrespective of the actual expenditure incurred in respect of a dependent, who is a **person with severe disability**. It is assumed that Mr. Ravi has furnished a copy of the certificate issued by the medical authority, in the prescribed form and manner, along with the return of income under section 139 in respect of A.Y. 2012-13.
- (3) Total income for the purpose of section 80GG would be -

Gross Total Income	4,33,000
Less : Deduction under sections 80D & 80DD	<u>1,35,000</u>
Total income	<u>2,98,000</u>

It is presumed that all the conditions for claim of deduction under section 80GG have been fulfilled by Mr. Ravi.

Question 9

Examine the correctness of the statement that “there exists no difference in the treatment of income claimed under section 10 with those claimed under Chapter VI-A of the Income-tax Act”.

Answer

The statement is incorrect. Section 10 lists out the items of income which do not form part of total income. Thus, such incomes are fully or partly exempt from tax. Items of income which are exempt under section 10 shall not form part of any head of income. Therefore, the income which are claimed as exempt under section 10 are excluded from gross total income, in the sense, they are not included in the computation of gross total income. However, for claiming deduction under Chapter VIA, the income must be included under the respective head of income for computation of gross total income and thereafter, deduction can be claimed under the respective section as specified in Chapter VI-A to arrive at the total income. In short, section 10 provides for exemption of income whereas Chapter VI-A provides for deductions from gross total income.

Question 10

Can an assessee, fulfilling all the prescribed conditions, having total income of ₹ 1,84,000 and paying house-rent @ ₹ 4,800 p.m. in respect of the residential accommodation occupied by him at Mumbai, claim the deduction for the house rent so paid while computing his taxable income?

Answer

An individual, who is not in receipt of house rent allowance and complying with all the conditions as specified in section 80GG, shall be entitled to claim deduction (in respect of rent

Deductions from Gross Total Income 11.10

paid by him for the residential accommodation) of an amount, equal to the least of the following limits, under section 80GG -

		₹	₹
(i)	Actual rent less 10% of total income i.e., ₹ 57,600 minus ₹ 18,400, being 10% of ₹ 1,84,000	39,200	
(ii)	25% of total income i.e., 25% of ₹ 1,84,000	46,000	
(iii)	Amount calculated at ₹ 2,000 p.m.	24,000	
	Deduction allowable (least of the above)		24,000

Note - It is assumed that ₹ 1,84,000 is the total income before providing deduction under section 80GG.

Question 11

Samode Food Processing Co-operative Society is a primary agricultural credit society engaged in processing, without the aid of power, of the agricultural produce of its members and also marketing of agricultural produce. It furnishes the following particulars of its income for the year ended on 31.3.2012 :

	₹
-Income from processing of the produce of members	1,50,000
-Income from marketing agricultural produce	1,30,000
-Income from letting of building used as godowns	96,000
-Dividend from another co-operative Society	45,000
-Income from agency business	75,000
-Interest from another co-operative society	15,000

Compute the income chargeable to tax for A.Y. 2012-13.

Answer

Computation of total income of Samode Food Processing Co-operative Society for the A.Y.2012-13

Particulars	₹
Income from letting of godowns	96,000
Business Income:	
from processing of agricultural produce	1,50,000
from marketing of agricultural produce	1,30,000
from agency	<u>75,000</u>
	3,55,000
Dividend from another co-operative society	45,000
Interest from another co-operative society	<u>15,000</u>

11.11 Direct Tax Laws

Gross Total Income		5,11,000
Less: Deduction under section 80P		
Processing of agricultural produce of its members without the aid of power [Section 80P(2)(a)(v)]	1,50,000	
Marketing of agricultural produce [Section 80P(2)(a)(iii)]	1,30,000	
Agency work [Section 80P(2)(c)] [Refer Note below]	50,000	
Dividend from another co-operative society [Section 80P(2)(d)]	45,000	
Interest from another co-operative society [Section 80P(2)(d)]	15,000	
Income from letting of godowns [Section 80P(2)(e)]	<u>96,000</u>	<u>4,86,000</u>
Total Income		<u>25,000</u>

Note – Profits and gains attributable to agency work, which fall under the category of “other activities” is exempt upto ₹ 50,000 as per section 80P(2)(c). Therefore, the balance income of ₹ 25,000 (₹ 75,000 - ₹ 50,000) would constitute the total income of the co-operative society.

Question 12

"The profits and gains of an industrial undertaking established in specified areas and engaged in carrying out certain activities are enjoying tax holiday." Specify such areas and the activities.

Answer

Section 80-IB

The tax holiday under section 80-IB is available in respect of the following industrial undertakings –

- Small Scale Industrial undertakings
- Industrial undertakings set up in an industrially backward State specified in the Eighth Schedule. Industrial undertakings in the State of Jammu & Kashmir should not manufacture or produce cigarettes/cigar, distilled and brewed alcoholic drinks, aerated branded beverages and their concentrates.
- Industrial undertakings, set up in notified backward districts, producing articles other than those given in the Eleventh Schedule.

Section 80-IC

The tax holiday under section 80-IC is available in respect of the industrial undertakings set up in Sikkim, Himachal Pradesh, Uttaranchal and North-Eastern States. If the undertaking is set up in the specified zone in the States of Sikkim, Himachal Pradesh and Uttaranchal, it should manufacture any article or thing other than those given in the Thirteenth Schedule. If the undertaking is set up in any other area in these States, it should manufacture any article given

in the Fourteenth Schedule. Specified zones include export processing zone, integrated infrastructure development centre, industrial growth centre, industrial estate, industrial park, software technology park, industrial area or theme park.

Note: This question can also be answered on the basis of the provisions of section 10AA or section 80-ID or section 80-IE.

Question 13

State briefly the conditions to be satisfied by hospitals located anywhere in India other than excluded area for the purpose of obtaining deduction @ 100% of the profits under section 80-IB of the Act.

Answer

As per section 80-IB(11C) for granting deduction of 100% of profit derived by an undertaking from the business of operating and maintaining a hospital located anywhere in India, other than the excluded area, the following conditions are to be satisfied:

- (i) The hospital should be constructed and should start functioning between 1st April, 2008 to 31st March, 2013.
- (ii) The hospital should have at least 100 beds for patients.
- (iii) The construction of the hospital should be in accordance with the regulations or bye-laws of the local authority.
- (iv) Audit report in the prescribed form signed and verified by a chartered accountant certifying that the deduction has been correctly claimed should be filed along with the return of income.

Question 14

Ayush, an employee with M/s Isomer Solutions Ltd., provides the following information relating to his income for the financial year 2011-12:

- (i) *He received salary ₹ 25,000 per month including conveyance allowance @ ₹ 2,500 per month for official purposes.*
- (ii) *He deposited ₹ 2,500 per month in his account under a pension scheme notified by the Central Government.*
- (iii) *He paid a sum of ₹ 60,000 during the year as interest on loan taken in April, 2006 from bank for higher studies of his daughter.*
- (iv) *He paid health insurance premium for himself and for his family members ₹ 8,500 in cash and ₹ 9,000 by credit card.*
- (v) *He invested ₹ 40,000 in notified bonds issued by NABARD in July, 2011.*
- (vi) *Equity shares having fair market price of ₹ 1,00,000 (on the date of exercise of option) were allotted to him by the company at a concessional price of ₹ 20,000 on 30.5.2011, which were sold by him for ₹ 1,80,000 on 28.2.2012.*

11.13 Direct Tax Laws

Compute the total income of Ayush for assessment year 2012-13 and give reasons for treatment to each of the items.

Answer

Computation of total income of Mr. Ayush for the Assessment Year 2012-13

Particulars	₹	₹
Salaries		
Gross salary received	3,00,000	
Add: Shares allotted at concessional price – fair market value less the amount recovered from the employee [Section 17(2)(vi)] (i.e. ₹ 1,00,000 minus ₹ 20,000)	80,000	
	3,80,000	
Less: Conveyance allowance exempt under section 10(14)	30,000	
		3,50,000
Capital gains		
Sale consideration of equity shares sold on 28.02.2012	1,80,000	
Less: Fair Market Value of shares on the date of exercise of option (i.e., 30.5.2011)	1,00,000	
Short-term Capital Gains		80,000
Gross Total Income		4,30,000
Less: Deduction under Chapter VIA		
Under section 80C		
For investment in notified bonds of NABARD	40,000	
Under section 80CCD		
For deposit in pension scheme notified by Central Government [₹ 30,000 but restricted to 10% of salary i.e. 10% of ₹ 2,70,000]	27,000	
Under section 80D		
For payment of health insurance premium by credit card	9,000	
Under section 80E		
For payment of interest on loan taken from bank for higher studies of daughter	60,000	1,36,000
Total Income		2,94,000

Notes:

- Conveyance allowance received for official duties is fully exempt under section 10(14).
- Section 80CCD provides for deduction of employee's and employer's contribution to pension scheme notified by the Central Government. This deduction has been extended also to individuals employed by any other employer on or after 1.1.2004. However, if the

amount contributed exceeds 10% of salary, then the deduction would be restricted to 10% of salary. [As per Explanation to section 80CCD, salary for this purpose would include dearness allowance if the terms of employment so provide, but excludes all other allowances and perquisites]. Therefore, "salary" for the purpose of section 80CCD would be ₹ 2,70,000 (₹ 3,00,000 – ₹ 30,000).

- (iii) The deduction under section 80E available to an individual in respect of interest on loan taken for his higher education has been extended to include interest on such loan taken for higher education of his relative i.e. his or her spouse and children. Hence, interest on loan taken by Mr. Ayush from bank for the higher studies of his daughter is eligible for deduction under section 80E.
- (iv) For claiming deduction under section 80D, the payment of medical insurance premium has to be made by any mode other than cash. Hence, payment of ₹ 8,500 made in cash will not qualify for deduction under section 80D.
- (v) Subscription to notified bonds issued by NABARD will qualify for deduction under section 80C(2)(xxii).
- (vi) The value of any specified security or sweat equity shares allotted or transferred by the employer, free of cost or at a concessional rate to the employee would be treated as a perquisite in the hands of the employee. The value would be the fair market value of the specified security or sweat equity shares on the date on which the option is exercised by the employee as reduced by the amount actually paid by, or recovered from the employee in respect of such security or shares.

Consequently, section 49(2AA) provides that for the purpose of computing capital gains in the hands of the employee at the time of sale of such securities/shares by the employee, the cost of acquisition shall be the fair market value which has been taken into account for the purpose of computing the perquisite value in the hands of the employee.

Question 15

Explain the meaning of "eligible business" referred to in section 80-IE granting tax holiday in respect of profits and gains of certain undertakings in North-Eastern States.

Answer

Eligible business as referred to in section 80-IE of the Act means the business of :

- (a) hotel (not below two star category),
- (b) adventure and leisure sports including ropeways;
- (c) providing medical and health services in the nature of nursing home with a minimum capacity of 25 beds;
- (d) running an old-age home;

11.15 Direct Tax Laws

- (e) operating vocational training institute for hotel management, catering and food craft, entrepreneurship development, nursing and para-medical, civil aviation related training, fashion designing and industrial training;
- (f) running information technology related training center;
- (g) manufacturing of information technology hardware; and
- (h) bio-technology.

Question 16

PQR Co-operative Bank, a co-operative society, having its area of operation confined to Gubbi Taluk and the principal object of which is to provide for long-term credit for agricultural and rural development activities, has received the following amounts during the year ending 31.3.2012:

- (i) Interest amounting to ₹ 1,00,000 from its members on loans advanced to them.
- (ii) Interest amounting to ₹ 1,50,000 on deposits with other co-operative societies.
- (iii) Rent amounting to ₹ 2,00,000 from letting out its godowns for storage of commodities.

PQR Co-operative Bank seeks your advice in the matter of taxability of the above amounts and the eligibility for deduction, if any, in respect thereof for the assessment year 2012-13.

Answer

Sub-clause (viiia) to section 2(24) includes within the scope of definition of income, the profits and gains of any business of banking (including providing credit facilities) carried on by a co-operative society with its members. Hence, the interest of ₹ 1,00,000 received by PQR Co-operative Bank on loans advanced to its members constitutes its income.

Further, interest received amounting to ₹ 1,50,000 on deposits with other co-operative societies and rent amounting to ₹ 2,00,000 received from letting out its godowns for storage of commodities also constitute the income of the co-operative bank.

Sub-section (4) of section 80P provides that section 80P shall not apply to any co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank.

Explanation to section 80P(4) defines a primary co-operative agricultural and rural development bank to mean a society having its area of operation confined to a taluk and the principal object of which is to provide for long-term credit for agricultural and rural development activities.

PQR Co-operative Bank is a primary co-operative agricultural and rural development bank as defined in the said *Explanation* since it is a co-operative society having its area of operation confined to Gubbi Taluk and its principal object is to provide long-term credit for agricultural and rural development activities. Therefore, it is eligible for deduction under section 80P.

Interest of ₹ 1,00,000 received by the bank on loans advanced to its members is eligible for deduction in full under section 80P(2)(a)(i).

Interest of ₹ 1,50,000 received by the bank from deposits with other co-operative societies qualifies for deduction in full under section 80P(2)(d).

Rent of ₹ 2,00,000 received by the bank from letting out its godowns for storage of commodities is eligible for deduction in full under section 80P(2)(e).

Question 17

Chand, an individual resident in India, paid medical insurance premium amounting to ₹ 20,000 by cash during the year ending 31.3.2012 out of his income chargeable to tax in respect of the policy taken on the health of his dependent father in accordance with the scheme framed by the General Insurance Corporation of India and approved by the Central Government.

Besides, he paid ₹ 90,000 during the year ending 31.3.2012 for the medical treatment of his dependent mother, aged 69 years, in respect of a disease specified in Rule 11DD(1) of the Income-tax Rules, 1962. He received ₹ 20,000 from the insurance company for the said medical treatment of his mother.

Chand seeks your advice on the deductions available in respect of these two payments.

Answer

Section 80D provides for deduction in respect of medical insurance premium paid by an individual or a Hindu undivided family subject to certain conditions and limitations. One of the conditions for allowance of the deduction is that the premium should be paid by any mode other than cash. Chand has paid the premium by cash and is therefore, not eligible for deduction under section 80D.

However, Chand is eligible for deduction under section 80DDB in respect of the payment made by him during the relevant previous year for the medical treatment of his dependent mother in respect of the specified disease. The ceiling limit of deduction is ₹ 60,000 since the payment made is in respect of his dependent mother who is above 65 years of age.

Section 80DDB provides that the assessee shall be allowed a deduction of the amount actually paid for medical treatment of the specified disease or ₹ 60,000 (since the payment is in respect of a senior citizen), whichever is less, in respect of that previous year in which such amount was actually paid. The second proviso to that section provides that *deduction under that section* shall be reduced by the amount received under an insurance. From a combined reading of the section and the proviso, it can be inferred that in this case, ₹ 20,000, being the amount received from the insurer, should be deducted from ₹ 60,000, which is the *deduction allowable as per section 80DDB* (since it is lower than the amount of ₹ 90,000 actually paid). Therefore, ₹ 40,000 [i.e. ₹ 60,000 minus ₹ 20,000] is the deduction available under section 80DDB.

Question 18

- (a) *An institution has been established wholly for charitable and religious purposes within the meaning of sections 11 and 12 of the Income-tax Act. Donations made to such an institution do not automatically qualify for deduction under section 80G. Discuss the validity of this proposition.*
- (b) *Expenditure on medical treatment of an assessee and members of his family constitute a major element of a household budget, particularly if he or a member of his family suffers from physical disability. Discuss the relevant provisions which provide relief or deductions available to a non-salaried person, in this respect.*

Answer

- (a) An institution which has been established wholly for charitable and religious purposes within the meaning of sections 11 and 12 has to satisfy certain other conditions to qualify for deduction under section 80G (vide sub-section 5). The additional conditions required to be satisfied are:
1. The instrument under which the institution is established should not contain any provision for the transfer or application at any time of the whole or any part of the income or assets for any purpose other than a charitable purpose.
 2. The institution should not be for the benefit of any particular religious community or caste.
 3. The institution should maintain regular accounts of its receipts and expenditure.
 4. The institution should be constituted either as a public charitable trust or registered under the Societies Registration Act or section 25 of the Companies Act or be a university established by law or an institution financed wholly or in part by the Government or a local authority.
 5. In relation to donations made after 31.5.1992, the institution should for the time being, be approved by the Commissioner of Income-tax in accordance with rules made in this behalf.

Charitable purpose does not include any purpose of a religious nature with two exceptions:

- (a) An institution established for the benefit of Scheduled Caste, Backward classes, Scheduled Tribes or of women and children, shall not be deemed to be an institution expressed to be for the benefit of a religious community or caste.
- (b) Incurring of expenditure not exceeding 5% of its total income of that previous year for religious purpose will not disqualify an institution for the purpose of section 80G.

Once an approval is granted to an institution under section 80G it shall continue to be valid in perpetuity. However, the Commissioner has the power to withdraw the

approval if he is satisfied that the activities of the institution or fund are not genuine or are not being carried out in accordance with the objects of the institution or fund.

Approvals expiring on or after 01.10.2009 shall be deemed to have been extended in perpetuity unless specifically withdrawn. Where the approvals expire before 01.10.2009, these have to be renewed and once renewed these shall continue to be valid in perpetuity unless specifically withdrawn.

- (b) Sections 80D, 80DD, 80DDB and 80U of Chapter VI-A of the Income-tax Act, 1961 provide deduction in respect of medical insurance premium paid/ medical expenditure incurred/ amount deposited with LIC or any other insurer approved by the IRDA.

Sections 80DD and 80U, which particularly provide for deduction in respect of a person with disability, are discussed hereunder -

- (i) Under section 80DD, deduction is allowable to an individual or HUF, resident in India, in respect of any expenditure incurred for the medical treatment (including nursing), training and rehabilitation of a dependent with disability or a payment made to L.I.C. or any other insurer approved by the IRDA for the maintenance of a dependent with disability. **The deduction under this section is ₹ 50,000, irrespective of the quantum of expenditure incurred or deposit made. The deduction is ₹ 1,00,000, where the dependent is a person with severe disability.**
- (ii) Under section 80U, an individual who is a resident and who is certified by a medical authority to be a person with disability at any time during the previous year, shall be entitled to a deduction of ₹ 50,000. If it is a case of severe disability, deduction shall be ₹ 1,00,000. A copy of the certificate issued by the Medical authority is required to be furnished in respect of the assessment year for which the deduction is claimed along with the return of income.

Question 19

What is the deduction allowable in respect of donations for political purposes? How will expenditure on advertisements in souvenirs of political parties be dealt with, in computing income from business?

Answer

As per section 80GGB, any sum contributed by an Indian company in the previous year to any political party, or an electoral trust shall be allowed as deduction while computing its total income. For the purpose of this section, the word "contribute" has the meaning assigned to it under section 293A of the Companies Act, 1956, which provides that -

- (a) a donation or subscription or payment given by a company to a person for carrying on any activity which is likely to effect public support for a political party shall also be deemed to be contribution for a political purpose;

11.19 Direct Tax Laws

- (b) the expenditure incurred, directly or indirectly, by a company to a political party or an electoral trust on advertisement in any publication (being a publication in the nature of a souvenir, brochure, tract, pamphlet or the like) by or on behalf of a political party or for its advantage shall also be deemed to be a contribution to such political party or a contribution for a political purpose to the person publishing it.

As per section 80GGC, any amount of contribution made to a political party or an electoral trust by an assessee being any person, except local authority and every artificial juridical person wholly or partly funded by the Government shall be allowed as deduction while computing the total income of such person.

For the purposes of sections 80GGB and 80GGC, “political party” means a political party registered under section 29A of the Representation of the People Act, 1951. “Electoral trust” is defined in section 2(22AAA) to mean a trust approved by the Board in accordance with the scheme made in this regard by the Central Government.

As regards expenditure on advertisements in souvenirs of political parties, the meaning of the word “contribute” as discussed above as per section 80GGB makes it clear that such expenditure is deemed to be a contribution to a political party or for a political purpose.

However, section 37(2B) provides that no allowance shall be made in respect of expenditure incurred by an assessee on advertisement in any souvenir, brochure, tract, pamphlet or the like published by a political party. Therefore, the provisions of section 37(2B) have to be given effect to in computing gross total income. Thereafter, while allowing Chapter- VIA deductions, such expenditure would be allowed under section 80GGB.

Question 20

The assessee, a Co-operative Society, earned interest income out of the reserve funds, which had been invested with SBI/RBI in compliance with statutory provisions in order to carry on banking business and claimed deduction under Section 80P(2)(a) of Income-tax Act, 1961. The Assessing Officer declined to allow the claim, but restricted its claim to that part of interest income derived from working or circulating capital. Examine the validity of the action of Assessing Officer.

Answer

No deduction under section 80-P would be allowed from the assessment year 2007-08 unless the assessee is a primary agricultural credit society or a primary co-operative agricultural and rural development bank.

Assuming the society is eligible for deduction by being a primary agricultural credit society or a primary co-operative agricultural and rural development bank, the eligibility for deduction under section 80-P vis a vis the validity of the action of the Assessing Officer is to be decided. In order to carry on the business of banking, the society had to make investments out of the reserve funds with SBI/ RBI in compliance with statutory provisions and the same was necessary and consequently, such investments are part of the business activities falling within the scope of section 80P(2)(a) of the Income-tax Act, 1961.

There is nothing in the phraseology in section 80P(2)(a)(i) which makes it applicable only to income derived from working or circulating capital. Thus, the action of the Assessing Officer is not correct in law and he should allow the total interest income derived from investments made out of reserve funds under section 80P(2)(a). [*CIT vs. Karnataka State Co-operative Apex Bank* 251 ITR 194 (SC)].

Question 21

Write a short note on deduction in respect of loan taken for higher education

Answer

Section 80-E governs the deduction in respect of repayment of loan taken for higher education. **It applies to individuals and the deduction is limited to payment of interest on loan** taken from any financial institution or any approved charitable institution for the purpose of pursuing his higher education or for the purpose of higher education of his or her relative i.e. spouse or children of the individual or the student for whom the individual is a legal guardian. There is no monetary limit in respect of the interest on educational loan paid by the assessee. **The deduction is admissible for the initial assessment year and seven assessment years succeeding that year or until the interest is paid by the assessee in full, whichever is earlier.**

Self-examination Questions

1. Write short notes on -
 - (i) Deduction in respect of royalty income on patents
 - (ii) Deduction in respect of royalty income of authors of certain books.
2. What is the deduction available from the gross total income of a company in respect of any contribution given to a political party?
3. Who are the assessees eligible to claim deduction under section 80LA? What is the quantum of deduction available under this section? What are the conditions to be fulfilled for claiming such deduction?
4. Discuss the provisions of section 80-IAB relating to deduction in respect of profits and gains derived by an undertaking or enterprise engaged in the development of a special economic zone.
5. What are the special provisions in respect of certain undertakings or enterprises in certain special category states as laid down under section 80-IC of the Act.
6. Can income from cold storage be exempt under section 80P(2)(e), by considering the cold storage as a warehouse or godown where goods are stored?
7. Discuss whether the following qualify as an “infrastructural facility” for the purpose of deduction under section 80-IA -
 - (i) Structures at the ports for storage.

11.21 Direct Tax Laws

- (ii) Effluent treatment and conveyance system.
8. (a) Super Cartons (P) Ltd. was engaged in the manufacture of printed, laminated and waxed cartons. As part of the process of making cartons, the printed sheets were brought to the factory of the company and laminated to make the surface of the sheets smooth and attractive. Then, the laminated sheets were punched and the punched paper was pasted with glue to convert into a carton. The company claimed deduction under section 80-IB. The Assessing Officer, however, disallowed the deduction opining that such operations do not constitute 'manufacture' and the assessee was not engaged in any manufacturing operations in order to be eligible to claim deduction under section 80-IB. Discuss whether the opinion of the Assessing Officer is correct.
- (b) Herbal Tea Ltd. set up a small-scale industrial unit in a backward industrial area. It purchased tea leaves powder/granules and dispatched the same to the blend master, who, after going through his own process, suggested the mixing ratio and process of mixing for making the perfect blend of tea. The assessee-company, thus, carried on the activity of blending of different types of leaves obtained from different gardens in a definite ratio resulting in production of a commodity having its own identity. The assessee contended that though such process may not amount to manufacture, it amounted to production and therefore, being an industrial undertaking set up in a backward industrial area and fulfilling all other conditions, it was entitled to avail the benefit of deduction under section 80-IB. The Assessing Officer, however, disallowed the claim of the assessee holding that such process did not amount to manufacture or production of article or thing for the purpose of claiming deduction under section 80-IB. Discuss whether the contention of the Assessing Officer is correct.
9. An industrial undertaking received 'duty drawback' for export of certain articles or things manufactured by it and claimed the same as 'profits and gains derived from an industrial undertaking' for purpose of deduction under section 80-IB. Is the treatment of 'duty drawback' as profits and gains 'derived from' an industrial undertaking for the purpose of availing deduction under section 80-IB correct in law?

Answers

6. This question was answered by the Allahabad High Court in *CIT v. District Co-operative Federation (2005) 144 Taxman 333 / (2004) 271 ITR 0022*. The High Court observed that the terms 'godowns' and 'warehouses' are synonymous and interchangeable. The common parlance meaning which can be attributed to godowns or warehouses is that they must be used for the purpose of storage of goods, even for a temporary period.
- The High Court further observed that, in a cold storage vegetables, fruits and several other articles are stored. This can be established from the dictionary meaning of the term "cold storage" as well as from the following decisions -
1. Calcutta High Court in *CIT v. Radha Nagar Cold Storage (P.) Ltd. (1980) 4 Taxman 351*.

2. Apex Court in *Delhi Cold Storage (P.) Ltd. v. CIT* (1991) 59 Taxman 144

Thus, by giving a liberal interpretation to the provisions of section 80P(2)(e), cold storage can be treated as a warehouse or godown where fixed temperature is maintained. Therefore, cold storage can be said to be a warehouse or godown where goods are stored, and hence, income from cold storage would be exempt.

7. (i) **Structures at the ports for storage** - Circular no. 10/2005, dated 16.12.2005 clarifies that for and from A.Y. 2002-03 onwards, structures at the ports for storage, loading and unloading etc. will be included in the definition of port (which is an infrastructural facility) for the purpose of section 80-IA, if the concerned port authority has issued a certificate that the said structures form part of the port.
- (ii) **Effluent treatment and conveyance system** – Under the treatment of effluents and its conveyance system, the effluents emanating from chemical industries are to be conveyed inside the sea through onshore pipeline and before discharging effluent through pipeline, entire load of effluent is to be treated to marine standards. Therefore, it is a part of water treatment system and would accordingly, qualify as an infrastructure facility for the purposes of tax benefit under section 80-IA. This clarification is given in Circular No.1/2006 dated 12.1.2006.
8. (a) This issue came up before the Bombay High Court in *CIT v. Supreme Graphics Creations (P.) Ltd.* (2005) 148 Taxman 67. It was held that the characteristics of the finished goods were totally changed after laminating, corrugating, printing, punching and pasting. Therefore, the assessee was carrying out a manufacturing process for making the laminated cartons.

Therefore, in this case, the opinion of the Assessing Officer is not correct. Super Cartons (P.) Ltd. is carrying out a manufacturing process and is, therefore, eligible for claiming deduction under section 80-IB.
- (b) The High Court of Rajasthan in *D.D. Shah & Bros v. Union of India* (2005) 148 Taxman 1 (Raj.) observed that blending of different qualities of tea possessing different chemical and physical composition so as to produce the specific blend of tea does not involve an act of manufacture. The assessee is not a grower of tea and so he cannot be called the producer of tea. Nor is he engaged in manufacture of potable tea from green leaves. Therefore, the assessee is only a trader in tea and not a producer or manufacturer. The High Court held that the expression 'manufactures or produces any article or thing' under section 80-IB(2)(iii) has been used in generic sense. It does not include any processing of goods, which does not bring out a new or commercially distinct commodity. Blending of different teas by a dealer amounts to processing of tea but falls short of a manufacturing process. Therefore, it does not amount to manufacturing or producing any article or thing within the meaning of section 80-IB.

Therefore, the contention of the Assessing Officer in this case is correct.

9. A similar issue came up before the Delhi High Court in *CIT v. Ritesh Industries Ltd. (2005) 142 Taxman 551*. The High Court observed that the assessee pays duty on the raw materials utilized as inputs and adds his profit component on the total component of costs to arrive at the sale price. It is this profit which is included in the expression 'profits and gains derived from an industrial undertaking'. Merely because under the scheme to encourage exports the duty is refunded subsequently by way of 'duty drawback', it cannot be regarded as the profit or gain 'derived from' the industrial undertaking. It may constitute profits or gains of the business by virtue of section 28, but, it cannot be construed as profits or gains 'derived' from the industrial undertaking since its immediate and proximate source is not the industrial undertaking but the scheme of duty drawback. Irrespective of whether duty drawback is allowed, the profit 'derived from' the industrial undertaking remains to be the profit. On account of the duty drawback, business profit may be increased, but so far as the profits and gains 'derived from' an industrial undertaking is concerned, it will not increase. It will remain the same.

Therefore, in view of the above case, duty drawback cannot be treated as profit 'derived from' the industrial undertaking for the purpose of availing deduction under section 80-IB.