TAXATION/TAX LAWS/DIRECT TAXS

For CA- IPCC, CS & CMA Inter

[Assessment Year 2012-13]

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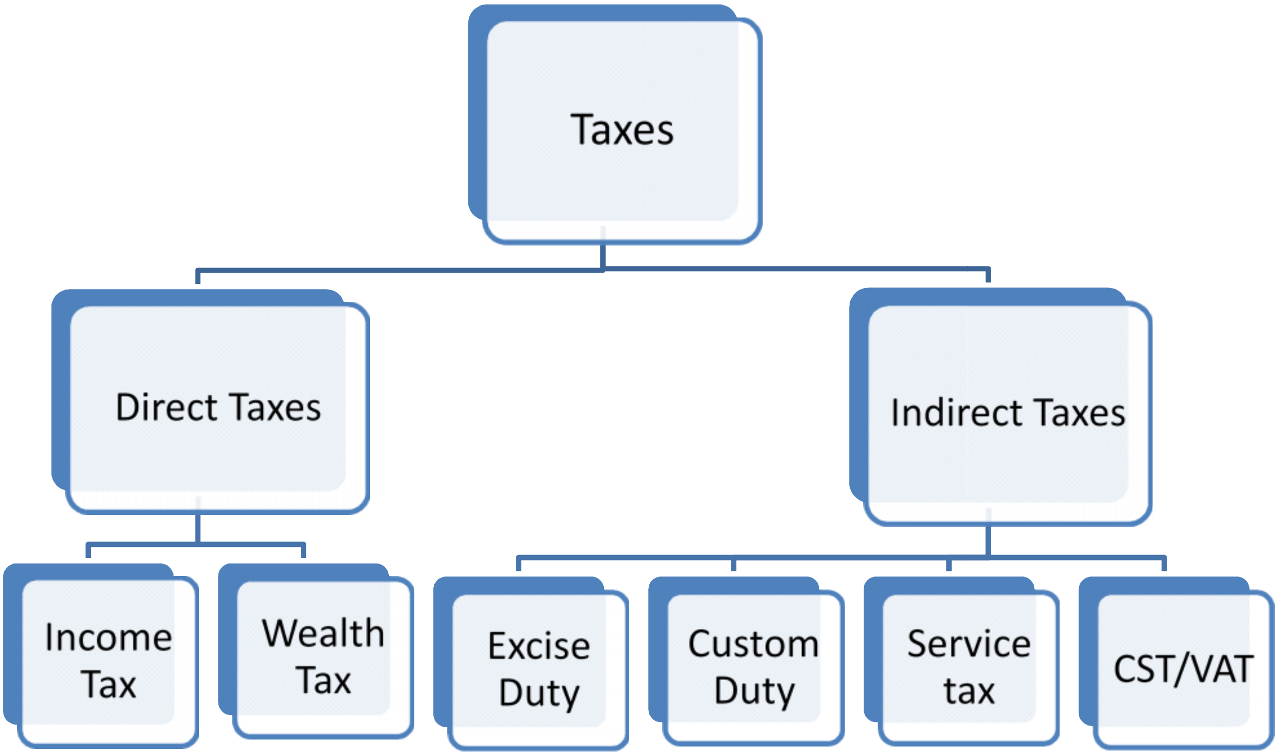
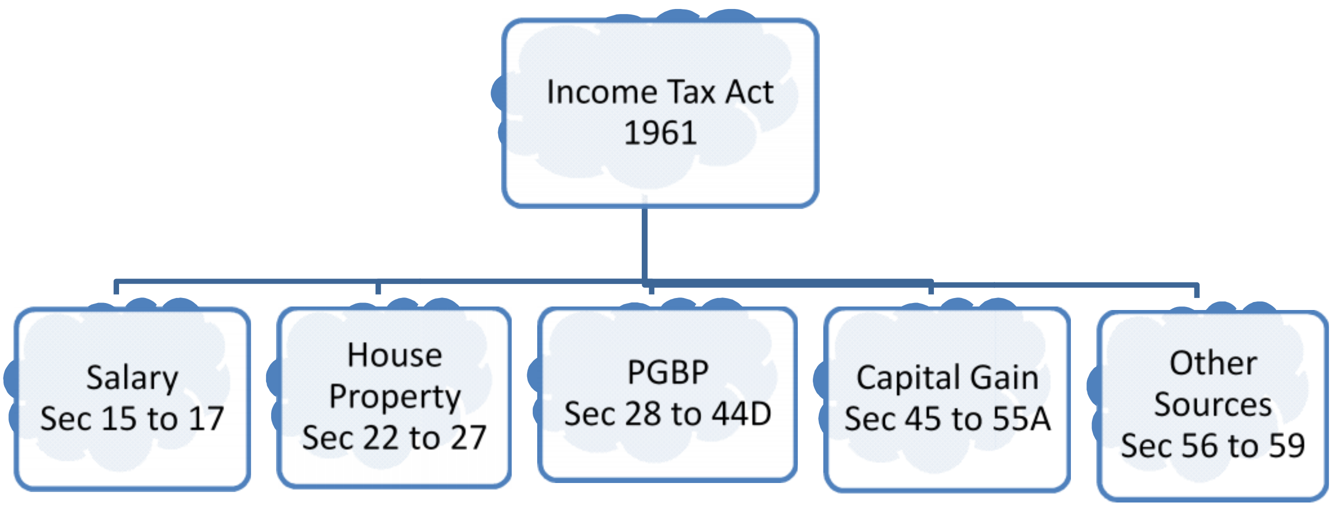
INDIAN TAX STRUCTURE



INCOME TAX'S HEADS



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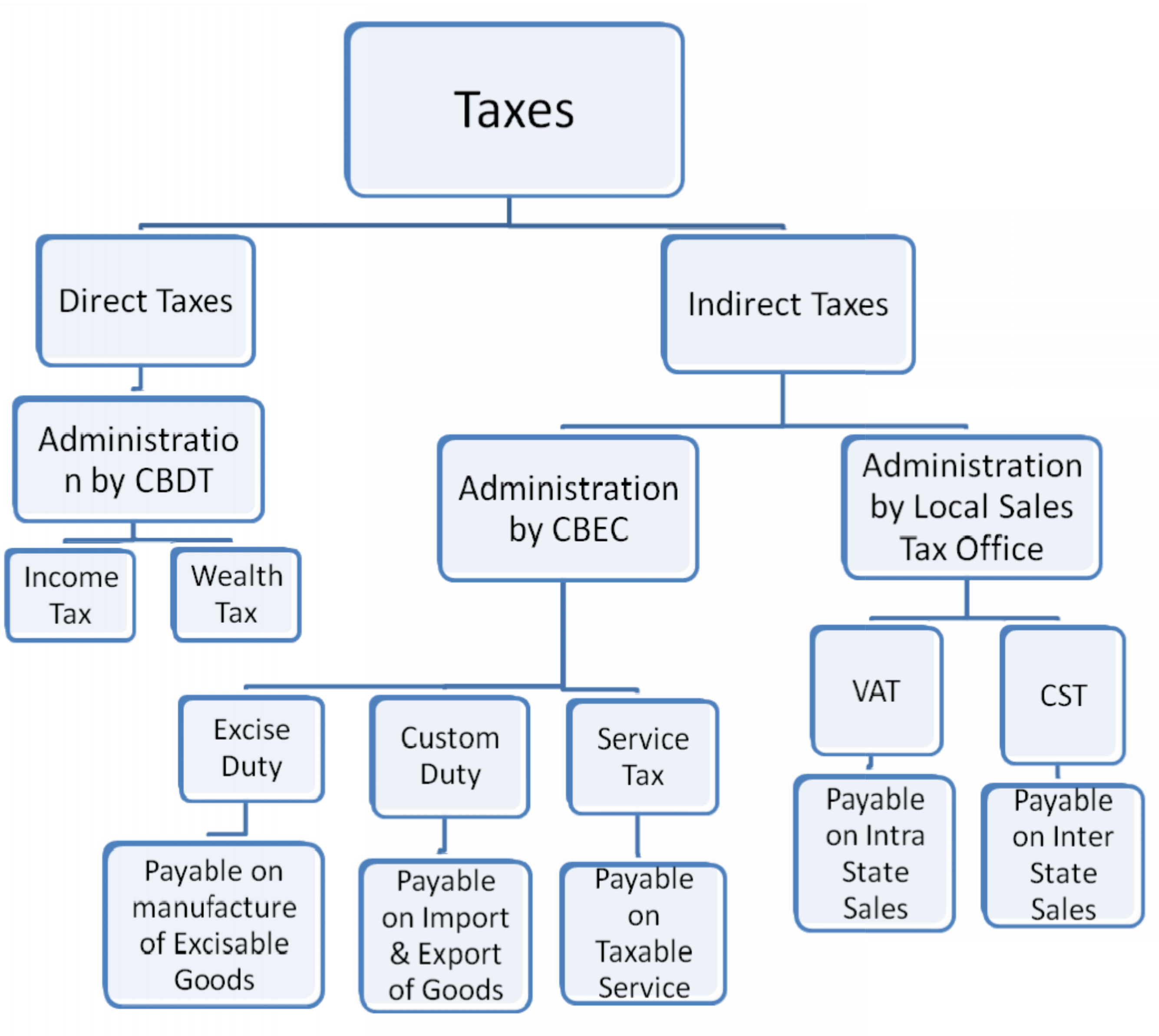

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DEFINATIONS

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

Assessee (Section 2(7):- Assessee means a **person** by whom any tax or any other sum of money is payable under this Act includes:-

- **a.** 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.
- **b.** deemed assessee
- **c.** assessee in default

Person (Section 2(31):- Person includes-

(i) An Individual-. Individual means natural person i.e. human being.

(ii) Hindu undivided Family: - HUF is also a separate entity and is governed by Hindu law. In the eye of Income Tax Act, HUF has the separate status, it can have separate income and it is assessed separately and have nothing to do with the individual income or status of its members. Here see this status is available only to the families which are governed by the Hindu laws. One cannot have a MUF i.e. Muslim undivided family and CUF i.e. Christian undivided family in the eyes of Income Tax Act.

(iii) Firm:- A partnership is the relation between persons who have agreed to share the profits of the business carried on by all or any of them acting for all. There may be a partnership firm or proprietorship firm but in the eyes of IT laws Firm means a Partnership firm. The persons who have entered into the partnership are called individually Partners and jointly Firm

(iv) Company:- (i) Shree Foods(P)Limited (ii) Reliance Industries Limited (iii) Dabur India Limited.

(v) An association of persons or a body of Individuals, whether incorporated or not: - When more than one person engaged themselves in an activity without forming a partnership, they will be called Association of persons (AOP) or body of Individuals (BOI).

Basic differences between AOP and BOI are:

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

II. 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.

Example:- Five persons have formed a group of singers and performed in different cities .They earned Rs. 25 Lakhs in a financial year. Since they have not formed a partnership hence they will be called Association of persons.

(vi) Local Authority: - Krishi Upaj mandi Samiti, Municipal council, Urban improvement trust.

(vii) Artificial Judicial Persons- Bar council of India, Chamber of commerce, an idol or deity.

Note: It may be noted here that the AOP/BOI/Local Authority/ Artificial Judicial person will be treated as persons irrespective the fact that they are formed for the purpose of earning profit or not.

Assessment Year Section 2(9): It means the period of 12 months starting from 1st April every year and ending on 31st march of the succeeding year. For our exam relevant Assessment Year is 2012-13 which starts on 1st April 2012 and ends on 31st March 2013.

Previous Year Section 2(34): It means the year immediately preceding to assessment year. Income for the previous year is always taxed in the assessment year. For our exam relevant Previous Year is 2011-12 which starts on 1st April 2011 and ends on 31st March 2012.

Previous years in case of newly set up business/profession would starts from the date of commencement of business/profession and ending with the said financial year.

Why income of previous year is taxed in assessment year?

Let us tries to find out its answer in a very simple way. Suppose you have gone to a shopping mall and purchased 10 articles. How many times you to pay the bill? Only one time i.e. when your shopping completed. A bill cannot be raised on your shopping of each article. This is system to billing you when you finished your shopping. This is universal law of billing a person.

See when you take your meal to a restaurant; you will get your bill after finishing the meal. While billing somebody a finishing point is required. On the same footing your income is taxed after a finishing point and here 31stMarch is the finishing point hence your income up to 31st March is taxed in a year commencing from the next following day i.e. from 1st April and that is the assessment year for your previous year.

Exceptions of above rule:

(i) Income of shipping business of Non-resident (Section 172)

(ii) Income of persons who leaves India Permanently (Section 174)

(iii) Income of AOP/BOI formed for short duration (Section 174A)

(iv) Persons Likely to transfer property to avoid tax (Section 175)

(iv) Income of a discontinued business (Section 176)**:-** If a business is discontinues in any assessment year then at the discretion of the Assessing officer the income of such business is taxable in the assessment year itself.

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

Total Income [Sec.2 (45)]: Total income is income after reducing the deduction under chapter VI - A (Sec. 80C to Sec. 80U) from the gross total income. This income is also called taxable income on which tax has to be imposed. The total income shall be rounded off in nearest multiples of Rs 10.

No deduction for Exempt Income (Sec. 14A): While computing total income no deduction shall be allowed for that expenditure which has been incurred to earn exempted income.

REVENUE AND CAPITAL: Any receipt of money can either be categorized as revenue or capital. Revenue receipts are always fully taxable unless specific exemption has been provided for that. Capital receipts are never taxable. That's why amount received from insurance company at the time of maturity is not taxed u/s 10(10D). Similarly loan taken is also not taxed.

However, some of the capital receipts are taxable since they have been specifically provided in the definition of Income such as tax on Capital gains on sale of Capital asset.

CAPITAL RECEIPT	REVENUE RECEIPT
Capital receipt is generally referable to fixed capital. For example: Sale price on the sale of assets, which assessee uses as a fixed asset in his business is a capital receipt.	Revenue receipt refers to circulating capital. For example: Sale price of the stock in trade is a revenue receipt.
Payment received towards the compensation for the extinction of a profit earning source is a capital receipt.	Payment received to compensate loss of earnings is a revenue receipt.
A receipt in lieu of source of income is a capital receipt. **Example.** Compensation for the loss of employment is a capital receipt.	A receipt in lieu of income is a revenue receipt.
Capital receipts are exempt from tax unless they are expressively taxable like in the case of capital gains	Revenue receipts are always taxable unless expressly exempt from tax u/s10

DIVERSION OF INCOME *v.* APPLICATION OF INCOME

When an income, which has accrued, arisen or has been received by the assessee is applied in discharge of an obligation, it is said to be an application of income.

On the other hand, when an income gets diverted at the source by an overriding title, before it has accrued, arisen or reached the assessee it would be said to be a diversion of income.

Diversion of Income	Application of Income
By virtue of an obligation the income is diverted at source before it reaches the assessee.	The discharge of obligation takes place after the income reaches the assessee.
Obligation is on the source of income.	Obligation is on the receipt of income.
Diversion of income takes place by overriding title.	There is no overriding title in this case.
The income is not included in the income of the assessee.	Such income is included in the income of the assessee.
Income cannot be said to have accrued or arisen.	Income is said to have accrued or arisen and therefore is taxable in the hands of assessee.

Case 1: An employee instructs his employer to pay a certain portion of his salary to a charity and claims as exempt as it is diverted by overriding charge/ title. Comment.

Solution: In this case, the employee instructs to pay a certain portion of his salary for charity. This means fiat the salary is applied for the purposes of charity after it has accrued to the employee. The obligation to pay charity is not on the source of income but it is on the receipt of income i.e. the salary due to the employee. The payment of charity takes place after the salary becomes due to the employee. Hence, it is a case of application of income. There is no diversion of salary income by overriding charge/ tide. Therefore, fie portion of salary paid for charity is not exempt.

Case 2: Anand & Sons is a partnership firm consisting of father and three sons. The partnership deed provided that after the death of father, the business shall be continued by his sons, subject to the condition that the firm shall pay 30% of the profits to their mother. Father died on 31st March, 2012. In the previous year 2012-13, the reconstituted firm paid Rs 1 Lakh (equivalent to 30% of the profit) to their mother and claimed amount as deduction from its income. Examine the correctness of claim of the firm**.**

Solution: The obligation to pay 30% of profits of the firm to the mother is on the source of income of the firm, as such payment is provided for by the document creating the partnership. The profits, to the extent of 30%, do not accrue to the firm as its income. The same gets diverted at source by overriding title of the mother. Hence, the same is allowable as deduction from income of the firm.

MAXIMUM MARGINAL RATE (MMR) [Section 2(29Q]

It is the rate of income tax (including surcharge, if any) applicable in relation to the highest slab of income, specified in the Finance Act for the relevant year, in the case of the following persons:

a) an individual or

b) an Association of person or body of individuals.

Example: MMR for A/Y 2012-13 is 30.9% (being Tax @ 30% + 3% education cess on income tax).

AVERAGE RATE OF TAX [Section 2(10)]

$$\textbf{Average Rate of Tax} = \frac{\text{Amount of income tax calculated on the total income}}{\text{Total Income}} \times 100$$

The total income referred to in this clause, is the income as defined by Section 2(45). Thus, it also includes income on which special rates of income tax are applicable. **Ex.:** Long-term capital gains.

Relevance of Average Rate of Tax: Average Rate of Tax becomes relevant in the context of giving rebate under section 110 in the assessment of members of an AOP.

Rate of Tax

For **Individual, HUF, AOP/BOI, Artificial Juridical Person** rate of tax for A/Y 2012-13 is as under:-

Up to Rs 1.80 Lakhs (This is Basic Exemption Limit)	NIL
Above Rs 1.80 Lakhs to Rs 5 Lakhs	10%
Above Rs 5 Lakhs to Rs 8 Lakhs	20%
Above Rs 8 Lakhs	30%

The basic exemption Limit for Female assesses (age below 60 years at any time during P/Y)	Rs 1.90 Lakhs

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The basic exemption Limit for Senior Citizens (age 60 years or more but less than 80 years at any time during P/Y)	Rs 2.50 Lakhs
The basic exemption Limit for Super Senior Citizens (age 80 years or more at any time during P/Y)	Rs 5.00 Lakhs

Co- Operative Society:

Upto Rs 10,000	10%
Above Rs 10,000 to Rs 20,000	20%
Balance	30%

Others:

	Partnership Firm (Including LLP)	Domestic Company	Foreign Company	Local Authority
Rate of Income Tax	30 %	30 %	30 %	30 %
Surcharge on Income Tax (only if total income exceeds Rs 1 Crore)	NA	5%	2%	NA
Marginal Relief	NA	Applicable	Applicable	NA

Marginal Relief: It is provided to ensure that the additional income tax payable including surcharge on excess of income over 1 Crore is limited to the amount by which the income is more than Rs 1 Crore.

Marginal Relief = Tax on total Income (including surcharge) – Tax on income of Rs 1 Crore – (Total income – Rs 1 Crore)

Question. Calculate marginal relief for Domestic Company X Ltd having income of Rs 1.03 Crore.

Ans. Rs 21,750

Note: Marginal Relief is available only for companies' assessee.

Why ????????????

Cesses: In case of every assessee, the amount of tax will be increased by 3 % (2 % Education Cess & 1 % Secondary Education Cess) of income tax.

Special Rates of Income Tax

Section	Income	Rate	Remark
111 A	STCG on transfer of equity share on which Securities Transaction Tax (STT) has been paid	15%	Discussed in chapter Capital Gain
112	LTCG	20%	Discussed in chapter Capital Gain

115 BB	Wining from lotteries, crossword puzzles, races, card game etc	30%	No deduction is allowed in computing such income. Further even basis exemption limit is not allowed in computing tax on such income

Assessment

Heads of Income	Section	Amount
Salary	15 to 17	****
House Property	22 to 27	****
Business or Profession (PGBP)	28 to 44	****
Capital Gain	45 to 55A	****
Other Sources	56 to 59	****
Add: Clubbing of Income	60 to 69D	****
Less: Set off or Carry forward of losses	70 to 80	****
Gross Total Income (GTI)		****
Less: Deduction under chapter VIA	80C to 80U	****
Total Income (Rounded off to Rs 10)		****
Tax on Total Income		****
Less: Rebate (if any)		****
Income tax payable		****
Add: Surcharge (Wherever applicable)		****
Total Tax and Surcharge		****
Add: 2% EC and 1% SHEC		****
Total Tax Liability		****
Less: TDS, Self Assessment Tax & Advance Tax paid (if any)		****
Net Tax Payable (Rounded off to Rs 10)		****

Rounded off of Total Income & Tax (Sec. 288A & Sec. 288B): The amount of total income and total tax payable shall be rounded off to the nearest multiple of ten rupees. if the last figure in that amount is five or more, the amount shall be increased to the next higher amount which is a multiple of ten and if the last figure is less than five, the amount shall be reduced to the next lower amount which is a multiple of ten; and the amount so rounded off shall be deemed to be the total income of the assessee for the purposes of this Act.

Example: Total Income or Tax payable is 230402.75= 203400.00 and 250508.65= 250510.00

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Computer Tax Liability:

Assessee	Status	Total Income (Rs)	Tax
Mr. Ram	Resident individual of 50 years	10,29,000	
Mrs. Rita	Non -resident individual of 61 years	10,49,550	
Mr. Dara Singh	Resident individual of 80 years	10,28,200	
Mrs. Manmohan	Resident individual of 25 years	1,85,570	
Ms. Depali	Resident individual of 30 years	14,25,690	
Mr. Monu Misra	Resident individual of 50 years	20,22,390	

EXEMPT INCOMES

Income	Section	Explanation
Agricultural Income	10 (1)	Agricultural Income from land in India is exempt from tax.
Share of profit of HUF to its member	10(2)	Share of profit of Member's in HUF is exempted as HUF is already liable to pay tax.
Share of profit in a partnership firm	10(2A)	Share of profit in the total income of the firm is exempt in the hands of partner as firm already pays tax on such income.
Allowance or perquisite paid outside India to a Government employee	10(7)	Any allowance or perquisite provided outside India shall be exempted if employee is - • Government employee • Working outside India • Citizen of India
Death-cum-retirement-gratuity	10(10)	Discussed in Salary Chapter
Commuted Pension	10(10A)	Discussed in Salary Chapter
Leave encashment	10(10AA)	Discussed in Salary Chapter
Retrenchment compensation	10(10B)	Discussed in Salary Chapter
Compensation under Bhopal Gas Leak Disaster	I0(I0BB)	Compensation under Bhopal Gas Leak Disaster Act, 1985 is exempted.
Compensation on a disaster	I0(I0BC)	Any amount received as compensation from • the Central Government • the State Government • Local Authority by an individual or his legal heir on account of any disaster is exempt.
Voluntary retirement compensation	10(10C)	Discussed in Salary Chapter
Life insurance claim	10(10D)	Any sum received under a life insurance policy (including bonus) is exempt except Keyman Insurance Policy.
Statutory or Public Provident Fund	10(11)	Any payment received from Statutory or Public Provident Fund is exempt.
Recognized Provident Fund	10(12)	Discussed in Salary Chapter
House Rent Allowance	10(13A)	Discussed in Salary Chapter

Scholarship	10(16)	Scholarships granted to meet the cost of education is exempt.
Daily Allowance to MPs & MLAs	10(17)	Daily allowance received by any MP or MLA is exempt.
Awards	10(17A)	Any payment (cash or in kind) received as award instituted in the public interest by the Central Government or any State Government or by any other approved body is exempt.
Pension to receiver of Gallantry Awards	10(18)	Pension (including family pension) received by an individual who has been awarded "Param Vir Chakra" or "Maha Vir Chakra" or "Vir Chakra" or such other notified gallantry award is exempt.
Family pension of armed force	10(19)	Family pension to widow or children of armed force is exempt
Palace of an ex-ruler	10(19A)	Annual value of any one palace of an ex-ruler is exempt.
Income of local authority	10(20)	Income of local authority is exempted
Income of a scientific research association/ research association	10(21)	Income of a scientific research association being approved for the purpose of Sec. 35 is exempted.
Income of news agency	10(22B)	Income of a specified news agency set up in India will be exempt
Income of certain funds	10(23C)	Any income received by any person on behalf of: 1. The Prime Minister's National Relief Fund 2. The Prime Minister's Fund (Promotion of Folk Art) 3. The Prime Minister's Aid to Students Fund 4. The National Foundation for Communal Harmony 5. Any other charitable fund or institution notified by the Central Government 6. Any trust or institution wholly for public religious purposes or charitable purposes notified by the Central Government
Income of mutual Fund	10(23D)	Income of a mutual fund is exempted. Any income of - **a.** A Mutual Fund registered under the SEBI Act, 1992 or regulation made there under; **b.** A Mutual Fund set up by a public Sector bank or a public financial institution or authorized by the Reserve Bank of India and subject to certain notified conditions.
Income of Trade union	10(24)	Income of trade union is exempt.
Income of a Schedule Tribe	10(26)	Income of a Scheduled Tribe, residing in Nagaland, Manipur, Tripura, Arunachal Pradesh, Mizoram and Ladakh which arises to him from any source in the said area or any income by way of dividend and interest on securities.
Income of a Sikkimese Individual	10(26AAA)	❖ Income accrues to Sikkimese from any source in the state of Sikkim or ❖ Dividend or interest on Securities (generated from anywhere) shall be exempted in the hands of the Sikkimese individual.
Dividend income	10(34)	Dividend distributed by a domestic company is exempt in the hands of shareholders.

Income from units	10(35)	Income from units of UTI or mutual fund is exempted excluding income on transfer of unit.
Capital Gain on compulsory acquisition of urban land	10(37)	Discussed in chapter Capital Gains
LTCG on Equity Shares	10(38)	Discussed in chapter Capital Gains
Income from international sporting event	10(39)	Income from any international sporting event is exempt.
Reverse Mortgage installments	10(43)	Loan amount received, whether in lump sum or in installment, under reverse mortgage will not be included in total income.

DEDUCTION FOR NEWLY ESTABLISHED UNDERTAKING

Section	10AA
Eligible Assesses	New SEZ unit engaged in export
Location	Special Economic Zone
Nature of Activity	Manufacturing or producing or providing services in SEZ
Goods Eligible for deduction	Articles or things or providing services including computer software
Period of deduction	15 consecutive Assessment years
Deduction till	No sunset clause
Quantum of Deduction	$\frac{\text{Export Turnover } \mathbf{X} \text{ Profits earned}}{\text{Total Turnover}}$
Percentage of deduction	First 5 years - 100% Next 5 years - 50% Next 5 years - 50% or amount transferred to SEZ reinvestment reserve whichever is less
Filing of return u/s 139(1)	Not Applicable
Certificate from CA	To be obtained

KEYMAN INSURANCE POLICY: (Sec 10(10D) "Keyman insurance policy means a life insurance policy taken by a person on die life of another person who is or was die employee of the first mentioned person or is or was connected in any manner whatsoever with the business of the first mentioned person."

Taxability:

(1) In case the Keyman insurance policy is assigned to an employee, any sum received on its maturity (including the sum allocated by way of bonus on such policy) is taxable as "profits in lieu of salary".

(2) In case of a person carrying on business or profession in whose hands the policy matures, the sum so received including the sum allocated by way of bonus on such policy is chargeable under the head "Profits and Gains of Business or Profession ".

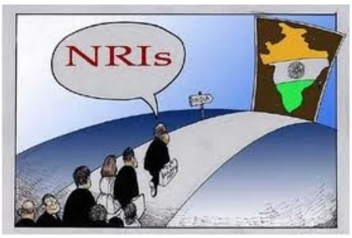
(3) In case the policy is taken in name of any other person or assigned to any other person (other than employer or employee) any sum received on its maturity by such person shall be taxable under the head 'Income from other sources.

Income of a Political Party- Section 13A

The following income of a Political Party which is registered u/s 29A of the Representation of People Act, 1951 is exempt.

1. Interest on Securities.
2. Property Income
3. Income from other Sources
4. Income by way of Voluntary Contributions.

Note: Any expenditure incurred in relation to any exempt income will not be allowed as deduction (Section 14A).



RESIDENTIAL STATUS (Sec 6)

INDIVIDUAL AND HUF	OTHER ASSESSEE
1. Resident and ordinary resident in India	**1.** Resident in India
2. Resident but not ordinary resident in India	**2.** Non- resident in India
3. Non- resident in India	

Note: For an individual, residential status is determined on the basis of period of stay in India. However, for HUF, Firm, AOP/BOI and other non-corporate entities the control and management is critical in determining residential status.

INDIVIDUAL

RESIDENT IN INDIA: If at least one of the two basic conditions are satisfied then the individual can be said to be a Resident in India:

BASIC CONDITIONS:

1. He is in India for a period of 182 days or more in a previous year **or**
2. He is in India for a period of 60 days or more during the previous year and 365 days or more during the 4 years immediately preceding the previous year.

Exceptions for Second condition: Second condition is not applicable to the following individuals:-

a. Indian citizen who leaves India during the P/Y for the purpose of employment outside India.

b. India citizen who leaves India during the previous year as a member of crew of an Indian ship.

c. Indian citizen or a person of Indian origin who comes on a visit to India during the previous year

A person of Indian origin: - He, or either of his parents (Mother or Father) or any of his grandparents (Nana or Nani or Dada or Dadi) was born in undivided India.

ADDITIONAL CONDITIONS: Both the conditions are mandatory

1. He is resident in India for at least 2 out of the 10 Previous years(i.e. He must fulfill one of the two basic conditions in at least two previous years out of the 10 previous years immediately preceding the previous year under consideration) **and**

2. He has been in India for a period of 730 Days or more during the 7 years immediately preceding the relevant previous year.

HOW TO BECOME AN ORDINARY RESIDENT: One Basic Condition + Two Additional Conditions

HOW TO BECOME A RESIDENT BUT NOT ORDINARY REDENT: One basic condition and not fulfilling the both the Additional conditions

HOW TO BECOME A NON RESIDENT: Not fulfilling any of the Basic conditions (If a person is not fulfilling any of the Basic conditions then the Additional conditions are immaterial for him)

HOW TO CALCULATE THE DAYS OF STAY IN INDIA

(i) Need not to be Continuous stay

(ii) Need not to stay at a same place

(iii) Where a person is in India for part of a day then calculation will be based on 24 hours a day basis.

(iv) If data of stay on hourly basis is not available then the day he enters India and the day he leaves India both will be taken into account.

(v) When a person stays in the Yatch in Indian territorial water then his stay will be counted in India.

HUF

RESIDENT IN INDIA: Control and management of its affairs is wholly or partly in India.

HOW TO BECOME AN ORDINARY RESIDENT: Control and management of HUF is wholly or partly in India and its Karta satisfied both the additional conditions (mention above).

HOW TO BECOME A RESIDENT BUT NOT ORDINARY REDENT: Control and management of HUF is wholly or partly in India and its Karta does not satisfy both the additional conditions.

HOW TO BECOME A NON RESIDENT: Control and management of its affairs is wholly outside India.

COMPANY

RESIDENT IN INDIA: Indian company will always be resident in India. Other than Indian company will be resident, if the control and management is situated wholly in India.

NON RESIDENT: Other than Indian Company, If control and management is wholly or partly situated outside India.

FIRM, AOP/BOI, LOCAL AUTORITY & ARTIFICILA JUDICIAL PERSON

RESIDENT IN INDIA: These Assessees will be Resident in India, if control and management is wholly or partly in India.

NON RESIDENT: These Assessees will be Non Resident in India, if control and management wholly outside India.

SUMMARY

Person	Ordinary Resident	Non - Ordinary Resident	Non Resident
Individual	If satisfied at least one basic condition **+** Both the additional conditions	If he satisfied at least one basic condition **+** Any one of the additional condition is not satisfied.	None of the basic conditions is satisfied
HUF	Control and management of its affairs is wholly or partly in India **+** Both the additional conditions are satisfied by the Karta of HUF	Control and management of its affairs is wholly or partly in side India **+** Any one of the additional conditions is not satisfied by the Karta of HUF	Control and management wholly outside India
Company	**(i)** Indian company **(ii)** Other than Indian company- if the control and management is situated wholly in India	Not Applicable	Other than Indian Company - If control and management is wholly or partly situated outside India.
Firm, AOP/BOI, Local Authority & Artificial Judicial Person	If control and management is wholly or partly in India	Not Applicable	Control and management wholly outside India.

Incidence of Tax (Section 5)

1. **Resident and ordinarily resident assessee (ROR):-**

   He has to pay tax in respect of income which

   i. is received or deemed to be received in India by him or on his behalf;
   ii. accrues or arises or deemed to accrue or arise to him in India;
   iii. accrues or arises to him outside India.

In other word, his global income is taxable in India

2. **Resident but not ordinarily resident assessee (RNOR):-**

   He has to pay tax in respect of income which

   i. is received or deemed to be received in India by him or on his behalf;
   ii. accrues or arises or deemed to accrue or arise to him in India;
   iii. accrues /arises to him or received outside India from a business/profession controlled from India.

In other word, his foreign income is taxable if, it is from business/ profession which is control from India.

3. **Non-resident assessee (NR):-**

   He has to pay tax in respect of income which

   i. is received or deemed to be received in India by him or on his behalf;
   ii. accrues or arises or deemed to accrue or arise to him in India.

In other word, his foreign income is not taxable.

Notes:

- ❖ Any past untaxed profits will not taxable in current year in any status i.e. ROR, NOR, NR.
- ❖ Income received or earned in India will be taxable for all types of assessee.

Incomes deemed to accrue or arise in India

1. Any income from salary/pension if it is payable for services rendered in India.
2. Salary payable by the Government, to an Indian citizen for services rendered outside India.
3. Income from any property, asset or source of income, situated in India.
4. Income from the transfer of any asset situated in India.
5. Dividend paid by an Indian company outside India. But presently it is exempt.

6. **Interest:**

(i) If interest is payable by CG/ SG (i.e. loan given to govt.) then it shall be deemed to be earned in India by the receiver of the interest.

(ii) If interest is payable by Resident in India (i.e. loan given to resident) then it shall be deemed to be earned in India by the receiver of the interest if money is used by the borrower for business or profession or earning any income from any source in India or

(iii) If interest is payable by Non-Resident in India (i.e. loan given to non-resident) then it shall be deemed to be earned in India by the receiver of the interest if money is used by the borrower for a business or profession in India.

7. **Royalty payable by:**

(i) If royalty is payable by Government, then it shall be deemed to be earned in India by the receiver of the royalty.

(ii) If royalty is payable by Resident in India then it shall be deemed to be earned in India by the receiver of the royalty if right/information is used for business or profession or earning any income from any source in India or

(iii) If royalty is payable by Non-Resident in India then it shall be deemed to be earned in India by the receiver of the royalty if right/information is used for a business or profession in India.

But royalty paid for computer software supplied by a non-resident manufacturer along with computer shall not be taxable.

8. Fees for technical services payable by:

(i) If fee is payable by CG/SG (i.e. services given to govt.) then it shall be deemed to be earned in India by the receiver of the royalty.

(ii) If fee is payable by Resident in India (i.e. services given to resident) then it shall be deemed to be earned in India by the receiver of the fees if services are used for business or profession or earning any income from any source in India or

(iii) If fees is payable by Non-Resident in India (i.e. services given to non-resident) then it shall be deemed to be earned in India by the receiver of the fees if services are used for a business or profession in India.

Note: Interest, Royalty and fee for technical Services, Deemed to accrued in India if:

a) Received from Government

b) Received from Resident or Non Resident and Loan amount / Services is to be use in India.

Questions

Q.1. Ram a chief executive of a company had undertaken foreign tours on various occasions for company work and was out of India for a total of 225 days during the previous year 2011-12. Determine his residential status for assessment year 2012-13. Before 2011-12 Ram never leave India.

Answer: Resident and ordinary resident

Q.2. Head Office of RG, a HUF, is situated in London .Since 1980, the family is managed by R, who is resident in India in only 7 out of 10 years preceding the previous year 2011-12.Determine the residential status of HUF for assessment year 2012-13 if the affair of the family's business are

(a) Wholly control from London (b) partly controlled from India.

Answer: (a) Non Resident (b) Resident and ordinary resident

Q.3.Y a foreign citizen (not Indian origin) comes to India, for first time in the last thirty years on March 20, 2011.On September 1, 2011; he leaves India for Nepal on a business trip. He comes back on February 26, 2012.Determine his residential status for assessment year 2012-13.

Answer: Resident but not ordinary resident

Q.4. The following particulars are available about Mr. Tarun for the previous year 2011-12

Particulars	Rs
Profit from a business A carried on in India	80,000
Loss of business B carried on India	(30,000)
Profit of business C carried on in London and controlled from India, the profit received in London	52,000
Loss of business D carried on London and controlled from India	(46,000)
Income from property in India	32,000

Income from property in London. ¼ of income is received in India	192,000
Royalty received in London for use of chemical in India 60000 London 30000	90,000
Gain from sale of land in India	50,000
Agricultural income from India 80,000 London 40,000	120,000

Determine the total income of Mr. Tarun for assessment year 2012-13, assuming that his status is---

(a) Resident and ordinary resident. (b) Resident but not ordinary resident (c) Non resident in India

Answer:

Q.5 Ram staying in USA wishes to come to India during 2012 and stay for at least 100 days. He has been in India for more than 365 days during the four years preceding the relevant previous year. Advice as to how he can fulfill his desire without losing his non residential status.

Answer:

Q.6 Almelo, a German national came to India for the first time during year 2006-07. During P/Y 2007-08, 2008-09, 2009-10, 2010-11, 2011-12, he was in India for 130 days, 75 days, 59days, 100 days and 80 days respectively. Determine his residential status for A/Y 2012-13.

Answer: Non resident

Q. 7 On 1st June 2009, Baggie, a Malaysian citizen leaves India after a period of 10 years stay. During the financial year 2010-11 he comes to India for a period of 46 days. Later he returns to India for one year on 10th October 2011. Determine his residential status for A/Y 2012-13.

Answer: Resident and Ordinary resident in India

Q.8. .The following particulars are available about Mr. Rahul for the previous year 2011-12

Particulars	Rs
Rent from a property in India received in USA	80,000
Income from business in USA controlled from India	1,20,000
Income from business in Lucknow controlled from USA	1,80,000
Rent from a property in USA received there but subsequently remitted to India	60,000
Interest from deposit in USA received in India	20,000
Gifts received from his parents	55000
Arrear salary received in USA from a former employer in India	80,000
Dividend received on 30.01.12 in USA from an Indian company	55,000
Profit on sale of a land in India on 14.04.2012	1,50,000
Dividend declared in USA received in India	75,000
Agricultural income in USA and remitted to India	80,000
Profit for the year 2006-2007 of a business in USA remitted to India during the previous Year 2011-12 (not taxed earlier)	75,000

Determine the total income of Mr. Rahul for A/Y 2012-13, assuming that his status is---

(a) Resident and Ordinary resident. (b) Resident but not Ordinary resident (c) Non resident in India

Answer:

Q.9.The following particulars are available about Mr. Mahesh for A/Y 2012-13

Particulars	Rs
Interest on United Kingdom Bonds. 50% received in India	10,000
Income from business in Chennai. 50% received in Lucknow	20,000
Dividend from USA company received in London	45,000
Dividend from Indian company received in London	50,000
Profit from sale of share of an Indian company received in India on 02.04.12	60,000
Rent from London property deposit in Indian bank in London brought to India	25,000
Pension for services rendered in India but received in USA	20,000
Gift received on wedding	40,000
Income from business in USA, setup in India ,received there, but spent here	10,000
Profit from business in India but controlled from USA	25,000
Past years untaxed foreign income brought to India	75,000
Interest received in USA from a non resident on a loan provided to him for business in India	50,000
Royalty received in USA from a resident in India for technical services provided for a business in USA	25,000
Income from business in USA which is controlled from Delhi (Rs 40,000 is received in India)	80,000

Determine the total income of Mr. Mahesh for A/Y 2012-13, assuming that his status is--

(a) Resident and Ordinary resident. (b) Resident but not Ordinary resident (c) Non resident in India

Answer:

Q. 10 Dinesh was born in 1975 in India. His parents were also born in India in 1948. His grandparents were however, born in England. Dinesh was residing in India till 15-3-2009. Thereafter, he migrated to England and took the citizenship of that country on 15-3-2011. He visits India in 2011-12 for 90 days.

Determine the residential status of Dinesh for A/Y 2012-13.

Answer: Resident and Ordinary resident in India

Q. 11 Leila, a foreign national (not being a person of Indian origin), comes to India for the first time on 15 April 2007. During the financial year 2007-08, 2008-09, 2009-10, 2010-11 and 2011-12, she is in India for 130 days, 80 days, 13 days, 210 days and 75 days respectively.

Determine the residential status of Leila for the A/Y 2012-13. What would be your answer if her grandparents were born in undivided India?

Answer: (i) Resident but not Ordinary resident in India. **(ii)** Non resident

Q. 12 Juliet is a foreign citizen (not being a person of Indian origin). During the financial year 2011-12, she comes to India for 85 days.

Determine her residential status for A/Y 2012-13. Assuming during financial years 1997-98 to 2010-11, she was present in India as follows:

1997-98	85 days	2004-05	16 days
1998-99	310 days	2005-06	360 days
1999-2000	6 days	2006-07	181 days
2000-2001	5 days	2007-08	305 days

2001-2002	65 days	2008-09	65 days
2002-2003	180 days	2009-10	10 days
2003-2004	360 days	2010-11	126 days

Answer: Resident and Ordinary resident in India.

Q. 13 A, an Indian citizen, is appointed as senior taxation officer by the Government of Libya. He leaves India, for the first time, on June 3, 2011 for joining his duties in Libya. During the previous year 2012-13, he comes to India on 3rd December 2012 for 190 days.

Determine the residential status of A for A/Y 2012-13and 2013-14. His wife is Resident in all years.

Answer: Non Resident in both years.

Q. 14 Heir, a foreign citizen, leaves India for employment outside India for the first time in the last 12 years, on 15th June 2009. During the calendar year 2010, she comes to India on 20th November for a period of 46 days. During the calendar year 2011, she does not come to India at all. She finally comes back on 29th January 2012 at 10.30 p.m.

Determine her residential status for the A/Y 2012-13

Answer: Resident and Ordinary resident in India.

Q. 15 Income of Previous Year alone is taxed in an Assessment year. Discuss.

SALARY

Computation of Income under head Income from Salaries

First head of income is income from Salaries. An income can be taxed under the head Salary, only if there is a relationship of employer and employee between the payer and the payee and this relation is said to exist only if there is control over the method of doing the work of other person.

Few common examples when there is no control of payer over payee are: Partner of a firm, Member of Parliament, Guest lecturers etc in all these case salary will not taxable in this head.

Surrender of Salary: Any salary surrendered by the employee to the Central Government, under the Voluntary Surrender of Salaries Act, 1961, will not be included while computing his taxable income, whether he is private / public /Government sector employee.

Tax Free Salary: when employee receives tax free salary, it normally means that employer himself pays the tax which is due on the salary of such employee. The amount of tax, so paid by employer is also to be considered as the income of the employee and will be added to his salary.

Foregoing of Salary: This means after earning salary employee waive the right to receive the same from employer. Even in this case salary will be taxable in employee hand because waiving the right after earning salary is application of income.

Advance salary VS advance against salary: Under the concept of advance salary employee gets salary from the employer before salary gets due to him. But in case of advance against salary employer giver loan to employee on a condition that installment of such loan would be deducted from the monthly salary of employee.

Computation of salary in grade system: Suppose an employee joins service on 1-05-05 and placed in the grade of Rs 12200-200-17400-500-19400.This means, he will get a basic salary of Rs 12200 w.e.f from 1-05-05. He will get annual increments of Rs 200 w.e.f 1-05-06 and onwards till his salary reaches Rs 17400. Thereafter, he will get an annual increment of Rs 500 till his salary reaches Rs 19400. No further increment will be given thereafter till he is placed in other grade.

Basic of charge (Section 15): Salary is taxable on due or receipt whichever is earlier. However arrears of salary are taxable on receipt basic. If any advance salary is included in total income of any P/Y, it shall not be included again in the total income when salary becomes due. Salary includes pension, wages, bonus, commissions, gratuity, profit in lieu of salary, payment from provident fund etc.

Example: March 2012 salary is due on 31st March 2012. Payment is made on 7th April 2012. Salary is included in the income of Previous Year 2011-12 on due basis.

April 2012 salary is due on 30th April 2012 but paid on 30th March 2012. Salary is included in the salary income of the previous year 2011-12 on receipt basis.

Accounting system followed by the employer who pays the salary is irrelevant to determine the basis of charge of employee's salary income to income tax.

Sec-17(3):- Profits in lieu of salary" includes—

1. the amount of any compensation due to or received by an assessee from his employer or former employer at or in connection with the termination of his employment or the modification of the terms and conditions relating thereto;

2. any payment due to or received by an assessee from an employer or a former employer or from a provident or other fund to the extent to which it does not consist of contributions by the assessee or interest on such contributions or any sum received under a Key-man insurance policy including the sum allocated by way of bonus on such policy.

3. any amount due to or received, whether in lump sum or otherwise, by any assessee from any person—
   (*A*) Before his joining any employment with that person; or
   (*B*) After cessation of his employment with that person.

Allowances – Taxable / Exempted under Income from Salaries

	Allowance	Fully Taxable	Partly Taxable	Exempt
1.	Entertainment allowance	Fully Taxable in case of Non-Government employees	Partly Taxable for Govt. employees	
2.	Dearness Allowance (DA)	Fully Taxable for all employees		
3.	Overtime Allowance	Fully Taxable for all employees		
4.	Fixed Medical Allowance	Fully Taxable for all employees		

5.	City Compensatory allowance	Fully Taxable for all employees		
7.	Servant allowance	Fully Taxable for all employees		
8.	Project allowance	Fully Taxable for all employees		
9.	Tiffin/Lunch/Dinner allowance	Fully Taxable for all employees		
10	Warden allowance	Fully Taxable for all employees		
11	Non- practicing allowance	Fully Taxable for all employees		
12	House Rent Allowance		Partly taxable	
13	Special allowances		Partly taxable	
14	Allowances to Government employees working outside India			Exempt
15	Allowances paid by the U.N to its employees			Exempt
16	Sumptuary/Compensatory allowance to High Court or Supreme Court Judges			Exempt

Special Allowances - Section 10 (14) (Rule 2BB)

12.1. There are two types of Special Allowances

Section 10 (14) (i)	Section 10(14) (ii)
Specifically given to meet expenses incurred wholly, necessarily and exclusively in the performance of **official duties.**	Specifically given to meet employees' **personal expenses** at the place where he normally perform his official duties or normally stays or to compensate him for increased cost of living.
❖ There is no limit of the amount of such allowances an employee can receive. Whatever amount the employee receives is exempt from tax. The only condition is that the **amount received must be fully spent.** ❖ **What is taxable?** If an employee receives Rs. 20,000 per year for such an allowance e.g. uniform allowance, and he spends Rs. 20,000 in the year nothing is taxable as he has spent the allowance fully but if he spends less then Rs 20000, then	❖ There is a limit for each allowance for exemption purposes. Of course, the employee can receive any amount for such an allowance. But **exemption is restricted to maximum exemption limit.** It is not necessary for the employee to actually spend the allowance received. ❖ **What is taxable?** For each allowance covered under this category, the law specifies a maximum exemption limit e.g., the limit for Transport allowance is Rs. 800 per month. The lower of actual allowance received or the limit specified in exempt from tax. **Example:** An employee receives Rs. 1500/- per month

balance amount would be taxable in his hands. More ever if he spends more than Rs 20000, then exemption will be restricted to Rs 20000 and he does not get any deduction for amount which he has spent from his own pocket.	as Transport allowance. **<u>In this case, the exempted amount is</u>** Received- Rs. 1,500 x 12 months 18,000 Exempted- Rs. 800 x 12 9,600 **Balance Rs 8,400 Taxable** Whether the employee spends more or less than the allowance received or nothing out of the allowance received is not relevant.

12.2 Special Allowances u/s 10 (14) (i)

	Allowance	Purpose of allowance	Exemption limit	Taxable
1	Travelling Allowance	To meet cost of travel on official tour or on transfer from one place to another.	No Limit	Allowance received LESS amount spent
2	Daily Allowance	To meet daily expenses of the employee during official tour or on transfer	No Limit	-------Do--------
3	Conveyance allowance	To meet expenses incurred on conveyance to perform official duties	No Limit	-------Do--------
4	Helper allowance	To meet expenditure of helpers engaged in performing only official duties	No Limit	-------Do--------
5	Research/Training allowance	To encourage academic research/training in educational and research institutions	No Limit	-------Do--------
6	Uniform allowance	To meet expenses for purchasing or maintenance of uniform.	No Limit	-------Do--------

12.3 Special Allowances u/s 10 (14) (ii)

	Allowance	Purpose of allowance	Maximum Exemption limit	Taxable
1	Allowance paid to employee working in a transport system.	To meet his personal expenditure during performance of duty in running such transport	Lower of the two (a) 70% of such allowance **or** (b) Rs. 10,000 per month	Allowance received **Less** exempted amount
2	Children Education allowance	To meet education expenses of employee's children	Rs.100 / month per child upto a maximum of two children	-------Do--------
3	Hostel Allowance	To meet hostel expense of employee's children	Rs.300 / month per child upto a maximum of two children	-------Do--------
4	Transport allowance	To meet expenditure in commuting between his place of residence and place of duty	Rs. 800 per month. Rs 1600 in case of handicapped employee	-------Do--------
5	Underground allowance	Granted to an employee, working in underground coal mines anywhere in India	Rs. 800/- per month	-------Do--------

House Rent Allowance (HRA): Least of the following would be exempt:-

	Resident in Mumbai, Calcutta, Delhi, Chennai	Resident in other cities
1	50 % of Salary	40 % of Salary
2	HRA Received.	HRA Received.
3	Rent paid in excess of 10 % of Salary	Rent paid in excess of 10 % of Salary
Salary = Basic + D.A. (term provided) + Commission on % basis		

PERQUISITES- Sec-17(2)

1. Taxable in hands of all employees

- **a)** Rent free furnished/unfurnished accommodation
- **b)** Concessional rent accommodation
- **c)** Discharging of any monetary obligation of employees
- **d)** Any other benefits: Such as interest free concessional loan, use of movable assets, transfer any movable asset for concessional rate.

2. Taxable in the hands of specified employees as define

- **a)** Domestic servants

b) Free or concessional use of gas, electricity & water
c) Free or concessional educational facilities

3. **Tax-free Perquisite**

1. Medical facility provided in employers / Government hospital.
2. Reimbursement of treatment in private clinic up to Rs.15000
3. Free meals provided during office hours in business premises is exempt up to Rs.50 per meal. Tea or snacks provided during working hour is exempt without any limit.
4. Loan to employees up to Rs.20000 or for medical treatment in respect of specified diseases mention in Rule-3A
5. Rent free house /conveyance facility to judge of supreme/high court.
6. Use of laptop or computers
7. Premium paid by employer on an accident/ worker policy
8. Telephone/ mobile facility
9. Amount spends on training of employee or on refreshment course.
10. Perquisite outside India to citizen of India who is government employee.
11. Hotel or sports club and similar facilities made uniformly available to all employees.
12. Hotel accommodation upto 15 days on transfer.
13. Motor car or conveyance facility for Residence to work place and return.
14. Newspapers and periodicals
15. Any kind of good of which is produced by employer and is supplied to his employees at concessional rate.

Specified Employees: means-

a) Director.
b) Employee being a person who has substantial interest in company.
c) Employee to whom provision (i) & (ii) do not apply and whose income under head salary including value of benefit or amenities *and after deduction u/s16* exceeding Rs. 50000

Rent free Accommodation [Rule 3(1)]

Rent free unfurnished accommodation: Accommodation includes, flat, farm-house, hotel motel, etc

A) In case of Central or state Govt. employees: License fees determine by Govt. rules.
B) In case of Non-Govt. employees: As under

City- Population Slabs as per 2001 Census	Accommodation owned by Employer	Accommodation not owned by Employer
Upto 10 Lakhs	7.5% of Salary	15% of salary **or** rent paid **Whichever is less.**
Above 10 Lakhs to 25 Lakhs	10 % of Salary	15% of salary **or** rent paid **Whichever is less.**

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Exceeding 25 Lakhs	15 % of Salary	15% of salary **or** rent paid **Whichever is less.**

Salary = Basis + D.A. (if terms provided) + Bonus + commission + fees + all taxable allowances.

Salary from all employer (in case employee is working more than one job) is taken even house is provided by only one employer. Salary is taken only for that period in which house is provided by employer.

Notes –

a) Whether employee is government or private, if any amount is charged from him for accommodation, then that amount will be deduct from value of perquisite.

b) Accommodation provided in a remote area or at an offshore site is exempt.

Valuation of furnished accommodation for government & private employees:

If accommodation is furnished then value calculated under Rule 3(1) **plus** 10% of cost of furniture (including TV, Refrigerator, AC etc) if owned by employer, will be treated as perquisite. If the furniture is hired from third person, then actual hire charges less any amount recovered from employee will be value of perquisite

In case of hotel accommodation: Value of accommodation shall be –

a) 24% of salary paid/payable for P/Y **or**
b) Actual charges paid/payable to such hotel

Whichever is lower less amount paid/payable by employee (if any)

In the above case we shall first take 24% of salary of the whole year and then such value so determine shall be reduced proportionately for the period during which such accommodation was provided.

Hotel accommodation is not taxable if;

i. Accommodation provided for not more than 15 days.

ii. Employee is on transferred from one place to another.

Accommodation provided at new place of posting on transfer while retaining accommodation at other place:

- **For first 90 days from transfer-** value of one house with lower value will be taxable
- **After 90 days-** value of both houses will be taxed for period excess of 90 days

Gifts, Voucher or token: Exempt upto Rs 5000 a year. If gift is by Cash or Cheque then entire amount will be taxable.

Gas, Electricity or Water supply:

- **If the above facility owned by the employer-** Manufacturing cost incurred by the manufacturer

- **If hired by the employer from outside agency-** The amount paid by the employer on that account. Reduce the amount if any paid by the employee on that account.

Domestic servants: If employer had provided Gardner, sweeper, watchman or personal attendant to employee then value of perquisite shall be *total amount which is borne by the employer less amount if any paid by the employee.* If servant is engaged by employee and the salary paid by employer is taxable in hands of all employees. But if servant is engaged by employer then is taxable in hands of specified employees only.

Loans to employee at concessional rate: calculate interest on basis of SBI rates on 1st day of relevant P/Y on similar loan, reduced interest paid/payable by employee and difference will be value of perquisite.

Not taxable -loan to up to Rs.20000 or for medical treatment of specified diseases mention in Rule-3A

Use of movable assets – If some movable assets other than car are provided to employee, perquisite will be @ 10% of cost of asset or rent paid/payable (as the case may be) reduced by amount paid by employee. Use of laptop, computer telephone including mobile phone is not taxable.

Valuation of Credit Card facility: Actual expense less expense for official purpose.

Transfer of equity shares: Fair market value of the shares on the date on which option is exercised as reduced by the amount recovered from employee.

Valuation of Medical Facilities

The following are not treated as taxable perquisites;

- **i.** Facility provided in employers / Government hospital. Reimbursement of treatment in private clinic up to Rs.15000 per annum. No maximum limit if treatment in government hospital.
- **ii.** Treatment of prescribed diseases in hospital Approved by CCIT
- **iii.** Medical facility outside India. Rules mention below-

Perquisite not charged to tax	Conditions to be satisfied
Medical treatment of employee or any family member outside India	Amount permitted by RBI
Cost on travel of one person accompanying the patient outside India	Employee's Gross Total Income is less than 2 lacks before adding this perquisite
Cost of stay abroad of one person accompanying the patient outside India.	Amount permitted by RBI

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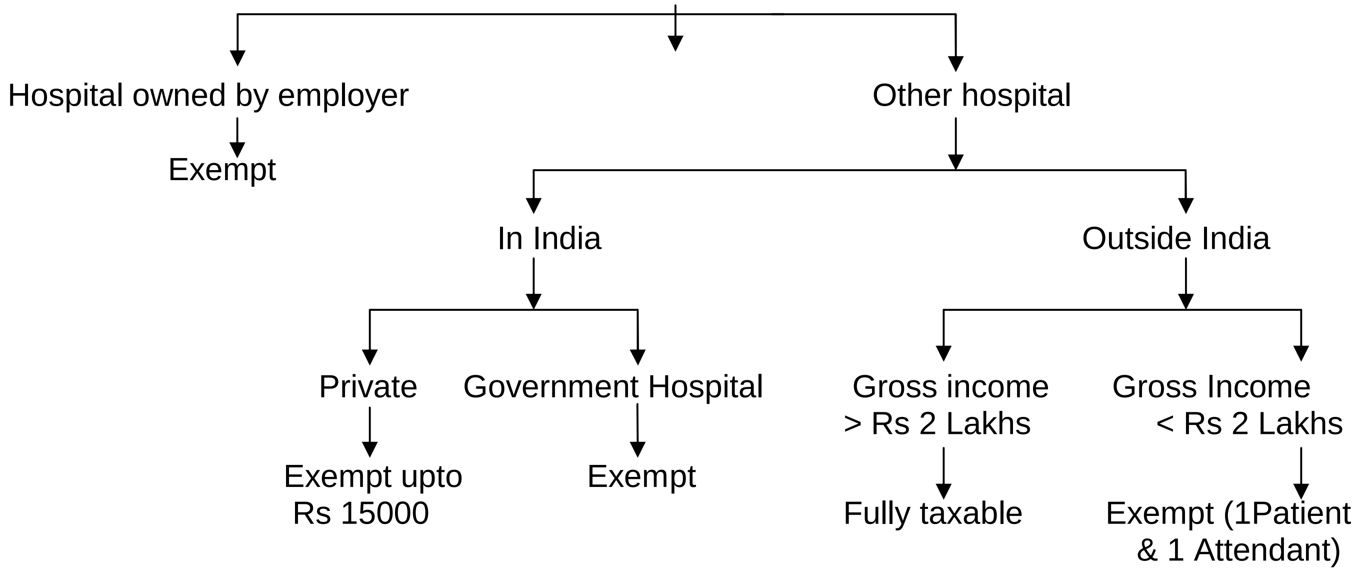
Medical Facilities



Education facility for children: Employer provide free education facility for employees' children's whether in a school owned by him or in any other institute by reason of employee being in employment of that employer, then **:**

Value = Fee charged by a similar school in similar locality less amount recovered from employee, if any.

However nothing will be taxable, if value per child does not exceed Rs 1000 per month.

Note: This rule applicable only on education and not on hostel or mess expenses. There is no restriction on number of children of employee.

Moveable asset sold by employer to employee: value of perquisite would be as follows:

	Assets Transferred	Value of Perquisite
i	Computers and electronic items	Depreciated value of asset. Calculate depreciation @50% on **WDV** method for each **completed year** of usage by the employer
ii	Motor cars	Depreciated value of asset. Calculate depreciation @ 20% on **WDV** method for each **completed year** of usage by the employer
iii	Any other asset including motor cycle, scooter	Depreciated value of asset. Calculate depreciation @ 10% on **SLM** i.e. Straight Line Method for each **completed year** of usage by the employer

Points to remember:

i) Any amount paid by the employee towards transfer of such assets should be deducted from the value of perquisite and the balance is charged in the hands of the employee.

ii) Depreciation is to be calculated only for number of completed years of usage. Ignore fraction.

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iii) Electronic items mean data storage and handling devices like PC, Printer, Digital Diaries. It does not include household appliance such as TV, Fridge, Washing Machine, Mixer etc.

Valuation of Motor Car

Where the car is owned by the employee and expenditure are met by him then there is no question of perquisite will be arise. If car is used for fully official purpose then it is not taxable. In other case valuation of perquisite would be as follow:

Car is owned by the employee and expenditure were met by the employer

i) Wholly for the personal use: - Actual amount incurred by the employer less amount if any recovered from the employee.

ii) Partially for personal and official use: - Up to 1.6 litres CC Rs 1800 PM and above 1.6 CC Rs 2400 pm. Drivers salary Rs 900 pm if provided.

Car is owned by the employer and Expense are met by the employee

i) Wholly for personal use :- Wear and tear(10% of cost) or Hire charges and drivers salary

ii) Partially for personal and official use: - Up to 1.6 liters CC Rs 600 pm and above 1.6 CC Rs 900 pm. Drivers salary Rs 900 pm if provided.

Car is owned by the employer and expense is met by the employer.

i) Wholly for personal use :- Running and maintenance expense, wear and tear or Hire charges , Drivers salary Less amount recovered from the employee for such use.

ii) Partially for personal and official use: - Up to 1.6 liters CC Rs 1800 PM and above 1.6 CC Rs 2400/- Drivers salary Rs 900 Pm.

In case automobile other than car is provided by employer then the value shall be as follows:

i) Wholly for personal use:- The running and maintenance expense

ii) Partial for official and personal: - Actual expense incurred by employer as reduced by Rs 900 pm

Note- If employee has been provided with more than one car, which are not used exclusively for official purpose then value of one car shall be Rs 1800 or Rs 2400 + Rs 900 pm for driver (if any) as the case may be and value of other cars shall be as if they are used exclusively for personal purposes.

Leave Travel Concession - Sec-10(5)

Value of leave travel concession or Assistance received by an individual from his **employee or former employee** in connection with the following.

1. On leave to any place in India
2. Any place in India after retirement from service or after termination of the service.

Note: Any allowance received for Foreign Destination will not be eligible for deductions

Condition for benefit:

a) The individual can avail the benefit of leave travel allowance offered by the employer, TWICE IN A BLOCK OF FOUR YEARS.

b) Present block of four years applicable for assessment year 2012-13 is year 2010-2013.

c) One journey can be carrying forwarded and can be claimed as a deduction in the succeeding block of calendar year.

Computation of exemption for leave travel assistance: The maximum amount of exemption is the *cost of travel on the shortest route*. Exempt amount for various travelling are calculated in following manner

Mode of Travel	Class of Travel	Amount Exempt
Airways	Economy Class	Travel charges on the Shortest Route collected by National Airways
Train	I Class AC	Travel charges on the Shortest Route
Recognized Transport	Deluxe Class	Travel charges on the Shortest Route
Other transport	---------	I Class AC Fare as per Railways, equivalent for the distance for Shortest Route

Amount taxable: Any sum received in *excess* of the above is *Taxable* under the "head Salaries

When taxable:

a) Leave Travel Compensation encashed without performing journey is fully taxable.

b) Expenses reimbursed other than fare like boarding or lodging is fully taxable.

c) Amount received by the employer in excess of the cost of travelling on the shortest route

Family of an Individual means:

a) Spouse and children of the individual, and

b) Parents, brothers and sisters of the individual, wholly or mainly *dependent on the Individual.*

Treatment of Retirement Benefits

Gratuity (Sec. 10(10))

1. **Government Employees -** Death-cum-retirement gratuity received by state & central government employees or of local authority is wholly exempted.

2. **Non-Government employees**

Employees covered under Payment of Gratuity Act, 1972.	Other Employees
15/26 days (7days in case of seasonal establishment) **X** salary last drawn ***completed year of service (if more than 6 month then +1yr)	Half month salary based on last 10 month average *(proceeding the month of retirement)* **X** completed year of service (ignored fraction)
Rs 10,00,000	Rs 10,00,000

Actually Received Gratuity	Actually Received Gratuity

Salary means-

Employees covered under Payment of Gratuity Act = Basic pay and DA

Other Employees= = Basic + DA (If terms provided) + Commission on % basis

Notes

- Gratuity received during the period of service is always taxable for all employees.
- Where employee receives gratuity from two or more employers in the same year, then the aggregate amount of gratuity exempt from tax can't exceed the limits prescribed.
- If assessee had claimed gratuity exemption in any of earlier years, then max amount of Rs 10 Lakhs will be reduced by the amount of gratuity exempt earlier.

Pension

Un-commuted pension is pension received monthly which is taxable for all types of employees.

Commuted pension is certain % of total pension which is taken by employee, is exempted as follows.

1. In case of government employees wholly exempt.
2. Non-government employees the exemption is as under:-
    a. If gratuity is received then 1/3 rd of total pension is exempt.
    b. If gratuity is not received then 1/2 of total pension is exempt.

Formula

$$\left[\frac{1}{3} x \frac{commuted\ Pension\ \mathrm{Re}ceived}{\%\ of\ \ commutation} x\, 100\right]$$

Leave Encashment [Sec-10(10AA)]

Leave encashment means to get salary for the leaves which were granted but not availed.

In case of Government Employees - 100% exempt

In case of Non-government Employees- least of the following is exempt**:**

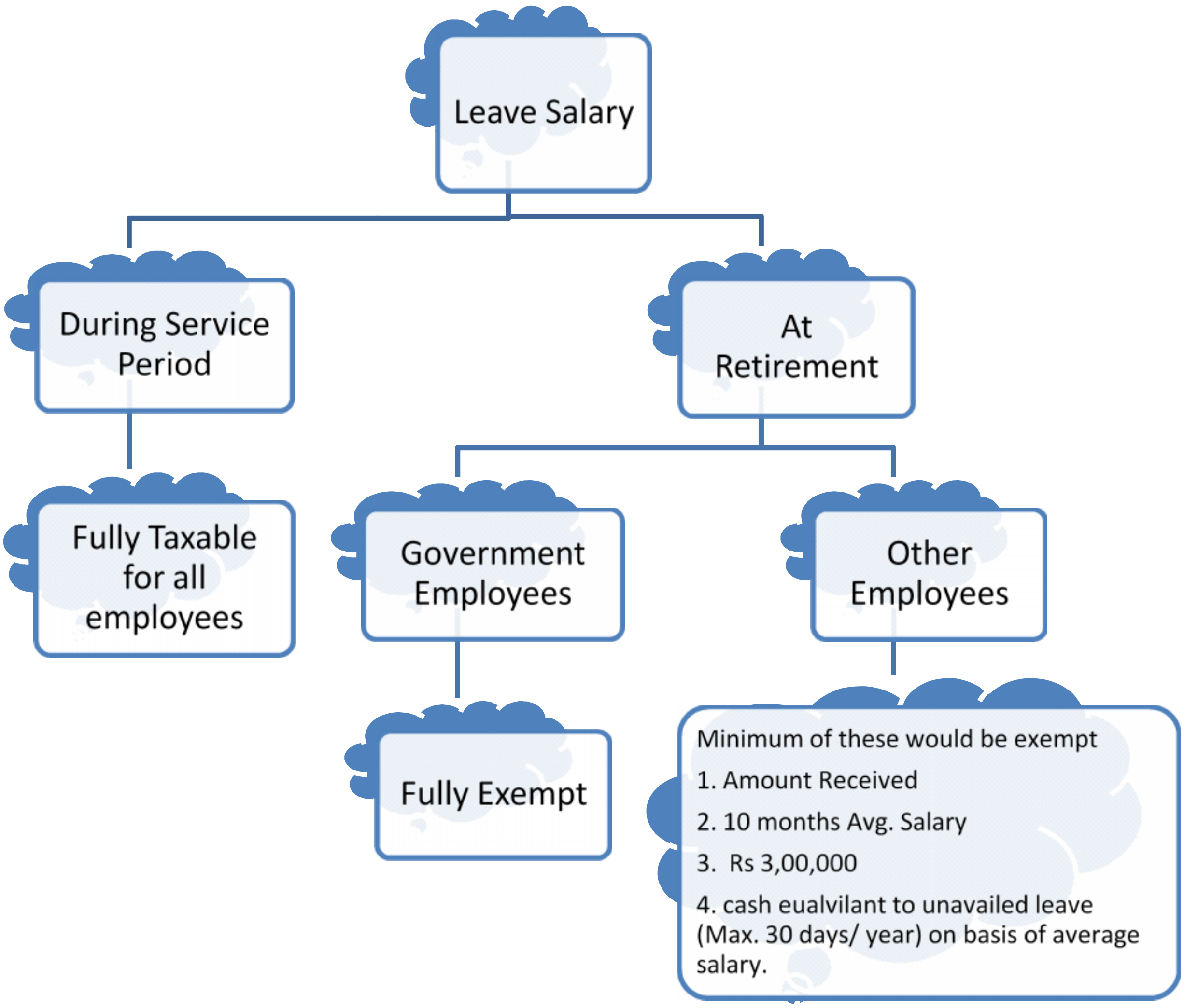
1. Cash equivalent to unavailed leave (maximum 30 days/year) on the basis of average salary
2. 10 month salary based on average of last 10 month salary
3. Amount notified by the Government Rs 300000
4. Leave encashment actually received

Notes

- Leave encashment received during the period of service is taxable for all employees
- Avg. Salary of 10 months will includes salary of retirement month also.

- Where leave salary is received from two or more employers in the same year, then the aggregate amount of leave salary exempt from tax can't exceed Rs 300000.
- If assessee had claimed leave exemption in any of earlier years, then max amount of Rs 300000 will be reduced by the amount of leave salary exempt earlier.

Salary= Basic + DA (If terms provided) + Commission on % basis



Treatment of Provident Funds

Details	Recognized Provident Fund (RPF)	Unrecognized Provident Fund (URPF)	Statutory Provident Fund (SPF)	Public Provident Fund (PPF)
Employer's contribution	Any amount in excess of 12% of employee's salary is taxable.	Not taxable yearly. Taxable later on when P.F. Balance is received on retirement/death etc.	Fully exempt	There is no employer's contribution.
Employee's contribution	Employee's contribution is eligible for deduction	Employee's contribution is not eligible for	Eligible for deduction u/s	Eligible for deduction

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	U/S 80 C	deduction U/S 80C	80C	u/s 80 C
Interest	Interest in excess of 8.5 % is taxable.	Not taxable yearly. Taxable later at the time of retirement / death, i) Interest on employee's contribution is taxed as "Income from other sources". ii) Interest on employer's contribution is taxable as "Salary"	Interest on both employer's contribution and employee's contribution are fully exempt	Interest credited is fully exempt
Lump sum receipt	Fully exempt if: **i)** the employee has rendered continuous service for a period of 5 years or more **OR** **ii)** If he has rendered less than 5 years of continuous service because of his ill health, discontinuation of business or any reason beyond the control of the employee. Otherwise treatment will be same as URPF.	i) Employer's contribution and interest credited on employer's contribution are taxed under "Income from Salary" ii) Interest credited on Employee's contribution is taxed under "Income from other Sources" **Note:** Employee's contribution in the accumulated balance received by the employee is not taxed	Fully exempt	Fully exempt

Salary = Basic + D.A. (if under the term provided) + Commission on % basis

Retrenchment Compensation: least of the following is exempt

- **a.** Amount calculated as per Sec-25F of Industrial Dispute Act, 1947.
- **b.** Rs. 5,00,000/-
- **c.** Amount actually received

Voluntary Retirement Scheme: it is exempt upto Rs 5,00,000, if VRS is as per prescribed conditions.

Approved Superannuation Fund:

Employer's contribution	Contribution to approved superannuation fund is exempt upto Rs 1,00,000. Amount in excess of Rs1,00,000 is taxable in the hands of

	employee.
Employee's contribution	Employee's contribution is eligible for deduction U/S 80 C
Interest	Interest on both employer's contribution and employee's contribution are fully exempt
Lump sum receipt	Exempt, if it is made – • On the death of the beneficiary • To the employee on his retirement from job or becoming incapacitated prior to retirement. • By the way of refund to employee on his leaving service.

DEDUCTIONS FROM SALARY

Deductions from Gross Salary u/s 16:

1. Entertainment allowance [Section 16 (ii)] - Allow only to government employees.

- The actual entertainment allowance received by a government employee is first included in arriving at his gross salary.
- Thereafter, from the gross salary, **<u>least</u>** of the following should be deducted :

i) One-fifth of his basic salary or

ii) Rs. 5000/- or

iii) Entertainment allowance actually received

Note: To claim the deduction, it is not necessary that the employee should have actually spent the entertainment allowance received.

2. Professional Tax [Section 16 (iii)]

- It is a tax to be paid by every employee to the State Government.
- Professional tax actually paid by the employee during the previous year is allowed as a deduction from Gross salary of the employee.
- Sometimes, the employer either pays the professional tax on behalf of the employee or reimburses the professional tax amount to the employee. In these cases, the amount paid / reimbursed by the employer should be included in calculating the gross salary of the employee and then deducted from gross salary u/s 16 (iii).

Relief when salary is paid in arrears or in advance (sec. 89(1)

Step 1: Calculate tax payable of the P/Y in which the arrears/advance salary is received on

a) Total income inclusive of additional salary

b) Total income exclusive of additional salary. The difference between (a) & (b) is tax on additional salary included in the total income.

Step 2: calculate the tax payable on every P/Y to which additional salary relates

a) On total income including additional salary of that particular P/Y

b) On total income excluding additional salary

Calculate the difference between (a) & (b) for every P/Y to which additional salary relates and aggregate the same.

Step 3: the excess between the tax on additional salary as calculated under step 1 and step 2 shall be relief admissible u/s 89(1).

If the tax calculated in step 1 is less than tax calculated in step 2, the assessee need not apply for relief.

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Questions

Q. 1 Mr. Z has joined ICC Ltd. on 1st July 2008 in the scale of Rs.15,000-1,500-21,000-2,500-31,000. Compute gross salary for the previous year 2011-12.

Answer: Rs 2,29,500

Q. 2 A, is entitled to a basic salary of Rs.5,000 p.m. and dearness allowance of Rs.1,000 p.m., 40% of which forms part of retirement benefits. He is also entitled to HRA of Rs.2,000 p.m. He actually pays Rs.2,000 p.m. as rent for a house in Delhi. Compute the taxable HRA.

Answer: Rs 6,480

Q. 3 X, is employed at Delhi as Finance Manager of R Ltd. The particulars of his salary for the previous year 2011-12 are as under: Basic Salary Rs.16,000 p.m. Dearness allowance Rs.12,000 p.m. Conveyance Allowance for personal purpose Rs.2,000p.m. Commission @2% of the turnover achieved which was Rs.9,00,000 during the previous year and the same was evenly spread. HRA Rs.6,000 pm. The actual rent paid by him Rs.5,000 pm for an accommodation at till 31.12.11. From 01.01.2012 the rent was increased to Rs.7,000 pm. Compute taxable HRA.

Answer: Rs 41,400

Q. 4 Z is employed in A Ltd. As on 31.03.12, his basic salary Rs.6,000 p.m. He is also entitled to DA @ 50% of basic salary. 70% of the dearness allowance is considered for retirement benefits. The company gives him HRA Rs.3,000 pm. With effect from 01/01/12 he receives an increment of Rs.1,000 in his basic salary. He was staying with his parents till 31.10.2011. From 1.11.11 he takes an accommodation on rent in Delhi and pays Rs.2,500 pm as rent for the accommodation. Compute taxable HRA for the assessment year 2012-13.

Answer: Rs 27,280

Q. 5 Mr. X, who resides in Kanpur, receives Rs. 78,000 as basic pay during the financial year 2011 -12, He stays in his father's house up to 31st August 2011 for which he does not pay any rent, and thereafter in an accommodation taken on monthly rent of Rs. 3,000. The employer, however, pays Rs. 700 per month as house rent allowance throughout the previous year. Calculate the HRA taxable in hands of X for the assessment year 2012-13.

Answer: Rs 3500

Q. 6 Mr. Hari retires on15th October 2011, after serving 30 years and 7 months. He gets Rs.5,80,000 as gratuity. His salary details are given below:

FY 2011-12	Salary Rs.16,000 pm	D.A. 50% of salary. 40% calculate for retirement benefits
FY 2010-11	Salary Rs.15,000 pm	D.A. 50% of salary. 40% calculate for retirement benefits

Determine his taxable gratuity in the following cases:

(i) He retires from government service

(ii) He retires from private sector, covered under Payment of Gratuity Act1972.

(iii) He retires from private sector, not covered by payment of Gratuity Act

Answer: (i) Exempt (ii) Rs 1,50,769 (iii) Rs 2,99,200

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Q. 7 Mr. King is getting a salary of Rs.5400 pm since 1st Jan 2011 and DA of Rs.3500 pm, 50% of which is calculate for retirement benefits. He retires on 30th November 2011 after 30 years and 11 months of service. His pension is fixed at Rs.3,800 pm. On 1st February 2012 he gets 3/4th of the pension commuted at Rs.1,59,000. Compute his gross salary for P/Y 2011-12 in the following cases:

(i) If he is a government employee, getting gratuity of Rs.1,90,000

(ii) He is an employee of a private company, getting gratuity of Rs.1,90,000

(iii) If he is an employee of a private company but gets no gratuity.

Answer: (i) Rs 80,700 (ii) Rs 2,51,783 (iii) Rs 1,24,200

Q. 8 Rani is entitled to get a pension of Rs 2500 per month from Raja Ltd. She gets three- fifth of pension commuted and receives Rs 1,50,000. Compute taxable commuted pension, if

(a) She does not receive gratuity **(b)** receives Rs 1,00,000 as gratuity.

Answer: (i) Rs 25,000 (ii) Rs 1,66,667

Q. 9 Vandana retires on 16th Oct 2011 after 30 years and 8 months of service. Salary is given below:

FY 2011-12	Salary Rs.15,000 pm	D.A. Rs.7,500 pm
FY 2010-11	Salary Rs.12,000 pm	D.A. Rs.6,000 pm

40% of DA forms part of superannuation benefits. He received Rs 2,00,000 as leave encashment. Leave taken while in service is 450 days; Leave allowed for one year of completed service is 40 days; Determine the gross salary in the following cases:

(i) He retires from government service

(ii) He retires from the service of Delhi Municipal Corporation

(iii) He retires from the service of Life Insurance Corporation of India

(iv) He retires from private sector

Answer: Rs 1,47,000 in (i) and Rs 1,79,480 in other cases. Average Salary Rs 16,752

Q. 10 Dinesh, an employee of Globe Ltd. retired from service on 1st January 2012 after serving for 16 years and 7 months. At the time of retirement, he received a sum of Rs 60,000 as leave encashment for unavailed leave of 300 days. He was entitled to 45 days leave for each completed year of service. He was getting salary of Rs 6000 per month at the time of retirement. He received an increment of Rs 500 with the effect from 1st July 2011. Compute taxable amount of leave encashment.

Answer: Rs 48,300. Average Salary Rs 58,500

Q. 11 R submits the following information regarding his salary income of P/Y 2011-12:
Basic salary Rs.15,000 p.m.; D.A(forming part of salary) 40% of basic salary; CCA Rs.300p.m.;

Education Allowance Rs.400 pm per child for 3 children; Transport Allowance Rs.1,000 p.m. She is entitled to 3% commission on turnover of Rs. 18,00,000 achieved by her in 2011-12.

His employer had paid income tax of Rs 5000 and professional tax of Rs 1500 on his behalf. He is provided with a rent free unfurnished accommodation which is owned by the employer. The fair rental value of the house is Rs.24,000 p.a.

Compute the Net Salary assuming accommodation is provided in a city where population is

(a) Exceeding 25 Lakhs **(b)** exceeding10 Lakhs but not exceeding 25 Lakhs **(c)** less than10 Lakhs

Answer: (a) Rs 3,77,600 (RFA value Rs 48,600) (b) Rs 3,61,400 (c) Rs 3,53,300.

Q. 12 Kushal submits following information regarding his salary income which he gets from AC Ltd.

Basic salary Rs.15,000 pm; D.A. 40% of basic salary (forming part of retirement benefits);

CCA Rs.300 pm; Education Allowance Rs.400pm (for 3 children); Transport allowance Rs.1,000 p.m.; Reimbursement of Medical Expenses Rs.25,000.

He is also entitled to HRA of Rs.6,000 p.m. from 1.4.2010 to 31.8.2010. He was paying a rent of Rs.7,000 p.m. for a house in Delhi.

From 01.09.2011 he was provided with an accommodation by company for which company was paying rent of Rs.5,000 pm. The company charged him Rs.1,000 pm as rent for the accommodation.

Compute gross salary for the A.Y. 2012-13.

Answer: Rs 3,09,125. RFA: Rs 23,625, HRA: Rs 5500

Q. 13 Ritesh is provided with an accommodation in Kolkata since April 2011. Salary Rs.40,000 p.m. Cost of furniture provided Rs.80,000. On 1st Oct 2011, following a promotion with a increase in Salary by Rs.15,000, he was transferred to Jharkhand (population less than 25 Lakhs but more than 10 Lakhs), and was also provided an accommodation there.

Ritesh was allowed to retain the Kolkata accommodation till March, 2012. Compute taxability.

Answer: Rs 99,750. (Rs 40,000 + Rs 16,500 + Rs 26,750 + Rs 16,500)

Q. 14 G Ltd. provides electricity to its employee, Punit. Annual consumption as per meter reading comes to 2,250 units. Determine the value of perquisite in the following cases:

1) Electricity meter is in name of Punit and rate of electricity is Rs.3 per unit

2) Electricity meter is in the name of G Ltd. The rate of electricity is Rs.3 per unit.

3) G Ltd. is a power-generating company. Manufacturing cost is 90 paisa per unit but supplied to public @ Rs.2 per unit. However, it charges 30 paisa per unit from employees.

Answer: (1) Rs 6,750 (2) Rs 6,750, assuming he is specified employee (3) Rs 1350

Q. 15 Determine the value of education facility in the following cases:

1) Three children of Gutam, an employee of S Ltd., are studying in a school, run by S Ltd. School fees is Rs.2,500 pm and hostel fees is Rs.2,000 pm. But employer recovers only Rs.600 pm and Rs.500 pm respectively. However, a similar school or a hostel around the locality charges Rs.1,800 pm and Rs.1,200 pm respectively.

2) The employer has also reimbursed the school fees of Rs.1,200 pm of his nephew, fully dependent on him after the death of his brother.

Answer: (i) Rs 61,200 (ii) 14,400

Q.16 Nandy a Manager in H Ltd. He gets salary @ Rs.30,000 pm. He is also allowed free use of computer, video-camera and television of the company. H Ltd. has purchased (i) Computer for Rs.1,00,000 (ii) Video-camera for Rs.30,000. Their WDV on 1.04.11 was Rs.60,000 and Rs.30,000 respectively. Television set has been taken on lease rent @ Rs.100 pm. The employer recovers Rs.500 per month for use of the assets. Compute his gross salary for the assessment year 2012-13.

Answer: Rs 3,60,000. Value of perquisite: Nil

Q. 17 Mr. Vasudevan retired on June 30, 2011. He submits the following information:

Basic salary (since January 2008): Rs. 20,000 per month

DA: Rs. 6,000 per month (One-third is calculated for retirement benefits)

Employer's contribution to PF: Rs. 3,000 per month; Vasudevan makes a matching contribution

Interest credited to PF @ 15% on April 30, 2011: Rs. 7,500

Pension after retirement: Rs. 10,000 per month

Payment of provident fund received at the time of retirement: Rs.7,60,000, as per details below:

Employer's contribution:	Rs. 3,30,000
Interest thereon	Rs. 44,000
Vasudevan's contribution:	Rs. 3,40,000
Interest thereon:	Rs. 46,000

Salary and pension become due on the last day of each month. Vasudevan has deposited the entire provident fund payment with a company (rate of interest 9 per cent per annum).

Find out total income of Vasudevan for the A/Y 2012-13 on the assumption that the provident fund is:

(a) Statutory provident fund, (b) Recognized provident fund, and (c) Unrecognized provident fund.

Answer:

Q. 18 Manas retires on 30th March 2012 from Z Ltd, which maintain Recognized Provident Fund. Rs 9,00,000 (being accumulated balance of said fund of which Rs 3,80,000 was employer's contribution, Rs 53,000 as interest thereon, Rs 4,10,000 as employee's contribution and Rs 57,000 as interest thereon) is paid on the same day.

Discuss tax treatment of the above amounts:

1) if he had joined in 1998
2) if he had joined in 2009

Answer:

Q. 19 Mrs. Padma (age: 25 years) is offered an employment by L&T Ltd. at a basic salary of Rs. 24,000 per month; other allowances are - Dearness allowance: 18% of basic pay not forming part of salary for calculating retirement benefits); Bonus: 1 month basic pay; and Project allowance : 6% of basic pay.

The company gives Mrs. Padma an option either to take a rent-free unfurnished accommodation at Mumbai for which the company would directly bear the rent of Rs. 15,000 per month or to accept house rent allowance of Rs. 15,000 per month and find out her own accommodation. If Mrs. Padma opts for house rent allowance, she will have to pay Rs. 15,000 per month for an unfurnished house.

Which one of the two options should be opted by Mrs. Padma in order to minimize her tax liability?

Answer:

Q. 20 Himalaya Ltd. reimburses the following expenditure on medical treatment of the son of an employee Karan. The treatment was done at UK.

1) Travelling expenses Rs. 1,15,000.
2) Stay expenses at UK permitted by RBI Rs.45,000 (Actual expenses Rs.70,000).
3) Medical expenses permitted by RBI Rs.50,000 (Actual expenses Rs.70,000).

Compute the taxable perquisites for the assessment year 2012-13 in the hands of Karan, if his annual income from salary was (i) Rs. 1,70,000; (ii) Rs.2,00,000.

Answer:

Q. 21 Bahadur, a defense personal was killed in a war. His wife was paid an ex-gratia payment of Rs 4,00,000 in Feb. 2012. She also received family pension of Rs 2500 per month during P/Y 2011-12.

Advice her on taxability of receipt.

Answer: Nothing will be taxable

Q. 22 Find out taxable value of perquisite in the following cases for A/Y 2012-13

A. X is given a laptop by Employer Company for using it for office and personal purpose. Ownership is not transferred. Cost of laptop to employer is Rs 96,000.
B. On 15th Octuber2011, company gives its music system to Y for personal use. Ownership is not transferred. Cost of music system to employer is Rs 15,000.
C. Employer sells following assets to employees on 1st Jan 2012

Asset	**Car**	**Computer**	**Fridge**
Cost to Employer	Rs 6,96,000	Rs 1,17,000	Rs 40,000
Purchase and put to use on	15th May 2009	18th July 2009	20th April 2009
Sale Price	Rs 2,10,000	Rs 24,270	Rs 1000

Answer: **(**A) Nil, (B) Rs 687.5, (C) Car Rs 2,35,440, Computer Rs 4,980 Fridge Rs 31,000

Q. 23 Who is specified employee under Income-Tax Act 1961?

INCOME FROM HOUSE PROPERTY

Chargeability (Sec. 22)

The following three conditions must be satisfied before income from a property can be taxed under this head

1. The property should consist of any building or lands appurtenant thereto.
2. Assessee should be owner of property
3. The property should not be used by owner for purpose of any business or profession carried on by him, profit of which is chargeable to tax.

Notes-

(i) Income of subletting is chargeable to income from other sources.

(ii) Income from letting out of vacant land is taxable under the income from other sources.

(iii) Ownership includes both free-hold and lease-hold right as well as deemed ownership.

(iv) Assessee must be the owner of house property during previous year. It is not relevant whether he is owner in assessment year or not.

(v) Person who owns the building need not also be the owner of the land upon which it stands.

(vi) House property in foreign country is taxable to Assessee as per his residential status u/s 6.

(vii) Where the property is let out with the object of carrying on the business of Assessee in an efficient manner, then rental income is taxable as business income, provided letting is not the main business but it is incidental to main business.

For example – where Assessee gives certain quarters on rent to his employees and charges rent from them then rental income would be treated as business income and not income from house property.

When property income is not chargeable to tax

a) Income from Farm House

b) One place of an ex- ruler of India

c) Property income of a local authority or trade Union

d) Property held for charitable purpose

e) Property used for own business or profession

f) One self occupied property of an individual / HUF

Computation of Annual Value of a Property (section 23 (1))

Annual value may be determined in the following two steps:

Step 1- Determine the gross annual value

Step 2- then deduct municipal value paid by the owner during the previous year, from computed gross annual value. The balance would be net annual value/annual value.

Expected rent: Municipal value or fair rent whichever is higher but higher value cannot exceed Standard Rent, if SR is not given in ques. than M.V or FRV which is higher.

- **Net Annual Value** = Gross annual value – municipal taxes
- Municipal taxes are allowed only if paid by owner in p/y year. Deduction would be allowed even if municipal taxes paid is relates to past or future years. M.T paid for property outside India is deductable.
- Net benefit would be taken as actual rent. If certain obligations of tenant (water tax, electricity bill etc) are paid by owner, then actual rent should decrease by that amount. If owner's obligations are paid by tenant then actual rent should be increase by that amount except in case of municipal taxes and repairs.

Determination of Annual Value

A. **House property which is let out throughout previous year-** Gross Annual Value would be higher of expected rent and actual rent.

B. **House property which is let out and was vacant during the whole or part of the previous year-** There may be two situation in this type of house property

   1. Actual rent received/receivable is more than expected rent in spite of vacant period- in this situation gross annual value would be actual rent received/ receivable.

   2. Actual rent received/receivable is less than expected rent owing to such vacancy- in this situation gross annual value would be actual rent received/ receivable.

C. **House property which is part of year let and part of the year occupied for own residence-** gross annual value would be higher of expected rent and actual rent.

The annual value of a H.P. shall be Nil in following conditions (SEC. 23(2)

(A) If the property is occupied by the assessee or his residence. {Self occupied Property} **or**,

(B) If the assessee could not occupy property due to his business, profession or employment at some other place. (Not Occupied Property).

The provision of sec. 23(2) will not apply, if the property is let-out at any time during the p/y.

If more than 1 property are covered u/s 23(2):- Only 1 property as per choice of assessee shall be expected u/s 23(2) and all other properties shall be deemed to be u/s 23(1).

Notes-

- Municipal Tax will not be deducted in case of self occupied or non occupied Property**.**
- NAV can be negative only when municipal taxes paid by owner is more than Gross Annual Value.

Treatment in case of Composite Rent

In certain cases, owner charges rent from tenant not only account of rent for the house property but also on account of services charges for various facilities provided with the house. Such rent is known as composite rent. There may be two situations in case of composite rent.

(i) Where building let-out along with other facilities such as furniture and composite rent of the two letting are not separable then, income from such property will be assessable as income from business. If composite rent is separable then rent related to house property should be charged as income from house property and remaining portion of rent should be charged as income from PGBP.

(ii) Where composite rent includes rent of building and charges for different services such as lift, security etc, then sum attributable to use of property is to be charge as income from house property and sum attributable to use of service is to charged to tax under head PGBP.

Treatment of Unrealized Rent

For the purpose of Sec.23 (1), actual rent received or receivable shall not include unrealized rent if the following conditions are satisfied:-

1) Tenant has vacated the property or steps have been taken (effective steps) for vacation of property.

2) All reasonable steps have been taken for recovery of rent & further steps shall be useless.

3) No other property belonging to the assessee is occupied by the tenant.

Unrealized rent of some other year received in previous year and already allowed as deductions then, add in total income and if partly allowed then add the allowed portion.

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Deduction from income from house property (Sec. 24)

a) **Statutory Deduction Sec 24 (a) -** 30 % of Net Annual Value (NAV). No deduction is provided if NAV is NIL or having (-)ve balance).

b) **Deduction of Interest on borrowed capital. (Based on following conditions)**

- Borrowed money must be utilized for purchase, construction, repair or renovation of HP.
- The borrowed must be interest bearing. Although it is immaterial whether interest has been actually paid or not paid during the previous year.
- No deduction on interest if H.P. is used for self business, profession & vocation.
- Interest payable on a fresh loan to repay the original loan raised earlier for purchase, construction, repair, or renovation of a house property is also allowed as deduction.
- Interest payable outside India would not be deductable without TDS.
- Interest on interest is not deductable.
- Brokerage or commission paid for arrangement of loan is not deductable.
- Ceiling of Rs 150000/Rs 30000 is not applicable on deemed let out property.

Notes-

1. Interest relating to year of completion of construction can be fully claimed in that year irrespective of the date of completion.

2. Interest payable on borrowed capital for the period prior to the previous year in which the property has been acquired or constructed, can be claimed as deduction over a period of 5 year in equal annual installment coming from the year of acquisition, completion of construction.

Example - loan was taken on 1-5-06 and construction was completed on 7-8-08, then A/Y is 2008-09 and P/Y is 2007-08. Accumulated interest would be from 1-5-06 to 31-3-08 means till last day of P/Y 2007-08. 1/5 of such accumulated interest would be allowed for 5 successive F/Y starting from the year in which acquisition/construction was completed.

3. Interest on unpaid interest is not deductable.

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

In this case, the assessee will be allowed a deduction of interest (including 1/5 of the accumulated interest of pre- construction period) as under

Where property is acquired/ constructed with borrowed capital on or after 1-4-1999 and such acquisition or construction is completed within 3 years of the end of the financial year in which capital was borrowed	Actual interest payable subject to maximum Rs 150000 if certificate mention in point 1 below is obtained
In any other case, means borrowed of repair/renewal or conditions mention above are not satisfied	Actual interest payable subject to maximum of Rs 30000

Notes

1. For purpose of claiming deduction of Rs 150000, assessee should furnish a certificate from the person to whom any interest is payable on capital borrowed, specifying the amount of interest payable by the assessee for the purpose of such acquisition or construction of the property.

2. The ceiling of one self occupied property as above in respect of interest on loan borrowed does not apply to a deemed let out property.

Arrears of Rent Received (U/S 25B)

Assessee received any amount by way of arrears of rent which was not charge to income tax for any P/Y. Then it is deemed to be income of P/Y in which such rent is received. Statutory deduction of 30% is allowed from such receipt. It is taxable even if house is not owned, or deemed owned, by assessee in the year of recovery.

Disputed Ownership

In case of disputed ownership, the decision as to who will be the owner chargeable u/s 22 will be of the income tax department till the court gives its decision to the suit filed in respect of such property. Normally in this situation, person who receives rent from such property is treated as owner till the court gives its decision.

Co-Ownership (U/S 26)

If property is co-owned by two or more person and share of co-ownership is definite. Than the share of each such person shall be included in his income

If the property is self occupied by co-owner than NAV will be NIL & each of the co-owner shall be entitled for deduction of Rs.30,000/Rs.1,50,000/-

Deemed owner Sec.27

Following persons though not legal owners of a property, are deemed to be the owners for purpose of section 22 to 26

1. **Transfer to spouse or minor child:** Property transferred by individual to spouse or minor child without or inadequate consideration but not including arrangement of live apart and transfer to married daughter. Marriage must subsist as on the day of transfer of property as well as on the day of accrual of income.

   If individual transfer cash to spouse and spouse purchased a house property than owner will be spouse but income from this H.P. include in transferor u/s 64(1)

2. Holder of impartibly Estate

3. Property held by a member of Co-operative society

4. A person who has acquired Lease right in a building for a period not less than 12 years.

5. A person who got possession of property against part performance of contract as per section 53A of The Transfer of Property Act.

Computing income from house property

Gross Annual Value	****
Less: Municipal Taxes (if paid by owner)	****
Net Annual Value	****
Less: Deduction under Sec.24 1. Standard Deduction 2. Interest on borrowed capital	****
Income from house property	****

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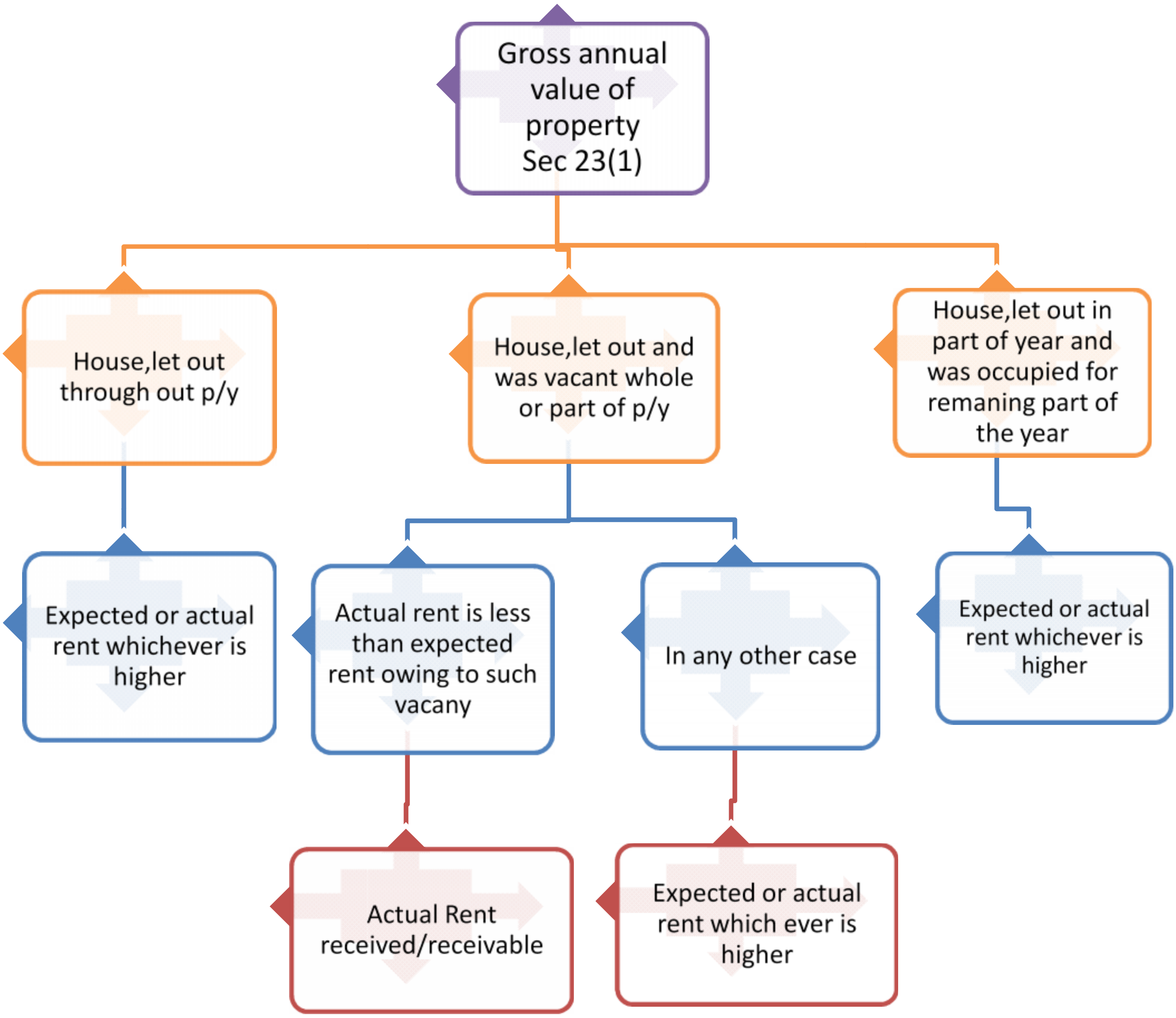

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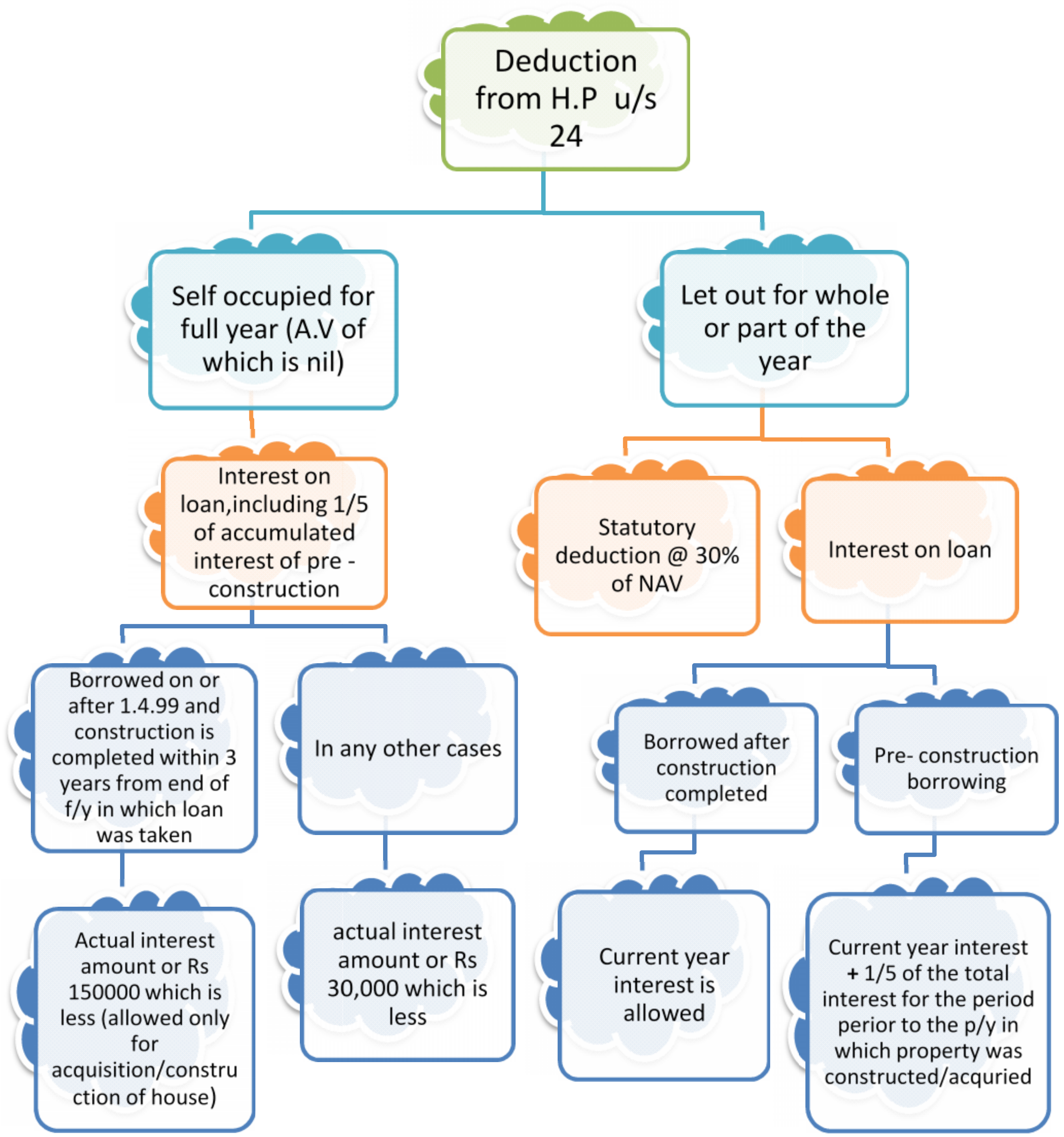

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Questions

Q.1 Anil had taken a loan of Rs 5,00,000 for construction on 1.10.10. Interest was payable @10% p.a The construction was completed on 30.6.11. Compute deductible interest u/s 24 for A.Y. 2012-13. If --

- No principal is paid till 31.3.12.
- Loan was paid on 1.10.11
- Loan was taken on 1.10.06 and construction was completed on 30.6.06

Q.2 Arvind has a self occupied house at Delhi. FRV is Rs 25000 p.m. and M.V is Rs 23000 p.m. Municipal taxes paid are Rs 8000. House was constructed in year 2003 with a loan of Rs 20 Lakhs taken from SBI. The construction was completed on 30.11.05. The accumulated interest up to 31.10.05 is Rs 1,50,000. During the previous year 2011-12, Arvind paid Rs 1,88,000 to bank which included Rs 144000 as interest. Compute his income from house property.

Answer: Income from HP: (Rs 1,44,000). Interest on pre – construction loan will not be allowed.

Q.3 Anil owns a house at Lucknow. M.V. of that house is Rs 5,00,000, FRV is Rs 4,20,000, and SR is Rs 480000. The property was let out for Rs 50,000 p.m. up to December 2011. Thereafter, it is occupied by Anil for own residence. Rent of the month of November and December could not realized in spite of the owner effort (Condition under rule 4 are satisfied). He paid municipal taxes @ 12% during the year. He paid interest of Rs 25000 during the year for amount borrowed for repairs of the property. Compute his income from house property for A.Y 2012-13.

Answer: income from HP: Rs 1,99,000. Unrealized rent is deducted from GAV

Q. 4 State the head of income under which the receipt is to be assessed and comment.

- R let out his property to Y. Y sublets it to M for Rs 25000 p.m.
- S has built a house on a leasehold land. He has let out above property for Rs 20000 p.m. and claims his income should be taxed under “Other sources” and deductible expenses on repairs, security charges, insurance in all amounting to 40% of receipts.

Q.5 Rajesh has two houses, both are self-occupied. The particulars of the houses for the P.Y 2011-12.

Particulars	House I	House II
M.V p.a	Rs 1,00,000	Rs 1,50,000
FRV p.a	Rs 75,000	Rs 1,75,000
Std. Rent p.a.	Rs 90,000	Rs 1,60,000
Date of completion	31.3.2002	31.3.2004
Municipal taxes paid	12%	8%
Interest on current year borrowing	------	Rs 55,000

Compute Rajesh income for A.Y 2012-13 in such method that his tax liability is minimum.

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Q.6 Dinesh owns a house at Lucknow. During previous year 2011-12, 2/3 portion of the house was self-occupied and 1/3 portion was let-out at rent of Rs 8,000 p.m. M.V of house is Rs 3,00,000 p.a. FRV is Rs 2,70,000 p.a and Std. Rent is Rs 3,30,000 p.a. He paid municipal taxes @10% of M.V during year. Interest on loan was paid during the year was Rs 120000.

Compute Dinesh income from HP for the A.Y 2012-13

Answer: Income from HP: (Rs 30,000) & Rs 23,000. Total: (Rs 7,000)

Q. 7 Sunil owns a house in Delhi. During the PY 2011-12, 3/4 portion of the house was self occupied for full year and 1/4 portion was let out at Rs 700 per month from 1-4-11 to 31-12-12. From 01-01-12 that portion was also used for self residence. M.V of house is Rs 20000 p.a. He incurred the following expenditure in respect of house property.

Municipal taxes Rs 9000, repair Rs 5600, insurance premium Rs 6700, ground rent of Rs 600 was paid during the year. A loan of Rs 1,00,000 was taken on 1-4-07 @ 9% per annum for construction of house which was completed on 28-3-09. Nothing was repaid on loan account so far.

Find income from H.P for A.Y 2012-13.

Answer: income from HP: 5,220. FRV: Rs 33,600, Interest on loan: Rs 10,800

Q. 8 Raju is working in S Ltd at Delhi and gets Rs 18000 p.a as salary. He owns two houses, one of which is let out to S Ltd and provided by the company to Raju as rent free house. Determine the gross total income of R for the A.Y 2012-13 with the help of following information about his house property.

Particulars	**House I** **Rs**	**House II** **Rs**
FRV	60,000	1,82,000
Let out for rent	63,000	1,84,000
M.V	61,000	1,85,000
Municipal taxes paid	14,000	40,000
Repair cost	3,500	7,700
Fire insurance premium paid	6,000	8,000
Land revenue	2,000	2,500
Ground rent	4,500	5,000
Nature of occupation	Let out to S Ltd and provided to S as rent free house.	Let out to Y for the latter's business.
Interest on money borrowed by mortgaging house I for construction of house II	18000	-----

Answer: GTI Rs 3,66,200. Salary: Rs 2,48,400 and Income from HP: Rs 1,17,800 (34,300 + 83,500)

Q. 9 Determine income from house property of Rajan for AY 2012-13 with help of following information

Particulars	House (Rs)
FRV	2,34,000
Rent received	1,40,000
M.V	1,94,000
Std. Rent	1,60,000
Municipal taxes paid by tenant	12,000
Repair cost	3500
Fire insurance premium paid	6000
Ground rent	4500
Nature of occupation	Let out
Interest on loan (not paid)	84000.

Answer: Income from HP: Rs 28,000

Q. 10 Sam owns two houses, which are occupied by him for his own residence. The detailed particulars of houses and his other incomes for the previous year 2011-12 are given below:

Particulars	House A (Rs)	House B (Rs)
Fair rent	5,00,000	6,00,000
Municipal value	4,20,000	5,50,000
Standard rent	4,50,000	6,20,000
Municipal taxes paid	50,000	60,000
Interest on loan for FY 2011-2012	1,60,000	2,20,000
Date of loan	1.12.2001	1.04.2003
Date of completion	31.03.2004	31.03.2005
Certificate of interest attached with return of income	No	Yes

Compute his total income and advise him which house should be opted for self-occupation.

Answer: House B

Q. 11 Kuber, owner of a property gives it on a rent of Rs 11,000 pm to a bank. Municipal value of property is Rs 1,30,000, Fair rent is Rs 1,40,000 and Standard rent is 1,34,000. Municipal tax paid by Kuber is Rs 26,000 on 3rd March 2011 and Rs 30,000 on 10th May 2011. On 1st May 2011, rent is increased from Rs 11,000 pm to Rs 15,000 pm with retrospective effect from 1st April 10. Arrears of rent are paid on 15th May 2011. Find out income chargeable to tax for PY 2011-12.

Answer: Rs 1,38,600. (Including Arrear of Rs 33,600)

Q. 12 X and Y are co- owners of two houses with equal share of both houses. While the first house is used by them for their residence, the second house is let out on rent of Rs 2500 pm. The other particulars of houses for 2011-12 as follows.

Particulars	House I	House II
Date of completion	30th June 96	30th March 99
Municipal taxes	Rs 2000	Rs 2500
Insurance	Rs 2500	Rs 2500
Interest on loan	Rs 10,000	Rs 9000

Compute income from house property of X and Y for AY 2012-13

Answer: X: Rs 125 and Y: Rs 125

Q. 13 Raman is a co owner of a house along with his brother.

MV of House	Rs 1,60,000
Fair Rent	Rs 1,50,000
Std. Rent	Rs 1,70,000
Rent Received	Rs 15,000 pm

The loan for the construction of this property is jointly taken and interest charged by bank is Rs 25,000 out of which Rs 21,000 have been paid. Interest on unpaid interest is Rs 450. To repay this loan, Raman and his brother have taken a fresh loan and interest charged on this loan is Rs 5000. Municipal tax of Rs 5100 have been paid by tenant

Compute Raman's taxable income from house property for AY 2012-13.

Answer: Rs 48,000 (assuming he is 50% share in house property)

Q. 14 R is the owner of a residential house whose construction was completed on 31-8-2007. It has been let out from 1-1-2008 for residential purposes. Its particulars for the F/Y 2011-12 are:

Particulars	**Rs**
Municipal valuation	65,000
Expected fair rent (p.a.)	72,000
Standard rent under the Rent Control Act (p.m.)	7,000
Actual rent p.m.	7,000
Municipal taxes paid (including Rs. 5,000 paid by tenant)	20,000
Water tax, levied by State Government paid	5,000
Interest on loan taken for construction. Interest has been paid outside India to a Non-Resident without TDS. Non-Resident had agreed to pay income-tax on such interest direct to Government	15,000
Legal charges for the recovery of rent	4,000
Stamp duty, registration charges in respect of lease agreement of house	2,000
Life insurance premium for policy taken for his daughter.	36,000

Compute Income from House property for the A/Y 2012-13.

Answer: Rs 48,300

Q. 15 Rohit furnishes the following particulars in respect of a house property owned by him in a Delhi.

Municipal value	Rs 2, 00,000
Fair rent	Rs 2,40,000
Actual Rent (per month)	Rs 21,000
MT paid during year (include Rs 5000, MT of 2012-13)	Rs 20,000

The tenant vacated property on 31-10-2011 and thereafter property was let out for Rs. 25,000 p.m. Rohit could not realize the rent for the month of Sep and Oct, 2011 due to the death of the earlier tenant.

Compute the Net Annual Value of the property for the assessment year 2012-2013

Answer: (i) Unrealized rent deducted from AR: Rs 2,20,000 (ii) Deducted from GAV: Rs 2,10,000

Q. 16 Gopal, owner of 3 houses in Bangalore, particulars for year ended 31-3-2012 are as follows:

Particulars	**1st House**	**2nd House**	**3rd House**
Vacancy / Unoccupied period	-	-	3 months
Cost of Repairs borne by	Owner	Owner	Owner
Actual rent received (Let out for residential purposes)	Rs. 40,000	Rs. 9,000	Own residence
Fair Rent	45,000	9,000	17,800
Total Municipal tax	4,200	900	1,600
Municipal tax paid by Gopal	4,200	450	1,600
Municipal tax paid by tenant	-	450	-
Collection charges	500	300	-
Insurance premium	1,000	100	260
Interest on loan taken for house construction	15,000	3,000	16,000
Unrealized rent allowed in past recovered during the year	20,000	-	-

Gopal resided in Mysore for 3 months during the P/Y in connection with his business and during this period, his dwelling house at Bangalore remained vacant. During his stay at Mysore, he paid a rent of Rs. 300 p.m. for a house.
Compute income under the head house property for the A/Y 2012-13.

Answer: Rs 14,545. House 1: Rs 13,560, House 2: Rs 2,985, 3: (16,000), Unrealized rent: Rs 14,000

Q. 17 R, S and G are the three equal co-owners of the property situated in Delhi, which has 6 units of identical size. R and S have occupied one unit each for their residence. Other four units are let out to one tenant at a rent of Rs. 25,000 p.m. The municipal Valuation of the house is Rs. 3, 00,000.

The other particulars of the House Property are as under:

	Rs.
Municipal taxes paid	30,000
Insurance premium paid	6,000
Interest on money borrowed (for repair of the house)	2,10,000

Compute the income u/h house property and the income of each co-owner for the let out portion.

Answer: R: Rs (16,000), S: Rs (16,000), G: Rs 28,000

Q. 18 Explain the tax treatment of arrears of rent received under Income Tax Act, 1961.

Q. 19 How will you treat unrealized rent allowed as deduction in past and realized in a subsequent year when assessee is no more the owner of the property?

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Q. 20 Is it possible for the net annual value of a house property to be negative? What will be tax treatment if income under the head “Income from house property” is negative?

PROFIT /GAIN FROM BUSINESS OR PROFESSION

CHARGING SEC.28

U/s 28, the *following types of income* are chargeable to tax under the head “Profits and gains of business or profession":

1. Profits and gains of any business or profession;
2. Any compensation or other payments due to/received by any person in connection with termination / modification of his business agreement
3. The value of any benefit or perquisite, whether convertible into money or not, arising during the course of the carrying on of any business/profession.
4. Profit on sale of import entitlement licenses, incentive by way of cash compensatory support and drawback of duty.
5. Any interest, salary, bonus, commission or remuneration, by whatever name called, receivable or received by the partner of a firm from the firm in which he is a partner.
6. any sum whether received or receivable in cash or in kind under an agreement for:—
   (*a*) Not carrying out activity in relation to any business; or
   (*b*) Not sharing any know-how, patent, copyright, trade-mark, license, franchise or any other business or commercial right of similar nature or information or technique likely to assist in the manufacture or processing of goods or provision for services.
7. Any sum received under a key man insurance policy (including bonus) [Sec.28(vii)]; and
8. Income from speculative transaction.

DETAILED EXPLANATION OF SOME OF THE ABOVE

The profits & gains of any business or profession, which was carried on by the assessee *at any time during the previous year* shall be chargeable to tax under PGBP.

Any money collected after the discontinuance of the profession will be chargeable in the same manner (if not taxed earlier) and to the same extent as if the profession was in continuation.

In the following cases income from business is not taxable under the head “PGBP”.

- ❖ Rent of house property is taxable under the head “Income from house property” even if the recipient of rent is engaged in the business of letting properties on rent.
- ❖ Dividends on shares are taxable under head “Income from other sources” even if they are derived from shares held as S.I.T.
- ❖ Winnings from lotteries, races etc., are taxable under the head “Income from other sources”, even if derived as a regular business activity.

METHOD OF ACCOUNTING- SEC 145

a. An assessee could follow either cash system or mercantile system (due basic) of accounting. Deduction of expenses/taxability of income will be depends on method of accounting followed by assessee. In case of cash basic accounting expenses will be deductable/income will be taxable only when assessee actually paid them, on other hands in case of due basic accounting expenses is deductable/income is taxable as soon as they become due.

b. Even if the assessee follows due basic of accounting, certain expenses falling within the purview of section 43B shall be allowed only if payment is made within the stipulated time limit.

GENERAL PRINCIPLES FOR ALLOWABILITY OF DEDUCTIONS

- Expenses must incurred in previous year for business/profession purpose
- No deduction in respect of discontinued business
- No deduction for expenses incurred before setting up a business.

EXPENSES RELATING TO BUILDING - SEC.30

a. If the assessee is occupying the premises as a:

- ❖ Tenant - rent paid is deductible. Further if he undertakes to do the repairs (other than capital in nature), the cost of such repairs is also deductible.
- ❖ Owner - current repairs is deductible.

b. Any land revenue, local taxes are deductible (Subject to Sec.43B).

c. Insurance premium in respect of the property is deductible.

EXPENSES RELATING TO P&M, FURNITURE - SEC.31

Repairs and insurance of plant & machinery, furniture is allowable as expenditure.

DEPRECIATION - SEC.32

In respect of Buildings, Plant & Machinery, or Furniture being tangible assets and in respect of intangible assets such as know-how, patents etc. depreciation shall be allowed.
It is compulsory to claim depreciation. It is allowed even if the books are maintained on cash basis.

RULES:

1. Assessee must be the Owner or Joint owner of the Asset.

Exceptions:

a. If the assessee is occupying any building as a tenant, any capital expenditure incurred towards renovation, extension etc. on such building can be treated as the building belonging to him & depreciation can be claimed.

b. Registered ownership is not necessary (Sec.53A of transfer of property act).

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c. In the case of partnership firm, the firm is entitled to claim depreciation, even if such assets are not registered in the name of the firm.

2. The assessee must use the asset for the purpose of carrying on the business or profession during previous year. It is not necessary that the asset should use throughout the previous year.

3. Depreciation will be restricted to 50% of normal depreciation, if the following conditions are satisfied.

- Asset is acquired during previous year
- It is put to use during previous year and
- It has been used for a period of less than 180 days during previous year.

Note: The restriction of 180 days is applicable only for the year in which such asset is acquired and not in next years. In the subsequent years even if the asset is used for less than 180 days full depreciation is allowed for those years.

QUANTUM/AMOUNT OF DEPRECIATION

Depreciation can be claimed as a % of WDV of the block of Assets on the basis of WDV method. Undertakings engaged in the business of generation or generation and distribution of power can depreciate their assets under Straight Line Method on individual asset.

Block of assets: It means a group of assets falling within the same category of assets comprising:

a. Tangible assets being building, plant & machinery or furniture and

b. Intangible assets being know - how, patents, copyrights, trademarks etc.

in respect of which the same **%** of depreciation is prescribed.

Each such group of assets falling under same classification and having same rate of deprecation will be identified as a block of assets.

How to compute WDV of the Block of Assets

Opening WDV of the block	****
Add: Actual cost of additions - Sec.43(1)	****
Less: Money receivable in respect of assets sold, demolished, discarded and destroyed.	****
Amount on which dep. can be claimed	****
Less: Current year depreciation	****
Closing WDV	****

Remember that assets which do not qualify for depreciation such as land, personal assets etc., will not form part of any block.

Meaning of the words "Money receivable": It includes:
a. Where the building, plant or furniture is sold, the price for which it is sold &
b. Any insurance salvage or compensation money receivable in case of destruction etc.

ACTUAL COST - SEC.43 (1)

	Mode of acquisition	Actual cost
1	Acquired by way of *gift or inheritance*	WDV to the previous owner.

2	*Reacquisition of Assets:* Asset transferred by the assessee and reacquired by him.	The WDV at the time of original transfer or the price paid for reacquiring the asset, whichever is less.
3	Asset acquired out of *borrowed funds.*	Interest up to the date of commencing the commercial production shall be added to the cost of acquisition.
4	Asset acquired subject to levy of *excise duty or customs duty*.	So much of the duty in respect of which Cenvat credit was allowed, shall not form part of the actual cost.
5	*Subsidy* or grant or reimbursement received from govt.	Such subsidy etc. shall be reduced from cost.

DEPRECIATION RATES

TANGIBLE ASSETS

BUILDINGS:	
☞ Buildings which are used mainly for residential purposes	5%
☞ Building which are not used mainly for residential purposes	10%
☞ Purely temporary erections such as wooden structures	100%
FURNITURE AND FITTINGS:	
Furniture and fittings including electrical fittings	10%
PLANT & MACHINERY:	
☞ Motor cars, other than those used in a business of running them on hire.	15%
☞ Motor buses, Lorries and Motor taxis used in a business of running them on hire.	30%
☞ Aero plane & Aero engines	40%
☞ Computes including computer software.	60%
☞ Annual publications books or library books.	100%
☞ Books other than those mentioned above.	60%
☞ Ships.	20%
☞ Other plant and machinery	15%

INTANGIBLE ASSETS

Know how, patents, copy rights, trade marks, licenses, franchises etc.	25%

ADDITIONAL DEPRECIATION ON NEW PLANT & MACHINERY

With a view to give a boost to the manufacturing sector this is allowed in addition to the normal depreciation.

1. **Eligible Assessee:** An assessee which is an industrial undertaking
2. **Eligible Assets:** Any new machinery which has been acquired and installed by the above assessee after 31-3-2005.
3. **Non eligible Assets:** However, it shall not be allowed for the following assets:

a. Any P& M which, before use by assessee was used within or outside India by any other person.

b. Any Plant & Machinery (P& M), whole of actual cost of which is allowed as a deduction (whether by way of depreciation or otherwise) one previous year.

c. Any P&M installed in any office premises or any residential accommodation.

d. Ships and aircraft.

e. Any office appliances or road transport vehicles.

4. Rate: Besides normal depreciation, additional depreciation will be allowed @ 20% of actual cost of eligible asset in p/y in which such asset is acquired and installed. However if such asset is acquired and put to use for less than 180 days in p/y, depreciation will be allowed @ 10%.

Depreciation when asset is not exclusively used for business or profession

Deduction on account of depreciation shall be restricted to a fair proportionate part thereof which the Assessing Officer may determine having regard to the use of such building, machinery, etc. for the purpose of business or profession.

Cases where WDV of a block at the end of year shall be reduced to Nil:

(*a*) *Where block of assets ceases to exist i.e. all the assets of block are transferred*: In case all the assets in any block are transferred during the previous year then the written down value of such block shall be reduced to Nil and no depreciation will be allowed. It can happen in the following two cases:

(*i*) the sale consideration of the entire block exceeds the opening written down value and the cost of the assets acquired during the year then such excess as per section 50 shall be taxed as a short-term capital gain;

(*ii*) The sale consideration is less than the opening written down value and the cost of assets acquired during the year then such deficit is a loss which as per section 50 shall be treated as a short-term capital loss.

(*b*) Where a part of a block is sold and sale consideration of assets sold exceeds value of block: Where a part of a block is transferred and the money payable together with scrap value of any asset sold, discarded, demolished or destroyed is equal to or exceeds the aggregate of the opening WDV of the block and the cost of any asset acquired during the previous year, although certain assets exist in the block, but the written down value of the block shall be reduced to Nil and no depreciation will be allowable on the block. Further such excess shall be taxed as short-term capital gain.

PROVISION FOR UNABSORBED DEPRECIATION - SEC.32 (2):

Where in any year, depreciation can't be absorbed in full, because of:

a. There being no profits or gains chargeable for that previous year Or

b. The profits or gains chargeable being less than the depreciation allowance.

It is deductible from income chargeable under other heads of income (Except Income from salaries) for the same assessment year.

Carry forward:

a. If depreciation is still unabsorbed, it can be carried forward to subsequent assessment year(s) by same assessee.

b. Such unabsorbed depreciation can be carried forward indefinitely.

c. Business or profession need not be in continuance, during previous year in which set off is claimed.

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Set off in subsequent years: It can be set off, in the following order of priority:

a. Current year depreciation.

b. Brought forward business loss.

c. Unabsorbed depreciation *.

* It shall be treated as current year depreciation. With the result, such unabsorbed depreciation can be set off from income chargeable under other heads of income (Except Income from salaries).

TEA OR COFFEE OR RUBBER DEVELOPMENT ACCOUNT – SEC.33AB

1. **Eligible Assessee*:*** Any assessee carrying on the business of growing and manufacturing tea or coffee or rubber in India he has deposited amount with NABARD or deposit amount as per scheme approved by Tea, Coffee or Rubber Board or in Deposit within 6 months from the end of the previous year or before the due date of filing the return of income, whichever is earlier.
2. ***Deduction***: Amount deposit or 40% of profit, whichever is less.
3. Amount deposited can be withdrawn for purpose specified by Tea/Coffee/Rubber Board.
4. However amount utilized for purpose of following will deemed to be income of PGBP.
   - **a.** Plant and Machinery installed and used in any office premises or residential accommodation including guest house.
   - **b.** Office appliances excluding computers.
   - **c.** Any new machinery installed in an industrial undertaking for the purpose of business of construction, manufacture or production of any article or thing specified in the Eleventh Schedule.
   - **d.** Any machinery in respect of which the cost is allowed to be written off in one year.
5. The new asset should not sell upto 8 years. If asset is sold before 8 years from end of p/y in which it was acquired, the deduction allowed will become taxable.
6. The accounts of assessee must be audited by a Chartered Accountant.

SITE RESTORATION FUND - SEC.33ABA

1. **Eligible Assessee:** Assessee carrying on business consisting of the prospecting for, or extraction or production of, petroleum or natural gas or both in India.
2. Assessee making a deposit before ends of p/y an amount with SBI in a special account/ Site restoration account as per scheme framed by the Ministry of oil and gas.
3. **Deduction**: Amount deposit or 20% of profit, whichever is less.
4. Other provisions of 33AB (point 4, 5, 6) are applicable to this section also.

EXPENDITURE ON SCIENTIFIC RESEARCH - SEC.35

1. IN HOUSE RESEARCH

A. Revenue Expenditure:

- **a.** 100% of any revenue expenses incurred for research related to business will be fully allowed as a deduction. E.g.: Salaries to Research Staff.
- **b.** Expenses incurred on Scientific Research, within 3 years before the commencement of business shall be aggregated and allowed as deduction in the year of commencement of business.

B. Capital Expenditure:

- **a.** Deduction of 100% of any capital expenditure (except land) incurred for research related to business will be allowed.
- **b.** Expenses incurred on Scientific Research, within 3 years before the commencement of business shall be allowed as deduction in the year of commencement of business.
- **c.** No depreciation U/s 32 will be allowed in respect of this expenditure.

C. Weighted Deduction: only on or after commencement of business

- ❖ 200% of expenditure whether revenue or capital (except Land & Building) shall be allowed as deduction to a company engaged in business of bio-technology or in any business of manufacturing of any article other than those specified in Eleventh Schedule, on in house research approved by the prescribed officer.
- ❖ The expenses incurred must be relating to the business carried on by the assessee.

2. CONTRIBUTION TO OUTSIDERS

Deduction is allowed whether research related to assessee business or not

	Contribution to	Purpose	Deduction
1	Research Association	Social science or Statistical research	125 %
2	Company*****	Scientific, Social science or Statistical research	125 %
3	Research Association	Scientific research	175 %
4	National laboratory, University or IIT	Scientific research	200 %

*****Donations to an approved Indian company to be used for scientific research provided the main object of the company is to carry on scientific research.

E. Unabsorbed capital expenditure*:* Its treatment will be same as of unabsorbed depreciation.

Sale of an Asset used for Scientific Research

(*a*) Sold without having been used for other purposes: Where a scientific research asset is sold off without having been used for other purposes, then the *net sale price or cost of asset, which was earlier allowed as deduction u/s 35, whichever is less,* shall be treated as business income of the p/y in which such asset is sold. Any excess of sale price over cost will be subject to the provisions of capital gains. This will apply even if the business is not in existence in that previous year.

(*b*) Sold after having been used for business: Asset include in relevant block at nil value. When this asset is sold, deduct money payable from block in which such assets was earlier included.

LICENSE FOR TELECOMMUNICATION SERVICES - SEC.35ABB

a. If any capital expenditure has actually been paid for acquiring license to operate telecommunication services, it is allowed as deduction in remaining period of license in equal installment. Where payment was made, before commencement of business, deduction shall be allowed starting from year of commencement of business.

b. **If the License sold and sale price is less than WDV:** Deduction equal to WDV minus sale price will be allowed as deduction in the year of transfer.

c. **If the License sold and sale price is exceeds WDV:** then such excess or deduction allowed whichever is less will be taxable in year of transfer.

d. If sale price is more than actual cost, then such excess will be taxable under head capital gain which can be long term or short term.

EXPENDITURE ON ELIGIBLE PROJECTS/ SCHEMES - SEC.35AC

Assessee will be allowed 100% deduction of donation made to any public sector company or local authority or institute approved by national committee for carrying out any eligible project.

CONTRIBUTIONS TO RURAL DEVELOPMENT PROGRAMMES - SEC. 35 CCA

Contributions made to approved institutions for implementation of rural development programs and contributions to National Fund for rural development will be allowed as deduction.

Withdrawal of approval: Deduction in respect of section 35, 35AC, 35CCA will not be disallowed on the ground that subsequent to payment, approval of such institution or project has been withdrawn.

CAPITAL EXPENDITURE ON SPECIFIED BUSINESS – SEC. 35 AD

Assessee shall be allowed 100% deduction of Capital Expenditure (except on Land, goodwill or financial instrument) incurred during previous year for the Specified business subject to fulfillment of certain conditions. Where expenditure was incurred prior to commencement of operation of specified business, then deduction will be allowed in the year of commencement of such business.

Specified Business: It means-

1) Setting up and operating a cold chain facilities for storage;

2) Transportation and warehousing of agricultural produce, dairy products and other related items;

3) Laying and operating natural gas/crude/petroleum oil pipeline network for distribution.

4) Building and operating, anywhere in India, a hotel of two star or above category.

5) Building and operating, anywhere in India, a hospital with at least 100 beds for patients.

6) Developing and building a housing project under a scheme for slum rehabilitation.
7) Development and building a housing projects.
8) Production of fertilizer in India.

Conditions:

a) The specified business must be a new business. It is not set setup by splitting up or reconstruction of a business already in existence.
b) It is not setup by the transfer to the specified business of machinery or plant previously used for any purpose. However in the following situations, it shall not be regarded as machinery or plant previously used of any purposes, where:
- Such machinery or plant was not at any time used in India;
- Such machinery or plant is imported into India from any country outside India; and
- No deduction on account of depreciation has been allowed or is allowable in respect of such machinery or plant to any person earlier.

c) It is not formed by transfer of plant or machinery previously used for any purpose except to the extent of 20% of total value of plant and machinery.
d) If deduction is claimed under this section then no deduction will be allowed under any other provisions.
e) Audit report of Chartered Accountant should furnish along with the return of income.

AMORTISATION OF PRELIMINARY EXPENDITURE - SEC.35D

1. **Eligible Assessee's:** Indian companies and resident non-corporate assessee.
2. Preliminary expenses incurred for the following purposes can qualify for amortization:
   a. Commencement of New Business.
   b. After the commencement of business, in connection with:
      - The extension of existing under taking.
      - Setting up of new unit.
3. **Examples:** Incorporation fee, Survey Expenses, Legal Expenditure, Expenses related to prospectus & Cost of printing the Memorandum & articles, Feasible report.
4. **Maximum Deduction:**
   a. **Company Assessee:** 5 % cost of project **or** 5 % of capital employed, whichever is higher.
   b. **Non-corporate Assessee:** 5% of cost of project
5. **Quantum of Deduction:** deduction is allowed in 5 equal Annual Installments.
6. **Audit:** Audit of accounts is necessary for claiming deduction.

EXPENDITURE IN CASE OF AMALGAMATION OR DEMERGER - SEC.35DD

Where an Indian company incurs any expenditure for the purposes of amalgamation/demerger, the assessee shall be allowed a deduction over 5 equal installments starting from the year in which the amalgamation/demerger takes place.

VRS COMPENSATION - SEC.35DDA

1. Where any expenditure is incurred by way of VRS compensation, the deduction shall be allowed in *5 equal installments* starting from the year of payment.
2. Where an assessee pays the compensation in installments, each installment is independently eligible for deduction over a period of 5 years.

EXPENDITURE ON PROSPECTING FOR CERTAIN MINERALS - SEC.35E

1. In the case of an Indian company and non-corporate resident assessee the expenditure incurred on prospecting for development of certain minerals can be claimed as deduction provided it is incurred during the period of 5 years ending with the year of commencement of commercial production.
2. The deduction is allowable over a period of 10 years in equal installments. Maximum amount of deduction in one p/y is, 1/10 of aggregate expenditure or Income from such business of p/y, whichever is less.
3. Audit of accounts is necessary to claim deduction.

OTHER DEDUCTIONS - SEC.36 (1)

a. **Insurance premium** paid in respect of stocks, stores, etc - Sec. 36(1) (i).

b. **Insurance premium** paid by any mode of payment other than cash for insuring the health of employees under an approved insurance scheme

c. **Bonus or commission** paid to employees, for services rendered, subject to Sec.43B

d. Interest paid in respect of capital borrowed for the purpose of business or profession-

Decided cases/ Notes:

- ❖ Even where the assessee has sufficient funds of own, it was held that the department has no right to question the need for the borrowing - CIT Vs. Bombay Samachar Ltd. [1969].
- ❖ In case of genuine borrowing, the ITO can't object even if the interest rate is high.
- ❖ It is not necessary that investment made out of borrowed funds should yield any profit.
- ❖ Brokerage or commission paid for arranging a loan is not allowed.
- ❖ Deduction is on the basis of method of accounting followed by assessee.

e. Contribution to RPF or to Recognized Super Annuity Fund/ approved gratuity fund (Subject to 43B)

f. **Bad debts:** Deduction is allowable subject to the following conditions- Sec.36(1)(vii):

- ❖ The debt should be incidental to the business or profession.
- ❖ It should have been taken into account in computing the income of the assessee
- ❖ Mere provision is not sufficient but such debt must have been written off as irrecoverable in the accounts of the assessee for the previous year.
- ❖ Such debt must be revenue in nature.
- ❖ The business or profession must be in continuation.

- ❖ Provision for bad and doubtful debts not eligible for deduction

Notes: 1. The successor of a business or profession is entitled to claim deduction in respect of debt created by the predecessor.

2. If any amount allowed as bad debts is recovered subsequently, then it shall be treated as the income of p/y in which it is recovered, even if business is not in existence.

g. ***Amount withdrawn from Reserve Account*:** Where a deduction has been allowed in respect of any special reserve created, then any amount subsequently withdrawn from such special reserve shall be deemed to be the profits and gains of business or profession and accordingly be chargeable to income-tax as the income of the previous year in which such amount is withdrawn whether business is in existence or not.

h. Deduction for contribution towards pension scheme: w.e.f 01/04/2012, Employer will get deduction of least of the following:

I. Contribution towards pension scheme as referred u/s 80CCD, on account of employee **Or**

II. 10 % of salary of the employee in the previous year.

Salary = Basis Salary + DA (if under the term)

i. Family planning expenditure - Sec.36(1)(ix)***:***

- ❖ Any *revenue expenditure* incurred by *a company* for promoting family planning among employees shall be allowed as deduction.
- ❖ Any *capital expenditure* incurred by the company for promoting family planning among the employees shall be allowed in 5 equal annual installments.
- ❖ **Unabsorbed:** Where the profits of the business are not sufficient to absorb any expenditure (Whether revenue or capital), the balance shall be treated as unabsorbed expenditure and its treatment is same as of unabsorbed depreciation.

GENERAL DEDUCTIONS- SECTION 37(1)

The following conditions are to be satisfied for claiming any expenditure u/s.37 (1)

a. Such expenditure should not be covered under the specific sections, *i.e.* sec. 30 to 36.

b. Expenditure should not be of capital nature.

c. The expenditure should have been incurred during the previous year.

d. The expenditure should not be of a personal nature.

e. The expenditure should have been incurred wholly or exclusively for the purpose of business or profession.

Examples:

- ❖ Remuneration/ Compensation to employees
- ❖ Payment of penalty/damages
- ❖ Legal expenses, advertisement expenses, Expenditure on raising loans
- ❖ Diwali and muhurat expenses
- ❖ Expenditure in issue of bonus share

- ❖ Damages for failure to complete a contract in time
- ❖ Annual listing fees/ Payment to Registrar of the company
- ❖ Training expenses on employees
- ❖ Compensation on account of negligence
- ❖ Expenditure incurred for the preservation or protection of the asset

Note: Any expenditure which is an offence or which is prohibited under any law will not allow as deduction.

Advertisement to political parties [Section 37(2B)]

No deduction shall be allowed in respect of expenditure incurred on advertisement in any souvenir, brochure, pamphlet or the like published by a political party.

Expenses not deductible

Sections 40, 40A and 43B are in the nature of overriding provisions which provide that even if an expenditure or allowance comes within the purview of any of the sections 30 to 38 as well as sections 40, 40A or 43B, sections 40, 40A and 43B shall prevail and those of relative sections 30 to 38 shall have no application.

DISALLOWANCES IN THE CASE OF ALL THE ASSESSEE'S - SEC.40 (a)

1. Income tax, Wealth tax, paid is not deductible, whether paid with in India or outside India.
2. Any salary, interest, royalty, fees for technical services etc payable outside India or to a non resident on which TDS is not deducted/paid before due date of return of income u/s 139(1). However deduction will be allowed in p/y in which TDS paid.
3. Interest, Commission, Rent, Brokerage, Fees, Royalty etc payable to resident on which TDS has not deducted or paid before due date of return of income u/s 139(1). However deduction will be allowed in p/y in which TDS paid.

PAYMENT TO SPECIFIED PERSONS - SEC.40A (2)

If payment of expenditure has been made to specified persons and AO is of the opinion that such expenditure is excessive or unreasonable having regards to fair market value of the goods, service etc, then expenditure considered by him to be excessive or unreasonable will be disallowed.
Provision of Sec.40A(2) does not apply in respect of an expenditure which is not to be claimed as deduction u/s 30 to 37.

Specified person means relative (spouse, brother, sister, any lineal ascendant or descendant), partner, director or person having Substantial interest or relative of any of such persons.

Substantial interest: A person is deemed to have substantial interest in business /profession if such person is beneficial owner of at least 20 % of equity capital (in the case of a company), or entitled to at least 20 % profits of a concern (in any other case), at any time during p/y.

PAYMENTS IN CASH - SEC.40A (3)

If assessee incurs any expenditure of which a payment or aggregate of payment made to a person in a day is in excess of Rs 20000 not by an account payee cheque or bank draft then no deduction of such expenses will be allowed.

Payment to transporter for long journey is allowed upto Rs 35000

Exceptions: In following cases deduction will be allowed even if payment exceeds Rs 20000 in cash.

1. Where payment is made to banks and financial institutions.
2. Where the payment is made to government e.g. Sales tax, Custom duty.
3. Where payment is made in a town/village not served by any bank.
4. Where the payment is made for the purpose of:
    - **a.** Agricultural/forest produce or Fish/fish products or
    - **b.** Produce of animal husbandry (including hides and skins) or diary or poultry.
5. Where the payment is made for the purchase of the products manufactured without the aid of power in a cottage industry, to the producer of such products.
6. Where the payment was required to be made on a day on which the banks were closed either on account of holiday or strike.

Issues on Sec.40A (3):

a. This is applicable only for revenue exp. since capital exp. is not allowed as deduction.

b. If equipment is purchased for scientific research and deduction is claimed u/s.35, then the provisions of Sec.40A (3) shall apply if payment is made in cash.

c. The provisions do not apply to repayment of cash loans.

d. If an assessee makes payment of one bills/expenditures at different days and none of payment exceeds Rs 20000 (although expenditure exceeds Rs 20000) then nothing will be disallowed.

e. Similarly if assessee makes payment of different expenditures at the same time and no expenditure exceed Rs 20000 then also nothing will be disallowed.

PROVISION FOR GRATUITY - SEC.40A (7)

a. No deduction shall be allowed in respect of any provision made for payment of gratuity to his employees.

b. However, any provision made for the purpose of payment by way of any contribution towards an approved gratuity fund or for the purpose of payment of any gratuity that has become payable during the previous year shall be allowed as deduction.

CONTRIBUTION TO UNRECOGNISED FUNDS - SEC.40A (9)

Any contribution made to any unrecognized fund is not allowed as deduction.

REFUND OF EXPENDITURE - SEC.41 (1)

Where the deduction was allowed in respect of loss, expenditure or trading liability in any preceding years and subsequently the assessee or successor of the business has received any amount in respect of such loss or expenditure or obtained some benefit in respect of trading liability by way of remission or cessation, the amount received or the value of benefit accrued shall be deemed to be income.

DEDUCTION BASED ON ACTUAL PAYMENT - SEC.43B

The deduction in respect of the below given expenditures will be allowed as deduction only in the year of actual payment irrespective of the method of accounting being followed.

a. ***Taxes:*** Any sum payable by way of Tax or Duty etc. by whatever name called.

b. ***Bonus:*** Bonus or commission payable to employees.

c. **Interest:** Interest on any loan or borrowings from any public financial institution or state financial corporation or state industrial investment corporation or any scheduled Bank.

d. Any sum payable by the employer as **leave encashment**.

e. ***Contribution to welfare funds:*** Any sum payable by an employer by way of contribution to any RPF or SPF or any other fund for the welfare of employees.

MAINTENANCE OF BOOKS OF ACCOUNTS - SEC.44AA

a. ***Special profession:*** if gross receipt of the profession exceed Rs 1,50,000 in all 3 years preceding P/Y or if profession is newly set up in P/Y, if gross receipt for that year exceeded the said amount, then person is required to maintain prescribed books.

If the specified amounts are not exceeded then person is required to maintain such books of accounts and other documents as may enable AO to compute taxable income.

b. ***Non special profession or any business:*** If total income exceeds Rs 1,20,000 or total sales/receipts exceeds Rs 10,00,000 in any one of 3 years preceding p/y or if it is newly set up in P/Y, specified amounts exceeded for that year then person is required to maintain such books of accounts and other documents as may enable AO to compute income. If the specified amounts are not exceeded then not required to maintain any books.

Specified professions: legal, medical, engineering, accounting, film artists, CA/CS/CWA, Information Technology any other profession as is notified by the Board.

Prescribed Books*:* Cash book, Ledger, Journal (if accrual method followed), Copies of bills exceeding Rs.25. In the case of a medical practitioner additional books in form of Daily case registrar and stock register are to be maintained:

Place & Number of years of maintenance:

a. The books of accounts are required to be maintained at the place of business and

b. If there is more than one place of business then at the principal place of business.

c. The books are required to be kept for a period of 6 years from end of relevant A/Y.

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Specified Profession

↓

Maintenance of Books of A/c is compulsory

Specified Books of A/c to be maintained

If gross receipts in all 3 years immediately preceding the relevant p/y exceed Rs. 1,50,000 or in case of a new profession it is likely to exceed Rs. 1,50,000

Any books of A/c to be maintained

If gross receipts doesn't exceed Rs. 1,50,000 in any 3 years immediately preceding the relevant p/y or in case of a new provision it is not likely to exceed Rs. 1,50,000

Non-specified Profession or Business

↓

Books of account to be maintained if

If gross receipts/sales in any of 3 years immediately preceding the relevant P.Y. exceed Rs. 1,20,000 / 10,00,000 (as the case may be) or in case of a new profession it is likely to exceed Rs. 1,20,000/10,00,000

No requirement of maintenance of any books of account in any other case.

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TAX AUDIT - SEC. 44AB

a. **Business assessee:** if total sales of business for the p/y exceeded 60 Lakhs **or**

b. **Professional assessee:** where gross receipts exceeded 15 Lakhs for the previous year **or**

c. **Special assessee:** Assessee covered U/s.44AD/44AE, if Assessee claims that profits from such activities are lower than presumptive income and his income exceed maximum exemption limit.

- ❖ Assessee has to furnish audit report of CA by 30th September of relevant a/y along with return.
- ❖ If accounts are required to be audited under any other law, then audit under other law will be sufficient, there is no need for audit under this section.
- ❖ If audit report is not submitted along with return then assessing officer may treat the return as defective.

PRESUMPTIVE TAXATION

ASSESSEE ENGAGED IN ANY BUSINESS - SEC. 44AD

a. An assessee (Individual/HUF and Firm except LLP) engaged in any business except of business covered u/s 44 AE.

b. Turnover or Gross receipts should not exceed 60 Lakhs.

c. 8 % of the gross turnover or gross receipts are deemed as business income.

ASSESSE ENGAGED IN GOODS TRANSPORT BUSINESS - SEC.44AE

a. Any assessee who carries on the business of plying, hiring or leasing goods carriers

b. The assessee should not own more than 10 vehicles at any time during the p/y.

c. The income shall be deemed to be:

Type of goods carriage	Estimated income
Heavy good vehicle	Rs.5000 pm (or part of a month) during which the goods carriage is owned by the assessee.
Other than heavy good vehicle	Rs.4500 pm (or part of a month) during which the goods carriage is owned by the assessee.

COMMON POINTS FOR SEC.44 AD/AE

a. The Assessee can declare higher income than the presumptive income at his option.

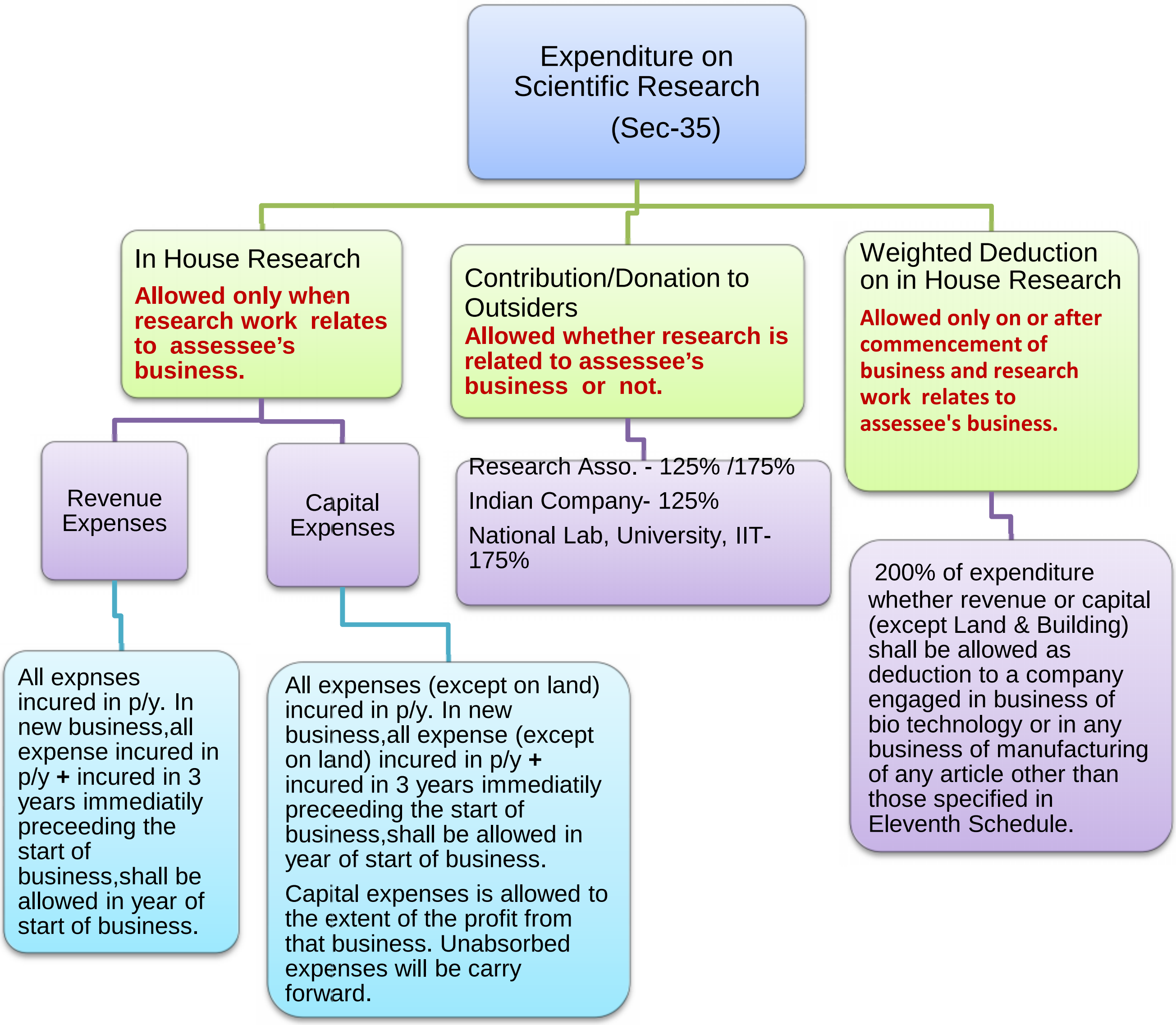
b. All deductions U/s. 30 to 38 shall be deemed to have been allowed. But in case of a partnership firm normal deduction of salary and interest to partners u/s 40 (b) will be allowed.

c. Provisions of Sec.44 AB shall not apply to these businesses.

d. The assessee can claim that the profits & gains of the business are lower than the income deemed in these provisions, provided the assessee shall maintain books of accounts as per Sec. 44AA & furnish tax audit report U/s. 44 AB.

e. All deductions under Chapter VI A (80C to 80U) are available to the assessee.

SCIENTIFIC RESEARCH - SECTION 35



SALE OF ASSEST USED FOR SCIENTIFIC RESEARCH

Sale of assest used for Scientific Research

Sold without using for other purpose

Net sale price or cost of assest which was earlier allowed as deduction u/s sec 35 which is less, shall be treated as business income of p/y in which such assest sold. Excess of sale price over cost will be subject to provisions of capital gains. It is not relevent whether business was in existence in p/y or not.

Sold after using for business purpose

Assest include in relevent block at nil value. When this assest is sold,deduct the money payable from the block in which such assest was earlier included.

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Questions

Q. 1 The WDV of the block of assets of Rosy Ltd. as on 1st April 2011 was Rs 5,00,000. An asset of the same block was acquired on 11th May 2011 for Rs 3,00,000. There was a fire on 18th September 2011 and assets were destroyed by fire and assessee received a sum of Rs 11,00,000 from insurance company. Compute depreciation and taxable income assuming-

a) All the assets were destroyed by fire
b) Part of block of assets were destroyed by fire

What will be answer if assessee received Rs 6 Lakhs from insurance company instead of Rs 11 Lakhs?

Q. 2 An industrial undertaking has acquired following assets during P/Y 2011-12:

Assets	Acquisition on	Put to use on	Cost of acquisition (Rs)
Factory Building	04.04.2011	01.09.2011	5,00,000
Pollution Control Equipment	04.05.2011	01.09.2011	4,00,000
Machinery A	05.05.2011	01.09.2011	2,00,000
Machinery B	07.06.2011	01.09.2011	5,00,000
Machinery C	30.08.2011	01.09.2011	10,00,000
Machinery D	01.09.2011	31.10.2011	4,00,000
Machinery E	01.01.2011	28.02.2011	3,00,000
Machinery F (second hand)	11.01.2011	13.01.2011	2,00,000
Motor Car	01.02.2011	01.02.2011	5,00,000
AC (use in office)	01.02.2011	02.02.2011	1,00,000

Compute depreciation allowable for A/Y 2012-13 and WDV as on 1st April 2012.

Q. 3 An analysis of the profit and loss account and balance sheet of Kapil Ltd. as at 31st March 2012 reveals that following expenses which were due, were though debit to profit and loss account, but have been paid after 31st March 2012:

a) Sales Tax: Rs 50,000 (Rs 20,000 paid on 14th Sep 2012 and Rs 30,000 paid on 15th Dec 2012.

b) Excise duty: Rs 1,20,000 (Rs 40,000 paid on 14th September 2012, Rs 40,000 paid on 15th December 2012 and Rs 40,000 paid on 25th December 2012.

c) Bonus to staff: Rs 60,000 (Rs 58,000 paid on 10th Sep 2012 and Rs 2,000 paid on15th Dec. 12

d) Employer’s contribution to unrecognized provident fund: Rs 55,000 (Rs 25,000 paid on 15th July 2012, Rs 10,000 on 30th September 2012 and Rs 20,000 paid on 15th December 2012.

e) Rent of month March 2012 was paid on 15 July 2012: Rs 25,000.

f) Profit and loss account was Rs 2,50,000

Assessee follows mercantile basis of accounting. The due date of filling return is 30th September 2012. Calculate taxable Income for P/Y 2011-12.

Answer: Rs 3,82,000

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Q. 4 Tele Ltd. a company providing telecommunication services obtains a telecom license on 20th April 2011 for a period of 10 years which ends on 31st March 2021 (license fee being Rs 18,00,000). Find out amount of deduction u/s 35ABB of Income Tax Act 1961, if—

a) The entire amount is paid on 6th May 2011

b) The entire amount is paid on 1st April 2012

c) Entire amount is paid in equal installments on 30th April 2011, 30th April 2012 and 30th April 2013.

Q. 5 Mr. Anil, a retail of Lucknow gives following Trading and Profit & Loss A/C for P/Y 2011-12.

Particulars	Rs	Particulars	Rs
To Opening Stock	90,000	By Sales	12,11,500
To Purchase	10,04,000	By Other Receipt	6100
To GP	3,06,000	By Income from UTI	2400
		By Closing Stock	1,80,000
Total	**14,00,000**	**Total**	**14,00,000**
To Salary	60,000	By GP b/d	3,06,000
,, Rent & Rates	36,000		
,, Interest on loan	15,000		
,, Depreciation	105,000		
,, Postage & Telegram	1640		
,, Printing & Stationary	23200		
,, Loss on sale of share(STCL)	8100		
,, General Expenses	7060		
,, Net Profit	50000		
Total	**3,06,000**	**Total**	**3,06,000**

Additional Information:

(a) Some stocks were found to be not included in both opening and closing stock, value of which were: opening stock Rs 9000, closing stock Rs 18000.

(b) Salary includes Rs 10,000 paid to his brother which is unreasonable to the extent of Rs 2000.

(c) Whole amount of printing & stationary was paid in cash.

(d) Depreciation as per Income Tax Rules is Rs 66000

(e) Rent and Rates includes Sales Tax Liability of Rs 3400 paid on 5th April 2012.

(f) Other business receipt includes Rs 2200 received as refund of sales tax relating to 2009-10

(g) General expenses include Rs 2000 paid as donation to a public Charitable trust.

You are required to advice Mr. Anil whether he can offer his business income under Sec 44 AD.

Answer: Business Income Rs 1,30,900. Income u/s 44AD Rs 97,408

Q. 6 Briefly discuss about deductibility of expenditure incurred in respect of income exempt under Income-Tax Act 1961

Q. 7 Is it mandatory for an Assessee to claim depreciation under Section32 of Income-Tax Act?

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Q. 8 Vinita Bio- Medicals Ltd. is engaged in business of manufacture of Bio-Medical items. The following expenses were incurred in respect of activities connected with scientific research:

Year Ended	Item	Amount (Rs)
30.04.2009	Land	10,00,000
Incurred after 01.09.2008	Building	25,00,000
31.03.2010	Plant & Machinery	5,00,000
30.06.2011	Raw Materials	2,20,000
31.03.2012	Raw Materials & Salaries	1,80,000

Business was commenced on 01.09.2011.

In view of availability of better model of plant and machinery, the existing plant and machinery was sold for Rs 8,00,000 on 01.03.2012.

Discuss the implications of the above for A/Y 2012-13 along with a brief computation of deduction permissible u/s 35, assuming that necessary conditions have been fulfilled. Assessee business is eligible for claiming deduction u/s 35 @ 200% on eligible items.

Answer: Deduction u/s 35: Rs 35,80,000, Business income on sale of asset: Rs 5,00,000, STCG: Rs 3,00,000

Q. 9 Calculate taxable profit of Miss Maya for A/Y 2012-13 from the following information:

Profit for P/Y 2011-12 Rs 13,70,000
(Before allowing following amounts)

a. Amount given to approved Scientific Institute (research not related to her business) Rs 80,000

b. Cost of land acquired for research laboratory Rs 2,00,000

c. Cost of building and plant & machinery required for research Rs 12,00,000

d. Salary to research staff paid in P/Y 2010-11 (related to assessee business)
(business started on 01.04.2011) Rs 90,000

e. Salary to research staff paid in P/Y 2010-11 Rs 1,20,000

Answer: Business income: Nil. Unabsorbed capital expenditure carried forward Rs 1,40,000

Q.10 Optima Ltd is engaged in the business of plying goods carriages. On 1st April 2011, company owns 10 trucks (out of which 6 are heavy vehicles). On 2nd May 2011 one of heavy vehicle was sold by it to purchase a light goods vehicle on 6th May 2011, which was put to use on only from 15th June 2011. Find total income of Optima Ltd. for A/Y 2012-13 taking into consideration the following information:

	Rs
Freight collected	8,90,000
Less: Operational expenses	6,40,000
Depreciation as per section 32	1,90,000
Other office expenses	15000
Net profit	45,000
Other non business income	70,000

Answer:

Q. 11 Briefly explain salient features of Section 44AD and44AE of Income-Tax Act 1961.

Q.12 Jardine Ltd. is an existing Indian company, which sets up a new industrial unit. It incurs following expenditure in connection with new unit:

	Rs
Preparation of project report	4,00,000
Market survey	5,00,000
Legal charges for issue of additional capital	2,00,000
Payment made to Labour Union for their cooperation in new business	2,50,000
Bonus to staff on inauguration day of new unit	4,25,000

The following further data is given:	Rs
Cost of capital	30,00,000
Capital employed in new unit	40,00,000

What is the deduction admissible to the company u/s 35D for A/Y 2012-13?

Q.13 From the following data, calculate depreciation admissible to an individual running a industrial unit:

		Rs
a.	Factory Building WDV	5,00,000
b.	Plant & Machinery WDV	8,00,000
Additions:		
	30.06.2011	1,00,000
	31.12.2011	1,00,000
Sales: 01.12.2011		6,00,000
c.	Computer purchased on 01.01.2012	60,000
d.	Furniture WDV	1,00,000
e.	Car WDV	60,000

Q. 14 Ramesh gives following data related to P/Y 2011-12:

		Rs
i.	Net profit as per P & L A/C (without allowing following expenses)	5,20,000
ii.	Capital expenditure on Family planning	70,000
iii.	Payment for purchase of technical knowhow	1,20,000
iv.	Entertainment expenditure	40,000
v.	Expenditure on acquisition of patent right	80,000
vi.	Expenditure on advertisement paid in cash	25,000
vii.	Provision for excise duty	60,000
	He paid Rs 30,000 on 27.06.2012 and Rs 12000 on 01.11.2012	

He paid Rs 60,000 to Delhi University for a research program, but research work is not related to his business.

Compute his business income for A/Y 2012-13.

Answer: Rs 3,25,000. Capital expenditure on Family planning is not allowed as deduction.

Q. 15 Mr. R has incurred Rs 25000 on promoting family planning among his employees and has net profit of Rs 20000 after meeting all expenses except the above. Discuss the tax treatment of above expenses under Income-Tax Act 1961.

Q. 16 In computing income under certain heads of income, method of accounting is irrelevant, while in some it is relevant. Comment.

Q. 17 R is proprietor of a business. The following was Profit & Loss Account of his business for the year ended 31-3-2012.

Particulars	Rs.	Particulars	Rs.
To Office Salaries	1,90,000	By Gross Profit	4,17,300
To proprietors Salary	60,000	By LTCG on residential house	90,000
To General Expenses	45,000	By Bad debts recovered (disallowed in earlier years assessment)	24,000
To Bad Debts	11,500	By Interest from Government Securities	14,000
To Advertisements	8,400	By dividends received from agricultural company.	6,000
To Fire Insurance Premium	1,500	By interest from Bank A/C	2,000
To Motor Car Expenses	8,500	By Income from Horse Racing (Gross)	10,000
To Premium on employees health	25,100		
To interest on proprietors capital	15,000		
To reserve for future losses	4,000		
To Life Insurance Premium	6,000		
To net profit	1,88,300		
Total	5,63,300	**Total**	5,63,300

Further Information is given:

(a) General expenses include Rs. 30,000 paid as compensation to an old employee whose services were terminated as his continuance in service was considered detrimental to the profitable conduct of business and Rs. 1,000 as help to a poor university student.

(b) Health insurance premium of Rs. 10,000 was paid in cash.

(c) One fourth of Motor Car Expenses are for personal use of the car.

(d) Reserve for future losses represents a demand for Sales-tax under dispute.

Compute R's taxable profits from business for the assessment year 2012-13.
Answer: Rs 80,425

Q. 18 What are situations under which WDV of a block of assets will be reduced to nil?

Q. 19 Write short note on the following

a) Expenditure on scientific research under Section 35.
b) Amortization of preliminary expenses u/s 35D. Give atleast four example of expenditure which are allowable as deduction u/s 35D

Q. 20 X (age: 29 yrs), a leading tax consultant, who maintains books of account on cash basis furnishes the following particulars of receipts and payments for the A/Y 2012-13.

Receipt and Payment A/c
For year ending 31 March 2012

Balance brought down	12,400	Purchase of a typewriter	6,000
Fees from clients: -of 2011-12 -of 2010-11 -of 2012-13	 2,30,500 11,500 13,000	Salary to staff -of 2011-12 -of 2012-13	 32,000 11,000
Presents from clients	24,000	Car expenses	18,000
Interest-free loan from a client for purchase of a car	2,38,000	Office expenses	40,000
Rent of a let out property	60,000	Expenses in respect of let out property (municipal taxes: Rs. 2,000, repairs: Rs.1,000, insurance: Rs. 3,000)	6,000
Share of income from firm as a partner	15,000	Car purchased on 10 December 2010	2,40,000
		Repairs of office Interest on loan Income tax payment Life insurance premium Balance credit down	12,000 10,000 2,000 8,000 2,19,400

Car is partly used for official purposes (40%) and partly for private purposes (60%). Determine the taxable income of Mr. X for the A/Y 2012-13.

Answer: Total Income Rs 1,91,300. PGBP: Rs 1,58,700, HP: Rs 40600, 80C: Rs 8,000

Q. 21 Determine the disallowed amount in the cases given below:-

(1) Generally X pays salary to his employees by account payee cheque. Salary of December 2011 is, paid on 1st Jan 2012 to three employees, A, B and C by bearer cheque

(Payment being Rs. 6,000; Rs. 20,000 and Rs. 20,500, respectively).

(2) X Ltd. purchases goods on credit from Y Ltd. on 6th May 2011 for Rs. 86,000 which is paid as follows-

a. Rs. 15,000 in cash on May 11, 2011

b. Rs. 30,000 by a bearer cheque on May 31, 2011

c. Rs. 41,000 by an account payee cheque.

(3) Z Ltd. purchases goods on credit from A Ltd. on 10th May 2011 for Rs. 16,000 and on 30th May 2011 for Rs. 15,000.

The total payment of Rs. 31,000 is made by a crossed cheque on 1st June 2011.

(4) B Ltd. purchases raw material on credit from A who holds 20% equity share capital in B Ltd. (the amount of bill being Rs. 36,000, market price being Rs. 19,000).
It is paid in cash on 26th July 2011.

Q. 22 Versa Ltd. presents the following information to you pertaining to year ending 31st March, 2012:

1. A Machinery costing Rs.50, 000 is purchased for which a single payment is made in cash.
2. Having regard to vast purchase of a particular chemical by company, supplier of the chemical presents a car worth Rs. 2,50,000 which is used for business purposes by the company.
3. Expenditure towards acquisition of technical know-how paid to a foreign company in a lump sum Rs. 6 Lakhs.
4. Company has paid income tax of Rs. 60,000 being tax in respect to non monetary perquisites of an employee.
5. The company wanted to start a new plant for manufacturing of a new product. Y Ltd., paid to the company Rs. 10 Lakhs in order not to start the same and not to compete with it.
6. The company has paid Rs. 20 Lakhs to four employees at the time of their voluntary retirement, in accordance with the approved scheme of voluntary retirement.
7. The company has borrowed Rs. I 5 Lakhs for acquiring machinery. Interest paid is Rs.90.000. The machinery is not put to use during the year.
8. Payment of Rs. 40,000 is made to a Don for ensuring that employees not indulge in strike.
9. The company has incurred expenditure of Rs. 34,000 in respect of exempt income. This forms part of administrative expenses. -

You are requested to briefly state with reasons as to how the above are to be dealt with in computing the total income of the company for the assessment year 2012-13. The total income need not be computed.

Q. 23 Mr. Gaurav retired from Government, service in March 2011. He got Rs. 20,00,000 on account of retirement benefits. Out of the aforesaid sum, he purchased on 23rd April 2011 a few motor vehicles and got their delivery on that date. The particulars of the vehicles are given below:-

Vehicle	Number	Cost of the vehicle (Rs)
Heavy goods vehicle	2	9,00,000
Medium goods vehicle	3	4,50,000
Light goods vehicle	4	3,20,000

He formed GM and associates (A sole proprietorship concern) along with his son Madan as an employee on 01.06.2011 and started plying the vehicles from 04.06.2011. On an average every vehicle remains off the road for about a week for repairs and maintenance. GM and Associates maintains no accounts and vouchers, as per section 44AA.

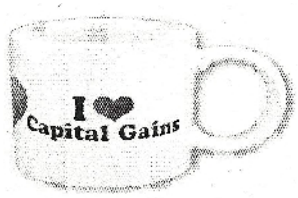
However, it maintains a rough record of its receipts and outgoings which is given below:-

Receipts		3,70,000
Less: - Expenses (Excluding depreciation and salaries to Madan)	60,000	
		3,10,000

You are required to compute the total income of GM & Assoc. From the business of goods carriage for the P/Y 2011-12 assuming rate if depreciation is 40% and salary to Madan is Rs.20,000 p.a.

Answer: Business Income Rs 4,98,000

Q. 24 Certain deductions to be only on actual payment irrespective of method of accounting followed by assessee. Do you agree with this statement?



CAPITAL GAINS

CHARGING SEC.45 (1)

Any profits arising on the *Transfer of any Capital Asset* shall be chargeable to tax under the head Capital Gains in the year of transfer.

The following conditions must be satisfied for taxing capital gain:

1. There must be a capital asset;
2. The capital asset must have been transferred;
3. There must be profits or gains on such transfer known as capital gain;
4. Such capital gain should not be exempt u/s 10s and 54s;

If the above conditions are satisfied, the capital gain will arise and taxed in the p/y in which asset is transferred, subject to certain exceptions.

CAPITAL ASSET: It means property of any kind movable or immovable, tangible or intangible but **does not include** the following:

a. **Stock in Trade.**

b. **Personal Effects**: It means any Article, Commodity or Property used in the day-to-day life of the individual which is a movable property (i.e. not capital asset). But personal effect excludes Jewellery (i.e. Jewellery is a capital asset), Archaeological collections, Drawings, Paintings, Sculptures, Any work of art.

c. **Rural Agricultural Land in India** – means, any area located within the limits of a Municipality which has a population of 10,000 according to the last census and includes any area within the distance of 8 Kms. from the limits of such Municipality.

d. Special Bearer Bonds, 1991 (No more in existence).

e. Gold Bonds issued under Gold Deposit Scheme, 1999.

WHAT IS A TRANSFER? {Sec.2 (47)}: It includes:

a. Sale, Exchange (Must be of two capital assets). Relinquishment of Asset.

b. Extinguishment of an Asset.

c. Compulsory acquisition by Government.

d. Conversion of an asset into Stock-in-trade.

e. Any transfer covered by Sec.53 A of the transfer of Property Act.

f. The maturity or redemption of zero coupon bonds.

TRANSFER WHEN COMPLETED

a. **Immovable property when documents are registered:** Ownership of immovable assets will not pass till the title deeds are registered in the name of purchaser.

b. **Immovable property when documents are not registered:** Even if the documents are not registered but when the conditions of Sec.53A of the Transfer of Property Act are satisfied, ownership is “transferred”.

c. **Movable property:** Ownership passes at the time when property is delivered pursuant to a contract to sell.

EXCEPTIONS TO TRANSFER - SEC.47

a. **Gift or will:** Transfer of a capital asset by way of gift or under a will.

b. **Partition:** Transfer of a capital asset in a partition of a H.U.F.

c. **Holding to Subsidiary or vice versa:** Transfer of a capital asset by holding company to its subsidiary company or vice versa if the following two conditions are fulfilled:

- ❖ The holding company & its nominee should hold the whole of the share capital of the subsidiary company.
- ❖ The transferee company should be an Indian Company.

d. **Amalgamation. - Assets:** Transfer of a capital asset in a scheme of amalgamation, if the amalgamated company is an Indian Company.

e. **Demerger - Assets:** Transfer of a capital asset by the demerged company in a scheme of demerger to the resulting company, if the resulting company is an Indian company.

f. **Amalgamation. - Shares:** Exchange of shares held by the shareholder of the amalgamating company in lieu of the shares issued by the amalgamated company if the amalgamated company is an Indian Company.

g. **Demerger - Shares:** Transfer of shares by the shareholder of a demerged company in a scheme of demerger in consideration of the shares issued by the resulting company.

h. Transfer of capital asset being any **work of art, archeological or scientific or art collection, any book manuscript, painting, drawing, etc**., to the Government or University or notified Museums, Art Gallery or approved institutions.

i. **Conversion** of debentures and deposit certificates into shares.

j. **Conversion/Graduation of firm into company:** Transfer of capital assets made to the company by the partnership firm where a firm is converted into company is not taken as transfer, if the following conditions are satisfied:

- ❖ All the assets & liabilities of the firm shall be taken over.
- ❖ All the partners shall become the shareholders of the co. in the same proportion in which their capital a/c's stood in the firm's books on the date of succession.
- ❖ The consideration to the partners shall be paid only in the form of shares.

TYPES OF CAPITAL GAIN

	Type of Assets	**Period of holding**	
		Short term	**Long term**
1	Equity or preference shares held in a company	Less than 12 months	More than 12 months
2	Securities listed in a recognized stock exchange, units of UTI or Mutual Fund	---------do--------	--------do-------
3	Others	Less than 36 months	More than 36 months
4	Depreciable Assets	Always short term.	

Notes

a. Capital gains are chargeable on accrual basis: It is not necessary that the consideration should be received in the year of transfer itself.

b. Receipt of consideration in installments: Even in that case also the entire consideration has to be taken into account for computing the capital gains.

c. Transfer expenses are: Sales commission paid for broker, cost of stamp, registration fees borne by the seller, traveling expenses incurred in connection with transfer.

PERIOD OF HOLDING

Particulars	**Period of Holding**
(i) In case of a share held in a company in liquidation	Upto the date of liquidation.
(ii)In the case of a capital Asset which becomes the property of the assessee in the circumstances mentioned in section 49(1)	Period of previous owner shall be included.
(iii) In the case of amalgamation.	Period in the amalgamating company shall be included
(iv) Right Shares	After the date of allotment of shares.
(v) In transactions of securities through brokers	After the date of Brokers note.
(vi) In transactions taking place directly between the parties	After the date of contract of sale as declared by the parties.

Capital Gain arises in p/y in which transfer took place: Capital gain arises in p/y in which transfer of asset takes place even if consideration is received in later year.

Exceptions to above rule:

- ❖ Damage or destruction of any capital asset
- ❖ Conversion of capital asset into stock in trade
- ❖ Compulsory acquisition of an asset

COST OF ACQUISITION

DIRECT OWNERSHIP: Purchase Cost of that capital asset shall be the cost of acquisition.

PREVIOUS OWNER: In case the property is acquired in any of the modes mentioned in Sec.49 (1) the cost of acquisition is the cost to the previous owner.

SEC.49 (1):

a. Property acquired by way of Gift or inheritance.

b. Property acquired on partition of H.U.F.

c. Property acquired by the amalgamated Company of the amalgamating company.

d. Property acquired by the resulting company from the demerged company in demerger.

e. Transfer from a holding Co. to its 100 % subsidiary Co., & vice-Versa. Both the Companies must be Indian/domestic companies.

f. Liquidation of a company & distribution of assets to its share holders.

g. Acquisition of a property by HUF where one of its members converted his self acquired property into joint family property.

h. On a transfer in a business reorganization, of a capital asset by the predecessor co-operative bank to the successor co-operative bank.

FMV: Where the cost for which the previous owner acquired the property cannot be ascertained, the FMV as on the date of transfer shall be taken as cost.

COST OF ACQUISITION - SOME SPECIAL CASES

AMALGAMATION-SEC.49(2): When an assessee acquires any shares in the amalgamated company in exchange of shares held in the amalgamating company, in a scheme of amalgamation, then the cost of acquisition of shares received from the amalgamated company shall be the cost at which the shares in the amalgamating company was acquired.

CONVERSION OF DEBENTURES - SEC.49 (2A): In the case of conversion of debentures etc. of a company into shares of that company, the cost of acquisition of such debentures etc. shall be taken as the cost of acquisition of the shares obtained on conversion. To find out whether shares are long-term capital asset or short-term capital asset, the period of holding shall be determined form the date of allotment of shares. The indexation will start from the date of conversion of debentures into shares.

ESOP/SWEAT EQUITY SHARES - SEC.49 (2AB): For the purpose of computing capital gain on the transfer of such securities in future, the cost of acquisition shall be the fair market value which has been taken into account while computing the value of fringe benefit.

RIGHTS SHARES- COST OF ACQUISITION:

a. Cost of acquisition of original shares - Amount actually paid.

b. Cost of acquisition of the right shares - Amount actually paid.

c. Right Renouncements - While computing capital gains cost of acquisition to be taken as N I L.

d. Cost to the purchaser of right shares: Amount paid to company for acquiring shares **+** amount paid to the owner towards rights renouncement.

ORIGINAL SHARES & BONUS SHARES – COST OF ACQUISITION:

BONUS SHARES

- If Original Shares (O.S.) & Bonus shares are allotted before 1-4-81 **(1)**
- If O.S. are acquired before 1-4-81 & Bonus shares are allotted on or after 1-4-81 **(2)**
- If O.S.& Bonus shares are acquired on or after 1-4-81 **(3)**

1.	In case of Original Shares	- FMV as on 1-4-1981 or C.O.A, (whichever is higher)
	In case of Bonus Shares	- FMV as on 01-04-1981.
2.	In case of Original Shares	- FMV as on 1-4-1981 or C.O.A, (whichever is higher)
	In case of Bonus Shares	- N I L.
3.	In case of Original Shares	- Cost incurred.
	In case of Bonus Shares	- N I L.

ASSETS ACQUIRED BEFORE 01-04-1981

DIRECT OWNERSHIP: If the Assessee acquired the asset before 01-04-1981 then either F.M.V. i.e., fair market value as on 01-04-1981 or actual cost may be adopted as the cost of acquisition.

INDIRECT OWNERSHIP: If the previous owner acquired the asset before 01-04-1981 then either F.M.V. as on 01-04-1981 may be adopted as the cost of acquisition. (**E.g.:** X purchased a house property on 1.1.75 for 30,000 and the property was passed on to his son Y on death of X on 15.6.86, the FMV of it as on 1.4.81 being 1,20,000. Y may opt 1,20,000 as the cost of acquisition).

Note:

a. This facility is not available in case of depreciable capital assets.

b. This facility is not available in case of Sec.55 assets.

COST OF ACQUISITION IN CASE OF SPECIAL CATEGORY ASSETS - SEC.55

Goodwill:

a. Self Generated Goodwill: Take Cost of Acquisition as NIL & Compute Capital gains.

b. **Purchased Goodwill:** Cost incurred to purchase becomes cost of Acquisition.

c. **Acquired in any mode given u/s 49(1):** It will be cost to previous owner if the previous owner paid for it but where it was self generated by previous owner, it will be taken as nil.

Certain Other Assets: Tenancy Rights, Permits, Right to manufacture, (Example: Patents, Copyrights), Right to carry on business, Loom hours.

If any price is paid for acquiring any of these assets, cost of acquisition shall be purchase price otherwise it will taken as Nil. Same rule applicable if assets transferred u/s 49(1).

Note: In the case of these types of assets cost of improvement shall be taken as Nil.

FORFEITURE OF ADVANCE - SEC.51

Where any advance amount received and retained by the assessee then it shall be reduced from the cost of acquisition or the FMV or the WDV as the case may be for the purpose of computation of capital gains when such asset is transferred. If such advance received and retained by previous owner, the same shall not be deducted from cost of asset.

Note: If advance money forfeited is more than the cost of acquisition, the excess of the advance money forfeited over the cost of acquisition of such asset shall be capital receipt not taxable.

COST OF IMPROVEMENT

a. It is the Capital Expenditure incurred for the improvement of Capital Asset.

b. Any cost of improvement incurred by the assessee or by the previous owner, before 1-4-81, shall be ignored.

c. In relation to Sec.55 assets, it shall be taken as Nil, whether it was self generated or purchased.

INDEXATION

Starting from A.Y.1993-94 the cost of acquisition and cost of improvement of a long term capital asset can be indexed.

Cost Inflation Index

Financial Year	CII	Financial Year	CII	Financial Year	CII
1981-82	100	1991-92	199	2001-02	426
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
				2011-12	**785**

This benefit is available either from the year of acquisition of the asset by the Assessee or from the base year 1981-82 whichever is later.

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INDEXED COA = COA or FMV as on 1/4/81 as the case may be. **X** Indexation of year of transfer.
100 or index of first year in which asset was held by assessee, whichever is later.

INDEXED COI = Improvement Cost incurred on or after 1/4/81 **X** Indexation factor for year of transfer
Indexation factor in the year such cost of Improvement was incurred

PROVISION'S TO SEC. 48

a. Indexation facility is available in computation of LTCG. It is not available to Non resident.

b. Indexation is not available to bonds or debentures. But it is available to capital indexed bonds issued by the Government.

c. No deduction shall be allowed in respect of any sum paid as Securities Transaction Tax.

TAX ON SHORT TERM CAPITAL GAINS (SEC.111A)

1. **In general cases:** Taxable at the rates at which the other income is chargeable to tax.
2. **In case of Sec.111A:**
   - **a.** It will be taxable at a flat rate of 15%.
   - **b.** In the case of individuals & HUF (Other than Non resident's), if the basic exemption is not exhausted by any other income then the Short term capital gain shall be reduced by the unexhausted or unavailed basic exemption limit and only the balance shall be taxed at 15 %.
   - **c.** **Deductions** under Chapter VIA are not available in computation of Taxable STCG.
   - **d.** **When Sec.111A get's attracted?**
     - ❖ The asset transferred is equity share in a company or units of equity oriented mutual fund.
     - ❖ The transaction of sale is entered into on or after 01.10.04.
     - ❖ Such transaction is chargeable to securities transaction tax.
     - ❖ This is applicable to all the assessee.

TAX ON LONG TERM CAPITAL GAINS (SEC.112)

1. **Tax rates:**
   - **a.** **In case of Specified Securities:** Indexation + 20 % flat rate Or Without Indexation + 10 % flat rate, Whichever is more beneficial to the Assessee can be opted i.e. the alternative which results in less tax liability can be adopted.

     Specified Securities are – Listed Shares, Listed Debentures/Bonds & Listed Government Securities, Zero coupon bonds. (Includes bonus shares also)

b. **In case of any other capital asset:** At 20 % flat rate.

2. **Unexhausted limit*:*** In the case of individuals & HUF (Other than Non resident's), if the basic exemption is not exhausted by any other income then the Long term capital gain shall be reduced by the unexhausted or unavailed basic exemption limit and only balance shall be taxed at 20 %.

3. **Deductions** under Chapter VIA are not available in computation of Taxable LTCG.

CAPITAL GAINS EXEMPT FROM TAX

<u>U/S 54</u>: discussed on a separate page at end of this chapter.

U/S 10

TRANSFER OF UNITS OF US-64 - SEC.10(33): It provides that any income arising from the transfer of a capital asset being a unit of US 64, if such transfer takes place on or after 1.4.02, shall be exempt from tax. This is applicable whether the capital asset (US-64) is long-term capital asset or short-term capital asset.

COMPULSORY ACQUSITION. OF URBAN AGRICULTURE LAND - SEC.10 (37):

Capital gains will be exempted if the following conditions are satisfied:

a. The assessee is an individual or a HUF.

b. He or it owns an agriculture land situated in specified area.

c. There is a transfer of the agriculture land by way of compulsory acquisition.

d. The agriculture land was used by the assessee (and/or his parents if the land was owned by an Individual) for agricultural purposes during 2 years immediately prior to the date of transfer.

e. The assets may be long term capital asset or short term capital asset.

f. Capital gain arises from compensation which is received on or after 1.4.04 (the date of compulsory acquisition may be before 1.4.04). (*)

g. Even enhanced compensation which is received on or after 1.4.04 is eligible for such exemption.

(*) If part of the compensation is received before 1.4.04, then exemption shall not be available even though balance compensation is received on or after 1.4.04.

TRANSFER OF SECURITIES SUBJECT TO STT - SEC.10 (38)

Capital gains will be exempted if the following conditions are satisfied:

a. Every assessee is eligible for the exemption.

b. The transferred asset must be Long Term Capital Assets.

c. The asset transferred is equity shares or units of equity oriented mutual fund.

d. Transfer taken place on or after October 1st, 2004.

e. The transaction should be chargeable to Securities Transaction Tax/STT (i.e. the transfer should take place through a recognised Stock Exchange).

Note: If it is a STCG, satisfying the above conditions it is taxable @ 10% - Sec.111A.

SECTION 45 SERIES

COMPENSATION RECEIVED ON DAMAGE OF CAPITAL ASSETS- SEC.45 (1A)

1. **Event:** Damage or Destruction of any Capital Asset as a result of:
   - a. Typhoon, Hurricane, Cyclone, Earth Quake etc.
   - b. Riot, Civil disturbances.
   - c. Accidental Fire or Explosion.
   - d. Action by an enemy (or) Action taken in combating an enemy (with/without declaration of war).
2. **Year of Chargeability:** Previous year in which compensation or the asset is received from the Insurance Company. (This is against to charging section.)
3. **Consideration:** Value of money received or FMV of the asset received on the date of the receipt.
4. **Indexation Facility:** It is available only up to the year of destruction etc.

CONVERSION OF A CAPITAL ASSET INTO STOCK IN TRADE SEC.45 (2)

1. **Event:** Conversion of a capital asset into stock in trade.
2. **Year of Chargeability:** The year in which such stock-in-trade was sold.
3. **Consideration***:* FMV as on the date of conversion.
4. Indexation Facility is available only up to the year of conversion.
5. In the year in which such Stock In Trade is sold both Capital gains and business profits will result.

Business Profit = Sale Price of asset **–** FMV on date of conversion.

TRANSFER OF A CAPITAL ASSET INTO CAPITAL CONTRIBUTION: SEC.45 (3)

1. **Event:** Transfer of a Capital Asset by a partner to the firm or by a member to the AOP by way of capital contribution.
2. **Year of Chargeability**: Previous year in which transfer takes place.

3. **Consideration**: The value of the Asset recorded in the books of the firm or AOP.
4. **Assessee chargeable to tax:** The partner or member.

DISTRIBUTION ON DISSOLUTION: SEC.45 (4)

1. **Event**: Transfer of a Capital Asset by way of distribution on dissolution of a firm or otherwise.
2. **Assessee chargeable to tax**: Partnership Firm.
3. **Year of Chargeability**: Previous year in which transfer takes place from firm to the partners.
4. **Consideration**: FMV as on date of transfer.
5. **Cost of acquisition** of the firm is the value of the Asset recorded in the books.

COMPULSORY ACQUISITION: SEC.45 (5)

a. **Event**: Transfer of a Capital Asset by way of Compulsory Acquisition, under any law **or** when a capital asset is transferred (not by way of compulsory acquisition) and consideration is approved or determined by Central Government (not by a State Government) or the Reserve Bank of India.

b. **Year of Chargeability**: In the previous year in which compensation is received (Full/Part).

c. **Consideration**: Compensation.

d. Indexation is available only up to the year of transfer.

Note:

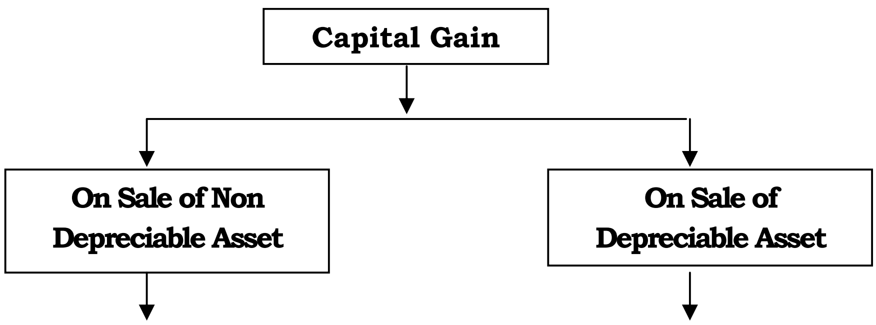
a. If the Compensation is received by the legal representative of the deceased person from whom the Asset was acquired, the recipient shall be chargeable to tax.

b. **Enhanced compensation/consideration:** Sometimes, assessee is not satisfied with the compensation determined and may go in for an appeal against the amount determined. If on appeal compensation is enhanced, additional compensation is called enhanced compensation. Such enhanced compensation shall be fully taxable as capital gain in the year in which it is received. Cost of acquisition and improvement thereto will be taken as Nil, since it has already been deducted at the time of computation of capital gain for initial compensation.

c. Interest on enhanced compensation is chargeable under Income from other sources.

d. Expenses incurred for getting the enhanced compensation is allowable as expenditure.

SEC.50 - COMPUTATION OF C.G'S IN CASE OF DEPRECIABLE ASSET'S



Sec.48 Sec.50

a. When one or some of the assets in the block were sold for a consideration which is more than the value of the block. (STCG).

b. When all the assets are transferred for a consideration which is more than (STCG) or less than the value of the block (STCL).

SEC.50C - SPECIAL PROVISIONS FOR COMPUTATION OF CONSIDERATION

1. **What it says:** Where the consideration for the transfer of land or building or both (LTCA/STCA/Depreciable/Non- Depreciable), is lower than the value adopted by stamp duty authorities for the purpose of payment of stamp duty (Called stamp duty value), the value so adopted shall be taken as consideration. **(i.e. Stamp duty value = Consideration)**

2. **Refer to valuation officer:** Where the assessee claims that the stamp duty value is greater than FMV of the property, the assessing officer may refer the case to a Valuation Officer.

3. Such **reference shall not be made**, if the stamp duty value has been disputed in any appeal before any authority or court or the high court.

4. **Action can be taken on report:**

    a. If the value determined by the Valuation Officer is greater than the stamp duty value, the Assessing Officer shall take stamp duty value as Consideration.

    b. If the value determined by the Valuation Officer lower than the stamp duty value, the Assessing Officer may take such determined value as Consideration.

    c. If the value determined by the Valuation Officer lower than the sale consideration, the Assessing Officer shall take Actual consideration as Consideration.

SEC.55A - REFERENCE TO VALUATION OFFICER

For the purpose of ascertaining the FMV, the Assessing Officer may refer the valuation of a Capital Asset to a valuation officer under the following circumstances**:**

a. **Already valued:** Where the assessee already referred the matter to a registered valuer and the value as claimed by him is as per that valuation report - if the Assessing Officer is of the opinion that the value so claimed is less than its FMV.

b. If not so, if the Assessing Officer is of the opinion:

- ❖ That the FMV of the asset exceeds the value of the asset as claimed by the Assessee by more than 15 % of the value claimed Or by more than 25,000 **Or**
- ❖ That having regard to the nature of the Asset & relevant circumstances it is necessary to make the reference.

The valuation report of the Valuation Officer *shall be binding* on the Assessing Officer.

Calculation of Short Term Capital Gain

Particulars	**Amount**
Sale Consideration	****
Less: Expenses on Transfer	****
Less: Cost of Acquisition	****
Less: Cost of Improvement	****
Short Term Capital Gain	****

Calculation of Long Term Capital Gain

Particulars	**Amount**
Sale Consideration	****
Less: Expenses on Transfer	****
Less: Index Cost of Acquisition	****
Less: Index Cost of Improvement	****
Short Term Capital Gain	****

Exemption of Capital Gain

Exemption U/S 10

STCG / LTCG

Sec 10 (37)

Compensation received on Compulsory acquisition of Urban Agricultural land.

Allowed only to

Individual & HUF

Conditions

1. Land should be compulsory

LTCG

Sec 10 (38)

LTCG on sale of equity shares

Allowed to all assessee

Exemption U/S 54, 54B, 54D,54EC, 54F, 54G, 54GA, 54H

STCG / LTCG

54B 54D 54G 54GA

LTCG

54 54EC 54F

Note- Details of Sec 54's is on another page.

acquired and compensation or
enhanced compensation as the case may be,
Is received on or after 1/04/04.

2. Such agricultural land should be used for agricultural purpose during proceeding two years by such individual or his relatives or HUF.

Conditions

1. Such equity shares are sold through recognized stock exchange

2. Such transaction is chargeable to Security Transaction Tax.

Note: There is two more exemption u/s 10 related to Capital Gain

1. **Section: 10 (33) -** Capital Gain on transfer of US 64
2. **Section: 10 (36) -** Capital gain on transfer of BSE 500 Equity Shares

But these sections are not relevant today.

Exemption u/s 54s

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Particulars	Section 54	Section 54 B	Section 54 D
Assets Transferred	Residential House (May be Self -Occupied or Let out)	Agricultural Land	Land or Building forming part of Industrial undertaking (compulsory acquisition)
Who is Entitled	Individual or HUF	Individual	All
Use or Type of Capital Asset	Long Term Capital Asset	Used by him /parents for 2 years or more for Agriculture purpose prior to transfer. Long/Short Term Capital Asset	Used by assessee for 2 years or more prior to transfer. Long/Short Term Capital Asset
New Assets	Residential House	Agricultural Land (May be Urban or Rural)	Land or Building for Industrial Undertaking
Prescribed Period for Investment	Purchased within one year before or two years after date of transfer, OR completed construction within 3 years, after the date of transfer	Within two years after date of transfer	Within 3 years after date of receipt of compensation on such compulsory acquisition
Exemption	Amount invested or Capital gain **whichever is lower**	Amount invested or Capital gain **whichever is lower**	Amount invested or Capital gain **whichever is lower**
Treatment of Unutilized Amount	Deposit in Capital Gains A/c Scheme upto due date of furnishing the return u/s 139 (1) and must be fully utilized for investment with in **stipulated period** otherwise unutilized amount will be treated as LTCG/STCG (depend on asset transferred) of P/Y in which stipulated period expires.	Deposit in Capital Gains A/c Scheme upto due date of furnishing the return u/s 139 (1) and must be fully utilized for investment with in **stipulated period** otherwise unutilized amount will be treated as LTCG/STCG (depend on asset transferred) of P/Y in which stipulated period expires.	Deposit in Capital Gains A/c Scheme upto due date of furnishing the return u/s 139 (1) and must be fully utilized for investment with in **stipulated period** otherwise unutilized amount will be treated as LTCG/STCG (depend on asset transferred) of P/Y in which stipulated period expires.
Holding Period of investment	3 years from the date of investment	3 years from the date of investment	3 years from the date of investment
Sale of investment before end of holding period	If sold within 3 years from the date of investment then capital gains claimed as exempt under this section, shall be reduced from cost of acquisition of investment while calculating STCG on it.	If sold within 3 years from the date of investment then capital gains claimed as exempt under this section, shall be reduced from cost of acquisition of investment while calculating STCG on it. (Not applicable on rural Agricultural land)	If sold within 3 years from the date of investment then capital gains claimed as exempt under this section, shall be reduced from cost of acquisition of investment while calculating STCG on it.

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Particulars	Sec. 54 EC	Section 54 F	Section 54 G	Sec. 54 GA
Assets Transferred	Any asset	Any asset other than residential house	P &M or L &B used for industrial undertaking in Urban Area	Same as section 54 G
Who is Entitled	All	Individual or HUF	Industrials undertaking sifting from urban to any other area	Industrial undertaking sifting from urban to SEZ
Capital Asset	Long Term Capital Asset	Long Term Capital Asset	Long/Short Term Capital Asset	Same as section 54 G
New Assets	Long term specified assets. Ex. NHAI, REC Bond	Residential house	P & M or L&B to be use at area where industrial undertaking sifted.	Same as section 54 G.
Prescribed Period for Investment	Six months from transfer	Purchased within one year before or two years after date of transfer, OR completed construction within 3 years, after the date of transfer	Within one year before or within 3 years after transfer	Same as section 54 G
Exemption	Same as section 54. But maximum amount **Rs. 50 Lakhs**	If the cost of the new house is equal to or more than the net consideration then the whole of the capital gain. **Otherwise** capital gain would exempted proportionately	Same as section 54	Same as section 54 G
Unutilized Amount	Not Applicable	Same as section 54	Same as section 54	Same as section 54 G
Holding Period	Same as section 54	Same as section 54	Same as section 54	Same as section 54 G
Sale of investment before end of holding period	Same as section 54	LTCG exempted u/s 54F earlier would be taxable in year of transfer. In addition to above if assessee purchase /constructs a residential house with in 2/3 years from the date of transfer of original assets, other than the new one, treatment would be same as in the case of sale of investment before end of holding period. **Note:** Exemption shall be given if on the date of transfer of original asset, assessee does not own more than one residential house, other than the new house.	Same as section 54	Same as section 54 G

1. Stipulated period means prescribed period for investment
2. Proportionally = (Cost of acquisition × LTCG) ÷ Net Consideration.

Section 54 H: In case of compulsory acquisition, prescribed period for investment will be calculated from date of receipt of compensation. This section is applicable in case of capital assets transferred u/s 54, 54B, 54D, 54EC and 54F.

Questions

Q. 1 In following cases, determine whether asset held was short term or long, term capital asset:

(1) R holds 1,000 shares in G Ltd., which goes into liquidation on 31-10-2011. R purchased these shares on 31-1-2011. The company made the payment to R on 31-3-2012.

(2) R got a diamond ring by way of gift from his uncle on 1-1-2010. This ring was purchased by his uncle on 30-12-2008. R sold this ring on 31-12-2011.

(3) R acquires 1,000 shares in G Ltd., on 28-2-2011. He surrenders these shares to the company on 31-8-2011 in pursuance of scheme of amalgamation. He is allotted 500 shares in S Ltd., the amalgamated company in lieu of such shares surrendered. R sells these shares on 31-3-2012.

(4) R acquires 1,000 shares in G Ltd., on 29-3-2011. He is allotted 500 shares of a resulting co. S Ltd., in the scheme of demerger on 1-4-2011. He transfers these shares on 30-3-2012.

Answer: (1) STCG other LTCG

Q. 2 X acquired a land in 1978-79 for Rs. 2 Lakhs and gifted it to his major son Y on 1-6-1980, when the market value of the land was Rs. 2,50,000. The fair market value of that land as on 1-4-1981 was Rs. 3 Lakhs. Y sold the land on 15-9-2011 for Rs. 20 Lakhs.

Compute capital gain for A/Y 2012-13, assuming that expenses on transfer were Rs. 1 Lakhs.

What would be the capital gain if the land was gifted by X to his son Y on 15-5-1996?

Answer:

Q. 3 Compute the capital gain in the following cases:

(1) P commenced a business on 15-4-1993.The said business is sold by P on 18-4-2011 and he received Rs. 6 Lakhs towards goodwill.

What will be your answer in the above case, if P had acquired the goodwill for this business for a consideration of Rs. 2 Lakhs.

(2) R has been living in rented accommodation since May 1996, and he is paying a rent of Rs. 500 p.m. The landlord got the house vacated from R on 16-7-2011 and paid a sum of Rs. 5 Lakhs for vacating the house.

(3) S is a Chartered Accountant practicing in Delhi since January 1985. He transfers the practice to another Chartered Accountant Y on 15-7-2011 and charges Rs. 5 Lakhs towards goodwill.

(4) R purchased tenancy right on 1-4-1979 for Rs. 1,60,000. The same was sold by him on 14-8-2011 for Rs. 15 Lakhs. FMV of tenancy right as on 1-4-1981 was Rs. 2,50,000.

Answer:

Q. 4 Compute taxable capital gains of Smt. Megha on the basis of the following information:
A house was purchased on 1.05.1998 for Rs. 4,50,000 and was used as a residence by the owner. The owner had contracted to sell this property in June, 2009 for Rs. 10 Lakhs and had received an advance of Rs. 70,000 towards sale. The intending purchaser did not proceed with the transaction and

the advance was forfeited by the owner.

The property was sold in April, 2011 for Rs.15 Lakhs. Owner, from out of sale proceeds, invested Rs. 4 Lakhs in a new residential house in January, 2012.

Q. 5 Miss Rema sells a residential house for Rs 15 Lakhs on 1st July 2011. It was acquired for Rs 1,50,000 on 1st June 2003.

She pays brokerage @ 2% at the time of sale of building. She invests Rs 7 Lakhs in purchase a residential building on 5th December 2011 and deposit Rs 2 Lakhs in NHAI Bonds (redeemable after 3 years) on March 2012. Compute Capital Gain for A/Y 2012-13.

Q. 6 Mr. Kumar is the owner of a residential house which was purchased in 8 September, 1994 for Rs. 50 Lakhs. He sold the said house on 5th August, 2011 for Rs. 24 Lakhs. Valuation as per stamp valuation authority of the said plot of land was Rs. 35 Lakhs. He invested Rs. 8 Lakhs in NHAI Bonds on 12th January, 2012. He purchased a residential house on 8th September, 2011 for Rs. 12 Lakhs.

He gives other particulars as follows:

Interest on Bank Deposit Rs. 32,000
Investment in public provident fund Rs. 12,000

You are requested to calculate the taxable income for the assessment year 2012-2013 and the tax liability, if any.

Q. 7 Mr. X sell gold ornaments on 10th July 2011 for Rs 8,05,000 (cost of acquisition on 15th July 1985: Rs 60000, expenses on sale: Rs 5000). On 10th July 2011 he owns one residential house. To get the benefit of exemption under 54F, X deposits on 30th July 2011 Rs 6,00,000 in Capital Gain Deposit Account. By withdrawing from deposit account, he purchases a residential house property at Delhi on 6th July 2012 for Rs 4,80,000. Ascertain-

a) Amount of Capital Gain chargeable to tax for A/Y 2012-13;
b) Tax treatment of unutilized amount;
c) When he can withdraw unutilized amount and
d) What X has to do to ensure that exemption u/s 54F is never taken back.

Q. 8 R Ltd. an industrial undertaking manufacturing chemical in Delhi owns the following assets:

a. Plant and machinery WDV as on 1-4-2011 Rs. 21 Lakhs
b. Building WDV as on 1-4-2011 Rs. 12 Lakhs
c. Furniture WDV as on 1-4-2011 Rs. 50,000
d. Industrial land Purchased in1978 in Rs. 2 Lakhs. FMV as on 1-4-1981 was Rs. 2,90,000

As per the policy of the govt. R ltd. is shifting the industrial undertaking from Delhi, which is an urban area to other area. The company sells all the assets which it owns and purchases anew building and plant and machinery in the other area. The sale consideration of the assets sold during the P/Y 2011 - 2012 is as under:

Assets	**Rs**
Plant and Machinery	30 Lakhs
Buildings	40 Lakhs
Furniture & Fixtures	60,000
Industrial Land	27 Lakhs

The new assets acquired during period 1-1-2012 to 30-9-2012 are:

i) Plant and machinery: Rs 17 Lakhs
ii) Buildings: Rs 31,60,000

Compute the capital gain chargeable to tax for A/Y 2012 - 2013.

Q. 9 NDA Ltd, running an industrial undertaking located within corporation limits, decided in December 2011, to shift the said undertaking to non urban area. The company sold some of the assets (which were used in business and on which depreciation had been claimed wherever admissible) and acquired new assets in the process of shifting (completed in March, 2012). The relevant details are as follows:

Rs in Lakhs

Particulars	Land	Building	P & M	Furniture
Sale proceeds (on March 2012)	8	18	16	3
Index Cost of Acquisition	4	10	12	2.20
Adjusted cost u/s 50	---	4	5	2
Cost of new assts purchased in July 2012 for purpose of industrial undertaking in new place	4	7	17	2

Compute capital gain of NDA Ltd for A/Y 2012-13, bearing in mind that exemption, if any, available, should be claimed such that it is most beneficial to assessee.

Q. 10 Mr. X purchased a house for Rs 26,000 on 10th May 1962. He gets first floor of house constructed in 1967-68 by spending Rs 40,000. He dies on 12th September 1984. The property transferred to Mrs. X by his will. Mrs. X spends Rs 80,000 and Rs 26700 during 1985-86 and 1986-87 respectively for renewal of property. Mrs. X sells house for Rs 41,50,000 on 15th March 2012 (brokerage paid Rs 41,500). FMV of house on 1st April 1981 was Rs 4,60,000.

Compute taxable income for A/Y 2012-13.

Q. 11 Z converts his capital asset (acquired on 10th June 1967 for Rs 70,000, FMV on 1 April 1981 was Rs 1,80,000) into stock in trade on 10th March 2002 (FMV Rs 4,80,000) and subsequently sells stock in trade so converted for Rs 7,30,000 on 10th June 2011. Compute taxable income for A/Y 2012-13.

What would be answer if converted capital assets are held by Z till 31st March 2012?

Q. 12 Sunil holds 1000 equity shares in A Ltd since 1978 (COA Rs 10,000: FMV on 1st April 1981 was Rs 15000). A Ltd offers 2000 right shares of Rs 10 each to Sunil on 1st May 2011 at a premium of Rs 50. Sunil subscribes for 800 right shares and renounces 1200 shares in favor of C for a consideration of Rs 4800. Sunil sells 1800 shares in A Ltd on 30th March 2012 @ Rs 110 per share.

Find out taxable capital gain for A/Y 2012-13.

Q. 13 R acquired a property by way of gift from his father in P/Y 1992-93 when its FMV was 3 Lakhs. Father had acquired the property in P/Y 1984-85 for Rs 2 Lakhs. This property was introduced as capital contribution to a partnership firm in which R become a partner on 05-06-2011. FMV on that date was Rs 10 Lakhs, but it was recorded in books of account of firm at Rs 11 Lakhs.

Find out taxable capital gain for A/Y 2012-13.

Q. 14 A sold on 31-10-2011 an agricultural land, which he has been using for agricultural purpose for several years, for Rs 16,50,000. He acquired that land for Rs 2 Lakhs. He purchased rural agricultural land for Rs 2 Lakhs on 25-02-2012 and sold it for Rs 3 Lakhs on 18-05-2012.

Further, sum of Rs 5 Lakhs was invested by him in purchase of residential house on 25-05-2012. He owns only one house before this date. This new house was sold on 31-08-2012 for Rs 6 Lakhs.

Compute capital gain for A/Y 2012-13 and A/Y 2013-14.

Q. 15 X purchases a property on 1st April 1977 for Rs. 95,000. He enters into an agreement for sale of the property to Anil on 1st November 1984 and receives Rs. 10,000 as advance. Anil could not, however, keep his promise and advance of Rs. 10,000 given by him is forfeited by X. Later on, he gifts the property to his friend Y on 15th May 1986. Fair market value of the property on 1st April 1981 was Rs.1,15,000.

The following expenses are incurred by X and Y for renewal of the property:

a)	Addition of two rooms by X during 1979-80	Rs 25,000
b)	Addition of first floor by X during 1984-85	Rs 40,000
c)	Addition of second floor by Y during 1991-92	Rs 1,15,000

Y enters into an agreement to sell the property for Rs. 8,50,000 to B on 1st April, 1994 after receiving an advance of Rs. 50,000. B could not pay the balance within the stipulated time of 2 months and Y forfeits the advance of Rs. 50,000 as per agreement with B. Y ultimately finds a buyer in C to whom property is transferred for Rs. 8,75,000 on 1st December 2011.

Compute the capital gain chargeable to tax in the hands of Y for A/Y 2012-13.

Answer:

Q. 16 Mr. X purchases a house property on 8th September 1980 for Rs. 81,000 (brokerage paid: 1%) for his own residence. On 4th April 1986, he enters into an agreement to sell house to A for Rs. 4,50,000 (after receiving an advance of Rs. 20,000). On A's failure to pay the balance within stipulated period of 35 days, X forfeits the advance money.

Mr. X dies on 12th October 1986 and as per his will, the property is given to Mrs. X. she enters into an agreement on 14th January 1992 to sell the property to B after receiving an advance of Rs. 80,000 and B's failure to pay the balance within 2 months, as per agreement, advance money is forfeited by Mrs. X. Mrs. X ultimately sells property to Y on 29th April 2010 for Rs. 12,90,000 (brokerage paid @ ½ percent).

Find out the chargeable capital gain for the A/Y 2012-13 on the assumption that fair market value of the property on 1st April 1981 is:-

(1) Rs. 60,000
(2) Rs. 3,90,000

Discuss whether advance money forfeited by Mr. X and Mrs. X is chargeable to tax.

Answer:

Q. 17 X gets 1,000 partly convertible debentures (face value Rs. 100) of A Ltd. (cost being Rs. 200 per debenture) at the time of original allotment to him on 16th May 1985. As per terms of allotment, A Ltd. converts 60% portion of each debenture into equity shares of face value of Rs.10 on 1st July 93.

On 10th Sep. 2011, X transfers 1,000 equity shares in A Ltd. @ Rs. 300 per share and 1,000 (non-convertible portion) debentures @ 310 per debenture.

Compute the income taxable u/h capital gains for the year ended 31.3.2012.

Answer:

Q. 18 R sold his car for Rs. 90,000 on 16-4-2011. It was purchased by him on 15-4-1997 for Rs. 1 Lakhs. He spent Rs. 25,000 by way of capital repairs on it on 30-3-2006. He had applied for 5,000 shares of X Ltd. and paid Rs. 5 per share at the time of application. The shares were allotted to him on 17-6-2011. These shares were forfeited by X Ltd., on 15-12-2011 as he failed to pay call money.

He holds 5,000 shares of Y Ltd. which he sold on 20-9-2011 for Rs. 200 per share and paid brokerage of Rs. 4,000. Out of the 5,000 shares sold by him, 2,500 shares were purchased by him on 18-1-1998 for Rs. 1 Lakhs. The balance shares were bonus shares which were allotted to him on 15-10-2008.

R is not a dealer in shares and car was for his personal use. He invested Rs. 3 Lakhs on 28-2-2012 in bonds issued by NHAI for a period of 3 years.

Compute the amount of long term and short term capital gain for the A/Y 2012-13.

Answer:

Q. 19 R owns a house property which was purchased by him on 1-5-1979 for Rs. 3 Lakhs. The said property was destroyed by fire on 3-4-2011 and R received a sum of Rs. 25 Lakhs from the insurance company during the year. The market value of the above property as on 1-4-1981 was Rs. 4 Lakhs.

Compute the capital gain for the A/Y 2012-13.

What shall be the capital gain if the asset was destroyed by fire on 3-3-2010 and the compensation was received during the P/Y 2011-12?

Answer:

Q. 20 X invested Rs.1 Lakh on the purchase of gold ornaments on 4-1-1989. He holds the gold ornaments as investments. On 12-1-2008 he started a business of dealing in jewellery and converts his holding into his stock in trade.

The market value of the gold ornaments as on the date of conversion was Rs. 4 Lakhs and therefore, X credited his capital account by Rs. 4 Lakhs and debited his stock account by Rs. 4,00,000. the gold ornaments are now reflected in the business of X as stock in trade. These gold ornament were sold in the previous year 2011-2012 for a sum of Rs. 5 Lakhs

(a) Compute the capital gain and business income.

(b) What would be the answer if the gold ornaments are held by the assessee till 31-3-2012?

Answer:

Q. 21 X, Y and Z are three partners of a firm. On 10th March 2012, the firm is dissolved. The following assets are distributed to partners:

Particulars	Residential house (taken by X) Rs.	Listed Securities (taken by Y) Rs.
FMV on 10th March 2012	17,00,000	50,000
Agreed value as per dissolution deed	11,70,000	46,000
Cost of acquisition	40,000	5,000

Year of acquisition	1950-51	1994-95
FMV on 1st April 1981	3,00,000	N.A.

Determine the amount of chargeable capital gains of the firm for the A/Y 2012-13.

Answer:

Q 22 Ram owns a residential house which was purchased by him in 1975 for Rs. 60,000. The FMV of house as on 1-4-1981 was Rs. 1,60,000. This house is sold by him on 16-7-2011 for a consideration of Rs. 15 Lakhs. The brokerage and other expenses on the transfer were Rs. 12,000.

Compute the capital gain for the A/Y 2012-13 if:-

(1) He invests Rs. 3,00,000 for purchase of a new house on 14-5-2012 or

(2) He purchased a piece of land for construction of a house on 21-10-2011 for Rs. 1,60,000 and deposited Rs. 1,30,000 in Capital Gains Accounts Scheme on 15-7-2012 and a further sum of Rs. 1,50,000 on 31-7-2013 or

(3) He invested Rs. 3,15,000 on construction of an additional floor at a residential house already owned by him. The investment is made during the period 1-10-2011 to 31-12-2012 or

(4) He invested Rs. 3,40,000 in Capital Gain Account Scheme on 29-7-2012 and Rs.10,000 on 1-8-2012. He purchased a house property on 5-8-2012 for Rs. 3,25,000 by withdrawing this amount from the scheme, No further investments were made by him.

Answer:

Q. 23 R, an owner of 2 houses, sells a residential house in Delhi for Rs. 45,00,000 on 23-8-2011. This house was purchased by him on 7-5-1990 for Rs. 11,00,000.

On 31-8-2011, he purchased a flat in DLF Qutab Enclave for Rs. 15,00,000 for the purpose of the residence of his daughter. On 4-3-2012 R sells the house in DLF Qutab Enclave for Rs. 17,20,000.

Compute the capital Gain arising on the two transactions in such way that R's tax liability is minimum.

Answer:

Q. 24 R & Co., a partnership firm, owns a house property which is utilized by partners for their residence. On 30-6-2011 firm sells the property and earns long-term capital gains of Rs.1,20,000.

Can the firm or partners claim exemption under section 54?

Q. 25 A Ltd. has an industrial plot which was purchased on 14-10-1988 for Rs. 2,00,000. It has since been used for its industrial purposes as an open stockyard. This plot was compulsorily acquired by the Government on 15-11-2006 and a sum of Rs. 8,40,000 was determined as compensation which was received by the company on 4-4-2011.

The company, not being satisfied with the compensation appealed against the above award and the compensation was enhanced by Rs. 1,00,000 on 30-1-2012 but the enhanced compensation was received on 5-4-2012.

Meanwhile, the assessee purchased another industrial plot on 15-9-2011 for Rs. 1,70,000. On receipt of the enhanced compensation, the company deposited the entire amount under the Capital Gains

Accounts Scheme on 30-09-2012. Till the time the amount was deposited, the company used the said amount of Rs. 1,00,000 for its business purposes.

Compute the capital gains for various A/Y arising on this transaction.

Answer:

Q. 26 R acquired shares of G Ltd., on 15-12-2000 for Rs.5 Lakhs which were sold on 15-5-2011 for Rs.14 Lakhs. Expenses of transfer were Rs. 20,000. He invests Rs. 5 Lakhs in the bonds of NHAI on 16-10-2011.

(1) Compute the capital gain for the A/Y 2012-13.

(2) State the period for which the bonds should be held by the assessee. What will be the consequences if such bonds are sold within the specified period?

(3) What will be the consequences, if R takes a loan against the security of such bonds?

Answer:

Q. 27 Mr. Z sells the following long- term capital assets on 11th January 2012.

	Residential House	**Gold**	**Silver**	**Diamonds**
Sale Consideration	Rs 3,90,000	8,10,000	2,96,000	6,40,000
Index Cost of acquisition	Rs 70,000	1,15,000	1,78,000	4,30,000
Expenses on transfer	Rs 10,000	81,000	6000	32,000

For claiming exemption under section 54 and 54EC, Z has acquired or deposited following:

Assets	Date of investment	Amount
Land (for constructing a residential house)	31st March 2012	1,00,000
Deposit in Capital Gain Account (for house)	5th August 2012	50,000
Purchased NABARD Bonds	5th July 2012	7,50,000
Purchased NHAI Bonds	10th July 2012	3,05,000

Find out taxable capital gain for A/Y 2012-13.

Answer:

Q. 28 Urban land of Mr. A was acquired by State Government 10 years back and compensation paid. Mr. A took up the matter before Court. Enhancement compensation of Rs 10 Lakhs was awarded by Court in February 2011 and same was received in May 2011. State the consequences under Income Tax 1961, showing clearly year of taxability.

What will happen if Mr. A dies and enhance compensation was received by his legal heir?

Q. 29 X purchased a residential building in 1994 and sold it in April 2011 and derives a capital gain of Rs 500000 (computed). Can he avoid legally payment of tax on capital gain? Discuss

Q. 30 When reference to a Valuation Officer can be made u/s 55A of Income Tax Act 1961?

Q.31 What is transfer as per section 2(47)? Name atleast 5 transactions which are exception to transfer.

Q. 32 Write short note on the following:

- **a)** Cost of acquisition of self-generated assets and right shares
- **b)** Conversion of capital assets to stock-in-trade.
- **c)** Exemption of long term capital gain under Section 10(38).
- **d)** Short term capital gain under Section 111A.
- **e)** Exemption under Section 54F and Section 54EC.
- **f)** Capital gain on transfer of capital assets by a partner to a firm as capital contribution.
- **g)** Capital gain on transfer of capital assets by way of distribution on dissolution of a firm.

INCOME FROM OTHER SOURCES

BASIC OF CHARGE – SECTION 56 (1)

“A source of income which does not specifically fall under any one of the other four heads of income is to be computed under the head "Income from other sources".

SPECIFIED INCOMES – SECTION 56 (2)

Specific incomes included under "Income from other sources"

1. Dividends
2. Winnings from lotteries, crossword, races, card games, gambling or betting of any form.
3. Director’s fee.
4. Agriculture income from outside India.
5. Rent of open plot of land.
6. Salary payable to members of parliament
7. Income from letting of machinery, plant or furniture along with building and only machinery, plant or furniture.
8. Interest on securities, compensation or on enhanced compensation.
9. Sum received under a keyman insurance policy including bonus.
10. Family pension
11. Any income from undisclosed sources.
12. Examination fees received by a teacher from a person other than his employer.
13. Income from subletting of house property.
14. Interest on deposit and interest on securities.

METHOD OF ACCOUNTING (SECTION 145)

Income chargeable under this head is to be computed in accordance with method of accounting regularly employed by the assessee.

INTEREST EXEMPT FROM TAX

Interest on following notified bonds/certificates is exempt:-

1. National defense gold bonds
2. National plan saving scheme (NSS)
3. Special bearer bonds and Notified relief bond
4. P.O. saving bank account
5. Capital investment bonds
6. Notified bonds/debentures of Public Sector Company or local authority.
7. Public Provident Fund

GIFT

Where any sum of money/gift, the aggregate value of which exceeds Rs 50,000 or any kind of moveable or immovable property the value or stamp duty value of which exceeds Rs 50,000 is received without consideration by an individual or a HUF the whole of such sum.

Provided that nothing shall be taxable in case gift received —

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

Explanation — For the purposes of this clause, "relative" means —

(a) Spouse of the individual;

(b) Brother or sister of the individual;

(c) Brother or sister of the spouse of the individual;

(d) Brother or sister of either of the parents of the individual;

(e) Any lineal ascendant or descendant of the individual;

(f) Any lineal ascendant or descendant of the spouse of the individual;

(g) Spouse of the person referred to in clauses (b) to (f).

FAMILY PENSION

Family pension means pension received by family members of the deceased employee. It is chargeable to tax under the head 'Income from Other Sources'.

Deduction u/s 57: Least of the following is allowed as a deduction from family pension –

a) 1/3 of family pension

b) Rs 15000

Exemption: In the following situation family pension would not be taxable.

i. Family pension received by family members of Army personnel who are recipient of gallantry awards [Section 10 (18)].

ii. Family pension received by the widow or children or nominated heirs of a member of the armed forces (including Para-military forces) whose death has occurred in the course of operational duties [Section 10 (19)].

DEEMED DIVIDENT - SECTION 2 (22) (e)

Any advance or loan by a Private company (means closely held company or company in which public is not substantially interest) to

(i) Equity shareholders holding not less than 10% Voting power or

(ii) any concern in which such member(holding 10% voting power in the company) is having not less than 20% profit sharing.

(iii) any payment on behalf of or for benefit of any such shareholder made to any person.

In all these situation, deemed dividend will be taxable in hand of shareholder.

Note: As soon as loan is granted it will be treated as dividend. It does not make any difference if the loan is later repaid.

Section 10(34) - Any income by way of dividend or from units of Mutual Fund is exempt in the hands of shareholder. But dividend u/s 2(22) (e) is taxable in the hands of shareholder.

CORPORATE DIVIDENT TAX

1. Every domestic company, in addition to income tax, is liable to pay tax @ 16.609 % on dividend (whether interim or final) except on dividend u/s 2(22) (e).
2. Such tax on dividend is payable even if income tax is not payable by the company.
3. No deduction of dividend or tax thereon shall be allowed to the company or the shareholder.
4. However such dividend shall be exempt in the hands of shareholder u/s 10(34).

DEDUCTABLE EXPENSES

1. In respect of interest any expenditure incurred by way of commission or remuneration for realization of such income is deductible.

2. In respect of family pension 1/3 of pension or Rs.15,000 whichever is less is allowed deduction.

3. In respect of income from letting, deduction of repair, insurance and depreciation is allowed.

4. Any other expenditure expanded wholly and exclusively for earning such income.

NON ALLOWABLE EXPENSES

1. Personal expenses.

2. Interest paid outside India on which tax has not been deducted at source.

3. Restrictions of section 40A are also applicable to expenditure under this head.

4. Income Tax or wealth tax.

5. Any expenditure/allowance in connection with winning of lottery, crossword puzzles etc.

However, expenditure incurred for activity of owning and maintaining race horses shall be allowed as deduction.

NO DEDUCTION

For computing the total income under the five heads, no deduction shall be allowed in respect of expenditure incurred by the assessee in relation to income which is exempt.

WINNING FROM LOTTERIES ETC

Winning from lotteries, crossword puzzles, races including horse races, card games, gambling or betting of any sort.

No deduction of any expenditure or exemption is allowed from such income. Also no deductions under Chapter VI-A shall be allowed.

Tax rate will be @ 30% + 2% Education Cess + 1% SAHE Cess.

The payer of lottery shall deduct TDS at rate mention above only if the amount of lottery exceeds Rs 10,000 (Rs 5000 for horse races). Threshold limit was Rs 5000 and Rs 2500 for lottery and horse races respectively, till 30 June 2010.

Questions

Q. 1 B an individual, gets Rs.70,000 as a birthday gift from his Grandfather. Is the receipt taxable under the Income Tax Act?

Q. 2 Kumar took part in a motor-car rally and is awarded prize money of Rs. 10,000 for winning a race. He claims that the amount of Rs. 10, 000 is exempt from tax. Is he correct?

Q. 3 Discuss taxability of following gifts received by H, an individual, during Financial Year 2011-12:

(a) Rs. 25,000 each from his four friends on the occasion of his birthday.

(b) Wrist watch valued at Rs. 40,000 from his friend.

Q. 4 Fida received the following gifts during the year ending 31.03.2012:

(a) Rs. 40,000 from her elder sister.

(b) Rs.60,000 from the daughter of her elder sister.

(c) Rs. 1,25,000 from various friends on the occasion of her marriage,

Discuss the taxability or otherwise of these gifts in the hands of Fida.

Q. 5 Discuss the taxability of Family Pension.

Q. 6 Vinay had placed deposit of Rs. 10 Lakhs in a bank on which he received interest of Rs.80,000. He had also borrowed Rs.5 Lakhs from the same bank on the security of the deposit and was liable to pay Rs.50,000 by way of interest to the bank.

He therefore offered the difference between two amounts of Rs.30,000 as income from other sources. Is this correct?

Q. 7 Shyam purchased in 2010, 10,000 Shares of Hero Ltd. for Rs.5 Lakhs by borrowing money from a bank. He holds them as 'Investments'. He received dividend during the previous year 2011-12. He has paid interest of Rs.85,000 on the loan to the bank during the previous year.

Please advise Shyam, how should he deal with these facts in computing his income?

Q. 8 Hari incurred an expenditure of Rs.2 Lakhs, on the occasion of the marriage of his daughter on 28.1.2012. He has no explainable source for this expenditure.

Has this any effect in Hair's Income Tax assessment for the Assessment Year 2012-13.

Q. 9 Mr. Jay gets the following gifts during the previous year 2011-2012.

Particulars	Rs
Gift from R, a friend, by cheque	50,000
Cash gift from N, nephew	1,00,000
Gift of diamond ring on his birthday, by a friend, C	75,000
Cash gifts of Rs. 31,000 each made by four friends on occasion of his marriage	1,24,000
Cash gift made by wife's sister on house opening ceremony	51,000
Cash gift from a close friend of father-in-law.	1,51,000

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Cash gift made by great-grandfather	1,51,000
Cash gift received under the Will of a friend, who is seriously ill.	51,000
Cash gift made by a business friend on his birthday	75,000
Cash gifts made by three friends of Rs. 25,000 each	75,000

Besides this, Jay is engaged in the business of sale and purchase of retail goods. He maintains no account books. Gross turnover from retail trading is Rs 35 Lakhs.

Compute his total income for the assessment year 2012-13.

Q. 10 Mr. R, a resident, submits the following particulars of his income for year ended 31-3-2012.

(i) Royalty from a coal mine Rs. 20,000.

(ii) Agricultural income in Pakistan Rs. 15,000

(iii) Salary as a member of Parliament Rs. 36,000

(iv) His house has on a rent of Rs.10,000 p.a. half of which he has sublet at Rs.1200 p.m.

(v) Dividend received from a cooperative society Rs. 5,000

(vi) Dividend received from an Indian Company Rs. 8,000

(vii) Director's meeting fees received from Y Ltd. Rs 12000

(viii) Agricultural income from land situated in India Rs 8000

(ix) Agricultural income from Nepal Rs 9000

(x) Lottery prize received after T.D.S. Rs 27,760

He has incurred the following expenses -

(a) Paid collection charges Rs. 100 for collecting dividends

(b) Rs. 3,000 spent for earning and collecting royalty income.

R spent Rs. 600 for realizing the rent. He had also spent Rs. 10,000 for the purchase of lottery tickets and received the prize on one ticket.

Compute R's income from other sources for the assessment year 2012-13.

CLUBBING OF INCOME

Income transferred without transfer of assets
Section 60

If a person transfers income to another person, without transfer of the asset from which the income arises, then such income shall be taxable in the hands of transferor. Transfer can be recoverable or irrecoverable.

Revocable transfer of assets
Section 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.

Irrevocable transfer of asset
Section 62

If asset is transferred to any person and it is not revocable during life time of beneficiary or transferee, then income arising from that asset will be taxable in hands of transferee.

Provided transferor derives no benefit from such income or assets. Income shall be clubbed in the income of transferor, as and when the power to revoke the transfer arises. Actual revocation is not relevant.

Revocable transfer
Section 63

Transfer is deemed to be revocable if -

(i) If it contains provision of re-transferred to transferor or

(ii) If whole or any part of income or assets can be re-transferred to transferor.

(iii) If transferor can re-assume power over the whole or any part of income or assets during the lifetime of beneficiary or transferee.

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Remuneration of spouse
Section 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.

Notes:

(i) No clubbing if spouse possesses technical or professional qualifications and income is attributed to his or her technical knowledge.

(ii) If husband and wife both have substantial interest in the concern and both are receiving remuneration from the concern, then the remuneration of both shall be clubbed in the hands of that spouse whose total income is greater, before clubbing such income.

(iii) Substantial interest means -

(a) For company- if individual **along with relatives** hold not less than 20% equity shares beneficially.

(b) For others - If individual along with relatives is entitled to at least 20% of profits.

Relative means the husband, wife, brother or sister or any lineal ascendant or descendant of the individual.

Income from assets transferred to spouse
Section 64 (1) (IV)

When any assets *other than house property* is transferred by an individual to his / her spouse directly or indirectly, any income from such assets shall be deemed to be the income of transferor.

However clubbing shall not be done if:

- **(i)** Asset is sold for adequate consideration or
- **(ii)** If relationship of husband and wife does not exist either at the time of transfer or at the time of accrual of income or
- **(iii)** Transfer is under an agreement to live apart.

Income will clubbed even if asset is transferred to an individual or an AOP without adequate consideration for benefit of his or her spouse.

Income from assets transferred to son's wife
Section 64 (l) (VI)

If an individual transfers any asset to his daughter-in-law, without adequate consideration, income from the asset will be included in the total income of transferor.

Income will clubbed even if asset is transferred to an individual or an AOP without adequate consideration for benefit of son's wife.

Income of minor child
Section 64 (1A)

(i) All incomes that accrue to minor child will be included in the total income of that parent whose total income is greater (before including income of child).

(ii) If marriage of parents does not exist it shall be included in the income of that parent who maintains the child.

(iii) Where any such income is once included in the total income of either parent, any such income of any succeeding year shall be included in the income of other parent only if AO is satisfied that child is being maintained by the other parent.

(iv) In the following cases income of minor shall not be clubbed-

(a) Child is suffering from any disability of the nature specified in Section 80U, like physically disabled, totally blind etc.

(b) Income of child on account of manual work or activity involving skill, talent or specialized knowledge etc.

(v) If none of parents is alive, minor will file return through legal guardian.

(vi) If income of child is so included, the parent shall be entitled to an exemption of maximum Rs. 1,500 in respect of each minor child.

Income from self-acquired property converted into joint-family property
Section 64(2)

If an individual, who is a member of the Hindu undivided family, converts his self-acquired property as the property of the HUF then income derived by HUF from such property shall be included in the income of transferor.

Clubbing of income after partition - If the converted property is subsequently transferred among the members of family,

- the income derived from such converted property
- received by spouse of transferor
- will be included in the income of transferor.

Note: Under the above provisions, if income of one person is to be clubbed in the hands of another person, then in the case of loss, the loss shall also be clubbed.

Questions

Q. 1 Ayan, an individual engaged in the business of finance, advances Rs 10 Lakhs to his HUF on interest at 14% p.a., which is the prevailing market rate. The HUF invests the amount in its business and earns profit of Rs 5 Lakhs from this money. Can the assessing officer add a sum of Rs 3,60,000 (that is, Rs 5,00,000-Rs1,40,000) as income of Ayan under Sec. 64(2) of the Income-tax Act?

Will the position remain the same, if Ayan does not charge any interest?

Q. 2 Karan held 12% shares in a private limited company. He gifted all the shares to his wife Neha on 1st October 2011. On 1st November 2011, Neha obtained loan of Rs 5 Lakhs from the company, when the company's accumulated profit was Rs 1,20,000.

What are the income tax implications of the above transactions?

Q. 3 Sawant is a fashion designer having lucrative business. His wife is a model. Sawant pays her a monthly salary of Rs 20,000. Assessing Officer while admitting that the salary is an admissible deduction, in computing the total income of Sawant had applied the provisions of Sec. 64(1) and had clubbed the income (salary) of his wife in Sawant's hands.

Discuss the correctness of the action of the Assessing Officer.

Q. 4 Gutam, out of his own funds, had taken a FD for Rs 1 Lakh bearing interest @ 10% p.a. payable half yearly, in name of his wife Latika. The interest earned for the year 2011-2012 of Rs 10,000, was invested by Latika in business of packed spices which resulted in a net profit of Rs 55,000 for the year ended 31st March 2012.

How interest on FDR and income from business be taxed for the Assessment year 2012-13?

Q. 5 Mrs. Z is the owner of the business units A and B. Unit A has been started with capital contribution from Mr. Z and unit B has been started out of capital contribution from Mrs. Z.
The particulars of their income for the previous year 2011-2012 are as follows:

Particulars	Mrs. Z	Mr. Z
Income from A unit	---------	(6,00,000)
Income from B unit	4,00,000	---------
Income from House Property	---------	2,50,000

Q. 6 C is the minor child of Mr. and Mrs. X. Mr. X has business income of Rs 2,80,000. Mrs. X has salary income of Rs. 2,20,000. C earns income of Rs 60,000 from a dancing program. C also earns interest of Rs. 20,000 from a fixed deposit with a Bank. Compute total income of Mr. X, Mrs. X and C.

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Q. 7 Mr. Singh is a trader. Particulars of his income and those of the members of his family are given below: These incomes relate to the previous year ended 31st March, 2012.

		Rs
(i)	Income from business — Mr. Singh's	90,000
(ii)	Salary derived from an educational institution by Mrs. Singh. She is the principal of the institution.	50,000
(iii)	Interest on company deposits derived by Master Deep (minor son) These deposits were made in name of Deep by his father about 6 years ago.	12,000
(iv)	Receipts from sale of paintings and drawings made by minor Dipali (minor daughter of Mr. and Mrs. Singh is a noted child artist)	60,000
(v)	Income by way of lottery earnings by Master Deep Singh (minor son of Mr. Singh)	26,000

Discuss whether the above will from part of the assessable income of any individual and also compute the taxable income of Mr. Singh.

Q. 8 The shareholding of Mr. K and Mrs. K in S Ltd is given as follows:

Shareholder	%
Mr. K	7
Mrs. K	9
M, brother of Mr. K	8
F, father of Mrs. K	5

Mr. K and Mrs. K are employed with S Ltd. None of them hold technical qualification. Mr. K gets salary @ Rs 10,000 p.m. and Mrs. K gets @ Rs 12,000 p.m.

Income from other sources:	Rs
Mr. K	80,000
Mrs. K	1,00,000

Compute taxable income for the Assessment Year 2012-2013

Q. 9 Mr. B holds 5% shares in A Ltd., where his brother and nephew hold 11% and 6% shares, respectively. Mrs. B gets commission of Rs 10,000 from A Ltd. for canvassing orders. She holds no technical/professional qualification. Mr. B earns income of Rs 5 Lakhs from sugar business.

Compute their taxable income for the assessment year 2012-13

Q. 10 Mrs. C, a law graduate, is legal advisor of L Ltd. She gets salary of Rs 1,80,000. Mr. C is holding 20% shares in L Ltd. His income from business, during the previous year 2011-2012 is Rs 4,00,000. Compute their taxable income.

Q. 11 The following details of income of Mr. X and his wife, for A/Y 2012-13 are made available to you:

Particulars	Mr. X	Mrs. X
Income from own business	1,20,000	90,000
Income from other sources	2,10,000	1,10,000
Interest received from Z & Co.	20,000	4,10,000
Salary received from Z & Co.	96,000	84,000

Mr. X and Mrs. X are partners in Z & Co. each having 10% share in profits.
Determine total income of Mr. X and Mrs. X.

Will your answer be different?

(a) If each one of them holds 8% shares in profits of Z & Co.

(b) If Mr. X and Mrs. X both possess professional qualifications

Q. 12 Mrs. G holds 7% equity shares in B Ltd., where her married sister, Mrs. N also holds 14% equity shares. Mr. G is employed with B Ltd., without holding technical professional qualification. The particulars of their income for the year 2011-2012 are given as follows:

Particulars	Mr. G	Mrs. G
Gross salary from B Ltd.	1,20,000	-------
Dividend from B Ltd.	-------	10,000
Income from house property	90,000	

Q. 13 Mr. A gifts Rs 4 Lakhs to Mrs. A 1st February 2012. Mrs. A starts crockery business and invests Rs 1 Lakh from her account also. She earns profit of Rs 60,000 during period ending on 31st March 2012. How would you tax the business profits?

Q. 14 Write short notes on Clubbing of income of minor children in the hands of parent.

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SET OFF AND CARRY FORWARD OF LOSSES

SET OFF OF LOSSES (Sec 70 and 71)

Set off of losses refers to adjustment of current year losses against current year incomes.

Rules A: Set off of losses – Intra head adjustments

Loss from one source of income can be adjusted against income from some other source of income under the same head.

Example: Loss from House Property 1 can be adjusted against income from House Property 2

Exceptions

1. Loss from speculation business cannot be set of against profit from a non speculation business (Interpretation: Loss from non speculative business can be set-off against speculation income)

2. Long Term Capital Loss can only be set off against Long Term Capital Gain and cannot be set off against Short Term Capital Gain but Short Term Capital Loss can be set off against Long Term Capital Gain.

3. Loss on account of Lottery, Card game, Races etc is allowed to be set off at all against any other income, not even against income of other winnings of Lotteries, Card games, Races etc.

4. No loss can be set-off against casual income

5. No expenses can be claimed against casual income

6. Loss from the activity of owning and maintaining race horses cannot be set off against other incomes

7. Loss from an exempted source cannot be set off
(E.g. Share of loss of firm, agricultural losses, cultivation expenses)

Rules B: Set off of losses – Inter head adjustments

Loss from one head of income (House Property) can be adjusted against income from some other head of income. (Salary Income, PGBP etc):

Exceptions:

1. Loss from speculation cannot be set of against any other head, but Loss from other heads can be set-off against business income.

   Example: House Property loss can be set-off against Speculative Incomes but speculation loss cannot be set off against House Property income.

2. Business loss cannot be set-off against salary income. It can be set-off against other incomes.

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3. Loss under the head Capital Gains (Long Term Capital Loss or Short Term Capital Loss) cannot be set-off against any other head, but Loss from other heads can be set-off against Capital Gains.

Example: House Property loss can be set-off against Capital Gains but Long Term Capital Loss or Short Term Capital Loss cannot be set off against House Property.

4. Loss on account of Lottery, Card game, Races etc is not allowed to be set off at all against any other income, not even against income of other winnings of Lotteries, Card games, Races etc.

5. No loss can be set-off against casual income
6. No expenses can be claimed against casual income
7. Loss from the activity of owning and maintaining race horses cannot be set off against other incomes
8. Loss from an exempted source cannot be set off

Example: Share of loss of firm, agricultural income etc

II CARRY FORWARD AND SET-OFF OF LOSSES (Section 73 and 74)

Only following losses are allowed to be carried forward and set off in subsequent assessment years.

- House property loss.
- Business loss.
- Speculation loss.
- Capital loss.
- Loss on account of owning and maintain horses races.

Unadjusted losses of past years can be carry forward and set-off against current year income subject to certain restrictions;

1. Past year losses can be set-off against income from that respective head of income means Inter head adjustment is not possible.

Example: Unadjusted loss of HP for the year 2007-08 C/F Rs. 20,000. This loss can be set-off only against HP income of the year 2010-11 and not under any other head.

2. The above rule (1) is not applicable to unabsorbed depreciation, which can be set-off against any other head. It is not necessary that same business in which loss was incurred should be continued.

3. House property loss, Business loss, Capital loss can be carried forward to maximum of 8 assessment years, immediately succeeding the assessment year for the such loss was first computed.

4. Loss due to owning and maintaining of race horses and Speculation loss can be carried forward to maximum of 4 assessment years, immediately succeeding the assessment year for the loss was first computed.

5. Unabsorbed depreciation, unabsorbed capital expenditure on scientific research, unabsorbed expenditure on family planning can be carried forward for an unlimited period.

Order of Set-off

In case where profits are insufficient to absorb brought forward losses, current depreciation and current business losses, the same should be deducted in the following order

I. Current year depreciation [Sec. 32(1)].

II. Current year capital expenditure on scientific research and current year expenditure on family planning to the extent allowed.

III. Brought forward business or professional losses.

IV. Unabsorbed depreciation [Sec. 32(2)].

V. Unabsorbed capital expenditure on scientific research [Sec. 35(4)].

VI. Unabsorbed expenditure on family planning promotion [Sec. 36(1) (*ix*)].

Summary: Current year expenditure has to be write off first then any unabsorbed expenditure.

Return of loss: The return of loss must have been furnished before due date prescribed u/s 139(1), otherwise the loss cannot be carried forward. However loss under house property and unabsorbed depreciation can be carried forward even if return is not filed within the due date mention u/s 139(1).

Loss can be set off even if the return is filed after due date.

Notes:

1. Business in respect of which a loss is incurred may or may not be continued.
2. Losses can be set off only by the assessee who has incurred loss, except in the case of inheritance.
3. As per section 78 if there is a change in the constitution of the firm then the firm shall not be entitled to carry forward the loss which belongs to the retiring partner. However this position is not applicable for the unabsorbed depreciation.
4. When two possible set off available, set off can be done in manner which is most beneficial to assessee.

Questions

Q. 1 From the following data you are required to compute total income and tax thereon of X Ltd in a most beneficial to the company, for A/Y 2012-13.

Particulars	Rs
Business Loss	50,00,000
Property income	45,00,000
Income from other sources	1,00,000
Short term capital gain	3,00,000
Long term capital gain	10,00,000

Q. 2 Compute the total income of Mr. Pankaj from the information given below:

Particulars	Rs
Net income for house property	1,75,000
Income from business (before providing for depreciation)	2,25,000
Short-term capital gain on sale of shares	80,000
Long-term capital loss from sale of property of A.Y. 2010-11	(70,000)
Income from integrated activities of growing tea crops and manufacturing tea	1,50,000
Dividends from Indian companies carrying on agricultural operations	70,000
Current year depreciation	35,000
Brought forward business loss (loss incurred six years ago)	(65,000)
Expenditure incurred on medical treatment of dependant with severe disability	1,20,000

Q. 3 A public company had unabsorbed depreciation of Rs 18000 and business loss of Rs. 40,000 as on 01.04.2011. During the F/Y 2011-12, the company made profit from business of Rs. 60,000 (before depreciation). Depreciation for the financial year 2011-12 was Rs 38000. The company received during the year income from other sources of Rs 52,000, which included dividend of Rs. 10,000 received from its investment in other companies. Calculate net income liable to tax for assessment year 2012-13 and tax payable, if any. Also show the amount of unabsorbed depreciation and unabsorbed business loss, if any that can be carried forward.

Q. 5 Vatsan has following incomes for financial year 2011-12:

Particulars	Rs
Long term capital gain	2,00,000
Business loss	(50,000)
Short term capital gain	26000

He deposits Rs 10,000 in PPF. You are required to find out his tax liability for A/Y 2012-13.

Q. 6 From following information compute total income of Ramesh for Assessment Year 2012-13:

Particulars	Rs
Income from Salary	2,60,000
Income from house property	1,00,000
Business Loss (non speculative)	3,20,000
Short term capital loss	1,40,000
Long term capital gain	2,80,000

Q. 7 During year ended 31.3.2012, Subramani has following income and the brought forward losses:

Particulars	Rs
Short term capital gain on shares	2,60,000
Long term capital loss of A/Y 2010-11	90,000
Short term capital loss of A/Y 2011-12	80,000
Long term capital gain	78,000
Income from lotteries	3,10,000
Cost of lottery ticket purchased	2000
Loss from betting	- 1,20,000
Income from card games	80,000

Briefly compute GTI and loss eligible for carry forward in the hands of Subramani for A. Y. 2012-13.

Q. 8 Shri Aalam submits the following particulars of his income for the A/Y 2012-13. You are required to find his gross total income:-

Particulars	Rs
Income from the let out house (Computed)	12000
Loss from self occupied house	14000
Profits of business of publication of books	45600
Speculation income	8000
Short-term capital gains	26000
Long-term capital gains	4000
Dividend from Indian company	4000
Winnings in cards game	8000
The items brought forward for set-off are:-	
Loss from sugar Mill of A.Y. 2005-06 which is discontinued	13000
Loss from publication business of A.Y 2004-05	9000
Loss in card game of A.Y. 2005-06	4000
Speculation loss of A.Y 2009-10	24000
Short-term capital loss of A.Y 2004-05	12000
Long-term capital loss of A.Y 2003-2004	14000

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Q. 9 Ramesh furnishes the following particulars of his income for the previous year 2011-12.

Particulars	Rs
Income from salary (computed)	68,000
Income from house A	36,000
Loss from house B	24,000
Loss from house C	22,000
Profit from business A	60,000
Profit from business B	70,000
Profit from share business (speculative)	82,000
Loss from silver business (speculative)	94,000
LTCG on sale of shares on which STT paid	22,000
Short term capital loss on sale of land	44,000
Income from card games	22,000
Winning from lotteries (gross)	60,000
Income from horse races in Delhi (gross)	40,000
Loss from horse races in Bangalore	21,000

Compute the Gross Total Income of Ramesh for the assessment year 2012-13

Q. 10 State the provisions of Income-Tax Act 1961 in respect of set off and carry forward of loss under the head Profits and Gains of business or profession.

Q. 11 Discuss whether the loss could be set-off in the following case:

Smt. Vatika carried on business with funds gifted by her husband Mr. Dabuu. For previous year ending 31.3.2012, Vatika incurred loss of Rs 5 Lakhs which loss Dabbu wants to set-off from his taxable income.

Q. 12 Discuss briefly on carry forward and set off of losses in the case of change in Constitution of Firm or Succession.

AGRICULTURAL INCOME

Agricultural Income means:

a) Any rent or revenue derived from land which is situated in India and is used for agricultural purposes;

b) any income derived from such land by agricultural or by the process employed to render the produce fit for market or by sale of such produce by a cultivator or receiver of rent-in-kind;

c) any income derived from a building provided following conditions are satisfied:

(i) Building is situated on or immediate vicinity (surrounding area) of the agricultural land.

(ii) It is occupied by the cultivator or receiver of rent – in-kind.

(iii) It is used as dwelling house, store house or out house and

(iv) The land is assessed to land revenue or it is not situated in specified area.

Specified Area means:

A. in any area which is comprised within the jurisdiction of a municipality (whether known as a municipality, municipal corporation, or a cantonment board and which has a population of not less than ten thousand according to the last preceding census ; or

B. in any area within such distance, not being more than eight kilometers, from the local limits of any municipality or cantonment board referred to in item (*A*).

POINTS

📖 Agricultural income is exempt from Income Tax if agricultural land is situated in India. If agricultural Land is not situated in India then income will be taxable and chargeable under PGBP.

📖 Agricultural income of the cultivator as well as the rent (both in money and in kind) received by the owner of the Agricultural land is exempt from tax.

📖 Activities which are allied activities to agriculture such as animal husbandry, dairy farming, fishery etc are not regarded as agricultural activities and taxable under PGBP.

Income which is partially agricultural and partially from business

- If agricultural produce cultivated and used as raw material in the business of cultivator, then he can deduct the market price of such raw material from the income of his business.

- where agricultural produce is not ordinarily sold in the market in its raw state or after application to it of any process aforesaid, the aggregate of—

  (i) The expenses of cultivation;

  (ii) The land revenue or rent paid for the area in which it was grown; and

  (iii) Such amount as the Assessing Officer finds, having regard to all the circumstances in each case, to represent a reasonable profit.

Special treatment for Rubber, Coffee and Tea

In respect of composite activity of Growing and manufacturing of certain products, ratio of Agricultural Income and Business income is determined by Income Tax Rules and these are as under:-

Rule	Produce	Agricultural Income	Business Income
7A	Rubber	65%	35%
7B	Coffee Grown, cured, roasted and grounded	60%	40%
	Coffee Grown, cured but not roasted and grounded	75%	25%
8	Tea	60%	40%

Partial integration of Agricultural Income

The Finance Act, 1973 introduced for the first time a scheme of partially integrated taxation of non-agricultural income with incomes derived from agriculture for the purposes of determining the rate of income-tax that will apply to certain non-corporate assessees.

Applicable to: Individuals, HUF, AOP/BOI, Artificial Juridical Persons

Conditions: it applies only when the aforesaid assessees have –

a) Net agricultural income exceeds Rs 5000.

b) Non agricultural income exceeds maximum exemption limit.

How to Calculate Tax

(a)	Tax on total Income + Agricultural Income
(b)	Tax Agricultural Income + Basic Exemption Limit.

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(c)	Tax payable by assessee= (a) - (b).

Points to Note

- If Total Income is below taxable limit then agricultural Income will not be included even for calculation of tax purpose.
- If net agricultural income is below Rs 5000, then no partial integration required.
- In case of Companies, firm and other assesses where taxability is on fixed rate there is no need to calculate the tax on Agricultural Income.

Rate of Tax

For **Individual, HUF, AOP/BOI, Artificial Juridical Person** rate of tax for A/Y 2012-13 is as under:-

Up to Rs 1.80 Lakhs (This is Basic Exemption Limit)	NIL
Above Rs 1.80 Lakhs to Rs 5 Lakhs	10%
Above Rs 5 Lakhs to Rs 8 Lakhs	20%
Above Rs 8 Lakhs	30%

The basic exemption Limit for Female assesses (age below 60 years at any time during P/Y)	Rs 1.90 Lakhs
The basic exemption Limit for Senior Citizens (age 60 years or more but less than 80 years at any time during P/Y)	Rs 2.50 Lakhs
The basic exemption Limit for Super Senior Citizens (age 80 years or more at any time during P/Y)	Rs 5.00 Lakhs

Co- Operative Society:

Upto Rs 10,000	10%
Above Rs 10,000 to Rs 20,000	20%
Balance	30%

Others:

	Partnership Firm (Including LLP)	**Domestic Company**	**Foreign Company**	**Local Authority**
Rate of Income Tax	30 %	30 %	30 %	30 %
Surcharge on Income Tax (only if total income exceeds Rs 1 Crore)	NA	5%	2%	NA
Marginal Relief	NA	Applicable	Applicable	NA

Marginal Relief: It is provided to ensure that the additional income tax payable including surcharge on excess of income over 1 Crore is limited to the amount by which the income is more than Rs 1 Crore.

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Marginal Relief = Tax on total Income (including surcharge) – Tax on income of Rs 1 Crore – (Total income – Rs 1 Crore)

Q. Calculate marginal relief for Domestic Company X Ltd having income of Rs 1.03 Crore.

A. Rs 21,750

Note: Marginal Relief is available only for companies assessee.

Why ????????????

Cesses: In case of every assessee, the amount of tax will be increased by 3 % (2 % Education Cess & 1 % Secondary Education Cess) of income tax

The net effect of calculation

The net effect of calculation of tax when the agricultural income is also earned by the assessee along with the total income (in excess of Basic exemption Limit) is to tax the Total income at higher rate if the total income got the second or third slab due to inclusion of the Agricultural Income.

Instances of Agricultural income

1. Sale of Replanted trees.
2. Fees for Grazing: - The fees collected from the owners of cattle normally used for agricultural purpose for allowing them to graze on forest land covered by jungle and grass grown spontaneously.
3. Rent for agricultural land received from sub-tenant by mortgagee in possession.
4. Compensation received from Insurance companies for destruction of Crop.
5. Income from growing Flowers and creepers (climbing plants).

Questions

Q.1 Total income of Mrs. Z computed for A/Y 2012-13 is Rs 2,00,000 which includes the following:

Particulars	Rs
Long term capital gain	30,000
Winning from lotteries	20,000
STCG covered u/s 111 A	10,000

Agricultural income earned by her was Rs 50,000. Compute tax payable by Mrs. Z.

Q. 2 B Ltd. grows sugarcane to manufacture sugar. The data for the financial year 2011-12 is as follows:

Cost of cultivation of sugarcane	Rs.6 Lakhs
Market value of sugarcane when transferred to factory	Rs.10 Lakhs
Other manufacturing cost	Rs.6 Lakhs
Sales of sugar	Rs.25 Lakhs
Salary of Managing Director who looks after all operations of Company	Rs. 3 Lakhs

Calculate tax liability of B Ltd for A/Y 2012-13.

What would be your answer if assessee is an individual?

Answer: Business Income Rs 6 Lakhs, Agriculture Income Rs 4 Lakhs**.** Tax Rs 1,85,400.
Tax on Individual Rs 1,11,240

Q. 3 Mr. P has estates in Rubber, Tea and Coffee. He has also a nursery wherein he grows plants and sells. For the previous year ending 31.3.2012, he furnishes the following particulars of his sources of income from estates and sale of Plants. You are requested to compute the taxable income and Tax for the Assessment year 2012-2013:

Manufacture of Rubber	Rs.5,00,000
Manufacture of Coffee grown and cured	Rs.3,50,000
Manufacture of Tea	Rs.7,00,000
Sale of Plants from Nursery	Rs.1,00,000

Answer: Business Income Rs 5,42,500, Agriculture Income Rs 11,07,500**.** Tax Rs 1,18,190

Q. 4 Although agricultural income is exempt from income tax, but it is taxable indirectly. Do you agree?

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Q. 5 For A/Y 2012-13, Ms. Madhuri (Date of birth 9th September 1942) furnishes following information:

Gross Agricultural income:	Rs 2,25,000
Expenditure on earning agricultural income:	Rs 5000
Non- agricultural income:	Rs 2,60,000

Determine her tax liability for A/Y 2012-13 on assumption that she contributes Rs 70,000 towards Public Provident Fund and pays premium of Rs 20,000 on her life insurance policy (sum assured: Rs 1,50,000)

Q. 6 For A/Y 2012-13, net agricultural income of Mrs. X (aged 50 years) is Rs 8,10,000 and non agricultural income is Rs 2,28,300. Mrs. X pays Rs 27000 as life insurance premium for an assured sum of Rs 3,00,000 on life of her major son, who is not dependent on her and has his own sources on income. Determine her tax liability.

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DEDUCTIONS FROM GTI

Notes:

- Deductions under section 80C to 80U are not allowed to be deducted from Long Term Capital Gain, Short Term Capital Gain u/s 111A and casual incomes such as winning of Lotteries, races etc.

- Aggregate of all deductions cannot exceed GTI. In other words we cannot have loss due to deductions.

Section	Eligibility	Explanation	Maximum Deduction
80C	Individual / HUF	❖ Subscription to notified bond of NABARD ❖ >=5 years term deposit in bank/ Post office ❖ Life Insurance Premium for Self, Spouse, Children (Dependent, Independent, Married, Unmarried) ❖ Contribution to Provident Fund, Superannuation Fund ❖ Purchase of NSC and interest accrued thereon. ❖ Tuition Fees (for full time education of two children in India) ❖ 15 year PPF [Self, Spouse, Children (Minor)] ❖ Payment towards Cost of purchase / construction of Residential property Including Repayment of housing loan (Only Principle Component) ❖ Notified Unit of UTI, Mutual fund, LIC ❖ Subscription to Public Deposit Scheme of HUDCO ❖ Senior Citizen Saving Scheme	Rs 1,00,000
80CCC	Individual	Deposit to Pension Fund of LIC or other insurer	Rs 1,00,000
80CCD	Individual	Deposit to Pension Fund Scheme Notified by Central Government (CG) Employed by CG or other Employer. Deduction allowed upto: **Employer Contribution :** Up to 10% of Salary **Employee Contribution :** Up to 10% of Salary **Salary** = Basic Salary + DA (if under the term provided)	Rs 1,00,000
80CCE	Individual / HUF	Aggregate deduction u/s 80C, 80CCC and 80CCD cannot exceed Rs 1,00,000	Rs 1,00,000
80CCF	Individual / HUF	Subscription to Long term Infrastructure Bond notified by Central Government (CG)	Rs 20,000

80D	Individual / HUF	Premium paid of a Medical insurance Policy of General Insurance Corporation of India and approved by Central Government (CG) or policy of any other insurer and approved by Insurance Regulatory and Development Authority (IRDA) **Conditions:** ❖ It is paid out of income chargeable to tax. ❖ paid by any mode other than cash **Insurance can be taken on the health:** **Individual** – Self, Spouse, Parents (whether dependent or not), dependent children. **HUF** - Any member of the family.	Rs 15,000 **or** Rs 20,000 (if anyone of insured person is Senior Citizen)
80DD	Resident Individual / HUF	Assessee has incurred an expenditure on Maintenance including Medical Treatment of dependent with disability **or** Deposit/ paid in a Scheme of LIC or other insurer in this behalf. **Condition:** ❖ Disable dependent must not claim Deduction u/s 80U **Dependent means:** **Individual** – spouse, parents, children , brothers or sisters **HUF** - Any member of the family.	Rs 50,000 irrespective of amount spend / deposited **or** Rs 1,00,000, if disability >= 80%
80DDB	Resident Individual / HUF	Medical Treatment of Specified disease of: **Individual** – spouse, parents, children , brothers or sisters **HUF** - Any member of the family. **Note:** Deduction u/s will be reduced by the amount received (if any) from Insurance Company or reimbursed by employer, for medical treatment of person referred above.	Rs 40,000 **or** Rs 60,000 if incurred in respect of Senior Citizen
80E	Individual	Any sum paid by assessee, in the previous year by way of interest on loan taken from financial or approved charitable institution for pursuing higher education for self, spouse, children (Dependent, Independent, Married Unmarried) and for any student for which assessee is legal guardian. **Higher education** means Any Studies after passing 10th (Senior Secondary) including Vocational Studies. **Deduction available** for 8 Assessment Year beginning with Assessment Year in which payment of interest begins or until full payment of interest whichever is earlier.	Interest so paid without any maximum ceiling
80G	Any Assessee	Deduction is available on account of donation made in cash to specified funds or institutions. In some cases it is allowed with Qualifying limit and in some without such limit. It is allowed to the extent of 50% or 100% of donation. **Gross Total Income** *** Less: LTCG & STCG u/s 111A *** Less: Exempted Income *** Less: All deduction u/s 80C to 80U except 80G *** **Adjusted Gross Total Income** ***	See Note after the Chart

80GG	Individual	If an individual pays rent for his residential accommodation and he is not entitled to any HRA or RFA, he can claim deduction which is minimum of following: **a)** Rent paid in excess of 10% of 'Adjusted GTI' **b)** 25% of the 'Adjusted GTI' **c)** Rs. 2,000 per month. **Condition:** Individual or Spouse or minor child (excluding minor married daughter) or HUF of which he is member should not own any residential accommodation at his working place. Individual does not claim any benefit of Self Occupied House Property at any place. **Gross Total Income** *** Less: LTCG & STCG u/s 111A *** Less: Exempted Income *** Less: All deduction u/s 80C to 80U except 80GG *** **Adjusted Gross Total Income** ***	Rs 2000
80GGA	Any Assessee	Contribution to following special fund or institution. a) Scientific Research approved u/s 35 b) Social Science or Statistical research approved u/s 35 c) Approved Rural Development d) National Urban Poverty Eradication Fund e) Any approved eligible Projects **Condition:** Assessee should not have any income under PGBP	100% of contribution so made
80GGB	Indian Company	Donation to Political Party which is registered u/s 29A of the Representation of People Act, 1951	100% of contribution so made
80GGC	Any Assessee except Indian Company	Donation to Political Party which is registered u/s 29A of the Representation of People Act, 1951. **Not Allowed to:** Local Authority and Artificial Judicial Person wholly or partly funded by Government.	100% of contribution so made
80QQB	Resident Individual	Where an author received Royalty OR Copyright fess for his book in field of literary, artistic or scientific nature other than text book shall be allowed as **deduction** 100% of such amount less expenses **OR** Rs.3,00,000 whichever is less. **Notes:** ❖ It does not make any difference whether author received royalty/ Copyright fess as lump sum amount or as fixed percentage of value of book. ❖ If author’s royalty/ Copyright fess is more than 15% of value of book, then excess of 15% will be ignored for calculation of amount received.	Rs 3,00,000

80RRB	Resident Individual	Every patentee who received Royalty in respect of his registered patent shall be allowed as **deduction** 100% of such amount less expenses **OR** Rs.3,00,000 whichever is less.	Rs 3,00,000
80U	Individual	Assessee at any time during p/y certified by medical authority to be a person with disability. (Blindness, low vision, leprosy-cured, hearing impairment, locomotors disability, Mental retardation, mental illness)	Fixed Deduction Rs 50,000 **or** Rs 1,00,000 (if disability >= 80%)

Notes for section 80G

(A) Donations eligible for deduction without any Qualifying Limit:

1. 100% Deduction will be allowed if donations are given to-

- **a)** Prime Minister's National Relief Fund;
- **b)** Armenia Earthquake Relief fund;
- **c)** Africa (Public contribution-India) fund
- **d)** National foundation for Communal Harmony;
- **e)** National illness Assistance Fund;
- **f)** National Cultural Fund set up by government;
- **g)** Gujarat Government's Earthquake Relief fund;
- **h)** National Defence Fund set up by government.
- **i)** National sports Fund set up by Government;
- **j)** Zila Sakaharta Samiti
- **k)** An approved University or other educational institution of national eminence;
- **l)** Maharashtra Chief Minister's Earthquake Relief Fund;
- **m)** The National or any State Blood Transfusion Council;
- **n)** Any fund set up by a State Government to provide medical relief to the poor;
- **o)** Central Welfare fund for Army or Air Force or Indian Naval Benevolent Fund;
- **p)** Andhra Pradesh Chief ministers Cyclone Relief Fund;
- **q)** Fund for Technology Development and Application set up by Govt.;
- **r)** Chief Ministers Relief fund or Governor's Relief Fund of any State or Union Territory;
- **s)** Welfare trust for persons with Autism, Cerebral Palsy and Multiple Disabilities.

2. 100% Deduction will be allowed if donations are given to-

- **(a)** Jawaharlal Nehru Memorial Fund
- **(b)** Rajiv Gandhi Foundation
- **(c)** Indira Gandhi Memorial Trust
- **(d)** National Children's Fund
- **(e)** Prime Minister's Drought Relief Fund

(B) Donations eligible for deduction subject to Qualifying limit (i.e. 10% of Adjusted GTI):

1. 100% deduction shall be allowed subject to the qualifying amount if donations are made:

- **(a)** To government or any approved local authority, institution or association to be utilized for promoting family planning;
- **(b)** By company to Indian Olympic Association or other notified association / institution in India for development of infrastructure for sports and games, or sponsorship thereof in India.

2. 50% deduction shall be allowed subject to the qualifying amount if donations are made:

- **(a)** To Government or any approved local authority, for charitable purpose except promoting family planning.
- **(b)** To approved charitable institution, which satisfies the conditions of section 80G(5).
- **(c)** For renovation or repair of any temple, mosque, gurudwara, church or other place notified to be of historic / archaeological artistic importance;
- **(d)** To housing development authority or city / town / village development authority constituted in India by or under any law.
- **(e)** Corporation for promoting interests of minority community as given u/s 10(26BB)

Questions

Q. 1 Mr. Jay is suffering with 60% locomotor disability which is certified by medical authority. He is employed as Technical Supervisor with Air Tel at a salary of Rs. 20,000 p.m.

Income from government securities	20,000
Long-term capital loss	(-) 40,000
Short-term capital gain (Sec. 111A)	1,00,000
Insurance commission (gross)	1,00,000
Interest on Saving Fund a/c from bank	10,000
He has incurred the following expenses:	
Medical insurance paid by cheque for his father.	18,000
Deposit with LIC for maintenance of father, dependant on him for maintenance and suffering from low-vision with a severe disability	30,000
Rent paid for the year 2011-2012 for accommodation hired by him.	40,000

Compute his total income for the assessment year 2012-2013.

Answer: TI Rs 2,82,200, 80GG Rs 19,800, 80D Rs 18,000, 80DD Rs 1,00,000, 80U Rs 50,000

Q. 2 Ramesh has developed an improved economical model of a motor cycle and got it patented on 31-3-2011 under the Patent Act, 1970. He allowed Z Ltd. to use his patent rights and received royalty of Rs 5,00,000 during the previous year 2011-2012. However, the royalty in accordance with the terms and conditions of the license settled by the Controllers under the said Act is Rs. 2,80,000.

He has incurred Rs 1,00,000 expenses in developing his invention and getting it patented.
Compute his total income for the assessment year 2012-2013
(i) If he is resident in India, (ii) non-resident India.

Answer: (i) Rs 1,00,000 (ii) Rs 4,00,000

Q. 3 Mohan, resident Indian, furnishes particulars of his receipts & outgoings during P/Y 2011-2012.

Receipts	**Rs**
Income from salary	2,00,000
Income from house property	3,00,000
Gross winning from crossword puzzle	3,50,000
Outgoing	**Rs**
Contribution to LIC annuity plan	15,000
Medical insurance premium for:	
Himself	4,000
His wife, not dependent	3,000
Mother, non-resident, 67 years, dependent	5,000
Grandson, dependent	3,000
Nephew, wholly dependent with disability	2,000
Expenditure on medical treatment and maintenance of nephew referred above	30,000
Medical treatment for grandson, suffering from a disease specified under income-tax rules	25,000
Contribution to approved scientific research association	30,000
Donation to Gujarat government for family planning	50,000
Scholarship to a poor but meritorious student	20,000
Contribution to Delhi Municipal Corporation for sewage scheme for slum-dwellers, approved by National Committee	50,000
Donation to Congress party paid for assembly elections	20,000

Compute his total income for the assessment year 2012-2013.

Answer: Total Income Rs 6,90,200. 80G Rs 37,800. 80GGA Rs 80,000. 80GGC Rs 20,000

Q. 4 Mr. Jamal, a resident assessee, runs a manufacturing business in Delhi. For the previous year 2011-2012, he disclosed his taxable income as below:

Business profits	Rs 2,55,000
Long-term capital gains	Rs 25,000
Short-term capital gain	Rs 15,000

He has hired furnished accommodation for his own use and pays Rs 4,000 p.m. He has paid donation amounting to Rs.10,000 to National Defence Fund. He has deposited Rs 50,000 under a scheme framed by the LIC for maintenance of his dependant brother with a disability. The disability is certified by the medical authority. Compute his total income for the assessment year 2012-2013.

Answer: Total Income Rs 2,18,000. Deduction u/s 80GG Rs 17,000

Q. 5 Madan a resident individual furnishes particulars of his income/expenditure for P/Y 2011-2012:

(i) Gross salary	Rs 3,00,000
(ii) Income from house property	Rs 1,70,000
(iii) Share of profit from an AOP	Rs 25,000
(iv) Long-term capital gain	Rs 50,000

He has paid medical insurance on his life, his wife and his dependent children. Total premium paid under GIC approved policies is Rs 10,000 but a sum of Rs 1,000 was paid in cash due to a prolonged bank clearing strike. He has spent Rs 20,000 on the treatment of his brother, a dependant with disability. He has also deposited Rs 35,000 with LIC for maintenance of his brother.

He has paid the following donations during the year:

Donations	Rs
Donation to P.M. National Relief Fund	10,000
Donation to Jamia Milia University	5000
Donation to National Cultural Fund, set up by Central Government	5000
Donation to Delhi Municipal Corporation for Family Planning	12,000
Donation to Birla Temple (notified) for:	
Repair and Renovations	2000
Religious ceremonies, Prasad, etc.	8000
Rajiv Gandhi Foundation	6000
National Children's Fund	3000
Following donation to Pyare Lal Charitable Trust recognized by the Commissioner u/s 80G	
Donation in form of equity shares	30,000
Donation paid in cash,	5000
Donation made by cheque,	7000
50 blankets costing Rs 100 each	5000
Donation made to Indian Olympic Association	15,000

Madan borrowed a Rs 2,00,000 in 2008 @ 9% interest from Harsh Charitable Trust (registered u/s 80G) to complete his B. Tech. degree from Nalanda University. In March 2012, he repaid a sum of Rs 75,000 (including Rs 20,000 interest) to the said trust.

Compute his total income for the assessment year 2012-2013.

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Answer: Total Income Rs 4,00,000. Deduction u/s 80G Rs 41000

Q. 6 Compute the Total Income for the P/Y 2011-12 of Mr. A from the following information:-

1.	Gross salary	3,50,000
2.	Interest on bank deposits	13,000
3.	LIP on his own life (sum assured Rs. 20,000)	6,000
4.	LIP on the life of his wife	2,000
5.	LIP on the life of his major son(not dependent on A)	2,500
6.	LIP on life of dependent brother	2,000
7.	Contribution to RPF	40,000
8.	Amount deposited in PPF account	15,000
9.	Contribution to ULIP	3,000
10.	Repayment of principal amount of housing loan taken from a friend	23,000
11.	Subscription to units of a mutual fund notified u/s 10(23D) on 30-6-2012	25,000
12.	Amount incurred on education of 3 children:	30,000
13.	Term deposit for 3 years with a scheduled bank	20,000
14.	Five year time deposit in post office	15,000

Answer: Rs 2,63,000

Q. 7 X, a professional consultant, based at New Delhi furnishes the following particulars of his income and expenditure relevant for the A/Y 2012-13. Determine his Total Income.

Particulars	Rs
Income from profession	6,70,000
Short term capital gain (covered by section 111A)	4000
Long term capital gain	10,000
Wining from a camel race	1700
Winning from a horse race	2000
Winning from lottery	1600
Income from other sources	10,000
Payment of medical insurance premium on own life	3000
Payment on rent	80,000
Contributions towards public provident fund	70,000

Answer: Rs 6,07,530

Q. 8 A, whose GTI for A/Y 2012-13 is Rs.2,15,000 (which includes LTCG of Rs. 40,000 and STCG of Rs. 20,000) submits the following information:

1. Contribution towards PPF		10,000
2. LIP paid for married son not dependant on him.		5,000
3. Mediclaim Premium paid by cheque for:		
(a) Himself	2,000	
(b) For married son not dependant on him	3,000	5,000
4. He has made the following donations:		
(a)National Defense Fund		5,000
(b)PM's National Relief Fund		4,000
(c)Indira Gandhi Memorial Trust		5,000
(d)Delhi University		2,000
(e)Zila Saksharta Samiti		4,000
(f) An approved charitable institution		12,000
(g)Government for Family Planning		10,000
(h)Donations of 5 tons of cement to a notified temple valued		10,000

(i) Donations of blankets to an orphanage	4,000
(j) Donations of National Blood Transfusion council	2,000

Compute total Income for the A/Y 2012-13.

Answer: Rs 1,65,600

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Income-Tax Rate

Income of every person is chargeable to tax at the rates prescribed in the Finance Act such as slab rates. However some of the income tax rates are not mentioned in Finance Act but they have been mentioned in Act itself, such as Tax on:

- Winning from (lottery, crossword puzzle, Race including horse race, Card Game & Other Game and gambling or betting) income is **30%** as per section 115BB and
- Long-term Capital Gains is tax @ **20%** as per section 112, and
- Short Term Capital Gain on which STT Paid tax @ **15%** as per section 111A

Individuals:

1. Woman, resident in India and below the age of 60 years at any time during the previous year.

Upto Rs. 1,90,000	Nil
Rs. 1,90,001 to Rs. 5,00,000	10%
Rs. 5,00,001 to Rs. 8,00,000	20%
Above Rs. 8,00,000	30%

2. An individual (man or woman), resident in India who is of the age of 60 years or more but less 80 year at any time during the previous year.

Upto Rs. 2,40,000	Nil
Rs. 2,40,001 to Rs. 5,00,000	10%
Rs. 5,00,001 to Rs. 8,00,000	20%
Above Rs. 8,00,000	30%

3. An individual (man or woman), resident in India who is of the age of 80 years or more at any time during the previous year.

Upto Rs. 5,00,000	Nil
Rs. 5,00,001 to Rs. 8,00,000	20%
Above Rs. 8,00,000	30%

4. Any other Individuals, HUF, AOP, BOI and Artificial Judicial Person.

Upto Rs. 1,80,000	Nil
Rs. 1,80,001 to Rs. 5,00,000	10%
Rs. 5,00,001 to Rs. 8,00,000	20%
Above Rs. 8,00,000	30%

Firms: In case of firms, the rate of tax remains 30%

HUF: In case of HUF,

- As per Sec 10(2), any receipt by a member of a HUF out of the family income is fully exempt.
- Any remuneration received by a member of HUF as a partner/ director in a company in which the investment is made out of the funds of HUF shall be taxable in the hands of HUF.

Company:

- **Domestic Company:** Rate of Income Tax is 30%
- **Foreign Company:** Rate of Income Tax is 40%

Surcharge: Applicable only in case of companies having a total income exceeding Rs. 1 Crore.

- **Domestic Company: Income -**Tax will be increased by surcharge calculated @ 7.5% of such income-tax.
- **Foreign Company: Income-**Tax will be increased by surcharge calculated @ 2.5% of such income-tax.

Education Cess & SHEC: Education Cess @ 2% on income-tax and surcharge plus Secondary and Higher Education Cess (SHEC) @ 1% is payable by all assessees.

Local Authority: In case of Local Authority, rates of tax remain 30%

Methods commonly used by tax payers to minimize tax liability

The ultimate goal of a tax payer is to minimize his tax liability. To achieve this goal following three methods are commonly used by him.

Tax Evasion - It is an attempt to avoid tax by misrepresentation of facts and falsification of accounts such as:

- Concealment of income
- Inflation of expenses to suppress income
- Falsification of accounts
- Conscious violation of rules

These devices are unethical and have to be condemned. The courts also do not favour such unethical means. Evasion, once proved, not only attracts heavy penalties but may also lead to prosecution.

Tax evasion retards development of economic of a country by generating black money which works as a parallel economy. Tax evasion encourages bribery and weakens economic and political situation of the country.

Tax Avoidance – It is minimizing the incidence of tax by adjusting the affairs in such a manner that although it is within the four corners of the taxation laws but advantage is taken by finding out loopholes in the laws. In tax avoidance, the tax payer apparently circumvents the law without giving rise to a criminal offence by use of a scheme, arrangement or device, often of complex nature but where the main purpose is to defer, reduce or completely avoid the tax payable under the law. Tax avoidance is planning before the actual liability for tax comes into existence.

Tax Planning – It is the arrangement of financial activities in such a way that maximum tax benefits are enjoyed by making use of all beneficial provisions in the tax laws. It entitles the assessee to avail certain exemption, deductions, rebates and relief so as to minimize his tax liability. This is permitted and not frowned (disapproved) upon. Tax planning promotes professionalism and strengthens economic.

Tax Management – It refers to the compliance with the statutory provisions of law. While tax planning is optional, tax management is mandatory. It includes maintenance of accounts, filling of return, payment of taxes, deduction of tax at source, timely payment of advance tax etc. poor tax management may lead to levy of interest, penalty, prosecution etc. in some cases it may lead to heavy financial loss if proper compliance is not made for example if loss return is not filed in time it will result in a financial loss because such loss will not be allowed to be carried forward.

Assessment

Q. 1 Find out the taxable income and tax payable by Shyam on the basis of the following particulars:-

Profit and Loss Account
For year ended 31-3-2012

Particulars	Rs.	Particulars	Rs.
Interest	1,800	Gross profit b/d	1,22,700
Repairs and Renewals	2,200	Interest on debenture (Gross)	10,000
Insurance	4,200	Rent from House property	36,000
Depreciation	5,600		
Compensation	10,200		
Law charges	5,100		
Labour Welfare expenses	3,800		
Subscriptions of magazines	5,800		
Net Profit	1,30,000		
Total	1,68,700	Total	1,68,700

A (i) Interest includes Rs. 200 on loan taken for purchasing debentures of a company and Rs. 300 on loan taken for reconstruction of house property let out.

(ii) Expenses relating to house property let out are 40% of repairs and renewal expenses.

(iii) Depreciation includes Rs. 1,200 on house property let out.

(iv) Compensation was paid to an employee whose dismissal was in business interest.

(v) Insurance includes 30% for fire insurance of the house property let out, 30% for workers accident insurance and the balance for life insurance.

(vi) Law charges include Rs. 2,000 relating to a petition filed against breach of contract and the balance regarding sales tax appeal.

B. The amount not debited to profit and loss account are as follows :-

(i) Expenses incurred on the occasion of Dipawali Rs. 500

(ii) Theft of cash from iron safe Rs. 1,500

(iii) Expenses for new telephone connection in the business Rs. 2,000.

C. The following expenditures were incurred by Mr. Shyam Lal for the treatment of:

(i) His dependent daughter in an approved hospital (physically disabled) Rs.15,000

(ii) His father-in-law who is dependent on him Rs.12,000

D. He donated Rs. 25,000 to national sports fund set up by central government, and Rs. 7,000 to approved charitable institution.

Answer: Total Income Rs 40,110, 80G Rs 28,427, 80D Rs 50,000

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Q. 2 The income of X, who is totally blind, for P/Y 11-12, is as under:-

(i) Income from house property	Rs 1,92,000
(ii) Income from interest on loan	Rs 17000
(iii) Income from interest on bank deposit	Rs 10,000
(iv) Long term capital gains	Rs 1,20,000

He is eligible for deduction of Rs. 10,000 u/s 80C on account of PPF. Compute his tax liability.

Answer: Rs 14,210. LTCG of Rs 69000 @ 20.6%

Q. 3 A, aged 66 years, submits the following information for P/Y 11-12:-

Income from salary	Rs 2,46,000
Interest on fixed deposits with banks	Rs 34,000
LTCG	Rs 1,10,000
STCG on sale of equity shares on which STT has been paid	Rs 10,000

He pays Rs. 5,000 as LIP on a policy of Rs. 40,000 and deposit Rs. 22,000 in PPF.

Compute his tax liability.

Answer: Total Income: Rs 3,73,000. Tax: Rs 25,540

Q. 4 The following particulars are submitted by Mr. AB, aged 60 years for the A/Y 2012-13.

Share of profit of a firm	Rs 80,000
Income from House Property (computed)	Rs 1,25,000
LTCG on equity shares sold through a recognized stock exchange	Rs 40,000
LTCG on transfer of house	Rs 80,000
Lottery winning (Net after TDS)	Rs 11,104
LIP paid	Rs 25,000
Donations to national children fund	Rs 20,000

Compute income and tax

Answer: Total Income: Rs 1,85,860. LTCG: Rs 10,000. Other sources: Rs 15863

Q. 5 The particulars of R's income for previous year 2011-12 are as under:

(i) Gross Salary	Rs 1,68,000
(ii) Taxable income House property	Rs 14,500
(iii) Short -term capital gains	Rs 12,000
(iv) Long -term capital gain	Rs 3000
(v) Casual income	Rs 4000
(vi) Agricultural Income (Net)	Rs 50,000

He paid Life Insurance Premium Rs 36,000 on a policy taken on his married daughter contribution to recognized Provident Fund Rs 5,000 and donated a sum of Rs 20,000 to an approved institution.

Compute his total income and net tax liability.

Answer: Total Income: Rs 2,50,500. 80G Rs 10,000

Q. 8 R is lawyer of Delhi high Court .He keeps his accounts on cash basis. His receipts and payments A/c for the year ending 31-3-2012 is given below.

Balance B/d	7,500	Subscription and membership	6,000
Legal fees	1,80,000	Purchase of legal books	9,000
Special commission fees	7,000	Rent	51,000
Salary as part time lecturer	48,000	Car expenses	17,000
Exam Remuneration	2,500	Office expenses	7,500
Interest on bank deposit	6,000	Electricity expenses	5,000
Sale proceeds of residential Property	2,98,760	Income tax	9,000
Dividend from co- operative society	3,000	Gift to daughter	15,000
Dividend received from UTI	6,000	Domestic expenses	27,000
		Donation to Institution Approved u/s 80G	3,000
		Car purchased	2,30,000
		Life insurance premium	7,000
		Balance C/d	1, 72,260
Total	**5,58,760**	**Total**	**5,58,760**

Following are information available:-

1The rent and electric expense are related to a house of which half portion in used for self residence and remaining half portion in used for office.

2. Car is used only for professional purposes.

3. Outstanding legal fees Rs 25,000.

4. Rent has been paid for 10 months only.

5. Car was purchased on25-9~2011 .Law books being annual publications of Rs 3,000 were purchase on 5-5-2011 and balance on 3-12-2011.

6. The house was purchase in January, 1986 (C.I.I. 133) for Rs 40,000 and sold on 1-8-2011.

7. Rent of the property which has been sold was Rs 6,000 p.m. The property was vacated by the tenant on 31-7-2011.

Compute his total income for the assessment year 2012-13.
Answer: GTI Rs 2,49,230. TI Rs 2,40,730. PGBP: Rs 88,000, Capital Gain: Rs 84,925

Q. 9 The following details have been supplied by the Karta of an HUF. You are required to compute its total income and tax liability for the assessment year 2012-2013.

Particulars	Rs
Profits from business (after charging Rs 1,00,000 salary to Karta for managing the business).	15,00,000
Salary received by the member of a family.	60,000
Director's fee received by Karta from B Ltd where HUF holds 20% shares but he became director because of his qualifications,	40,000
Rental income from house (after deduction of municipal taxes Rs 12,000)	78,000
Dividends (gross) from Indian companies	15,000
Long-term capital gain	80,000
Short-term capital gain	30,000
Donation to a school, which is an approved institution,	1,00,000
Deposits in Public Provident Fund	20,000
NSC-VIII issues purchased on 15.3.2012.	40,000

Answer: GTI Rs 16,64,600. TI Rs 15,54,600. 80G Rs 50,000. Tax Rs 3,05,271

Q. 10 X (age: 66 years), a resident, furnishes the following particulars relevant for the A/Y 2012-13:

Profit and Loss Account

For year ending 31st March 2012

Salary to staff	34,000	Gross profit	1,86,000
General expenses	48,000	Commission and discount	2,17,200
Bad debts written off	15,000	Sundry receipts	43,000
Reserve for losses	2,000	STCG on investment	31,000
Fire insurance premium (office)	4,200		
Advertisement Rs. 2,400 Add : Outstanding Rs. 1,600	4,000		
Interest on X's capital	3,500		
Interest on bank loan	14,500		
Expenditure, on acquisition of patent right acquired & put to use on 30th June 2010	17,000		
Lump sum consideration for acquiring know-how on 1st March 2011	60,000		
Depreciation on P & M	28,000		
Provision for sales tax and excise	13,000		
Net profit	2,34,000		
Total	4,77,200	**Total**	4,77,200

Other information:

(1) Advertisement includes Rs.3,400, cost of 2 diaries (cost of each Rs.1,700) presented to customers.

(2) Depreciation on plant and machinery according to income-tax provision is Rs. 29,700.

(3) Salary to staff includes Rs. 8,000 paid to a relative which is unreasonable to extent of Rs. 3,000.

(4) General expenses include **(a)** expenditure of Rs. 4,800 incurred by X on training of his employees, **(b)** commission of Rs.10,000 for securing a business order, and **(c)** compensation of Rs. 6,000 paid to an employee while terminating his service in the business interest.

(5) Out of outstanding sales tax and excise duty, Rs. 3,000 is paid on 10th July 2012 and Rs. 8,000 is paid on 3rd Oct 2012. The balance is not paid as yet. Due date of filing ROI is 31st July 2012.

(6) Income of X from company deposit is Rs. 12,000, which is not shown in the P & L account.

Determine the taxable income of X for the A/Y 2012-13, assuming that insurance premium paid by X on the life insurance policy of Mrs. X is Rs. 3,200.

Answer: Taxable income Rs 3,24,850. PGBP income Rs 2,85,050

FIRMS

Salient Features:

- A firm is taxed as a separate entity. There is no difference between registered and unregistered.
- Share of profit from firm's income is not taxable in hand of its partners.
- Firm is allowed deduction u/s 30 to 38 (PGBP).
- Firm's income is taxed at flat rate of 30% plus education cess and SHEC.

Deductibility of Remuneration and Interest: Remuneration and interest is deductable only if:

1. These are otherwise deductible u/s 36 and 37.
2. Conditions of section 184 are satisfied.
3. Conditions of section 40(b) are satisfied.

Conditions of section 184: If a firm do not satisfied conditions mention below, then remuneration and interest paid or payable to its partners will not be allowed as deduction though it will be assessed as firm.

1) There must be a Partnership Deed.

2) Share of partners must be specified in Partnership Deed.

3) Certified copy of Partnership Deed should be submitted along first income tax return of firm.

4) Revised Partnership Deed should be submitted whenever there is change in Partnership Deed.

5) There must not be any failure as mention u/s 144.

Conditions of section 40(b): Following condition must be satisfied for deduction of remuneration to partners.

a) Remuneration (including Salary, bonus, commission) should be paid only to working partner

b) Remuneration must be authorized by Partnership Deed

c) Remuneration should not pertain to period prior to Partnership Deed.

d) Remuneration should not exceed the permissible limit.

Permissible Limit

Book Profit	Maximum Amount
If Book Profit is Negative	Rs 1,50,000
In case Book Profit is Positive –	
❖ On first Rs 3,00,000 of book profit	Rs 1,50,000 or 90% of book profit whichever is more
❖ On balance of book profit	60% of book profit

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Calculation of Book Profit

Step 1 Calculate Net Profit of firm as per Profit & Loss Account

Step 2 Make adjustments under section 28 to 44D i.e. Calculate Income taxable under PGBP

Step 3 Add remuneration to partners (both working and non working) if debited to P&L Account.

Step 4 Add interest to partners in excess of 12% if debited to P&L Account.

Resulted amount is “Book Profit”

Notes:

- ❖ Brought forward business losses will not be deducted from book profit but unabsorbed depreciation brought forward from earlier year will be deductable. However, for allowing unabsorbed depreciation, brought forward business loss will have to be notionally allowed first from current business income.

- ❖ Deduction u/s 80C to 80U will be ignored while calculating Book Profit.

Interest payable to partners: Following conditions must be satisfied to claim deduction of interest.

- ❖ Payment of interest should be authorized by Partnership Deed.
- ❖ Payment of interest should not pertain to period prior to Partnership Deed.
- ❖ Maximum rate of interest allowed is 12% per annum.

Note: Above said conditions are not applicable in case an individual is partner on behalf or for the benefit of another person and interest received other than as representative capacity.

Examples:

1. X is a partner in a firm on behalf of his HUF. Firm pays interest to X on deposit (other than as a partner in a representative capacity) amount Rs 5000 and Rs 12000 to X (for HUF). In this case above said conditions are not applicable on Rs 5000.

2. A partner receives Rs 15,000 from firm as interest on deposit made by his minor son.

3. X is a partner in a firm his personal capacity and interest paid by firm to X (not in his personal capacity but to HUF of which he is Karta)

Change in the Constitution of Firm: Section 78 provides that where there is change in the constitution of firm on account of death or retirement, the firm will not be entitled to carry forward so much of loss as is attributable to such partner. It does not however cover case of change in profit sharing ratio or admission of a new partner.

As section 78 is not applicable in case of unabsorbed depreciation, entire unabsorbed depreciation (without deducting share of outgoing partner) will be carried forward by the reconstituted firm.

Questions

Q. 1 Bindu & Co. is a partnership firm, assessed as a firm. The firm engaged in wholesale turmeric trade, consists of three partners P, Q and R, sharing profits and losses equally. Capital contributions are also equal. Following is the summarized position of the financial results of the firm for the year ended 31st March, 2012:

Particulars	Rs	Particulars	Rs
To Administration expenses	2,40,000	By Gross profit	4,90,000
To Depreciation	30,000	By Income tax refund	20,000
To Net profit	2,40,000		
Total	**5,10,000**	**Total**	**5,10,000**

Additional information:

(a) P and R are working partners. The partnership deed has authorized remuneration of Rs. 5,000 p.m. to P and R each. R is also entitled to sales commission of 1% on sales.

(b) Depreciation for the current year, as per Income-tax Act, 1961 is Rs. 40,000.

(c) Brought-forward figures of the earlier year, for which the return of income was filed in time, are :

Unabsorbed business loss	25,000
Unabsorbed depreciation	20,000

(d) Administrative expenses include:

Interest to three partners @ 15%	1,50,000
Sales Tax	10,000
Income Tax	30,000

(e) The gross profit to sales ratio of the firm is 10%.

Compute the total income of Bindu & Co. and the tax payable thereon. What will be the treatment in the individual returns of P, Q and R? Also state the head of income under which each item is to be disclosed in the hands of each partner.

Answer: Book profit: Rs 2,50,000. Remuneration u/s 40(b) 1,69,000. Total Income Rs 56,000

Q. 2 Ankit was a partner in a firm in his capacity as the Karta of his HUF, representing the HUF. On the amounts deposited by the partner, firm paid interest. Ankit in his individual capacity had made deposit in the said firm. The assessee firm claimed that the interest paid in his individual capacity should not be disallowed. Assessing Officer did not agree and disallowed the interest paid to Ankit in his individual capacity, u/s 40 (b) of the Income-tax Act, 1961. Is Assessing Officer correct?

Q. 3 A, B and C are three partners of a firm; the firm provides the following information:

a) Total income of firm is (-) Rs.1,40,000, out of which unabsorbed depreciation is Rs. 50,000. The return of income of the firm was filed in time.

b) On 31st March 2011, C retires from the firm and other partners continue the same business;

c) The firm's income for the assessment year 2012-13 before adjusting the aforesaid loss and depreciation is Rs. 1,08,000 ;

d) A, B and C share Profit and Loss in ratio of 1: 1: 2.

Compute firm's total income for the assessment year 2012-13, assuming that salary and interest are not paid to any partner.

Answer: Total income = Rs. 13,000.

Q. 4 M, N and O are partners in firm Upadhyay & Co., sharing profit & losses in ratio of 2: 1: 1 respectively. The summarized profit-and loss account for the year ended 31.03.2012 is given below:

Particulars	Rs	Particulars	Rs
Office salaries	11,360	Gross profit	1,21,140
Interest on loan from M	4000	Rent received	12,000
Telephone, telegram, etc,	4000	Interest on Securities	8000
Local taxes (let-out property)	2000		
Salary to working partner N	6000		
Commission to partners: M 8,000 N 10,000 O 12,000	30,000		
Charges of interest on securities	100		
Provision for bad debts	2000		
Net profit to partners : M 40,840 N 20,420 O 20,420	81,680		
Total	**1,41,140**	**Total**	**1,41,140**

Compute the total income of Upadhyay & Co. for A/Y 2012-13 and the tax payable thereon.

Q. 5 P, Q and R are three partners of a firm share Profit and Loss in ratio of 1: 1: 2; provides the following information:

a) Total income of firm is (-) Rs.1,20,000, out of which unabsorbed depreciation is Rs. 40,000.

b) On 31st May 2011, C retires from the firm and other partners continue the same business;

c) The firm's income for the assessment year 2012-13 before adjusting the aforesaid loss and depreciation is Rs. 1,20,000 ;

Compute firm's total income for the assessment year 2012-13, assuming that salary and interest are not paid to any partner.

Answer: Total income = Rs. 30,000.

Q. 6 MH Construct & Co., a non-resident firm, is engaged in the business of Civil Construction (Turnover of 2011-12 Rs. 38,50,000). It wants to claim the following deductions while offering income under presumptive provisions:

Particulars	Rs
Salary and interest to partners as per sec. 40(b)	60,000
Salary to employees	5,00,000
Depreciation	2,70,000
Cost of materials used	25,90,000
Other expenses	3,50,000
Total	37,70,000
Net profit (Rs. 38,50,000—37,70,000)	80,000

The following information is also provided:

a) Taxable income from other business is Rs. 1,90,000
b) Long-term capital gain is Rs. 40,000
c) The firm is eligible for a deduction of Rs. 5,000 under section 80G

Determine the total income of MH Construct & Co. and tax payable for the assessment year 2012-13.

Answer: Total Income Rs 4,73,000

Q. 7 The following information pertaining to Mukherjee & Co. a partnership firm engaged in business consisting of three partners with equal profit sharing ratio, relating to P/Y 2011-12:

Particulars	Rs	Particulars	Rs
To Interest to partners: L. 30,000 M 45,000 N 54,000	1,29,000	Gross profit	3,80,000
To Remuneration to partners: L 60,000 M 84,000 N 96,000	2,40,000	By Profit on sale of residential house	50,000
To Other expenses (including depreciation)	95,000	By Income from speculation business	40,000
To Net profit	90,000	By Rental receipts	84,000
Total	**5,54,000**	**Total**	**5,54,000**

(a) L is a partner representing the HUF of which he is the Karta. M and N are working partners.

(b) Interest has been provided to M and N at 18% simple interest and to L at 12%. Interest accrues uniformly throughout the year.

(c) In the earlier assessment year for which the return was filed in time, there is unabsorbed depreciation of Rs. 34,500 and carried forward business loss of Rs. 70,000. These items have not been considered earlier.

(d) The firm derives agricultural income of Rs. 1,20,000 from lands at Kolkata.

(e) Residential house purchased in May, 2009 for Rs. 4,00,000 was sold in July, 2011 for Rs. 4,50,000.

Compute the total income of the partnership firm assessed as such, for assessment year 2012-13. Brief computation will suffice.

Answer: Book profit: Rs 1,89,000. Remuneration u/s 40(b) 1,70,100. Business Income Rs 5,500 Total Income Rs 1,14,300

Q. 8 X, Y and Z are partners in a firm sharing profit and losses in the ratio of 3:2:1. The summarized profit-arid loss account for the year ended 31.03.2012 is given below:

Particulars	Rs	Particulars	Rs
To Interest to partners @ 24% pa: X 90,000 Y 80,000 Z 60,000	2,30,000	By Gross profit	14,40,000
To Remuneration to partners: X 90,000 Y 1,20,000 Z 85,000	2,95,000	By Interest on Securities	2,00,000
To Salaries and wages	7,00,000	By LTCG (computed)	2,65,000
To Other expenses	3,50,000		
To Net profit X 1,65,000 Y 1,10,000 Z 55,000	3,30,000		
Total	**19,05,000**	**Total**	**19,05,000**

Other information:

1) Partners' salary and interest are paid as per Partnership Deed.
2) Partners' other incomes: (Rs)

	X	Y	Z
Income from House property (computed)	40,000	30,000	50,000
Interest on Securities	50,000	80,000	30,000

3) Saving and disbursements of partners:

Contribution to PPF	30,000	25,000	10,000
Approved donation	10,000	10,000	10,000
Medical insurance premium	8,000	6,000	4,000

Compute tax liability of firm and each partner.

Answer: Book profit: Rs 2,75,000. Remuneration u/s 40(b) 2,47,500. Business Income Rs 27,500

Q. 9 A, B and C are partners of a firm sharing the profit/loss in the ratio of 5:3:2. The following particulars are available for the year ended 31st March, 2012:

a) Net profit as per profit and loss A/c after debiting salary and interest to partners Rs. 50,000
b) Salary paid to A and B, Rs. 36,000 and Rs. 12,000 and commission to C, Rs. 6,000, as per partnership deed. According to Assessing Officer, salary paid to A is excessive by Rs. 6,000.
c) Interest paid to partners (as per partnership deed) at 15% per annum:

On A's Capital	Rs. 6,000
B's Capital	Rs. 6,000
C's Capital	Rs. 4,000
A's Loan	Rs. 8,000

d) Depreciation debited to profit and loss account, Rs. 10,000; allowable Rs. 15,000.
e) Expenses incurred for obtaining a loan, Rs. 2,000. Both opening stock of Rs. 9,00,000 and closing stock of Rs. 10,80,000 are valued at 10% below cost.

Particulars of the personal income etc. of the partners are as below:

	A	B	C
Dividends from Indian company	5,000	6,000	4,000
Interest from Banks in India	16,000	7,000	8,000
Interest on NSC	10,000	12,000	14,000
Payment of Life Insurance Premium (self)	20,000	25,000	15,000

Compute the total income of the firm and each partner and the tax payable in each case.

Answer: Book Profit: Rs 1,23,800. Remuneration u/s 40(b) 54,000. Business Income Rs 69,800

Q. 10 X, Y and Z are partners of a firm sharing the profit/loss in the ratio of 5:3:2. Partners' salary and interest are paid as per Partnership Deed. Firm's Profit & loss A/c for P/Y 2011-12 is given below:

Particulars	Rs	Particulars	Rs
Interest to partners @ 24% pa: X 24,000 Z 72,000	96,000	Gross profit	5,95,000
Remuneration to partners: X 50,000 Y 30,000 Z 20,000	1,00,000	Commission from Agency	35,000
Interest on Y's Loan @ 20% pa	40,000	Bank Interest	16,000
Bonus to Y	10,000	Sale of assets (WDV: Nil)	80,000
Commission to Z	8,000	Gain on sale of shares, purchased in 2007-08	30,000
Municipal tax of house (paid)	12,000	Dividend from Indian Company	12,000
Establishment charges	50,000	Bad debts recovered	8000
Depreciation	25,000		
Provision for Bad debts	4,000		
Donation to Gujarat Earthquake Fund	3,000		
Sundry expenses	85,000		
Net profit X 1,56,500 Y 93,900 Z 62,600	3,13,000		
Total	**7,46,000**	**Total**	**7,46,000**

Other information:

1) Municipal tax paid includes arrears of Rs. 2,000 for the preceding;
2) Depreciation as per Income Tax Rules Rs. 35,000
3) On 30.5.2011, the firm paid sales tax of Rs. 15,000 relating to the 2009-10 and submitted the challans to the Assessing Officer with Income-Tax Return.
4) Sundry expenses include Rs. 60,000 paid in cash to a supplier.
5) The whole block of plant and machinery depreciated at 100% was sold for Rs. 80,000, as shown in the Profit & Loss A/c.

Compute:

a) The Book Profit;
b) Total Income and Tax of the Firm for the assessment year 2012-13

Answer: Book Profit: Rs 3,41,000. Remuneration u/s 40(b) 1,18,000.

Tax Deducted at Source (TDS)

Meaning: For assured and fast realization of tax, Income Tax Act has imposed obligation on certain payer to deduct tax on specified payment at specified rates and pay only net amount to the payee.

	Nature of Payment made to resident	Individual or HUF		Any other
Sec.	**Description**	**Threshold Limit Rs**	**Rate %**	**Rate %**
192	Salary	As per slab	Normal Rate	NA
193	Interest on Listed Securities	2500	10	10
	Interest on Unlisted Securities	NIL	10	10
194	Dividend other than u/s 115 -O	2500	10	10
194A	Interest by Bank & Post office	10,000	10	10
	Interest payable by Others	5000	10	10
194B	Wining from Lotteries/ Game shows	10,000	30	30
194BB	Wining from Horse Races	5000	30	30
194C	Payments to Contractors- Single Transaction	30,000	1	2
	Payments to Contractors- Aggregate during f/y	75,000	1	2
194D	Insurance commission	20,000	10	10
194H	Commission or Brokerage	5000	10	10
194I	Rent	1,80,000	10	10
	Rent of Plant & Machinery	1,80,000	2	2
194J	Professional fees	30,000	10	10

Notes:

1. If PAN is not provided then TDS rate will be 20% or applicable rate, whichever is higher.
2. If transporter quotes his PAN, no TDS will be deducted; otherwise rate will be 20%.
3. Education cess @ 2% and SHEC @ 1% will be considered only in TDS on salary.

When Tax has to be deducted: Tax will be deducted at the time of credit of such income to the account of payee or at the time of payment, whichever is earlier.

Deposit of TDS: Tax deductor has to deposit deducted tax to the credit of Central Government within time mention below:

TDS made on payment or credited to the account of the payee	Within one week from the last day of the month in which such deduction was made.
TDS made on payment or credited to account of the payee in month of March	On or before 30th April.

Interest: Once any person is deemed to be an assessee in default u/s 201, interest is payable at the rate of:

a. 1% per month or part thereof for delay in deduction of tax and

b. 1.5% per month or part thereof for delay in remittance of tax so deducted.

TDS Return

The revised due dates for furnishing TDS return are

	Quarter ending on	Due date
1	30th June	15th July of the financial year
2	30th September	15th October of the financial year
3	31st December	15th January of the financial year
4	31st March	15th May of the financial year immediately following financial year in which deduction is made

Note: For an assessee who is filing return for the first time there is no need to file Nil TDS Return. For others it is compulsory to file even Nil Return.

Due date for furnishing TDS certificate to the employee or deductee or payee is revised as under

S. No	Category	Period for furnishing TDS certificate	Due date
1.	Salary (Form No.16)	Annual	By 31st day of May of the financial year immediately following the financial year in which the income was paid and tax deducted
2.	Non-Salary (Form No.16A)	Quarterly	Within fifteen days from the due date for furnishing the ‘statement of TDS’

TDS at Lower Rate: Assessee can make an application to Assessing Officer for deduction of tax at a lower rate or for non deduction of tax except in case of wining from lottery.

If Assessing Officer is satisfied that his application is justified me may give assessee such certificate.

Once the assessee furnishes the certificate, then person liable to deduct tax shall deduct tax at a lower rate or deduct no tax, as the case may be, until such certificate is cancelled by Assessing Officer.

ADVANCE TAX

Meaning: Generally Income Tax is calculated on income earned in previous year and paid in the immediately succeeding year. But under the scheme of Advance Tax, tax is paid on the current year's income in the same year, in installments.

Liability for payment of Advance Tax: Advance tax shall be payable during a financial year where the amount of advance tax payable during the year is Rs.10,000 or more.

Computation of Advance Tax

Estimated total income of the current financial year	********
Tax on total income	********
Less:- Tax Deducted at source	********
Advance Tax Payable	********

Installments of Advance Tax and Due Dates

Due Date of installment	Company	Other than company
Till 15th June of current year	15% of advance tax liability	Nil
Till 15th September	45% of advance tax liability	30% of advance tax liability
Till 15th December	75% of advance tax liability	60% of advance tax liability
Till 15th March	100% of advance tax liability	100% of advance tax liability

Notes:

- If assessee does not pay the installment by the due date, he shall be liable to pay interest @ 1% per month or part thereof.
- If the last date for paying tax is a public holiday, tax may be paid on the next working day without any interest.

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Return of Income

Section 139(1): Every Assessee

a) Being a Company or Firm or

b) Being a person other than a Company or Firm, if his Gross Total Income before deduction under Chapter VIA, exceeds the maximum exemption limit.

will file return of his income on or before due date in prescribed form.

Due Dates:

	Assessee	**Due Date**
1.	❖ Company ❖ Assessee whose accounts are required to be audited under any Act or Law. ❖ Assessee is working partner in a firm whose accounts are required to be audited under any Act or Law.	30th September
2.	In any other case	31st July

Note: It is compulsory for every company and Firm to file its return of income on or before due date irrespective of level on income.

Exempt from Filing of Return: Central Government has exempted a salaried employee (having one employer) from the requirement of furnishing return of income if –

- ❖ His income comprises only of the income falling under head "Salaries" and savings bank Interest of upto Rs 10,000, (no other income) and
- ❖ His total income for the relevant A/Y does not exceeds Rs 5,00,000
- ❖ His tax liability stands discharged by way of TDS and he has no refund claims.

Return of loss [Sec. 139 (3)]: The return of loss must have been furnished before due date prescribed u/s 139(1), otherwise the loss cannot be carried forward. However loss under house property and unabsorbed depreciation can be carried forward even if return is not filed within the due date mention under section 139(1).

Loss can be set off even if the return is filed after due date.

Belated Return [Sec. 139 (4)]: If return is not furnished within time allowed u/s 139(1) or within time allowed under notice issued u/s 142(1), it can be filed –

a) Within one year from the end of relevant assessment Year **or**

b) Before completion of assessment

whichever is earlier

Note: A penalty of Rs 5000 may be imposed u/s 271F if belated return is filed after the end of assessment year.

Revised Return [Sec. 139(5): If assessee discovers any omission or wrong statement in return filed u/s 139(1) or under notice issued u/s 142(1), he may furnished a revised return within one year from the end of the relevant Assessment Year or before completion of assessment, whichever is earlier.

Notes:

- Belated return filed u/s 139(4) cannot be revised.
- Revised return substitutes the original return and it is deemed to have been filed from the date when the original return was filed.
- Revised return can be revised number of times, provided it is filed within time specified above.

Return on Computer Readable Media [Sec. 139(1B)]: Without prejudice to provisions of sub-section (1), any person, being a company or other than a company may at his option furnish return of his income for any previous year in accordance with scheme specified by board in such prescribed form (including on a floppy diskette, magnetic cartridge tape, CD-ROM or any other computer readable media) and return furnished under such scheme shall be deemed to be return furnished u/s 139 (1).

Bulk Return – Sec. 139(1A): Any person, being an individual who is in receipt of Salaries may at his option, furnish a return of his income for any previous year to his employer, as per specified scheme and such employer shall furnish all returns of income received by him on or before the due date, in specified form (including on a floppy, diskette, magnetic cartridge tape, CD-ROM or any other computer readable media), and in such case, any employee who has filed a return of his income to his employer shall be deemed to be return furnished u/s 139 (1).

Interest for late Filing of Return: An assessee shall be liable to pay interest u/s 234A @ 1% p.m. or part of the month for late filing of return.

Interest is calculated on the amount of tax due i.e. tax assessed on the total income less advance tax, TDS paid (if any). Period for computing interest is calculated from the date immediately following the due date for filing return of income upto the date of furnishing of return of income.

Return of Charitable Trust – Sec. 139 (4A): The trust is required to file a return if its following incomes (before exemption u/s 11 and 12) exceed the maximum amount not chargeable to tax

(i) Income from property under trust
(ii) Voluntary contributions

The return is to be filed within due date u/s 139 (1) by the representative of the trust and such return shall be deemed to have been filed u/s 139(1).

Return of Political Party – Sec. 139 (4B): If total income of a political party (before exemption u/s 13A) exceeds the maximum amount not chargeable to tax, chief executive officer shall file the return on or before due date u/s 139 (1) and such return shall be deemed to have been filed u/s 139(1).

Return of exempted entities – Sec. 139 (4C): If the total income of any research association, news agency, institution having its object the control or encouragement of the profession of law, medicine, accountancy or other specified profession or university or other educational institution or any hospital or trade union, before claiming exemption under section 10, exceeds the maximum amount not chargeable to income-tax, shall furnish a return of such income and it shall be treated that as if it were a return to be furnished u/s 139(1).

Return of various Institutions – Sec. 139 (4D): Every university, college or other institution referred in section 35, which is not required to furnish return of income or loss under any other provision, shall furnish the return in respect of its income or loss in every previous year and it shall be treated that as if it were a return to be furnished u/s 139(1).

Defective Return – Sec. 139 (9): A return is said to be defective if any of the following conditions are not satisfied:-

a) The annexure, statement and columns in the return are duly filled in.

b) Proof of TDS, advance tax or self assessment tax is attached.

c) Statement of computation of income is attached.

d) Audit report is attached including Cost audit report u/s 233 B of Companies Act (if any).

Time Limit: Rectify the defect within 15 days on receipt of intimation of defects from the Assessing Officer or such extended time allowed by Assessing Officer.

If the AO considers that return is defective he may treat the return as invalid.

E- Return – Sec. 139D: The Board may make rules providing for a class or classes of persons who shall be required to furnish the return in electronic form.

It is mandatory for Company and other assessee who are subjects to audit u/s 44AB, to file their Income Tax Return in electronic form. Other assessee may at his option file their return in E- form.

Signing of Return Form (Sec. 140)

1. Individual,

- Himself.
- If not in India by himself or by duly authorized person.
- If disabled, by his guardian.

2. HUF

- By Karta.
- If not in India or mentally incapacitated, by any adult members.

3. Company

- By MD. If not available, by any director.
- For non-resident company, by person holding valid power of attorney from such co.
- For company being wound up, by liquidator.

4. Firm: By managing partner or if not available, by any partner

5. LLP: By designated partner or if not available, by any partner

6. Local authority: By principal officer

7. Political party: By chief executive officer

8. Any other association: By any member

Return not signed as per section 140 is not a defective return; rather it is void-ab-initio.

Return Forms

Forms	Particulars
ITR- 1 (SAHAJ)	For individuals having income from salary, one house property (not being brought forward loss), income from other sources (not being wining from lottery and income from horse race)
ITR- 2	For individuals and HUF's not having income from business or profession
ITR- 3	For individuals and HUF's being partners in firms and not carrying out business or profession under any proprietorship.
ITR- 4	For individuals and HUF's having income from a proprietary business or profession
ITR- 4S	For individuals and HUF's having business income and such income is computed u/s 44AD & 44AE.
ITR- 5	Return of income for Firms, AOP's and BOI's
ITR- 6	Return of income for companies other than companies claiming exemption u/s 11
ITR- 7	Return of income- for persons including companies required to furnish u/ s 139(4A), 139(4B), 139(4C), 139(4D)
ITR- V	Where E- Return is filed without digital signature.

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PARMANENT ACCOUNT NUMBER (PAN)

In the following cases an application for allotment of PAN has to be made:

I. If return to be filled u/s 139 (4A)
II. If the total income of any person during any previous year exceeded maximum exemption limit.
III. If total sales or gross receipt are more than Rs 5 Lakhs in any P/Y

However any other person may also apply for allotment of PAN.

Time limit for making application

In case of i) and iii) above	On or before the end of financial year.
In case of ii)	On or before 31st May of the A/Y relevant to the previous year whose income exceeded the exemption limit.

Every person who has been allotted PAN shall quote it:-

1	In all returns, challans and correspondence with income tax authority	
2	Sale/purchase of Motor Vehicle other than two wheeler	
3	Sale / Purchase of any immovable property	for Rs. 5 Lakhs or more
4	Application for telephone connection including cellular connection	
5	Payment in cash in connection with foreign travel excluding travel to neighboring countries i.e. Pakistan, Nepal, Bhutan, Bangladesh, Sri Lanka, Maldives or China for Kailash Mansarover and Saudi Arabia for Haj Pilgrimage.	at any one time of exceeding Rs.25,000
6	Payment to hotels, restaurant	Bills exceeding Rs. 25,000 at any time.
7	Opening a Bank Account	
8	Time deposits with a bank or post office saving bank account	Exceeding Rs. 50,000.
9	Deposit in cash with a bank	Aggregating Rs. 50,000 or more during any one day.
10	Payment in cash for purchase of bank draft or pay orders	Aggregating Rs. 50,000 or more during any one day.
11	Contract for sale/purchase of securities	Exceeding Rs.1 Lakh.

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Tax Return Preparer

1. CBDT may frame a scheme providing specified persons to furnish their returns of Income through a Tax Return Preparer authorized to act as such under the scheme.

2. This scheme is not applicable for a company or in case of compulsory audit.

3. Scheme framed shall specify the manner in which the Tax Return Preparer shall assist the persons furnishing the return of income, and shall also affix his signature on such return.

4. The following persons are not authorized to act as Tax Return Preparer:-

(i) Officer of a scheduled bank in which the assessee has current a/c or has regular dealings or

(ii) A legal Practitioner; or

(iii) A Chartered Accountant.

5. The scheme shall provide:

- The manner in which a Tax Return Preparer shall be authorized.
- Education and other qualification to be possessed.
- Training and other conditions to be fulfilled by Tax Return Preparer.
- The code of conduct for the Tax Return Preparer.

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QUESTIONS

Q. 1 Enumerate eight transactions for which quoting PAN is mandatory.

Q. 2 What are consequences of failure to deduct tax at source or pay the tax deducted at source to the credit of Central Government?

Q. 3 What are the due dates for filing of return of income for various categories of Assessee? What are consequences of not filing return of income within due date?

Q. 4 List out the conditions for availing deduction u/s 80QQB of Income Tax Act, 1961.

Q. 5 Write short note on "Deduction in respect of royalty income on patents"

Q. 6 Discuss briefly about the deduction from Gross Total Income u/s 80GG.

Q. 7 What are the requisites for filing a revised return?

Q. 8 Write short note on "Defective Return"

Q. 9 Discuss briefly about the scheme to facilitate submission of return of income through Tax Return Preparer.

Q. 10 Short note on "Sign on Return of Income"

Q. 11 Enlist the installments of advance tax and due date's thereon in case of companies.

Wealth Tax

Chargeability-Sec.3: Wealth tax is charged for every assessment year in respect of the net wealth on the corresponding valuation date of every Individual; Hindu Undivided Family and Company at the rate of 1% of the amount by which the net wealth exceeds Rs.30 Lakhs.

Education Cess of 3% is **not leviable** on the amount of Wealth Tax.

Applicability of wealth tax:

1. Individual
2. HUF
3. Company

Valuation Date: It refers to the 31st March immediately preceding the assessment year.

By virtue of section 45, no wealth tax is chargeable in respect of net wealth of:

- **a.** Company registered U/s 25 of the companies Act, 1956
- **b.** Co-operative society and
- **c.** Any social club
- **d.** Any political party
- **e.** Any mutual fund U/s 10(23D)

CHARGEABILITY

Citizenship / Residential Status of the assessee in India	**Assets Located**		**Debts incurred on assets**	
	In India	**Outside India**	**In India**	**Outside India**
1. Individual who is Indian National and HUF **a)** Resident and ordinarily resident **b)** Resident but not ordinarily resident **c)** Non-resident	 Taxable Taxable Taxable	 Taxable Not Taxable Not Taxable	 Deductible Deductible Deductible	 Deductible Not Deductible Not Deductible
2. Individual who is a Foreign National	Taxable	Not Taxable	Deductible	Not Deductible
3. **a)** Resident company: **b)** Non-resident company.	Taxable Taxable	Taxable Not Taxable	Deductible Deductible	Deductible Not Deductible

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COMPUTATION OF NET WEALTH

Particulars	Rs.
Assets specified in Sec. 2(ea) chargeable in the hands of assessee	xxxx
Add: Deemed asset in the assessee's hands u/s 4	xxxx
Less: Aggregate value of all the debts owed by the assessee on the valuation date incurred **in relation to** the above said assets	(xxxx)
Less: Assets exempt u/s 5	(xxxx)
Net wealth as per Wealth Tax Act	xxxx

Rounding off Tax-Sec.44D: The amount of wealth tax, interest, penalty, fine or any other some payable under the Wealth Tax Act shall be rounded off to the nearest rupee.

ASSET - SECTION 2 (ea)

"Asset", in relation to the assessment year commencing on the 1st day of April, 1993, or any subsequent assessment year, means: -

a) Building: Any building or land appurtenant thereto, whether used for Residential purpose or Commercial purposes or For the purpose of maintaining a guest house [including a farm house situated within twenty-five kilometers from the local limits of any municipality)

But does not include –

1. Residential house is allotted by a company to an employee or an officer or a director who is in whole-time employment, having a gross annual salary of less than five Lakhs rupees;

2. Any house for residential or commercial purposes which forms part of stock-in-trade:

3. Any house which is occupied by assessee for purposes of any business or profession carried on by him;

4. Any residential property which is let out for a minimum period of 300 days in the previous year;

5. Any property in the nature of commercial establishments or complexes.

b) Motor Cars: Motor cars other than those used by the assessee in the business of running them on hire or as stock-in-trade

Motor Cars covers all motor vehicle other than heavy vehicles. Hence, buses, trucks, tempos are not considered as Motor Cars, However, Jeep, Sport Utility Vehicle (SUV), Multi Utility Vehicle (MUV), are classifiable as Motor Car.

c) Jewellery: Jewellery, bullion, furniture, utensils or any other article made wholly or partly of gold, silver, platinum or any other precious metal or any alloy containing one or more of such precious metals;

Exclude:
Provided that where any of the said assets is used by the assessee as stock-in-trade, the gold deposit bonds issued under the Gold Deposit Scheme, 1999 notified by the Central Government.

d) Yachts, Boats and Air crafts: Yachts, boats and aircrafts other than those used by the assessee for commercial purposes;

e) Urban Land: Urban land situated in specified area 'specified area'. This means:

- Situated within municipality, etc. which has a population of not less than 10,000 as per latest census on the first day of previous year.
- Situated within 8 kilometers from the notified local limits.

Urban land does not include -

- land on which construction of a building is not permissible under any law for the time being in force in the area in which such land is situated; or
- land occupied by any building which has been constructed with the approval of the appropriate authority; or
- any unused land held by the assessee for industrial purposes for a period of two years from the date of its acquisition by him; or
- Any land held by the assessee as stock-in-trade for a period of ten years from the date of its acquisition by him.

f) **Cash in Hand:** Cash in hand, in excess of Rs. 50,000 for individuals and Hindu undivided families and in the case of other persons, any amount not recorded in the books of account.

DEEMED ASSETS - SECTION 4

a) **Transfer to spouse/son's wife:** Assets transferred by the assessee in the following circumstances for inadequate consideration to the persons mentioned below shall be deemed as assets belonging to him for computation of net wealth.

- Assets transferred to spouse not in connection with an agreement to live apart.
- Assets transferred to a person or association of persons for immediate or deferred benefit of the transferor or transferor's spouse.
- Assets transferred to the son's wife.
- Assets transferred to a person or an AOP for immediate or deferred benefit of the son's wife.

The above assets shall be deemed to be assets of the transferor even if they are not held in the form in which they were transferred.

b) **Clubbing of minor's wealth:** The assets held by the minor child will be clubbed in the hands of parent as indicated below.

- **If the marriage subsist:** In the hands of the parent whose net wealth is greater before including the minor's asset,
- **If the marriage does not subsist:** In the hands of the parent who maintains the minor child in the relevant previous year.

Exceptions:

a. Assets held by a minor child who is suffering from any disability as specified U/s 80U of Income Tax Act, 1961.

b. Assets held by a minor married daughter

c. Assets acquired by a minor child out of the Income from manual work done by him or income from activity involving application of his skill, knowledge or experience.

d. Child means legitimate child and includes adopted children.

c) **Interest in the assets of firm or AOP:** Where the assessee is a partner in a firm or a member of an AOP, the value of interests the assets of the firm or the AOP is included in the net wealth of the assessee. Where a minor is admitted to the benefits of partnership in a firm, the value of the interest of such minor in the firm shall be included in the net wealth of the parent of the minor in the manner stated above.

d) Transfer or conversion by member of HUF: Where an individual converts his self-acquired property into property belonging to family or transfers the property to the family for inadequate consideration, it shall deemed to be the asset of the individual. If partition takes place, the converted property as received by the spouse shall be deemed to be the assets of the individual.

e) Assets transferred under a revocable transfer: The value of any assets transferred under an irrevocable transfer shall be liable to be included in computing the net wealth of the transferor as and when the power to revoke -arises to him. This implies that the value of any asset transferred under a revocable transfer shall be liable to be included in computing the net wealth.

Revocable transfer means the following transfers:

- Transfers revocable within a period of 6 years.
- Transfers revocable during the lifetime of the transferee.
- Transfers where transferor continues to derive the benefit from the asset, directly or indirectly.
- Transfer of an asset where transfer deed provides for retransfer of either income or asset to assessee.
- Transfer of an asset where the transfer deed gives the transferor assessee a right to reassume power over the asset or the income.

f) Gift by book entries: Gifts of money by book entries made in the books maintained by the assessee to any other -person with whom he has business relationship or any other relationship it shall be deemed to be his asset unless the Assessing Officer is satisfied that money has actually been delivered to the other person at the time the entries were made.

g) Impartible Estate: Holder of an impartible estate shall be deemed to be the individual owner of all the properties comprised in the estate.

h) Building allotted by Housing Society: Where the assessee is a member of a co-operative housing society or a company or any association of persons to whom a building or part thereof is allotted or leased to him under a house building scheme, the assessee is deemed to be the owner of such building or part thereof. In determining the value of such building any outstanding installments payable by the assessee to the society towards the cost of such building or part thereof shall be deductible as debts owed by the assessee.

ASSETS EXEMPT FROM TAX – SECTION 5

Wealth-tax shall not be payable by an assessee in respect of the following assets and such assets shall not be included in the net wealth of the assessee:

1. **Charitable / Religious institutions / fund / trust:** Property held under trust for public purpose of charitable /religious nature in India.

2. **Member of HUF:** Interest in coparcenary property of HUF;

3. **Ex - Ruler:**

a) **Building:** Any one building (being official residence) in the occupation of an Ex- Ruler. However let out building are not entitled for exemption.

b) **Jewellery:** Jewellery in possession of Ruler, recognized as his heirloom subject to the following conditions.

- ❖ The jewellery shall be permanently kept in India and shall not be remove outside India except for purpose and period approved by the Board;
- ❖ Reasonable steps shall be taken for keeping the jewellery substantially in its original shape;
- ❖ Reasonable facility shall be allowed to any Officer of Government authorize by Board to examine such jewellery.

In case any of above conditions are not fulfilled Board may retrospectively withdraw the recognition.

4. NRIs returning to India for permanent residence: Money/assets brought by person of Indian origin/citizen of India (returning from abroad for permanent residence) into India and assets acquired out of such money within one year preceding date of return and at any time later. Such exemption is available for **7 successive assessment years** from the date of his arrival in India. The money standing to the credit of such person in NR (E) account would also be eligible for such exemption. An asset acquired out of such balance in NR (E) account gets exempted is the same manner;

5. Individual / HUF: In case of an Individual or a HUF-

a) A house or a part of house; or

b) A plot of land not exceeding 500 sq. meters in area.

REFERANCE TO VALUATION OFFICER

The Assessing may refer valuation of any asset under the following circumstances:

I. In a case where the value of the asset is returned (adopted) on the basis of the estimate by a registered valuer which in the opinion of the Assessing Officer is less than the fair market value(FMV).

II. In any other case, if the Assessing Officer is of the opinion:

- ❖ That the fair market value of the asset exceeds by 33 1/3% or Rs. 50,000/over the value of such asset as adopted by the assessee; or
- ❖ That having regard to the nature of the asset and the other relevant circumstances, it is necessary to make a reference.

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Questions

Q. 1 The following is the summarized Balance Sheet of Rs Pvt. Ltd. as on 31.03.2012:

Liabilities	Rs	Assets	Rs	Rs
			Market Value	Schedule III Value
Paid up Capital	90,00,000	Plant & Machinery	12,00,000	10,00,000
Reserves	20,00,000	Motor Car	2,00,000	1,50,000
Creditors	20,10,000	Helicopters for Business purpose	68,00,000	50,00,000
Secured & Unsecured Loan	16,00,000	Factory Plot (purchase on 02.01.05)	14,00,000	20,00,000
		House used for Director 1 Residence	12,00,000	6,00,000
		House used for Director 2 Residence	18,00,000	28,00,000
		Jewellery	8,00,000	14,00,000
		Shares	10,00,000	15,00,000
		Cash in hand	60,000	60,000
		Cash at Bank	1,50,000	1,50,000
Total	**1,46,10,000**	**Total**	**1,46,10,000**	**1,46,60,000**

Additional Information:

1. Gross annual salaries of Directors 1 and 2 are Rs. 4,80,000 and Rs. 6,00,000 respectively.
2. Loans of Rs. 16,00,000 represent Rs. 2 Lakhs for machinery, Rs. 4 Lakhs for factory plot and Rs. 10 Lakhs for helicopters.
3. The factory plot is within municipal limits.

Compute the net wealth of the company as on 31.03.2012 and the wealth tax payable.

Answer: Net Wealth: Rs 69,50,000, Wealth Tax Payable: Rs 69,500

Q. 2 Who are the persons/entities to whom Wealth Tax is not applicable u/s 45 of Wealth Tax Act?

Q. 3 Under what circumstances can Assessing Officer make a reference to the Valuation Officer for the purpose of making an assessment under the Wealth Tax Act?

Q. 4 What are the assets defined in Section 2(ea) of the Wealth Tax Act?

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Q. 5 Royal Construction Ltd., engaged in promoting resident houses; flats, etc. furnishes the following particulars of its wealth as on 31st March 2012

Particulars	Rs.
Land in rural area (within 7 kms. from the local limits of a municipality) on which construction is permissible	45,00,000
Land in urban area (on which construction is not permitted)	35,00,000
Land in urban area (held as stock-in-trade for 8 years)	35,00,000
Motor cars (including one imported car worth Rs. 5 Lakhs)	12,00,000
Gold Jewellery	21,00,000
Shares in private limited companies	9,20,000
Cash at bank	2,30,000
Guest house and land appurtenant thereto in rural area	12,00,000
Cash at hand	45,00,000
Residential Quarters for workers	25,00,000
Residential flats of identical size provided to three employees near factory in rural areas (Salaries of one such employee exceed Rs. 5,00,000 p.a.)	27,00,000
Residence provided to Managing Director, whose salary is Rs 8,00,000 p.a	22,00,000
Flats constructed remaining unsold	40,00,000
The company has taken the following loans:	
For purchase of gold jewellery	10,00,000
For flats constructed remaining unsold	10,00,000

Compute the Company's net wealth as on 31.3.2012 with brief note on treatment of each item.

Answer: Rs 1,11,00,000

Q. 6 Ramesh furnish the following particulars for computation of his wealth tax return pertaining to the assessment year 2012-13.

Particulars	Rs.
Flat purchased under installment payment scheme in 1998 for Rs 8,50,000 used for self occupation and market value on 31st march 2012	15,00,000
Gift of jewellery made to wife from time to time amounting to Rs 5,00,000 and market value as on 31st March 2012	9,00,000
Cash at hand	1,25,000
Bank Balance with HDFC Bank	2,50,000
Urban land transferred to minor handicapped child, market value as on 31st March, 2012	5,00,000
2 motor cars (one is held as stock-in-trade in business and other used for personal purposes)	12,00,000
Loan against flat being installment remaining unpaid	70,000
Wealth-tax liability outstanding	10,000

Compute the net wealth of Ramesh indicating reasons for the treatment under the provisions of the Wealth-tax Act, 1957 and the wealth-tax payable.

Answer: Net Wealth Rs 23,55,000, Nil

Q. 7 What is the effect of transfer of assets to AOP otherwise than under irrevocable transfer under Wealth Tax Act 1957?

Q. 8 Write short note on residential status vis-à-vis inclusion of foreign assets and debts as per Section 6 of Wealth Tax Act 1957.

Q. 9 From the following particulars compute the net wealth of A as on 31.3.2012 and the wealth tax payable, showing the treatment of each item separately.

Particulars	Rs.
Self-occupied residential house	3,00,000
Let out residential house (let out for more than 300 days)	5,00,000
Cars	13,50,000
Gold ornaments of wife:	
a) Given by her father at the time of marriage b) Gifted by the assessee	4,00,000 8,00,000
Gold ornaments purchased for daughter's marriage in advance	12,00,000
Cash in hand	70,350
Cash at bank	8,000
Equity shares in Indian companies	2,00,000
Fixed Deposit with bank	1,00,000
Balance with PPF	5,00,000
Loan taken for car purchase still outstanding	50,000
Loan taken on the security of house for the purchase of a) Equity shares b) Gold ornaments	50,000 2,50,000
Loan taken on security of gold for investment in rural land (FMV on 31.03.12 of land was Rs 1,70,000	1,00,000
Income tax liability	10,000

Answer: Net Wealth Rs 30,70,350, Rs 704

Q. 10 On the basis of the information given below regarding Mr. A.K. Jain a farmer of Jaipur, as on 31st March, 2012, compute his net wealth for the relevant Assessment Year:

Particulars	Rs.
Agricultural land in	
a) Jaipur City b) a village, 20 km. beyond Jaipur City limits	5,00,000 2,00,000
House property:	
a) Residential house in Jaipur City b) Farm house at a distance of 3 km from the village where agricultural land is situated	6,00,000 4,00,000
Growing crops and fruits on trees on the above agricultural land	70,000
Trees standing on agricultural	80,000
Animals at dairy farm	1,00,000
Tractor for farming	1,50,000
Tools and implements	25,000
Truck for transport of agricultural goods	3,50,000
Grains in godowns	1,25,000
Carts and horse	25,000
Gold ornaments	9,00,000
Cash in hand	75,000
liability for Income Tax	20,000
liability for ornaments purchased	50,000
Amount due for purchase of house at Jaipur City	1,00,000

Answer: Net Wealth Rs 20,25,000

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Q. 11 Mr. P, a citizen of India, has been residing in the USA, but returns to India on 17.8.2011 for permanently residing in India. Discuss his Wealth-tax liability in the following cases:

a) He brought Rs.15 Lakhs (in Dollars) with him and purchased 2 cars at Rs. 8 Lakhs and Rs. 7 Lakhs, one for his business and the second one for personal use respectively,

b) He had sent Rs. 20 Lakhs on 03.05.2009 and purchased a residential house in Delhi on 17.05.2009.

c) He had remitted Rs. 10 Lakhs to India on 1.9.2010 and purchased jewellery with the sum on 17.9.2010.

Q. 12 X Ltd. is a company carrying on business in the construction and sale of residential flats. It furnishes the following data. Compute Net Wealth of the company as on 31.03.2012 and the wealth tax payable.

Particulars	**Market Value Rs.**
1. Land in rural area (it is within 5 kilometers of Ajmer; construction is permissible: land was purchased in 1988)	92,78,000
2. Land in urban area (construction not permitted)	23,00,000
3. Land in urban area (held as stock in trade since 2001, construction will be commenced during April 2012	49,50,000
4. Cars (none of them held as stock in trade)	11,30,000
5. Jewellery	18,00,000
6. Aircraft for use of Directors and Auditors	1,58,00,000
7. Bank Balance	3,10,000
8. Cash in hand as per cash book	1,70,000
9. Guest house and land appurtenant thereto situated in rural area	8,00,000
10. Residential flats of identical size provided to 6 employees near factory which is situated in rural area (salary of two of them exceeds Rs. 5,00,000)	15,00,000
11. Residence provided to Managing Director (salary exceeds Rs. 5,00,000)	10,00,000
12. Flats constructed and remaining unsold	30,00,000
13. Residence provided to a whole-time director (gross annual salary Rs. 4,20,000, director owns 25 % equity share capital)	17,00,000
14. Three let out residential houses given on rent (value of each being Rs. 50 Lakhs; one of them is let out for 9 months during 2011-12)	1,50,00,000
15. Company has taken a loan of Rs. 6,00,000, Rs. 7,00,000, Rs. 50,000 and Rs. 90,000 for acquiring property numbers 5, 6, 12 and 13 respectively.	

Answer: Net Wealth Rs 3,40,08,000 Rs 3,10,080

Q. 13 A child artist acting in films amassed a wealth of Rs 20 Lakhs over a few years which was held in the form of shares by his father. The shares were sold in 2008-09, resulting in a capital gain of Rs 15 Lakhs, which was invested in a plot of land. The Wealth Tax Officer proposes to include the value of the plot of land in net wealth of father under Section 4(1). Is this in order?

Q. 14 A company incorporative outside India is not liable to Wealth Tax. Discuss.

Q. 15 Under Wealth Tax Act, what is the scope of taxation of an individual not residing in India?

SERVICE TAX

Applicability

- Tax Reforms Committee headed by Dr. Raja J. Chelliah recommended the introduction of Service Tax in 1990.

- Service Tax came into force from 1.7.1994. Service Tax is imposed under Finance Act 1994 (as amended from time to time) by then Union Finance Minister Dr. Manmohan Singh.

- At that time only three services were taxable (Telephone, General Insurance, and Stock Broking) @ 5%. Presently 119 services are taxable.

- Service tax extends to the whole of India **except the state of Jammu and Kashmir.** Services provided in the State of Jammu and Kashmir are not liable to service tax.

- Service tax will not be payable only if service is provided in Jammu & Kashmir. However, if a person from Jammu & Kashmir provides the service outside Jammu & Kashmir in any other part of India, the service will be liable to service tax, as the location where service is provided is relevant. Merely because the office of the service provider is situated in Jammu & Kashmir, it does not mean that service is provided in Jammu & Kashmir.

- Service tax is payable at 10% plus education cess of 2% plus SAH education cess of 1% on taxable services as defined in various clauses of section 65(105) of Finance Act 1994.

- Service Tax is leviable on taxable service provided or to be provided by a service provider.

- No service tax is leviable upon the services provided free of cost even on taxable services.

- Levy of service tax extends to services rendered in designated areas in the continental shelf and exclusive economic zone. The 'exclusive economic zone' extends up to 200 nautical miles inside the sea from base line.

- Service provided within territorial waters will be liable to service tax as 'India includes territorial waters. Indian territorial waters extend up to 12 nautical miles from the Indian land mass.

- CENVAT credit is available of inputs, input services and capital goods used for providing taxable output services.

Amendments in the Finance Bill: Amendments made in the Finance Bill in respect of Service tax matters become effective from the date when the relevant Finance Bill gets the assent of the President and it becomes and Act **(08/04/2011)**. Further, new services which are introduced shall become taxable when these services are notified or from the date mentioned in such Notification **(01/05/2011).**

Governing Provisions

There is no Service Tax Act**.** The provisions pertaining to service tax are given in Chapter V and VA of Finance Act 1994 as amended from time to time. The rules which may be noted are as follows.

- Service Tax Rules 1994
- CENVAT Credit Rules 2004
- Export of Service Rules 2005
- Service Tax (Registration of Special Category of Persons) Rules 2005
- Service Tax (Determination of Value) Rules 2006
- Taxation of Services (Provided from outside India and received in India) Rules 2006
- Service Tax (Advance Rulings) Rules 2003
- Service Tax (Publication of Names) Rules, 2008
- Works Contract (Composition Scheme for Payment of Service Tax) Rules 2007
- Point of Taxation Rules 2011

Person liable to pay Service Tax

In most of the cases, service provider is liable to pat service tax. However in few cases, exceptions have been made and service receiver is made liable to pay service tax. The provision that service receiver is liable to pay service tax is known as **Reverse Charge**.

The exceptions are as follow-

	Nature of the Service	Service Provider	Service Receiver	Person liable to pay tax
1	Service of insurance agents	Insurance agent	Insurance Company	Insurance Company
2	Service provided to a person in India from outside India.	Person outside India	Person in India	Person in India
3	Goods transport agency for transport of goods by road. **Except** in case of service receiver is individual or HUF	Goods transport agency (GTA)	Consignor or consignee who pays freight.	Consignor or consignee who pays freight.
4	Agent of Mutual Fund	Mutual fund distributor or agent	Mutual Fund company	Mutual Fund company
5	Sponsorship service	Any person	Body Corporate or Firm	Body Corporate or Firm
6	Telecommunication Services	---	---	Director- General of Post & Telegraph**, or** Chairmen-cum-MD, MTNL **or** Any other person who has been granted license by Central Government

VALUATION

Service tax is payable on gross amount charged by service provider for service provided or to be provided. Thus tax is payable as soon as advance is received. Section 67 contains comprehensive provisions for valuation of taxable services for the purpose of levy of service tax. Valuation for service tax purpose would be as under in following conditions:

S. No	Situation	Value shall be-
1	Where consideration is in money	Gross amount charged by service provider
2	Where the consideration is not wholly in money	Such amount in money (i.e. FMV) **+** service tax, as equivalent to the consideration
3	Where consideration is not ascertainable	Amount as may be determine as per Service Tax (Determination of Value) Rules, 2006

Where gross amount is inclusive of service tax: Assessee has to calculate service tax based on reverse working. Such as:

Value of taxable service = $\frac{\text{Gross Amount x 100}}{110.30}$

Service Tax payable = $\frac{\text{Gross Amount x 10.30}}{110.30}$

Note- Out of pocket expenses is included in AV, if it is charged in invoice, otherwise not.

Example: Hotel Bill will be included in Gross Amount, only if it is charged in service invoice, otherwise not.

Gross Amount: Gross amount will include any amount received towards taxable service; *before, during or, after,* provision of such service.

Free Services: Free services are not taxable even if service render is taxable as per Service Tax Rules.

Reason for non taxability of free services ?????????

Goods/Material sold by Service Provider is Exempt: Exemption is restricted to the value of goods and materials sold by service provider to service receiver ie this exemption is available only in respect of "Sale". If certain good and material are consumed:

a) For providing taxable service or

b) During the course of providing taxable service

Then, the value of such good/material will not be exempt and will form part of value of taxable services.

Example: Cosmetics consumed during beauty parlor service.

Date of Determination of Rate- w.e.f 1st April 2011, The rate of tax in case of services provided or to be provided, shall be the rate prevailing at the time when the services are deemed to have been provided under the rules made in this regards.

Time Limit for Issue of Invoices: Every person providing taxable services shall within 14 days from the date of completion of such taxable service or receipt of any payment towards the value of such taxable service, whichever is earliest, issue an invoice/ bill in respect of such taxable service.

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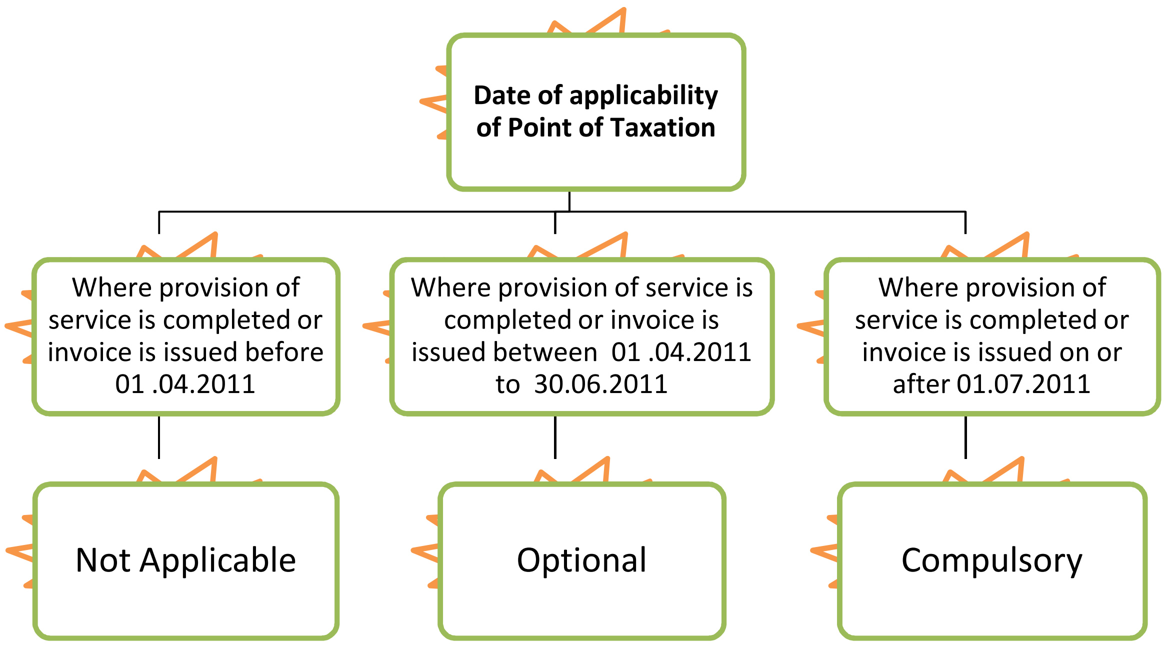
POINT OF TAXATION RULES, 2011

Applicability: These rules have become effective from 1st April 2011. However, an option has been given in Rule 9 wide Notification No. 25/2011-ST to pay tax on payment basis till 30th June 2011.



Point of Taxation: It means time when service will be deemed to be provided. Point of taxation will be earliest of the followings-

a) Date of issue of invoice, if such invoice is issued within 14 days of completion of service

b) Date of completion of service, if such invoice is not issued within 14 days as aforesaid.

c) Date on which the payment is received by the service provider.

Normal Situations

Situation	Point of Taxation	Relevant Rule
Invoice is issued before completion of service and receipt of payment	Time of issue of invoice	Rule 3 (a)
Service is completed and invoice is issued within 14 days	Time of issue of invoice	Rule 3 (a)
Service is completed and invoice is not issued within 14 days	Date of completion of service	Rule 3 (a)
Payment is received in advance before issue of invoice or completion of service	Date of receipt of payment to the extent of such payment	Rule 3 (b) read with Explanation to Rule 3

Date of Completion of Service: Date of completion of Service in “Normal Situation” would mean the completion of service in every respect.

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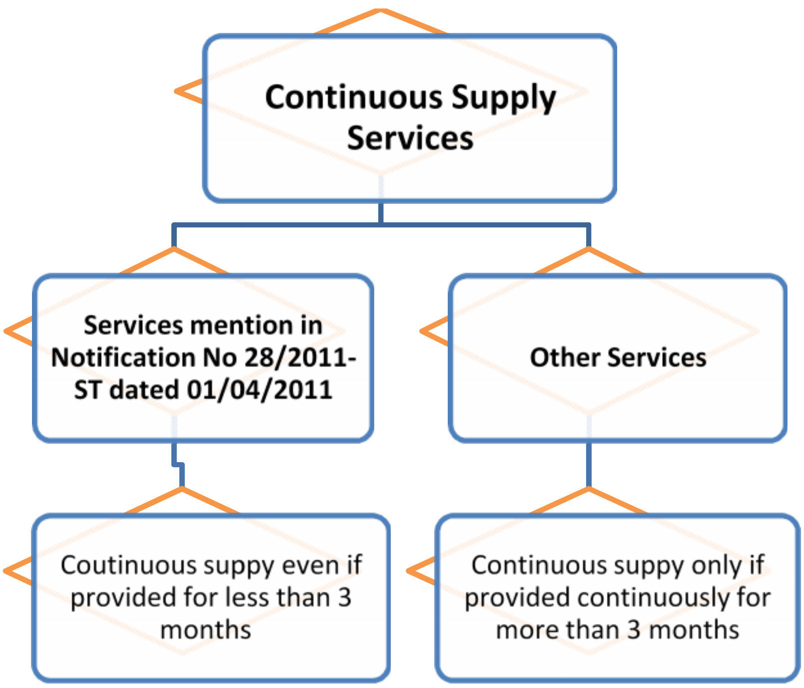
Continuous Supply Service: It means any service provided or to be provided for a period exceeding 3 months (Three months).

Further Notification No. 28/2011 – ST dated 01/04/2011 notifies following services as "Continuous Supply Services"

- **a)** Telecommunication Service
- **b)** Commercial or Industrial Construction Service
- **c)** Construction of Residential Complex Service
- **d)** Internet Telecommunication Service
- **e)** Works Contract Service

These notified services will constitute "Continuous Supply Services" irrespective of the period for which they are provided or agreed to be provided. Other services will be considered as continuous supply only if they are provided or agreed to be provided continuously for a period exceeding three months.



Continuous Supply Service

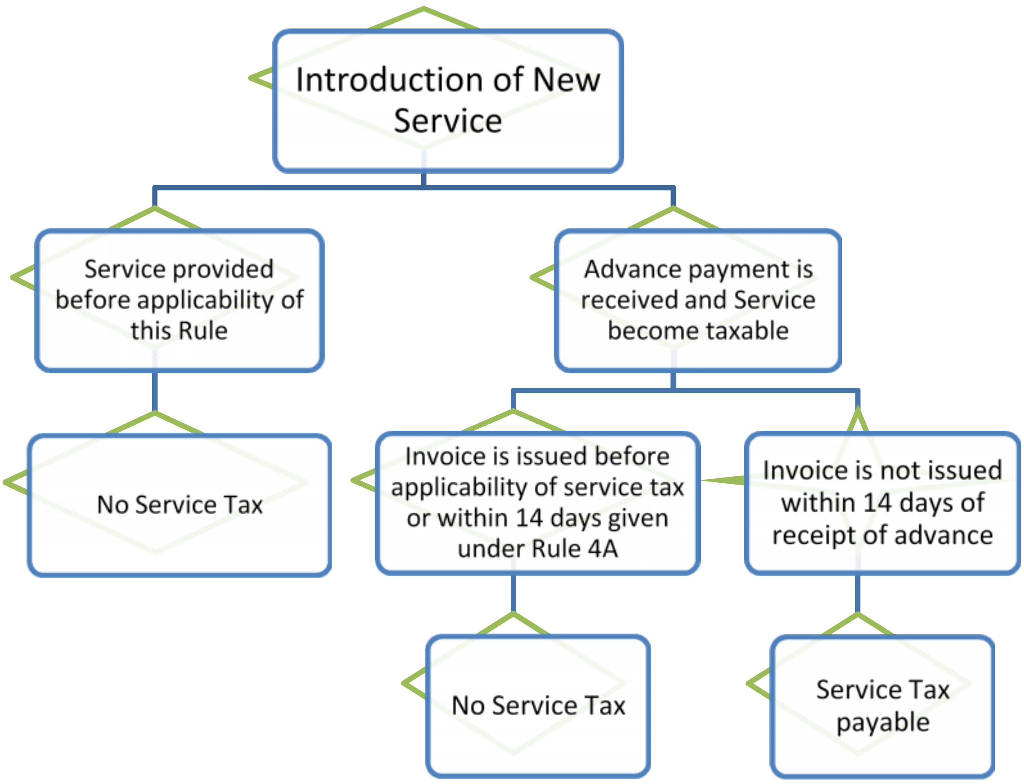
Situation	Point of Taxation	Relevant Rule
Invoice is issued before completion of service and receipt of payment	Time of issue of invoice	Rule 6 (a)
Service is completed and invoice is issued within 14 days	Time of issue of invoice	Rule 6 (a)
Service is completed and invoice is not issued within 14 days	Date of completion of service	Rule 6 (a)
Payment is received in advance before issue of invoice or completion of service	Date of receipt of payment to the extent of such payment	Rule 6 (b) read with Explanation to Rule 6

Date of Completion of Service: Date of completion of Service in "Continuous Supply Service" be the date of completion of the specified event stated in the contract which obligates payment in part or whole for the contract. **Example**- Monthly payment of phone bill is completion of an event of such service.

Determination of Point of Taxation in case of specified services or persons:

In respect of:	Point of Taxation
Export of Services	Point of taxation shall be the date on which payment is received. However is payment is not received within period specified by RBI, the point of taxation will be determined, as if this rule does not exist.
Reverse Charges u/s 69 (2)	Point of taxation will be the date on which payment is made. However where payment is not made within 6 months of date of invoice, the point of taxation will be determined, as if this rule does not exist.
Individuals or proprietary firms or partnership firms providing the following taxable services: **a)** Consulting Engineer **b)** Interior Decorator **c)** CA/CS/CWA **d)** Scientific or Technical Consultant **e)** Legal Consultant	Point of taxation will be date on which payment is received.
If, in case of **associated enterprises** service provider is located outside India	Point of taxation will be the date of credit in the books of account of the person receiving the service or date of making payment, whichever is earlier.

Determination of Point of Taxation in case of introduction of new service:



Determination of Point of Taxation in case of change of Service Tax Rate:

Situation	Service provided before change in effective rate of tax	Service provided after change in effective rate of tax
Invoice raised after change in rate Payment made after change in rate	Date of payment/ date on invoice, whichever is earlier	Date of payment/ date of invoice whichever is earlier
Invoice raised before change in rate Payment made after change in rate	Date of issue of invoice	Date of payment
Invoice raised after change in rate Payment made before change in rate	Date of payment	Date of issue of invoice
Invoice raised before change in rate Payment made before change in rate	Date of payment/ date on invoice, whichever is earlier	Date of payment/ date on invoice, whichever is earlier

REGISTRATION

Every person who is liable to pay service tax shall apply in Form ST-1 for registration to *Superintendent of Central Excise* within a period of 30 days from the date of commencement of business or from the date on which Service Tax is levied.

Multiple Premises: Where an assessee is providing a taxable service from more than one premises or office and has centralized billing **or** accounting systems, he may at his option, register such premises from where such centralized billing or accounting systems is done.

The registration shall be granted by *Commissioner of Central Excise* in whose jurisdiction the premises or office where centralized billing or accounting done is located.

Where an assessee is providing a taxable service from more than one premises or office and does not have centralized billing or accounting systems, he shall make separate application for registration in respect of each of such premises or office.

Note:

- **a)** Centralized Registration can be done only when there is Centralized Billing **or** Accounting systems
- **b)** Centralized Registration shall be granted by Commissioner whereas normal registration is granted by Superintendent of Central Excise.

Multiple Services: Where an assessee is providing more than one taxable service**,** he may make a single application, mentioning therein all taxable services provided by him. It is compulsory for assessee, who is providing more than one taxable service, to take only one single registration.

Documents for Registration

An application for registration has to be accompanied along with the following documents:

1. Application in Form ST1in triplicate duly signed
2. Attested Copy of the PAN Card
3. Proof of Address of the premises which is required to be registered
4. Copy of the Document governing the constitution of the organization (Partnership deed in case of a partnership firm, Memorandum of Association in case of a company etc.)
5. Authority Letters in favor of the person who is to collect the registration certificate on the Letter head of the organization applying for registration.
6. Power of Attorney in case the documents are signed by an authorized representative.

Certificate of Registration

Superintendent shall after verification of application/intimation, grant a certificate of registration in form ST-2, within seven days from the date of receipt of application/ intimation. If the registration certificate is not granted within said period, the registration applied for shall be deemed to have been granted.

Where there is a change in any information furnished by assessee in Form ST-1 at the time of obtaining registration or he intends to furnish any additional information, such change or information shall be intimated, in writing by assessee to AC/DC within 30days of such change.

Service Tax Code: The Service Tax Code is a digit alphanumeric code. First 10 digits will be 10 character PAN issued by Income Tax authorities. Next two characters will be 'ST' or 'SD'. Last three will be numeric code 001, 002,003 etc. Last three numeric code will represent number of premises of assessee.

Transfer of business: Registration Certificate is non transferable, so new registration is necessary if Ownership is transferred.

Why new registration is necessary????????

Surrender of Registration Certificate: Registration Certificate should be surrendered to the Superintendent of Central Excise on the closure of business. The Superintendent of Central Excise shall ensure the realization of dues from the assessee and then cancel the registration.

There is no statutory requirement for the assessee to make an application for surrender of certificate. Non surrender of certificate does not attract any penalty. However, the Assessee should furnish half yearly returns even if no service is provided.

SERVICE TAX EXEMPTIONS

1. Service Provider: Services provided by the following are exempt:

- Reserve Bank of India (RBI)
- Small service Provider (SSP) (upto a turnover of Rs.10 Lakhs)
- Entrepreneur in Technology Business Incubator (TBI)
- Entrepreneur In Science and Technology Entrepreneurship park (STEP)

2. Service Receiver: Service provided to the following are exempt:

- Reserve bank of India(RBI)
- Developers of Special Economic Zone (SEZ)
- Unit in SEZ
- United nations, International organizations, Foreign Diplomatic missions

SMALL SERVICE PROVIDER (SSP)

Small Service Providers means a service provider the aggregate value of taxable services rendered by whom from one or more premises did not exceed Rs. 10 Lakhs in preceding year (i.e. 2011-12). They will be 100% exempt from service tax in next financial year (i.e. in 2012-13) upto the turnover of Rs.10 Lakhs. Only condition is that, they can't use CENVAT Credit upto turnover of Rs 10 Lakhs.

On crossing the exemption limit of Rs.10 Lakhs, Service Tax is payable at the usual rate and CENVAT Credit can also be availed.

However, if value of taxable turnover exceeds Rs 10 Lakhs in 2012-13, there will be not exemption at all in 2013-14.

SSP provision is optional, so a Service Provider may not opt for the exemption. In this case he can avail CENVAT Credit on full turnover. This option is irreversible till the end of that financial year.

For SSP, Registration is necessary only if the turnover exceeds Rs.9 Lakhs.

However the above exemption shall not apply to:

- Taxable services provided by a person under a brand name or trade name, whether registered or not, of another person; Or

- Where service tax is payable by the service recipient instead of service provider (Reverse Charge).

PAYMENT OF SERVICE TAX

Service tax had to be paid on a monthly / quarterly basis depending upon the status of assessee.

Assessee	Duration of Payment	Due Date	Due date for the month of March and Quarter ending March
Individuals and Firms	Quarterly	5th of the month following the Quarter ended June, Sep, Dec.	31st March
Others	Monthly	5th of the following Month	31st March
e-payment	-----	6th of the following Month	31st March

- ❖ If the last date for paying tax is a public holiday, tax may be paid on the next working day.
- ❖ Tax is paid through GAR – 7 Challan.
- ❖ Date of presentation of cheque to bank shall be deemed to be the date of payment of service tax. (subject to realization of the cheque)

E- Payment - E-payment is mandatory for assesses who has paid Service tax of Rs 10 Lakhs or more, in the preceding financial year (either in cash or by utilizing CENVAT Credit or both). Where tax is paid through e-payment on last date, it should be paid by 8 p.m. if the same is paid later than 8 p.m. on last date, it will be deemed to have been paid on the next date.

However, there is no bar for other Assessee to pay their tax electronically. In other words, other Assessee may also pay their service tax through e-payment, if they choose to do so.

Rounding off of tax: The payment of service tax should be round of in multiple of Rupees. Where such amount includes 50 paisa of more it should be increased to one rupee and if it is less than 50 paisa it should be ignored.

Adjustment of Service Tax [Rule 6(3), w.e.f 1-4-2011]:

Where an assessee has issued an invoice, or received any payment, against a service to be provided which is not so provided by him either wholly or partially for any reason **or** where the amount of invoice is renegotiated due to –

- ❖ deficient provision of service, or
- ❖ any terms contained in a contract,

the assessee may take the credit of such excess service tax paid by him, if the assessee -

(a) has refunded the payment or part thereof, so received for the service provided to the person from whom it was received; **or**

(b) has issued a credit note for the value of the service not so provided to the person to whom such an invoice had been issued.

Clarification by Department: If the amount of invoice is renegotiated due to deficient provision or in any other way changed in terms of conditions of the contract (e.g. contingent on the happening or non-happening of a future event), the tax will be payable on the revised amount provided the excess amount is either refunded or a suitable credit note is issued to the service receiver. *However, concession is not available for bad debts.*

ADVANCE PAYMENT OF SERVICE TAX*:* Every person liable to pay service tax, may, on his own volition, pay an amount as service tax in advance and adjust the amount so paid against the service tax which he is liable to pay for the subsequent period. However, the assessee shall, -

(a) intimate the details of the amount of service tax paid in advance, to the jurisdictional Superintendent of Central Excise within 15 days from the date of such payment; and

(b) Indicate the details of the advance payment made, and its adjustment, if any in the subsequent return to be filed.

ADJUSTMENT OF EXCESS PAYMENT OF SERVICE TAX: Where an assessee has paid to the credit of Central Government any amount in excess of amount required to be paid towards service tax liability for a month/quarter, the assessee may adjust such excess amount paid by him against his service tax liability for the succeeding month/quarter, subject to the following conditions -

(a) excess amount paid is on account of reasons not involving interpretation of law, taxability, classification, valuation or applicability of any exemption notification,

(b) excess amount paid by an assessee having Centralised Registration, on account of delayed receipt of details of payments towards taxable services may be adjusted *without monetary limit,*

(c) in cases other than specified in (b) above, the excess amount paid may be adjusted with a monetary limit of Rs 2 Lakhs for a relevant month/quarter, ***(amended w.e.f. 1-4-2011)***

(d) the details and reasons for such adjustment shall be intimated to jurisdictional Superintendent of Central Excise within a period of 15 days from the date of such adjustment**.**

RECOVERY OF SELF- ASSESSED TAX w.e.f 1/04/2011**:** Where amount of service tax payable has been self-assessed u/s 70(1), but not paid, either in full or part, the same will be recoverable along with interest without issuing of show-cause notice i.e. direct recovery of tax has been permitted.

INTEREST ON DELAY IN PAYMENT OF SERVICE TAX:

Delay in payment of tax attracts interest @ 18% p.a. The interest shall be payable for the period by which payment of tax is delayed. The said period commences from the day following the due date and ends on the day of payment.

However in the case of a service provider, whose value of taxable service provided in a financial year does not exceed Rs 60 Lakhs-

- **a)** during any of the financial years covered by the notice or
- **b)** during the last preceding financial year, as the case maybe,

such rate of interest will be reduced by 3 % i.e. 15 % (w.e.f 08/042011)

SERVICE TAX RETURN

Every person liable to pay Service Tax shall himself assess the tax due on services provided by him and shall furnish Half yearly Return in Form ST-3 within 25 days of the end of the half year i.e. **25th October** for half year ending 30th September; and **25th April** for half year ending 31st March.

If the due date is a public holiday then the return should be filed on the next working day.

Filing of return within the prescribed time limit is compulsory, even if it may be a **nil** return, failing which penal action is attracted.

Return should be accompanied by GAR-7 Challans, evidencing payment of tax.

Assessee has to file return in form ST – 3 A, if assessment is done on provisional basis.

Assessee	Authority to whom filed	Duration	Form	No. of copies	Due Date
All Assessee	Superintendent	Half – Yearly	ST-3	Triplicate	25 Oct & 25 April
Input Service Distributer	Superintendent	Half – Yearly	ST-3	Single	31 Oct & 30 April

First Service Tax Return: Every assessee has to submit following documents along with the First Service Tax Return.

- All the records prepared or maintained by assessee in respect of any service whether taxable or exempted.
- All other financial records maintained by him in the normal course of business.

E- Return – w.e.f 01/10/2011, E-filing of Returns is mandatory for all assessee. E- return can be filed through ACES website (www.aces.gov.in)

Revised returns: Revised returns may be filed within 90 days from the date of filing of original return.

PENALTY FOR DELAY IN FURNISHING RETURN

Period of Delay	Late Fee
Up to 15 days	Rs.500
16 days to 30 days	Rs.1,000
More than 30 days	Rs.1,000 plus Rs.100 per day (from the 31st day) till date of filing returns (Max Rs.20,000)

If tax payable is NIL and there is a reasonable cause for not filing the return, the penalty may be waived or reduced by the Central Excise Officer.

MAINTENANCE OF RECORDS

No separate form has been prescribed. The records (including computerized data) as maintained by an assessee in accordance with the various laws in force from time to time shall be accepted. They should be preserved for a period of five years. They should be made available for inspection by departmental officers.

PROVISIONAL ASSESSMENT

An assessee can request for provisional assessment in following circumstances-

a) Assessee is unable to determine value of Taxable Services on non availability of any document or information.

b) Assessee is unable to determine rate of tax applicable.

In aforesaid cases, assessee may request AC/DC in writing giving reasons for provisional assessment of duty. Department cannot itself order provisional assessment. After such request, AC/DC may by order allow payment of tax on provisional basis. After final assessment excess or deficit of tax will be adjust with interest. Refund is subject of provision of unjust enrichment.

Assessee has to file return in form ST – 3 A, if assessment is done on provisional basis. Provisions of Central Excise Rules in respect of provisional assessment are applicable, but there is no requirement of any bond in provisional assessment under Service Tax.

PENALTIES

	Nature of Violation	**Penalty**
1	Failure to pay Service tax	Not less than Rs.100 per day of default **or** 1% per month of tax whichever is higher. In no case penalty can exceed 50% of Service Tax payable.
2	Suppression of Value	100% to 200% of duty sought to be charged.
3	Failure of registration	Rs.5000 **or** Rs.200 per day whichever is higher from the first day after due date till the day of actual compliance.
4	Failure to furnish information called by **or** Failure to appear before Central Excise Officer.	Rs.5000 **or** Rs.200 per day whichever is higher from the first day after due date till the day of actual compliance.
5	Failure to maintain books of accounts.	Maximum Rs.5000
6	Fails to pay through e-payment	Maximum Rs. 10,000
7	Where no penalty is mentioned	Maximum Rs. 10,000

SUMMARY OF NON TAXABLE SERVICES

	Name of Service	Service Exempt
1	Practicing CA/CS/CWA	Now no exemption available to them w.e.f 1st May 2011
2	Consulting Engineer	Cess paid on transfer of technology under R&D Cess Act.
3	Technical testing & analysis	Testing of human or animals and testing of water, new drugs
4	Architect/ Interior decorator	Setting/design temporary structure/set for shooting
5	Commercial Construction	Road, airport, railway, transport terminal, bridge, tunnel
6	Residential Construction	Complex constructed by a person directly engaging any other person for use as residence. Complex having upto 12 houses.
7	Cargo handling	Export cargo, passenger baggage, handling of agricultural products and goods to be stored in cold storage.
8	Storage/Warehousing	Handling of agricultural products and goods to be stored in cold storage.
9	Goods Transport Agency	Transport of fruits, vegetables, eggs or milk
10	Banking/Financial Services	Service provided to Govt. of India in relation to collection of duties.
11	Pipeline transport service	Transport of water through pipeline.

ABATEMENT ALLOWED IN VARIOUS SERVICES

	Name of service	% of Abatement	Taxable % of Gross Amount
1	Goods Transport Agency (GTA)	75	25
2	Tour Operator	75	25
3	Residential Construction	75	25
4	Commercial or industrial Construction	67	33
5	Erection, commissioning/installation	67	33
6	Rent- a-cab	60	40
7	Outdoor catering service	50	50
8	Mandap keeper Service	40	60

Conditions for Availing benefit of Abatement in all services except GTA:

1. No credit of duty paid on inputs or capital goods or inputs services used for providing such taxable service has been taken under provision of CENVAT Credit rules 2004 and

2. Value of taxable service shall be computed after excluding value of goods and material sold to service recipient while rendering service and documentary evidence thereof is produced.

IMPORT AND EXPORT OF SERVICES

Import of Services: If any service specified in section 65(105), is imported by a person (i.e., recipient) who has his place of business/fixed establishment/permanent address or unusual place of residence in India then It will be treated as if recipient himself has provided the services in India and it will be chargeable to tax in his hand instead of the service provider.

However, if the recipient of the service is an individual, such service shall not be taxable unless it has been received by him in any business or commerce.

Export of Services: A service shall be considered as Export if following conditions are satisfied-

1. Service should be performed from India and used outside India,

2. Payment for such service should be received in Convertible Foreign Exchange.

The service provider who exports his service in accordance with the Export of Service Rules 2005 would not have to pay service tax on such exports. Moreover, Rule 5 also provides the facility for the government to grant rebate by a notification through which rebate of service tax paid (if any) on such taxable service or service tax or duty paid on input services or inputs used in providing such taxable service can be allowed subject to conditions prescribed being met.. Another option would be that of refund in accordance with Rule 5 of CENVAT Credit Rules 2004.

ADVANCE RULING

It means to determine the question of law or fact regarding the liability to pay duty, in relation to *service proposed to be provided/*activity proposed to be undertaken(in excise and custom), by the authority.

Applicability: The advance ruling pronounced by the Authority shall be binding only on the applicant who had sought it in respect of any matter referred to in the application. The advance ruling shall be binding as aforesaid unless there is a change in law or facts on the basis of which the advance ruling has been pronounced.

Matters on which Advance Ruling can be obtained:

	Excise	**Custom**	**Service Tax**
1	Classifications of goods under CETA	Classifications of goods under CTA	Classifications of Service
2	Applicability of exemption	Applicability of exemption	Valuation of taxable service
3	Principles for valuation of goods	Principles for valuation of goods	Principles for valuation of goods
4	Applicability of notification issued under the Act	Applicability of notification issued under the Act	Applicability of notification issued under the Act
5	Applicability of credit of excise duty	**-----------------**	Applicability of credit of service tax
6	Determination of liability to pay excise duty on any goods	**-----------------**	Determination of liability to pay service tax

SERVICE TAX

Problems from professional exams

Q. 1 As per Service Tax Rules 1994 who is the person specified to be liable for paying service tax in respect of the following services:

- **a.** Telecommunication services
- **b.** Service in relation to general insurance business.
- **c.** Service to be provided by a person from abroad to a person in India.
- **d.** Distribution of mutual fund by mutual fund agent.
- **e.** Services of practicing Cost Accountant
- **f.** Service of Goods Transport Agency
- **g.** Beauty parlous services
- **h.** Sponsorship services provided to anybody corporate or firm located in India.

Q. 2 (a) Priya rendered a taxable service to a client. A bill for Rs 40000 was raised on 29.8.11. Rs15000 was received from client on 1.9.11 and the balance on 23.9.11. No service tax was separately charged in the bill. The questions are

(i) Is Priya liable to pay service tax, even though the same has not charged by her?

(ii) in case she is liable, what is the value of taxable service and the service tax payable?

(iii) What is last date for payment of service tax, if she opts for e- payment?

(b) List the documents to be submitted along with Service Tax Return? When does a small service provider require to register under the Service Tax, but not liable to collect and pay service tax?

Q. 3 Mr**.** Bose is rendering taxable services, which were brought into service tax net w.e.f 1.05.11. Following information is available:

a. Amount received on 10.05.11 for services provided in April 2010 ---- Rs 2,00,000
b. Advanced received from a client on 15.05.11 --- Rs 3,39,000
c. For balance services of Rs 7,00,000 bill was raised on 12.03.11 and amount due was received on 15.04.11
d. Other taxable services billed and received during 1.05.11 to 31.03.11 ---- Rs 4,00,000
e. Value of free services rendered in Oct. 11 ---- Rs 1,50,000

Compute value of taxable services and service tax payable for year ending 31.03.12

Q. 4 ABC Ltd provided services valuing Rs 800000 during f/y 10-11. During 11-12 it has provided taxable services valuing Rs 10,00,000 and has received payments towards payable services Rs 8,50,000. It has also received services in the nature of transport of goods by road valuing Rs 50000, in respect of which it is the person liable to pay service tax.

Compute service tax, if any, payable by ABC Ltd for f/y 11-12. Abetment available to GTA is 75%.

Q. 5 Salim, an architect has received fee of Rs 4,48,500 after TDS of Rs 51,500. How much service tax he has to pay?

Q. 6 An assessee who has collected service tax from a client is unable to perform service. Explain the situations in which and the conditions subjects to which he can adjust the service tax relating to above, against his forthcoming service tax liability?

Q. 7 Ajay Ltd has agreed to render services to Mr. Guru. Following are the chronological events:

Contract for services entered into on 31.08.2011

Advance received in Sep.11 towards all services --- Rs 60000

Total value of services, billed in February 2012 ---- Rs 210000

Above includes non-taxable services of Rs 70000

Balance amount is received in March 2012. When does liability to pay service tax arise and for what amount? Service tax charged separately. Assume small service provider exemption is not available.

Q. 8 On 18.06.12, Vasudev discovers a mistake in the service tax return pertaining to the half year ended 31st March 2012 filed on 23.04.12. Can he rectify the mistake?

Q. 9 Mr. Datey, a Cost Accountant rendered taxable service to Vishwa Cements ltd. In this regards company sent 200 cement bags free of cost for house construction of Mr. Datey. Explain how value of taxable service will be determined in this case? Will your answer be different if service had been rendered free of charge?

Q. 10 M/s Niran & Co., a firm of Cost Accountants, raised an invoice for Rs 39,326 (Rs 35000+ service tax of Rs 4326) on 12th Feb. 2012. Client paid lump sum of Rs 36000 on 2nd April 2012 in full and final settlement:

a. How much service tax firm has to pay and what is due date for payment of tax?
b. What will be liability if client refuses to pay service tax and pays only Rs 35000?

Q. 11 Mr. Gupta, a practicing Cost Accountant has been appointed Cost Auditor of X Ltd. For a fee of Rs 6,00,000, out of which he received an advance of Rs 4,00,000 on 18th Feb. 2012 and balance fee on 16th August 2012. What are service tax implications for both the payments?

Q. 12 State whether following services are taxable under Finance Act 1994:

a. Services provided in Rajasthan by a person having a place of business in J&K.
b. Import of service by an individual, otherwise than for purpose of use in business or commerce.
c. Service provided to an export Oriented Unit.

Q. 13 Mr. X, the owner of a property had entered into an agreement with a bank. The agreement was entered into on 1st April 2012 to give ground floor of property on monthly rent of Rs 75,000. The bank had taken the property for commercial purpose. Explain whether Mr. X is liable to pay service tax on the transaction with bank?

Q. 14 Answer following with reference to Finance Act 1994 relating to applicability of Service Tax:

- **a.** Construction of roads between two cities.
- **b.** Construction of residential complex having ten flats.
- **c.** Selling of SIM Card and process of activation thereof by mobile company.
- **d.** Transporters who are rendering Express cargo Service for door delivery.
- **e.** Cargo handling services in relation to Agricultural product.
- **f.** Blood test and analysis services provided by a commercial pathology laboratory.

Q. 15 What is the date of payment of service tax where amount of service tax is paid by cheque and is presented to designated bank on 5th May 2012 and realized by the bank on 7th May 2012? Whether any interest and penalty is attracted in this case?

Q. 16 M/s Renu Consultant are labour contractor of manpower to M/s Sanu Creations. They charged to the principal employer for wages of their labour which amount to Rs 120,000 plus their service charge of Rs 12000.The issue is whether service tax is payable on the gross amount charged by them or only their service charges for labour.

Q. 17 How can an assessee adjust the excess payment of service tax against his liability of service tax for subsequent periods? What is the basic condition for it?

Q. 18 Write a note in brief on provisional payment of service tax.

Q. 19 How will a taxable service be valued when the consideration thereof is not wholly or partly in terms of money?

Q. 20 What do you mean by e-filing of returns? Is there any facility of e-filing of service tax returns? If yes, then which of the services are eligible for this facility?

Q. 21 Answer the following:

(a) Should Service tax be paid even, if it is not collected from the client or Service Receiver?

(b) Raju is a multiple service provider and files only a single return. State with reasons whether he can do so?

(c) What is the late fee payable for delay in furnishing the Service tax return? Can the same be waived?

(d) What are the sources of Service Tax Law?

(e) Mr. Saravanan has collected sum of Rs. 15000 as a service tax from a client mistakenly, even though no service tax is chargeable for such service. Should the amount so collected be remitted to the credit of the central Government?

Q. 22 X & Co. is a service provider. It received Rs. 19,80,000 during the financial year 2011-12 after deduction of tax at source under Section 194J of the Income tax Act, 1961.
The rate of tax deduction being 10% (i.e. after deduction of Rs. 2,20,000).

Calculate the service tax liability of X & Co.

Q. 25 J.C. Professionals, a partnership firm, gives the following particulars relating to the services provided to various clients by them for the half-year ended on 30.09.11:

(i) Total bills raised for Rs. 8,75,000 out of which bill for Rs. 75,000 was raised on an approved International Organization and payments of bills for Rs. 1,00,000 were not received till 30.09.11.

(ii) Amount of Rs. 50,000 was received as an advance from XYZ Ltd. on 25.09.11 to whom the services were to be provided in October, 2011.

You are required to work out the: (a) taxable value of services (b) amount of service tax payable.

Q. 26 An unregistered "Service provider" provides following details in respect of taxable services provided during the Financial Year 2011-12 –

- **a)** 30/06/2011 – Advance received from a customer – Rs.1,00,000
- **b)** 30/09/2011 – Part payment received against a bill of Rs. 9,50,000 - Rs. 5,00,000
- **c)** 31/12/2011 – Money received for taxable services provided in Dec 2011 – Rs. 3, 00,000
- **d)** 31/01/2012 – Taxable services rendered during January, 2012 – Rs. 1,00,000
- **e)** 31/03/2012 – Taxable services provided during March, 2012 – Rs. 2,00,000.

The service tax provider complies with the provisions of registration and collection of service tax as per service tax laws. He gets registered during the year. He received the money against the bills raised during the months January and March 2011.

Compute the service tax liability of service provider for the year 2011-12 considering the rate of service tax @ 10.30%

Q. 27 X & Co. received the following amounts

(i) Date of Receipt 20.04.2011- Rs.1,00,000 for services rendered in Feb, 2011

(ii) Date of Receipt 30.06.2011 – Advance for services to be rendered Rs. 5,00,000. Services were rendered in July and August, 2011

(iii) Date of receipt 5.08.2011 - Rs. 50,000 for services rendered in March, 2012

(iv) Date of receipt 10.09.2011 - Advance for service Rs. 3,50,000.

A sum of Rs. 50,000 was refunded in April, 2012 after termination of Agreement. For the balance amount, service was provided in September, 2011.

Compute: (i) The amount of taxable service for the first two quarters of the Financial Year 2011-12

(ii) The amount of Service tax payable

Q. 28 ABC & Co. received the following amounts during the half year ended 31-03-2012 –

(i) For services performed prior to the date of levy of Service tax – Rs 3,50,000 (Assume service tax was levied from a specified date by change of law)

(ii) Advance amount received in March, 2011 – Rs 75,000
(No service was rendered and the amount was refunded to the client in July 2011)

(iii) For free services rendered to customers, amount reimbursed by the manufacturer of such product (for the period after the imposition of service tax) – Rs 50,000

(iv) Money realized and on which service tax is payable (excluding items (i) to (iii)) – Rs 14,26,500.

Calculate the service tax liability duly considering the threshold limit

Q. 30 Can it be said that if the taxable service is not capable of ascertainment, the same cannot form part of value of taxable services?

Q. 31 Whether free services after the sale of motor vehicle given by the authorized dealer for which they are reimbursed by the vehicle manufacturer are subject to the service tax?

Q. 32 Zee Coaching Private Ltd provides coaching to medical students. One of the student, paid Rs 15000 in cash and a gold chain value Rs 45000 (Cost to student father: Rs 35000) to Zee Coaching Private Ltd. Compute service tax payable by above said company in this case.

Q. 33 Zee Coaching Private Ltd provides coaching to medical students and charges Rs 30000 as fee from each student. Company granted concession to poor students and charged Rs 20000 from them. On which amount company has to pay service tax on fee receipt from poor students?

Q. 34 ABC & Co. furnishes the following information for the half year ended 31/03/2012:

a) Amount received for services provided to UNICEF (international organization): Rs 200000

b) Advance money received from customers Rs 400,600 in respect of which services were not rendered till 31/03/2012

c) Services billed during the half year excluding item (a) and (b) above was Rs 15,00,000 plus service tax @ 10.3%. it consists of the following:

- **i.** One customer X to whom a bill of Rs 2,20,600 plus service tax @ 10.3% raised, did not pay service tax.
- **ii.** Customer Y to whom a bill was raised for Rs 1,00,000 plus service tax @ 10.3% has not paid the amount till 31/03/2012
- **iii.** The balance amounts billed during the year were realized fully.

Compute the value of taxable service on which service tax is payable.

Answer: Value of taxable service : Rs 19,00,600

Q. 35 ABC Ltd is providing taxable services. What will be point of taxation in mention cases?

	Date of completion of service	Date of invoice	Date of receipt of payment	Point of Taxation
1	15/07/2011	20/07/2011	25/07/2011	?
2	15/07/2011	30/07/2011	01/08/2011	?
3	15/07/2011	30/07/2011	25/07/2011	?
4	15/07/2011	30/07/2011	25/07/2011 (part) and 01/08/2011 (balance)	?
5	15/07/2011	30/07/2011	10/07/2011	?
6	10/04/2011	20/04/2011	30/04/2011	20/04/2011
7	10/04/2011	26/04/2011	30/04/2011	10/04/2011
8	10/04/2011	20/04/2011	15/04/2011	15/04/2011
9	10/04/2011	26/04/2011	05/04/2011 (part) & 25/04/2011 (balance)	05/04/2011 & 10/04/2011

VALUE ADDED TAX

Background: VAT is State Tax. Principal of VAT is when raw material passes through various manufacturing stages and manufactured product passes through various distribution stages, tax should be levied on the Value Added at each stage and not on the gross sales value. It is done by providing set off of tax paid on purchases against the tax payable on sales. Thus prevents cascading effect of taxation.

VAT is multi-point tax, with provision for granting set off (Credit) of tax paid at earlier stages. Thus tax burden is passed on when goods are sold. This process continues till goods are finally consumed.

Constitutional Provisions: Entry 54 in List II (State List) of Schedule VII to Constitution of India empowered States to collect tax on sale or purchase of goods other than news-papers.

Advantages of VAT:

1. Tax burden is only at the last i.e. consumption stage.
2. It becomes easier to give tax concessions to goods used by common man or goods used for manufacture of capital goods or exported goods.
3. Exports can be freed from domestic trade taxes.
4. Tax rates can be lower as tax is levied on retail price and not on wholesale price.
5. Self assessment and less procedural formalities
6. Better revenue collection and stability
7. Transparency & Better accounting systems

Disadvantages of VAT:

1. Bogus Invoices on which tax credit is availed.
2. Variations in Rate, exemptions
3. Non integration of Central and State taxations
4. Extra cost for small traders
5. Tax burden is equal to all, rich and poor
6. Large number of dealer registrations

Distinction between CST and VAT

	CST	VAT
1	CST is payable on total value of goods	VAT is payable only on 'value addition' at each stage
2	Input tax credit not available	Input tax credit available
3	No threshold limit for registration.	Threshold limit for registration is Rs 500000
4	Tax rate is 2% for all types of sales.	Tax rates vary for different type of sales.
5	CST is payable on Inter State Sales	VAT is payable on Intra State Sales

INPUT TAX CREDIT

Credit will be available of tax paid on inputs purchased within the State. Credit will not be available of certain goods purchased like petroleum products, liquor, petrol, diesel, motor spirit. *No credit is available in case of Inter-State purchases.* Credit will be available as soon as inputs are purchased. It is not necessary to wait till these are utilized or sold.

Credit of tax paid on capital goods - Credit will be available of tax paid on capital goods purchased within the State. Credit will be available only in respect of capital goods used in manufacture or processing.

Goods not covered under VAT: Following goods are not covered under VAT:

- Petrol, diesel, Aviation Turbine Fuel or other motor spirit
- Liquor, and
- Lottery tickets

However, state can levy Sales Tax at special rates – say 20% (Sales tax and not VAT)

Input Tax Credit: Means setting-off the input tax paid by a registered dealer against the amount of output tax payable by him. Conditions are as follow:

- Allowed to only registered dealer;
- Also allowed in respect of VAT paid on purchase of Raw material or capital goods;
- On intra state purchases only;
- Only if purchases are made from a registered dealer with Tax Invoice.

Purchases not eligible for Input Tax Credit

- Purchases from unregistered dealer
- Inter-state purchases
- Imported goods
- Purchases from dealer who has opted composition scheme
- Tax Invoice is not available
- Purchase of goods used for personal use
- Purchases of goods for use as a fuel in generation of power

Situations where Input Credit not available: inputs Credit will be denied in following situations –

- **If Final Product is Exempt** - When final product is exempt from tax, credit will not be availed. If availed, it will have to be reversed on *pro-rata* basis.
- **Restricted credit if output goods are transferred to another State** - If the final products are transferred to another State as stock transfer or branch transfer, input credit availed will have to be reversed on *pro-rata* basis, which is in excess of 3%. (2% in some books)
- **No input credit in certain cases** –

  (a) Inputs lost/damaged/ stolen before use.

  (b) Final product not sold but given as free sample. If credit was availed, it will have to be reversed.

There are variations between provisions of different States.

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VARIENTS OF VAT

The three modes of allowing input tax credit to dealers.

1. **Gross product variant:** Tax is levied on all sales and deduction for tax paid on inputs excluding capital inputs is allowed. The gross product variant allows deductions for taxes on all purchases of raw materials and components, but no deduction is allowed for taxes on capital inputs. This discourages investment in capital goods.

   In this method cascading effect of taxes still exists indirectly, as capital goods are tax twice. This variant also raises disputes about distinction between “input and capital good” and hence not used in any country.

2. **Income variant:** Tax is levied on all sales with set-off for tax paid on inputs and only on depreciation on capital goods. The income variant of VAT allows input tax credit on purchases of raw materials and depreciation element of capital goods.

   This method encourages tendency to classify purchases as current expenditure as full set off is immediately available. If purchase is classified as capital goods, set off of tax paid gets spread over number of years. Since deduction of depreciation is allowable, tax cannot be calculated on individual invoice.

   This method is suitable when tax is not charged separately in Invoice. This variant is nowhere in actual use.

3. **Consumption variant:** Tax is levied on all sales with deduction for tax paid on purchases of raw materials as well as on purchase of capital goods. This is easy to operate and does not discriminate between labour intensive industries and capital intensive industries. It is administratively convenient as disputes about nature of purchases, life of capital assets, depreciation etc are avoided.

   Among the three variants of VAT, the consumption variant is widely used. It is adopted by almost all countries including India, who have introduced VAT system.

METHODS FOR COMPUTATION OF VAT

1. **Addition method:** This method aggregates all the factor payments and profits to arrive at the total value addition on which the rate is applied to calculate the tax. Factor Payments means payments made to all the factors of production such as Rent, Interest, Depreciation of assets, Salary and Wages etc.

   Value Added = Factor payments + Profit

   This type of calculation is mainly used with income variant of VAT. Tax liability can be calculated only periodically (say monthly or quarterly) and not invoice wise. So this method is normally applied where the tax is not charged separately.

   In case where exemptions have been provided at certain intermediate stage of sale, this method levies tax on the value addition inclusive of value of those exempted goods. Thus, this method creates difficulties in accommodating the exemptions provided to intermediate goods/dealers.

2. **Invoice method:** This is the most common and popular method for computing the tax liability under 'VAT' system. Under this method, tax is imposed at each stage of sales on the entire sale value and the tax paid at the earlier stage is allowed as set-off. This method eliminate cascading effect of taxation.

   VAT Payable = VAT on Sales – VAT on Inputs

   The most important aspect of this method is that at each stage, tax is to be charged separately in the invoice. This method is also called the 'Tax Credit Method' or 'Voucher Method'.

3. **Subtraction Method:** Under this method, the tax is charged only on the value added at each stage of the sale of goods. Under this method for imposing tax, 'value added' is simply taken as the difference between sales and purchases

   Value Added = Sales – Purchases

   Tax liability can be calculated only periodically (say monthly or quarterly). This method is suitable for Gross Product Variant where purchases of capital goods are ignored. This method is normally applied where the tax is not charged separately.

   Moreover, this method is suitable when Vat rate is uniform on all commodities. If vat rates are different on intermediate products and final product, the cascading effect of taxes cannot be fully eliminated.

COMPUTATION OF VAT LIABILITY

VAT Payable = Tax Payable on Sales within the State – Tax Credit availed on purchases made within the State.

If the aforesaid sum is in positive, the same is payable with in prescribed time. However if aforesaid sum is in negative i.e. Tax Credit is more than Tax Payable, then such excess credit may be used against payment of CST on Inter- State Sales.

Note: VAT Credit is available for payment of CST but not vise-versa.

Reason - ?

REGISTRATION

VAT tax will be payable only by those Dealers whose turnover exceeds Rs. 5 Lakhs per annum. Dealers whose turnover is less than Rs. 5 Lakhs can register on optional basis. Dealers having turnover exceeding 5 Lakhs should register within 30 days from date of liability to get registered. If dealer deals in exempt goods, then he has no liability to pay VAT. Thus, no registration required.

Threshold limit for registration vary in some State for example, in Karnataka threshold limit for registration is Rs 2 Lakhs whereas in Andhra Pradesh it is Rs 10 Lakhs. Most of State kept Rs 5 Lakhs as threshold limit for registration.

Cancellation of Registration: In following situation registration can be cancel

- Permanent discontinuance of business; or
- Disposal of business; or
- Transfer of a business to a new location; or
- Dealer has failed to furnish requisite security or has committed fraud / misrepresentation of facts.

Taxpayers' Identification Number (TIN): 11 digit numerical code allotted to every registered dealer. Thus, it's a registration number to identify a dealer. First two characters will represent State Code. The set up of the next 9 digit are numerical in character will be different in different states.

TIN is required to stated on each invoice, hence, TIN will help cross – check information on tax payer compliance.

COMPOSITION SCHEME

Small Dealers having gross turnover exceeding Rs. 5 Lakhs but less than Rs. 50 Lakhs have option of composition scheme. They will have to pay a small percentage of gross turnover. It may be mentioned here that the dealers opting for payment of tax at compounded rate are not entitled to input tax credit. Dealer who registered under Composition Scheme cannot charge VAT in their Invoice and cannot issue tax invoices.

Once a dealer has exercised option for payment of tax at the compounded rate, it will be valid for one financial year. In UP it is called Samadhan Yojna.

Dealers not eligible for Composition Scheme: Following dealers are not eligible for this scheme-

a) Dealer who make inter-state purchases.
b) Dealer who make inter-state Sales
c) Dealer who import goods and then sale in India
d) Dealer who stock transfer goods outside State
e) Dealer who export goods
f) Dealer who want to issue Tax Invoice

REVERSE CHARGE

Normally, VAT is payable by seller of goods. However, in some cases, the liability is cast on the purchaser of goods. This is termed as ‘reverse charge’. Though white paper makes no mention of purchase tax, some state like Kerala and Andhra Pradesh have made provision for imposition of purchase tax when purchase is from unregistered dealers.

This concept is used in service tax also. In most of the cases, service tax is payable by service provider. However, in some cases, the liability to pay service tax is cast on the receiver e.g. in case of import of services, goods transport agency (GTA) services etc. Mode of ‘reverse charge’ is used when it is administratively difficult to collect tax from seller of goods or service provider or income earner.

Distinction between ‘Zero rated sale’ and ‘exempt sale’: Certain sales are ‘zero rated’ i.e. tax is not payable on final product in certain specified circumstances. In such cases, credit will be available on the inputs i.e. credit will not have to be reversed.

Distinction between ‘zero rated sale’ and ‘exempt sale’ is that in case of ‘zero rated sale’, credit is available on tax paid on inputs, while in case of exempt goods, credit of tax paid on inputs is not available.

Carry Forward or Refund of VAT Credit: Entire input tax will be refundable within three months, when final product is exported. In respect of sale to EOU/SEZ, there will be either exemption of input tax or tax paid will be refunded within three months**.**

If tax credit exceeds tax payable on sales, the excess credit will be carried to end of next financial year. Excess unadjusted credit at end of second year will be eligible for refund. However, some States have decided to grant refund after the end of the first financial year itself.

Documentation required availing VAT Credit: Tax credit will be given on basis of document, which will be a **'Tax Invoice'**. Such invoice can be issued only by a registered dealer, who is liable to pay sales tax. The invoice should be serially numbered and duly signed, containing prescribed details. The tax payable should be shown separately in the Invoice. The dealer should keep counterfoil/duplicate of such invoice duly signed and dated.

Invoice for Vat purposes should contain following details –

(a) Name and address of selling dealer	(b) His TIN Number
(c) Serial number and date of invoice	(d) Name and Address of buyer
(e) Quantity	(f) Price
(g) Total value	(h) Vat rate
(I)Transport details	(j) Signature of authorized person.

TAX RATES

Ideally, VAT should have only one rate. Though this is not possible, it is certain that there should be minimum varieties of rates. Broadly, following VAT rates are proposed

- **0% (exempt category)** - These are about 50% items which are legally barred from taxation (e.g. newspapers, national flag).
- **4% VAT-** There are largest number of goods comprising of items of basic necessities (including medicines and drugs), all agricultural and industrial inputs, capital goods and declared goods,
- **1% VAT-** Special rate of 1% is meant for gold and silver ornaments, precious stones.
- **12.5% VAT-** Remaining commodities, common for all states fall under this VAT rate
- **Non VAT Goods-** Aviation turbine fuel (ATF) and petroleum products (petrol, diesel and motor spirit) Liquor, cigarettes, lottery tickets will be out of VAT regime. Tax paid on these will not be eligible for input tax credit.

Broadly, VAT rates of all States follow this pattern, but still there are many variations.

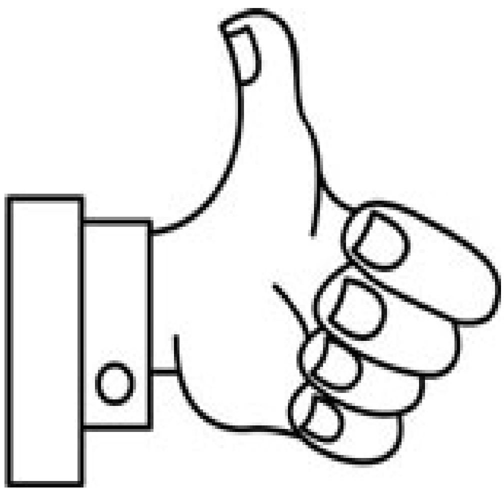
MATAINANCE OF BOOKS OF ACCOUNTS

A dealer is required to maintain true and up to date account of the quantity and value of goods purchased, manufactured or sold by him or used in execution of works contract or held by him in stock. Books of accounts that a dealer normally maintains will continue to be maintained under the VAT Act along with input tax account, output tax account and input tax credit account in the ledger and certain statutory document like tax invoice. Such books of accounts and documents are to be preserved by a dealer for **atleast eight years** (in some state period is 5 years)

ASSESSEMENT

Dealer is required to assess his tax and pay himself. It will be basically self assessment. *There will be no compulsory assessment at end of the year.* If notice is not issued within prescribed time, dealer will be deemed to have been self assessed.

Returns will be filed monthly/quarterly, as prescribed, along with challans. Returns will be scrutinized and if there is technical mistake, it will have to be rectified by dealer.



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VAT & CST
Problems from professional exams

Q. 1 Dinesh purchases raw material from Ram and Shyam for manufacturing goods. Dinesh sells goods to wholesaler Mohan. Mohan sells goods to Trilok, a retailer, who sells goods to consumers. Calculate the amount of VAT collected by the government from the following particulars based on the fact that Shyam charges VAT @ 4% and other sellers charge VAT @ 12.5%.

	Price without VAT (Rs)
Raw material supplied:	
Ram to Dinesh	5000
Shyam to Dinesh	8000
Manufacturing Goods sold:	
Dinesh to Mohan	18000
Mohan to Trilok	25000
Trilok to consumers	30000

Answer: Rs 3750

Q. 2 Compute the net VAT liability of Janak from the following information.

Particulars	**Rs**
Raw Material purchased from foreign market	47000 (include Vat paid abroad)
Ram Material purchased from local market	10100 (include Vat paid @ 1%)
Ram Material purchased from another State	20000 (excluding CST)
Storage, transportation cost and insurance	3000
Other manufacturing expenses incurred	600

Janak sold the goods to Prem adding margin of profit @ 10% on the selling price. VAT rate on sale of such goods is 10%.

Q. 3 Mr. X, a dealer in Mumbai dealing in consumer goods, submits the following information pertaining to the month of March 2012:

1. Exempt goods 'A' purchased for Rs 200000 and sold for Rs 250000
2. Good 'B' purchased for Rs 225000 (including VAT) and sold at a margin of 10% on purchased. VAT rate is 12.5%.
3. Good 'C' purchased for Rs 100000 (excluding VAT) and sold for Rs 150000 (VAT rate 4%)
4. His unutilized balance in VAT input credit on 1st March 2012 was Rs 1500

Compute the turnover, input VAT, Output VAT, and Net VAT payable by Mr. X.

Answer: Rs 3000

Q. 4 Compute invoice value to be charged and amount of tax payable under VAT by a dealer who had purchased goods for Rs 120000 and after adding for expenses of Rs 10000 and of profit of Rs 15000 had sold out the same. Vat rate on sale and purchase is 12.5%.

Answer: Rs 3125

Q. 5 Compute VAT payable by Mr. A who purchases goods from a manufacturer on payment of Rs 225000 (including VAT) and earn 10% profit on sale to retailers. Vat @12.5%

Answer: Rs 2500

Q. 6 Mr. X, a manufacturer sells goods to Mr. B, a distributer for Rs 20000 (excluding VAT). Mr. B sells goods Mr. K, a whole seller dealer for Rs 24000. The whole seller dealer sells goods to a retailer for Rs 30000, who ultimately sells to the consumer for Rs 40000. Compute Tax liability, input credit availed and tax payable by manufacturer, distributer, wholesaler, and retailer under Invoice Method assuming VAT rate @ 12.5%.

Answer: Rs 5000

Q. 7 Mr. Goenka is a trader selling raw materials to a manufacturer of finished products. He imports his stock in trade as well as purchases the same from the local markets. Following transaction took place during financial year 2011-12:-

Calculate the VAT and invoice value charged by him to a manufacturer. Assume VAT @ 12.50%:

	Rs
(1) Cost of imported materials (from other State) excluding tax	1,00,000
(2) Cost of local materials including VAT	2,25,000
(3) Other expenditure including storage, transport, interest and loading unloading and profit earned by him	87,500

Answer: Invoice Value- Rs 4,38,187.50 and Vat – Rs 23,687.50

Q. 8 Compute the VAT liability of Mr. Kapoor for the month of October, 2011 using the 'Invoice method' of computation of VAT:

Purchase from the local market (includes VAT @ 4%)	65,000
Storage cost incurred	750
Transportation Cost	1750

Goods sold at a margin of 5% on the cost of such goods. VAT rate on sales 12.5%

Answer: Rs 6031

Q. 9 Compute total value of purchases eligible for input tax credit from the following particulars:-

Particulars	**Rs**
Inputs purchased from a dealer registered under composition scheme of VAT Act	10,000
Inputs purchased for being used in the execution of a works contract	1,00,000
Raw material purchased from unregistered dealers	70,000
High seas purchases of inputs	1,00,000
Goods purchased for sale to other parts of India (Inter State Sales)	20,000

Answer: Rs 120000

Q. 10 Compute net VAT liability of Rishi from the following information:

Particulars	Rs	Rs
Materials from foreign market (includes Custom Duty @ 20%)		1,20,000
Raw material purchased from local market		
Cost of raw material	2,50,000	
Add : Excise duty @ 16%	40,000	
	2,90,000	
Add : VAT @ 4%	11,600	3,01,600
Material purchased from neighboring State (Includes CST@ 2%)		51,000
Storage and transportation cost		9,000
Manufacturing expenses		30,000

Rishi sold goods to Madan and earned profit @ 12% on cost. VAT rate on sale of such goods is 4%.

Answer: Rs 10,800

Q. 11 Mr. Rajesh is a registered dealer and gives the following information. You are required to compute the net tax liability and total sales value under Value Added Tax:

Rajesh sells his products to dealers in his State and in other States. The profit margin is 15% of cost of production and VAT rate is 12.5 % of sales.

(i) Intra State purchases of raw material Rs 2,50,000- (excluding VAT @ 4%)

(ii) Purchases of raw material from an unregistered dealer Rs 80,000/-(including VAT @ 12.5%)

(iii) High seas purchases of material are Rs 1,85,000- (excluding custom duty @ 10% of 18,500)

(iv) Purchases of raw materials from other States (excluding CST @ 2%) Rs 50,000

(v) Transportation charges, wages and other manufacturing expenses excluding tax Rs 1,45,000/-

(vi) Interest paid on bank loan Rs 70,000/-.

Answer: Sales- Rs 8,38,925, Net Vat – Rs 94,866. Interest on Loan has been excluded for calculating the cost of production on the presumption that the loan is availed for purposes other than working capital.

Q. 12 Compute VAT payable at each stage using '***Invoice method*** from the following:

Stage	Particulars	Profit (as % of Cost)
I	Sambhav Medicaids Ltd sold the medicines manufactured by it to the distributors of medicines-Rishabh Pharmacy-at Rs 4000	------
II	Rishabh Pharmacy sold the medicines to the Wholesalers-Suhani Medicos	56.25%
III	Suhani Medicos sold the medicines to the Retailers Galaxy Medicines	25%
IV	Galaxy Medicines sold medicines to ultimate Consumers	25%

Assume that the VAT rate is 4% and that there was no value addition at various stages of sale except profit margin.

Answer: Rs 160, Rs 90, Rs 62.50 and Rs 78.125

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Q. 13 Calculate VAT liability for the month of October 2011 from the following particulars:

Particulars	Rs
Inputs purchased within the state	170000
Capital goods used in the manufacture of the taxable goods	50000
Finished goods sold within the state	200000

VAT rate on capital goods is 12.5%; Input tax rate within state is 12.5%, Output tax rate within state 4%

Answer: Nil, VAT Credit of Rs 19500 will be carried forward.

Q. 14 Compute the net VAT liability from the following information:-

Particulars	Rs
Raw material purchased from foreign market (including Custom duty @ 20%)	12000
Raw material purchased from local market (including VAT charged @ 4%)	20800
Raw material purchased from neighboring state (including CST paid @ 2%)	7140
Storage, transportation cost and interest	2500
Other manufacturing expenses incurred	600

The goods are sold at 10% profit on cost of production. VAT rate on sale of such goods is 12.5%

Answer: Rs 5008

Q. 15 A dealer purchases goods for Rs 250000 (exclusive of VAT). He incurs Rs 35000 on the goods and sells them at a profit of Rs 15000. Compute the invoice value to be charged and amount of tax payable under VAT. The rate of VAT on purchases and sales is 4%.

Answer: Rs 2000

Q. 16 Raj & Co., a manufacturer of Product X sold its goods to a distributor at Rs 11250 inclusive of tax. The distributor sold the goods to wholesaler for Rs 13500. The wholesaler sold the goods to a retailer for Rs 16875. The retailer sold the goods to consumer at Rs 22500. All sales are inclusive of VAT @ 12.5%. compute total VAT payable under subtraction method.

Answer: Rs 2500 (1250+250+375+25)

Q. 17 Compute VAT payable by Shyam, who purchased goods from a manufacturer on payment of Rs 416000 (including VAT) and earned 20% profit on purchase price. VAT@ 4% both on sale and purchase.

Answer: Rs 3200

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