

Deductions from Gross Total Income

Some Key Points : Recent Amendments

(a) Deduction under section 80C in respect of life insurance premium paid

Date of issue of policy	Deduction under section 80C
Between 1.4.2003 and 31.3.2012	Premium paid to the extent of 20% of "actual capital sum assured" qualifies for deduction u/s 80C.
On or after 1.4.2012 but before 1.4.2013	Premium paid to the extent of 10% of "minimum capital sum assured" qualifies for deduction u/s 80C.
On or after 1.4.2013	(a) Where the insurance is on the life of a person with disability or severe disability as referred to in section 80U or a person suffering from disease or ailment as specified under section 80DDB.
	Premium paid to the extent of 15% of "minimum capital sum assured" qualifies for deduction u/s 80C.
	(b) Where the insurance is on the life of any person, other than mentioned in (a) above
	Premium paid to the extent of 10% of "minimum capital sum assured" qualifies for deduction u/s 80C.

(b) Deduction under section 80CCG to be available for three consecutive years to a resident individual, being a new retail investor having gross total income upto ₹ 12 lakh, for investment in listed equity shares as well listed units of equity oriented fund as per notified scheme

(c) Deduction under section 80D to be available in respect of contribution to CGHS and such other schemes within the overall limit specified thereunder

(d) Additional deduction in respect of interest on loan taken for acquisition of residential house property [New Section 80EE]

The deduction under section 80EE shall not exceed ₹ 1 lakh and shall be allowed in

computing the total income of the individual for the A.Y.2014-15 and in a case where the deduction for the previous year relevant to the said assessment year is less than ₹ 1 lakh, the balance amount shall be allowed in the A.Y.2015-16.

- (e) Donation to National Children's Fund to qualify for 100% deduction under section 80G
- (f) Cash donations to political parties and electoral trusts not to qualify for deduction under section 80GGB & section 80GGC
- (g) Extension of sunset clause for tax holiday under section 80-IA for power-sector undertakings extended by 1 year [Section 80-IA(4)(iv)]

This time limit has been extended by one year i.e., from 31st March, 2013 to 31st March, 2014, to enable undertakings which start generation, or transmission or distribution of power during the period between 1st April, 2013 and 31st March, 2014 or which undertakes substantial renovation and modernization of the existing network of transmission or distribution lines between 1st April, 2013 and 31st March, 2014 to avail benefit of deduction under this section.

- (h) Only Indian companies deriving profits from manufacture of goods in a factory to be eligible for deduction under section 80JJAA in respect of additional wages paid to new regular workmen employed in such factory.

Question 1

Can the aggregate of the deductions under the various provisions of the Income-tax Act, 1961 exceed the profits and gains of the undertaking or unit or enterprise or eligible business, as the case may be? Explain briefly the provisions introduced in section 80A of the Act in this regard to prevent abuse of tax incentives.

Answer

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

In order to prevent such manipulation by tax payers, section 80A provides that -

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

Question 2

Examine the correctness of the statement that "there exists no difference in the treatment of income claimed under section 10 with those claimed under Chapter VI-A of the Income-tax Act, 1961".

Answer

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

Question 3

Mr. Srinivasan, aged 61 years, furnishes the following particulars for the year ending 31.03.2014:

- (a) *Life Insurance Premium paid – ₹ 30,000, actual capital sum of the policy assured for ₹ 1,20,000. The insurance policy was taken on 01.04.2004;*
- (b) *Contribution to Public Provident Fund – ₹ 40,000 in the name of father;*
- (c) *Tuition fee payment – ₹ 8,000 each for 2 sons pursuing full time graduation course in Calcutta; Tuition fee for daughter pursuing PHD in Kellogg University, USA – ₹ 2.50 Lacs;*
- (d) *Housing loan principal repayment – ₹ 32,000 to Axis Bank. This property is under construction at Calcutta as on 31.03.2014;*
- (e) *Principal repayment of housing loan taken from a relative – ₹ 70,000. The property is self-occupied situated at Pune;*
- (f) *Deposit under Senior Citizens Savings Scheme – ₹ 15,000;*
- (g) *Five-year deposits in an account under Post Office Time Deposit Scheme – ₹ 20,000;*
- (h) *Investment in National Savings Certificate – ₹ 25,000;*

Compute the deduction eligible under appropriate provisions of section 80C for A.Y. 2014-15.

Answer**Computation of eligible deduction under section 80C for A.Y.2014-15**

Particulars	₹
Life Insurance Premium (See Note 1)	24,000

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

Notes:

- Any amount of life insurance premium paid in excess of 20% of capital sum assured shall be ignored for deduction under section 80C. However, Finance Act, 2012 has reduced the permissible limit of 20% to 10% in respect of the insurance policies to be issued on or after 1st April, 2012. In the given case, since the insurance policy has been issued before 1.04.2012, therefore 20% of actual capital sum assured i.e. ₹ 24,000 shall be allowed as deduction, whereas, the premium paid during the year is ₹ 30,000. Therefore, the excess premium of ₹ 6,000 does not qualify for deduction.
- In the case of an individual, contribution to PPF can be made in his name or in the name of his spouse or children to qualify for deduction under section 80C. As the contribution was made in the name of his father, deduction is not allowable.
- Tuition fee paid is eligible for deduction under section 80C for a maximum of two children. Therefore, ₹ 16,000 shall be allowed as deduction. Tuition fee paid to an educational institution situated outside India is not eligible for deduction.
- In order to claim the principal repayment on loan borrowed for house property as deduction, the construction of such property should have been completed and should be chargeable to tax under the head "Income from house property". In the given case, since the property is under construction, principal repayment does not qualify for deduction.
- Repayment of principal on housing loan is not allowed as deduction in case the loan is borrowed from friends, relatives etc. In order to qualify for deduction, the loan should have been obtained from Central Government / State Government / bank / specified employer / institution.
- The following investments are also eligible for deduction under section 80C:-
 - five year time deposit in an account under Post Office Time Deposit Rules, 1981; and
 - deposit in an account under the Senior Citizens Savings Scheme Rules, 2004.

Question 4

Chand, an individual resident in India, paid medical insurance premium amounting to ₹ 20,000 by cash during the year ending 31.3.2014 out of his income chargeable to tax in respect of the policy taken on the health of his dependent father in accordance with the scheme framed by the General Insurance Corporation of India and approved by the Central Government.

Besides, he paid ₹ 90,000 during the year ending 31.3.2014 for the medical treatment of his dependent mother, aged 69 years, in respect of a disease specified in Rule 11DD(1) of the Income-tax Rules, 1962. He received ₹ 20,000 from the insurance company for the said medical treatment of his mother.

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

Answer

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

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

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

Question 5

Expenditure on medical treatment of an assessee and members of his family constitute a major element of a household budget, particularly if he or a member of his family suffers from physical disability. Discuss the relevant provisions which provide relief or deductions available to a non-salaried person, in this respect.

Answer

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

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

- (i) Under section 80DD, deduction is allowable to an individual or HUF, resident in India, in respect of any expenditure incurred for the medical treatment (including nursing), training and rehabilitation of a dependent with disability or a payment made to L.I.C. or any other

insurer approved by the IRDA for the maintenance of a dependent with disability. The deduction under this section is ₹ 50,000, irrespective of the quantum of expenditure incurred or deposit made. The deduction is ₹ 1,00,000, where the dependent is a person with severe disability.

- (ii) Under section 80U, an individual who is a resident and who is certified by a medical authority to be a person with disability at any time during the previous year, shall be entitled to a deduction of ₹ 50,000. If it is a case of severe disability, deduction shall be ₹ 1,00,000. A copy of the certificate issued by the Medical authority is required to be furnished in respect of the assessment year for which the deduction is claimed along with the return of income.

Question 6

Mr. K, who has attained 63 years, has the following income during the previous year 2013-14:

- Salary Income ₹ 6,80,000
- Interest on savings bank account with Allahabad Bank ₹ 16,000

Other particulars given by Mr. K are as under:

- (i) Insurance premium paid to Max Life Insurance Ltd. amounting to ₹ 25,000 under a policy taken on life of his son. The policy was taken on 20th July, 2011 and the sum assured is ₹ 1,80,000.
- (ii) Insurance premium paid to Life Insurance Corporation of India amounting to ₹ 22,000 under a policy taken on his life on 20th April, 2012 and the sum assured is ₹ 2,00,000.
- (iii) Premium of ₹ 18,000 paid by cheque on health insurance for self to National Insurance Corporation Ltd. and payment in cash of ₹ 5,000 to a hospital for preventive health check-up for self.

Compute the total income of Mr. K for Assessment Year 2014-15 on the basis of the above particulars.

Answer

Computation of total income of Mr. K for the A.Y.2014-15

Particulars	₹	₹
Income from salaries		6,80,000
Income from Other Sources (Interest on savings bank account)		16,000
Gross Total Income		6,96,000
Less: Deductions under Chapter VI-A		
<u>Under section 80C (Life insurance premium paid)</u>		
Premium paid in respect of policy taken on life of son (See Note 1 below)	25,000	

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Premium paid in respect of policy taken on own life (See Note 2 below)	20,000	45,000	
<u>Under section 80D (Medical insurance premium paid)</u> (See Note 3 below)		20,000	
<u>Under section 80TTA (Interest on savings bank account)</u> (See Note 4 below)		<u>10,000</u>	75,000
Total Income			6,21,000

Notes:

- (1) Mr. K can claim deduction under section 80C in respect of insurance premium paid by him in respect of a policy taken on the life of his son. Since the policy was issued before 1.4.2012, the premium paid shall be allowed as deduction upto 20% of sum assured (i.e., upto ₹ 36,000, being 20% of ₹ 1,80,000). Since the insurance premium of ₹ 25,000 paid is within this limit, the same is fully allowable as deduction under section 80C.
- (2) In respect of premium of ₹ 22,000 paid by Mr. K to LIC under an insurance policy taken on his own life, the deduction under section 80C would be restricted to 10% of sum assured, since the premium is paid in respect of a life insurance policy taken on or after 1.4.2012. Therefore, the deduction under section 80C in respect of this policy would be restricted to ₹ 20,000, being 10% of ₹ 2,00,000.
- (3) Deduction under section 80D is allowable in respect of health insurance premium paid by any mode other than cash and expenses on preventive health check-up (upto ₹ 5,000) paid by any mode, including cash. Therefore, both the premium of ₹ 18,000 paid by cheque and preventive health check-up of ₹ 5,000 paid by cash qualifies for deduction under section 80D. However, the deduction would be restricted to ₹ 20,000, which is the overall limit under section 80D in respect of an individual, who is of the age of 60 years or more at any time during the previous year.
- (4) As per section 80TTA, deduction shall be allowed from the gross total income of an individual in respect of income by way of deposit in the savings bank account included in the assessee's gross total income, subject to a maximum of ₹ 10,000. Therefore, a deduction of ₹ 10,000 is allowable from the gross total income of Mr.K, even though his interest from savings bank account is ₹ 16,000.

Question 7

Ms. Madhvi, a resident individual and self-employed industrial designer, furnished the following particulars for the year ended 31-03-2014:

	Particulars	₹
i.	Gross total income	5,00,000
ii.	Housing loan principal repayment. The property is under construction at Jaipur as on 31-03-2014.	1,10,000
iii.	Principal repayment of housing loan from a relative. This property is self-occupied situated at Jodhpur.	50,000

iv.	Contribution to Public Provident Fund in the name of her mother.	70,000
v.	She deposited ₹ 5,000 per month in her account under a pension scheme notified by the Central Government.	

Compute total income of Ms. Madhvi for the Assessment Year 2014-15 stating reasons for the deduction eligible under appropriate provisions of Chapter VI-A.

Answer

Computation of total income of Ms. Madhvi for the A.Y. 2014-15

Particulars	₹	₹
Gross Total Income		5,00,000
Less: Deductions under Chapter VI-A		
<u>Section 80C</u>		
Principal repayment for housing loan taken for house property at Jaipur [See Note 1]	Nil	
Principal repayment for housing loan taken for house property at Jodhpur [See Note 2]	Nil	
Contribution to public provident fund in the name of mother [See Note 3]	Nil	
<u>Section 80CCD</u>		
Contribution to pension scheme notified by the Central Government [See Note 4]	50,000	50,000
Total income		<u>4,50,000</u>

Notes :

- (1) As per the provisions of section 80C, the deduction for principal repayment of housing loan is provided only in respect of a house property whose income is chargeable to tax under the head 'Income from house property'. As the house property at Jaipur is still under construction, no income is chargeable to tax under the head "Income from house property". Hence, no deduction would be available under section 80C for principal repayment of the housing loan for property under construction at Jaipur.
- (2) The deduction for principal repayment of housing loan under section 80C is provided only in respect of the loan taken from the institutions mentioned under section 80C (like banks, Life Insurance Corporation of India, National Housing Bank, specified employer etc.) However, loan from a relative does not qualify for deduction under section 80C. Since, in the present case, the loan is taken from a relative, no deduction would be available under section 80C for the repayment of the principal in respect of self-occupied property at Jodhpur.

- (3) The contribution to public provident fund is allowed as deduction only if it is in the name of specified persons mentioned in section 80C, namely, self, spouse or any child of such individual. Since mother of the individual is not a specified person as per section 80C, no deduction would be available for the contribution to public provident fund in the name of the mother.
- (4) The deduction under section 80CCD shall be an amount not exceeding 10% of the gross total income of in case of a self-employed individual. Therefore, the deduction in respect of deposit by Ms. Madhvi to the pension scheme notified by the Central Government ₹ 60,000 shall be limited to ₹ 50,000, being 10% of ₹ 5,00,000.

Question 8

- (a) *Mr. Harsh, aged 42 years, furnishes the following information relating to premium on mediclaim policy paid by cheque for the year ending 31.03.2014:*

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

Compute his eligible deduction under section 80D for A.Y.2014-15. Would your answer be different, in case the premium was paid in cash?

- (b) *Mr. Ravi, a Cost Accountant, aged 58 years, derives ₹ 4,12,000 as taxable professional income. Income of Mr. Ravi from other sources is ₹ 21,000. He pays medical insurance premium of ₹ 28,000 for insuring the health of his non-dependant parents who are senior citizens; ₹ 17,000 for self and spouse and ₹ 4,000 for his sister. He incurs expenditure of ₹ 25,000 on medical treatment of his dependant mentally retarded (severe disability) brother in an approved hospital duly certified. He pays rent of ₹ 4,000 per month. Calculate his total income for the assessment year 2014-15.*

Answer

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

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

Section 80D requires payment of premium on health insurance by any mode other than cash. Since the payment is made by cheque, ₹ 35,000 is allowed as deduction.

In case the premium was paid in cash, the same would not be deductible under section 80D.

(b) Computation of total income of Mr. Ravi for the A.Y. 2014-15

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

Notes -

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

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

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

- (2) Deduction under section 80DD is a flat amount of ₹ 1,00,000, irrespective of the actual expenditure incurred in respect of a dependent, who is a **person with severe disability**. It is assumed that Mr. Ravi has furnished a copy of the certificate issued by the medical authority, in the prescribed form and manner, along with the return of income under section 139 in respect of A.Y. 2014-15.

- (3) Total income for the purpose of section 80GG would be -

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

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

Question 9

Ayush, an employee with M/s Isomer Solutions Ltd., provides the following information relating to his income for the financial year 2013-14:

- (i) He received salary ₹ 25,000 per month including conveyance allowance @ ₹ 2,500 per month for official purposes.
- (ii) He deposited ₹ 2,500 per month in his account under a pension scheme notified by the Central Government.
- (iii) He paid a sum of ₹ 60,000 during the year as interest on loan taken in April, 2008 from bank for higher studies of his daughter.
- (iv) He paid health insurance premium for himself and for his family members ₹ 8,500 in cash and ₹ 9,000 by credit card.
- (v) He invested ₹ 40,000 in notified bonds issued by NABARD in July, 2013.
- (vi) Equity shares having fair market price of ₹ 1,00,000 (on the date of exercise of option) were allotted to him by the company at a concessional price of ₹ 20,000 on 30.5.2013, which were sold by him for ₹ 1,80,000 on 28.2.2014.

Compute the total income of Ayush for assessment year 2014-15 and give reasons for treatment to each of the items.

Answer

Computation of total income of Mr. Ayush for the Assessment Year 2014-15

Particulars	₹	₹
Salaries		
Gross salary received	3,00,000	
Add: Shares allotted at concessional price – fair market value less the amount recovered from the employee [Section 17(2)(vi)] (i.e. ₹ 1,00,000 minus ₹ 20,000)	80,000	
	3,80,000	
Less: Conveyance allowance exempt under section 10(14)	30,000	3,50,000
Capital gains		
Sale consideration of equity shares sold on 28.02.2014	1,80,000	
Less: Fair Market Value of shares on the date of exercise of option (i.e., 30.5.2013)	1,00,000	80,000
Gross Total Income		4,30,000
Less: Deduction under Chapter VIA		
Under section 80C		
For investment in notified bonds of NABARD	40,000	

Under section 80CCD		
For deposit in pension scheme notified by Central Government [₹ 30,000 but restricted to 10% of salary i.e. 10% of ₹ 2,70,000]	27,000	
Under section 80D		
For payment of health insurance premium by credit card	9,000	
Under section 80E		
For payment of interest on loan taken from bank for higher studies of daughter	60,000	1,36,000
Total Income		2,94,000

Notes:

- (i) Conveyance allowance received for official duties is fully exempt under section 10(14).
- (ii) Section 80CCD provides for deduction of employee's and employer's contribution to pension scheme notified by the Central Government. This deduction has been extended also to individuals employed by any other employer on or after 1.1.2004. However, if the amount contributed exceeds 10% of salary, then, the deduction would be restricted to 10% of salary. [As per *Explanation* to section 80CCD, salary for this purpose would include dearness allowance if the terms of employment so provide, but excludes all other allowances and perquisites]. Therefore, "salary" for the purpose of section 80CCD would be ₹ 2,70,000 (₹ 3,00,000 – ₹ 30,000).
- (iii) The deduction under section 80E available to an individual in respect of interest on loan taken for his higher education has been extended to include interest on such loan taken for higher education of his relative i.e. his or her spouse and children. Hence, interest on loan taken by Mr. Ayush from bank for the higher studies of his daughter is eligible for deduction under section 80E.
- (iv) For claiming deduction under section 80D, the payment of medical insurance premium has to be made by any mode other than cash. Hence, payment of ₹ 8,500 made in cash will not qualify for deduction under section 80D.
- (v) Subscription to notified bonds issued by NABARD will qualify for deduction under section 80C(2)(xxii).
- (vi) The value of any specified security or sweat equity shares allotted or transferred by the employer, free of cost or at a concessional rate to the employee would be treated as a perquisite in the hands of the employee. The value would be the fair market value of the specified security or sweat equity shares on the date on which the option is exercised by the employee as reduced by the amount actually paid by, or recovered from the employee in respect of such security or shares.

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

Question 10

An institution has been established wholly for charitable and religious purposes within the meaning of sections 11 and 12 of the Income-tax Act, 1961. Donations made to such an institution do not automatically qualify for deduction under section 80G. Discuss the validity of this proposition.

Answer

An institution which has been established wholly for charitable and religious purposes within the meaning of sections 11 and 12 has to satisfy certain other conditions to qualify for deduction under section 80G(5). The additional conditions required to be satisfied are:

1. The instrument under which the institution is established should not contain any provision for the transfer or application at any time of the whole or any part of the income or assets for any purpose other than a charitable purpose.
2. The institution should not be for the benefit of any particular religious community or caste.
3. The institution should maintain regular accounts of its receipts and expenditure.
4. The institution should be constituted either as a public charitable trust or registered under the Societies Registration Act or section 25 of the Companies Act or be a university established by law or an institution financed wholly or in part by the Government or a local authority.
5. In relation to donations made after 31.5.1992, the institution should for the time being, be approved by the Commissioner of Income-tax in accordance with rules made in this behalf.

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

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

Once an approval is granted to an institution under section 80G it shall continue to be valid in perpetuity. However, the Commissioner has the power to withdraw the approval if he is satisfied that the activities of the institution or fund are not genuine or are not being carried out in accordance with the objects of the institution or fund.

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

Question 11

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

Answer

As per section 80GGB, any sum contributed by an Indian company in the previous year to any political party or an electoral trust shall be allowed as deduction while computing its total income. For the purpose of this section, the word "contribute" has the meaning assigned to it under section 293A¹ of the Companies Act, 1956, which provides that -

- (a) a donation or subscription or payment given by a company to a person for carrying on any activity which is likely to effect public support for a political party shall also be deemed to be contribution for a political purpose;
- (b) the expenditure incurred, directly or indirectly, by a company to a political party or an electoral trust on advertisement in any publication (being a publication in the nature of a souvenir, brochure, tract, pamphlet or the like) by or on behalf of a political party or for its advantage shall also be deemed to be a contribution to such political party or a contribution for a political purpose to the person publishing it.

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

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

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

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

Question 12

Can an assessee, fulfilling all the prescribed conditions, having total income of ₹ 1,84,000 and paying house-rent @ ₹ 4,800 p.m. in respect of the residential accommodation occupied by

¹ Section 182 of the Companies Act, 2013

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him at Mumbai, claim the deduction for the house rent so paid while computing his taxable income?

Answer

An individual, who is not in receipt of house rent allowance and complying with all the conditions as specified in section 80GG, shall be entitled to claim deduction (in respect of rent paid by him for the residential accommodation) of an amount, equal to the least of the following limits, under section 80GG -

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

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

Question 13

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

Answer

Under section 80GGC, an individual can claim deduction from gross total income in respect of amount of contribution made by him to an electoral trust during the year. However, no deductions shall be allowed in respect of any sum contributed to an electoral trust, by way of cash.

Question 14

Gurudev Engineers Pvt. Ltd. is running an industrial undertaking whose profits are eligible for deduction under section 80-IA of the Income-tax Act, 1961. During the year ended 31.03.2014, the undertaking was engaged in eligible business referred to in section 80-IA(4), which however, consisted solely of executing works contract awarded by the State Government. Is the assessee eligible to claim deduction under section 80-IA(4) in respect of profits derived from this undertaking?

Answer

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

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

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

Therefore, the assessee cannot claim deduction under section 80-IA(4) in respect of the profits derived from this undertaking for the assessment year 2014-15, since, during the year ended 31.3.2014, the undertaking was solely engaged in executing works contract awarded by the State Government.

Question 15

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

Answer

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

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

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

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

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

Question 16

"Samode Oil Refineries Ltd.", the assessee, has started commercial production of mineral oil from 1st June, 2013 of three wells in a licensed block which was awarded during financial year 2011-12 under the NELP-VIII. The company, for the purpose of claiming deduction under section 80-IB(9), contends that each well is a separate industrial undertaking entitled to deduction. Examine critically in the context of the provisions, the correctness of the contention.

Answer

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

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

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

Question 17

Following issues have been raised by Navi Limited in connection with its eligibility for claiming deduction under section 80-IB for your consideration and advice for the assessment year 2014-15:

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

Answer

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

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

- (ii) Under section 80-IB, where the gross total income of an assessee includes any profits and gains derived from an industrial undertaking referred to in the section, there shall be allowed, in computing the total income of the assessee, a deduction from such profits and gains at the specified percentage and for such number of years as specified in the section. In *CIT vs. Sterling Foods (1999) 237 ITR 579 (SC)* and *Liberty India vs. CIT*

(2009) 317 ITR 218 (SC), it was held that sale of import entitlement and duty drawback cannot be construed as income derived from industrial undertaking. Therefore, such income cannot be included in computing income for the purpose of deduction under section 80-IB.

Interest income derived by an undertaking on delayed collection of sale proceeds shall be treated as income derived from the industrial undertaking, and therefore, the same would be eligible for deduction under section 80-IB. [*Phatela Cotgin Industries Private Limited vs CIT* (2008) 303 ITR 411 (P & H)].

Question 18

A company which is entitled to claim deduction under section 80-IB has received duty drawback under a scheme framed by the Central Government under the Customs Act, 1962. Can such duty drawback form part of the profit of eligible undertaking for the purpose of deduction under section 80-IB?

Answer

Section 80-IB provides for allowing deduction in respect of profits and gains derived from eligible business of the industrial undertaking.

The issue under consideration is whether duty drawback can be regarded as “profits and gains derived from eligible business of the industrial undertaking”.

For a receipt to be treated as having been “derived from” the industrial undertaking, the same should be directly and inextricably connected with the business of the industrial undertaking. The connection should be direct and not remote.

The facts of the case are similar to the facts of the case in *Liberty India v. CIT* (2009) 317 ITR 218, wherein the Supreme Court observed that duty drawback is an incentive which flows from the schemes framed by the Central Government or from the Customs Act, 1962. Profits derived by way of incentives such duty drawback cannot be credited against the cost of manufacture of goods debited in the profit and loss account and they do not fall within the expression “profits derived from industrial undertaking” under section 80-IB. They belong to the category of ancillary profits of such undertaking. Hence, duty drawback receipts cannot form part of the profits derived from the eligible business for the purpose of the deduction under section 80-IB.

Applying the same rationale to the present case, duty drawback would not form part of profit of eligible undertaking for the purpose of deduction under section 80-IB.

Question 19

PQR Co-operative Bank, a co-operative society, having its area of operation confined to Gubbi Taluk and the principal object of which is to provide for long-term credit for agricultural and rural development activities, has received the following amounts during the year ending 31.3.2014:

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

PQR Co-operative Bank seeks your advice in the matter of taxability of the above amounts and the eligibility for deduction, if any, in respect thereof for the assessment year 2014-15.

Answer

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

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

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

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

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

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

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

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

Question 20

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

Answer

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

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

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