IPCC

DIRECT TAXES SUMMARY NOTES For Nov. 2016 Examination

Complied By: CA AJAY B AGRWAL

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Summary of Five Heads
INCOME FROM SALARY

I] Basis of charge [Section 15]

Salary is taxable on due basis or on receipt basis whichever is earlier

II] Gratuity [Section 10(10)]

(a) Government employee- Fully exempted

(b) Employee covered by Gratuity Act – Least of the below

(i) Actual Received

(ii) 15/26 ×Last Drawn Salary No. of completed years plus excess of six months

(iii) ₹ 10,00,000

Salary
Basic + D.A.

(c) Any other Employees – Least of the below

(i) Actual Received

(ii) 15×Average Salary of 10 months No. of completed years

(iii) ₹ 10,00,000

Sal= Basic + D.A.(if) + commission (if)

III] Pension [Section 10(10A)]

A) Uncommuted Pension – Fully taxable in hands of all

B) Commuted pension-

(a) Government employee – Fully Taxable

(b) Non-Govt. employee (received gratuity also) – 1/3 of Total Commuted Value

(c) Non-Govt. employee (not received gratuity) - 1/2 of TCV

Leave Salary [Section 10(10AA)]

Sal= Basic + D.A.(if) + commission(if)

(i) Govt. employee – fully exempt (CG & SG)

(ii) Non-Govt. employee – **Least of the below**

(a) Actual Received

(b) Avg. salary of last 10 months Balance Leave calculated on the basis of 30 days

(c) Average Salary 10 months

(d) ₹ 3,00,000

Retirement Compensation [Section 10(10B)]

Minimum of

(i) Actual Received

(ii) Amount calculated in accordance with Industrial Dispute Act, 1947

(iii) ₹ 5,00,000

Sal= Basic + D.A.(if) + commission(if)

IV] VOLUNTARY RETIREMENT [Section 10(10C)] & Rule 2BA

A) CONDITIONS OF VRS

(i) 10 years of service or 40 years of age
(ii) For all employees (except directors of the company)
(iii) Reduction in number of employees
(iv) Vacancy created not to be filled up again
(v) No same management

B) LEAST OF THE BELOW IS EXEMPT

(a) Actual amount received
(b) Last drown salary 3 months No. of completed years of services
(c) Last drown salary balance months' service left
(d) ₹ 5,00,000

PROVIDENT FUND

(i) RPF	**Employers contribution – excess of 12% salary (Taxable)** **Interest on provident fund – excess of 9.5% (Taxable)**
(ii) Unrecognized provident fund	a) Employers contribution-Taxable (Salary) b) Interest on Employers contribution-Taxable (Salary) c) Interest on Employees contribution-Taxable (Other sources) **(TAXABLE IN YEAR of RECEIPT)**

Allowances

(1) **Fully taxable** allowances: D.A. Entertainment Allowance, Overtime Allowance, Medical Allowance and other

(2) Allowance exempt upto specified limit

(A) House Rent Allowances [Section 10(13A)] & Rule 2A]
Least of the below-
(i) Actual allowance received
(ii) Rent paid – 10% Salary
(iii) 50% of salary - If accommodation is in Mumbai, Kolkata, Delhi, Chennai
40% of salary - For any other place

(B) Actual amount received or amount spent for official duty whichever is less is exempt :

(i) Traveling
(ii) Daily
(iii) Conveyance
(iv) Helper
(v) Academic / Profession Development
(vi) Uniform

(C) Amount received or the limit specified – whichever is less is exempt

(i) Children education allowance – ₹ 100 p.m. per child (maximum 2 children)
(ii) Hostel expenditure allowances – ₹ 300 p.m. per child (maximum 2 children)
(iii) Transport allowance – ₹ 1600 p.m. (₹ 3200 for blind/handicapped)

(iv) Allowance allowed to transport employees (who not received daily allowance)
(a) 70% of such allowance or
(b) ₹ 10,000 p.m. (whichever is less)
(v) Tribal area allowance – ₹ 200 p.m.
(vi) Underground allowances – ₹ 800 p.m.

(3) Fully exempted allowances : Section 10(7)

V] PERQUISITES [Section 17(2)]

(1) TAXABLE IN THE HANDS OF ALL EMPLOYEE

(A) Rent free accommodation

a) Govt. employee – as per Govt. rules
b) Non-Govt. employee –
(i) Owned by employer
- ✓ 15% of salary (in cities population exceeds 25,00,000)
- ✓ 10% of salary (in cities population exceeding 10,00,000 but not exceeding 25,00,000)
- ✓ 7.5% of salary (in other place)

(ii) Not owned by employer:
(a) actual rent and
(b) 15% of salary (whichever is less)

B) Valuation of monetary obligation of employee–Actual expenditure

C) (i) Interest free loan–Interest rate of SBI less recovered if any (Except Petty loan up to 20,000 & Loan for treatment on specified disease)

(ii) Use of moveable assets-10% p.a. of actual cost or actual rental charge if owned by employer (Usage exempt for laptop & Computer)

(iii) Transfer of moveable asset
Computer & electronic items-Dep. @ 50% for completed years (WDV)
Motor car-Dep. @ 20% for completed years (WDV)
Other assets-Dep. 10% for completed years (SLM)
(Exempt is 10years and more old asset)

(2) Perquisites taxable in the hands of specified employees
(i) Sweeper, Gardener or watchman–Actual cost
(ii) Gas, electricity or water–Actual cost or manufacturing cost
(iii) Education facilities–For children ₹ 1,000 p.m. (exempt) Specified employees means–Director, 20% (beneficial ownership), salary more than ₹ 50,000 p.a.

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A fellow Chartered Accountant practicing . He is providing consultancy in Direct Taxes. He is having teaching experience to CA students for more than 11 years . He has authored books on Direct Taxes , Costing at FINAL AND IPCC level. He is presently conducting batches for IPCC and FINAL .He is well known for his conceptual clarity in costing and expertised knowledge in Direct Taxes. He is devoted for the cause of students .

DIRECT TAXES BY CA AJAY B AGRAWAL

For Nov. 16 Exam

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3) TAX FREE PERQUISITES FOR ALL EMPLOYEES

(i) Medical facilities

a) Medical treatment in India:

i) Employer's hospital, ii) Govt. Hospital, iii) Notified hospital for specified disease , iv) Any other medical expenditure/ reimbursement -maximum of ₹ 15,000 not taxable

b) Medical treatment abroad:

Medical treatment and stay expenses abroad-exempt (If permitted by RBI)

(i)Travel expenditure GTI upto 2,00,000 (Fully exempt) GTI above 2,00,000 (Fully Taxable)

(ii) Leave travel concession [Section 10(5)]-maximum of 2 journeys in block of 4 years (2006-09/ 2010-13 / 2014-17) by air/first class air-conditioned in train by shortest distance

Deductions from salary

(1) Entertainment allowances [Section 16(ii)]-For Govt. employees only Minimum of

(a) Actual amount

(b) 20% of Basic Salary

(c) ₹ 5,000

(2) Professional Tax *[*Section 16(iii)*]*-Actual amount paid deduct from gross salary

Summary of Salary Definition

Meaning of salary for Different purpose-	
(1) For entertainment allowances	Basic salary only
(2) Gratuity for employees (Covered under Gratuity Act)	Basic Salary + DA
a) Gratuity for employees (not covered under Gratuity Act) b) Leave Salary c) Voluntary retirement compensation d) Contribution to RPF e) House rent Allowances f) Rent Free Accommodation	Basic Salary + DA (if forming part of retirement benefit) +Commission as a fixed percentage turnover
Specified Employee	Deductions u/s 16 is deducted Exclusion of non-,monitory Exempt Allowance excluded

INCOME FROM HOUSE PROPERTY

I] **BASIS OF CHARGE [Section 22]**

Annual Value–Building and land apportionment–owner–not use business and profession In case of composite rent – If it is inseparable *(PGBP/*Other sources)

II] Deemed Owner ***[Section 27]***

(1) Transfer to spouse (except agreement to live apart)
(2) Transfer to a minor child (except minor married daughter)
(3) Individual holds and importable estate
(4) Member of co-operative society
(5) Part performance of Contract *u/s 53A* – Transfer of Property Act
(6) Lease – Not less than 12 years
(7) Dispute – Income received

Case I – Let out for full year

Step I: MV or FR (higher)
Step II: Answer or SR (lower)
Step III: Answer or AR (higher)

Case II – Let out for full year (sum unrealized rent)

Step III: (i) Answer of Step II (ii) Actual Rent of PY less UR (higher)
Conditions : (i) Bonafide (ii) Tenant has vacant or Steps have been taken (iii) Tangent is not in occupation of any other property (iv)Taken all reasonable steps for the recovery of unpaid rent

Case III – Let out for full year (vacancy also)

Step IV: Determined value in Step III less [Actual rent per month vacant months]
Key Note – In Step III Actual Rent for whole of previous year

Case IV – Vacancy + Unrealized Rent

Case V – Self acquired property

Net Annual Value NIL
Deduction - Interest on capital borrowed ₹ 30,000 (maximum limit)
- ₹ 2,00,000 if all the following conditions are fulfilled
a) Loan on or after 1/4/1999,
b) loan is for purchase or construction , &
c) Within 3 years acquired or considered

Above limit is only for SOP where GAV is claimed NIL
More than one self-occupied property [Section 23(4)]
One self-occupied property=Nil (Other deemed let out)

Case VI – Self occupied + Let out

Actual Rent taken for let out period only, but municipal tax for the full P/Y

III] Deductions [Section 24]

(i) Municipal tax paid by owner
(ii) Std. deduction @ 30% of NAV
(iii) Interest on borrowed capital (Accrued basis)

Interest on pre-construction period- Date of loan to prior to the P/Y (completed)=5 equal installments Key Note Borrowed commission (disallowed), Interest on unpaid interest (disallowed), Interest on fresh loan (allowed, Interest on borrowed capital, Payable outside India without TDS (disallowed)

IV] Recovery of unrealized rent already reduced from the annual value for A/Y 2002-03 & onwards [Section 25AA]

Unrealized rent recovered less Already taxed earlier (Taxable)

V] Arrears of rent received [Section 25B]

Arrears of rent received less Already taxed earlier (Taxable after deducting 30%)

VI] Co-ownership [Section 26]

Provision of self-occupied property will apply to each co-owner
Deduction upto ₹ 30,000 / ₹ 1,50,000 will be available to each co-owner

VII] Property Exempt From Tax

One Palace of Ex-Ruler, Trade Union, One Self Occupied Property, Use of Business or Profession , Political Party, Charitable Purpose, Hospital

VIII] Composite Rent

Actual Rent Received *less* Electricity bill, water bill, Lift maintenance expenses, Liftman salary, Salary of gardener, Lighting of stairs

PROFIT & GAIN FROM BUSINESS OR PROFESSION

I] Chargeable under the head business or profession [Section 28]

(i) Profits and Gains of Business or profession
(ii) Compensation: Indian company, any other company in India, Agency, Govt.
(iii) Profit on import licence, Cash assistance against exports, Duty Draw back
(iv) Value of benefit or perquisite arising from business/profession
(v) Salary received by partner of a firm
(vi) (a) Not carrying out any activity (b) Not sharing any know how
(vii) Keyman Insurance Policy
(viii) Any sum received or receivable on account of any capital assets, in respect of which deductions has been allowed under Section 35AD

Business must be carried on during the P.Y.

Exceptions: Recovery against loss, Balancing charge, Sale of Scientific Research Assets, Recovery against bad debts, Amount withdrawn from special reserve

II] Method of Accounting [Section 32]

Cash system or mercantile system (option to assessee)
Two **A**ccounting **S**tandards (AS) in mercantile system
AS 1: Disclosure of Accounting Policies
AS 2: Prior period and extra ordinary items and charges in accounting policies

III] Admissible Deduction [Section 30-37]

Rent, rates, taxes, repairs and insurance for buildings [Section 30]

IV] Repairs and Insurance of machinery, plant & furniture [Section 31]

Only revenue expenditure

V] Depreciation [Section 32]

Owner Asset must use in business/profession relevant P/Y eligible asset WDV method

A) Block of Assets [Section 2(ii)]: Same nature Same Rate – Building / Furniture/ Plant & Machinery & Intangible Assets

B) Rates of depreciation for various block of assets

(I) Building: Residential 5%, Non-residential 10%, Temporary residential 100%
(II) Furniture & Fittings 10%
(III) Plant & Machinery: General Rate 15%, Books for profession and library 100%, Motor car for Hire 30%, Motor car for Business 15%, Computer 60%, Ships 20%
(IV) Intangible assets 25%

C) Additional Depreciation [Section 32 (1)(iia)] (now even power generating unit can claim)

Only for manufacturing business any new machinery or plant (other than ships and aircrafts) installed after 31/3/2005 @ 20% of annual cost Condition: No second hand, not installed in office, no road transport vehicle, no deduction in one P/Y

We.f. 1.4.2015 in case of specified district of 4 states covered under section 32AD the additional depreciation rate is 35% instead of 20%

If asset is used less than 180 days the balance (10/17.5%) additional depreciation can be claimed in immediate subsequent year.

D) Short Term Capital Gain for Depreciable Asset

When entire block are not transferred:

Consideration for transfer less Expenses of transferred, Opening WDV, Purchase

(1) If the difference is profit, it is taxable as STCG.

(2) If the difference is loss, it is claimed depreciation under section 32.

(3) If asset purchased during the relevant P/Y Put in to use less than 180 days (dep. 50% of prescribed rate)

E) Depreciation for undertaking engaged in generation & distribution of power

WDV or SLM (option of assessee) Consequence if the above assets are sold Depreciation on the basis of WDV: Same treatment as done in Block concept Depreciation on the basis of SLM:

(i) WDV – Sale Price = Terminal Depreciation (allowed in PGBP)

(ii) Sale price (not more than actual cost) – WDV = Balancing charge (Taxable in PGBP)

(iii) Sale price (more than actual cost) – Actual Cost = Capital Gain

F) Set-off and carry forward of unabsorbed depreciation [Section 32(2)]

Same head any head of income other than salary carry forward to any number of years

	Tea Development Account [Section 33AB]	**Site restoration fund A/c [Section 33ABA]**
Applicable	Tea or Coffee or rubber	Petroleum or natural gas
Time Limit	Six months of end of P/Y or before ROI	Before end of P/Y
Deposit	NABARD or TCR board	SBI or Scheme of Ministry of P & G
Deduction	40% of profits of such business (max. limit)	20% profit of such business (mix. limit)

VI] Common provision in case of Section 33AB/33ABA

Deduction withdrawn Purchase for office or residence, office appliances (other than computer) Deduction allowed in one year, XIth Schedule, sale before 8 years from end of P/Y

A) Expenditure of scientific research [Section 35]

(1) Expenditure incurred by the assessee

(A) In all cases of in house research 100% (other than cost of any land) Any expenditure during 3 years immediately preceding the year of commencement of business 100% (other than cost of any land)

(B) In case of companies in specified business : **200% (**except land and building)

(2) In case of contribution to outsiders (whether or not research related to assessee business) Any national laboratory, university, IIT, Approved bodies 200% Approved scientific research association institution 175% For social – 125% & Company for any purpose 125%

B) Unabsorbed Capital Expenditure : Same Treatment as unabsorbed depreciation

VII] Expenditure on acquisition of Patent Rights *or* Copy Rights *[Section 35A upto 31.31998]*

VIII] Expenditure for obtaining Telecommunication License *[Section 35ABB]*

$$\text{Amount of deduction} = \frac{\text{Amount paid}}{\text{Remaining period of license}}$$

IX] DONATION FOR ELIGIBLE PROJECT *[SECTION 35AC]*

(1) Eligible expenditure Payment to public sector company, local authority, approved association, direct expenditure incurred on eligible project (*For Company only*)

(2) Amount deduction Actual payment *or* actual expenditure

(3) Withdrawal of exemption Project is not being carried on accordance with condition of national committee, Report nor furnished to the national committee

Investment-linked tax incentive for specified business-cold chain facilities, warehousing facilities for storage of agriculture produce, and cross-country natural gas or crude or petroleum oil pipeline network for distribution, including storage facilities, Production of fertilizer in India (new plant or in a newly installed capacity in an existing plant should be on or after 1st April, 2011),

Setting up and operating an inland container depot or a container freight station notified or approved under the Customs Act, 1962; [w.e.f. A.Y.2013-14] , Bee-keeping and production of honey and beeswax; [w.e.f. A.Y.2013-14] and, Setting up and operating a warehousing facility for storage of sugar. [w.e.f. A.Y.2013-14]

[Section 35AD]

Further, the following specified businesses commencing operations on or after 1.4.2012 shall be allowed a weighted deduction of 150% of the capital expenditure under section 35AD0A) of the Income-tax Act, namely:—

(i) setting up and operating a cold chain facility;
(ii) setting up and operating a warehousing facility for storage of agricultural produce;
(iii) building and operating, anywhere in India, a hospital with at least one hundred beds for patients;
(iv) developing and building a housing project under a scheme for affordable housing framed by the Central Government or a State Government, as the case may be, and notified by the Board in this behalf in accordance with the / guidelines as may be prescribed; and
(v) production of fertilizer in India.

[Please note the weighted deduction is only for the above 5 specified business only for other eligible business deduction shall be 100% only]

X] Donation for Rural Development *[Section 35CCA]*

National fund for Rural Development, National Urban poverty Eradication Fund

XI] **Weighted deduction of 150% for expenditure incurred on agricultural extension project [Section 35CCC] [W.e.f. A.Y. 2013-14]**

Agricultural extension services play a critical role in enhancing the productivity in the agricultural sector. In order to incentivise the business entities to provide better and effective agriculture extensive services, new section 35CCC has been inserted in the Income-tax Act to allow weighted deduction of 150% of the expenditure incurred on agricultural extension project. The agricultural extension project eligible for this weighted deduction shall be notified by the Board in accordance with the prescribed guidelines, Where a deduction claimed and allowed for any assessment year in respect of any expenditure referred to in section 35CCC(1), deduction shall not be allowed in respect of such expenditure under any other provisions of the Income-tax Act for the same or any other assessment year.

XII] PRELIMINARY EXPENSES [SECTION 35D]

(1) Applicability Indian company *or* Non-corporate resident assessee
(2) Before commencement of business For setting up of any business After commencement of business Extension *or* setting up new undertaking
(3) List of specified expenditures Feasibility Report, project report, market survey, engineering services, legal charges, drafting and printing of MOA & AOA, registration fees, issue of shares and debentures, underwriting commission, expenditure of prospectus

XIII] EXPENDITURE IN CASE OF AMALGAMATION *OR* DEMERGER *[Section 35DD]*

A) **Indian company : 5 installments if amalgamating company has incurred only 1/5th shall be allowed 4/5th shall be ignored**

XIV] Expenditure incurred under Voluntary Retirement Scheme (VRS) ***[Section 35DDA]***

Any assesse 5 equal annual installments

XVI] Expenditure on prospecting for certain minerals ***[Section 35E]***

Account of deduction $\frac{1th}{10}$ of expenditure *or* Income from such prospecting (lower)

Other Deduction ***[Section 36(1)]***

(1) Insurance premium on stocks allowable only in year of payment
(2) Insurance premium on life of cattle allowable only in year of payment
(3) Insurance premium paid on health of employees payment made by any mode other than cash
(4) Bonus or commission paid to employees on or before due date of filing return [Section 43B]
(5) Interest paid on borrowed capital Actual Interest
(6) Employers contribution to RPF on or before the due date of ROI
(7) Contribution to approved gratuity fund on or before the due date of ROI
(8) Contribution from employees on or before the due date under the relevant Act
(9) Amount of deduction = Actual cost of animal **less** Amount realized on sale of animals
(10) Bad debts only actual bad debts allowed (provision for bad debts disallowed)
(11) Provision for bad and doubtful debts for rural branches of Banks and co-operative banks
(12) Special reserve created by Financial Corporations
(13) Family planning expenditure - only for company assessee
  a) Revenue expenditure - fully allowed
  b) Capital expenditure - Allowed in 5 years in equal instalments
  c) Unabsorbed family planning expenditure - same manner as unabsorbed depreciation
(14) Treatment of discount on zero coupon bonds Allowed proportionately
(15) Securities Transaction Tax (STT) Allowed as a deduction
(16) Special deduction for reserve (maximum 20%) allowed to national Housing Bank

XV] General Deduction [Section 37(1)]

Expenditure only for business or profession , revenue nature, incurred during the P.Y such expense is not covered by Section 30 to 36 & same is related with business (i.e. personal expenditure not allowed) and same is not disallowed under any provision of Income Tax Act.

XVI] Disallowed Expenditures [Section 40(a) – 43B]

A) Expenses not deductible [Section 40(a)]

i) TDS default towards any payment made to NR or any person outside India.
ia) TDS default towards any payment made to Resident in India (30% is disallowed)
ib) Fringe benefit tax
ii) Income tax

iia) Wealth Tax
iii) Salary outside India without TDS iv) tax paid on non monetary perquisites which is exempt in case of 10(10CC)

B) Disallowance for Partnership firm [Section 40(b)]

A) Payment of interest to any partner - as per deed or 12% p.a. (whichever is lower)

B) For payment of salary, bonus to working partner:

a) Actual salary to working partner as per deed; or

b) ceiling limit base on book profit as below

Book Profit	**Limit**
On the first ₹ **3,00,000** of the book profit or in case of loss	₹ 1,**50,000** or at the rate of 90% of the book profit, whichever is more
On the balance book profit	60% of book profit

C) Payment to specified persons [Section 40A(2)]

AO may disallowed - excessive or unreasonable (fair market value) made to related party.

D) CASH PAYMENT IN RESPECT OF EXPENDITURE EXCEEDING ₹ 20,000 [Section 40(A)(3)]

Payment in excess of ₹ 20,000 (for transporter ₹ 35,000) otherwise **Account Payee** cheque or Demand Draft same is 100% disallowed Exceptions: Payment made to bank and financial institutions, Govt., Banking Holiday, village not served by any bank, book adjustment, producer of agriculture, Poultry farm, Dairy, Cottage Industry (without aid of power)

E] DISALLOWANCE OR PROVISION FOR GRATUITY [Section 40A(7)]

Provision for Gratuity Approved gratuity fund (allowed), actual payment of gratuity (allowed)

F] DEDUCTION BASED ON ACTUAL PAYMENT [Section 43B]

Certain deduction are made only on actual payment on or before the due date of ROI
Any tax, duty, cess, Interest on loans from scheduled bank or any public financial institution, any bonus or commission or leave encashment to employees, contribution to PF

XVII] MAINTENANCE OF ACCOUNTS BY PERSON CARRYING ON PROFESSION OR BUSINESS [Sec. 44A & Rule 6F]

(i) Business assesse **(Other than notified profession)**: Income from business or profession exceeds ₹ 1,20,000 Or Total sales/gross receipts exceeds ₹ 10,00,000.
In any of 3 preceding P.Y or likely to exceeds in case of newly setup business or profession. Assessee is required to maintain books of account and other documents (for computation of income)

(ii) Not required to maintain any books if specified amount are not exceeded.

A) **Notified Professions:** Profession of Law, Medicine, engineering, accounting, CA, CS, etc.

(i) Gross receipts exceeding ₹ 1,50,000 (in all three years immediately preceeding the PY or likely to exceed if the profession is newly setup) Assessee is required to maintain: **Specified books-** Cash Book, Journal, Ledger, Carbon Copies of Bills exceeding ₹ 25, Original Bill for expenditure exceeding ₹. 50 In case of medicine profession: Daily Cash Register, Medicine Inventory Register

(ii) In other cases: Assessee is required to maintain such books of account and other documents as may enable the Assessing Officer to compute income

XVIII] COMPULSORY AUDIT OF ACCOUNTS [Section 44AB]

(1) Applicability	(a)For business total sales or gross receipts exceed ₹ 100 Lakhs (b) For profession gross receipts exceeds ₹ 25,00,000 (c) Business referred to u/s 44AD/AE and declaring lower income
(2) Filling of report - Audit report of CA on or before 30th September of the relevant A.Y	
(3) If accounts audited under any other law Report with audit report under any law	
(4) Consequence of non-compliance Defective return [Section 139(9)]	

XIX] PRESUMPTIVE INCOME IN CASE OF SPECIFIC BUSINESS OR PROFESSION [SEC. 44AD/AE]

A) **Civil construction & other business not covered u/s 44AE [Section 44AD]:** 8% or more of gross turnover does not exceeds 100 lakhs .

B) **Business of plying and leasing goods carriages [Section 44AE]:**
Goods vehicle Rs. 7500 per month per vehicle (Maximum 10 goods carriage)

Common provisions in case of Section 44AD

(1) Deduction under Section 30-38 (deemed to be allowed)
(2) Depreciation (deemed to be allowed)
(3) Turnover for under Section 44AB (not to considered)
(4) Option for lesser amount (then Section 44AA & 44AB applicable)
(5) Partner's – Interest, salary (allowed to be deducted from presumed income)
(6) Deduction under Section 80C-80U (allowed) Amendment 1: Section 44AD & Section 44AF Notwithstanding anything to the contrary contained in **Sections 28 to 43C**, in the case of an eligible assessee engaged in an eligible business*, a sum equal to 8% of the total turnover or gross receipts of the assessee in the previous year on account of such business or, as the case may be, a sum higher than the aforesaid sum claimed to have been earned by the eligible assessee, shall be deemed to be the profits and gains of such business chargeable to tax under the head Profits and gains of business or profession.

Eligible Business:

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

2. Whose total turnover or gross receipts in the previous year does not exceed an amount of 100 lakh rupees.

There is specific Turnover limit of ₹ 25 Lakhs for Profession under **Section 44AB**, which means that profession is totally separate from Business.

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

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

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

INCOME FROM CAPITAL GAIN

I] BASIS OF CHARGE [Section 45(1)]

a) Capital assets u/s 2(14) other than excluded
b) Transfer during P.Y u/s 2(47) other than covered under section 47
c) There is Capital Gain
d) Same is not exemption u/s 54-54H (applicable)

II] CAPITAL ASSETS [Section 2(14)]

Includes Property of any kind whether or not connected with business or profession
Excludes Stock in trade, personal effects (except jewelry, archeological collections etc.), Rural agriculture land in India

III] TYPES OF CAPITAL ASSETS

(i) Short term capital assets Holding period not more than **36 months** Exception Holding period not more than **12 months :** Listed securities , Equity Oriented Units & Zero Coupon Bonds.
(ii) Long term capital assets A capital assets which is not a short term capital asset

IV] TRANSFER [Section 2(47)]

Sale Exchange, Relinquishment, Extinguishment, Compulsory Acquisition, Conversion of Capital Assets, **Redemption of Zero Coupon Bonds,** Part Performance of Contract (Transfer Of Property Act), Enjoyment Of Immovable Property

V] MEANING OF ZERO COUPON BOND [Section 2(48)]

(a) Issued (on or after 1/6/2005)Infrastructure capital company or infrastructure capital fund or public sector company or scheduled bank
(b) No payment and benefit □ before maturity or redemption
(c) Central government □ Notification in the Official Gazettee

VI] TRANSACTION WHICH ARE NOT CONSIDERED AS TRANSFER [Section 47]

(1) Partition of HUF
(2) Gift or will or irrevocable trust (except ESOP)
(3) Holding company to its Indian Subsidiary company (Condition100% shareholding)
(4) Subsidiary company to its Indian Holding company (Condition100% shareholding)
(5) Amalgamation company to its Indian amalgamated company
(6) Amalgamation of a company with a Banking Institutions
(7) Demerged company to its Indian resulting company
(8) Transfer of shares by resulting company to the shareholders of demerged company
(9) Shares of amalgamated company to shareholder of amalgamated company
(10) Transfer made by one non-resident to another non-resident (outside India)
(11) Transfer (Government, University, Notional Museum, National art Gallery, Notified by CG)
(12) Conversion of Bonds, debenture, deposit certificate into shares or debentures of that company

(13) Transfer of land by Sick Industrial company (managed by its own co-operative)
(14) Transfer of capital assets of a firm into company

Condition: All assets/liabilities, capital ratio, partners received only by shares, 50% voting power 5 years

VII] COMPARISON OF CAPITAL GAIN [Section 48]

(i) Computation of Short Term Capital Gain:
Full value of consideration **Less** Transfer expenses, COA, COI, Exemption u/s 54B, 54D & 54G
(ii) Computation of Long Term Capital Gain:
Full value of consideration **Less** Transfer expenses, ICOA, ICOI, Exemption u/s 54-54H

VIII] COST OF ACQUISITION AND IMPROVEMENT [Section 55]

a) In case of right to manufacture, produce any article or goodwill of a business

COA = Nil (if self-generated by assessee or provision owner.)
Cost to assessee/ Previous Owner (if required/purchase)

COI =Nil

b) In case of Tenancy rights, Route permits and loom hours, trademarks or bond name

COA = Nil (if self-generated by assessee or provision owner.)
Cost to assessee/ Previous Owner (if required/purchase)

COI = Expenses incurred by assessee or previous owner

IX] TRANSFER OF GOODWILL OF PROFESSION IS NOT TAXABLE

Cost of Acquisition of different types of shares [Section 55]

Particulars of Assets	Date of acquisition/Holding Period	Cost of Acquisition
(1) Shares originally purchased: (a) Primary market (b) Secondary market (i) Transaction trough share broker	 Date of Allotment Date of brokers note Date of contract of sale	 Allotment price Amount paid + Brokerage charges + Adjustment for exp. & com. + dividend/interest As above (excluding brokerage)
(2) Bonus share	Date of allotment	NIL
(3) Shares acquired in different lots at different point of time	FIFO method	FIFO method
(4) Shares held in depositary system (taxable in hands of beneficial owner)	FIFO method	FIFO method
(5) Right shares offered to existing shareholders and subscribed by them	Date of allotment	Offer Price
(6) Right share acquired by a person by way of renouncement	Date of allotment	Offer price + Amount paid for renouncement
(7) Renouncement of right shares in favour of another person	Holding period is date of offer of such right to the date of renouncement (always STCG)	NIL
(8)Financial asset acquired without any payment	Date of allotment of such financial assets	NIL

COMPUTATION OF CAPITAL GAIN IN SPECIAL CASES			
Section	**Nature of Transaction**	**Year of taxability**	**Computation of Capital gain**
45(1A)	Insurance claim on loss of assets	Year of receipt of claim	Insurance claim received **Less** COA or COI
45(2)	Conversion of capital assets into Stock-in-trade (Key note: Indexation based on year of conversion, not on year of sale)	Year of transfer of converted stock	FMV of the capital asset on conversion **Less** COA or ICOA Business income= Sale consideration **Less** FMV considered as above
45(2A)	Sale of shares held as depository(FIFO method)	Year of transfer	Consideration for transfer **Less** COA or ICOA
45(3)	Introduction of capital assets by partner into firm	Year of distribution	Amount credited in partners" capital a/c in the books of the firm **Less** COA or ICOA
45(4)	Distribution of capital asset by partners/ members on dissolutions of firm/AOP/BOI	Year of first receipt	FMV on date of transfer **Less** COA or ICOA
45(5)	Compulsory acquisition of capital asset by Government		
	(a) Normal compensation	Year of first receipt	Whole of normal compensation received or receivable **Less** COA or ICOA
	(b)Enhanced compensation	Year of receipt of claim	Enhanced compensation **Less** Expenses incurred
45(6)	Redemption 80CCB Units	Year of repurchase	Repurchase price **Less** Amount invested (no indexation)
46	Receipts of Assets / cash from company on liquidation	Year of receipt	FMV of asset received **Add** Amount received in Cash **Less** Deemed dividend u/s

			2(22)(c) **Less** COA or ICOA of hares
46A	Repurchase/bay back of shares /Specified securities	Year of repurchase	Consideration for transfer **Less** COA or ICOA
50B	Sale or undertaking as a going concern or Slump sale	Year of transfer	Lump sum consideration **Less** Net worth
50C	Transfer of land or building or both at less than stamp duty authority value	Year of transfer	Value determined by stamp duty authority **Less** COA or ICOA
50D	Transfer of Asset where consideration cannot be determined		Fair market value of asset shall be considered as DFVC

X] ADVANCE MONEY FORFEITED [Section 51]

Cost of assesse **Less** Forfeited by the assessee

XI] REFERENCE OF A VALUATION OFFICER [Section 55A]

(i) Sale consideration<FMV
(ii) Difference between FMV and sale consideration (more than ₹ 25,000 or 15%)
(iii) in case of FMV as on 1.4.1981

Exemption on compulsory acquisition of agriculture land [Section 10(37)]
Individual or HUF Holding period 2 year or more Consideration determined by CG or RBI on or before 1/4/2004

XII] Exemption on LTCG from Shares [Section 10(38)]

Transfer on or after 1/10/2004 Through recognized stock exchange security transaction tax applicable

XIII] Tax on STCG from shares @ 15% [Section 111A]

Transfer on or after 1/10/2004 Through recognized stock exchange security transaction tax applicable

XIV] Tax on LTCG from listed securities [Section 112]

Tax @ 20% on LTCG after Indexation or @ 10% on LTCG without indexation (whichever is less)

INCOME FROM OTHER SOURCES

I] Basic Charge [Section 56(1)]

Income not related to any earlier head & same is not exempt shall be taxable .

II] Specified Incomes [Section 56(2)]

(i) Dividend, winning from lotteries, races, card games, incomes from letting machinery or furniture along with building and only machinery or furniture, interest on securities.

(ii) **Where any some of money / any property / movable property exceeding ₹ 50,000 the whole of such amount (except-relative, occasion of marriage, under a will, in contemplation of death of the payer)**

III] Deemed Dividend [Section 2(22)]

(a) Any distribution by company,
(b) Distribution of debenture,
(c) Distribution of accumulated profit to shareholders on liquidation,
(d) Distribution on reduction of share capital,
(e) Any advance / loan by a private company to equity shareholder (10% voting power) or any concern (in which such member is have been not less than 20% voting power)

IV] Rate of tax in case of winning from lottery etc. [Section 115BB]

30% of such income + 2% education + 1% SHEC

V] Interest on securities (Rates of TDS)

Types of Security	Rate of TDS
(i) CG/SG securities	No TDS
(ii) Listed securities	10%
(iii) Unlisted Securities	20%

Note: In case of tax free non-government securities Grossing Up of interest

VI] Bond Washing Transaction

If owner of any securities sells it just before due date and again acquires them after due date, he will be able to avoid payment of tax on interest In such case as per Section 94 interest would be deemed to be the income of transferor and not Transferee.

Example:

(a) If there is not avoidance of Income Tax or
(b) The avoidance of Income Tax was exceptional and not synergic and there was no avoidance of income tax of three proceeding years.

VII] Family Pension [Section 57(iia)]

Family pension received by legal heir of deceased employee, taxable under the head "other source. Standard deduction to legal heirs is allowed.
(i) 33.33% of pension whichever is lower (ii) Rs. 15000

CLUBBING OF INCOME

I] Transfer of income without transfer of assets [Section 60]
Taxable in hands of transferor

II] Revocable transfer of assets [Section 61]
Taxable in the hands of transferor

III] Remuneration of a spouse from a concern in which the other spouse has substantial interest other than for excising professional knowledge [Section 64(1)(ii)]
Clubbed in the hands of individual

VI] Income from assets transferred to the spouse for inadequate consideration [Section 64(1)(iv)]
Clubbed in the hands of individual

V] Income from assets transferred to the son's wife for inadequate consideration [Section 64(1)(vi)]
Clubbed in the hands of individual

VI] Income from assets transferred to any person for the benefit of the spouse of the transferor [Section 64(1)(vii)]
Clubbed in the hands of individual

VII] Income from assets transferred to any person for the benefit of the son's wife of the transferor [Section 64(1)(vii)]
Clubbed in the hands of individual

VIII] Clubbing of income of a minor child [Section 64(1A)]
In the hands of parents whose total income is higher or the person maintained minor

IX] Income from self-acquired property concerted to joint family property for inadequate consideration [Section 64(2)]
Clubbed in the hands of individual

NOTE : Students please note that this summary does not cover all the provisions so just refer for reference (for fast track revision)

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A fellow Chartered Accountant practicing . He is providing consultancy in Direct Taxes. He is having teaching experience to CA students for more than 11 years . He has authored books on Direct Taxes , Costing at FINAL AND IPCC level. He is presently conducting batches for IPCC and FINAL .He is well known for his conceptual clarity in costing and expertised knowledge in Direct Taxes. He is devoted for the cause of students .

DIRECT TAXES BY CA AJAY B AGRAWAL

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