Relevant provisions under **3 major** divisions

Sec 15 Chargeability **Sec 16 Deductions** - Entertainment allowance - Profession Tax	**Sec 17 Definitions** 17(1) Salary 17(2) Perquisite 17(3) Profit in lieu of salary	**Exemptions Sec 10(5) to 10 (14)** **IT Rules** 2A- HRA -10(13A) 2B-LTC/LTA-10(5) 2BA-Voluntary retirement/separation 2BB-Special allowance-10 (14)

Sec 15 Chargeability

- ☞ *Any amount **due to or received** by an **Employee** including arrears of salary from an **employer or former employer** and falling within the purview of meaning of salary shall be chargeable to tax under this head salaries.*
- ☞ The term salary is defined in an inclusive manner.

Basic Conditions for charging salary to the tax is as follows

- ☞ **Employer and employee relationship**
- ☞ **Place for accrual of Salary**
- ☞ **Year of chargeability**

Employer and Employee relationship

- There must be **employer and employee relationship**, ***either in present or in past,*** between the payer and payee.
- (Payer means the person paying the salary and payee means the person who receive the salary)
- If there is no such relationship, then there is no question of charging tax under salaries.
- *In other words, there must exist a relationship as **master and servant** between the person who is entitled to receive money and the person who is paying it*

The rationale for determining employer and employee relationship is "Contract of Service.

Contract of service and Contract for service

Contract of Service	Contract for service
Employees are hired by an organization for execution of a particular service	Normally hired for Execution of a particular contract or projects

Effective control Exist	**Effective control do not exist**
Can have complete ownership and control over "what is required to be done" and how it should be done.	Can have to suggest the contractor "what is required to be done. How it should be done will be decided by the contractor
Have Full authority by the employer on their employee	Does not have full authority and command over contractor.

If the condition of contract of service is established, there will automatically arise the relationship between Employer and employee.

Note

The employment can be "Full-Time basis or a part time basis". Likewise, it may be single employer or more than one employer also.

Example for contract for a service

If a person acting as an **agent** for his principal during the course of carrying on his business, there is no relation between them as **master and servant** and therefore, any commission or remunerations received by the agent is chargeable to tax under the head profit and Gains from business and professions.

Miscellaneous Points

Directors of the company

- In case of Directors of the company, the employer and employee relationship need to be presumed from Articles of Association. If Articles of association permit, the remuneration shall fall within the meaning of salary. However, the Managing director remuneration must fall within the meaning of salary.

MP and MLA remuneration

- MP and MLA Remuneration doesnot fall within the meaning of salary since there is no employer and employee relationship between the Government and MP and MLA.

Advocate General retainer fee

- Retainer fee or remuneration paid to advocate general by the government doesnot fall within the meaning of salary. The reason is advocate general is a professional person and there is no employer and employee relationship also.

Judges remuneration

- Remuneration received by judge will fall within the meaning of salary since there exist employer and employee relationship between government and Judges.

Partners remuneration from Firm

Any salary, bonus,commission or remunerations **(S,B,C,R)** due to or received by partner from its firm in the course of conduct of business and profession shall not be chargeable under this head of income. It should be come under Profit and gains from Business and profession

Chargeability

Salary is chargeable to tax on due basis or receipts basis whichever is earlier

Example

Advance salary is chargeable to tax on receipts basis and arrears of salary is chargeable to tax on due basis.

Place of accrual

Place of accrual refers to the place where **service rendered** and deeming provisions (Please Refer Section 9). The salary income originates in **India or Deemed to Originate in India will be chargeable to tax.**

Example

Salary paid by Government of India to a foreign citizen shall be chargeable to tax if service is done in India.

Salary paid by Government of India to a citizen of Indian origin in respect of service rendered outside India chargeable to tax.

Section 17 (1) Definition of salary

Salary include:-

i) Wages;
ii) Any annuity or pension;
iii) Any gratuity;

iv) Any fee,commission,perquisite or profit in lieu of salary;
v) Any advance of salary;
vi) Leave encashment;
vii) Annual accretion to the provident fund to the extent of following:
   a. Employer contribution in excess of 12% of salary
   b. Interest credited to the recognized provident fund in excess of 9.5 p.a
viii) The accumulated transferred balance from the **un recognized provident** fund to the **recognized provident fund** to the extent it is chargeable
ix) Contribution made by the **Central Government** or **Any other employer** in the previous year to the account of an employer under the pension scheme referred to in section **80CCD**

Section 17 (2) Profit in lieu of salary

Profit in lieu of salary include:-

Terminal compensation.

1. Any **compensation** due to or received by the assesses from his **employer** or **former employer** in connection with the following situations

   - *Termination of the employment.*
   - *Modification of terms of employment*.

2. Payment from an un recognized provident fund or **un recognized** **superannuation** fund.

   Any payment due to or received by an assessee from his employer or former employer or from provident fund or any other fund , to the extent to which it does not consist of contributions or interest on such contribution by an assessee.

3. **Key man insurance policy**
   Any payment due to or received by the assesses from other fund received under Key man insurance policy including ***the sum allocated by way of Bonus.***

4. Any amount due to or received whether in lump sum or otherwise in connection with the following.
   - Before joining the employment with that person
   - After cessation of employment with that person

5. Any other sums received by the employee from his employer.

DEDUCTIONS

Section 16 of income tax Act

There are following deduction

1. Entertainment allowance
2. Professional Tax

Entertainment allowance.

Who can claim this deduction?

Only Government servant can claim the following deductions

Following shall be allowed as deduction

1. **Rs 5000/-**
2. **1/5th of salary (20% of salary)**
3. **Actual entertainment allowance received during the previous year**

- *Salary for this purpose includes Basic pay only.*
- *Dearness allowance should not be included for calculation of salary*
- *Excludes all the perquisite, allowance and benefits*

Entertainment allowance is not eligible for deductions, however, it is qualifies for deduction, therefore, it is included in the gross salary and later deductions will be allowed based on the following criteria.

Profession tax (Tax on Employment)

- If any sum paid by the Assessee as profession tax under276 (2) of Articles of the constitution it is allowed as deduction.
- If it is paid by the employer on behalf of its employee, then it should be included in the Gross salary of the assessee and later it can be claimed as deduction as full amount.
- The amount of profession Tax should not exceed Rs 2,500/- under276 (2)

EXEMPTIONS

Section 10 (5) to 10 (14) deals with various exemptions.

Value of leave travel concession or Assistance 10(5) and Rule 2 (B)

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

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

Meaning of family

Family Include the following

Spouse and children (Includes the adopted children's)

Parents, brothers and sisters wholly dependent on individual

Special notes with respect to the children of individuals

- Children born before *1st October 1998* can claim more than two children's allowance
- Children's born after *1st October 1998*, this allowance is limited with respect to only two children's
- If an individual's only having one child he can get multiple children in other occasion.

Number of trips qualifies for exemption

- Exemption is available in respect of 2 journey performed in a 4 block of calender year commencing from 1986.
- Block of 4 calender year Runs from 1986 to 1989, 1990 to 1993, 1994 to 1997 so forth.
- The block of calendar year relevant for the assessment year is 2014-2017 and 2018-2021.

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

Quantum of deduction

JOURNEY PERFORMED BY	EXEMPTION
1.Air	Amount does not exceed the air economy fair of national carrier to the shortest destination of place of Journey. (**Indian Airlines or Air India Fare**)
2. Any other mode – a) rail service is available	Amount does not exceed air-conditioned First class to the shortest destination of place of Journey.
b) rail service is not available- i) recognised public transport system does not exist	Amount does not exceed air-conditioned First class to the shortest destination of place of Journey
ii) recognised public transport system does not exist	Amount does not exceed First class or deluxe class of such public transport to the shortest destination of place of Journey.

2. Exemption in case of Foreign National 10(6)

In case of an Individual who is not a citizen of India following shall be exempt.

1. Remuneration received by him as an employee of following category or staff member of the following categories shall be allowed as an exemption.

a) Official of Embassy
b) High Commission
c) Commission
d) legation
e) Consulate
f) Trade representation of a foreign state
g) Staff member of Above

Notes

The remuneration received by the trade commissioner or other official representative in India or staff member of such representative will be exempted if and only if the similar exemption is granted by the country in which they belonging to

2. Remuneration received by him as an employee of the foreign enterprise during his stay in India if the following conditions were met.
    a) foreign enterprise doesnot engaged in any trade or Business in India
    b) His stay does not exceed 90 days in aggregate during the previous year.
    c) Such remuneration shall not be deductible from income chargeable in India.

3. Remuneration for service rendered by an individual, being a **<u>Non -resident</u>** in connection with his performance of duty in a foreign **<u>ship</u>** provided his total stay in India does not exceed 90 days in aggregate during the previous year.
4. Remuneration received by him as an employee of the foreign Government during his stay in india in connection with his training in any enterprise owned and controlled by Government of India or Government company or any subsidiary owned by Government company.

<u>Perquisite and allowance to Indian Citizen Employed Abroad 10 (7)</u>

Any perquisite or allowance paid to a citizen of India in connection with abroad employment is exempt from Tax.

<u>Exemption in case of chairman or member of Union Public service commission Sec 10 (45)</u>

1. Any allowance or perquisite paid to the following persons who is belonging to the UPSC

- Chairman

- Retired chairman
- Member or
- Retired member

Is exempted from Tax

The Central Government has prescribed the following allowance and perquisites.

1. The value of rent free official residence
2. The value of conveyance facilities including transport allowance
3. The sumptuary allowance
4. The value of leave travel concession provided to a serving chairman or the member of UPSC

3. <u>In case of retired chairman and retired members of the UPSC</u>

I) A sum which should not exceed Rs 14,000/- for defraying the service of an attendant and availing secretarial assistance.

II) The value of residential phone free of cost and the number of free calls to the extent of Rs 1500 pm

<u>Gratuity 10 (10)</u>

1. <u>Government servant</u>

Any death cum retirement gratuity is wholly exempt from tax

I. <u>Employees covered under payment of Gratuity Act 1976</u>

Least of the following is exempt from tax.

1) Rs 10,00,000/-
2) 15 days salary out of 26 days salary based on last drawn salary
3) Actual gratuity received

Salary for this purpose include basic pay and DA

Salary for this purpose is Basic pay and DA

Note Fraction in years in excess of 6 month has to be rounded up as one year. Fraction less than 6 month has to be ignored .

Employees not covered under payment of Gratuity Act 1976

4) Rs 10,00,000/-
5) Half month days salary based on last 10 month average
6) Actual gratuity received

Salary for this purpose include basic pay and DA and commission as a % of Turn over achieved by the employee

Notes

- Gratuity received during the period of service is always taxable
- If the employee receives gratuity from more than 2 employers then aggregate amount of Gratuity exempt does not exceeds the limits prescribed
- In case where an employee receives gratuity in earlier year in former employer and received gratuity in another employer then the limit of Rs 10 lakhs will be proportionately reduced by the amount of tax exempt in earlier year.

Notes:- **Fraction of years should be ignored.**

Commuted pension 10 (10) (A)

- Un commuted pension means the pension which is received by the employee periodically and which is chargeable to tax u/s 15 in the hand of both Government and Non Government employee.
- Commuted pension refers to taking lump sum amount by commuting the whole or part of the pension
- Where an employee had commuted his pension then the remaining portion will be received periodically
- Any commuted pension received by the government employee is wholly exempt from tax
- Judges of High court and supreme court also entitled for this exemption (Vide circular (623 Dt 6/1/92)

In case of Non government employees following shall be exempt from tax

1. **If the employee is in receipts of Gratuity**

1/3 of commuted pension which we would have received had he commuted the whole pension (100%)

2. **If the employee is in not receipts of Gratuity**

1/2 of commuted pension which we would have received had he commuted the whole pension (100%)

Leave salary Sec 10 (10 AA)

1. Government servant

Any amount received as cash equivalent to earned leave to the credit of the employee is wholly exempt from tax.

2. Non government servant

Least of the following shall be exempt from tax

1. Cash equivalent of leave (on the basis of average of last 10 month salary) to the credit of the employee at the time of retirement(calculated 30 days credit for each completed year of service
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 always taxable
- If the employee receives Leave encashment from more than 2 employers then aggregate amount of Gratuity exempt doesnot exceeds the limits prescribed
- In case where an employee receives Leave encashment in earlier year in former employer and received gratuity in another employer then the limit of Rs 3 lakhs will be proportionately reduced by the amount of tax exempt in earlier year.

Salary for this purpose include basic pay and DA and commission as a % of Turn over achieved by the employee

Retrenchment compensation 10 (10 B)

Any compensation received by a workman is exempt to the extent of following

1. Rs 500000
2. Amount calculated under Industrial Dispute Act

Voluntary Retirement or separation 10 (10C) and Rule 2 (BA)

Amount received or receivable by the following employees

1. Public sector company
2. Any other company
3. Any authority established under central state or provincial Act
4. local authority
5. Co operative society
6. University
7. IIT
8. Any state government
9. Any Central government
10. Institution having importance throughout India or in any state on the Central government may specify
11. Any institute of Management as Central Government may specify in this connection.

At the time of VRS or termination of service under voluntary retirement or in the case of Public company under voluntary separation is exempt up to Rs 5,00,000/-.

The scheme must be framed under Rule 2 BA

Condition under Rule 2 BA (Important)

- It applies to an employee of the company who has completed 10 year of service or completed 40 years of age whichever is earlier.
- It applies to all the employees including workers and executive of the company and excluding the directors of the company
- The scheme of Voluntary retirement or separation has been drawn up to result in overall reduction in the existing strength of the employee of the company

- The Vacancy caused by Voluntary retirement or separation is not to be filled up
- The retiring employee shall not be employed in another company or concern belonging to the same management.
- The amount receivable on account of Voluntary retirement or separation doesnot exceed the amount equivalent to 3 month salary for each completed year of service or salary at the time of retirement multiplied by the balance month of services left before the date of retirement.

The condition that an employee of the company who has completed 10 year of service or completed 40 years of age which ever is earlier is not applicable to Voluntary separation scheme framed by Public Sector Company.

Salary for this purpose include basic pay and DA and commission as a % of Turn over achieved by the employee

Least of the following shall be exempt from tax

1. Last drawn salary X 3 X completed years of service (OR) Last drawn salary X remaining month of service whichever is higher.
2. Rs 5,00,000/-
3. Actual compensation received

Statutory Provident Fund 10 (11)

- Any payement from Statutory Provident Fund (PF Act 1925) or public provident fund is wholly exempted from tax.

Recognized Provident fund 10 (12)

The accumulated balance due and becoming payable to an employee participating in a recognised PF shall be exempt in the following case in Rule 8 of part A of the fourth schedule

1. In the case of an employee who has rendered continuous service of more than 5 years or more.
2. In the case of an employee whose service has been terminated by reason of the employee ill health or by contraction or discontinuance of the employers business or other reason beyond the control of employee.
3. in the case of employee who obtains the employment with any other employee who maintains any recognised Provident fund to which the accumulated balance becoming due and payable is transferred.
4. Where the accumulated balance becoming due and payable is so transferred , the period of service under the former employer shall also be included in calculating the continuous service .

Approved super Annuation Fund 10 (13)

Any payment from an approved superannuation fund is exempt from tax if it is made on the following situations

1. on the death of a beneficiary
2. to an employee in lieu of or in commutation of an annuity on his retirement at or after a specified age or on his becoming in capacitated prior to such retirement
3. By way of refund of contribution on the death of beneficiary

House rent Allowance 10 (13 A) (Read with Rule 2A)

HRA is allowed as an exemption to the extent of least of the following

- Excess of rent paid over 10 % of salary
- If the accommodation is in ***Kolkata,Chennai,Delhi,Mumbai**, then 50% of the salary and 40% of salary in other cases
- Actual HRA received during the relevant periods

- These are *super metro cites* in India where cost of living is comparitatively higher.

Salary for the purpose of HRA means Basic salary, Dearness allowance if provided under the terms of employment and commission as a percentage of Turn over achieved by the employee which is calculated on "due basis".

Special allowance 10 (14) and Rule 2BB

Following are allowed as an allowance under CBDT rules 2 BB

Allowance exempted to the extent of the actual allowance received or spend whichever is less

Any allowance granted and spend to meet the cost of:-

a) Travel on tour or transfer
b) Ordinary daily charges which is incurred on account of absent from place of employment
c) Conveyance allowance granted to meet the expenditure incurred on conveyance in the performance of duties provided free conveyance is not provided by the employer
d) Expenditure incurred on a helper in the performance of duties
e) The academic, research and training pursuit in educational and research institute
f) Purchase or maintenance of uniform for wear during the performance of duties.

Allowance exempted to the extent of the actual allowance received or the Limits prescribed whichever is less

1. **Composite hill Allowance**

- Rs 300/- Pm provided the place is located at a height of 1000 meters above from sea level.
- Rs 800/- Pm in certain notified areas
- Rs 7000/- Pm in *Siachen area of Jammu and Kashmir*

2. **Tribal Area Allowance**

Rs 200 Pm is exempt (*Assam, Bihar, Karnataka, Madhya Pradesh, Orissa, Tripura, Tamil Nadu, UP*)

3. **Special allowance**

Border area Allowance Rs 200

Remote area Allowance Rs 300

Difficult area Allowance Rs 750

Distributed area Allowance Rs 1050

4. **Employee working in a public transport system**

Rs **10,000/-** Pm or 70 % of such allowance which ever is lower.

5. Children Education Allowance

Exempt up to Rs 100/- subject to a maximum of Two children

6. Children hostel allowance

Exempt up to Rs 300/- subject to a maximum of two children

7. Counter insurgency allowance

Exempt up to Rs 3900/- Pm to the members of armed force operating in an areas away from their permanent locations for a period of more than 30 days

8. Transport allowance

a) Transport allowance to the person who is blind or deaf and dumb or orthopedically handicapped with the disability of lower extremities **Rs 3200/-**Per month.
b) Others **Rs 1,600** per month

11. **Underground allowance**

Exempt Rs 800 pm

12. High altitude allowances

Exempt Rs 1060 Pm for the altitude of 9000 to 15000 Ft

Exempt Rs 1600Pm for the altitude above 15000 Ft

13. Special Allowance of members of armed force

Special compensatory allowance highly active field allowance Rs 4200 pm

Island duty allowance of Rs 3250/-

Section 17 (2) perquisite

1)Value **of rent free accommodation** provided by the employer to the employee.
2)Value of **concession** in the matter of **rent** in respect of any accommodation provided by the employer to the employee
3)Value of any **amenity or benefit** provided **free of cost or at concessional** rate in case of specified employee
4)Any sum paid by the employer in respect of any obligation on behalf of the employee
5)Any sum payable by the employer to effect an assurance on the life of the employee or to effect a contract for annuity
6)The value of any other fringe benefit or amenity as may be prescribed.
7)The value of specified sweat equity shares transferred or allotted directly or indirectly at free of cost or at concessional rate to the assessee
8)Any contribution to super annuation fund by the employer in respect of assessee to the extent it exceed Rs 1,50,000/-

Valuation of specified securities and sweat equity shares

- Sweat equity share are equity shares in a company allotted to its employees either free of cost or at a reduced price or a portion of value of such shares may be recovered from the employees.

- The value of taxable perquisite in the hands of the employees may be the fair market value of such equity shares less the amount recovered from the employee

- It will partake the character of taxable perquisite and the value will be determined under following tables

Value of taxable perquisite = FMV- amount recovered from the employee

FMV of the share is calculated depends upon following manner.

Case	Valuations
Shares listed shares on stock exchange	FMV shall be the *average value* of opening price and closing price of the share on that date on the said stock exchange
Shares listed on more than one stock exchange	FMV shall be the *average value* of the opening price and closing price of the shares on the recognized stock exchange which records the highest volume of trading in the shares
If the shares is not traded on the stock exchange	The closing price of shares on any recognized stock exchange on a date closet to the date of exercising such option and immediately preceding such date
Unlisted shares	FMV shall be such value of shares in the company as determined by the merchant banker on **specified banker**

Medical facility is not a taxable perquisite

The value of following medical facility or expenditure incurred in favour of an employee is not treated as perquisite and therefore it is not taxable.

1) Medical facility provided to an employee or any member of his family in any hospital maintained by the employer.
2) Any sum paid by the employer in respect of any expense actually incurred by the employee or any member of his family on his medical treatment or medical treatment of any member of family in :-

a) Any hospital maintained by the Government or
b) Any approved hospital under central health scheme or similar scheme of state government
c) Any hospital, approved by chief commissioner for medical treatment of specified disease or Ailment.

3) A)Group medial insurance taken on the life of employee or
B) Reimbursement of medical insurance premium paid by the employee on his health or health of any member of his family under the scheme approved u/s 80 D.

4) Re imbursement by the employer of actual expenditure incurred by an employee for medical treatment from any doctor in respect of employee or any member of his family.

5) Actual expenditure incurred by an employer in respect of following
   a) Medical treatment of employer or any member of his family outside India
   b) Travel and stay abroad of patient and one attendant subject to the following condition
      i) The expenditure on medical treatment and stay abroad will be exempted to the extend permitted by RBI.
      ii) The expenditure on medical treatment shall be exempted only in the case of employee whose gross total income as computed before included the said travel expense Rs 2,00,000/-

<u>Value of rent free accommodation</u>

Government employee

- Where the accommodation provided by union or state government in connection with holding office or post in connection with affair of such union and state government or
- Holding post in any undertaking which is hold by union or state government.
- The value of perquisite shall be **<u>the license fee</u>** determined by such union and state government in connection with Rules framed in this behalf as reduced by rent ,if any, paid by employee.

Other employees

The value of perquisite will depends upon whether the accommodation is owned by the employer.

<u>Calculation of Rent free unfurnished accommodation</u>

<u>Where the accommodation is owned by the employer</u>

A) Less than 10 lakh--- 7.5 %
B) Between 10 lakh to 25 lakh---10 %
C) Above 25 lakh ---15%

Where the accommodation is taken on lease or rent

Least of the following

a) Actual cost of lease rental paid or payable by the employer or
b) 15 % of salary

Reduced by the rent, if any, paid by the employee

Calculation of Rent free furnished accommodation

Calculate the value as per the above calculation and add the following.

a) 10 % original cost where the furniture owned by the employer
b) Actual hire charges payable by the employer where the furniture is hired

Reduce any hire charges which is beard by the employee during the previous year.

Hotel accommodation

Government employee

- Where the accommodation provided by union or state government in a hotel, then value of the perquisite is least of the following

24% of gross salary paid or payable for the previous year or

Actual hire charges paid or payable to such hotel

- Reduce any hire charges which is beard by the employee during the previous year.
- The calculation shall be for the period during which accommodation is availed.
- Where such accommodation is provided in connection with transfer of employee in one place to an other place for less than 15 days there is no question of perquisite. If exceeds 15 days then perquisite need to be calculated.

Additional points

Where accommodation is provided to an employee who working in the following category then there is no taxable perquisite at all.

a) Mining site
b) Onshore oil exploration site
c) Project execution site located in a remote area
d) Off shore site of similar nature (Remote area)

And the following additional conditions required being satisfied

1. Being of a **temporary nature** and having a plinth area not exceeding 800 Sqft, is located not less than 8 kilo meters away from the local limits of any municipality or a cantonment board.
2. Is located in a remote area

In case of transfer of employees

Where on account of transfer of employee in one place to an other place, the employer provided with new place of posting while retaining the accommodation at old place, the value of perquisite is determined is as follows.

a) For a period not exceeding 90 days, the value of perquisite is determined with reference to only one such accommodation which bears lower perquisite.
b) For a period exceeding 90 days, value of perquisite is charged for both such accommodation.

Note

The test is for 90 days

Accommodation include the following

Accommodation in :-

Flat

Farm house or part there of

Accommodation in a hotel, motel, caravan, mobile home or in ship or other floating structure (House boat)

Salary for the purpose

Salary includes the following

Pay, allowance, bonus or commission payable monthly or otherwise or any other monetary payment payable by whatever name called from one or more employees as the case may be but does not include the following.

i) Dearness allowance or pay unless it include the part of super annuation or the retirement benefit of the employee concerned
ii) Employer contribution to PF of the employee
iii) Allowance which are exempt from payment of tax
iv) Value of perquisite which is specified u/s 17 (2)
v) Any payment or benefit in the nature of allotment of shares ,debentures, or warrants under ESOP or scheme in accordance with guidelines prescribed by the government in this connection.

2 Value of concession in the matter of rent

No specific calculation in

3. <u>Value of any other amenity or benefit to specified employees (Important)</u>

Specified employees

Following category of employees were called specified employees

I)	Director of the company
II)	A person who have substantial interest in employer company
III)	An employee who is not covered (I) and (II) above whose income under the head salary excluding all the non monetary allowance and perquisite exceeds Rs 50,000/-

Notes

While computing the limit of Rs 50,000/- following are excluded

I)	All non monetary allowance
II)	Monetary allowance which is exempt u/s 10
III)	Deduction under 16 (ii) and (iii)

a) Perquisite in respect of domestic servant
If employer had made a provision for Gardner, sweeper, watchman or personal attendant

The actual value of perquisite shall be the total amount of salary which is borne by the employer less amount if any paid by the employee

b) Perquisite in respect of Gas, electricity energy and water supply for house hold.

<u>If the above facility owned by the employer</u>

Manufacturing cost incurred by the manufacturer shall be value of the perquisite

<u>If the above facility Hired by the employer from outside agency.</u>

The amount paid by the employer on that account shall be the value of perquisite.

Reduce the amount if any paid by the employee on that account.

c) Perquisite in respect of Education allowance

Where free education allowance provided by the employer to any member of house hold of employee

Actual cost incurred by the employer for providing such education.

Where education institution maintained or sponsored by the employer and providing free or concessional education facility to the household of employee

Value of perquisite shall be cost of such education in near or similar locality.

If the cost of education is less than Rs 1000/- child then there is no perquisite.

Reduce the amount if any paid by the employee on that account.

Scholarship received by the employees son from the employer is a taxable perquisite and the same is exempted under section 10(16).

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In computing the value of benefit or amenity, any amount paid or recovered or borne by the employee or any member of the house hold shall be reduced and the balance amount shall be charged to tax as perquisite in the hand of employee.

IPCC MAY EXAM

1) Interest Free housing loan

The value of benefit or amenity on account of interest free or concessional loan made available to him shall be determined as *a sum equal to the interest computed at the rates charges by SBI as on the first day of the relevant previous year in respect of loan made to the similar purpose during the first day of the relevant previous year*.

SBI schedule for AY 2018-19 is as follows

Nature of loan	periods	Rate
Housing Loan	0 to 20 years	9.45%
Car	0 to 7 years	9.45%
Education	Up to 4 lakh Above 4 to 7.5 lakh above 7.5	11.25% 12.75% 11.75%
Personal loan Two wheeler		16% 15.75%

Interest shall be calculated on the basis of maximum monthly outstanding balance.

Exemption

- If the loan is availed for the disease specified in Rule 3 A or
- The amount of loan availed doesnot exceeds Rs 20,000/-

Usage of movable asset

If the moveable asset owned or hired by the employer is used by the employee or any member of the household then the value of perquisite shall be

10% p a of the actual cost of such asset or the amount of hire charges incurred by the Employer shall be the value of perquisite.

Exemption.

It doesnot covers the computers and laptops and the asset covered above.

Transfer of moveable asset

Where an employer transfers any asset directly or indirectly to the employee or any member of the family then the value shall be determined as follows

1) Motor car 20 % on WDV (Reducing balance method) 2) Computer and electronic gadget 50 % WDV (reducing balance method) 3) Other asset 10 % on SLM method.

Perquisite in respect 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

However, the following case there may arise the question of perquisite.

Case 1 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 liters CC Rs 1800 PM and above 1.6 CC Rs 2400/- Drivers salary Rs 900 Pm.

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

i) Wholly for personal use :- Wear and tear 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/- Drivers salary Rs 900 Pm.

Case III Car is owned by the employer and expense is met by the employee.

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

iii) 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 the case of other conveyance allowance provided by the employer then the value shall be as follows.

i) Wholly for personal use:- The running and maintanence expense
ii) Partial for official and personal: - Actual expense incurred by the employer as reduced by Rs 900/-

Free or confessionals tickets

In case of undertaking engaged in the business of carriage of goods or passengers and providing free or concessional journey to the employee or any member of house hold.

1. In case of employees of an air lines or railways- value of the perquisite shall be NIL
2. In case of other employees the perquisite shall be as per the following tables

Value of perquisite shall be the amount at which such facilities are provided to the public less amount if any recovered from the employee.

Travelling, tour and accomodation

The amount of expenditure incurred by the employer shall be regarded as the value of benefit or amenity. The amount recovered from the employee shall be reduced and the residual amount shall be regard as value of benefit or amenity

If the facility is not uniformly available to the entire employee, then, the value at which such facilities are allowed to the public shall be allowed as value of amenity or benefit.

Where the employee is in tour and any member of house hold are accompanied him, the amount of expenditure shall be value of perquisite.

This will not cover Leave travel concession or assistance.

Free or concessional meals

The amount of expenditure incurred by the employer shall be the value of benefit or amenity. However, following shall be exempted

a) Free meals provided during the *office hours* at *office or business premises* up to rs 50 per meals

b) Free meals provided through paid vouchers which are not transferable and useable only at eating if the value there of is up to Rs 50 per meals
c) Free meals provided at working hours provided in a remote area or an offshore installation
d) Tea or snacks provided during office hours

GIFT

The value of Gift, or Voucher or token in lieu of which such gift may be received by the employee or any member of such house hold shall be the sum equal to such gift.

If the value of such gift, or voucher or token in respect of which such gift or token received by the employee or member of house hold is less than Rs 5000/- then the value of perquisite shall be taken as NIL

Value of Gift, Voucher or token in respect of Gift

Less than Rs 5000	More than Rs 5000
No perquisite	full value shall be treated as perk

Credit card expense

The amount of expense including membership fee or annual fee incurred by the employee or any member of house hold which is charged to credit card (including add-on cards) provided by the employer or otherwise ,paid for or reimbursed by the employer shall be taken to the value of perquisite chargeable to tax

However, in case of any amount paid or recovered from the employee for such benefit or amenity, the same shall be reduced from the value of the security

Taxable value calculation for credit card

Expenditure incurred by the employer on behalf of employee	XXX
Less Expenditure incurred on official Purpose	XXX
Less Amount recovered from the Employee	XXX

Membership in a club

The amount of expenditure being membership fee and the annul fee incurred by the employee or any member of the house hold shall be the amount of benefit or amenity.

Salary General Format

Particulars	Amount	Amount
Salary or wages (Including advance salary)		XXX
pension or Annuity (retirement benefit)		XXX
Gratuity or leave salary		XXX
Fee, commission etc		XXX
Taxable allowance		XXX
Taxable perquisite		XXX
Profit in lieu or addition of salary		XXX

Contribution in excess of 12.5 % salary		XXX
Interest credited in excess of 9.5 %		XXX
Taxable balance transferred from UPRF to RPF		XXX
Gross salary		**XXX**
Less deduction u/s 16		
Entertainment allowance	XXX	
Profession tax	XXX	
Net salary		**XXX**

<u>EXERCISE PROBLEMS</u>

<u>Profession Tax Calculation problem</u>

1.compute the salary income under following case for the Assessment year 2018-19

a. Mr. A who is in Government service receive Rs 4,000/- p.m as basic salary and Rs 500/- pm as dearness allowance and Rs 600/- pm as entertainment allowance.

b. Mrs. X who is an executive director of a private company is in receipts of Rs 25,000/- pm as basic salary and Rs 5,000/- pm as entertainment allowance
c. Mr. Y is an employee of a multinational company situated at Mumbai for a salary of Rs 1,00,000/- per month. Value of taxable perquisite is Rs 1,60,000/-and the profession tax paid is Rs 2,500/- PM

Entertainment allowance problems

a. Mr. Ram is a government Employee receiving Rs a salary ofRs 6,000/- as basic pay and Rs 1,500/- as dearness allowance.
2. Miss Nandhini employed in a government service drawing a monthly basic salary of Rs 12,500/-pm as basic salary and a monthly entertainment allowance Rs 1,000/- she also paid a dearness allowance of Rs 1,000/-
3. Mr. Raghavan is the CEO Finance of a software company drawing a basics salary of Rs 50,000/- per month and a dearness allowance of Rs 50,000/- pm. The value of taxable perquisite is Rs 2,00,000/- in a year. He has pad Rs 2,000/- towards professional Tax.
4. Mr. Desai, an employee of the government, get s Rs 20,000/- as entertainment allowance for the year out of which he has spend Rs 2,000/- for official purpose and Rs 3,200 for his personal purpose and balance amount is 14,800/-.1/5th of his basic salary is amounting to Rs 8,000/- compute his entertainment allowance.

Leave Travel Concession or assistance

1. Mr . Ashwin went to Shrinagar on a holiday on 15.112017 with his wife and 3 childrens (One son age of 6years and twin daughters 3 year old). They went by Jetairways economy class flight and the total cost of the tickets by the employer was 58,000/- (Rs 43,000/- for adults and 15,000/- for three childrens).
You are required to calculate leave salary US 10 (5)
2. Mr. Suresh went on a holiday on 09/09/2017 to Mysore with his wife and 3 children's – one daughter born on 02/02/2010 and twin born on 05/05/2012. The total cost of travel was Rs 80,000/-. The ticket cost of Mr. Suresh and his spouse was Rs 50,000/- and for three children were Rs 30,000/- The employer re imburse the total ticketing expense of Rs 80,000/-

House Rent allowance

IPCC MAY EXAM

1. Mr.zakariah, staying at Chennai, receives Rs 12,000/- monthly as basic salary; Rs 1,500 as dearness allowance provided in the terms of employment and 4% commission on the turnover achived achieved by him for the year is Rs 15 lakh. He is paid a House rent allowance of Rs 1800 per month. House rent paid by him is Rs 2,500/-. He is received an advance salary of Rs 50,000/- in march 2018 relating to the period April to july 2018. Determine the taxable quantum of House rent allowance.
2. Mr . Kurien reside at Banglore drawing a remuneration of Rs 15,000/-. He is paid a DA of Rs 2,500/- pm in the terms of employment. In additions, he is paid an HRA of Rs 3,000/- and he is entitled to 5 % commission on the turnover achieved by him. Commission achieved by him during the previous year is Rs 40,00,000/- He pays Rs 7,500/- pm as rent. Calculate income chargeable to tax under the head salarie.
3. Mr. Ramu is residing at hydrabad drawing a remuneration of Rs 12,500/- he is paid a DA of Rs 1,500/- provided in the terms of employments. He also paid an HRA of Rs 4,000/- and he is entitled to a commission @ 3% with respect to the turnover achieved by him. The turnover achieved by him is Rs 62,00,000/- He is stays in a house for which he is pays Rs 9,000/-

Changes in HRA

1. Mr.Rajappan is employed with XY limited on a basic salary of Rs 10,000/- p.m also entitled to dearness allowance of 100% basic salary of which 50% will be included in salary as per the terms of employment. The company gives him a house rent allowance of Rs 6,000/- pm which was increased to Rs 7,000 /-pm with effect from 01.01.2018. He also got an increment of Rs 1,000/- with effect from 01.02.2018 in his basic pay. Rent paid by him during the previous year is as follows

   April to May 2017 :- Nil, as he stayed with his parents

   June to October 2017 :- Rs 6,000/- Pm for an accommodation in Ghaziabad

   November 2017 :- 8,000/- for accommodation at Delhi

<u>Special allowance under section 10 (14)</u>

IPCC MAY EXAM

2. Mr. kapil is in receipts of the following allowance and seeks your advise about the quantum of these allowances.
   a. Helper allowance of Rs 300 per month and mr. kapil has appointed a helper for 9 months during the year to whom he paid Rs 200/-
   b. Conveyance allowance of Rs 750 p.m kapil owns a car which he used for both official purpose and personal purpose. Total monthly expense amounts to Rs 1,200/-of which 40% is attributable to office use.
   c. During the year mr. Kapil received education allowance for his 3 children a sum of Rs 250 per month each towards educational and hostel allowances. All the three children's are staying at hostel.
   d. During the ear for the six month Mr.Kapil was posted to Kandala, a hilly area located at a height of 1200 mts above the sea levels. Hill compensatory allowance Rs 2,400/- has been received by him at 400/- per month.

3. Mr. Aravind is working in Indian Railways and apart from basic salary, he is paid the following alloances.
   a. Entertainment allowance Rs 1200 p.m (Basic salary Rs 50,000p.a)
   b. Uniform allowance Rs 800 p.m Actual amount spend is Rs 500 per month
   c. Conveyance allowance Rs 2,000/- per month and spend for official purpose Rs 1,200/-
   d. Special allowance to meet personal expense while on duty is Rs 5,000/-per month.
   e. Education and hostel expenditure allowance Rs 500 per month. He has two children studying in hostel.

4. Chaithanya residing in pune receive the following allowance during the FY2017- 18 apart from getting a salary of Rs 10,000/- per month and ants to know the taxable amount of salary. Entertainment allowance Rs 750/- pm and HRA Rs 1200 PM (Actual rent paid by him is Rs 1,200. Pm). Helper allowance Rs 400 from which Rs 250 /- p.m paid to the helper's 5,000/- pm towards uniform allowance and Rs 200 pm towards Uniform maintenance expense. This amount is fully spend for the said purpose. Transportation allowance Rs 2000 per month Educational allowance Rs 300 pm per child and hostel allowance Rs 400 pm per child is received for his 2 children who stays at hostel for studies.

RETIREMENT BENEFITS

<u>Gratuity section 10 (10)</u>

IPCC MAY EXAM

1. Mr. Shyam, an employee of AB Limited receives Rs 90,000/- as gratuity under payment of Gratuity Act 1972. He retire from service on August 15,2017 after rendering a service of 32 years and 4 months. The last drawn salary was Rs 3,250/- compute the amount of gratuity chargeable to tax.

2. Ms. Uma raman, not being covered by the payment of Gratuity Act 1972, retire from SR private limited, and receives Rs 45,000/- as gratuity after a service of 40 Years and 11 months. Her average monthly salary during the last 10 months of service was Rs 2,200/- determine the amount of gratuity in his case.

3. Mr. Dalal retire from an employment covered by payment of gratuity Act on 30.11.2017 and he is paid gratuity of Rs 55,000/- while last drawn salary is Rs 1,950/-, the average of last 10 month salary is Rs 1,800/- He served 36 years and 4 month before retirement. Compute the taxable salary in his case.

4. Mr. Rohit not covered under payment of gratuity Act 1972 retires from service on 28^{th} Feb 2018 after servicing the employer company for a period of 18 years and 10 months. He was drawing a salary ofRs5,000/- up to September 2017 and thereafter Rs 6,000/- per month. On retirement are not receipts of pension, however, a gratuity of Rs 60,000/- is paid. Compute the gratuity in his case.

<u>Advanced practical problems Gratuity</u>

5. X is employed by A Ltd Since may 1^{st} 2006. The company adopted a new pay scale on 1^{st} January 2014. At that time, he was placed a grade of **20,000-1,000-60,000/-** and his basic salary was Rs 24,000/-. Besides, he is entitled to 10% of salary as dearness Allowance (According to the service Rules)will be treated as a part of salary at the time of calculation of gratuity and not for calculation of pension fund or provident fund.

   Before Joining A Ltd.in 2006 X was employed with B Limited . He retires from A Ltd after rendering a service of 15 years and that time he took an exemption under section 10(10)(ii) of Rs 2,81,000/- gratuity received from B LTd.

   X retires from service of A limited on February 14,2018 and get a sum of Rs 6,00,000/- as gratuity. Find out the gratuity chargeable to tax. Under the following situations
   i. The payment of Gratuity Act 1972 is applicable
   ii. The payment of gratuity Act 1972 Not applicable.

6. X gives the following information's

	First employment	Second Employment
Name of Employer Date of joining	A Ltd April 6, 1998	B Ltd May 12,2003

IPCC MAY EXAM

Date of retirement Whether Gratuity is paid	May 11,2003 No	December 20,2017 Yes

A Ltd and B Ltd are under the same management and which is controlled by D an Industrialist. X resigns from A Ltd on May 2013 to join another company B Ltd. At the time of leaving A Ltd he is not paid gratuity but at the same time given an undertaking that the service period of A Ltd shall be considered at the time of retirement from B Ltd for computation of retirement benefits. From the information given below find out the gratuity chargeable to tax for the assessment Year 2018-2019

1. Gratuity paid by B Ltd : Rs 7,00,000/- (Covered under payment of Gratuity Act 1972)
2. Salary at the time of retirement Rs 14,000/- per month
3. Dearness Allowance at the time of retirement Rs 2,000/- per month
4. Annual Bonus Rs 18,000/-

Pension Section 10 (10A)

1. Determine the gross amount of taxable pension includible in salary income for the AY 2018-19 under the following cases.
   a. On 30^{th} June 2017, Mr. santosh retire from central government service and gets pension of Rs 3,000/- pm Up to 31.01.2018. with effect from 01.02.2018 he get $1/3^{rd}$ of his pension commuted for Rs 1,20,000/-
   b. Mr. Kammath retire from X LTD, on 31.10.2016. He gets a pension of Rs 2,000/- up to 31.10.2017.with effect from 1^{st} November 2017, he gets 60% of pension commuted for Rs 30,000/- he is not in receipts of Gratuity.

2. Mr. Ram singh retire from Indian Revenue Service on 16.03.2017. He is get a pension of Rs 4,000/- Pm up to 31/12/2017. With effect from 01.08.2018 he gets 25% of pension commuted for Rs 75,000/-
3. Mr . Sundhar retire from RG.co on 31.03.2017. He is paid Rs 1,800/-as pension. On his request, RG co pays Rs 36,000/- in lieu of 50% of pension from 01.12.2017. Assume that Gratuity is paid and Gratuity is not paid.

4. Mr Kurapati retired from Indian revenue service on 31.08.2017. He has paid a pension of Rs 5,000/- month. On 01.01.2018, he commuted 60% of the pensions and receive 72,000/-. Compute taxable pension in his case.

5. Mr. Kumar retire from the government service on 01.01.2018 he was drawing a salary of Rs 6,000/- per month. He was drawing a dearness allowance of Rs 1200/- per month. On retirement he receive a gratuity of Rs 1,20,000/- he is paid a monthly pension of Rs 4,200/- compute the amount o taxable salary in his case.

6. Mr.Thomas employed in a private company retired on 31.06.2017. He is paid a pension of Rs 6,000 pm up to janary 2018. On 1st February he commutes 75% of his pension and receive Rs 1,20,000/- calculate the amount of taxable pensions in his case assuming that he is in receipts of gratuity and not receipts of gratuity.

<u>Leave salary Section 10 (10AA)</u>

1. Mr.X an employee of X limited , receives Rs 80,000/- as leave salary at the time of his retirement on 28.02.2018. The average salary drawn. Average salary drawn last 10 month were Rs 3,000/-Last drawn salary is Rs 3,200/- Duration of the service is 24 years and 7 months ; Leave taken while in service is 9month. Leave entitlement as per employer rule is 1 ½ month for each completed year of service. Calculate taxable leave salary for the Assessment Year 2018-19.
2. Mr. Sirdhar,employee of ABC Ltd, receives Rs 36,000/- as leave salary at the time of retirement on 31/11/2018.on the basis of following information determine the amount of taxable leave salary; Basic pay Rs 3,000/- since 2003; duration of service is 22 years and 8 months; leave to the credit at the time of retirement is 12 month on the basis of 45 days of entitlement for each completed year of service.
3. Mr .Daniel resigned from his employment and is paid a leave salary of Rs 94,200/-. He completed 32 years of service and he as drawing a salary of Rs 4,200/-p.m throughout the period of 10 months before retirement. During service he availed 10 months leave. Calculate the taxable leave salary in his case.
4. Mr.Arif retired from service after serving for 12 years and encashed leave of 15 months to his credit at Rs 60,000/- as per the rules of the employment he was eligible for 60 days leave per year of completed service and he was drawing a salary of Rs 4,000/- pm throughout the period of 10 months before retirement. Determine the amount of taxable leave salary in his case.

5. X , a non government employee, receives Rs 3,06,000/- as leave encashment at the time of retirement on February 20, 2018.on the basis of following information determine the amount of

taxable leave encashment. Basic pay Rs 18,000/- per month since 2013;duration of service is 32 years; leave at credit at the time of retirement is 17 months; entitlement of leave salary is 45 days salary for every year of service and leave availed while in service is 31 months.s

ii.

Retrenchment of compensation sec 10 (10B)

1. Mr. Anand received retrenchment compensation of Rs 10,000/- after 30 years and 4 months of service. At the time of retrenchment, he was receiving a basic salary of Rs 2,000/- pm; Dearness Allowance of Rs 5,000/- Compute his taxable amount of retrenchment compensation.

Voluntary retirement/ Separation. 10 (10C)

1. Mr. Shastri, aged 56 years and who has put 20 years of service in public sector undertaking voluntarily resign from the service under a scheme of voluntary separations. He has 4 years and 2 month of service left and his last drawn salary is Rs 20,000/- He paid Rs 12,00,000/- as compensation. Calculate the amount of Taxable pensions.
2. Mr. James voluntarily resigned from his job under an approved scheme of voluntary retirement. He is paid a compensation of Rs 6,50,000/- in accordance with the scheme. Calculate the taxable amount of such compensation.

PERQUISITE PRACTICAL PROBLEMS

Valuation of sweat equity shares

1. KLM co Limited allotted 1000 sweat equity shares to saravana in june 2017. The shares were allotted at Rs 500 per shares. KLM co.LTD shares are listed on Bombay stock exchange. The opening price and closing price of the shares are 600 and 800 respectively on the date of exercise of option. What is the taxable value of perquisite in the hand of saravana?

Re-imbursement of Domestic service

IPCC MAY EXAM

Mr. White and black are working for M/S rainbow Limited. As per salary fixation norms, the following perquisite were offered.

1. For mr. white who engaged a domestic servant for Rs 500 per month, his employer re imburse the entire amount paid to the domestic servant, Ie Rs 500 per month.
2. For Mr Black provided with a domestic servant @ Rs 500 per month as a remuneration package.

Re- imbursement of Medical expense

1.The following were expense of treatment of adarsh son were re-imbursed by his employer. The treatment was administrated at USA.

a. Actual Amount of medical expense Rs 75,000/ permitted by RBI (Rs 50,000/-)
b. Expense of stay at USA Rs 65,000/- permitted by RBI (Rs 65,000/-)
c. Travelling expense of adarsh and adarsh son Rs 1,20,000/-

Compute the amount of taxable income in the hand of adarsh for the Assessment Year 2018-19 assuming that his salary income is(i) Rs 1,50,000/- and (ii) Rs 1,90,000/-

2.The following were expense of treatment of sumithra son were re-imbursed by his employer. The treatment was administrated at South Africa

a. Actual Amount of medical expense Rs 1,00,000/ permitted by RBI (Rs 75,000/-)
b. Expense of stay at South Africa Rs 1,50,000/- permitted by RBI (Rs 50,000/-)
c. Travelling expense of Sumithra and her son Rs 1,50,000/-

Compute the amount of taxable income in the hand of adarsh for the Assessment Year 2018-19 assuming that his salary income is(i) Rs 1,50,000/- and (ii) Rs 1,90,000/-

3. Ms. Rakhi is an employee in a private limited company. She receives the following medical benefits from the company during the previous year 2017-18

i. Reimbursement of following medical expense incurred by Ms. Rakhi
   a. On treatment of her self- employed daughter in a private clinic – Rs 4,000/-
   b. On treatment of herself by family doctor Rs 8,000/-
   c. On treatment of her mother In law dependent on her, in a nursing home Rs5,000/-
ii. Payment of premium on medical insurance premium taken for her health Rs 7,500/-
iii. Medical allowance Rs -2,0000/- per month
iv. Expenditure incurred by the company on the treatment of her minor son abroad Rs- 1,05,000/-
v. Expenditure of foreign stay and travel by rakhi and her son abroad for the medical treatment Rs -1,02,000/-. Limits prescribed by RBI (Rs 2,00,000/-)

Rent free Accommodation

1. Mr. Prabhu, a private sector employee gets Rs 60,000/- as basic pay , Rs 6,000/- as commission, Rs 4,000/- as bonus, Rs 6,000 as uniform allowance (60% spend for the purpose); Rs 12,000/- as conveyance allowance(75%utilized for the purpose); and entertainment allowance of Rs 5,000/- His employer has paid income tax of Rs 3,000/- and a profession tax of Rs 1,000/-on his behalf. A rent free furnished accommodation is provided in a place where population is (a) More than 25 Lakh (b) Less than 10 Lakh and (c) Between 10 Lakh and 25 Lakhs.
   Determine the value of rent free accommodation.

4. Mr.Lakshhman Inform you the particulars of salary for the previous year ending 31.03.2018; Basic pay 36,000/- D.A Rs 4,800 (Not forming part of salary) bonus Rs 6,000/- Commission Rs 4,000/- city compensatory allowance Rs 3,600/-. Calculate the value of rent free furnished accommodation where Mr. Lakshman stays in a city where the population is (a) More than 25 Lakhs (b) Less than 10 Lakshs, (c) between 10 lakhs to 25 Lakhs. Cost of steel furniture provided is Rs 16,000 (WDV is Rs 12,000). Monthly rent of furniture is Rs 300.
5. Ramanth is employed it Megha Limited and is paid basic salary Rs 15,000/- P.m Rs2,000/- p.m as commission. Bonus paid during the year is Rs 12,000/- 60% of the travel allowance is not spend and the balance is spend for official purpose. Calculate the taxable salary by also taken in to the considerations the fact that he is provided with rent free furnished accommodation where population is 15 lakhs. Original cost of furniture provided in the house is Rs 30,000(WDV Rs 6,000). Hire charges Rs 450 Per month for the hired furniture provided.
6. Mr. Arun Kumar is under employment with a marketing company with the following allowance; Basic 18,500/- D.A(Not forming part of the salary) Rs1,500/- pm. Medical allowance Rs 500 per month ; bonus Rs 10,000/- pm; He has been provided with an accommodation by his employer for which the employer charges to him Rs 500 per month. What will be the taxable value of perquisite if the accommodation is provided under following cases

a) Where the population is less than 10 Lakh
b) Where the population is between 10 lakh to 25 Lakhs
c) Where the population is more than 25 Lakhs

5. In the case of Mr. A, his employer provides own accommodation which is well furnished and situated at Chennai (Population 75 Lakhs). The WDV of furniture provided is Rs 8,000/- where as the orginal cost is Rs 48,000/- he is paid a basic salary of Rs 20,000/- and Rs 36,000/-as commission p.a. Calculate the value of rent free accommodation.
6. X, a non government employee, gets the following emoluments during the previous year 2017-18.
   Basic pay :- Rs 4,80,000/- Dearness allowance (forming part of salary); Rs 24,000/-; commission on sales Rs 30,000/- advance salary for April 2008 Rs 40,000/-Electricity bill paid on behalf of X is Rs 16,000/- and education allowance Rs 6200/- who is staying at Delhi.
   Beside this employer provide rent free furnished accommodation at Delhi for X for his residential purpose. Lease rent is Rs 96,000/- P.a. Determine the taxable value perquisite of rent free accommodation for the assessment year 2018-19 on the assumption that lease rent for the month of march 2018 has not paid.

7. X , a sales manager of a paper company at hanuman nagar (Orissa) (population is 24.60 Lakh as per 1991 census but 25.40 lakh as per 2001 census). Draws Rs 8,70,000/- p. a as basic salary. Beside he get Rs 12,000/- pa as travelling expense (Fully utilized for the purpose) Rs 48,000/-p a as bonus, Rs 36,000/- as special allowance. His employer provide rent free furnished accommodation at hanuman nagar which owned by the employer. Fair rent of the house is Rs 1,20,000/-During the year 2017-18, x has received Rs 30,000/- as arrears of bonus of financial year 2013-14. Determine the value of the perquisite in respect of rent free furnished accommodation.

Perquisite calculation with respect to motor car

X and Y are employed by A Ltd (Salary being Rs 48,000/- per month). As per the company policy, an employee is entitled for a car (1600 CC) and a driver. The car can be used for official and personal purpose.A car owned by the company can be provided along with the driver and company will bear the running and

maintenance expenditure up to Rs 72,000/- per annum and the actual salary of the driver (up to 60,000/-) An employee at his option can use his own car for official and personal purpose and company will reimburse the actual expenditure on maintenance of car but up to maximum of 72,000/-per annum and salary driver up to 60,000/- per annum.

X, has taken a car and driver from the company for official and personal purpose (Actual maintenance expenditure is approximately Rs 72,000/- pa for car and Rs 60,000/- for the driver). However, Y has used own car and driver for official purpose and personal purpose (Actual maintenance expenditure is approximately Rs 72,000/- pa for car and Rs 60,000/- for the driver)

Log book of the car are not maintained. It is not possible to determine the expenditure attributable to the private use. Find out the taxable value of perquisite in the hand of X and Y.

<u>Employer pays any other sum on behalf of employees</u>

3. Calculate the value of the following perquisite provided to Mr X, a director of the employer company who is drawing a consolidated salary of Rs 1,20,000/-
   a)Gas, electricity and water supply bills for his residence adjacent to the company's office are met by the company to the tune of Rs 80,000/-. However, these amenities were used partially for official and partially for personal purpose.
   b) Free service of sweeper, watchman,cook and garder were provided by the employer at a monthly basis for a salary of Rs 200, Rs 500, Rs 300, and Rs 600 respectively. What will be your answer if these domestic servants are employed by Mr X and salary borne by the employer.

4. Mr.Amarnath employed in X limited and the details of the salary is as follows.
   Basic salary Rs 10,000/- per month, Commission Rs 1,000/- Dearness allowance provided in the terms of the employment is Rs 1,500/- ; Entertainment Allowance Rs 750/- Conveyance allowance Rs 2,000/- per month. Apart from these, a bonus of Rs 20,000/- has been paid during the previous year; rent free accommodation provided at Kanpur. 60% of the allowance is used for official purpose.

5. In case of Mr X who is drawing a consolidated salary of Rs 60,000/- the employer provides the gas, electricity facilities for which the bills settled during the year amounting to Rs 24,000/- calculate the amount of perquisite.

8. Find out net income and tax thereon for the Assessment year 2018-19 taken in to the consideration the following additional information
   i. Domestic servant (expenditure of employer Rs 3,000 per month)
   ii. Car (1200 CC) for domestic and official purpose (Expenditure of employer on running and maintenance Rs 11,000/- per month)
   iii. Car insurance (Rs 12,000/- per year)

iv. Driver (Rs 6,000/- per month)

Perquisite chargeable to tax in case of all the employess

1. Mr. zyed zaki receives Rs 10,000 p.m as basic salary and Rs 1,000/- as dearness allowance forming part of the employment. He has been provided with the following perquisite
    a. Unfurnished accommodation at Chennai. Rent paid by Mr.zaki towards this accommodation is Rs 750 P.M
    b. He has been provided with the service of a gardener, sweeper. Company pays the salary of gardener and sweeper Rs 1,000/- each
    c. He has been offered 1000 shares of the employer company at Rs 120 per share under "Employee stock purchase scheme". Public offer is Rs 140 per share. The said scheme is approved by SEBI.

2. Mr. Albert is employed with sonata software Limited as Vice- president, marketing, on a monthly salary of Rs 30,000/- he has been provided with the following perquisite.
    a. Rent free accommodation provided at Hyderabad.
    b. During the previous year, the company has given interest free housing loan of Rs 6 Lakh, repayable within 12 years. (SBI interest rate is 9.45%)
    c. The employer had purchased a car on 01.04.2016 for Rs3,50,000/- this car were sold to him on 01.05.2017 for Rs 1,00,000/-
    d. He has allowed to Use the air conditioner and inverter belonging to the company. The company has purchased these asset for Rs 50,000/- and Rs 75,000/- respectively.
    e. The employer had placed a computer at the residence of Mr. Albert from 01.06.2017. the cost of the computer is Rs 40,000/-

3. Mr. Guru receives 15,000 pm as basic salary and Rs 1,500 pm as DA not forming part of the employment and retirement benefit. He has been provided the following perquisites.
    a. Unfurnished accommodation at Bangalore, rent paid by Mr. Guru towards this accommodation is Rs 1,000/-
    b. He has provided the service of cook and watchman. Company pays salary of Rs 1,000/-pm each to the cook and watchmen.
4. Mr. Raghu Raj is employed with Bhorukka power corporation LTD as a General Manager, finance, on monthly salary of Rs 26,000/- He has been provided with the following perquisites.
    a. Rent free accommodation provided at Bangalore
    b. The company has given him a housing loan of Rs 4 Lakh repayable in 8 years during the previous year @ 3% p.a

c. The company has purchased a car on 01.05.2017 for Rs 2,50,000/-This car is sold to Mr. Raghu Raj for Rs 1,20,000.
d. He made a diwali purchase for office gift amounting to Rs 19,000/- on his credit card. This amount along with the annual membership fee 1,500/- was paid by the company.
e. He has allowed to use the video camera and laptop belonging to the company. The company had purchase had purchased these asset for Rs 40,000/- and Rs 2,00,000/-

Compute the tax for the assessment year 2018-19

Perquisite calculation with respect to the concessional or interest free loan

1. The following benefits are granted by ved software Ltd, to one of its employess Mr. Badri
   i. Housing loan @ 6% p.a . Amount outstanding on 01.04.2017 is Rs 6,00,000/- Mr. Badri pay Rs 12,000/- per month on every 5th of the month.
   ii. Air- conditioners purchased 4 years back for Rs 2,00,000/- have been given to Mr.Badri for Rs 90,000/-

Compute the taxable value of perquisite in the hand of Mrs Badri for the AY 2018-19 . The lending rate of State Bank Of India is 9.45% pa.

Miscellaneous perquisite problem

Mr. nimbi, a salaried employee, furnishes the following details for the financial year 2017-18

Basic salary	6,00,000/-
Dearness Allowance	3,20,000/-
Commission	50,000/-
Entertainment Allowance	7,500/-
Medical expense reimbursed by the employer	21,000/-
Profession Tax (Of this, 50% is paid by the employer)	7,000/-
Health insurance premium paid by the employer	9,000/-
Gift Voucher given by the employer on his birthday	12,000/-
Life insurance premium of nimbi paid by the employer	34,000/-
Laptop provided for use at home. The Actual cost of Laptop to the employer (Children of the assessee is also Use laptop at home)	30,00/-

Employer owns a Tata –nano car, which was used for both official and personal purpose. No driver were provided separately(The energy Cubic Capacity is less than 1.6 Liters) Annual credit card fees paid by the employer (Credit card is not exclusively used for official purpose; details of usage were not available)	2,000/-

You are required to calculate income chargeable under the head salary for the AY 2018-19

SALARY COMPREHENSIVE PROBLEMS

1. Mr . shah retires on 31.10.2017 voluntarily From Hind Chemicals (P) LTD as per the scheme approved under section 10 (10C) of the income tax Act 1961. He furnishes the following particulars the following details; pension Rs 3,000/-p.m DA forming part of basic salary is Rs 1,000/- compensation on retirement is Rs 2,00,000/-; gratuity Rs 1,20,000/- (not covered under payment of Gratuity Act); commuted pension of 70% , Rs 42,000/-on 31.01.2018. Leave salary Rs 30,000/-. He joined a pay scale of 3000-100-5,000/-completed Year of service is 20 years and 8 months. Leave availed while in service is 25 months. But for the voluntary retirement Mr.shah would have retired only after 40 months. He has given a telephone allowance of Rs 500/-p. Company paid a medical insurance premium of Rs 10,000/- He received a television as a Gift from his colleague worth Rs 50,000/- from their contribution.

Salary problems inclusive of Retirement benefit and perquisite together

Mr. X retired from the service of M/s Y Ltd on 31.01.2018 after completing service of 30 years and 1 month. He joined the company in 1984 at the age of 30 years and receives the following retirement

i. Gratuity of Rs 6,00,000/- he as covered under payment of gratuity Act , 1972
ii. Leave encashment of Rs 3, 30,000/- for 330 days leave balance in his account. He was credited 30 days credit for each completed year of service
iii. As per the scheme of the government, he as offered a car which was purchased on 01.02.2014 by the company for Rs 5,00,000/-. Company has recovered Rs 2,00,000/- from him for the car. The company depreciate the vehicle @ 15 %SLM
iv. An amount of Rs 3,00,000 as commuted pension for 2/3 of his pension commuted.

v. The company has presented a Gift voucher of Rs 6,000/- on his retirement

vi. His colleague were gifted a television Set worth Rs 50,000/- from their own contribution

2. M. Balaji, employed as production manager in Beta Ltd, furnishes you the following information for the year ended 31.03.2018

Basic salary up to 31.03.2017 Basic salary after 01.11.2017	Rs 50,000/- Rs 60,000/-

Note:- Salary due and paid on last day of every month.

i. Dearness allowance is @ 40% of basic salary

ii. Bonus equal to one month Salary . Salary paid in October on basic salary and dearness Allowance applicable for the month.

iii. Contribution of the employer to the recognized provident fund is @ 16% of basic salary.

iv. Professional tax is Rs 3,000/- of which Rs 2,000/- were paid by the employee.

v. Facility for laptop and computer were provided to Mr Balaji for both official and personal purpose. Cost of laptop is Rs 45,000/- and computers were Rs 30,000/-which were acquired by the company on 01.12.2017.

vi. Motor car owned by the employer (Engine Cubic Capacity is more than 1.6 Liters) provided to the employee from 01.11.2017meant for both official and personal purpose. Repairs and running expense is Rs 45,000/- from 01.11.2017 to 3103.2018 were fully met by the employer. The motor car was self driven by the employee.

vii. The leave travel concession given to the employee, and his wife and three children's (One daughter age 7 and twin son aged 3). Cost of air ticket (Economy Class) reimbursed by the employer Rs 30,000/- for adults and Rs 45,000/- for sthree childrens. Balaji is eligible for availing exemption this year to the extent permissible by the law.

INCOME FROM HOUSE PROPERTY

Chargeability – Sec 22	Computation of Sec 23 to25	Special provisions

INTRODUCTION

- Generally, under Income Tax Act real income is get taxed. Howe ever, in case where law provides for adopting notional figure as basis of computation then notional income will be get taxed.
- Notional income is taxed in case of **let out property** where Fair rent exceeds actual rent.

Sec 22 Chargeability

The **Annual value** comprises of any **building** or **land** appurtenant there to, of which Assessee is owner is chargeable to tax.

The **Annual value** of any building or any portion of the building occupied by the assessee for the purpose of **owns business and profession carried** on by him is not chargeable to tax under this head of income.

Rent from building property let out is chargeable to tax under the head income from House property.

FAIR RENT: - *The rent which **similar property in similar locality** would fetch. But if municipal valuation is also available, fair rent is taken as municipal valuation or FMV whichever is higher. If the standard rent is available, then, the Fair rent should not exceed the standard rent.*

Standard rent: - Denotes rent fixed under Rent control Act

How to arrive at Gross Annual Value ?

First step is to determine fair rent and after arrived at the fair rent compare the same with Actual Rent

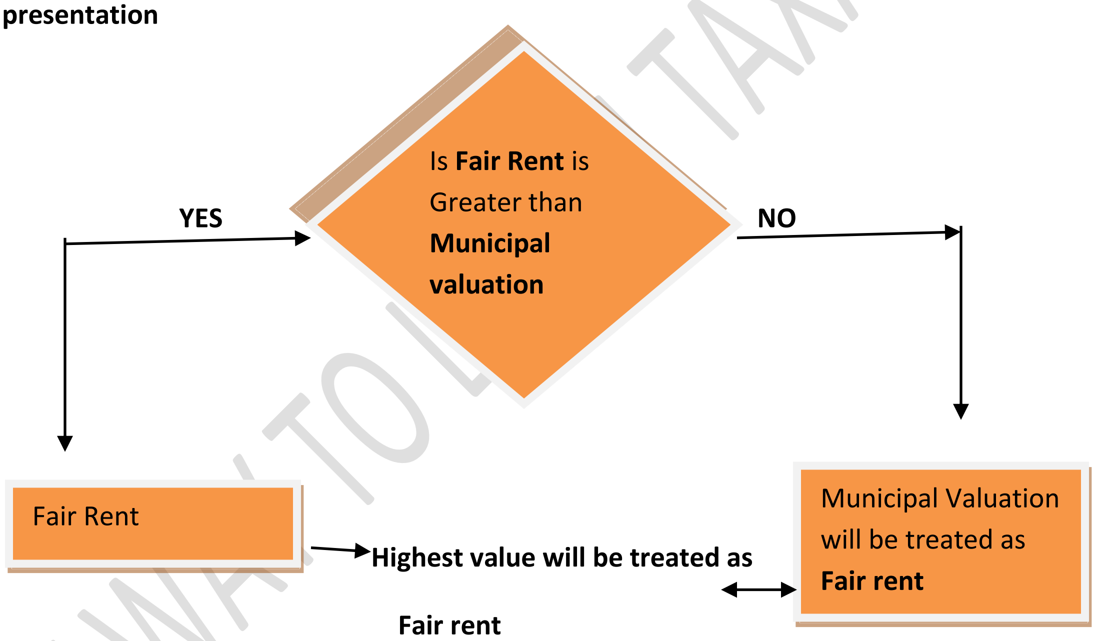
Step no 1:- Compare the Fair rent with Municipal Valuation and the highest figure will be adopted as Fair Rent.

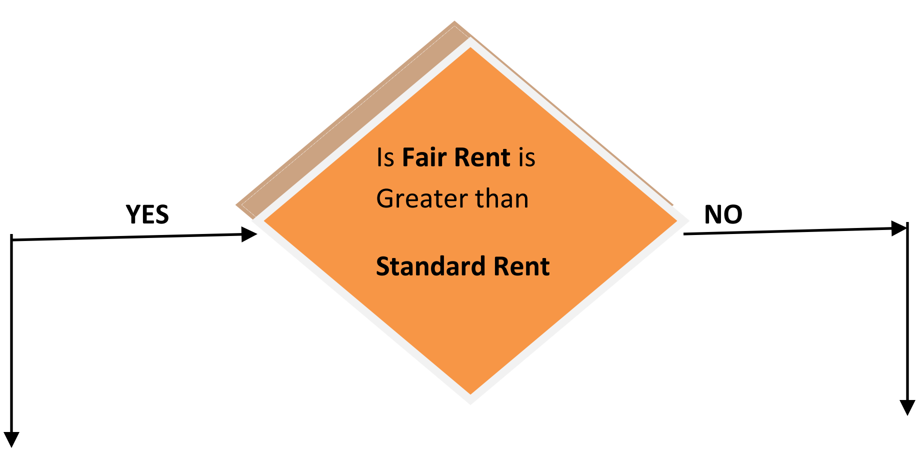
Step no 2:- Compare the Fair rent arrived at step no 1 standard rent and lowest will be regarded as Fair rent.

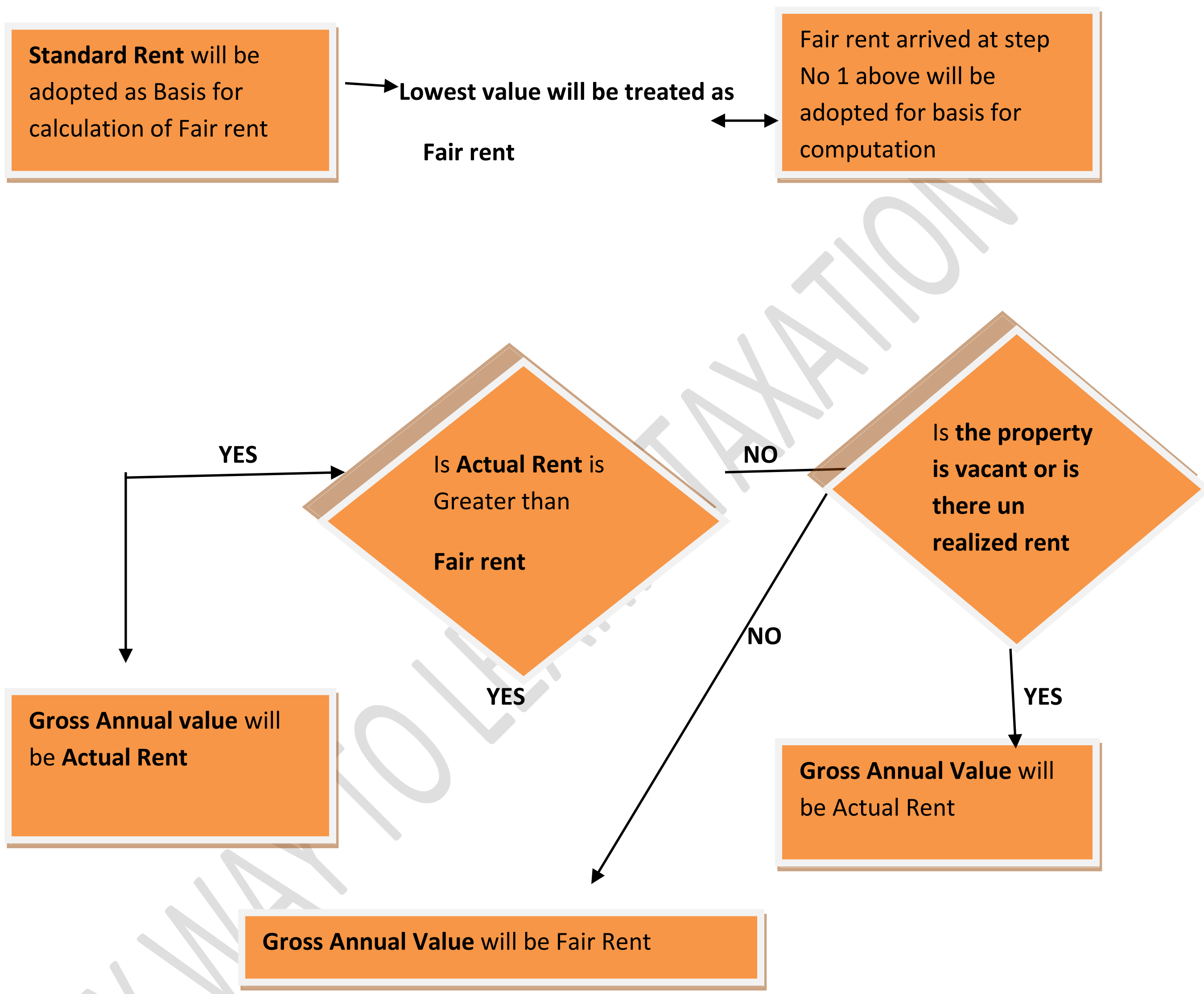
Step No 3:-Compare the fair rent which we arrived at step no 2 with the actual rent and the highest figures will be treated as Gross Annual Value for the purpose of income from House property.

However, actual rent received or receivable is less on account of vacancy or rent could not be realized and conditions mentioned in Rule 4 are meeting then Lower of Actual rent will be treated as Gross Annual value.

Flow chart presentation







UN REALIZED RENT: - *In adopting the calculation of Actual rent, the amount of rent which is capable of not being realized shall be excluded provided the following conditions are satisfied. (Rule -4)*

i) The tenancy is bona-fide
ii) The defaulting tenant has vacated or steps have been taken to compel him to vacate the property.
iii) The defaulting tenant is not in occupation of any other property of the assessee;
iv) The assessee has taken all reasonable steps to institute legal proceeding for the recovery of the unpaid rent or satisfies the Assessing Officer that the legal proceeding would be useless;

On a plain reading of charging section following can be interpreted.

- Assessee must be owner of the Building or Land appurtenants (Deemed owner ship also enough)
- Tax is levied on Annual value of Building and Land
- Rental income will be taken in to consideration only in case of let out property. But subject to fair rent condition as mentioned above.

Explanations of **Land appurtenant** to building include the following.

- *Lawns*
- *Garden*
- *Parking space*

Section 27

Deemed ownership

In certain cases the ownership is in the name of one person whereas taxability is cast on other person deeming him as owner. Following are the situation.

b. where an individual transfer otherwise than adequate consideration any house property to his or her spouse, not being an agreement in connection with leave apart, to a minor child not being a married daughter, is deemed to be the owner of the house property so transferred.

c. The holder of imparitsable estate is deemed to be the individual owner of the properties so comprised in the estate

d. A member of co operative society or company or any other Association of person or body of individual to whom a building or part thereof is allotted or leased under a **House building scheme** of the society, company, Association of person, shall be deemed to be the owner of that building or part thereof, even though co operative society/ company/ Association of person is a legal owner.

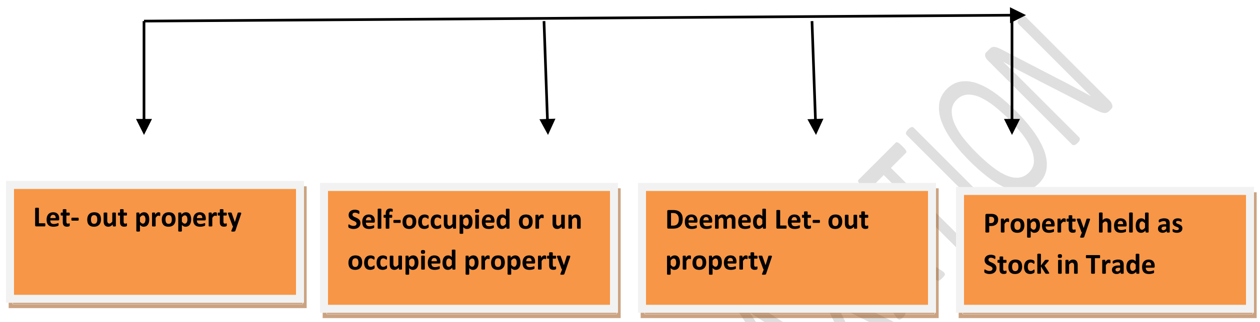
e. A person who is allowed to take or retain possession of any Building or part thereof in part performance of contract of the nature referred to in Section 53 A of Transfer of property Act 1882 is deemed to be the owner of that building or part thereof.

f. A person who acquire any right (not being a right by way of lease from month to month or for a period not exceeding one year) in or with respect to any building or part thereof, by virtue of any of the following transactions shall be deemed to be the owner of the property

    a) Transfer of any land or building or part of a building by way of sale or exchange or lease for a term not less than 12 years

    b) Transfer of any right in or with respect to any land or building or part of or Building which has an effect of transferring or enabling the enjoyment of Right.

COMPUTATION OF INCOME AND VARIOUS TYPE OF PROPERTY



Nature of property	Net result of Computation
Let out property	Any amount of income or losses
Self-occupied or unoccupied property	Either NIL or Loss subject to the maximum of Rs 2,00,000/-
Deemed Let out property	Any amount of income or losses

Let out property Format

Particulars	Amount	Amount
Gross Annual Value (GAV)		XXX
Less :- Property Tax paid to Local Authority		XXX
Net Annual Value (NAV)		XXX
Less Deduction U/S 24		
a) 30% of NAV	XXX	
b)interest on borrowed Capital	XXX	
Income from House property		**XXXX**

GROSS ANNUAL VALUE

LET OUT PROPERTY

1) For the purpose of section 22 Annual value shall be deemed to be:-
   a) the sum for which property must be reasonably expected to be let from year to year

b) Where the property or any part of the property is let and the actual rent received or receivable by the owner in respect thereof is in excess of the sum referred to above (a) , the amount so received or receivable

c) Where the property or any part of the property is let and was vacant during the whole or any part of the Previous year and owing to such vacancy the actual rent received or receivable is less than the sum referred to above (a), the amount so received or receivable.

SELF OCCUIPIED OR UNOCCUIPIED PROPERTY

2) where a property consist of a house or part of house which is :-

a) In occupation of the owner for the purpose of his own residence.**(Self occupied property)**

b) Cannot actually occupied by the owner by reason of the fact that owing to his employment, business or profession carried on at any other place, and he has to reside at that other place in a building not belonging to him. **(Un occupied property)**

Annual value shall be taken to be Nil in the above cases.

3) Application of Nil Annual valuation is not applicable in the following cases

a) the house or part of the house is actually let during the whole or any part of the previous year; or

b) any other benefit there from derived by the owner

DEEMED LET OUT PROPERTY

4) Where the property (Self occupied or un occupied) consist of more than one house then :-

a) The provision of that sub section shall apply only in respect of one of such house, which the Assessee may, at his option, specify in this behalf.

b) The annual value of house or houses, other than the house in respect of which the Assessee has exercised an option under clause (a) shall be determined under clause 1 as if such house or house had been let out

Municipal taxes

Any tax levied by the local authority shall be deducted from the Annual value so determined.

Condition need to be satisfied for qualifying deduction from Gross Annual Value at the time of calculation of deductions.

i) ***It should be borne by the Assessee***

ii) ***It should be actually paid during the previous year***.

- If a property tax levied during the previous year has not paid during that year, No deduction shall be available in the computation of income for that previous year in computation of income from house property. However, if the entire amount paid during the later year shall be allowed as deduction on payment basis.
- Income derived from property situated outside India of a Resident and Ordinary resident will also be chargeable to Tax in India. In such case, Municipal tax paid to the local authority of the country in which property is situated will be allowed as deduction at the time of computation of income from House property

STANDARD DEDUCTION @ 30% U/S 24 (a)

It is a Flat deduction on net annual value @ 30% to cover various expenditure in connection with house property, irrespective of quantum of actual expenditure incurred .

Generally, Fair rent is adopted as Gross annual value. To this general rule following are the exemption

- **If the property is let out and actual rent received or receivable in respect thereof is in excess of Fair rent then the amount so received or receivables**
- **If the property is let out and was vacant during whole or part of the previous year and owing to such vacancy the actual rent received or receivables is less than Fair rent, then the amount so received or receivables .**

Interest on Loans sec 24 (b)

- *Interest payable on loans borrowed for the purpose of acquisition, construction, renovation, repairs or re construction can be claimed as deduction*
- *Interest relating to the year of completion of construction can be fully claimed as deduction irrespective of the date of completion*
- *Interest accrued during the construction period proceeding the year of completion of construction can be accumulated and claimed as deduction over a period of 5 years in equal installment commencing from the year of completion of constructions.*
- *According to the explanation of section 24 any subsequent loan borrowed to repay the original loan shall also be entitled to the same treatment of original loan.*
- *Where a buyer enters in to an agreement with seller to pay the sales price in installment along with the interest due thereon, the seller come the lender and the buyer become the borrower. In such case, unpaid purchase price can be treated as capital borrowed for the purpose of acquiring the property and interest paid thereon can be allowed as deduction U/s 24*

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- Interest on loan can be claimed on accrual basis, thus, actual payment is not mandatory to claim deduction U/S 24.

<u>What are the conditions for claiming interest?</u>

In case of self occupied property following shall be allowed as deduction.

1) Rs 30,000/- is allowed as interest on loan borrowed for the purpose of acquisition, construction, repair, renovation etc of the property.
2) Rs 2,00,000/- is allowed as deduction but following condition need to be met

a) Loan must be acquired on or after 1/4/99
b) Acquisition or construction must be completed within **5** years from the date of completion.

1	2
Acquisition/construction Of house property	**Repairs, Renovation, reconstruction of house property**
(Capital nature)	(Maintenance expenditure)
Rs 2,00,000/- Subject to Two Conditions	Rs 30,000/- in all the cases

Referred to above

Compute the Annual value separately for let out and self occupied portion. Never treat it as a single unit

Special treatment of House property let for few month during a year and let out for remaining part

- Fair rent for whole the year need to be taken for determining the annual value
- Compare the actual rent received or receivable on this account and compare with Fair rent, adopt whichever is higher.
- Property tax for the whole the year shall be allowed as a deduction

Deemed let out property

This is arise when the person have more than one house for his self occupation purpose. This is based on the concepts that one person need one home for own residence purpose and hence the other house will become deemed to be let out. ***(Deemed to be let out means, conceptually it is treated as let out)***

Assessee may have select any one house for his self occupation purpose and other house automatically become deemed let out

Factors taken for selection for deemed let out

- **Higher Fair rent**
- **Interest factor**

Steps to compute pre construction period interest.

Pre construction periods start with Date of borrowing and end with the year immediately before the year of completion of construction.

Year of completion of construction shall be excluded from the purview of pre construction period.

Step 1 Take date of borrowing of loan

Step no 2 Take date of completion of construction

Step no 3 accumulate the interest from the year of borrowing of loan (first year there is a fraction of month since loan is borrowed in any month with in a year)

Step 4 Compute total interest and give 1/5 and the resulted figures shall be the current year interest for the year.

Example

Assume that loan borrowed on 1/1/2006 and the construction was completed as on 1/10/2009. The loan borrowed is Rs 500000/- @ 16 % interest. How can you solve this?

Simple

Date of borrowing 1/1/2006 (PY 2005-06)

Date of completion of construction 1/10/2009 (PY 2009-10)

You required to compute the interest from the year 2005-06 to 2008-09.

since the year of completion is 2009-10 and interest for that year is fully allowed as a deduction irrespective of date of completion of construction.

Self occupied or unoccupied property

The annual value of self-occupied property shall be treated as "NIL" and Municipal Tax paid and ad-hoc deduction @30 % will not be allowed as deduction. Only interest on borrowed fund can be allowed as deduction.

FORMAT FOR CALCULATION OF SELF OCCUIPIED PROPERTY

Annual Value as per Sec 23 (2)	XXX
Less Deduction u/s 24 (b)- Interest on loan borrowed paid or payable	XXX
Loss From House property	**XXX**

Un occupied property

When the following conditions are satisfied, a property can be considered as un occupied property.

i) Where the property is actually not occupied by the owner; or
ii) Where the property is not occupied on account of employment, business or profession carried on at other place and ;
iii) Assessee had to reside at another place in a building not belonging to him

Then annual value of such property shall be adopted as Nil and the working and format will be based on same as above.

Income from house property held as stock in trade

The annual value of the property comprising of building and land appurtenant there to shall be taken as "NIL" subject to the following conditions are satisfied.

- *The property has been held as stock in trade*
- *It has not been let out for the whole or part of the year.*

The format of computation is similar to self occupied property

Un realised rent subsequently received 25AA

It is deemed to be income of the Assessee and chargeable to tax under the head income from house property.

Reason

Such rent is excluded in actual rent computation and included it in receipts basis in subsequent year.

Notes

Assessee need not be the owner of the house property or part there of

Arrears of rent received Section 25 B

It is deemed to be income of the Assessee and chargeable to tax under the head income from house property if and only if it is not charged in the earlier years

70% of such arrear is need to be charged and 30 % shall be allowable as deduction

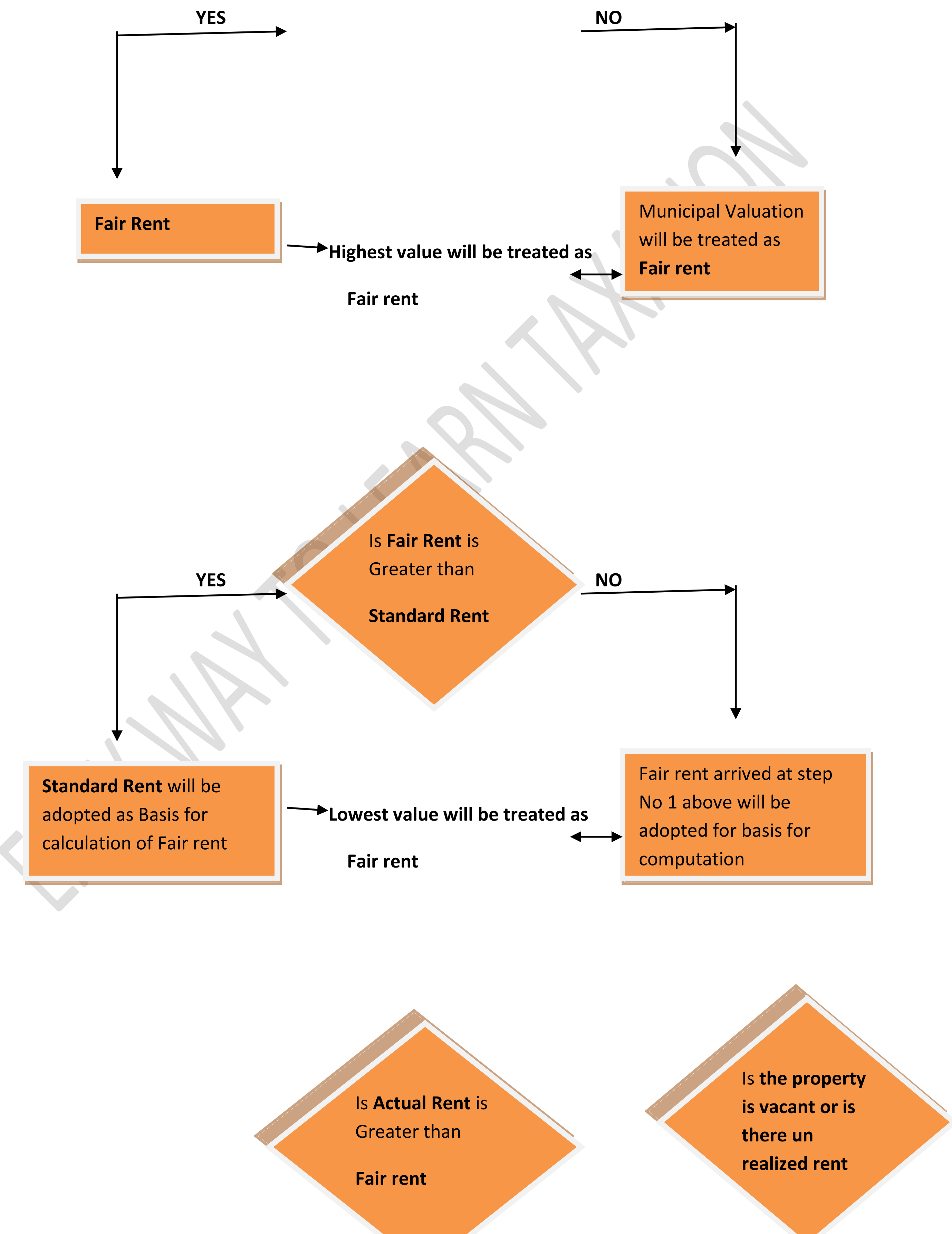
Co ownership Section 26

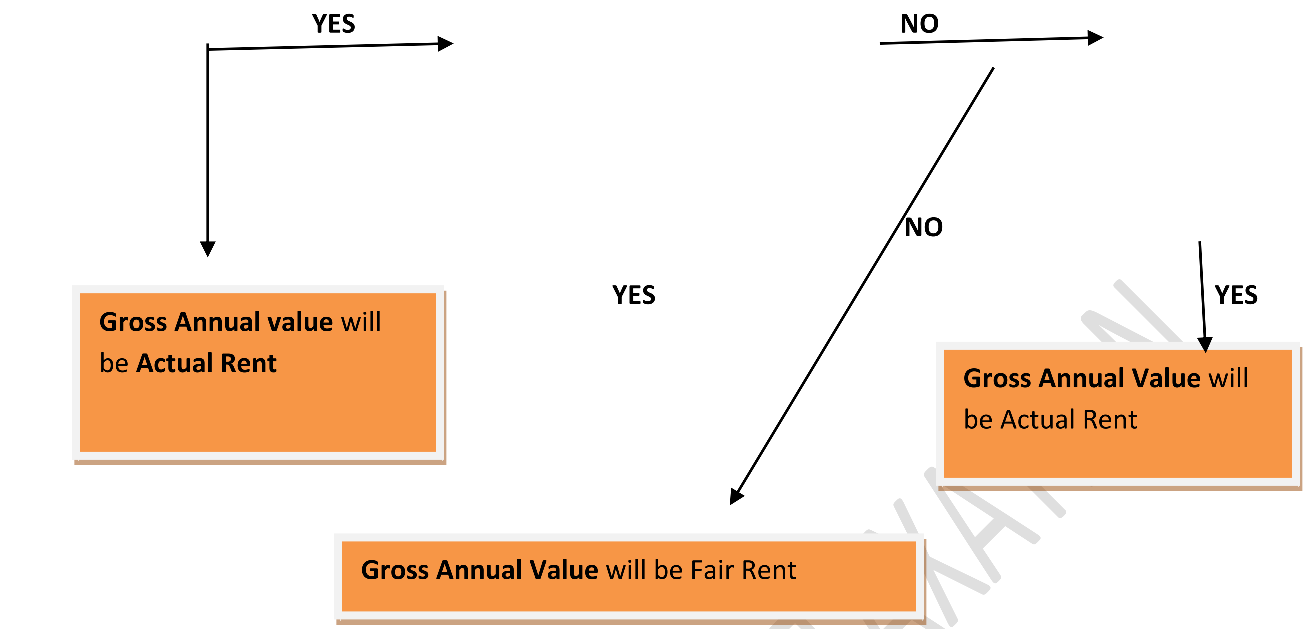
- Two or more person jointly owns a house property and their shares are definite and ascertainable , income from house property shall be taken on individual basis
- The share income of each such co owner is determined and include in his assessment
- Each such co owner is entitled for a confessional computation relating to one self occupied property

PRACTICAL PROBLEMS

Computation of fair rent and Gross Annual Value (GAV)

Flow chart presentation


YES
NO
Fair Rent
Highest value will be treated as
Fair rent
Municipal Valuation will be treated as Fair rent
Is Fair Rent is Greater than Standard Rent
YES
NO
Standard Rent will be adopted as Basis for calculation of Fair rent
Lowest value will be treated as
Fair rent
Fair rent arrived at step No 1 above will be adopted for basis for computation
Is Actual Rent is Greater than Fair rent
Is the property is vacant or is there un realized rent



UN REALIZED RENT: - *In adopting the calculation of Actual rent, the amount of rent which is capable of not being realized shall be excluded provided the following conditions are satisfied. (Rule -4)*

v) The tenancy is bona-fide
vi) The defaulting tenant has vacated or steps have been taken to compel him to vacate the property.
vii) The defaulting tenant is not in occupation of any other property of the assessee;
viii) The assessee has taken all reasonable steps to institute legal proceeding for the recovery of the unpaid rent or satisfies the Assessing Officer that the legal proceeding would be useless;

Practical Problems

1. From the following information, you are required to arrive at the Gross Annual property. There are three parties A,B, and C whose property information has been given below.

Details	A	B	C
Standard Rent	**50,000/-**	**2,00,000/-**	**1,50,000/-**
Fair Rent	**60,000/-**	**1,80,000/-**	**1,45,000/-**
Municipal Value	**45,000/-**	**2,30,000/-**	**1,30,000**
Actual Rent	**75,000/-**	**2,50,000/-**	**1,80,000/-**

2. X let out a property for Rs 15,000/-pm , municipal valuation of the property is Rs 2.5 Lakh per annum. Calculate the Gross Annual Value.

3. Tony let out a property for Rs 40,000/- Pm. Fair rent of the property is Rs 3,60,000/- compute Gross Annual Value?

Vacancy of the property.

1. Amar owns a house property the fair rent of which is Rs 5lakh, the property was let out from April to December for Rs 50,000/- for the month of January to December the property remains Vacant and no proper tenant was find. Calculate the Gross Annual Value.
2. Rukmini has a property whose municipal valuation is Rs 2.4 Lakh . She let out the property to the bank for a Rent of Rs 30,000/- from the month of July and during the month of April to June the property remains vacant due to repairs and maintenance work to be performed for making the property ready for occupation by the bank. You are required to calculate the Gross Annual Value.
3. Deepa owns a flat which is assessed by the local authority with Annual Value of Rs 1 lakh. The property was let out for Rs 8,500/- pm. However, the tenant has vacated the property from the month of 31/10/2017 and thereafter no proper tenant has found out. From March 1st the property has let out with a new rental price of Rs 12,000/- You are required to calculate Gross Annual Value.

Self –occupation for few month during the previous year

1. Raman Owned a flat (Municipal Valuation is Rs 90,000/-) in which he was living. By the end of may 17 he has completed the construction of his independent house and shifted to the new house and on 1st June 2017, the Flat was let out to a relative for Rs 7,000/- Pm. You are required to find out the Gross Annual Value.
2. Laxman living his on apartment (Fair rent is Rs 1,02,000/-) till the end of April 17 and From may onwards he has shifted in an accommodation provided by his employer and the property was let out for Rs 17,000/- pm from the month of September. For the month of May to August the property remains vacant and no proper tenant was find out. You are required to calculate the Gross Annual value of the property.
3. Anjali owns a house at Hyderabad (whose municipal Valuation is Rs 90,000/-). During the previous year the property was self occupied from April to June and there after the property let out for Rs 10,000/- from 1st July onwards. The tenant was vacated on 31st December 2017 and the property was remain vacant for the month of January and February. From the month of March the property was let out for Rs 11,000/- You are required to calculate the Gross Annual Value.

Un realized Rent and Default case.

1. Kumar owns a flat since 2013 and let out to a lottery agent from beginning. The annual value assessed by the local authority being Rs 72,000/- The property was let out for Rs 11,000/- from the month of April 2013. Lease dead provide a clause that 20 % of increase have to be made after completion of 4 year of lease period and also 4 month rent as security deposit which will be repaid at the time of Vacation of the property. From the month of April 2017 onwards the tenant has paid Rs 13,200/- as per the stipulation in the lease deeds. The agent has ran in to a financial crisis from the month of May 2017 and no rent was collected there after. The notice has been served to the agent to evicts the property and other measures has been adopted to realize the rent were not

fruitful. The security deposit was adjusted against the rent for the month of May, June, July and partially for the month of August. You are required to calculate the Gross Annual value.

2. Radhika owns a flat since 2013 and was let out to a private finance company from the beginning. The Annual value assessed by the municipal corporation is Rs 60,000/- The property was let out for Rs 10,000/- from April 2014 and rent equivalent to three month has been collected as Security Deposit. As per the rent agreement there is a stipulation for increase in rent amount after completion of 3 year tenancy periods. The company was ran in to a financial crisis from the month of June 17 and no rent was collected thereafter. Steps have been taken to evict the defaulting tenant and collecting the rent was not fruitful. The Security deposit so collected was adjusted against the rent due for the month of June, July and partially for the month of August. You are required to calculate the Gross Annual value from the above information.
3. Antony let out his house (Municipal valuation is Rs 1,50,000/-) to a company for Rs 15,000/-. Due to the default committed by the company to the creditors, the house was sealed from the month of February 2017 Till date. The rental advance is sufficient only to adjust the rent for the month of February and march. You are required to calculate the Gross Annual Value from the above information.
4. Murugan owns a house (Whose Municipal Valuation is Rs 60,000/-) to a chit fund company for Rs 6,000/- pm Due to the default committed by the company to its subscribers the house was sealed and legal proceedings has been taken against the chit company . No rent has been received since January 2017 and rental advance is sufficient to adjust the rent due from the month of January, February and March 2017. You are required to calculate the Gross Annual Value.

Problems with deductions

1. From the below information you are required to calculate the Income from House property.

Details	A	B	C
Standard Rent	**50,000/-**	**2,00,000/-**	**1,50,000/-**
Fair Rent	**60,000/-**	**1,80,000/-**	**1,45,000/-**
Municipal Value	**45,000/-**	**2,30,000/-**	**1,30,000**
Actual Rent	**75,000/-**	**2,50,000/-**	**1,80,000/-**
Municipal Tax	**4,500/-**	**23,000/-**	**13,000/-**
Repairs	**5,000/-**	**25,000/-**	**NIL**
Maintenance charge	**7,500/-**	**25,000/-**	**18,000/-**

2. X owns two residential houses in Mumbai. The unit one is occupied by him for his own residential purpose and unit 2 has been let out for Rs 8,000/- from the month of February 2017 and March 2017, the residential apartment remains vacant and no proper tenant was identified. Following additional information are available and based on which you are required to work out income from House property for the Assessment year 2018-19

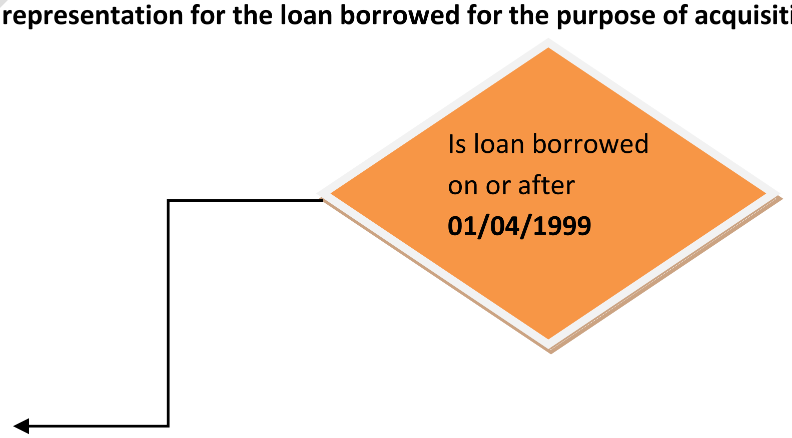
 i. Standard Rent Rs 1,62,000/-
 ii. Municipal Valuation Rs 1,90,000/-

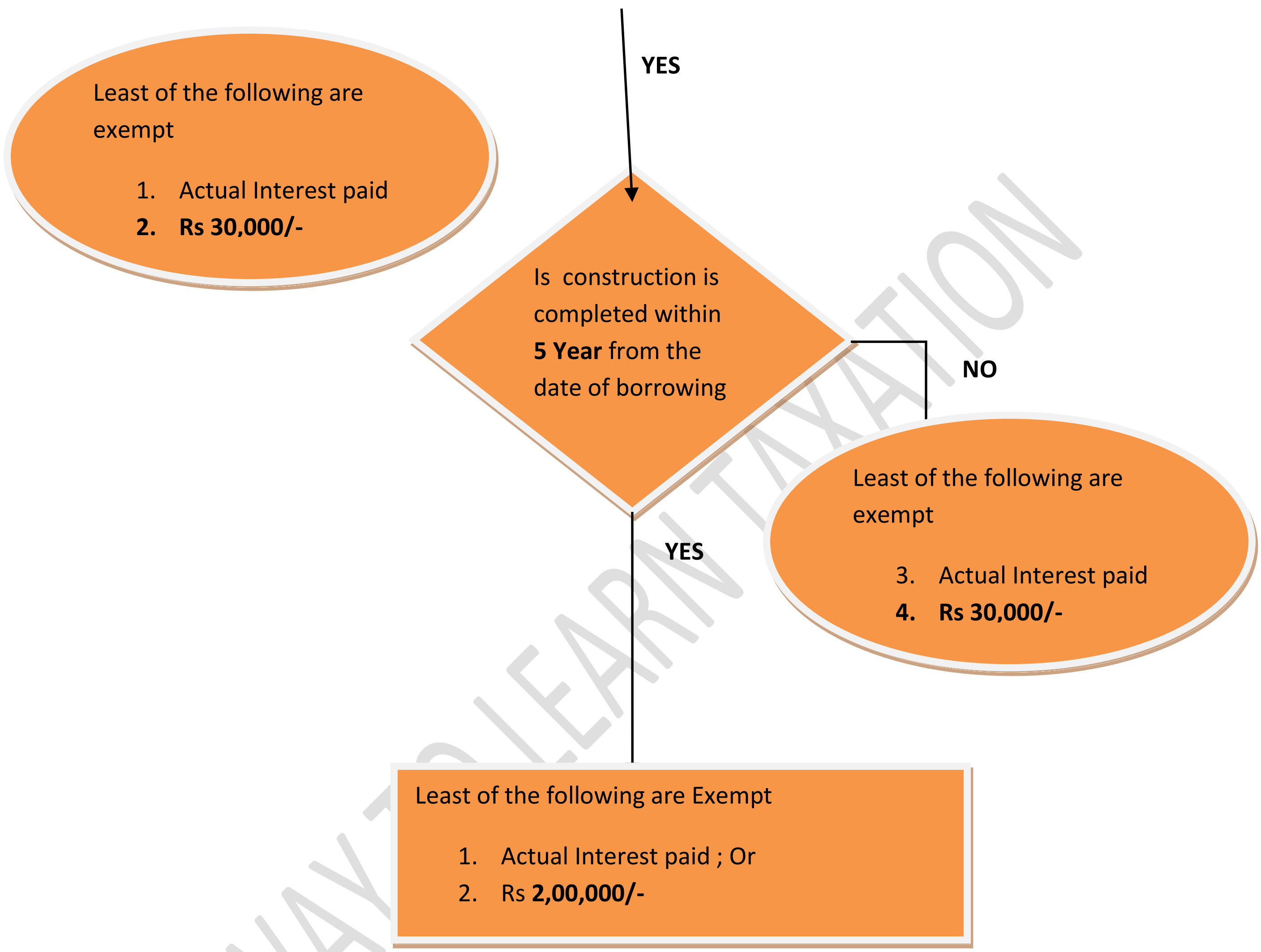
iii. Fair rent Rs 1,85,000/-
iv. Municipal Tax @ 15% on municipal valuations.
v. Light and water charges Rs 500 pm
vi. Interest on capital borrowed Rs 1,500/- per month
vii. Lease money Rs 1,200/- per month
viii. Insurance charges Rs 3,000/- pa
ix. Repairs and maintenance Rs 12,000 (pa)

2. Mr Khanna owns a residential house in Delhi. The house is having two identical units. First unit of House being self occuipied by Mr. Khanna and second unit is rented for Rs 12,000/- Pm. The property was vacant for last three month of the year. The particulars of the previous year is given below.

   i. Standard Rent Rs 2,20,000/-
   ii. Municipal Valuation Rs 2,44,000/-
   iii. Fair rent Rs 2,35,000/-
   iv. Municipal Tax @ 12% on municipal valuations.
   v. Light and water charges Rs 800 pm
   vi. Interest on capital borrowed Rs 2,000/- per month
   vii. Lease money Rs 1,200/- per month
   viii. Painting expense Rs 15,000 (pa)

Flow chart representation for the loan borrowed for the purpose of acquisition or construction





Interest on Loan problems Exclusive

1. Mr. S has completed construction of self – occupied property on 30/03/2017 and moved in to self –occupation. The construction was commenced on 01/04/2012. Mr Sam has borrowed a loan 01/10/2012 for the constructions and the annual interest payable on the same was Rs 1,25,000/- The municipal valuation of the property is Rs 6,00,000/- and property tax was paid @ 20% of the municipal valuation.

Will your answer be different if the loan was availed on 1/10/2011 instead of 01/10/2012?

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1. Mr. X has completed construction of self – occupied property on 30/03/2017 and moved in to self –occupation. The construction was commenced on 01/04/2011. Mr Sam has borrowed a loan of Rs 8,0,000/- @9.45% interest on 01/10/2012. The municipal valuation of the property is Rs 10,00,000/- and property tax was paid @ 20% of the municipal valuation.

   Will your answer be different if the loan was availed on 1/10/2010 instead of 01/10/2011?

<u>Advanced problems with interest calculation</u>

1. Mr . Sharma constructed 8 Flat of similar nature and let out each flat on a rent of Rs 5,000/- for the construction which has commenced during January 2013, he borrowed a loan of Rs on 01.08.2014 @ 24% interest. The construction was completed on August 2016. The municipal taxes paid during the year 2017- 18 were Rs 40,000/- including the arrears of previous Year Rs 10,000/-Out of loan borrowed Rs 3 Lakh has been repaid on 31/12/2017. Repairs incurred for the flat during the current year amounting to Rs 58,000/- and insurance premium paid is Rs 16,000/- Out of which two flats remains vacant for the period of 3 month and one flat remain vacant for the period of 9 month. Determine the income from house property income for the assessment year 2018-19.
2. Vijay owns a building, which consist of three apartment , construction of which was completed in December 2014. The apartment was let out for a rent of Rs 1,500/- each per month. The annual municipal value of the building is Rs 50,000/- However, during the previous year 2017-18 he paid Rs 15,000/- of which Rs 5,000/- belongs to the arrears of previous financial years. Vijay has pledged jewelry for Rs 25,000/- for the purpose of repairing of the property . Interest of Rs 3,000/- required to be paid during the current financial year for the Loan. He has appointed a person to collect the rent @ Rs 50per month. One of the apartment remains vacant for a period of 6 month during the year. Compute the income from House property for the Assessment year 2018-19.
3. Ms. Ramya owns a house property the construction of which was completed on November 2014. The house was let out for a rent of Rs 9,000/- per month. On 1st April 2012 she borrowed a loan of Rs 3 Lakh for the purpose of construction @ 18% interest. On 30th November 2014, she borrowed an other loan of Rs 2 Lakh @ 15% interest and utilized this amount along with interest free rental advance of Rs 1 Lakh obtained from the tenant and repaid the original loan of Rs 3 lakh. This house was insured for a premium of Rs 2,000/- and is regularly paid during the previous year. Property Tax paid is Rs 15,000/- Compute the income from house property for the Assessment year 2018-19.
4. Mr. lewis borrowed on 01.10.2015 loan of Rs 3,50,000/- from various sources for construction of a show room @ 18% interest. He completed construction of the show room on 01.12.2017 and let out from January 2018 to Lara, a motor car dealer, for carrying on a business of motor car , for a monthly rental of Rs 15,000/- property taxes of Rs 13,000 for the periods ending on 31.03.2018. Determine the taxable income for the Assessment Year 2018-19.

5. Mr G owns a commercial building whose construction got completed in June 2016. He took a loan of Rs 15 Lakh from his friend on 01/08/2015 and had been paid interest @ 15% pa. He is eligible for preconstruction interest as per the provisions of Income Tax Act .

   Mr, G has let out the commercial building for a rent of Rs 40,000/- per month during the financial year 2017-18. He paid the municipal tax of Rs 18,000/- each for financial year 2016-17 and 2017-18 on 1-05-2017 and 01-04-2018 respectively. Compute the income from House property for the Assessments year 2018-19

Deemed Let out property

2. Mr. A owns 2 houses for his own residential purpose and the relevant details are given below . You are required to calculate the income from House property for the Assessment Year 2018-19

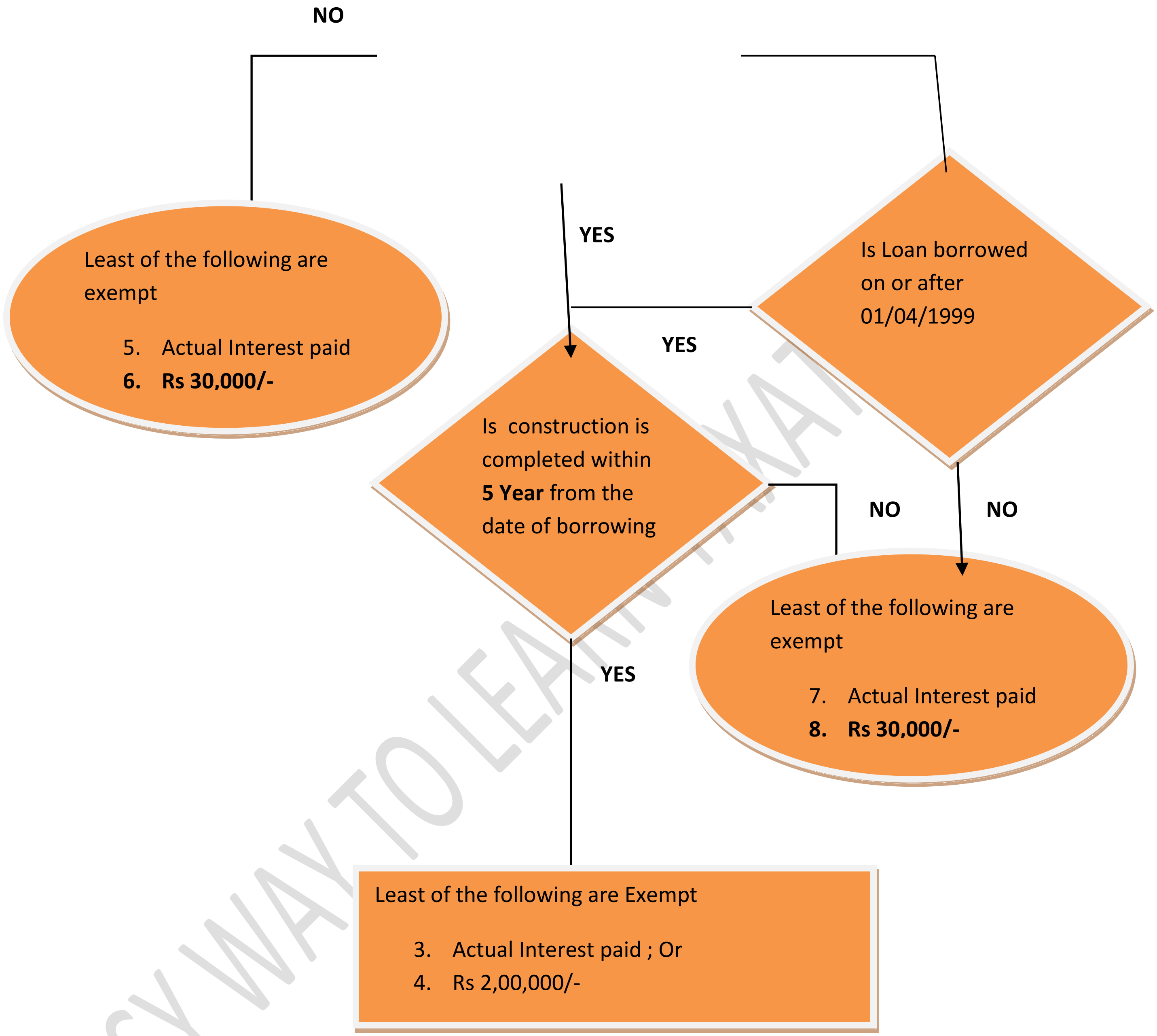
	House 1	**House 2**
Municipal Valuation	**24,000/-**	**42,000/-**
Fair rent (Rent for the similar property would fetch)	**34,000/-**	**36,000/-**
Standard Rent	**30,000/-**	**45,000/-**
Municipal Taxes paid	**6,000/-**	**8,000/-**
Repairs	**12,000/-**	**4,000/-**
Insurance premium Paid	**1,500/-**	**1,800/-**
Interest on Loans (Borrowed on 31/03/1999	**12,000/-**	**60,000/-**

2. Mr. B owns 2 houses for his own residential purpose and the relevant details are given below . You are required to calculate the income from House property for the Assessment Year 2018-19

Details	**House 1**	**House 2**
Standard Rent	**50,000/-**	**2,00,000/-**
Fair Rent	**60,000/-**	**1,80,000/-**
Municipal Value	**45,000/-**	**2,30,000/-**
Actual Rent	**75,000/-**	**2,50,000/-**
Municipal Tax	**4,500/-**	**23,000/-**
Repairs	**5,000/-**	**25,000/-**
Maintenance charge	**7,500/-**	**25,000/-**

3. Mr. Wason is the owner of two properties, one at Bangalore and one at Pune. The particulars regarding both the residential Accommodation is given below.

Particulars	**Bangalore House**	**Pune House**
Municipal Valuation	**36,000/-**	**60,000/-**
Fair rent (Rent for the similar property would fetch)	**50,000/-**	**72,000/-**
Standard Rent	**42,000/-**	**Not Fixed**
Municipal Taxes paid	**6,000/-**	**9,000/-**
Interest on Loans (Loan taken prior 01/04/1999)	**20,000/-**	**36,000/-**



PROFIT AND GAINS OF BUSINESS OR PROFESSION

CHAPTER OUTLINE

Chargeability Sec 28	Computation of Business Income Sec 29, Sec 30 to 43 D	Special Provisions 44 AD to 44 AE

Deductions Sec 30 to 37	Inadmissible Expense Sec 38,40,40 A& 43B	Deemed Profit Sec 41	Definitions Sec 43, Sec 2(11) Sec 2 (13) ,Sec 2 (23), Sec 2(29BA), & Sec 2(36)	Other provisions Sec 43A& 43 CA

- Business consists of **some activities** which is carried on by **devoting time, attention, care** and **labour** of a person either directly or through others.
- The motive behind conducting business will be **profit - making**.

What is a Business?

Section 2 (13) define business to include, trade, commerce or manufacture or adventure in the nature of trade commerce or manufacture.

What is manufacture stand for?

Manufacturing is the term widely used across the provisions of income tax Act and hence it should be understood in a clear manner.

Sec 2 (29B) manufacturing to mean **change in non- living physical object or things**;

a) Resulting in **transformatio**n of the **object or article** or thing in **to new or distinct object** or articles or thing having **different character name**, character and use ; or
b) Bringing in to existence of a new and distinct object or articles or things with different chemical composition or internal structure.

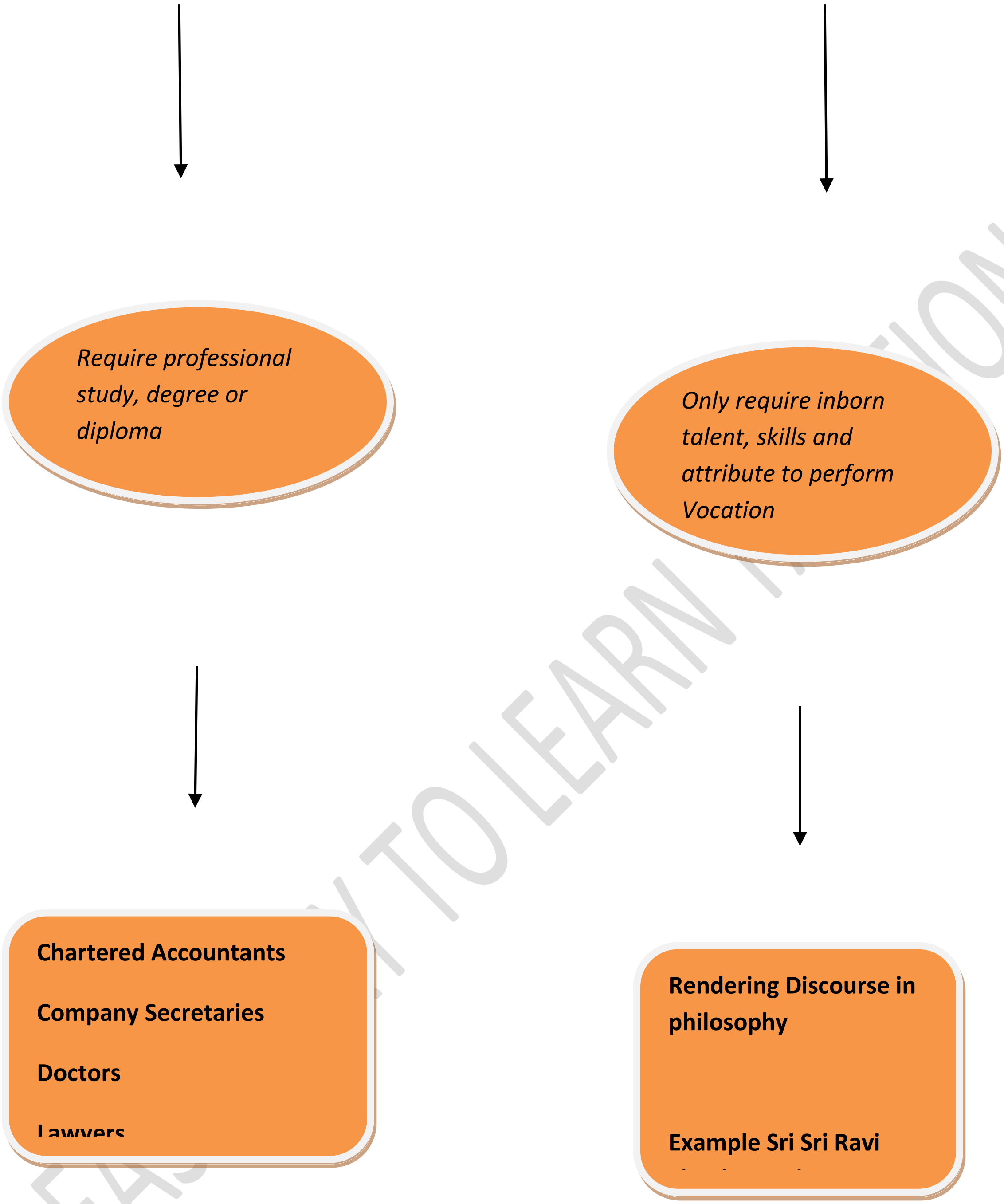
Manufacture is a process of creating a new product which is different identity from the basic raw materials

2 (36) define profession to include **Vocation**.

*Profession require **academic or professional** study ,degree or diploma for carrying out the profession where as for carrying out vocation In born skills, talent and attributes is required.*

"**Vocation**" refers to any activity on which a person **spend predominant part of his life** to earn **income or livelihood**

Profession → **Vocation**


Require professional study, degree or diploma
Only require inborn talent, skills and attribute to perform Vocation
Chartered Accountants
Company Secretaries
Doctors
Lawyers
Rendering Discourse in philosophy
Example Sri Sri Ravi

What is an Adventure or concern?

- Generally Speaking business connotes a **systematic and organized course of activity**.
- However, **isolated transaction** can be construed as Business But following factors taken into consideration for determining.

- **Nature of the items dealt with**
- **Intention of the parties**
- **The periodicity of transaction**
- **The effort taken which culminate in to the transaction**

Method of Accounting

MERCANTILE

CASH

According to section 145 income chargeable under the head profit and gains from business and profession need to be calculated in accordance with the method of accounting regularly followed by the Assessee.

Cash basis or Mercantile basis of method of accounting

There are only two methods which is permitted by Income tax authorities Cash basis and mercantile basis of accounting

Under mercantile basis **due base** is adopted for receipts and payment.

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What is a due Base?

Due Basis of method of Accounting

As far as Income part is concerned, it is based on "**Right** to Receive" and as far as expense part is

Under cash basis income and expense is accounted on the receipts and payment of cash.

Cash Basis of method of Accounting

Cash basis of accounting is based on "Receipts and Payments of Actual cash. As far as income part is concerned, it is based on Actual receipts of income and as far as payment part is concerned it is based on

Difference in method of accounting

Accounting method	**As per Income Tax Act**
Concepts of deferred revenue 1. Expenditure is classified as Capital , revenue and deferred revenue expenditure. **Same year V/S Different year** 2. Accounting is based on the principle of matching the expenditure with benefit. **Capital Expenditure is considered** 3. Capital expenditure is accounted in balance sheet items	**Concepts of deferred revenue** 1. Expenditure is classified in only as capital and revenue. No concepts of deferred revenue expenditure. **Same year V/S Different year** 2. Under taxation laws, all the expenditure is allowed as admissible expenditure in the same year ,unless the law specifically provide for different method of Accounting or based on court decision to apply a different years based on matching concepts. **Capital Expenditure is Not considered** 3. Capital expenditure is not allowed as admissible expenditure under Tax law unless specifically provided in the law.

Claim of depreciation will not depends upon any of the above two method.

Sec 28

Income from business or profession carried on at any time during the previous year shall be chargeable to tax

Chargeability or scope (Section 28)

- **Profits and Gains** of any **business or profession** which was carried on by the Assessee at any time during the **previous year**;

- Any **compensation or other payment** due to or received by, -

  a. Any person, by whatever name called, managing the whole or substantially the whole of the affairs of an Indian company, at or in connection with the **termination of his management** or the **modification of the terms and conditions** relating thereto;
  b. **Termination or modification** of terms and conditions of a contract relating to agency for business activity in India.
  c. **Vesting of the management** of any business or property in favour of Government or any corporate owned or controlled by the government.

- Income derived by a trade, professional or similar association from specific services performed for its members;

- In case where assessee carrying **on export business**, following export incentives;

> *a. Profits on sale of Import license- Entitlements or EXIM Scrip*
> *b. Cash assistance against exports under any scheme of Governments*
> *c. Profit on transfer of the Duty Entitlement pass book or Scheme*
> *d. Any duty of customs or excise re-paid or re-payable as drawback*
> e. *Any profit on transfer of the Duty Free Replenishment Certificate*.

5. The value of any **benefit or perquisite**, whether convertible into money or not, arising from business or the exercise of a profession;
6. Any **interest, salary, bonus, commission or remuneration**, by whatever name called, due to, or received by, a partner of a firm from such firm. However, where any interest, salary, commission or remuneration is disallowed u/s 40 (b) in case of firm, the same shall not be taxed in the hand of the partner to the extent it is disallowed. (This provision is intend to avoid double taxation)
7. Any sum received or receivable in cash or kind under an agreement for :

i) Not carrying out any business or profession (Non-compete Fee)

ii) Not sharing any know-how, patent, copy right, 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 of service.

8. Any sum received under a key man insurance policy including sum allocated by way of bonus.
9. Any sum received or receivable, in respect of a capital asset (other than land, Good will or financial instruments) when has been discarded, demolished, destroyed or transferred for which deduction has been allowed u/s 35 AD

Speculative Business

- Where an Assessee who carries on any transaction which constitute speculative business, it shall be regarded as separate and distinct business by the Assessee.

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☞ According to section 73 Loss from the speculative business cannot be set off against

b) Any other regular business.
c) Any other head of Income

Definition of Speculation business 43 (5)

a. It is a transaction in which a contract for purchase or sale of any commodity Including shares and scrip's.
b. It is periodically or ultimately settled otherwise than by actual delivery or transfer

Common books for both speculative business and non speculative business

Determine income and loss separately and distinctly for such business by allocating or apportioning the expense incurred separately for speculative and non speculative business. Basis of apportionment is may be either actual basis or some other basis.

Exception to the speculation business

Following are the exemption to speculation business

1) *Contract in respect of raw material and merchandise in the normal course of business to guard against Price fluctuation.*
2) *A Contract in respect of stores or stock entered in to by a dealer or investor to guard against the loss due to the price fluctuation.*
3) *A contract entered in to by a member of stock exchange or forward market in a course of jobbing or arbitrage to guard against the loss due to the price fluctuation.*
4) *An **eligible transactions** in respect of trading in derivative in a recognized stock exchange and ;*
5) *An **eligible transaction** in respect of trading in commodity derivative in recognized association, which is chargeable to commodities transaction tax.*

Computation of Income Sec 28

- Income chargeable to tax under the head profit and gain from business or profession shall be computed in accordance with **common principle of commercial expediency** subject to the express provisions of the Act.

- Following points should be considered while computation of income

a) Expenditure incurred prior to setting up of the business shall be provided as deduction unless otherwise provided in the act
b) Assessee should have incurred the expenditure for the purpose of business and profession.
c) Expenditure should have been incurred during the previous year;

- Income referred to section 28 shall be computed on the basis of provisions contained in section 30 to 43 D

Section 30 Expense relating to building used for the purpose of business or profession

Where the Assessee occupying the premise as Tenant

Following shall be allowed as a deduction

1) Rent paid by him
2) Cost of repair provided the same has been undertaken by Him

No notional rent shall be allowed as a deduction

If a partnership firm is a tenant of a building and partner of the owner of the building, the rent paid to the partner is allowed as deduction in the hand of partner

Where the Assessee occupying the premise as Owner

Only current repair can be allowed as deduction in addition following shall be claimed as deduction

1) Land revenue, local rates, and property taxes
2) Insurance premium in respect of property

Note-

- The Fee, taxes so called has to be actually paid to the authorities concerned on or before due date for filing return of income u/s 139 (1).
- Expenditure in the nature of capital expenditure cannot be claimed as a deduction. The reason for the same is it is allowed as deduction under the head capital gains.

Section 31 Expense relating to machinery, plant and furniture

Following are the allowable expense in respect of machinery, plant and furniture

1) Current repairs
2) Insurance premium against risk of destruction or damage

If it is taken on hire then rent paid or payable on that can be claimed as deduction U/s 37 (1)

Notes

Expenditure in the nature of capital expenditure cannot be claimed as a deduction. The reason for the same is it is allowed as deduction under the head capital gains.

Explanation to Current repairs

- If by incurring certain expense, an existing asset restored to its normal or original condition then it is regarded as current repair (Normally maintaining the asset).
- It is the expenditure on Building, plant, machinery or furniture which is only for the purpose of preserving an existing asset is termed as current repairs.

Capital expense

- If by incurring certain expense, the capacity of the of the asset had changed or enhancing its efficiency beyond the original efficiency, then it is a capital expenditure in nature.
- If an additional advantage is created in an asset also regarded as Capital expense
- This type of expense is mainly for the purpose of renewal or restoration of the asset

Section 32 Depreciation

Eligible asset

There are two category of the asset which is eligible for depreciation. This is as follows.

Asset

TANGIBLE

INTANGIBLEE

1. Machinery
2. Building
3. Plant
4. Furniture

1. Know-How
2. Patent
3. Copy right
4. Trade mark
5. License
6. Franchise

<u>Condition for claiming depreciation</u>

2) *Assessee must be owner of the asset. Fractional ownership will also be taken in to account for the purpose of claiming depreciation.*
3) *The asset must be used by the Assessee for the purpose of Business and profession carried on by him*
4) *The asset must be used during the previous year*
5) The asset in respect of depreciation claimed must be fall in the eligible category as above.

Notes

If the asset is put to use for less than 180 days then only 50 % of the allowable depreciation is allowed and 100% depreciation will be allowed for more than 180

days

Assessee is occupying the building as Tenant

Any capital expenditure incurred towards the building as :-

a) Renovation
b) Extension
c) Improvement

Assessee is occupying the building in Hire purchase method

1. The amount of cash price paid can be capitalized and depreciation can be claimed on the price paid
2. The remaining price unpaid shall be treated as "Hire Charges" during the period of contract

Companies Act V/S Income Tax Act with respect to depreciation

Companies Act	Income Tax Act
Method of depreciation	**Method of depreciation**

WDV method or SLM method can be adopted as a method for calculation of depreciation	Only WDV method of depreciation based on **Block of asset** concept. Only power sector can adopted SLM method or WDV method

The method of depreciation allowed as per Income tax Act is WDV method only. In case of an undertaking engaged in generation or distribution of power can have an option to adopt WDV or SLM method

Depreciation of power sector

Undertaking engaged in generation or generation or distribution of the asset can depreciate their individual asset on Straight line method.

The rate is appendixes in 1A

Notes

Only the method of depreciation which is prescribed by Income Tax Act is Written Down value method and above mentioned is relaxation of the above provision.

Option for changing method of Depreciation (SLM to WDV)

The above undertaking can claim depreciation under WDV method on block of asset basis. Such option need to be exercised on or before filing return of income Assessment relevant to the previous year.

Special treatment of sale, discarded, demolished or destroyed

Where any asset in respect which SLM method of depreciation has been allowed is Sold, discarded, demolished or destroyed Short fall if any in moneys payable comapred to the WDV shall be allowed as terminal depreciation.

Such deficiency is actually required to be written off in the books of Account.

If however, such asset has been Sold, discarded, demolished or destroyed the money realised thereof together with scrap value if any, exceeds the WDV then following treatment is required

1) The excess to the extent of depreciation already allowed shall be assessable as balancing charges under the head profit and gains from business and profession.
2) The surplus over and above the actual cost shall be chargeable to tax under the head capital gains

Money payable means the following items of expense

- Insurance
- Salvage
- Compensation money

Which is payable in respect of Asset

ACTUAL COST Sec 43 (1)

- The computation of "**actual cost of asset**" acquired during the relevant previous year assumes a great degree of significance since the actual cost of asset acquired during the previous year is required to be determined in the proper way in order to determine the actual cost of addition to the concerned block.

Proforma for calculation of actual cost of asset

Details	Rs	RS
Cost of purchase or construction of asset		XXX
LESS :		
1. Amount of customs or Excise duty (Now GST) allowed as input tax credit	XXX	
2. Amount met by any authority by way of Grant or subsidy directly or indirectly	XXX	
3. Amount of payment made for acquisition of an asset or part of an asset for which aggregate of payment made in a day exceeds Rs 10,000/- otherwise than account payee cheque or demand draft or electronic clearance of system of bank	XXX	
4. Forex fluctuation (Decrease in liability) if , any, arising in respect of asset acquired from country outside India	XXX	XXX
		XXX
ADD:		
1. Interest on loan borrowed for acquiring the asset, payable up to the date on which the asset first put to use	XXX	
2. Expense incurred for acquiring the asset Ex- Fright, insurance, loading and unloading	XXX	
3. Expense incurred in connection with installation of an asset Ex- Technical fee for erection and plat form erection cost etc	XXX	
4. Forex fluctuation (Increase in liability) if , any, arising in respect of asset acquired from country outside India	XXX	XXX
		XXX
Actual cost		

Explanation to section 43 (1)

Expln to Sec 43(1)	**Mode of acquisition**	**Actual cost**
1	Asset used in a business after it ceases to use in scientific research	Actual cost less deduction availed under section 35. Therefore in this case actual cost shall be "NIL" value
2	Asset acquired by way of Gift or Inheritance	WDV to the previous owner shall be adopted as actual cost
3	Asset acquired from any other person which was previously used for his business or profession with a view to claim depreciation or enhanced depreciation	Actual cost to be determined by the Assessing Officer with the prior approval of Joint commissioner
4	Asset transferred by the assessee and re- acquired by him	Original cost less depreciation allowable to him assuming it is the only asset in the relevant block (or); The price paid for acquiring the asset whichever is lower
4A	Asset acquired by an assessee from another person given on lease to the same person who had earlier claimed depreciation on such asset – Sales back transactions	WDV of the asset to the transferor at the time of transfer of asset to the assessee
5	Building used for personal purpose subsequently brought in to the business use	Cost of purchase or construction of an asset as reduced by the notional depreciation calculated up to the year of bringing the asset to the business use at the rate of depreciation applicable to the year in which the asset is brought to use for business
6	Asset transferred by a holding company to its subsidiary company or subsidiary company to its holding company if the following conditions are satisfied 1. *Shares of the subsidiary company should be wholly owned by the holding company or its nominees*	WDV to the transferor company shall be adopted as the actual cost to the transferee company

	2. The transferee company should be an Indian company	
7	Transfer of an asset in a scheme of amalgamation by the amalgamating company to the amalgamated company	WDV to the amalgamating company can be adopted as actual cost to the amalgamated company
7A	Asset transferred by a de merge red company to its resulting company	WDV in the hand of demerged company shall be adopted as actual cost of asset to the resulting company
8	Asset acquired out of borrowed fund	Interest on loan borrowed relating to the period after the asset first put to use shall not be form part of actual cost
9	Asset acquired subjected to levy of excise or customs or CENVAT credit	Amount of duty in respect of which claim of credit has been made and allowed under Central Excise Rule,1944 Shall be reduced from the actual cost
10	A portion of cost of an asset acquired is met directly or indirectly by the government or any statutory authority in the form of subsidy, Grant or re- imbursement	So much of cost as related to the grant , subsidy or re imbursement Shall not form part of Actual cost.
11	Asset brought in to India by a Non- resident assessee for the purpose of business and profession	Actual cost as reduced by amount of depreciation calculated notionally at the rate in force as if the asset was used in India from the date of acquisition
12	Asset acquired under a scheme of corporatization of recognized stock exchange in India approved by SEBI	The amount which have been regarded as the actual cost had there been no corporatization , shall be deemed to be the actual cost of an asset

13	a) Asset on which deduction is allowable or allowed or acquired or received from the specified business activities specified u/s 35 AD b) By way of gift, will or irrecoverable trust; c) On any distribution of asset in the company under liquidation d) Transferred to specific business reorganization as referred to in sec 47	Actual cost shall be adopted as “NIL”
13A	*Asset in respect of which deduction or part deduction u/s 35 AD is deemed to be the income of the assessee (where such asset is used for any purpose other than specified purpose)*	Actual cost as reduced by the amount of depreciation calculated at the rate in force since the date of acquisition, had the asset been used for the purpose of business

WDV calculation format

Particulars	Amount
Opening value of Block	XXX
Add Actual cost of asset acquired and belonging to the same Group	XXX
Less monies payable in respect of the same block	XXX
WDV for the purpose depreciation	XXX

Money payable means the following items of expense

- Insurance
- Salvage
- Compensation money

Which is payable in respect of Asset

Section 2 (11) Block of asset

Group of asset falling within the class of asset comprising:-

a) Tangible asset being Building, Machinery, plant and furniture.
b) Intangible asset being Know how, patent, License, franchise, trade marks or any other rights of similar nature

In respect of which same rate of depreciation is prescribed

Asset

TANGIBLE

INTANGIBLEE

5. Machinery
6. Building
7. Plant
8. Furniture

7. Know-How
8. Patent
9. Copy right
10. Trade mark
11. License
12. Franchise

<u>Section 32 (2) Un absorbed depreciation</u>

- Unabsorbed depreciation is allowed and carry forward for setting off in the subsequent year. There is no limitation as far as period of carry forward.
- It is treated as a part of current year depreciation.
- Un absorbed depreciation bought forwarded during the current year shall be regarded as current year depreciation and can be claimed as expense of current year.
- Even a discontinued business can claim un absorbed depreciation.
- It can be set off not only against the income under the head profit and gains from business and profession but also any other head of income also.

Sec 32 AD Investment in new plant and machinery in notified backward area in certain states

Eligible Business

Any assessee setting up an undertaking or enterprises for manufacture or production of any articles or thing on or after 01.04.2015

Periods of investment

Acquisition and installation of a new asset between 01.04.2015 and 31.03.2013

Eligible Investment

a) The assessee set up an undertaking or enterprise in any back ward area notified by the Central Government in the state of Andhra Pradesh or Bihar or Telangana or West Bengal;

b) The assessee acquire and install new asset for the purpose of the said undertaking or enterprise in the said back ward areas

Quantum of deduction

15% of actual cost of new asset acquired and installed during the previous year,

Year of deduction

Previous year of installation of such asset

New asset for the purpose of sec 32 AD

"New asset" means any new plant and machinery but does not include –

a) Any ship or aircraft; or
b) Any plant and machinery which before its installation by the assessee was used either within or outside India by any person; or
c) Any plant and machinery installed in any office premises or any residential accommodation , including a guest house; or
d) Any office appliance including computer and computer software; or
e) Any vehicle; or

f) Any plant or machinery, the whole of actual cost of which is allowed as a deduction whether by way of depreciation or otherwise in computing income chargeable to tax under the head " Profit and Gains from Business and profession" during the previous year.

Other points

1. Amount of deduction computed u/s 32 AD shall not go to reduce WDV
2. Where the assessee transfer the asset, within a period of 5 years from the date of installation, by sales or otherwise, on which deduction is previously allowed u/s 32 AD, the amount allowed as deduction shall be chargeable to tax under the head "Profit and Gains from Business and profession" in the previous year in which such transfer take place.
3. However, such taxability does not arise in case of the transfer of new asset is on account of amalgamation or demerger or business reorganization, provided the amalgamated or resulting or successor company does not transfer the asset within a period of 5 years from the date of installation.

b.

Additional Points

1. In case of any assessee, it is possible to claim deduction u/s 32 AD provided the specified conditions are satisfied.
2. **It may be noted that deduction 32 AD in respect of new plant and machinery acquired and installed shall be allowed as deduction in addition to the normal depreciation u/s 32 and additional depreciation u/s 32 (1) (iia)**

Section 35 Expenditure on scientific research

Meaning

Any activity for extension of knowledge in the field of natural or applied science including agriculture, animal husbandry and fisheries

Following are the three category of expense

1) **In house research**
2) **Companies in specified business**
3) **Contribution to outsiders.**

In house research

- Both revenue and capital expenditure can be claimed as deduction (But expense incurred for land cannot be claimed)
- Expenditure incurred during the 3 years immediately preceding the commencement of business can be claimed during the year of commencement of business.

Quantum of deduction

100% of the above expense

Companies in specified business

Following are the list of specified business

- Bio technology
- Manufacture or production of any drugs
- Pharmaceuticals
- Electronic equipment
- Computers
- Tele communication equipment
- Chemicals

Quantum of deduction

150 % of the above expense

Condition for claiming deduction

- Every company must enter in to an agreement with prescribed authority for co-operation in such research and development activity.
- Prescribed authority shall submit its report in the prescribed format in relation to the approval of the said facility to the principal officer chief commissioner or the chief commissioner or principal director General in such form and within such timeframe as may be prescribed.

Contribution to outsiders

Following chart showing the amount of deduction available for contribution made to the outside organization.

Contribution made to	Purpose	% of deduction
Research association	social or statistical research	150%
Company	scientific, social or statistical research	100%
Research association National laboratory, University, college or IIT or a Specified person with direction	Scientific research Scientific research under a programme Approved by prescribed authority	100% 150%

Please refer un absorbed deprecation

Sec 35 AD- Deduction of capital expenditure of Specified Business

Amount and year of deduction

1. According to Sec 35 AD, **100% deduction** shall be allowed in respect of the capital expenditure other than :-
   a) *Cost of land*
   b) *Good will*

Incurred by the assessee during the previous year provided the fulfilment of conditions

2. Prior period expenditure of specified business

Where the assessee incurred by the assessee before commencement of operation of business and capitalized in the books of the assessee shall be availed as deduction shall be allowed as deduction during the year of operation of the specified business.

Disallowance of deduction u/s 35 AD

Deduction shall not be allowed if :-

a) Payment or aggregate of payments made in a day exceed Rs 10,000/-

SL No	NATURE OF BUSINESS- 100% DEDUCTION
1	Setting up and operating cold stone facility
2	Setting up and operating ware housing facility for storage of agricultural produce
3	Building and operating anywhere in India a hospital with at least 100 bed for patients
4	Developing and building a housing project under a scheme for affordable housing framed by the Central or state Government and notified by CBDT
5	Producing Fertilizers in India

6	Laying and operating a cross- country; (1) Natural gas; or (2) Crude Oil or; (3) petroleum oil pipe line network for distribution , including storage facilities being an integral part of the such network;
7	Building and operating anywhere in India,a hotel of two star or above category as classified by the Central Government
8	Developing and building a housing project under the scheme for slum redevelopment or rehabilitation framed by the central or state government and notified by CBDT in accordance with prescribed Guidance
9	Setting up and operating an inland container depot or a Container fright station notified or approved under customs Act
10	Bee keeping and production of honey and beewas
11	Setting up and operating warehouse facility for storage of sugar
12	Laying and operating a Slurry pipe line for transformation of Irone ore
13	Setting up and operation of semi –conductor wafer fabrication manufacturing unit notified by the board in accordance with prescribed Guidelines
14	Developing or maintain and operating or developing , maintaining and operating any infrastructure facility;

Conditions

i) The specified business is not set up by splitting up, or the reconstruction, of a business already in existence;

ii) It is not setup by the transfer to the specific business of machinery or plant previously used any purpose. However, in the following situations, it shall not be regarded as machinery or plant previously used for any purpose

> a) *Such machinery or plant was not at any time used in India prior to the date of its installation by the assessee;*
> b) *Such machinery or plant is imported in to India from any country outside India;*
> c) *No deduction on account of depreciation as been allowed or allowable in respect of such machinery or plant to any person earlier*

iii) It is not formed by transfer of machinery or plant previously used for any purpose except to the extent of 20% of the total value of plant and machinery.

iv) No deduction shall be allowed u/s 10AA and Chapter VI –A (Part C), if the assessee avails deduction u/s 35 AD for the specified business, not only for the year in which deduction is claimed u/s 35 AD but also in any other assessment year.

v) No other deduction shall be allowed under any other section in any other previous year in respect of amount allowed as deduction u/s 35 AD

Usage of asset for Specified Business

1. Any asset in respect of which deduction is allowed u/s 35 AD shall be used only for the specified business, **for a period of 8 years** *beginning with the previous year in which such asset is acquired or constructed.*

Withdrawal of deduction

In case where asset is used for any purpose other than the specified business within a period of 8 years

a) The amount of deduction earlier allowed shall be deemed as income under the head "Profit and Gains from Business and profession"
b) Assessee is eligible to reduce the amount of eligible amount of depreciation u/s 32 while computing the deemed Income.

Relaxation from use age of asset within a period of 8 year

Following situation, the holding period of 8 years does not apply

a) Where the assets are destroyed, discarded or transferred ; or
b) The company is declared as Sick company

Any sum received or receivable on account of any asset being demolished , destroyed, discarded or transferred (In respect of which deduction is allowed u/s 35 AD was allowed) shall be subject to tax Under the head profit and gains from Business and profession

method of payment

Note :- Assessee can make the contribution to the above entity or directly to the projects.

Condition for availing the deduction

In case where Assessee make the contribution to the above entities

- Assessee should furnish with his return of income a certificate from the concerned entity regarding the contribution made

In case where contribution directly to the project

- A certificate the Chartered Accountant

Withdrawal of Approval

- If the national committee is satisfied that the association or institution is not carrying out the project or Scheme.
- An opportunity being heard shall be given to the association or Institution
- After withdrawal of the approval, such contribution shall be treated as income under the head profit and gains from business and profession.

Special conditions in respect of Gas, crude oil or petroleum Oil

1. *Such business should be owned by a company or consortium of such company or by an authority or a board or corporation established or constituted under Central or State Act*
2. *It should be approved by petroleum and Natural Gas Board established under the* ***Petroleum and Natural Gas Regulatory Authority Board Act 2006*** *and;*
3. *It has been availed for use by another person other than the assessee or an associated person such proportion of its total Pipeline capacity on common carrier basis. The proportion prescribed by the Petroleum and Natural Gas Regulatory Boards are as follows.*
   a) *At least 1/3rd of the total capacity for natural gas pipeline network; and*
   b) *At least 1/4th of the total capacity for petroleum product pipeline network*

Section 35 CCA -Contribution to Rural development programme

1.Contribution made to approved scientific association/ institution for the following activity:-

- *Implementation of rural development program*
- *Training for the personal for such program*
- *Contribution to the National Fund to the rural development*
- *Contribution to National poverty Eradication fund notified by the Central Government*

2.Assessee should furnish a certificate from such institution for claiming deduction under this section.

Sec 35 CCC- Expenditure on Agriculture Expansion Project

1. Where **an assesses** incurs any expenditure on agricultural extension project notified by the Board, a deduction to the extent of **150 % of such expenditure** shall be allowed.
2. No further deduction shall be allowed in respect of such expenditure under any other provisions of the Act for the same or any other assessment year

Sec 35 CCD- Expenditure on Skill development project

1. Where **an assesses** incurs any expenditure on skills development project (Other than the **cost of land or building**), a deduction to the extent of **150 % of such expenditure** shall be allowed.
2. No further deduction shall be allowed in respect of such expenditure under any other provisions of the Act for the same or any other assessment year

Section 35 D- Amortisation of Certain Preliminary expense

Who can claim deductions

- Indian companies
- Resident corporate Assessee

What are the Purpose for which deductions can qualify?

Preliminary expense incurred for the following purpose can qualify

i) commencement of business

ii) after commencement of business in connection with the –

   a) extension of existing industrial undertaking

   b) setting up of new industrial undertaking

What are the items included in the category of preliminary expense?

Preliminary expense include the following

i)	Legal expense for the purpose of an agreement for the setting up or for conduct of business
ii)	Cost of preparation of feasibility report, project report, expenditure incurred for conducting any survey including market survey and engineering service relating to the business
iii)	Legal expenditure incurred for preparation of memorandum of association and Articles of Association
iv)	Cost of printing memorandum and Articles of Association
v)	Registration fee paid for incorporation
vi)	Expense incurred in connection with public issue of shares and debenture being underwriting commission, brokerage and charges for drafting typing, printing and advertisement of the prospectus

What are the Quantum of deduction

Non corporate Assessee

5% of cost of project (Cost of fixed asset) as on the last day of the Relevant previous year.

Company Assessee

5% costs of project or 5 % of the capital employed at the option of the company.

Deduction

Deduction is allowed over a period of 5 years in equal instalment.

Capital employed

Means aggregate of issued capital, debentures and long term borrowing (Repayable during a period less than 7 years) as on the last date of relevant previous years.

Cost project

Means the actual cost of the fixed asset being land and building, lease hold, plant and machinery, furniture, fitting, and railway sliding (including expenditure on development of land and building) which are shown in the books of assessee as on the last date of relevant previous year.

Relevant previous years

Means the previous year in which business was commenced or extension of undertaking was completed or a new unit commenced production

Sec 35DDA- Amortization of expenditure incurred under VRS

1. Where any expenditure incurred by way of payment of any sum to an employee in accordance with **any scheme of Voluntary retirement.**
2. Generally, the payments will be made to the employee in the lump-sum mode

Deduction

In case of Lump- sum amount

Deduction is allowed over a period of 5 years in equal instalment.

In case of part payment or payment by way of instalment

However, in case where the assessee make the payment in part or instalments then each such payment is independently eligible for deduction over a period of 5 years

Section 36 -other deductions

1. **Insurance premium**
   a. Insurance premium paid in respect of insurance against the risk of damage of stock or stores
   b. Insurance premium paid by Federal co operative society for insurance of the life of cattle's owned by the member of primary society.
   c. Insurance premium paid any other mode other than cash, by the employer, for insuring the health of the employee under the approved insurance scheme, framed by insurers approved by the Central Government or by the Insurance Regulation and Development Authority (IRDA)
2. **Bonus or commission**

   Bonus or commission paid to the employees in respect to the service rendered. Such sum would not be payable as profit or dividend.

3. Interest on Capital borrowed

a. Interest paid in respect of capital borrowed for the purpose of business and profession.
b. Interest on capital borrowed for acquisition of an asset shall not be allowed as deduction for the **period beginning from the date on which the capital was borrowed for acquisition of the asset till the date on which such asset is put to use**.

Note

- *The interest accrued during the period up to which **asset is put to use** can eligible to add the cost of asset and depreciation can be claimed on the value which include the interest component.*

- **Interest on loan borrowed** from public financial institutions or state financial corporation or State Industrial Investment Corporation on any loans borrowed from Scheduled Bank, Co-operative bank (*Other than a primary agricultural credit society or primary agricultural and rural development Bank*) shall be allowed subjected to ***Section 43 B**.

- Any amount of **interest paid or payable by any buyer**, under or in accordance with the provisions of MSMED Act, 2006 shall not be allowed as deduction for the purpose of computation of Income under Income Tax Act-sec 23 of the Micro, Small and medium Enterprises Development (MSMED Act) 2006

*Section 43 B stipulate the deduction based on payment made on actual basis.

4. **Zero Coupon Bonds (ZCB)**

Discount on Zero Coupon Bonds (ZCB) on **pro- rata basis** having regard to the **period of life** of such ZCB is allowed as deduction

What is a discount in ZCB scheme mean?

It is a **difference between** amount received or receivable and the amount payable at the time of redemption of ZCB by the following entities

i) Infrastructure capital company;
ii) Infrastructure capital fund;
iii) Public sector company; or
iv) Scheduled Bank

5. **Employee Welfare Fund**

a. Contribution to recognised provident fund or approved super annuation fund subject to section 43 B.
b. Contribution by an employer towards a pension scheme as refers to in Sec 80 CCD on account of employee to the extent it does not exceed 10% of salary of the employee.

Salary for the purpose of Pension Scheme u/s 80 CCD

Basic pay and dearness allowance provided in the terms of employment

c. Contribution to any approved gratuity fund created by the *employer* for the exclusive benefit of *employee* **under irrevocable trust**.
d. Any contribution received from the employees towards their welfare fund, if such sum remitted on or before the due date specified under the relevant "**due date"**.

What is a due date meant for?

It is a date by which the assessee is required in the capacity of employer to credit an Employees contribution to the account of employee on the relevant fund under any Act, rule order or notification issued there under

5. **Allowance for animal or Live stock**

In respect of animal used for the purpose of business and profession otherwise than stock in trade and have died and become permanently useless for such purpose, the difference between the actual cost and the amount if any realised in respect of the carcasses or animals.

As per the definition of sec 43(3) Plant exclude "Livestock"

As Such depreciation cannot be claimed on such animals

6. **Bad debts**

The amount of bad debt written off but subject to the following conditions

a) The debt should be incidental to the business b) It should be taken in to account in computing the income of the assessee or it should represent money lent in the ordinary course of banking or money lending business. c) It should be written off in the books of accounts d) The business in respect of which the debt is incurred is continued during the relevant previous year

7. **Promotion of family planning**

Any expenditure incurred by the company for promoting family planning among the employees. If the expenditure is in the nature of capital expenditure, then, deduction is allowed over a period of 5 year period.

8. **Securities / Commodities Transaction Tax**

a. Security Transaction Tax (STT) paid in respect of taxable **securities transactions** entered in to in the course of business shall be allowed as deduction if the income from such taxable securities transaction is included in the income computed under the head "Profit and Gains from Business and profession".
b. Commodity Transaction Tax (CTT) paid in respect of taxable **commodity transactions** entered in to in the course of business shall be allowed as deduction if the income from such taxable securities transaction is included in the income computed under the head "Profit and Gains from Business and profession".

Section 37- General deductions

The legislature having regard to impracticability to include all the admissible expense in computation of business income have enacted section 37 and which provide for the general deduction

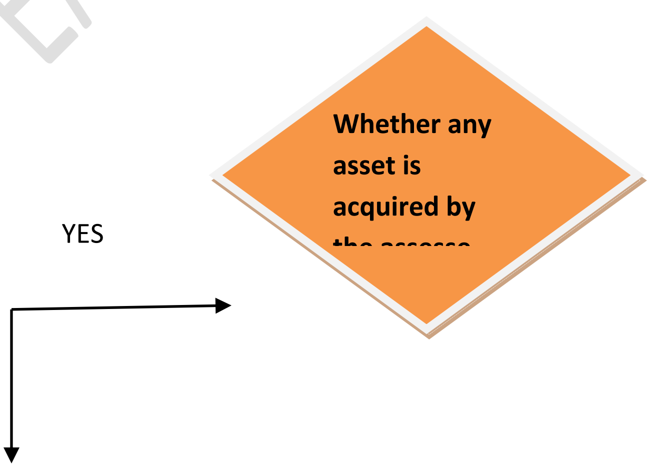
Any expenditure :-

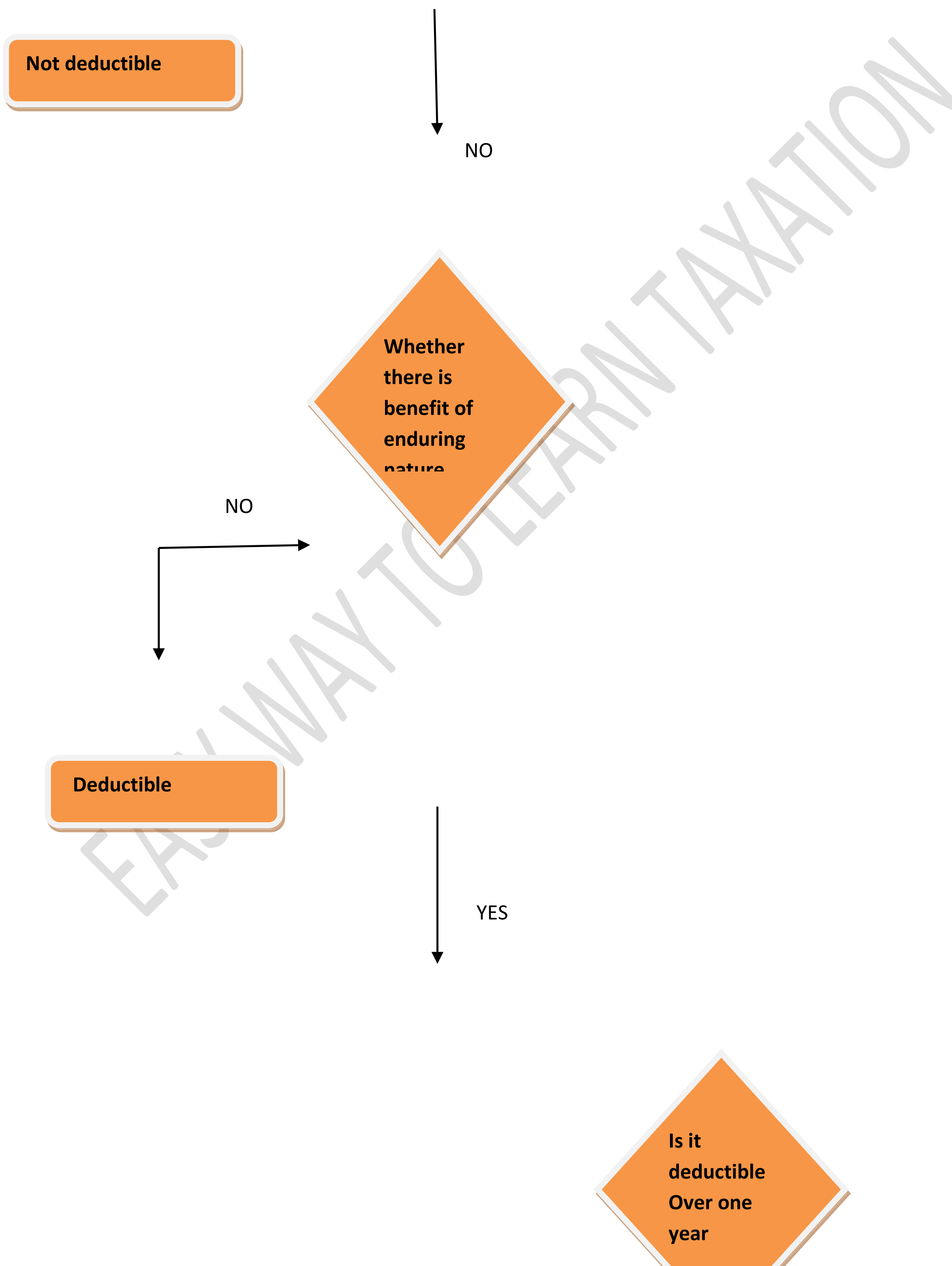
i) Not being expenditure of the nature described in the section 30 to 36
ii) Not being in the nature of capital expenditure
iii) Not being in the nature of personal expenditure of the assessee.
iv) Laid out or expanded wholly or exclusively for the purpose of business or profession

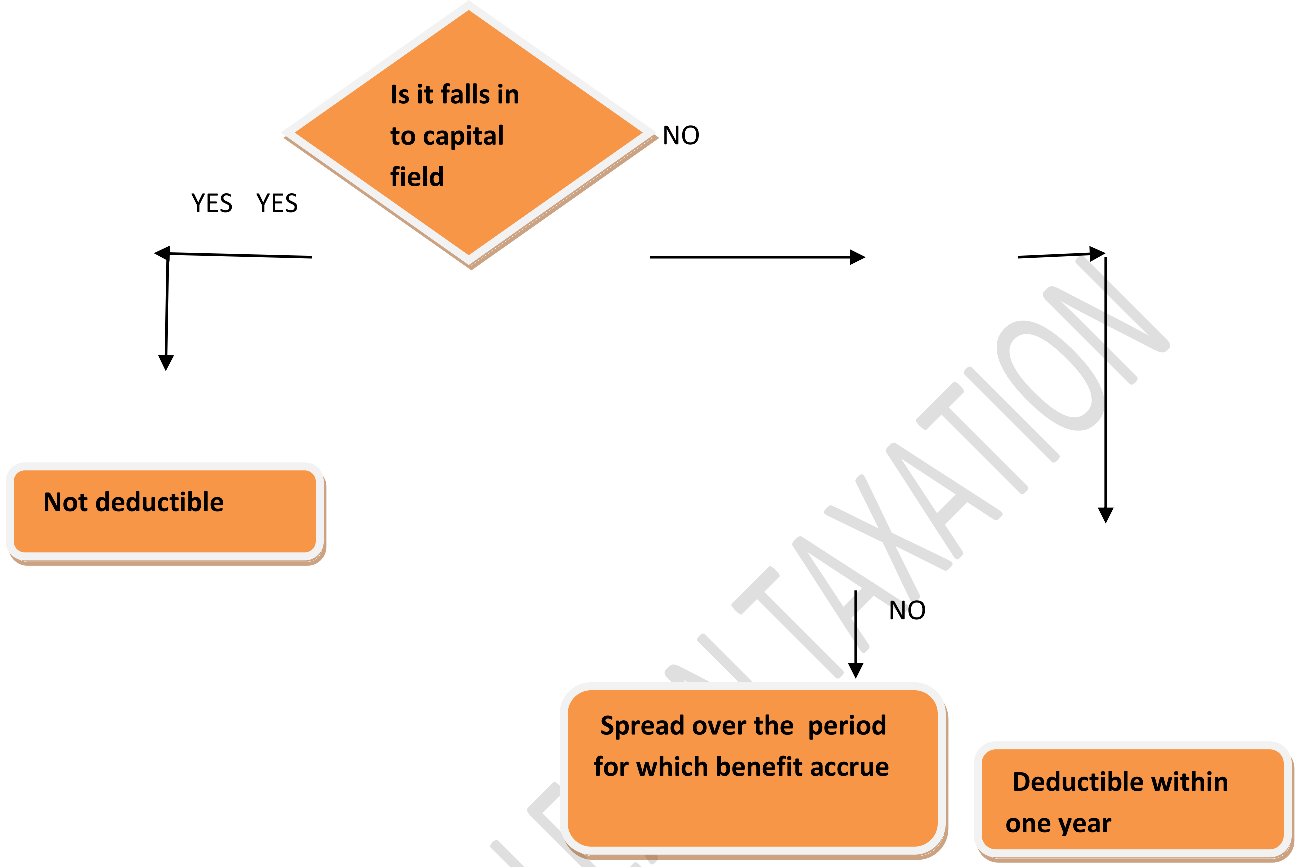
Shall be allowed as a deduction in computing the income under the head profit and gains from business and profession.

However, following expenditure could not be allowed as deduction while computing the total income

1. *Expenditure incurred for any purpose which is prohibited by law.*
2. *Expenditure incurred on activities relating to Corporate Social Responsibility as referred to*




Not deductible
NO
Whether there is benefit of enduring
NO
Deductible
YES
Is it deductible Over one year



INADMISSIBLE EXPENDITURE

- The provisions of sec 37 (2B), 40, 40 and 43 B provide for certain disallowance.
- Certain category of expenditure disallowed totally and;
- certain other expense attract disallowance if and only if non- fulfilment of certain conditions or ;
- The expenditure exceeds the threshold limits

Section 37 (2B)- Advertisement in publication of a political party

- No allowance shall be made in respect of expenditure incurred by an assessee on any advertisement in a souvenir, brochure, pamphlet, or the like publication by a political party.
- Even if such expenditure is directly connected with the business of the assessee also attract disallowance.

Donation to the political party is allowed as deduction by virtue of sec 80GGB and 80 GGC

Sections 40(a)- disallowance in all the case

Payment attracting 100% disallowance Sec 40(a)(i)

1) Interest, salary, royalty, fee for technical service or any other sum **payable outside** India or payable in India to a non-resident of India or a foreign company, on which tax is deductible at source shall be disallowed if :-

a) Such tax has not deducted

b) Such tax, after deduction, has not been paid during the previous year or the subsequent year before the expiry of the time limit prescribed in sec 139 (1)

2) In case the tax is deducted in any subsequent years or has deducted during the previous year but paid after the due date specified in sec 139(1), such sum shall be allowed as deduction in computing the total income of the previous year in which such tax has paid.

3) Income tax and wealth tax is not deductible.

Income tax also include:-

1. *Interest paid on delayed payment of income tax*
2. *Interest paid on delayed filing of income tax*

Payment attracting 30% disallowance

1. According to sec 40 (a) (ia),if any sum payable to a resident on which tax is deductible at source shall be disallowed to the extent of 30% of such sum, if the assessee:

a. Fails to deduct tax at source
b. Deducts tax at source but has not paid the same on or before the due date for filing the return of income u/s 139(1).

2. Where tax is deducted in any subsequent year or where the tax deducted during the previous year is paid after the due date for filing return of income, 30% of such sum which was earlier disallowed shall be allowed as deduction in computing the income of the previous year in which such tax has been paid.

Disallowance u/s 40(a)(ia) would cover not only the amount which are payable as on 31st march of a previous year but also amount which are payable at any time during the previous year.

Sec 40(a)(iib) In respect of any payment made to State Government

1. No deduction shall be allowed in respect of any amount paid by way of royalty, license fee, privilege fee or any other charges by whatever name called, which is levied exclusively on a State Government undertaking by the state government even if such amount is appropriated , directly or indirectly, from a state government undertaking by the state government.
2. For this purpose**, a state government** undertaking include-

a. A corporation established by or under any of the state Act of the government
b. A company in which more than 50% of the paid up equity shares capital is held by the State Government.
c. A company in which more than 50% of the paid up equity share capital is held by any of the above entities
d. A company or a corporation in which the state government has the right to appoint the majority of directors or to control management or policy decisions directly or indirectly in any manner
e. An authority, a board or an institution or a body established or constituted by or under any Act of State Government or owned or controlled by the State Government.

Other payments

1. Any payment to **provident fund or any other fund** for the benefit of the employee shall be disallowed unless the employer has made effective arrangement to secure that tax shall be deducted at source from any payment made from the fund which are chargeable to tax under the head "Salaries"- Sec 40 (a) (iv).

2. Any tax on non-monetary perquisite borne by the employee, on behalf of employee which is exempt u/s 10 (10CC) in the hand of employee shall be disallowed. Sec 40(a)(v).

Section 40 (b) disallowance in the case of partnership firm/LLP

i) Interest paid to the partner of the firm is not deductible unless the following conditions are satisfied

1) It should be authorised by and in accordance with the partnership deed
2) It should be relate to the period falling after the partnership deed
3) It should not exceed 12% of p.a similar rate of interest.

Dis allowance of interest is subject to the following condition

A) If a person is a partner in his representative capacity and receive interest in the firm and if he receive the interest in his individual capacity from the firm such interest should not be disallowed.
B) If a person who is a partner in his individual capacity and receive interest for and on behalf of someone else from the firm in which he is a partner such interest should not be disallowed.

ii) Any amount paid by way of salary, bonus, commission or remuneration by a firm to a partner is not deductible in the computation of income of the firm unless the following condition are satisfied

1) It should be authorised by and in accordance with the partnership deed
2) It should be relate to the period falling after the partnership deed
3) It should be within the prescribed limits. The prescribed limits are as follows
4) It should be paid to a working partner

The prescribed limits is as follows

Book profit	Remuneration as a % of book profit
on the First Rs 3,00,000 or in case Of loss	Rs 150000 or 90% whichever is higher
on remaining balance	60%

IPCC MAY EXAM

1. **What is book profit meant for?**

Net profit as shown in the profit and loss account for the relevant previous year computed in the manner laid down in chapter –IV D(profit and gains from business and profession) as increased by aggregate of remuneration paid or payable to all the partners of the firm if such remuneration is deducted while computing the net profit.

Who is working partner as far as partnership firm is concerned?

Working partner means an individual, who is actively engaged in conducting the affairs of the business or profession of the firm of which he is partner?

Section 40 (ba) Disallowance of association of person or body of individual

i) Any amount paid by way of interest salary, bonus, commission or remuneration by association of person or body of person to its members is not deductible in the computation of income of AOP or BOI
ii) If a member pays interest to AOP or BOI and also receive the interest from such AOP or BOI then net excess interest only disallowed in computation of income or loss
iii) If a person is member in his representative capacity and receive interest in the firm and if he receives the interest in his individual capacity from the firm such interest should not be disallowed.
iv) If a person who is member in his individual capacity and receive interest for and on behalf of someone else from the AOP or BOI in which he is a member such interest should not be disallowed.

Section 40A (2)- Excessive and unreasonable expense

- If any expense incurred by the assessee for goods supplied, service rendered, or facility provided from the **specified person**, then Assessing officer can disallow such expense to the extent it is unreasonable or excessive.
- Assessing officer is determines unreasonable or excessive on below bases

1)	*Fair market value of goods and services*
2)	*Legitimate need of business or profession*
3)	*Benefit derived there from*

Following charts shows assessee and specified person in connection with the assessee.

SL No	Assessee	Specified person
i)	Individuals	i) Any relative of the assessee ii) Any person in whose business or profession the assessee or his relative has substantial interest.
ii)	Company, firm,AOP or HUF	i) Any director, partner or member or relative of such person ii) Any person in whose business or profession, the assessee or director, partner or member of the assessee or any relative of such person has substantial interest.
iii)	All Assessee	i) Any individual who has substantial interest in assessee business or profession, or any relative of such individual ii) A company, firm, AOP or HUF having substantial interest in the assessee business or profession, any director, *partner or member* of such entity or relative of such director , *partner or member* or any other member or any other company carrying on business or profession in which first mentioned person have substantial interest. iii) A company, Firm, AOP, or HUF of which a director, partner or member has substantial interest in assessee business or profession or any director, partner or member of such entity or association or family or relative of any such director, partner or member

What is relative as far as individual is concerned?

For the purpose of this section, the term relative where the assessee is an individual

i)	*Spouse of the individual*
ii)	*Brother or sister of the individual*
iii)	*Lineal ascendant or lineal descendent of the Individual*

What is substantial interest stands for?

A person who is the beneficial owner of shares, carrying not less than 20 % of voting power/ shares of profit in any concern at any time during the previous year shall be considered having substantial interest.

Section 40A (3) -payment in excess of Rs 10,000

Normal business type

☞ Disallowance shall be made at whole amount in respect of payment made in excess of Rs 10,000/- towards expense incurred and claimed as a deduction otherwise than:-

a) a crossed cheque; or
b) demand draft;
c) use of electronic clearance system through a bank

In case of an assessee carrying on the business of Hiring, plying and leasing of goods

In case of an assessee carrying on the business of Goods carriage in the following methods:-

a) hiring,
b) Plying
c) leasing

Threshold limits

Rs 35,000/-

Any payment made in excess of specified limits during the previous year, for which deduction was allowed on accrual basis in any preceding previous year , otherwise than by way of crossed cheque or demand draft or use of electronic clearance system through a banking channel, shall be deemed to be business income during the previous year in which such payment was made

Special Treatment of capital asset

- Sec 43(1) deal with actual cost of asset discourage the payment in excess of Rs 10,000/- otherwise than account payee cheque, demand draft or use of electronic clearance system through a banking channel.
- If the payment made in excess of threshold limit of Rs 10,000/- then same shall not form part of actual cost of asset and it will directly affect depreciation claims

Exceptions – Rule 6 DD

In the following cases, no disallowance shall be made u/s 40A(3)

a) Where the payment is made to the following entities
   i) Reserve Bank of India or any banking company defined in Banking Regulation Act1949
   ii) State bank of India or any subsidiary bank as defined in State Bank Of India Act; 1959
   iii) Any co- operative bank or land mortgage bank
   iv) Any primary agricultural credit society or any primary credit society as defined under Banking Regulation Act; 1949
   v) Life Insurance corporation of India

b. Where the payment is made to the Government and , where such payment is required to be made in legal tender (By way of cash)
c. Where the payment is made:-
   i) Letter of credit arrangement through bank;
   ii) Mail or telegraphic transfer through bank;
   iii) Book adjustment from any account in a bank to any other account in that or any other bank;
   iv) Bill of exchange only made payable to the bank;
   v) Use of electronic clearance system through a banking channel;
   vi) Credit card;
   vii) Debit card.;
d. Where the payment is made by way of adjustment against any liability incurred by the payee for any goods supplied or service rendered by the assessee to such payee.
e. Where the payment is made for purchase of :-
   i) Agricultural or forest produce; or
   ii) Produce of animal husbandry (Including live stock, meats, hides and skins)
   iii) Fish or fish produce
   iv) Produce of horticulture or apiculture

To the cultivator, grower or producer of such articles, produce or products

f. Where the payment is made for purchase of product manufactured or processed without the aid of power in a cottage industry, to the producer of such products
g. Where the payment is made in a village or town which on the date of such payment is not served by any bank to the person who ordinarily resides, or is carrying any business or profession or vocation in any such village or town.
h. Where any payment is made by way of gratuity or retrenchment compensation or similar terminal benefits etc is made to an employee or his legal heirs, if aggregate of such payment does not exceeds Rs 50,000/-
i. Where the payment is made by an assessee by way of salary to his employee after deducting tax at source in accordance with sec 192, and when such employee:-
   i) Is temporarily posted for a period of fifteen days or more in a place other than his normal place of duty
   ii) Does not maintain any account in any bank at such place or ship
j. Where the payment is required to be made on a day on which the banks were closed either on account of holiday or strike.

k. Where the payment is made by any person to his agent who is required to make the payment in cash for goods or services on behalf of such person
l. Where the payment is made by an authorized dealer or money changer against purchase of foreign currency or travellers cheque in the normal course of business.

No deduction shall be allowed in respect of any provision made by the assessee for payment of gratuity to his employee on their retirement or on termination of their employment for any reason.

Exemption

Provision made by the assessee for the purpose of payment of gratuity which has become payable during the previous year

Any provision made by the assessee for the purpose of contribution towards approved gratuity fund.

Section 40A (9) -Non statutory/ unrecognised Provident Fund

No deduction shall be allowed in respect of any contribution made to unrecognized or non-statutory welfare fund account.

It may be noted that any sum paid to the extend and for the purpose provided under the following provisions shall be allowed as deduction, subject to section 43 B

a. Recognized provident fund or approved superannuation fund
b. Approved pension scheme
c. Approved gratuity scheme

Section 43 B- Deductions based on actual payment

.

Certain expense which are otherwise allowable as deduction shall be disallowed, irrespective of the method of accounting employed or followed by the assessee.

Reason for disallowance

1. *Payment is not made within the stipulated time limit*
2. *Evidence of such payment is not furnished along with the return of Income*

Nature of payment

Any sum payable by the assessee by the way of :-

i) Tax , duty, cess, or fee under any law in force
ii) Contribution to any recognised provident fund or super annuation fund or gratuity fund or any other fund for the welfare of employee.
iii) Any bonus or commission to the employee
iv) Any interest on borrowing from any public financial institution or state financial corporation or state industrial investment corporation.
v) Interest on loan and advance from *scheduled bank or a co-operative bank*
vi) Any sum payable by the assessee as an employer in lieu of any leave at the credit of the employee.
vii) Any amount payable to Indian railway for use of railway assets

Note

- Unless Payment is not made within the stipulated time limit and Evidence of such payment is not furnished along with the return of Income.
- Where the payment is made after the due date for filing return of income, the same shall be claimed as deduction only in the year of actual payments

section41 (1)- Deemed profit

a. Where deduction has been made in respect of any loss, expense or trading liability and subsequently assessee or successor of the business has obtained any amount in respect such loss or expenditure or
b. Any benefit in respect of such trading liability by remission or cessation there of
c. The amount so obtained or value so accrued shall be deemed to be the income of the assessee.

<u>Example</u>

- Travelling expenditure incurred by the assessee and later re imbrues by the manufacturer or any other persons. It shall be deemed to be the income of the assessee.
- Stock is destroyed by fire and debited as a loss in profit and loss account and later any claims received from the insurance company.
- Credit purchase is made and later some discount allowed by the supplier. In this case there is a remission or cessation of the liability.

(2) In case of an undertaking engaged in generation and distribution of power where assessee can claim depreciation in SLM method. Where any asset is sold for a price which is more than the depreciable

value the surplus to the extent of depreciation already allowed shall be deemed to be the income of the assessee.

(3) Any amount realised on transfer of asset used for scientific research is taxed as income of the assessee to the extent of deduction which is already availed U/s 35.

(4) Any amount recovered by the assessee against the bad debt which is earlier allowed as deduction is deemed to be the income of the assessee.

(5) any amount transferred to the special reserve by the financial institution prescribed by 36(viii) (1) is allowed as deduction. But any amount subsequently withdrawn by the assessee shall be deemed to be the income of the assessee.

(6) Any assessee who is chargeable to tax in respect of discontinued business, then any loss incurred after the discontinuation of the business shall be allowed to be set off against the deemed profit.

Section 43 (A) -Exchange rate fluctuation

Where any asset acquired from abroad and in terms of exchange rate variation, liability in terms of payment towards such asset increase or decrease, then, actual cost of the asset shall be increased or decreased accordingly.

Sec 43 CA- Full value of consideration of land and building held as stock in trade

1. Where the consideration for transfer of asset (Other than capital asset), being building or land or both, is less than the stamp duty value, the stamp duty value so adopted or assessed or assessable shall be the full value of consideration for the purpose of computation of business income

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2. Where the assessee claims that the stamp duty value exceeds the Fair Market Value as on the date of transfer, the assessing officer may refer the valuation of such asset to a valuation officer. However, such reference shall be made only if the stamp duty value has not been disputed in any appeal or any other proceeding.
3. Where the value ascertained by reference to the valuation officer is more than the stamp duty value, then stamp duty value shall be adopted as full value of consideration.
4. If the value so ascertained is less than the stamp duty value but more than the consideration as per the agreement, then the stamp duty value shall be ignored and the value so ascertained shall be adopted as full value of consideration.

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Special provisions Section 44 to section 44AD

Section 44 Insurance business

Any person carrying on insurance business their income shall be chargeable to tax under the head profit and gains from business and profession.

Income computation shall be based on rules contained in the First schedule of the Income tax Act.

Amount set apart by the insurance company for redeeming preference shares shall be treated as expense. These are not the expense which is covered from section 30 to 36 of the income tax Act. (General Insurance Corporation of Indi a V/s CIT)

Section44 A Trade, professional or similar association

- Any amount received from the members by way of contribution or subscription which is fall short of expenditure, then the deficit shall be allowed as deduction while computing the income under the head profit and gains from business and profession.
- Such deficit can be set off against any other head of income of above association
- While setting off such deficit, priority shall be given for carry forward loss of earlier year.
- Deduction permissible under this provision does not exceeds 50% of income of the previous year.
- Income of the above mentioned association is not distributed to its members excepts as grant to any of the association affiliated to it.

Section 44 AA Maintenance of books of accounts.

In case of an assessee carrying on business and profession other than those specified under Rule 6 F, the books of account required to be maintained as follows.

Income criteria

Income from such business and profession has exceeds Rs 1,20,000 in any of the preceding 3 years or;

Likely to be exceeded Rs 1,20,000/- during the current previous year in case of newly set up business and profession.

Turn over criteria

Sales or Turn over or Gross receipts from such business and profession has exceeds Rs 10, 00, 00/- in any of the preceding 3 years or;

Likely to be exceeded Rs 10, 00,000/- during the current previous year in case of newly set up business and profession.

Presumptive business

In case where assessee carry on the business and profession referred to section 44 AD,44AE or 44 AF or section 44 BB or section 44 BBB and claims that income from such business is lower than the amount prescribed in those provisions

Rule 6 F Professions

- Law
- Medicine
- Accountancy
- Artitecture
- Interior decoration
- Authorised representative
- Film artisit
- Engineer
- Technical consultancy
- Interior decoration

Conditions

Gross Receipts from such business and profession has exceeds:-

In case of Individual or HUF Rs **2, 50,000** in any of the preceding 3 years or;

Likely to be exceeded Rs **2, 50,000**/- during the current previous year in case of newly set up business and profession.

Rs 1, 20,000/- for other assessee

Books required to be maintained

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1) Cash book
2) Ledger
3) Journal (if and only if the mercantile basis of accounting is followed)
4) Copies of the bills for value exceeding Rs 25/-
5) Original bills for expenditure exceeding Rs 50/-
6) In case of medical practitioner following books required to be maintained
    a) Daily case register
    b) Inventory of first and last day of the previous year, showing the stock of medicine

Number of year of maintenance

The books of account is required to be maintained at the place of business if there is more than one place of business then principal place of business

The books of accounts are required to be maintained for 6 years from the assessment year relevant to the previous year.

Section 44 AB Audit of books of Accounts

1) In case of an Assessee carrying on business and profession

- Total sales
- Gross receipts
- Turn over

Exceeds Rs 60 lakhs

2) In case of an Assessee carrying on profession

Gross receipts exceeds Rs 15, 00,000/-

3) In case of presumptive business

In case where Assessee carry on the business and profession referred to section 44 AD, 44AE or 44 AF or section 44 BB or section 44 BBB and claims that income from such business is lower than the amount prescribed in those provisions.

Audit

Audit is required to be done by a Chartered Accountant. Audit report obtained is required to be filed along with the Return of income.

Where books of account required to be audited under any other law, then, it is sufficient to furnish a report in the format specified and audit under other laws.

Defective Return

If the audit report not furnished along with the return of income, it is regarded as a defective return u/s 139 (9).

Section 44 AD Civil construction Business

Eligible assessee:- Individual or HUF or a Firm other than LLP

Eligible business

Assessee carrying on the business of:-

- Civil construction or
- Supply of labour for civil construction

Condition

Income from the above business does not exceed Rs 60 lakh.

Quantum of expense

- 8% of Gross receipts from such business or profession or
- Such higher sum as may be declared by the assessee in his return of income

Meaning of civil construction

Civil construction includes:-

The construction or repair of any building, bridge, dam or other structure or of any canal or road.

Section 44 AD Transport operation business

Eligible business

Assessee carrying on the business of:-

- Plying
- Hiring
- Leasing

Of goods carriage and who does not own more than 10 goods carriage at any point of time during the previous year.

Condition

Income from the above business does not exceed Rs 60 lakh.

Quantum of expense

- Rs 5000/-for heavy Goods vehicles
- Rs 4500/- for other than a heavy goods vehicles
- Such higher sum as may be declared by the assessee in his return of income

Notes

Where an assessee possess the vehicle on hire purchase scheme or an instalment scheme shall be deemed to be the owner of the goods vehicles

Special provision to Non resident and foreign companies section 44 B to 44 BBA

Section 44 B Shipping business

Deemed income

7.5 % of the Turn over

44 BB Business of providing facility or service in connection with or supplying plant and machinery on hire used the prospecting for or extraction or production of mineral oil

Deemed income

10 % of the Turn over

44 BA Business of operation of air craft

Deemed income

5 % of the Turn over

Amount on which the above % is applied

- Amount paid or payable to the assessee or any other person on his behalf
- Amount received or deemed to received in India on the above mentioned in India

Section 44 BBB Foreign Company doing civil construction business etc

Eligible assessee

- Foreign company engaged in the business of civil construction
- Erection of plant and machinery
- Testing and commencing thereof in connection of turn key project approved by the assessee.

Deemed income

10 % of the Turn over

CAPITAL GAIN

CHAPTER OUTLINE

Section	Definitions	Section	Computation	Section	Special provisions
2(14) 2(22B) 2(29A)& 2(29B) 2(42A)& 2(42B) 2(42C) 2(47) 2(48) 45 46 46A	Capital Asset Fair Market Value Long term capital asset and gains Short term capital Asset and Gains Slump Sales Transfer Zero Coupon Bond Chargeability Companies in Liquidity Buy Back of shares	48 50&50A 50 B 50 C 50 CA 50 D 49 &55 51	Non-depreciable Asset Depreciable Assets Slump Sales Full Value of consideration on Transfer of Immovable Property Full value of consideration on Transfer of Unquoted Shares Full value of consideration in certain case Cost of Acquisition & Improvements Advance money Received	54 To 54 H 10 (33) 10 (34A) 10 (37) 10 (38) 10 (43) 47 55A 111A 112	Exemption Exempted Capital Gains Exempted Capital Gains Exempted Capital Gains Exempted Capital Gains Exempted Capital Gains Transfers not regarded as Transfer Reference to Valuation Officer Tax on short term Capital Gain Tax on Long term Capital Gain

Section 2 (14) Capital asset

a) **<u>Property of any kind</u>** held by the assessee, whether or not **<u>connected with his business and profession.</u>**

b) Any **<u>Securities</u>** held by a Foreign Institutional Investor (FII) which has invested in such securities in accordance with SEBI Regulations

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Exemptions of Capital Assets

1. Following personal effect of movable nature

- Stock in trade
- Consumable
- Raw materials

Held for the purpose of **business and profession** of the assessee

2. **Personal effect of movable nature.**

However, following though personal effects of moveable nature will be included within the meaning of capital Asset.

a) Jewellery
b) Archaeological Collections
c) Drawings
d) Painting
e) Sculptures
f) Any work of Arts

Example **Furniture, utensils, vehicle** held for personal purpose by the assessee or any member of his family.

3. **Agricultural land** which is not situated in the **specified area**

4. **Gold bond** issued by government of India including **gold deposit bond** issued under gold deposit scheme or deposit certificate issued under **Gold Monetisation Scheme 2015** notified by the Central Government.

5. **Special Bearer Bond** issued by Government of India.

Property in any kind covers all the assets (Including rights in the assets). It covers Tangible assets and Intangible Asset.

Property In Kind

TANGIBLE

LAND, BUILDING

SILVER, GOLD

INTANGIBLE

COPREVIOUS YEAR RIGHT

AGRICULTURAL LAND SITUATED IN NDIA

SITUATED IN SPECIFIED AREA

CAPITAL ASSET

NOT SITUATED IN SPECIFIED AREA

NOT A CAPITAL ASSET

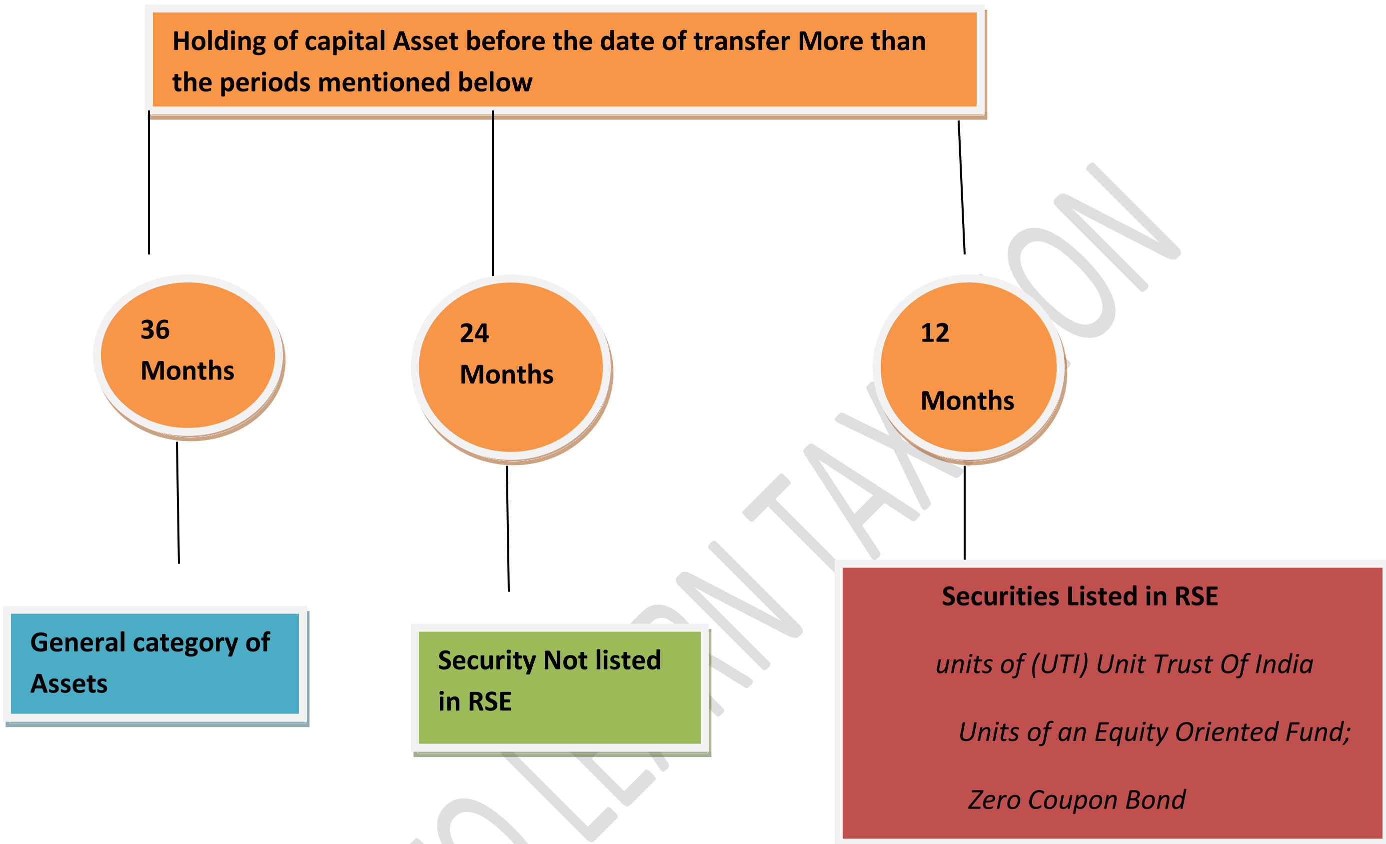
- Normally stock in trade held for the purpose of business and professions are excluded from the context of capital asset. Stock in trade is held exclusively for the normal course of conducting business.
- However, when FII hold the securities as Stock in trade it will come under the context of Capital Asset

SEC 2 (22 B) Fair market value

a. In relation to the **capital asset means** the **price** that the capital asset would ordinarily fetch on **sales** in **open market** on the **relevant date**.

b. Where the price is **not ascertainable**, such price as may be determined in accordance with rules made under this Act

Long term and short term capital asset section 2 (29 A) and section 2 (42 A)



Explanation to the provisions

The basic factor for determining a capital asset as long term and short term is **period of holding** by the assessee before the **date of transfer**.

1. Generally Speaking, a **capital asset held** by the assessee for a period **exceeding 36 month** is a long term capital asset and **less than 36 month** is a short term capital asset.
2. However, Securities listed in the **recognized stock exchange** , if such securities were held for a period exceeding **12 month** is a long term capital asset and less than **12 month** is a short term capital asset
3. If the securities **not listed** in the **recognized stock exchange,** then the periodicity will be 24 months of holding before the date of transfer . if holding periods exceeds **24 months** it is a long term and less than that period, it is a short term capital asset
4. In case of :-

a) *units of (UTI) Unit Trust Of India*
b) *Units of an Equity Oriented Fund;*
c) *Zero Coupon Bond*

Then the periodicity will be **12 months** of holding before the date of transfer . if holding periods exceeds **12 months** it is a long term and less than that period, it is a short term capital asset

Periods of holding under different situations

Situation of transfer	**Period of holding**
By way of **partition of HUF**, **Gift, Will,inheritance**,**distribution of assets on Liquidation** or transfer to **revocable or irrevocable trust**	Periods of holding of **previous owner** will be reckoned.
By **amalgamation or Demerger**	Periods for which shares held in amalgamated / demerged company will be reckoned
Shares held in company in Liquidation	Periods **subsequent** to the date company went in to the liquidation will be **excluded**
Renouncement of right to subscribe to any financial asset	Periods shall be reckoned from the date of offer of such right by the company or institution making such offer.
Sweat equity shares or specified Securities	Period shall be reckoned from the date of allotment or transfer of equity shares
Purchase of securities through Stock Exchange	Period shall be reckoned from the date of purchase of securities by the broker on behalf of the assessee
Purchase of securities through transaction Among parties	Period shall be reckoned from the date of contract of sales declared by the parties
Shares including right shares and bonus shares	Period shall be reckoned from the date of allotment of such shares
Units of a business trust, which is allotted by the trust to the transferor in exchange for the shares of a special purpose vehicles	Period shall be reckoned from the date when the shares were acquired by such transferor
Shares of a company , which is acquired by a non-resident on Redemption of GDR held by such non – resident	Period shall be reckoned from the date when the request for redemption was made.
Units, which become the property of the assessee in consideration of the transfer referred to in sec 47 (xviii) in relation to the consolidation of the scheme of units of mutual fund	Period shall be included the period for which the units in the consolidated scheme of mutual fund were held
Shares and debentures become property of the assessee in the circumstance mentioned in sec 47(x) (Conversion of bonds or debentures of the company in to shares and debentures of that company(Rule 8AA)	Period shall be reckoned the period for which the bonds, debenture stock or deposit certificate as the case may held prior to conversion.
Equity shares of the company which become the property of the assessee in the circumstance mentioned in sec 47 (xb) (Conversion of preference shares of the company in to equity shares of the same company.	Period shall be reckoned the period for which the preference shares were held prior to redemptions
Units, which become the property of the assessee in the circumstances mentioned in sec 47 (xix) in relation to the consolidated plan	Period shall be reckoned the period for which the units in the consolidated scheme were held

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Sec 2 (47) Transfer in relation to capital asset, includes:-

i) *Sale, exchange or relinquishment of capital asset.*
ii) *Extinguishment of any right therein*
iii) *Compulsory acquisition of capital asset under any law in force*
iv) *Conversion or treatment of capital asset in to/ as stock in trade.*
v) *Maturity or redemption of Zero coupon Bonds*
vi) *A person who is allowed to take or retain possession of any Building or part thereof in part performance of contract of the nature referred to in Section 53 A of Transfer of property Act 1882.*
vii) *Any transaction whether by way of acquiring shares in or by way of becoming member of co operative society, company or association of person or by way of any arrangement or agreement or any other manner which has the effect of transferring or enabling enjoyment of any immovable property.*

1) **Exchange**: - when two persons, under mutual agreement or arrangement, transfer the ownership of asset whether movable or immovable with other assets, then, it will constitute exchange of Asset.
2) **Relinquishment of the assets**: - it refers to a situation where owner abandoning the asset or withdrawing from giving up of an asset. Even after abandonment of asset by the owner the asset will be continued to be in existence
3) **Extinguishment of right in assets** :- it refers to termination, destruction, abolition, annihilation, extinction of an asset

Conversion or treatment of capital asset in to the Stock –in- Trade

Generally speaking, when a capital asset converts in to the stock in trade of business, there is no gain arising from such transactions. However, the term transfer as defined under Income tax Act is sufficient to include such transactions as a transfer of capital asset and gain Arising from Such transfer will be a Capital gains

Section 47 Transaction not considers as transfer

1) Transfer of capital asset in a **total or partial partition** of H U F
2) Transfer of capital asset by way of **Gift**, or under a **will** or an **irrecoverable trust.**
3) Transfer of a capital asset in a transactions of **reverse mortgage** also refer sec 10 (43) any lump sum or installment received under a scheme of reverse mortgage by a bank to a senior citizen
4) Transfer of following capital asset.
   - Work of art

- Archaeological or scientific or art collection
- Any book manuscript, drawing and painting

5) Transfer of capital asset by a holding company to its subsidiary company or vice versa but following conditions required to be fulfilled.
   3. The holding company or its nominee should hold whole of the share capital of subsidiary company
   4. The transferee company should be an Indian company.

Amalgamation

1) Transfer of capital asset in a scheme of amalgamation, if the amalgamated company is an Indian company
2) Transfer of capital asset being shares held by the shareholder of the amalgamating company in lieu of the shared issued by the amalgamated company if the following conditions are fulfilled
   a) The transfer is made in consideration of allotment to him any of shares in the amalgamated company;
   b) Amalgamated company is an Indian company.

Demerger

1) Transfer of capital asset in a scheme of demerger, if the resulting company is an Indian company
   a) At least three fourth in value shares of the demerge red foreign company continued to be the shareholder of amalgamated foreign company
   b) Such transfer does not attract tax on capital gain in the country in which the company is incorporated.

Merger of similar plans or schemes of Mutual Fund –Clause (xviii) & (xix)

1) Any transfer of unit by a unit holder, being unit or units, held by him in the **consolidated scheme** of Mutual Fund, made in a consideration of the allotment to him of unit or units in the **consolidated** scheme of Mutual fund shall be exempt.
2) *Such consolidation may be two or more scheme of **Equity Oriented Fund** or two more scheme **other than** an **Equity Oriented Fund***
3) Any transfer of capital asset being unit or units held by the unit holder, in a scheme of consolidation of plans of mutual fund provided consideration has been made by way of unit or units of consolidated plan of the scheme to the holder of unit or units.

Consolidated Scheme

- Smaller unit or units of Mutual Fund Scheme (May be Equity oriented or Debt Oriented) is consolidated in to larger unit or units.
- The Larger denominated units where allotting in lieu of Smaller Units erstwhile held by the Unit holder

Debentures, Bonds, and government Securities and preference shares

1) Transfer of capital asset made outside India by one non- resident to another non-resident in the nature of following
   a) Rupee denominated Bonds of an Indian Company Issued outside India.
   b) Government Securities carrying periodic payment of interest, through an intermediary dealing in settlement of securities
2) Conversion of **debenture, debenture stock or deposit certificate** of a company in to shares or debenture of that company.
3) Conversion of **equity share** of a company in to **preference shares** of that company.

Section 45 is charging section for charging capital gains and following are the example

Sub Sec	Transactions	Year of chargeability	Consideration
(1)	Transfer of capital asset	PREVIOUS YEAR in which transfer take place	Consideration for transfer
(1A)	Damage or destruction of Capital Asset	Previous Year in which money or any other asset received from insurance Company	Value of money or FMV of any other asset received on the date of such receipts
(2)	Conversion/ treatment of capital asset in to Stock in trade	PREVIOUS YEAR in which Stock in trade is sold	FMV as on the date of transfer
(2A)	Transfer of securities made by a depository who is deemed to be the registered owner under depository Act 1996	Previous year in which transfer Take place on First In First Out method (FIFO)	Consideration will be chargeable in the hand of beneficial owner and not depository.
(3)	Transfer of a capital asset by a partner to the firm or by a member of AOP or BOI by way of capital contribution or otherwise	PREVIOUS YEAR in which transfer take place	The value of asset recorded in the books of the Firm or AOP or BOI
(4)	Transfer of a capital asset by way of distribution on dissolution or other wise of	PREVIOUS YEAR in which transfer take place	Fair Market Value as on date of transfer

	an AOP or BOI		
(5)	Transfer of capital Asset by way of compulsory Acquisition Under any law in force (Initial Compensation) Enhanced compensation	Previous year in which compensation or part thereof received Previous year in which compensation received or final order by the court/tribunal/ authority made available whichever is earlier	Initial compensation or enhanced compensation as the case may be
(6)	Repurchase of mutual Fund referred to in Sec 80 CCB	Previous year in which the repurchase take place or the scheme terminates	Repurchase price

(5A)	*Transfer of a capital asset, being a land or building or both ,by an individual or HUF by way of specified agreement for development of a project*	*Previous year in which the certificate of completion for whole or part of the project is issued by the competent authority*	*Stamp duty value of his share in the project on the date of issue of the certificate and consideration received in cash if any*

Explanations

Damage to or destruction of capital asset

Following are the example

1) Flood, typhoon, hurricane, cyclone, earthquake ,or other convulsion of nature
2) Riot or civil disturbance
3) Accidental fire or explosion
4) Action by an enemy or action taken to combating the enemy

Compulsory Acquisition

1. **Where the compensation received in Installments**
   The entire amount of capital gain is chargeable to tax in the year in which such installments have been received.
2. **Where the compensation is received in pursuant to the order of a Tribunal , court or any other Authority**

Amalgamation

Merger of **One or more companies with another**

Merger of **Two or more companies** to Form a **new company**

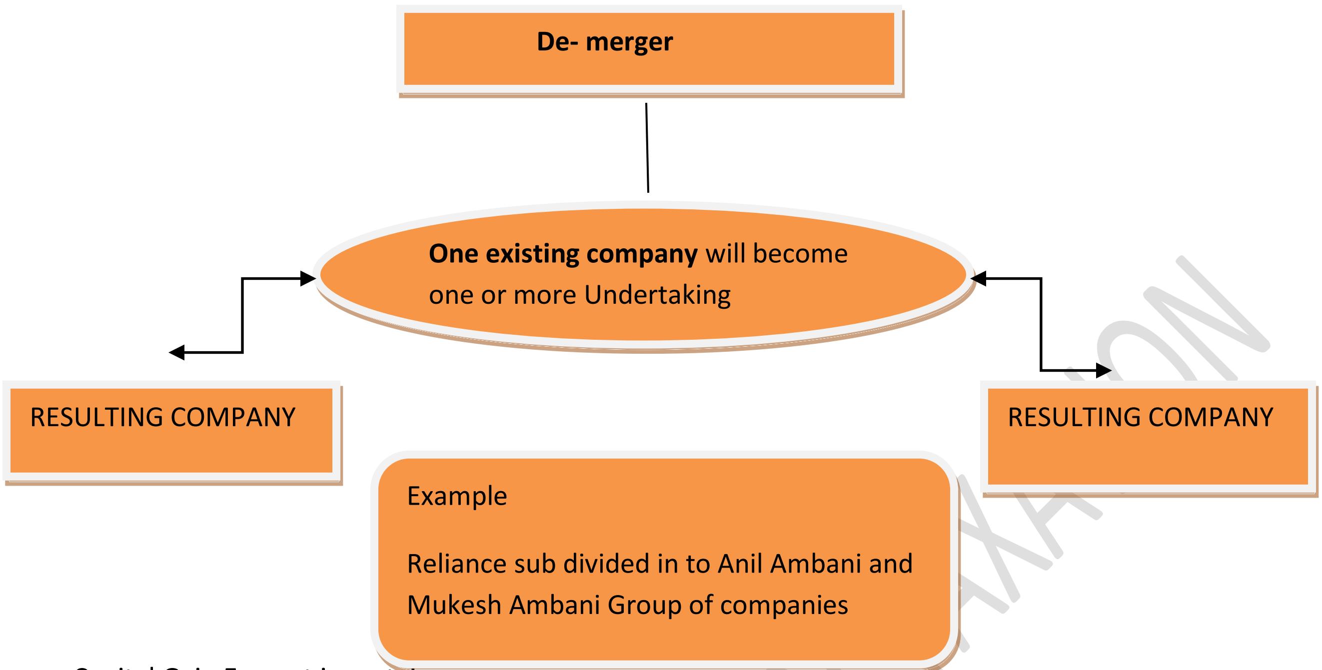
Example

Hutch merged in to Vodafone

Example

All State Bank subsidiaries are merged in to State Bank of India

(Before it was subsidiary based on state)



Capital Gain Exempt in certain case

1. Transfer of certain equity shares, units (Refer section 10(38))
2. Zero Coupon Bonds (ZCB) (Refer the relevant part)

<u>Section 48 computation of capital gain of Non depreciable asset.</u>

A) Short term capital gain computation

Particulars	Amount
Full Value of consideration	XXX
Less Expense incurred in connection with transfer	XXX
Net consideration	XXX
Less cost of acquisition	XXX
less cost of improvement	XXX

B) <u>Long term capital gain</u>

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Particulars	Amount
Full Value of consideration	XXX
Less Expense incurred in connection with transfer	XXX
Net consideration	XXX
Less Indexed cost of acquisition	XXX
less Indexed cost of improvement	XXX
Less Exemption U/s 54, 54B,54D,54EC,54EE ,54 F	XXX
Taxable capital Gain	XXX

Special provision for Non resident

- In case of an assessee who is a non- resident , gain arising from the transfer of capital asset being, shares and debentures of an Indian company shall be computed by :-
  a) Converting cost of acquisition
  b) Converting cost of expense incurred in connection with transfer
  c) Converting cost of Sales proceeds
- In the **<u>same foreign currency</u>** which was **<u>initially spend</u>** for purchase of shares and debenture of an Indian company.
- Rupee denominated bonds foreign currency appreciation and any gains arising there from shall be ignored (as per the fourth provision to sec 48).
- Conversion and reconversion shall be made on the basis of the rate of exchange adopted by state Bank of India.

SL No	Items converted or reconverted	Rate of conversion or re conversion
1	Cost of Acquisition	The **<u>average of telegraphic transfer selling rate</u>** or buying rate as on the date of acquisition
2	Expense incurred for transfer	The **<u>average of telegraphic transfer selling rate</u>** or buying rate as on the date of transfer
3	Full Value of consideration	The **<u>average of telegraphic transfer selling rate</u>** or buying rate as on the date of transfer
4	Capital Gains (Reconversions)	The **<u>buying rate</u>** for telegraphic transfer as on the date of transfer

<u>Section 50 C Special provision for full value of consideration in certain cases</u>

Scope

- This provision is applies to transfer of capital asset being land or building or both.
- This provision deeming as stamp duty value as full value of consideration if the actual consideration is less than stamp duty value.

Reference to valuation officer.

- If the assessee claims that the stamp duty value exceeds the FMV of the asset then assessing officer may refer the valuation of capital asset to valuation officer.
- Such reference shall be made if and only if stamp duty value has not been in dispute in any appeal or revision before any authority or court or High court.
- Where such reference had made then provision of section 16 A shall apply with suitable modification.

Valuation by valuation report

If the value as per valuation report exceeds stamp duty value, then such stamp duty value shall be taken as full value of consideration.

Reassessment

Subsequent to the making of assessment in case of adopting the stamp duty calue as the full value of consideration, if such value is revised in any appeal or revision etc, then the Assessing Officer shall amend the order of assessment to re compute the capital gain on the basis of revised value.

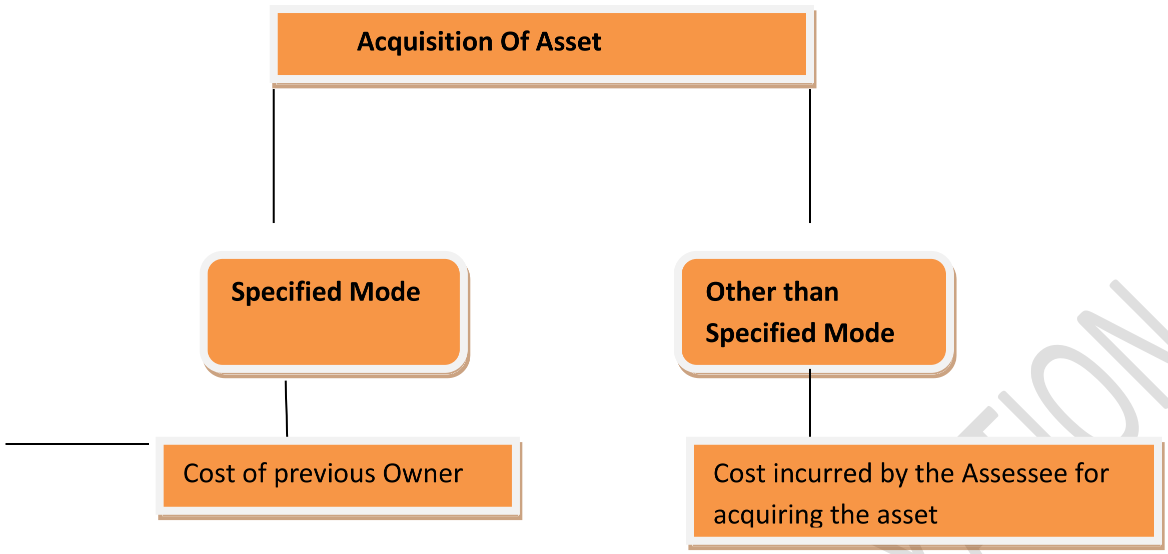
Full value of consideration of transfer of Unquoted shares- Sec 50 CA

For the purpose of computation of capital gain arising from transfer of capital asset being unquoted shares, the full value of consideration will be highest of the following

1. *Actual cost received or accruing or;*
2. *Fair market value of shares as per the valuation rules prescribed by the CBDT*

"un quoted share" means the shares quoted on any recognized stock exchange with the regularity from time to time, where the quotation of such share is based on current transaction made in ordinary course of business

Cost of acquisition section 49, 51 and 55



Cost of acquisition for specified mode referred to section 49 (1)

Following are the list of specified mode

- Partition of HUF
- Gift
- Inheritance
- Amalgamation or demerger.

Cost to the previous owner shall be adopted as cost of acquisition.

If the capital asset acquired to any other mode , then , the cost incurred to him shall be adopted as cost of acquisition to the assessee

In any of the above methods, the asset was acquired before 1st April 2001, and then higher following are the cost of acquisition

1. FMV as on 1st April 2001 or;
2. Actual cost of asset

<u>Section 51 Treatment of advance money received</u>

If any of the capital asset was subject matter of negotiation and advance received in respect thereof , transfer of the asset was not taken place, then, such advance need to be deducted from any of the below component for the purpose of computing capital gain

- Cost of acquisition
- FMV
- WDV

Depends upon the nature of capital asset.

In case of shares allotted by amalgamated company in lieu of shares held in amalgamating company

The cost of acquisition of above share shall be value of shares allotted by the amalgamated company.

In case of conversion of debenture, debenture stock or deposit certificate in to shares and debenture of the same company

Cost of acquisition shall be the cost of debenture, debenture stock or deposit so obtained on such conversion.

Cost of acquisition of special cases

- If **self generated good will** is transferred then cost of acquisition is adopted as Nil
- In case of **acquired good will** then actual cost incurred for acquiring the same shall be taken as cost of acquisition
- In both the above case, cost of improvement shall be taken as Nil

At present following case of capital asset, the cost of acquisition can be taken to be Nil

a) Self generated goodwill
b) Tenancy right
c) Stage carriage permit
d) Loom hours
e) Bonus share
f) Right to subscribe to right shares
g) Any right to manufacture, produce or process any articles and things
h) A trade name or brand name associated with the business
i) Right to carry on any business
j) Trading or clearing right of the recognized stock exchange under a scheme of corporatization or demutualization.

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SL No	Nature of Asset	Cost of acquisition
1	**Original Financial asset** based on which assessee become entitled to **additional Financial Asset**	The amount actually paid for acquiring the original Financial asset
2	Financial Asset subscribed on the basis of the said **entitlement to subscribe**	The amount actually paid for acquiring such asset
3	Right to subscribe to the financial asset, when such right is renounced in favor of a person	NIL
4	Financial asset purchased by any person in whose favor the right to subscribe such an asset has been renounced	The aggregate of purchase price paid to the person renouncing such right and the amount paid for the company or institution for acquiring the financial asset

Where the cost of acquisition of the previous owner cannot be ascertained?

Cost of the previous owner will be equivalent to the Fair Market value of the asset as on the date on which the capital asset will become the property of the previous owner

Any capital expenditure incurred for improvement of capital asset and not allowed as deduction under any other head of income shall be allowed as deduction.

Cost of improvement incurred on or after 1st April 2001 will be eligible for deduction .where as cost of improvement happens before 1st April 2001, not eligible for deductions

Cost of improvement of following shall be taken as NIL

i) Goodwill of the business
ii) Right to manufacture, produce or process any articles or things
iii) Right to carryon any business.

Indexation

- In computing tax on Long term capital asset deduction can be claimed for cost of acquisition after indexing them.
- The same principle can be applicable for improvement also.
- Indexing is a process of converting the cost of acquisition and cost of improvement on the current date

1. **What is indexed cost of acquisition?**

   Amount which bears to Cost of acquisition (The same proportion as the **Cost Of Inflation Index** (CII) for the year in which **asset transferred** bears to the cost of inflation index for the year in which **asset was held** or the year beginning on 1/04/2001 whichever later.
2. **What is Index cost of Improvement?**
   Amount which bears to Cost of Improvements (The same proportion as the **Cost Of Inflation Index** (CII) for the year in which **asset transferred** bears to the cost of inflation index for the year in which **Improvements taken place** or the year beginning on 1/04/2001 whichever later.

   Cost of Inflation Index

- Indexation of cost of acquisition can be availed either the **date of acquisition of the asset** or first day of April 2001 whichever is Later
- Cost of acquisition or Fair Market Value as on (01/04/2001) whichever **is Higher** can be adopted as Cost of acquisition
- Indexation for cost of Improvement can be done on and after First **Day of April 2001** and not before.

Section 112 Tax on Long term capital gains

Long term capital gain shall be chargeable to tax @ 20 % on LTCG

In case of individual and HUF if the basic exemption limit is not exhausted by basic exemption Limit, then LTCG shall be adjusted against such un exhausted basic exemption Limit and balance is required to be taxed.

In case of capital asset being listed securities or units or mutual fund, the gain arising from the transfer of such securities or unit shall be liable to tax at the rate of 10 % on such long term capital gain computed without allowing the indexation benefit or 20 % with indexation benefit whichever is more beneficial to the assessee.

1. *Listed Securities*
2. *Units of Unit trust of India*
3. *Equity Oriented Fund*
4. *Zero Coupon Bond*

With Indexation and tax **Rate @ 20%**

Without Indexation and tax **Rate @ 10%**

EXEMPTION AVAILABLE FROM LONG –TERM CAPITAL ASSET

<u>Section 54</u>

<u>Eligible assessee</u>

- Individual
- H U F

<u>Condition</u>

1) Residential house to be transferred
2) It must be Long term capital asset
3) The income from such asset must be charged under the head income from house property
4) Within one year before or 2 year after, a residential house is purchased or within a period of 3 year a residential house is constructed

<u>Quantum of exemption</u>

If the cost of new residential house is more than capital gain then the whole value of capital gain otherwise to the extent of cost of new residential house.

<u>Section 54 B</u>

<u>Eligible assessee</u>

- Individual
- HUF

Condition

1) Agricultural land Situated in Urban Area to be transferred
2) It must have been used for agricultural purpose in the 2 years immediately preceding the date of transfer
3) Within 2 years another agricultural land is purchased which is to be used for agricultural Purpose.

Quantum of exemption

If the cost of new residential house is more than capital gain then the whole value of capital gain otherwise to the extent of cost of new residential house.

Section 54 D

Eligible assessee

Any assessee

Condition

1) There must be compulsory acquisition
2) The property acquired is **land and building** forming part of an **industrial undertaking**
3) The asset must be used in the 2 years immediately before transfer for the purpose of business of the assessee.
4) Within a period of 3 years any other land or building is purchased or constructed for the industrial undertaking existing or newly set up

Quantum of exemption

If the cost of new residential house is more than capital gain then the whole value of capital gain otherwise to the extent of cost of new residential house.

Section 54 EE

Eligible assessee

Any assessee

Conditions

1) The capital Asset transferred is a long term capital asset.
2) Within a period of 6 month from the date of transfer, the amount of capital gain should have invested in long term specified asset (Unit issued before 01.04.2019 of such notified units)

Quantum of exemption

Least of the following exempted

a) Amount of investment in long term specified Securities ; or
b) Amount of capital Gain;

The maximum amount of investment made during the financial year in which transfer is made and in subsequent year does not exceed Rs 50 Lakh

Section 54 EC

Eligible assessee

Any assessee

Conditions

1) The capital Asset transferred is a long term capital asset.
2) Within a period of 6 month from the date of transfer, the amount of capital gain should have been invested in specified bonds

Specified bond for this purpose are The bonds issued by :

i. *Rural Electrification Corporation;*
ii. *National Highway Authorities of India;*
iii. *Power Financial Corporation*
iv. *Indian Railway Finance corporation Limited*

3) Assessee shall not transfer; or convert; or avail loan or advance on the security of the above bonds within a period of 3 years from the date of acquisition.

Quantum of exemption

Least of the following exempted

c) Amount of investment in long term specified bonds ; or
d) Amount of capital Gain;

The maximum amount of investment made during the financial year in which transfer is made and in subsequent year does not exceed Rs 50 Lakh

Section 54 F

Eligible assessee

- Individual
- H U F

Condition

1) The asset transferred is a long term capital asset, not being a residential house
2) Within a period of 1 year before or 2 year after the date of transfer, a residential house is purchased or within a period of 3 years a residential house is constructed.
3) The assessee does not own more than one residential house on the date of transfer.
4) The assessee does not within a period of 1 year purchase or does not within a period of 3 years construct any residential house other than the new residential house.

Quantum of deduction

If the cost of the new residential house is not less than the net consideration then whole of the capital gain. Otherwise the capital gain in the same proportion as the cost of new residential house bears to the net consideration.

Explanatory Note

54, 54B, 54D where new asset is required to be acquired and if the new asset is transferred within a period of 3 years from the date of its acquisition, the cost of such asset shall be reduced by the amount of capital gains exempted earlier and the STCG shall be computed after deducting such reduced cost of acquisition

CAPITAL GAIN DEPOSIT SCHEME

Capital gains are exempted if **capital gains or net consideration** as the case may be , are invested in new asset **within the time limits** as mentioned in section 54, 54 B, 54D, 54F Within the time allowed for the above purpose.

If such re-investment is not made by the assessee(**or Eligible assessee**) before due date for furnishing return of income then amount of **capital gain or net consideration** as the case may be is required to be deposited in an account under **capital gain deposit account (CAGS).**

Conditions

1) The deposit shall be made **before** the due date for furnishing return of income or **within** the due date for furnishing return of income u/s 139(9)
2) The deposit shall be made in an account with **bank or institute approved** for the purpose.
3) The return of income shall be accompanied by a **proof of such deposit**
4) The amount deposited can be withdrawn for utilization in accordance with the scheme specified for the purpose
5) If the amount deposited is not utilized for the purpose of acquiring the new asset within the specified period, the capital gain related to unutilized amount shall be regarded as income of the previous year in which period specified in the scheme is expires

Specific formulae for section 54 F

1. **Where the cost of new residential house is less than the net consideration then exemption will be as follows**

Long term capital asset X Amount invested in new asset

Net consideration

2. **Where the amount deposited in CAGS is not utilized fully or partially for re- investment of new asset within the time frame mentioned in CAGS scheme.**

Balance amount in CAGS For which exemption claimed but not utilized X Amount of Original Capital Gains

Net consideration

WITH DRAWAL OF EXMPTION

a) According to sec 54, 54B,54D,54EC and 54EE, where new asset is required to be acquired/ constructed and if the new asset is transferred within a period of 3 years from the date of its acquisition or construction, the cost of such asset shall be **reduced** by the amount of capital Gain exempted earlier and the short term capital Gain shall be computed by deducting reduced cost of acquisition from Full value of consideration.

b) According to Sec 54 EC – Specified Bond Sec 54 EE- Long term Specified assets or Sec -54 F Residential house, where **the specified assets are transferred within the specified time**, the capital Gain exempted earlier shall be taxed as **long term capital gain** in the previous year in which such specified assets are transferred

c) In case of Sec 54 EC or Sec 54 EE, no loans or advance shall be availed based on specified security or bond as the case may be. However, where the assessee avails loans and advance based on the security of Bonds or specified securities, it will be tantamount to violation of the provisions and year of availing loans and advance shall be deemed to be year of conversion.

Section 50 computation of capital gain in case of depreciable asset

Two conditions must be full filled under section 32

- There must be at least one asset in the block ; and
- There must be some value for the block on which prescribed percentage can be applied

Where any of the above conditions are not applicable then section 32 cease to apply and section 50 will be applicable resulting in short term capital gain or lss

Section 50 B Slump sales

Definition

Section 2 (42 C) Transfer of one or more undertaking as a result of lump sum consideration without value being assigned to individual assets and liability on such sales.

Notes

Determination of asset and liability for the purpose of payment of stamp duty or registration fee shall not be regarded as assignment of individual value to assets and liability.

Taxability

Any profit and gains arising from the slump sales affected during the previous year shall be charged to income tax as capital gains

If the undertaking held for more than 36 month then such gains shall be regarded as long term capital gain else it is regarded as short term capital gain.

The net worth of the division so transferred shall be regarded as cost of acquisition and cost of improvement.

Meaning of net worth

It shall be the aggregate value of total asset of the undertaking or division as reduced by the value of liability of such undertaking or division as appearing in the books of accounts.

Any changes in the value of asset on account of revaluation of asset and liability shall be ignored for the purpose of computing net worth.

Value of asset for the purpose

In case of depreciable assets, WDV of block of asset

In case of other asset the book value of such assets.

Report from CA

A report from the chartered Accountant indicating computation of net worth and certifying the correctness of net worth is required.

Section 55 A Reference to valuation Officer

With a view to ascertaining the FMV of a capital asset for the purpose of capital gains and other purpose the assessing officer may refer the valuation of capital asset to a valuation officer.

Valuation of capital asset is performing under the following situation

In case where the value of the asset as claimed by the assessee is in accordance with the estimate by the registered value , if the assessing officer is of the opinion that the value so determined is less than its FMV.

In any other case, if the assessing officer is of the opinion that

FMV of the asset as claimed by the assessee by more than 15 % of the value claimed or by more than 25,000/-

Having regarded to the nature of the capital asset and other relevant circumstance it is necessary to make the reference.

Where any such reference is made the provisions of section 16 A of the wealth tax Act shall be applicable and valuation report of the valuation officer shall be binding on assessing officer.