CA IPCC TAX: INCOME FROM HOUSE PROPERTY (IFHP) **For May-2020 Exams**
(Module-2, Chapter-4, Unit-2) Amended up to 31.07.19

1. Annual value of HP is determined u/s 23

2. **Following annual values are charged under PGBP:**
   - Portion of property occupied for business/profession by the assessee
   - Assessee in the business of letting out of properties [SC in Rayala Corporation (P) Ltd.]

3. **Conditions for chargeability:**
   - Buildings include residential as well as commercial
     - Land appurtenant (land connected with the building, like garden)
   - Assessee must be the owner
     - Registration of sale deed not necessary
     - Ownership includes freehold, leasehold and deemed ownership
     - Not necessary that owner of building must own the land
     - Must be owner in the PY. Not relevant in the AY
     - Ownership title in dispute: Owner as per ITD till court decides
   - HP as stock-in-trade: Chargeable under IFHP
     - But AV will be nil for 2 years from the end of the FY in which certificate of completion is received, if such property is not let out during such period

4. **Composite Rent:**
   - Rent = For building + Other Assets + Different Services
   - Split the rent.
   - How to split the rent?
     - Letting of building and assets inseparable: PGBP/OS
     - Letting of building and assets separable: Rent for building under HP and for assets under PGBP/OS

5. R&OR -> Property outside India -> Taxable, whether income brought in India or not
   NR or R&NOR -> Property outside India -> Taxable income only when received in India

6. **Annual Value Calculation:**
   - Property is **let out throughout the PY**, then GAV will be:
     Step-1: Higher of municipal value and fair rent = A
     Step-2: Lower of A and Standard Rent = B (Expected Rent)
     Step-3: Higher of B and actual rent = GAV
     Step-4: GAV – Municipal taxes paid = NAV

   - Property is **vacant for part of the year**, then GAV = Actual Rent since AR is lower than ER **due to vacancy**

   - For **self occupied**/unoccupied property, AV will be nil*, provided no other benefit is derived from the property
     - Unoccupied property: Not occupied by owner due to business/employment at different place and he resides there in a building not owned by him.
     - *The NIL AV benefit is available for 2 properties and only for Individual/HUF
     - Deduction for municipal taxes is not allowed

   - **Part** of the year **let-out** and **part** of the year **self-occupied**:
     - ER for whole year shall be taken for calculating GAV. MT allowed for whole year.
     - Self-occupation period irrelevant. Calculate as if let out for part of the year.
     - Rest remains the same, as given in above steps

   - A **portion let-out** and a **portion self-occupied**
     - Compute income separately under let out and self occupied category
     - MV, FR and SR if not given separately, then apportionment should be done on area/floor space/other basis
     - Same way property taxes can also be bifurcated, if consolidated figure is given

- **Deemed to be let out property**:
  - Assessee owns more than 2 properties for self occupation
  - Income from any 2 properties as self occupied
  - Other properties will be deemed to be let out
  - Options can be changed every year for assessee benefit
  - For deemed let out property, ER=GAV
  - Actual rent does not arise. So vacant period and unrealized rent is out of question
  - Municipal taxed paid on deemed let out property can be claimed as deduction

  Note: When 3 HP's are given in question, 1st compute income of all 3 as DLO properties and then compare 2 HP's as SO and the remaining one as DLO. Three comparisons to be done, like 1&2 with 3, 1&3 with 2 and 2&3 with 1. The lowest income comparison will be best suited for the assessee.

7. When **notional income** is charged instead of real income?
   - In case of deemed to be let out property
   - In case of let out property throughout the PY, where ER > AR and as a result ER=GAV
   - In case let out property is vacant for part of the year *not owing to vacancy*, AR<ER for whole year, but ER=GAV
   - HP as stock-in-trade which is not let out, ER=GAV after 2 years from the end of the FY in which certificate of completion is received

8. **Unrealised Rent**:
   - AR should not include UR
   - But the following conditions should be satisfied [Rule 4]
     - ✓ Tenancy is bona fide (i.e. genuine/real)
     - ✓ Defaulting tenant has vacated or steps have been taken to compel him
     - ✓ Defaulting tenant not occupying any other property of the assessee
     - ✓ Assessee has taken all legal proceedings for recovery or satisfies AO that they would be useless

9. **Property/Municipal/Sewerage Taxes**:
   - Borne by the owner
   - Deduction allowed only in the year of actual payment. No relation with accrual.
   - HP outside India and MT levied by authority of that country. Then also deductible. [CIT v. R. Venugopala Reddiar]
   - Deduction not allowed where AV is claimed as nil

10. **Deductions from AV**
    - **1st: 30% of NAV u/s 24(a)**
      - Flat deduction irrespective of the actual
      - Not allowed where AV is claimed as nil
    - **2nd: Interest on borrowed capital u/s 24(b)**
      - On loans for acquisition, construction, repairs, renewal or reconstruction
      - Interest on fresh loan taken to repay the above loan also allowed as deduction
      - Interest for pre-construction period:

-------------------- Pre-construction period --------------------

Starting	Ending
Date of commencement of construction or borrowing, whichever is later	*On 31st March Immediately prior to the year of completion of construction*

- PCP Interest will be accumulated and claimed as deduction in 5 equal annual installments from the year of acquisition or completion. Deduction allowed under other provisions will be reduced before division.
- No conditions for the year in which construction is completed. Can be fully claimed.

- In **case of self occupied property**, including 1/5th of PCPI, as under:

Loan taken before 01.04.99	Max. 30,000
Loan taken on/after 01.04.99 and acquisition or construction is completed within 5 years from the end of the FY in which loan is taken	Max. 2,00,000 (obtain interest certificate) *Note: If 5 years condition not met, then 30,000*
Loan taken on/after 01.04.99 for repair/renewal	Max. 30,000

Note: Total deduction for loan taken before/after 01.04.99 cannot exceed 2,00,000
Note: Interest payable to be calculated separately & claimed as deduction every year. Paid/not paid doesn't matter.
Note: Self occupied HP interest limit does not apply to let-out/deemed let-out HP

- **Unpaid purchase price** will be considered as loan taken
  - ✓ *Buyer enters into an arrangement with a seller to pay the sale price in installments along with interest*
  - ✓ *Unpaid purchase price will be capital borrowed for acquiring HP and interest paid is allowed as deduction*

- Interest on unpaid interest is not deductible

• **HP Income Computation**: GAV-Municipal Taxes* = NAV – Sec. 24 Deductions = IFHP
**As a % of municipal valuation. Don't mistake it with % of GAV.*

11. **Sec. 25: Inadmissible Deductions**
- Interest payable outside India shall not be deducted
  - ✓ *if tax not paid/deducted and there is no person in India who can be treated as an agent*

12. **Provision for arrears of rent and unrealized rent received subsequently [Sec. 25A]**
- Deemed income from HP in the FY in which they are received
- Whether assessee is the owner/not in the FY of receipt is not relevant
- 30% deduction on both

13. **Income from co-owned property [Sec. 26]**
- Co-owners share definite and ascertainable, then HP cannot be taxed as AOP
- Share of each co-owner to be assessed separately
- HP self occupied by each co-owner:
  - ✓ Each co-owner NAV will be nil
  - ✓ Interest deduction of 30K/200K available separately to each, but as per their share
  - ✓ But the aggregate interest deduction cannot exceed the limit for all self-occupied HP
- Co-owned property let out:
  - ✓ Compute income as if HP owned by a single owner
  - ✓ Then apportion the income as per their specific share

14. **Deemed Ownership [Sec. 27]**
Following persons, though not legal owners but considered as deemed owners:

When	**Deemed Owner**
Transfer to a spouse otherwise than for adequate consideration	Transferor
Transfer to a spouse with an agreement to live apart	Transferee
Transfer by an individual to his minor child otherwise than for adequate consideration *Note: Minor does not include minor married daughter*	Transferor

When	Deemed Owner
Cash transferred to spouse/minor and the later acquires the property out of such cash	Not Covered
Holder of an impartible estate (property which is not legally divisible) *Note: After Hindu Succession Act, 1956, such estate by custom will come under HUF* *Note: Sec. 27 applicable for impartible estate by grant or covenant/agreement*	The Holder
Member of co-operative society/co./AOP to whom HP is allotted/leased under House Building Scheme of the society/co./AOP	The Member (Legal Owner: S/C/AOP)
Person having possession of HP in part performance of a contract u/s 53A of the Transfer of Property Act. Following cases will be covered: ✓ Possession handed over to buyer ✓ Consideration paid/promised to be paid by the buyer ✓ Sale deed not executed in favour of buyer but PoA/Sale Agreement has been executed	The Buyer (though not registered in his name)
Person having right in a HP for a period not less than 12 years as per Sec. 269UA(f) *Note: Sec. 269UA(f) - transfer by way of lease for not less than 12 years* *Note: Month to month lease not exceeding 1 year not covered*	The Person

Notes for solving practical problems:

- Give working note for every assumption and provision applied
- In question if it is not mentioned that property is vacant owing to vacancy or not, then assume it as owing to vacancy and Rule 4 as complied with.
- In a FY, if HP was self occupied for 9 months only and was vacant/not occupied for 3 months, it won't be considered as deemed let out and interest is available for whole year irrespective of the period of occupation.
- If HP constructed before 01.04.99 and date of borrowing is not given, then assume it as taken before 01.04.99.