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SKILL ENHANCEMENT
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CERTIFICATE COURSE OF INCOME TAX FILING AND DOCUMENTATION

CCIT1:BASICS OF INCOME TAX LAW

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PUNJAB STATE OPEN UNIVERSITY, PATIALA
(Established by Act No. 19 of 2019 of the Legislature of State of Punjab)

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CHAPTER-1 INCOME TAX LAW

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1.0 OBJECTIVES

After going through this lesson you should be able to :

1. Understand the concept and of Income Tax liability.
2. Define various terms relating to Indian Income Tax laws
3. Apply the Rules of latest Finance Act in relation to current Financial Year.
4. Describe major principles for imposing taxation upon a person.
5. Explain the meaning and various examples of exempted income.

1.1 INTRODUCTION

The income tax act has undergone innumerable changes from time to time since the time it was originally enacted. Changes are, basically, brought in annually alongwith the Union budget. These lessons introduce the students to the latest changes in the provisions of the Income Tax

Act, 1961. For the purpose, the provisions, concepts, theory and tax rates mentioned in this study material are updated as per relevant Indian Finance Act. For proper understanding of the Income-Tax Law, the students are also required to have the prior knowledge of the following :

- The Income-Tax Act, 1961 (amended up-to-date)
- The Income-Tax Rules, 1962 (amended up-to-date)
- Circulars, clarifications issued from time to time by the CBDT.
- Judicial decisions

Income tax is a direct tax, levied by the Central Government in our three tier system of administration. It occupies an important place in our fiscal system as the proceeds of income tax are shared between the Centre and State. The income tax is based on the principle of “ability to pay”, that is, those who can pay more should pay more. So it does not fall on all people equally but only on those people who are better off. Income tax in India is levied on income as determined by the provisions contained in the Income Tax Act 1961. The Income Tax Act 1961 extends to the whole of India and came into force with effect from 1st April, 1962. The annual Finance Bill presented to Parliament along with budget makes far reaching amendments in this act every year.

There are two types of income taxes, viz, personal income tax and corporation tax (i.e., tax on company profits). Income tax is levied on **income** of the assessee and not on every **receipt**. The method of charging tax on capital or revenue receipts is different. The Income Tax Act provides separate heads, “capital gains” for levying tax on capital receipts and other heads for levying tax on revenue receipts.

1.2 PRINCIPLES OF CHARGING INCOME TAX

To know the procedure of charging tax on income, one should be familiar with the following principles :

1. **Annual tax** : Income Tax is charged annually upon the income of a person.
2. **Assessment Year** : Income of previous year is chargeable to tax in the next following year at the tax rates applicable for the assessment year. However this rule is subject to some exceptions as discussed in Section 1.4 of the present chapter.

3. **Tax on person** : Income tax is charged on every person, such as, individual, HUF, Firm, AOPs, BOIs, Company and a local authority.
4. **Tax on total income** : Income tax is levied on the ‘total income’ of the assessee which means income computed under five heads of incomes, as discussed in next lessons.
5. **Tax rates are fixed by Finance Act every year** : Tax rates are fixed by the annual Finance Act not by the Income Tax Act, 1961.

1.3 **DEFINITIONS**

Before studying the income tax law, it is absolutely important to understand some basic terms of Income Tax Act, 1961. Therefore, all such important terms are explained with suitable examples to clarify their meaning and scope.

1.3.1 **TOTAL INCOME**

Under Sec 2 (45), total taxable income includes income from all sources calculated according to provisions of the Act. It is the net income arrived at after giving due allowances, exemptions, deductions, rebates and reliefs as provided in the Income Tax Act.. All sources of income have been grouped under five heads of Income; namely, -

1. Income under the head ‘Salaries’.
2. Income under the head ‘House property’.
3. Income under the head ‘Profits and gains of business or profession’.
4. Income under the head ‘Capital Gain’.
5. Income under the head ‘Income from other Sources’.

1.3.2 **INCOME [SEC 2 (24)]**

The term ‘Income’ is quite difficult to define. The word ‘Income’ denotes a periodical monetary return coming in with some sort of regularity from defined sources. According to Income Tax Act 1961, Income under Sec 2 (24) includes the following items of receipts :-

1. Profits and Gains
2. Dividends
3. Voluntary contribution received by a trust created wholly or partly for charitable or religious purposes or by an association of person covered by

clause 21 or by fund or trust or institution referred to in sub-clause (iv) or by any university or educational institution referred to in sub-clause(iiiad) or (vi) or any hospital referred to sub-clause (iiiiae) or (via) of clause (23C) of Sec. 10.

4. Value of any perquisite or profit in lieu of salary taxable under Sec. 17.
5. Any special allowance or benefit specially granted to the assessee to meet the expenses, wholly, necessarily and exclusively for the performance of his duties.
6. Any allowance granted to the assessee to meet his personal expenses at the place of duty or at the place of his residence.
7. Value of any benefit or perquisite obtained from a company - (a) by director (b) by a person who has a substantial interest in the company, and (c) by a relative of a director or of such person.
8. Any sum chargeable to Income Tax under Sec. 41 or Sec. 59.
9. Any sum chargeable to Income Tax under clause (ii), (iii), (iii-a), (iii-b), (iii-c), of Sec. 28.
10. Any Capital Gain chargeable under Sec. 45.
11. Profit and Gains of any insurance business carried on by mutual insurance Company or by a co-operative society, computed as per Sec. 44.
12. Any winning from lotteries, cross-word, puzzles, races including horse-races, card games, gambling and betting of any form.
13. Any sum received by the assessee from his employees as contribution to any provident fund or superannuation-fund or any fund set-up under the Employees State Insurance Act, 1948.
14. Any sum received under a Keyman insurance policy including the sum allocated by way of bonus on such policy.
15. Any consideration received for issue of shares as exceeds the fair market value of the shares.

1.3.3 PERSON [SEC 2 (31)]

Under Sec 2 (31) the term person includes:

- i) an Individual,
- ii) a HUF,
- iii) a Company,
- iv) a Firm,
- v) an Association of Persons (AOPs). or a body of Individuals whether incorporated or not
- vi) a Local Authority, and
- vii) every artificial juridical person, not falling within any of the preceding sub-clauses.

More details of the term ‘person’ are explained as under :

- 1. An individual (i.e. a human being) :** It includes a male, female and minor.
- 2. Hindu Undivided Family :** A Hindu Undivided Family means a Hindu family governed by Hindu law which consists of all persons lineally descended from common ancestor including their wives and unmarried daughters. The manager of HUF is called ‘Karta’ and its members are called ‘Coparceners.’
- 3. Company :** A Company may be defined as an artificial person created by law with a perpetual succession, common seal and shares carrying limited liability, it may be registered Under Companies Act, 1956 or any other Act. For the purpose of income tax the term Company is defined in Section 2 (17) of the Income Tax Act.

It also includes an artificial person which declared by the CBDT by a general or special order as a company.

- 4. Firm :** A firm means a partnership firm, which is defined under the partnership Act. For income tax purposes, a firm is assessed as firm only if it complies with the conditions mentioned in Section 184 of the Act. The condition for a partnership entity to be assessed as firm is that it must submit its instrument of partnership duly authenticated by all partners.

It also includes Limited Liability Partnership (LLP) firm which is defined under Limited Liability Partnership Act, 2008.

5. Association of Persons (AOPs) or Body of Individuals (BOIs) : An association of persons means two or more persons joining for a common purpose of earning income. The Association of persons may consist of two or more individuals or any other persons also whereas a Body of Individuals consist only of Individuals. eg. Co-operative societies, Markfed, NAFED etc.

6. Local Authority: Municipality, Panchayat, District Board, or Cantonment Board are the examples of such associations.

7. Artificial Person : Any artificial juridical person not covered by any of the above proceedings, e.g. Statutory Corporations like L.I.C., a University etc. An idol or deity is also assessable as an artificial juridical person but through the persons managing them.

1.3.4 ASSESSEE [SEC. 2 (7)]

Assessee means a person by whom any tax or any other sum of money is payable under this Act and includes following four categories of assesses:

First Category - This is the basic category, which includes :

(a) Every person in respect of whom any proceedings under this Act have been taken for assessment of his income or for the assessment of the income of any other person in respect of which he liable; or

Second Category- This is the second category, which includes :

(a) In respect of whom any proceedings under this Act has been taken for the assessment for loss sustained by him or by such other person; or

(b) In respect of whom any proceedings under this act has been taken for the amount of refund due to him or to such other person; or

Third Category- This is the third category, which includes:

(a) Every person who is deemed to be an assessee under any provisions of this act. [i.e. section 160(2)]. For example the captain of a ship of non-resident shipping company, legal representative of a deceased, agent of a non-resident, guardian of minor or manager of a lunatic or infant, trustees etc. or

Fourth Category- This is the fourth category, which includes :

(a) Every person who is deemed to be an assessee in default under any provision of this act. For example, an employer is liable while making payment to this employee, to deduct income tax thereon at source u/s 192. If he does not deduct tax or after deducting does not deposit it in the Government Treasury, he will be treated as assessee in default and is liable to pay tax.

1.3.5 ASSESSMENT YEAR [SEC 2 (9)]

As per Sec 2 (9) of the Income tax act, it is also known as financial year, fiscal year and tax year etc. The total income of an assessee and his tax liability is assessed in the assessment year in respect of his income earned in the previous year. Every person who is liable to pay tax under this Act files return of income by prescribed dates. These returns are processed by the income tax officers. This processing of income tax returns is called assessment.

For example, the previous year for the latest assessment year 2021-2122 (i.e. 1-4-2021 to 31-3-2022), the previous year will be year ending on 31-3-2021 i.e., (01-04-2020 to 31-03-2021).

1.3.6 PREVIOUS YEAR (SEC 3)

For the purpose of Income tax (as per sec 3) “previous year "means the financial year immediately preceding the assessment year.”

The term previous year is very important because whole income tax law is dependent upon the previous year. Income earned in the previous year is to be assessed in the next year. ‘Previous’ means ‘coming before’, thus, previous year is the financial year preceding the assessment year.

For example, for the assessment year 2021-2022 the previous year should be the financial year ending on 31st March, 2021. In simple words the previous year is the year which comes before the assessment year.

For more clarity; read the following examples of previous year and assessment year of continued or newly set up business:

(a) **Previous year in case of regular business or continuing business** : It is financial year preceding the assessment year. As such, for the assessment year 2021-2022, the previous year for a continuing business is 2020-2021 i.e. 1-4-2020 to 31-3-2021.

(b) **In case of newly set up business** : The previous year in case of a newly started business is started from the date of setting up or starting the business or profession, e.g. In case of newly started business commencing its work on 1st Dec. 2020, the previous year in relation to the assessment year 2021-22, shall be the period between 1st Dec. 2020 to 31st March 2021.

CHECK YOUR PROGRESS-I

- Q.1. Explain the meaning of Person for imposing tax.
- Q.2. What is assessment Year?
- Q.3. What is Previous Year?

1.4 EXEMPTED INCOMES-MEANING AND TAX TREATMENT [(Sec. 10(1) to Section 10(45)]

Exempted incomes are those incomes on which a person is not liable to pay tax, either upon full amount of income or on any part of it. The next part of the lesson discusses the meaning and the tax treatment of various exempted incomes:

1. Agricultural Income [Sec 10 (i)]

Meaning : Section 2 (IA) defines agricultural income as covering the income of not only cultivation but also the land holders who might have rented out the lands. Agricultural income may be received in cash or in kind.

- (1) It may be rent/revenue derived from land situated in India and used for agricultural purposes.
- (2) It may be the income derived from such land through agriculture or the performance of a process ordinarily employed by a cultivator or receiver of rent in kind to render the produce fit to be taken to the market or through the sale of such agricultural produce in the market.

(3) It may be derived from any farm building required for agricultural operations.

Tax Treatment : The agriculture income is fully exempted from tax. However, in some cases agriculture income is taken into consideration to determine tax on non-agriculture income.

2. Receipts by a member of Hindu Undivided Family from family income [Sec. 10 (2)]

Meaning : This receipt is the income received by member of HUF from the income of his HUF upon which it (HUF) is liable to pay tax not the person claiming exemption u/s10(2). But such receipt should not be received from converted property falling u/s 64 (2) share at the time of partition. And only those members of a Hindu Undivided Family can claim exemption under this clause who are entitled to demand share on partition.

Tax Treatment : The share of income from HUF is fully exempted from tax.

3. Share of Income from Firm [Sec. 10 (2A)]

Meaning : It is the share of income received by a partner from the income of his partnership firm upon which it the firm is liable to pay tax.

Tax Treatment : The whole amount of share of profit in the total income of the firm is exempted. And this share shall be in same proportion as is given in partnership deed.

4. Interest paid to a Non-resident [Section 10 (4) (1)]

Meaning : It means the amount of interest payable to non-resident on such securities or bonds as the central government may, by notification in the official Gazette, specify in this behalf, including income by way of premium on the redemption of such bonds.

Tax Treatment : The whole amount of this receipt shall be exempted from tax. But exemption under this section shall not be allowed on interest on bonds or securities issued on or after 1.6.2002.

5. Interest to Non-resident on Non-Resident External Account [Section 10 (4) (ii)]

Meaning : It includes any income by way of interest on money standing to the credit of Non-Resident Account in any bank in India. NRI means an individual who is a person resident outside India or is a person who has been permitted by the RBI to maintain the aforesaid account.

Tax Treatment : The whole amount of this receipt shall be exempted from tax. But exemption shall not be available on any income by way of interest paid or credited on or after 01.04.2005.

6. Interest paid to a person of Indian origin and who is non-resident in India [Section 10) (4B)]

Meaning : It means any income from interest on saving certificates issued by the Central Government may specify in his behalf by notification in the official Gazette, to an individual being a citizen of India or a person of Indian origin, who is non-resident in India.

Tax Treatment : The whole amount of this receipt shall be fully exempted. But exemption is available to original subscribers of saving certificates only, and not allowed on bonds or securities issued on or after 1-6-2002.

7. Leave Travel Concession to an Indian Citizen Employee [Section 10 (5)]

Meaning : This receipt means leave travel concession received by employees from their employers for travelling to any place in India, i) either on leave during service; or ii) after retirement and termination from service. With effect from 1-10-1998, the exemption for this receipt of L.T.C shall be restricted to two children only.

Tax Treatment :

1) In case journey is made by air : L.T.C. shall be exempted upto an amount not exceeding the air economy fare of the national carrier by the shortest route to the place of journey.

2) In case journey is made by any mode other than air : If place of origin of journey and place of destination are connected by rail but journey is made by any mode other than air, the benefit shall be exempted upto an amount not exceeding air conditioned first class rail fare by the shortest route to the place of destination.

8. Income received by an individual who is not a citizen of India [Section 10(6)]

Meaning : It means receipt of income belongs to an individual who is not a citizen of India or is a foreign national.

Tax Treatment : The following incomes are exempted when received by an individual who is not a citizen of India :

- (i) **Passage Money 10 (6) :** If any foreign national who is working in India is going on home leave out of India or is moving to home country on retirement or termination of his services then any passage money/value of any free or concessional passage received by such employee from his Indian employer is fully exempted from tax.
- (ii) **Remuneration**
- (a) The remuneration received by an ambassador or other officials of the embassy, high commission or legation of a foreign state in India.
 - (b) The remuneration by a consular officer of foreign a state in India.
 - (c) The remuneration received by a trade commissioner or other official the representative in India of a foreign state, provided corresponding official of the government of India in that country are given a similar concession.
 - (d) The remuneration received by a foreign diplomat and other foreign nationals.
 - (e) Remuneration paid to employee of philanthropic institution.
 - (f) Salary received by a foreign ships' crew, who are foreign nationals and non-residents.

9. Perquisites and Allowances paid by Government to its employees serving outside India [Section 10 (7)]

Meaning : It includes perquisites and allowances received by employees serving outside India from Indian government. **Perquisite** means any casual emolument, fee or profit attached to an office position in addition to salary or wages. It does not cover a mere reimbursement of expenditure. **Allowance** is generally defined as fixed quantity of money or other substance given regularly in addition to salary for the purpose of meeting some particular requirement connected with the services rendered by the employee or as compensation for unusual conditions of that service.

Tax Treatment : All the perquisites and allowances paid by the government to its employees for service rendered outside India, are exempted from tax if allowed only to such employees who are citizen of India.

10. Employees of foreign countries working in India under Co-operative Technical Assistant Programme [Section 10(8)]

Meaning : It includes persons who are working in India under co-operative technical assistance programme in accordance with an agreement entered into by the Central government and a government of a foreign state; and have received

- (i) remuneration directly or indirectly from the Government of the foreign State for such duties rendered in India ; and
- (ii) any other income for such individual which accrues or arises outside India and is not deemed to accrue or arise in India, in respect of which individual is required to pay any income or social security tax to government of that foreign State.

Tax Treatment : The actual amount shall be exempted.

11. Income of a Consultant [Section 10(8A)]

Meaning : It includes a consultant from an international organisation who derives its fund under technical assistance grant agreement between such organisation and the foreign government. The consultant means:

- (i) An individual who is
 - (a) not a citizen of India; or
 - (b) if citizen but is non-resident in India; or has rendered technical services in India in connection with any technical assistance programme or project.

Receipt means 1) any remuneration or fees received by him; and 2) other income accruing or arising to him outside India and which is subject to income tax or social security tax in foreign country.

Tax Treatment : The actual amount shall be exempted.

12. Income of Employees of Consultant [Section 10 (8B)]

Meaning : It includes an individual who is working as an employee of a consultant as referred in 8 (A) above. This individual should not i) a citizen of India; or if citizen should not ordinarily resident; and ii) the contract of service is approved by the competent authority.

Tax Treatment : The actual amount shall be exempted.

13. Income of family members of an employee serving under a co-operative technical assistance programme [Sec. 10(9)]

Meaning : It includes any income of the family member of an employee referred under section 10 (8) or (8A) or 8(B) who is accompanying him to India. This income should accrue or arise outside India only and not deemed to accrue or arise in India, and in respect of which such member is required to pay any income tax or social security tax to the Government of that foreign state or the country of origin of such member.

Tax Treatment : The actual amount shall be exempted.

14. Gratuity [Section 10 (10)]

Meaning : It means a gratuitous payment made by an employer to the employee at the time of retirement or leaving the job for services rendered by him during his service.

Tax Treatment : For the calculation of exempted gratuity it has to be divided into the following two categories :

(i) Gratuity received by Government or semi-government employees

(ii) Gratuity received under Payment of Gratuity Act 1972

(i) Death-cum-retirement gratuity received by government or semi-government employees : Any such amount received by the employees working on Civil or Defense Services of Government of India, or on any part of State Government or local authority covered under revised Pension Rules of the Central government shall be fully exempted.

(ii) Gratuity received under Payment of Gratuity Act 1972 : Any such amount received by the employees covered or not covered under the payment of Gratuity Act is calculated as explained here:

(a) For employees covered under Payment of Gratuity Act 1972

Least of the following amount is exempted.

(i) 15 days salary for every completed year of service (7 days for seasonal establishment)

(ii) Rs. 10,00,000 (Rs. 20,00,000 w.e.f. 2019-20 Financial Year)

(iii) Gratuity actually received

- Note :** (1) Calculation of 15 days salary will be last salary drawn.
- (2) For calculating number of completed years period of service of more than 6 months will be taken as one year or six months.
- (3) Salary means Basic Pay + D.A.
- b) For other employees not covered by Payment of Gratuity Act 1972**
Exempted up to least of the following :-
- (i) Actual gratuity received
- (ii) Statutory limit Rs. 10,00,000 (Rs. 20,00,000 w.e.f. 2019-20 Financial Year)
- (iii) 1/2months' average salary for every completed year of service. Here calculation of 1/2 months' salary will be based on average salary of last 10 months preceding the retirement or death as the case may be.

Salary : The word 'salary' here has the same meaning as assigned to it for provident fund purpose, i.e. the Basic Pay plus dearness pay plus any portion of D.A. which enters into pay for service benefits, Plus commission received as a fixed percentage of turnover.

15. Commuted Value of Pension Received [Section 10(10A)]

Meaning : Pension is a payment made by employer after the retirement/death of the employee as a reward for past service. Generally pension gives to an employee as a periodical payment on monthly basis which is known as non-commuted pension. But if employee wants to receive a portion of the pension in lump sum then such portion of total pension is known as commuted pension.

Tax Treatment : Under the act following treatment is defined to calculate exempted pension:

- (i) **Pension from government, a local authority or a statutory corporation :** The full amount of commuted value of pension is exempted if it is received from the government, a local authority or a statutory corporation.
- (ii) **Pension from any other employer :** Any payment in commutation of pension received under any scheme from any other employer is exempted to the extent mentioned below :
- (a) in a case where the employee receives any gratuity, the commuted value of

1/3rd of pension which he is normally entitled to receive; and

(b) in case where the employee does not receives gratuity the commuted value of 1/2 of such pension which he is normally entitled to receive.

(iii) **Pension fund set up by life insurance corporation (LIC) of India:** Any payment received by an individual in commutation of pension from a fund set up by life insurance corporation (LIC) of India since 1st August, 1996 under a scheme to which contribution is made by the individual receiving pension would be exempted from tax.

16. Amount received as Leave Encashment on Retirement

[Section 10(10AA)]

Meaning : Leave Encashment means payment received as cash equivalent of the leave salary in respect of the earned leave at his credit at the time of his retirement.

Tax Treatment : For the calculation of exempted amount of leave encashment employees are divided into following two categories:

(a) **Central and State Government Employees :** The actual amount received shall be fully exempted.

(b) **Other employees :** Any payment received as leave encashment at the time of superannuation shall exempt up to least of the following four amounts :

(a) Actual amount received;

(b) Amount calculated at average salary for ten months. Average salary means (Average of salary drawn by the employee during 10 months immediately preceding the date of his retirement);

(c) Amount specified by the Government is Rs. 3,00,000 ; and

(d) Cash equivalent of leave salary due at the time of retirement. It is by taking one month leave for every leave completed year of service less leave already availed of.

So, taxable amount of leave encashment is excess of amount received over the least of the above i.e. exempted amount.

17. Retrenchment compensation paid to workmen [Section 10 (10B)]

Meaning : Retrenchment compensation means any payment received by an employee from his employer due to termination of his services.

Tax Treatment : The exemption of retrenchment compensation will be available only to workmen defined in Industrial Dispute Act, 1947. As per a new clause 10B in Section 10 of Income Tax Act (inserted by the Finance Act, 1975) retrenchment compensation received by a workman shall be exempted from income tax to the extent of the least of the following amounts:

- (i) Amount calculated in accordance with the provisions of Section 15 F (b) of the Industrial Disputes Act, 1947, or
- (ii) Rs. 5 lacs.

So, taxable amount of retrenchment compensation is excess of amount received over the least of the above, i.e. exempted amount.

18. Payment received under Bhopal Gas Leak Act 1985 [Section 10 (10BB)]

Meaning : It means any payment received by an employee from his employer under Bhopal Gas Leak Act 1985 due to Bhopal Gas Leakage incident.

Tax Treatment : Payment received under the provision of such act or any scheme formed there under shall be fully exempted but in case payment is received against a loss or damage, for which deduction has been claimed earlier, it shall be taxable.

19. Compensation received in case of any disaster [Section 10(10BC)]

Meaning : It means an individual or his/her legal heir receiving any compensation on account of any disaster from Central or State Government or from local authority.

Tax Treatment : The compensation received in case of any disaster shall be exempted.

20. Retirement Compensation from a Public Sector Company or any Other Company [(Section 10(10C)]

Meaning : It includes any payment received by an employee of a Public Sector Company, or of any other company, or a statutory authority, or a local authority, or a cooperative society, or a University, or an Indian Institute of Technology, or any notified Institute of Management at the time of his voluntary retirement.

Tax Treatment : In accordance with voluntary retirement scheme any amount received is exempted to the extent of Rs. 500,000 w.e.f. Assessment Year 2001-2002. The exemption shall also be available to an employee on termination of his services; and in case of an employee of public sector company on the termination of his services under a voluntary separation scheme.

21. Tax on perks paid by employer [sec 10 (10CC)]

Meaning : It includes employer who pays, at his discretion, tax on value of perks given by him to an employee except by way of monetary payment.

Tax Treatment : Such income shall be fully exempted in the hands of employees.

22. Any sum received under a Life Insurance Policy [Section 10 (10D)]

Meaning : It includes any sum received under a Life Insurance Policy, including the sum allocated by way of bonus on such policy.

Tax Treatment : The actual amount is fully exempted.

23. Payment from Statutory Provident Fund [Section u/s 10 (11)]

Meaning : It includes any amount received by employee from his statutory provident fund or public provident fund.

Tax Treatment : The actual amount is fully exempted from tax.

24. Payment from Recognised Provident Fund [Section 10 (12)]

Meaning : It includes any amount/accumulated balance due and becoming payable to an employee in Recognised Provident Fund.

Tax Treatment : The amount is exempted to the extent provided in rule 8 of Para-A of the Fourth Schedule.

25. Payment from Superannuation Fund [Section 10 (13)]

Meaning : It means superannuation fund which has been and continues to be approved by the commissioner in accordance with rules contained in Part B of the Fourth Schedule.

Tax Treatment : The tax treatment of contribution made to, and any payment received from , the fund is as under:

1. Employer's contribution is exempted from tax.
2. Employee's contribution qualifies for tax deduction under section 80(c).

3. Interest on accumulated balance is exempted from tax.
4. Section 10(13) grants exemption in respect of payment from the fund
 - (a) to the legal heirs on the death of beneficiary ; or
 - (b) to an employee in lieu of or in commutation of an annuity on his retirement at or after the specified age or on his becoming incapacitated prior to such retirement or
 - (c) by way of refund of contribution on the death of the beneficiary, or
 - (d) by way of refund of contribution to an employee on his leaving the service in connection with which the fund is established otherwise than by retirement age or after a specified age of or on his becoming incapacitated prior to such retirement, to the extent to which such payment does exceed the contributions made prior to the commencement of this act and any interest thereon.

26. House Rent Allowance [Section 10 (13A)]

Meaning : It means amount received by employee from his employer on account of rent paid or not paid for residential accommodation.

Tax Treatment : 1) The full House Rent Allowance received is taxable, if employee is living in his own house or not paying any rent.

2) If employee is living in rented house, amount of House Rent Allowance received by him is exempted up to the least of the following limits :

- (i) Excess of actual rent paid over 10% of salary;
- (ii) An amount equal to 50% of salary where accommodation is situated in any one of the following places, namely Bombay, Calcutta, Delhi and Madras; and 40% in any other town
- (iii) Actual HRA received

27. Any Allowance given for meeting business expenditure [Section 10 (14)]

Meaning : Allowances means any of the following:

- (a) any such special payment or benefit, not being in the nature of a perquisite within

the meaning of clause (2) of Section 17, specially granted, necessarily and exclusively incurred in the performance of the duties of an office.

- (b) any such allowance granted either to meet his personal expense at the place where he ordinary resides, or to compensate him for the increased cost of living,.

Tax Treatment : The amount of allowance is exempted to the extent to which such expenses are actually incurred for the purpose of employment.

- (ii) Exempted amount is such as the Central government specified in the official Gazette, by notification.

28. Interest Incomes Section 10(15)

Meaning : It means amount of interest payable

- (a) by government or a local authority on money borrowed by it from sources outside India ;
- (b) by an industrial undertaking in India or money borrowed by it under a loan agreement entered into by any such financial institutions in a foreign country as may be approved in this behalf by the central government;
- (c) by an industrial undertaking of India on money borrowed or debt incurred by it in a foreign country in respect of the purchase outside India of raw materials, capital or plant and Machinery;
- (d) by the Industrial Finance Corporation in India or the Industrial Development Bank of India or the Industrial Credit and Investment Corporation of India or Export or Import bank of India or the National Housing Bank or the Small Industries Development Bank of loans raised by them in foreign countries to the extent to which such interest does not exceed the rate approved by the central government;
- (e) by any other financial institution established in India or an Indian Bank on loans raised by them in foreign countries under loan agreement approved by the Government in connection with making advances to industrial undertaking in India for the purchase of raw materials and plant and machinery. The interest will be exempted to the extent of the rate approved by the Government;
- (f) by any industrial undertaking in India on money borrowed in foreign currency from foreign sources under a loan agreement approved by the Government for the

purpose of Industrial development in India; and

- (g) by a Scheduled Bank or to a non-resident or a person who is not ordinarily resident in India on deposits in foreign currency.

Tax Treatment : The following interest incomes are exempted from tax :

- (i) Interest and premium on redemption of notified securities bonds or certificates.
- (ii) In case of an individual or HUF interest on such bonds as the central government may by notification in the official Gazette, specify in this behalf.
 - (a) 7% Capital Investment Bonds held by individual and H.U.F. assessee only. The central government shall not specify any such bonds on or after 1-6-2002.
 - (b) In the case of an Individual Hindu Undivided family, interest on 9% Relief Bonds shall also be exempted.
 - (c) Interest on the notified bonds arising to
 - (a) a non-resident Indian being an individual owning the bonds; or
 - (b) any individual owning the bonds by virtue of being a nominee or survivor of such non-resident Indian; or
 - (c) by an individual to whom the bonds have been gifted by the non-resident Indian.

The exemption shall be allowed if the following conditions are satisfied :

- (a) The bonds should have been purchased by a non-resident Indian in foreign exchange.
- (b) The interest and principal received in respect of such bonds whether on their maturity or otherwise; is not allowable to be taken out of India.
- (c) Where the individual who is non-resident Indian in any subsequent year in which the bonds are acquired, becomes a resident in India in any subsequent year the interest received from such bonds will continue to be exempted in the subsequent year as well.
- (d) Where the bonds are encashed in a previous year prior to their maturity by an individual who is so entitled the exemption in relation to the interest income shall not be available to such individual in the assessment year relevant to such

previous year in which the bonds have been encashed.

- (iii) Securities held by the issue Department of Central Bank of Sri Lanka.
- (iv) Interest payable to any foreign bank performing central banking function payable in respect of the deposit made by such banks with any scheduled bank in India with the approval of the Reserve Bank of India.

29. Payment made by an Indian Company engaged in the business of operation of aircraft [Section 10(15A)]

Meaning : It means a payment made to acquire an aircraft or an aircraft engineer on lease to Foreign government or a Foreign Enterprise under an agreement entered before 1-4-97 and between 1-4-99 to 31-3-2006 and approved by the Central government.

Tax Treatment : The actual amount shall be fully exempted.

30. Scholarships [Section 10(16)]

Meaning : It means any amount received on account of scholarships granted to meet the cost of education.

Tax Treatment : The actual amount shall be fully exempted.

31. Daily Allowance of Legislators or Members of Parliament and State Legislature [Section 10 (17)]

Meaning : It includes the daily allowance received by a Member of Parliament or of any State legislature of any committee.

Tax Treatment : The amount of allowance shall be exempted up to following :

- (a) Any allowance received by a Member of Parliament is fully exempted.

32. Awards [Section 10 (17A)]

Meaning : It includes any award instituted in the public interest by the Central Government or State Government or by any other body and approved by Central government.

Tax Treatment : The actual amount of any award paid in the public interest shall be fully exempted, whether in cash or in kind.

33. Pension received by winners of Gallantry Award [Sec. 10(18)]

Meaning : It means Pension received by winners of Gallantry Award (eg. Param Vir

Chakra or Maha Vir Chakra or Vir Chakra) who was the employee of the Central or State government..

Tax Treatment : The actual amount shall be fully exempted from tax.

34. Family pension of war widow [section 10 (19)]

Meaning : This includes, family pension received by the widow or children or nominated heirs, as the case may be, of a member of armed forces (including Paramilitary Forces) of the union.

Tax Treatment : The actual amount shall be fully exempted.

35. Income from one palace of a former ruler [Section 10(19A)]

Meaning : It includes annual value of one palace or a portion of a palace in the occupation of a former ruler.

Tax Treatment : This amount shall be exempted but in case such palace or a portion of a palace is let-out, its income shall not be exempted, as decided in case of Maharaval Lakshman Singh V. CIT [1986] 160 ITR (103).

36. Income of a Local Authority [Sec. 10(20)]

Meaning : It means the income of a local authority which is chargeable to tax under the head 'Income from houses property'; 'Capital gains' or 'Income from other sources' or from a trade or business carried on by it, which accrues or arises from, by supply of a Commodity or Service within its own jurisdiction area or for the supply of water and electricity within or outside its own jurisdiction area.

Tax Treatment : This income shall be exempted from tax.

37. Income of Approved Scientific Research Association [Section 10(21)]

Meaning : It includes any income of an approved scientific research association.

Tax Treatment : Such income and if the same income is applied solely for the purposes of that association, i.e. for carrying scientific research is exempt from tax.

38. Income of a News Agency [Section 10(22B)]

Meaning : It means any income of a news agency set up solely in India for collection and distribution of news and which is so notified in this behalf.

Tax Treatment : Income of such agency shall be fully exempted if such income or accumulated income is used for collection and distribution of news only.

39. Income of association encouraging certain professions [Sec. 10(23A)]

Meaning : It means any income of an association or institution established in India with the object to control, supervise, regulate or encourage the profession of law, medicine, accountancy, engineering or architecture or such other profession as the central government may specify in this behalf by notification in official Gazette.

Tax Treatment : Income of such associations shall be exempted.

40. Income of Regimental Fund or Non-Public Fund [Sec. 10 (23AA)]

Meaning : It includes income derived by way of Regimental Fund or Non-Public Fund established by the armed forces of the Union for the welfare of their past and present members and their dependents.

Tax Treatment : Such income of regiment fund shall be exempted.

41. Income of Fund set up for the welfare of employee or their dependents [Sec. 10(23AAA)]

Meaning : It includes income of the fund set up for the welfare of employee or their dependents by the employer.

Tax Treatment : Any income which is approved by commissioner of Income-Tax shall be fully exempted.

42. Income of a pension fund set up by LIC or other Insurer [Sec. 10(23AAB)]

Meaning : It means any income of a fund set up by LIC of India on or after 1-8-1996 under pension scheme or by an insurer.

Tax Treatment : Any income of such fund shall be fully exempted.

43. Income of Institutions established for development of Khadi and Village Industries [Section 10(23B)]

Meaning : It includes the income of public charitable trusts and societies registered under the society's registration Act, 1860.

Tax Treatment : From the assessment year 1975-76, such income is entitled to

claim exemption.

44. Income from Khadi or Village Industries Board [Sec. 10(23BB)]

Meaning : It includes the income of an establishment in a State by or under a State of Provincial Act for the development of Khadi or Village industries.

Tax Treatment : Income of such establishments shall be exempted from tax.

45. Income of Statutory bodies for the administration of Public Charitable Trust [Sec. 10 (23 BBA)]

Meaning : It includes the income of statutory bodies established or constituted under law of administration of public religious or charitable trust including temples, Maths, Gurudwaras, Wakfs etc.

Tax Treatment : Income of such statutory bodies shall be exempted from tax.

46. Income of European Economic Community [Sec. 10 (23 BBB)]

Meaning : It includes the income of European Economic Community derived in India by way of interest, dividends or capital gains from investments made out of its funds under an approved scheme.

Tax Treatment : Income of such community shall be exempted from tax.

47. Income of a SAARC Fund for Regional Projects [Section 10(23BBC)]

Meaning : It includes the income of a fund setup as SAARC Fund for Regional Projects setup by Colombo Declaration issued on 21 December 1991 by Heads of State or Government of the member countries of South Asian Association for Regional Cooperation.

Tax Treatment : Income of such SAARC Fund shall be exempted from tax.

48. Any Income of Insurance Regulatory and Development Authority [Section 10 (23BBE)]

Meaning : It includes the income of Insurance Regulatory and Development Authority established under IRDA Act, 1999.

Tax Treatment : Income of such authority shall be fully exempted.

**49. Any Income of Central Electricity Regulatory Commission:
[Section (23 BBG)]**

Meaning : It includes the income of the Central Electricity Regulatory Commission, formed and registered under the Electricity Regulatory Commission.

Tax Treatment : Income such commission shall be exempted.

50. Income of Prasar Bharati [Section 10 (23BBH)]

Meaning : It includes the income of Prasar Bharati (Broadcasting Corporation of India) w.e.f. assessment year 2013-14.

Tax Treatment : Any income of such Corporation shall be exempted.

**51. Income of Certain National Funds, Educational Institutions and Hospitals
[Sec. 10 (23 C)]**

Meaning : It includes following funds under this section :

- (i) The Prime Minister's National Relief Fund
- (ii) The Prime Minister's Fund (Promotion of Folk Art)
- (iii) The Prime Minister's Aid to Student Fund
- (iv) The National Foundation of Communal Harmony
- (v) Any trust or charitable fund or institution set-up, wholly for religious purpose or purpose for which may be notified by the Central Government.

Tax Treatment : Any income of such funds is totally exempted.

52. Income of a Mutual Fund (Sec. 10 (23D))

Meaning : It includes income of a notified mutual fund set up by a public sector bank or public financial institution or authorized by RBI, subject to such conditions as the Central Government specify in this behalf. SBI Mutual Fund, LIC of India Mutual Fund, Canara Bank Mutual Fund, BCI Mutual Fund, GIC Mutual Fund, India Bank Mutual etc. have been specified under the scheme.

Tax Treatment : Income of these mutual funds is exempted.

53. Income of Securitization Trusts (Sec. 10 (23DA))

Meaning : It means income of a trust which is as defined a “special purpose distinct entity” in regulation 2(1)(u) of the SEBI Regulation, 2008, under the SEBI and Securities Contract (Regulation) act.

Tax Treatment : In case such, any income from such fund shall be fully exempted.

54. Income of Investor Protection Fund [Section (10)23EA]

Meaning : It includes income of Investor of Protection Fund set-up by Recognised stocks exchanges in India.

Tax Treatment : Any income from such fund is exempted.

55. Income of Registered Trade Unions [Sec. 10 (24)]

Meaning : It includes the registered trade union formed primarily for the purpose of regulating the relations between workmen and employer, or between workmen and workmen.

Tax Treatment : The following incomes of registered trade unions are exempted from tax:

- (i) Income from house property;
- (ii) Income from other sources.

56. Income of Provident and Superannuation Funds (Sec. 10 (25))

Meaning : It includes the income received under the provident and superannuation funds. The Provident Fund is a scheme of retirement benefits in which a stipulated sum is deducted from the salary of the employee as his contribution and in some funds employer also contributes. Further, the superannuation fund is approved by the Commissioner of Income Tax.

Tax Treatment : The following incomes of these funds are exempted:

- (i) Interest on securities which are held or are the property of any provident fund to which Provident Funds Act, 1925 applies and any capital gains of the fund arising from the sale, exchange or transfer of such securities;
- (ii) any income received by the trustee on behalf of a recognised provident fund; and
- (iii) any income received by the trustees on behalf of an approved superannuation fund.

57. Income of Provident and Superannuation Funds [Sec. 10 (25)]

Meaning : It means any income generated from Employees' State Insurance Fund by the Employees State Insurance Corporation set up under the provisions of the Employees' State Insurance Act, 1948.

Tax Treatment : Any income from such fund is exempted.

58. Income of Member of Scheduled Tribe [Sec. 10 (26)]

Meaning : It includes income of a member of scheduled tribe, residing in a tribal area or in the State of Nagaland or in the Union Territories of Manipur and Tripura.

Tax Treatment : Following incomes are exempted provided the income is derived:

- (i) from any source in tribal area, State or Union Territories mentioned above; or
- (ii) by way of dividend or interest on securities.

59. Income of an Agricultural produce Marketing Committee [Sec. 10 (26AAB)]

Meaning : It means any income of an agricultural produce marketing committee/board constituted under any law for the purpose of regulating the marketing of agricultural produce.

Tax Treatment : Any income from such fund is exempted.

60. Income of Body for Promoting interest of SC/ ST [Sec. 10 (26B)]

Meaning : It includes income of a corporation established by a Central, State or Provincial Act or of any other body, institution or association (wholly financed by the government), formed for promoting the interests of the members of the Scheduled Castes/Tribes/Backward Classes.

Tax Treatment : Any income from such fund is exempted.

61. Income of National Minorities Development and Finance Corporation [Sec. 10 (26BB)]

Meaning : It means corporation established by the Central or Government or any

State Government for promoting the interest of the members of such minority communities as per notification no. SO613(E) Christians, Sikhs, Buddhists and Parsis.

Tax Treatment : The actual amount shall be fully exempted.

62. Income of Ex-serviceman Corporations [Sec. 10 (26BBB)]

Meaning : It means income of a statutory corporation (i.e. a corporation established by a Central, State or Provincial Act) for the welfare and economic uplift of ex-serviceman.

Tax Treatment : The actual amount shall be fully exempted.

63. Income of Cooperative Societies looking after the interest of Scheduled Castes or Scheduled Tribes or Both [Sec. 10 (27)]

Meaning : It includes income of the members of such cooperative societies formed for looking after the interest of SCs or STs and the finances of the society are provided by Government and such other securities.

Tax Treatment : Income of Societies shall be fully exempted.

64. Exemption of Commodity Boards [Sec. 10 (29A)]

Meaning : It includes income accruing or arising to Coffee, Rubber, Tea, Tobacco Boards, Marine Products Export Development authority, Agricultural and Processed Food Products Export Development Authority, Spices Board and Coir Board.

Tax Treatment : The actual amount shall be fully exempted.

65. Amount received as subsidy from or through the Tea Board (Sec. 10 (30))

Meaning : It includes assessee carrying on the business of growing and manufacturing tea in India. For getting this exemption, the assessee is required to furnish to Assessing Officer, alongwith his return of income a certificate from the Tea Board showing the amount of subsidy received by him during the previous year.

Tax Treatment : The subsidy by such assessee from or through the Tea Board under any such scheme of replantation or replacement of tea bushes or for rejuvenation or reconsolidation of areas used for tea cultivation as the Central Government may notify in the official Gazette is exempted.

66. Amount received as subsidy from or through the concerned Board [Section 10(31)]

Meaning : It includes amount received as subsidy, from or through the concerned Board for replantation of Rubber, Coffee, Cardamom Plants or plants for growing of such other commodities or for any other scheme so notified.

Tax Treatment : Any amount received as subsidy shall be fully exempted.

67. Income of Minor Child from his manual work or profession [Sec. 10 (32)]

Meaning : It includes income earned by a minor child of the assessee.

Tax Treatment : Such income shall be exempted upto Rs. 1500 / - in case of each minor child whose income is to be clubbed with the income of his parents.

68. Income from Transfer of Capital Assets of UTI [Sec. 10(33)]

Meaning : It includes income arising from the transfer of a capital asset, being a unit of the unit scheme, 1964, referred to in schedule I of the UTI Act, 2002 and transfer takes place on or after 1-4-2002.

Tax Treatment : The actual amount shall be fully exempted.

69. Dividend from an Indian Company [Section 10 (34)]

Meaning : It includes dividend distributed, paid or declared by Indian company to its shareholders.

Tax Treatment : Earlier the actual amount was fully exempted from 1-4-2003, but now upto Rs.10 lack is exempted.

70. Long term capital gains on transfer of listed Equity Shares [Section 10(36)]

Meaning : It means long-term capital gains arising on transfer of equity shares and covered by securities transaction tax.

Tax Treatment : The actual amount is fully exempted.

71. Capital Gain on Compulsory Acquisition of Urban Agricultural Land [Section 10(37)]

Meaning : It means long-term capital gains, arising on transfer by way of compulsory acquisition of urban agriculture land which was used by the assessee (or by any of

his parents) for agricultural purposes during 2 years immediately prior to transfer.

Tax Treatment : For individual or HUF the amount of capital gain is not chargeable to tax from the Assessment Year 2005-06, if this compensation is received after March 31, 2004.

72. Long term Capital Gain on transfer of shares and securities covered under Security Transaction Tax (STT) [Section 10(38)]

Meaning : It means income arising from the transfer of a long-term capital asset, being securities (i.e. shares of a company or units of an equity oriented fund) and transaction of such sale is entered in a recognised stock exchange in India on or after 01.10.2004. Section 112A is applicable from A.Y. 2019-20. As per these provisions, if long term capital gain does not exceed Rs. 1 Lakh then it is not chargeable to tax, hence exempted. In case capital gain is more than one Lakh then it is taxable at the rate 10% plus surcharge plus 4% cess.

Tax Treatment : The actual amount if less than one lakh shall be fully exempted for the A.Y. 2018-19.

73. Reverse Mortgage [Section 10(43)]

Meaning : It includes any amount received by an individual as a loan, either in lump sum or in installment in a transaction of reverse mortgage referred in clause (xvi) of Section-47.

Tax Treatment : The actual amount shall be exempted.

74. Income of New Pension System Trust [Section 10(44)]

Meaning : It includes income received by any person for the new pension system trust or on behalf of the new pension system trust, establish on February 27, 2008.

Tax Treatment : The whole such amount is exempted from tax w.e.f. assessment year 2009-10.

75. Perquisites/Allowances to Chairman/ Members of UPSC [Section 10(45)]

Meaning : It includes any income received by an investor from a securitization trust.

Tax Treatment : The whole amount is exempted in respect of distributed income referred to in sec. 115TA. This exemption is available from the assessment year 2014-15.

CHECK YOUR PROGRESS-II

- Q.1. Explain the meaning of exempted incomes.
- Q.2. What is agriculture income u/s 10 (1)? State its tax treatment.

1.5 LET US SUM UP

The Central Government has been empowered by Entry 82 of the Union List of Schedule VII of the Constitution of India to levy tax on all income other than agricultural income. The income tax law comprises the Income Tax Act 1961, Income Tax Rules 1962, Notifications and Circulars issued by CBDT, Annual Finance Act and Judicial Pronouncements by Supreme Court and High Courts. The Government of India charges tax on taxable income of all the persons including individuals, HUF, Firms, AOPs, BOIs, Companies, local authorities or any artificial judicial person at the different tax rates as fixed by annual Finance Act.

1.6 KEY WORDS

1. IT : Income Tax
2. HUF : Hindu Undivided Family
3. CBDT : Central Board of Direct Taxes
4. AY : Assessment Year
5. PY : Previous Year
6. FY : Financial Year
7. AOPs : Association of Persons
8. BOIs : Body of Individuals

1.7 ANSWERS TO SELF CHECK QUESTIONS

Check Your Progress-I

Ans. 1. The term person includes i) Individual, ii) HUF iii) Company, iv) Firm, v) Association of Persons (AOPs) or a body of Individuals vi) a Local Authority, and vii) every artificial juridical person.

Ans. 2. Assessment year is a period of one year normally in which income is assessed.

Ans. 3. Previous year is a period of one year normally in which income is earned.

Check Your Progress-II

Ans. 1. Exempted incomes are those items which are covered under the definition of income but specifically declared as tax free income, therefore such incomes are not liable to pay tax.

Ans. 2. Agriculture income covers income earned from agriculture produce, by applying basic as well as subsequent operations on land may be received in cash or in kind. The constitution gives exclusive power to the State legislature w.r.t to make law about agricultural taxes, hence exempted as per Income tax act,1961.

1.8 TERMINAL QUESTIONS

Q.1 Explain the following terms :

- (i) Financial year
- (ii) Assessee
- (iii) Income

Q.2 "Income earned in a previous year is normally charged to tax in the next financial year following the previous year". What are the exceptions to this rule?

Q.3 What will be the previous year in relation to assessment year 2021-22 in the following cases :

- (i) A business keeping its accounts on financial year basis.
- (ii) A newly started business commencing its operations on 1-1-2021.
- (iii) A person giving Rs. 1,00,000 as a loan @12% p.a. interest (on monthly basis) on 1-9-2020.

Q.4. Give ten examples of incomes which are totally exempt from income-tax.

Q.5. Write a paragraph of about 100 words on House Rent Allowance.

1.9 REFERENCES AND SUGGESTED READINGS

1. <https://www.incometaxindia.gov.in>
2. <https://taxguru.in>
3. Direct Taxes- Law and Practice, Dr. Vinod K. Singhania & Dr. Kapil Singhania, edition, 2021.
4. The Income tax Law....A simple Guide to theory, Dr. Shailinder Sekhon, edition 2021.

RESIDENTIAL STATUS AND INCIDENCE OF TAX

STRUCTURE

2.0 Objectives

2.1 Introduction

2.2 Residential Status of an Individual

2.2.1 Basic Conditions

2.2.2 Additional Conditions

2.2.3 Resident and Ordinary Resident

2.2.4 Resident but not Ordinary Resident

2.2.5 Non Resident

2.3 Residential Status of HUF, Firm and Association of Persons

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2.4 Relation between Residential Status and Incidence of Tax

2.4.1 Indian Income

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2.5 Incidence of tax

2.6 Income Received, Accrue/Arise, and Deemed to be Received and Accrued/Arisen

2.6.1 Income received in India

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2.6.3 Income which accrues or arises in India

2.6.4 Income deemed to be accrued or arisen in India

2.6.5 Examples of Income not deemed to be accrued or arisen in India

2.7 Capital and Revenue Items

2.7.1 Capital Receipts and Revenue Receipts

2.7.2 Capital Expenses and Revenue Expenses

Check Your Progress

2.8 Let us Sum up

2.9 Key terms

2.10 Answers to Self Check Questions

2.11 Terminal Questions

2.12 References and suggested readings

2.0 OBJECTIVES

After going through this lesson you should be able to:

1. Understand the concept of residential status of a person.
2. Explain the basic conditions required to be fulfilled for residential status of an individual.
3. Explain the additional conditions required to be fulfilled for residential status of an individual.
4. Explain conditions required to be fulfilled for residential status of Firm and AOPs.
5. Define and differentiate between foreign income and Indian income.
6. Measure the incidence of tax upon each resident or non-resident person.
7. Compare the capital and revenue items of income.

2.1 INTRODUCTION

Residential status of an assessee has nothing to do with nationality or domicile of a person, it depends upon the territorial connections of the person with his country, which means for how many days he has physically stayed in India. Section 6 of the act divides the residential status of assessable person into under mentioned three categories:

- Resident and Ordinarily Resident (OR)
- Resident but Not Ordinarily Resident (NOR)
- Non-Resident (NR)

The residential status of different types of persons is determined differently. Since, the residential status of the person can be changed in the next financial year, therefore residential status of an assessee is to be determined each year with the reference to the “previous year”. For example, the residential status of an Individual may be

- 1) Resident, Resident and Ordinary resident (OR),
- 2) Resident but not Ordinary resident (NOR), and
- 3) Non-resident.

Likewise the residential status of the Firm, association of Persons (AOPs) and Company can be Resident and Non-resident (NR) only. Therefore tax is levied on total income of an assessee, based upon his residential status in India and nature of income earned by the person in previous year. The first section of the lesson describes rules about the residential status of the individual and firm assessee; and second section gives detail about the nature of income and burden of tax upon each category of assessee.

2.2 RESIDENTIAL STATUS OF AN INDIVIDUAL

An individual may be (a) resident (ordinary resident), (b) resident but not ordinarily resident and (c) non-resident. The residential status depends upon the stay of a person in India, and this stay has been defined depending upon the fulfillment of basic and additional conditions. Detail of these conditions is mentioned below:

2.2.1 Basic Conditions Sec 6. (1) :

- (a) He is in India in the previous year for a period of 182 days or more;
- or**
- (b) He is in India for a period of 60 days or more during the previous year; and 365 days or more during the four years, preceding the previous year.

Exceptions to the above rules of 60 days stay in India

- (i) An individual who is a citizen of India and leaves India in any previous year for the purpose of employment or as a member of the crew of an Indian ship must have stayed in India for atleast 182 days during the previous year instead of 60 days.
- (ii) If any citizen of India or a foreign national of Indian origin, who is living outside India, comes on a visit of India in the previous year, he must have stayed in India for atleast 182 days or 120 days during the previous year instead of 60 days.

2.2.2 Additional Condition Sec. 6 (6)

- (a) He has been resident in India for at least 2 out of 10 previous years immediately preceding the relevant previous year.
- and**
- (b) He has been in India for 730 days or more during seven previous years immediately preceding the relevant Previous year.

2.2.3 Resident and Ordinary Resident

The practical effect of this provision is upon those persons who are Indian citizens or persons of Indian origin living outside India, when they come to visit India only basic condition (a) of 6 (1) is to be applied. Thus, an individual is said to be resident in India in any previous year **if he satisfies any one of the basic conditions and two additional conditions as mentioned above.**

2.2.4 Resident but Not Ordinary Resident

An individual shall be resident but not ordinarily resident **if he satisfies one of the basic conditions and none or one of both the additional conditions as mentioned earlier.**

Note - 1: The finance Act, 2020, has amended the explanation 1 (b) to sub-section 1 of section 6 to include the person who is a citizen to India/person to Indian origin, being outside India, comes on a visit to India shall be considered as RNOR (Resident but not ordinary Resident) who fulfils all the following conditions:

1. Total income should be more than 15 lacs (except foreign income); and
2. Person should stay in India for a period of 120 days or more but less than 182 days in the previous year; and
3. Person should stay in India for a period of 365 days or more in 4 years preceding the previous year.

Prior to this amendment in Finance Act, 2020, such person was qualified as Non-Resident (NR) not as Resident but not ordinary resident (RNOR).

2.2.5 Non-Resident

An individual is non-resident in India, **if he satisfies none of the basic conditions.** In the case on non-resident the additional conditions (as mentioned earlier) are not relevant.

2.3 RESIDENTIAL STATUS OF HUF, FIRM AND ASSOCIATION OF PERSONS **SEC 6 (2)**

In case of a firm, association of persons, and company only two types of residential status are possible that are, resident or non-resident. Unlike, a HUF can be resident and ordinary resident, or resident but not ordinarily resident also. The following sections explain the residential status of a firm in detail:

2.3.1 Residential status of a firm and AOPs

All the three types of assessee (Firm and A.O.P.) are said to be Resident in India if the Control and Management of its affairs is situated wholly or partially in India in the relevant previous year. But if the control and management of affairs is situated wholly outside India then they are Non-resident in India.

Control and management of affairs : Control and management means de-facto control and management and not merely the right to control and manage. The place of control and management is where the head sits where the directing powers are situated and where the meetings of its Board of Directors are held.

2.3.2 Residential Status of all other Persons Sec. 6 (4)

Every other person (i.e. body of individuals, a local authority and an artificial juridical person) either 'Resident' or 'Non-Resident', and like Firm, AOPs and company they can never be ordinary or not ordinarily Resident. They are called Resident unless the control and management of its affairs is wholly situated outside India.

2.4 RELATION BETWEEN RESIDENTIAL STATUS AND INCIDENCE OF TAX (SEC. 5)

Under this act, incidence of tax on a tax payer depends on his residential and also on the place and time of accrual or receipt of income. Further to calculate the tax an understanding of the nature of income in relation to its place of earning, receipt and accrual is essential. In this case, income can be divided into two categories:

- Indian Income
- Foreign Income

2.4.1 Indian Income

Any of the following is an Indian income :-

- I. If income is received (or deemed to be received) in India during the previous year and at the same time it accrues (or arises or is deemed to accrue or arise) in India during the previous year.

- II. If income is received (or deemed to be received) in India during the previous year but it accrues (or arises) outside India during the previous year.
- III. If income is received outside India during the previous year but it accrues (or arises or is deemed to accrue or arise) in India during the previous year.

2.4.2 Foreign Income

If the following conditions are satisfied, such income is foreign income :

- I. Income is not received (or not deemed to be received) in India.
- II. Income doesn't accrue or arise (or doesn't deemed to accrue or arise) in India.

2.5 INCIDENCE OF TAX

The tax is levied on (1) total income of a person which is based upon the residential status of an assessee; and (2) a scope of total income which varies according to the status of the person (as per section 5). The above provisions of Section 5 can be explained in following manner :

(i) Scope of total income of 'Resident', Section 5 (1)

- (a) Income received or deemed to be received in India during the relevant accounting year. The place and date of accrual is immaterial.
- (b) Income which accrues or arises or is deemed to accrue or arise in India during the relevant accounting year irrespective of the date and place to its receipt.
- (c) Income accruing during the relevant accounting year outside India from any source whether it is brought or not in India during the year.

(ii) Scope of total income of 'Non ordinarily Resident' (Section 5 (1))

- (a) Income received or deemed to be received in India during the relevant accounting year. The date and place of accrual is immaterial.
- (b) Income which accrues or arises or is deemed to accrue or arise in India during the relevant accounting year irrespective of the date and place of its receipt.
- (c) Income accruing or deemed to be received outside India during the relevant accounting year from a business or profession set up in, and controlled from India.

(iii) Scope of total income of Non-Resident (Section 5 (2))

- (a) Income received or deemed to be received in India during the relevant accounting year. The date and place of accrual is immaterial.
- (b) Income which accrues or arises or is deemed to accrue or arise in India during the relevant accounting year irrespective of the date and place of its receipt.

These provisions are explained in detail in the next part of lesson.

2.6 INCOME RECEIVED, ACCRUE/ARISE, AND DEEMED TO BE RECEIVED AND ACCRUED/ARISEN

2.6.1 Income received in India

The term 'received' means the receipt of income on the first occasion. The place of its receipt shall be the place where it is received for the first time and not the place of its receipt on subsequent remittance. For example, any income received for the first time in India.

2.6.2 Income deemed to be received in India

The incomes which are not actually received by a person but law consider them as receipts of incomes are called incomes deemed to be received in India. The term 'statutory receipt' can be easily used to cover this term. For Examples :

- (i) Tax deducted at source is income deemed to be received by a person even though he never receives such incomes (u/s 198).
- (ii) Section 7 considers the following incomes as deemed to be received by an assessee.
 - (a) Annual accretion to a recognised provident fund account of an employee during the relevant previous year.
 - (b) Transferred balance of unrecognised provident fund to recognised provident fund.
 - (c) The contribution made, by the Central government or any other employer in the P.Y., to the account of an employee under a Pension Scheme referred u/s 80CCD.
- (iii) Transfer of income without transfer of assets deemed to be the income of employee u/s 60 and 61.
- (iv) The dividend is deemed to be received in the year in which it is declared u/s 8.

2.6.3 Income which accrues or arises in India

Income can be held to accrue or arise to an assessee only when the assessee obtains a right to receive that income. No amount can be said to accrue unless it is actually due. Income accrues or arises at a place where the origin or source of growth of income is satisfied. As regards salaries, following incomes considered as income accrues or arises in India if it is earned in India :

- (i) Income accrues or arises to a person, who is entitled to demand and receive the income.
- (ii) Income accrues or arises at the time or date when it ripens into a debt, at the moment when assessee acquires a right to receive it.
- (iii) In the case of salaried employees. If the person renders services in India, income earned in India obviously arises in India.
- (iv) In case of dealer of goods, if the purchases and sales of goods take place in India, the profits out of such sales arise in India.

2.6.4 Income deemed to accrue or arise in India

Under section 9 (1) of the Indian Income Tax Act, the following incomes are deemed to accrue or arise in India :

Examples of Income deemed to accrue or arise in India

- Income arising from business connection in India
- Income from any property held in India and assets or sources of income located in India
- Income from transfer of capital assets situated in India
- Apportionments of Profits
- Purchase of goods in India for export
- Salaries earned in India
- Dividend paid abroad by the Indian Company
- Income by way of interest, royalty, and fees for technical services if payable by Indian government

(i) Income arising from business connection in India [Section 9(1)(i)]

Business connection involves a relation between a business carried on by a Non Resident which yields profits and gains; and some activity in India which contributes directly or indirectly to the earning of those profits and gains.

(ii) Income from any property held in India and assets or sources of income located in India [Section 9(1)(i)]

In case company carries on business in India and pays dividend out of profit made in India and taxed in India, the dividend arises directly from a source of income in India and as such dividend income of a non-resident may be deemed to accrue or arise in India.

(iii) Income from transfer of capital assets situated in India [Section 9(1)(i)]

Any gain arising from a capital asset whether movable or immovable shall be deemed to accrue in India in case of capital asset is situated in India at the time of transfer. It is immaterial that agreement is entered outside India or consideration is paid outside India.

(iv) Apportionments of Profits [Section 9(1)(i)]

In case of a business of which all the operations are not carried in India, only that part of income shall be deemed to accrue or arise in India which is reasonably attributable to the operations carried on in India.

(v) Purchase of goods in India for export [Section 9(1)(i)]

In case of non-residents, no income shall be deemed to accrue or arise in India to him through or from operations which are confined to the purchase of goods in India for the purpose of export. No income is deemed to accrue in India to non-resident through or from operations confined to the purchase of goods in India for export even if the purchases are made through a regular agency established in India for that purpose.

(vi) Salaries earned in India [Section 9(1)(ii)]

The incomes chargeable to tax as salaries shall be deemed to accrue or arise in India, if they are earned in India, i.e. if the services are rendered in India. The place of receipt and accrual of the salary is immaterial.

(vii) Salaries for Government service outside India [Section 9(1)(iii)]

In the case of a citizen of India who is employed by the Government, income chargeable under the head 'salaries' which is payable outside India for the services rendered outside India is deemed to accrue or arise in India and hence is taxable but allowances and perquisites paid or allowed by government outside India are exempted under Section 10 (7).

(viii) Dividend paid abroad by the Indian Company [Section 9(1)(iv)]

Any dividend paid by an Indian company outside India is deemed to accrue or arise in India. A dividend declared abroad and payable abroad would not accrue in India even though the company may be Indian Company, but such a dividend declared by an Indian Company but payable outside India would be deemed to accrue or arise in India.

(ix) Income by way of interest [Section 9(1)(v)]

Any interest payable by an Indian Government is deemed to accrue or arise in India, if it is payable by the Indian Government.

(x) Income by way of royalty [Section 9(1)(vi)]

Any income from royalty shall be deemed to accrue or arise in India, if it is payable by the Indian Government.

Royalty when payable by a person whether Resident or Non-Resident then it will be deemed to accrue or arise in India if it is payable on any right, property or information used for business or profession in India and do not deem to arise or accrue in India if the right, property or information is used for business or profession carried outside India.

(xi) Income by way of fees for technical services [Section 9(1)(vii)]

Fees for technical services shall be deemed to accrue or arise in India, if it is payable by Indian government. If such fee is payable by any person Resident or Non-Resident in respect of services used for business or profession carried on in India then it will be deemed to accrue or arise in India. But if the services are used for business or profession carried outside India then it is not deemed to accrue or arise in India.

2.6.4 Examples of Income not Deemed to Accrue or Arise in India

The following incomes are not deemed to accrue or arise in India :

- (1) In case of non-resident any income from the business operations in India which are confined to purchase of goods in India for export purpose.
- (2) In case of non-resident running a news agency or publishing newspapers, magazines or journals any income derived from activities confined to collection of news in India for transmission outside India.
- (3) In case of non-resident :
 - (a) individual, who is not a citizen of India
 - (b) firm, whose no partner is a citizen of India or resident in India any income; and.

- (c) company, whose no shareholder is a citizen or resident of India any income derived from the operations which are confined to the shooting of any cinematograph film in India.
- (4) Pension to the judges of Federal Court of High Court who were appointed before 15.08.1947 and who continued to serve on or after the commencement of the constitution as a judge in India, shall not be deemed to accrue or arise in India, if :
 - (i) it is paid or payable outside India; and
 - (ii) such person resides permanently outside India.

The discussion in the lesson elaborated that, the incidence of tax depends not only on his residential status but also on the place and time of accrual or receipt of income.

Thus, it can be concluded that

- (1) Indian income is always taxable in India irrespective of the residential status of the tax payer.
- (2) Foreign income is taxable in the hands of resident (in case of firm, AOP and company) or resident and ordinary resident in India (in case of individual or HUF).
- (3) Foreign income is not taxable in the hands of non-resident person in India.

2.7 CAPITAL AND REVENUE ITEMS

According to the general rule of Income Tax Law, all the revenue receipts are taxable unless specifically identified as exempted receipts. (i.e., receipts defined as exempted incomes u/s 10). Capital receipts are not taxable unless specifically defined as taxable receipts i.e. capital gains taxable u/s 45. So, before computing Income tax on net income of the assessee it is necessary to distinguish it as revenue or capital receipt. But first, it is very important to understand distinction between capital and revenue items.

If any item of business does not create any asset of business it is called revenue item. For example, an assessee pays rent and if this payment cannot create any fixed asset, this is a revenue item and it is debited in profit and loss account.

In contrast to this, if any payment in business creates an asset of business then this item is called capital item. For example, an assessee pays for a building, this payment creates an asset of the business; so this is a capital item, and assets are shown in balance sheet, not in profit and loss account of the business. Hence, a major difference in these two terms is that revenue items provide benefit in current year only but capital items provide benefits for more than one year. Thus the revenue and capital items are explained as :

- 1) revenue and capital receipts
- 2) revenue and capital expenses

2.7.1 Capital and Revenue Receipts

The word ‘capital’ means ‘accumulated wealth employed productively’, and the word ‘revenue’ means, the return, yield, profit of any land, properties or other important source of

income; that which comes to one as a return from property or profession; income from any other source. Thus, it can be said that capital is a fund and revenue is a flow of income from such funds. For example, a lump sum royalty received in advance is a revenue receipt, but if an author gives up his right to publish a book and against this receives Rs. 1,00,000 as compensation, then it is a capital receipt.

Capital Receipts :

The following are some important examples of capital receipts :

1. Salami or Nazrana received for grant of permanent lease.
2. Compensation received for loss of right to future remuneration.
3. Compensation received from the employer for loss of employment due to premature termination of services.
4. Price received on sale of know-how.
5. Damages received by an employee who is wrongly dismissed or a payment received by an employee in lieu of notice.
6. Amount received by the assessee for digging and removing earth from his land for brick-making.
7. Contribution received by electric supply company from consumers for installation of service lines. (excess of amount over cost of installation).
8. Amount received under general insurance policy if policy related to capital asset.
9. Income from mines or quarries.

Revenue Receipts :

The following are some important examples of revenue receipts :

1. Lump sum royalty received in advance.
2. A "Pugree" received by the owner of the house-property from tenant.
3. Damages awarded by a court to a company for breach of contract by another company.
4. A passenger is injured in railway accident and its temporarily disabled thus losing income for a short-period. Any receipt as compensation shall be a revenue receipt. But if the passenger is permanently disabled, the compensation received, would have been a capital receipt.
5. Amount received under general insurance policy if policy related to circulated asset.

2.7.2 Capital Expenses and Revenue Expenses

Both types of expenditures, revenue and capital, are useful for maintaining profit in business. To find out the taxable income of the persons only revenue expenditures are allowed to deduct not capital expenditures, so it is important/crucial to understand the difference between the two.

1) Capital Expenses: The capital expenses are incurred to improve the position of the business, and do not affect the revenue of the business. Generally such expenses have physical existence except for some intangible assets like goodwill, trademarks etc. which are non-recurring or irregular in nature. The effect of such expenses is long-term, i.e. they are not exhausted within the current accounting year, so their benefit is received for a number of years in future. Capital expenses are shown on the asset side of the balance sheet. These expenses are relevant to compute the income tax applicable on capital receipts or capital gains of the assessee. For example, building purchased, machinery purchased, installation charges paid to install the machinery, cost of acquiring goodwill, discount allowed on issue of shares etc.

The following are some important examples of capital expenditure:

- (a) Cost of acquisition and installation of a fixed asset is a capital expenditure.
- (b) Expenses incurred for securing a business or getting a service is capital expenditure.
- (c) Expenditure in obtaining asset by issuing shares is a capital expenditure.
- (d) Expenditure incurred on the maintenance of business reputation.

2) Revenue Expenses : Revenue expenses are related with general operations of business and are debited to profit and loss account, and are also known as operating expenses in accounting terms. The effect of such expenses is temporary, i.e. the benefit is received within the one accounting year. Revenue expenses have no physical existence, and recurring regular in nature, so it occurs repeatedly. For example, wages/salaries paid to office staff, rent of building, repair of machinery, carriage paid, refreshment given to employees Telephone bills, discount on sales, payment made for the use of patents, quota rights etc.

The following are some important examples of capital expenditure:

- (a) Payments made for the use of patents, quota, rights etc.
- (b) Compensation or other payment made to get rid of a servant in the interest of the business.
- (c) Payments made for technical assistance and access to the fruits of continuing research.
- (d) Any such expenditure incurred wholly, totally, necessarily for the business.

CHECK YOUR PROGRESS

Q.1. State in brief the purpose of imposing basic conditions with respect to residential status of a Person.

Q.2. State in brief the purpose of imposing additional conditions with respect to residential status of a person.

Q.3. Distinguish between Capital Items and Revenue Items.

Q.4. Distinguish between Capital Expenses and Revenue Expenses.

2.8 LET US SUM UP

According to Section-14, whole income is divided under five heads of income [i.e. salaries, income from House Property, Profits and gains of Business or Profession, Capital gains, Income from other sources] for the purpose of charging income-tax and computation of total income. In addition, total income of an assessee cannot be computed unless one knows his/her residential status in India during the relevant previous year. As per residential status, the assessee can either be Resident or Non-Resident in India. However, only individual and HUF assessee will either be resident and ordinary resident in India or resident but not ordinary resident in India. Further, incidence of tax on a taxpayer depends on his residential status and also on the place and time of accrual or receipt of income.

2.9 KEY TERMS

1. AOPs : Association of persons, a group of persons associated together for a common objective.
2. HUF : Hindu Undivided Family which carries a common family business.
3. ROR : Resident and ordinary resident in India
4. NRI : Non-resident in India
5. Person : Person means an individual, HUF, Firm, AOP, BOI & company.
6. NOR : Not Ordinary Resident
7. NR : Non Resident

2.10 ANSWERS TO SELF CHECK QUESTIONS

Ans.1. The exclusive purpose of imposing basic conditions with respect to residential status of a person is to determine his/her residential or non residential status.

Ans.2. The exclusive purpose of imposing additional conditions with respect to residential status of a person is to determine the particular type of his/her residential status i.e. ordinary resident person or not ordinary person.

Ans.3. 1) If any payment in business creates an asset of business then this item is called capital item. For example, an assessee pays for a building, this payment creates an asset of the business; so this is a capital item, and assets are shown in balance sheet.

2)) If any item of business does not create any asset of business it is called revenue item. For example, an assessee pays rent and if this payment cannot create any fixed asset, this is a revenue item and it is debited in profit and loss account.

Ans.4. 1) Capital expenses are long-term, in nature i.e. they are not exhausted within the current accounting year, so their benefit is received for a number of years in future. Capital assets have physical existence except for some intangible assets like goodwill, trademarks etc. which are non-recurring or irregular in nature.

2) Revenue expenses are temporary, in nature i.e. the benefit is received within the one accounting year. Revenue expenses have no physical existence, and recurring regular in nature, so it occurs repeatedly.

2.11 TERMINAL QUESTIONS

- Q.1. Give in brief the basic conditions and additional conditions with respect to residential status.
- Q.2. What is Foreign Income? Distinguish it from Indian Incomes.
- Q.3. What do you mean by Incidence of Tax?
- Q.4. Write a detailed note on the determining the different residential status of a person.
- Q.5. Following are the income of Mr. Sumirat for the previous year 2020-21.
- (i) Profit from the business in Bangalore – 2,00,000
 - (ii) Income accrued in India but received in Japan – 90,000
 - (iii) Profit from business in Canada but received in India – 70,000
 - (iv) Income from house property in Karachi received in Bombay – 4,00,000
 - (v) Profit from business established in England and deposited there, the business being controlled from India - 2,00,000
 - (vi) Income from house property in American and deposit there - 1,82,000
 - (vii) Post untaxed income brought into India during the previous year - 80,000
- Compute the total income of Mr. Sumirat for the AY 2021-22 if he is
- (a) Resident
 - (b) NOR and
 - (c) Non-Resident
- Q.6. What do you understand by Capital and Revenue Items of income for income tax purposes? Explain these items in detail.

2.12 REFERENCES AND SUGGESTED READINGS

1. <https://www.incometaxindia.gov.in>
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COMPUTATION OF INCOME FROM SALARY HEAD

STRUCTURE

3.0 Objectives

3.1 Introduction

3.2 Tax treatment of different Forms of Salary Income

3.2.1 Wages or Salary

3.2.2 Gratuity

3.2.3 Annuity

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Check your progress-I

3.3 Tax Treatment of Allowances

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3.5 Tax Treatment of Provident Funds

3.5.1 Statutory Provident Fund

3.5.2 Recognised Provident Fund

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3.5.4 Approved Superannuation Fund

3.5.5 Public Provident Fund

3.6 Deductions under the Head Salary

Check your progress-II

3.7 Let us Sum up

3.8 Key Words

3.9 Answers to Check Questions

3.10 Terminal Questions

3.11 References and suggested readings

3.0 OBJECTIVES

After going through this chapter you should be able to :

1. Understand the five heads of income as per Income tax Act, 1961.
2. Explain conditions required to be fulfilled with reference to charging tax on salary.

3. Explain conditions required to be fulfilled for charging tax on Perquisites.
4. Define and differentiate between various types of Provident funds and their tax treatment.
5. Define and measure incidence of tax upon a person in case of various types of allowances received by him/her employers.

3.1 INTRODUCTION

Under Section-14 of the Income Tax Act, all incomes, for the purpose of charging income tax and computation of total income, have been classified under five heads. Income tax is the only tax which is levied on the aggregate of income classified and chargeable under different heads, so, income computed under each head is not separately chargeable to tax. Further, in order to calculate the taxable income under each head, certain deductions have to be made from gross income of that head as well.

Taxable Income under various Heads: There are separate sections in the Income Tax Act for computing the taxable income under each head, which are as explained here:

- (1) Salary (Sections 15-17)
- (2) Income from House Property (Sections 22 to 27)
- (3) Profits and Gains of Business or profession (Section 28-44)
- (4) Capital Gains (Section 45 to 55)
- (5) Income from other Sources (Section 56-59)

Income which falls within one head can't be assigned to or taxed under another head. In this lesson important provisions of computing salary income under sections-15 to 17 of the act have been discussed by explaining the following concepts:

- (a) Salary
- (b) Profits in lieu of salary
- (c) Allowance
- (d) Perquisites, and
- (e) Provident funds

The relationship between payer and payee of salary should be of an employer or employee. And employer may be former, present or prospective. Due to change in employment, individual may receive salary from more than one employer in the same previous year. So salary from each source is taxable as change in employment and serving with more than one employer is irrelevant for charging tax.

3.2 TAX TREATMENT OF DIFFERENT FORMS OF SALARY INCOME

Meaning of Salary : It is important to note that salary is charged to tax either on 'due' basis or on 'receipt' basis, whichever matures earlier. Salary includes :

- (a) wages;
- (b) any gratuity;
- (c) any annuity or pension;

- (d) any fees, commission, perquisite or profits in lieu of or in addition to salary or wages;
- (e) any advance of salary;
- (f) any payment in respect of any period of leave not availed by him;
- (g) the portion of the annual accretion in any previous year to the balance at the credit of an employee participating in recognised Provident Fund to the extent it is taxable;
- (h) transferred balance in a recognised Provident Fund to the extent it is taxable; and
- (i) the contribution made by the Central Government to the employee under a pension scheme referred to in section-80CCD.

Meaning and tax treatment of these items is discussed in the next part of the lesson.

3.2.1 Wages or Salary: Conceptually there is no difference between remuneration received by the employee from his/her employer, irrespective of the fact whether it is received from present, former or prospective employer.

3.2.2 Gratuity: Gratuity means a gratuitous payment made by an employer to the employee at the time of retirement or leaving the job for services rendered by him during his service.

Tax Treatment : For the calculation of exempted amount, the gratuity is divided into following two categories:

- (i) Gratuity received by Government or semi-government employees
 - (ii) Gratuity received under Payment of Gratuity Act 1972
- (i) Death-cum-retirement gratuity received by government or semi-government employees :** Any such amount received by the employees working on Civil or Defense Services of Government of India, or on any part of State Government or local authority covered under revised Pension Rules of the Central government shall be fully exempted u/s 10(10)(i).
- (ii) Gratuity received under Payment of Gratuity Act 1972 :** Any such amount received by the employees covered or not covered under the payment of Gratuity act is calculated as explained here:

a) For Employees covered under Payment of Gratuity Act 1972

Least of the following amount is exempted:

- (i) 15 days salary for every completed year of service (7days for seasonal establishment)
- (ii) Rs. 10,00,000 (Rs. 20,00,000 from Financial Year 2019-20)
- (iii) Gratuity actually received

Note : (1) Calculation of 15 days salary will be last drawn salary.
 (2) For calculating number of completed years period of service of more than 6 months will be taken as one year or six months.
 (3) Salary means Basic pay + D.A.

b) For other employees not covered by Payment of Gratuity Act 1972

Exempted up to least of the following :-

- (i) Actual gratuity received
- (ii) Statutory limit Rs. 10,00,000 (Rs. 20,00,000 from Financial Year 2019-20)
- (iii) $\frac{1}{2}$ months average salary for every completed year of service. Here calculation of $\frac{1}{2}$ months salary will be based on average salary of last 10 months preceding the retirement or death as the case may be.

Salary : Here the word 'Salary' has the same meaning as assigned to it for provident fund purpose, i.e. the Basic Pay plus dearness pay or any portion of D.A. which enters into pay for service benefits, Plus commission received as a fixed percentage of turnover.

3.2.3 Annuity: As per dictionary, "Annuity is a yearly allowance, or income; or the grant of an annual sum for a term of year, for life or in perpetuity". An annuity received by an employee is taxable under section 17 (3) (ii) and under section 56 of the income tax act.

3.2.4 Pension: Pension is a payment made by employer after the retirement/death of the employee as a reward for past service. Generally pension is given to an employee as a periodical payment on monthly basis which is known as non-commuted pension. But if employee wants to receive a portion of the pension in lump sum then such portion of total pension is known as commuted pension.

Tax Treatment : Under the act following treatment is defined to calculate exempted pension:

- (i) **Pension from Government, a Local Authority or a Statutory Corporation :** The full amount of commuted value of pension is exempted if it is received from the government, a local authority or a statutory corporation.
- (ii) **Pension from any other employer:** Any payment in commutation of pension received under any scheme from any other employer is exempted to the extent:
 - (a) in a case where the employee receives any gratuity, the commuted value of $\frac{1}{3}$ rd of pension which he is normally entitled to receive; and
 - (b) in case where the employee does not receive gratuity, the commuted value of $\frac{1}{2}$ of such pension which he is normally entitled to receive.
- (iii) **Uncommuted Pension :** It is a periodical payment, taxable in the hands of both Government as well as non-government employee.
- (iv) **For Tax treatment of NPS (National Pension Scheme) :** See Section No. 3.2.12

3.2.5 Fees and Commission: Fees and Commission paid to an employee by an employer is taxable as salary income even it is paid in addition or in lieu of salary. But if fees or commission is paid to a person other than employee then it is taxable under the head Income from other sources.

3.2.6 Perquisites: Perquisites mean 'any casual emolument fee or profit attached to an office or position in addition to salary or wages. It does not cover a mere reimbursement of expenditure. (See para no.- 3.4 for its tax treatment in detail.)

3.2.7 Advance salary: It means salary received in advance by the employee against which

services have to be discharged by him. Advance Salary is taxable on receipt basis in the assessment year relevant to the previous year in which it is received. A loan taken by employee from employer is not taxable as advance salary.

3.2.8 Leave Encashment: Leave Encashment means payment received as cash equivalent of the leave salary in respect of the earned leave at his credit at the time of his retirement.

Tax Treatment : For the calculation of exempted amount of leave encashment it has to divide into following two categories:

(a) **Central and State Government Employees :** The actual amount received shall be fully exempted. (If taken at the time of retirement or leaving job)

(b) **Other employees :** Any payment received as leave encashment at the time of superannuation shall be exempt up to least of the following four amounts :

(a) Actual amount received;

(b) Amount calculated at Average salary of ten months. (i.e. $10 \times \text{Average Salary}$). Average salary means (Average of salary drawn by the employee during 10 months immediately preceding the date of his retirement);

(c) Amount specified by the Government is Rs. 3,00,000 ; and

(d) Cash equivalent of leave salary due at the time of retirement. (i.e. Period of earned leave to the credit of the employee at retirement or at the time of leaving $\text{Job} \times \text{Average monthly salary}$). It is calculated by taking one month leave for every completed year of service less leave already availed of.

Note : 1) While finding duration of service in years ignore any fraction of year.

2) Maximum 30 days are taken for every year of service for calculating period of earned leave.

3.2.9 Annual Contribution towards Provident Funds: The taxable portion of the annual accretion in any previous year to the balance at the credit of an employee contributing to Recognised Provident fund is taxable and is included in the meaning of salary.

3.2.10 Contribution made under a new pension scheme referred to in section-80CCD: After 1st January, 2004 contribution made by Central Government/other employer and employee towards the Notified Pension Scheme (NPS) is taxable, except 10% of the salary. And when pension is received out of the aforesaid amount, it will be chargeable to tax in the hands of the recipient. The meaning of salary for calculating this contribution on 10% of salary is Basic Pay, dearness allowance and commission if paid as a fixed percentage of turnover. Hence, the salary income also includes contribution made by the Central government in the previous year to the account of an employee under a pension scheme referred to in section 80 CCD.

CHECK YOUR PROGRESS-I

Q.1. Do you agree that perquisites are taxable under the head salary? **(Yes or No)**

Q.2. Do you agree that allowances is not taxable under the head salary? **(Yes or No)**

Q.3. Do you agree that Gratuity is taxable income? **(Yes or No)**

Q.4. Do you agree that House rent allowance is fully tax free? **(Yes or No)**

Q.5. Do you agree that family pension is taxable under the head salary? **(Yes or No)**

3.3 TAX TREATMENT OF ALLOWANCES

Meaning of Allowance : Allowance is generally defined as a sum of money paid regularly to a person, typically to meet specified needs or expenses. Allowances are generally calculated on the basis of basic pay. On the basis of tax treatment following are the types of allowances:

- A) Fully exempted allowances
- B) Partly exempted allowances
- C) Fully taxable allowances

A) List of Fully Taxable Allowances

1.	Dearness Allowances
2.	Medical Allowance
3.	Tiffin Allowance
4.	Servant Allowance
5.	Non-practicing Allowance
6.	City Compensatory Allowance
7.	Warden Allowance
8.	Family Allowance
9.	Over-time Allowance
10.	Other Allowances unless specifically exempted

B) List of Fully Exempted Allowances

1.	Foreign Allowance (If paid outside India)
2.	Sumptuary Allowance to High Court/Supreme Court Judges
3.	Compensatory Allowance to Judge under article 222 (2)
4.	Allowances from U.N.O (United Nations Organisation)
5.	Allowance to serving Chairman/ members of UPSC. (Exempted Rs. 14000 per month)

C) List of partly exempted and partly taxable allowances

Following is the details of tax treatment of **partly exempted and partly taxable** allowances based on various specified limits as defined in income tax act.

No.	Type of Allowances	Specified Limits of Exemption
1.	House Rent Allowance	See note-I
2.	Entertainment Allowance	See note-II
3.	Special Allowance notified u/s (10) (14) (i) :	Amount of exemption in such

- | | |
|-----------------------------------------------------------|---------------------------------------------------------------------|
| (a) Travelling Allowance | cases depends upon the lower of |
| (b) Daily Allowance | following two : |
| (c) Conveyance Allowance for performance of official duty | 1) the amount of allowance; or |
| (d) Helper Allowance | 2) the amount used for the purpose for which allowance it is given. |
| (e) Research Allowance | |
| (f) Uniform Allowance | |

-
- 4. Special Allowances exempted u/s10(14) (ii) :** In such cases, amount of exemption does not depend upon expenditure incurred by the employee, it is exempted up to the specified limit as defined in rule 2BB.
- | | |
|--------------------------------------------------------------------------------------------------------------------------------|----------------|
| (a) Special Compensatory Hilly Areas Allowance, [High altitude Area, Uncongenial Climate Allowance, Snow Bound Area Allowance] | (See Note-III) |
| (b) Border Area Allowance, Remote Allowance Locality Allowance, Difficult Area, or Disturbed Area Allowance | |
| (c) Special Compensatory (Tribal Areas/ Scheduled Areas/Agency Areas) Allowance | |
| (d) Allowance to an employee working in any transport system | |
| (e) Children Education Allowance | |
| (f) Children Hostel Allowance | |
| (g) Compensatory Field Area Allowance | |
| (h) Compensatory Modified Field Area Allowance | |
| (i) Counter-insurgency Allowance | |
| (j) Transport Allowance | |
| (k) Underground Allowance | |
| (l) High Altitude Allowance | |
| (m) Highly Active Field Area Allowance | |
| (n) Island Duty Allowance | |

Note-I : House Rent Allowance : HRA is exempted under Section 10(13A) to the extent of the minimum of the following three amounts:

- (a) Actual House Rent Allowance received by the employee in respect of the period during which the rented accommodation is occupied by the employee during previous year.
- (b) Excess of Rent paid - 10% of Salary
- (c) 50% of the salary where the residential house is situated at Mumbai, Calcutta, Delhi or Chennai and 40% of the salary where the house is

situated at any other place, for the relevant period.

The minimum of the above three amounts shall be exempted from tax and the balance, shall be taxable and thus included in gross salary of the employee. Salary for H.R.A. = Basic Pay + D.A. (if allowed as per terms of employment) + Commission (on turn over basis) + D.P.

Note-II : Entertainment Allowance: w.e.f. assessment year 2002-03, this deduction is allowed only to a Government employee. Non-Government employees shall not be eligible for any deduction on account of any entertainment allowance received by them. (For detail see Section no.-3.6.2)

Note III : To calculate exempted limit of following allowances the amount of expenditure is not taken into consideration:

- (a) **Special compensatory allowance (Hilly Areas) etc :** Exemption varies from Rs.300 to Rs. 7000 per month. Hill Allowance is fully taxable if the place is located at less than 1,000 meter height from sea level.
- (b) **Border area, Remote area allowance, Disturbed area allowance, etc. :** Exemption varies from Rs. 200 p.m. to Rs. 1300 p.m.
- (c) **Tribal area allowance :** Exempt upto actual amount received or Rs.200 per month, whichever is less.
- (d) **Allowance for transport employees :** This allowance is given to an employee working in any transport system to meet his personal expenditure during performing his duty. The amount of exemption is to the extent of 70% of such allowance; or Rs.10,000 p.m, whichever is lower.
- (e) **Children education allowance :** Exempt upto actual amount received per child or Rs. 100 p.m. per child upto a maximum of 2 children, whichever is less, provided children are studying in India.
- (f) **Hostel expenditure allowance :** Exempt upto actual amount received per child or Rs. 300 p.m. per child upto a maximum of two children, whichever is less, provided children are staying in hostel in India.
- (g) **Compensatory field area allowance :** Exempt to the extent of Rs. 2,600 p.m.
- (h) **Compensatory, Modified field area allowance :** Exempt to extent of Rs. 1,000 p.m.
- (i) **Counter insurgency allowance :** Exempt to the extent of Rs. 3,900 p.m.
- (j) **Transport allowance :** Any transport allowance granted to an employee to meet his expenditure for the purpose of commuting between the place of his residence and the place of his duty to the extent of Rs. 1600 per month. In case physically handicapped Exemption is of Rs.3200 p.m. Expenditure for covering the journey between office and residence is not treated as expenditure in performance of official duty.
- (k) **Underground allowance :** Exempt to extent of Rs. 800 p.m.
- (l) **High altitude allowance :** Exempt to extent of Rs. 1,060 p.m. (for altitude of 9,000 to 15,000 feet) or Rs. 1,600 p.m. (for altitude above 15,000 feet).
- (m) **Highly active field area allowance :** Exempt to extent of Rs. 4,200 p.m.
- (n) **Island duty allowance :** Exempt to extent of Rs. 3,250 p.m.

3.4 TAX TREATMENT OF PERQUISITES

Meaning of Perquisites [Section-17(2)]: As per Dictionary meaning Perquisites is ‘any casual emolument, fee or profit attached to an office or position in addition to salary or wages. It also denotes something that benefits a man by going into his own pocket; but it doesn’t cover a mere reimbursement of expenditure.

For income tax purposes the perquisites have been divided into three categories:

- I. Tax free perquisites in case of all employees
- II. Taxable perquisites in case of all employees
- III. Perquisites taxable under specified cases

3.4.1. Tax Free perquisites

For all types of employees following perquisites are the tax free perquisites:

1. Medical benefits free of cost.
2. Tea and snacks as light refreshment during working hours.
3. Free food in remote area during working hours.
4. Free food during working hours through paid vouchers, the value thereof upto Rs. 50 per meal.
5. Residential accommodation located in a remote area.
6. Facility of health clubs, sports and similar facilities.
7. Expenses on telephones including mobile phone.
8. Employer’s contribution on accidental policy and superannuation fund of the employee.
9. The facility of conveyance from the place of residence to employment.
10. Recreational facilities.
11. Laptops and Computers for personal use also.
12. Education and Training of employees.
13. Interest-free loan or concessional loan.
14. Transfer of a movable asset without consideration, for more than ten years other than car or computers.
15. Leave travel concession, if given only twice in a block of 4 years.
16. Free Refresher Courses.
17. Free rations to Armed Forces Personnel.
18. Tax on perks paid by employee.
19. Employer’s contribution towards Staff Group Insurance scheme.
20. Loans to employees
21. Perquisites to government employees posted abroad.
22. Certain perquisites (Residence and Conveyance) to High Court and Supreme Court Judges.
23. Scholarship to children of employees.

3.4.2. Taxable Perquisites in case of all employees including specified employees [Section -17 (2)(i)]: For all types of employees (including specified employees also) following perquisites are the taxable perquisites:

1. Rent Free Accommodation provided to an employee : If rent free accommodation is provided by employer to the employee then valuation of it should be done as per new Rule-3 for valuation of perquisites notified on 18-12-2009. Such accommodation may be unfurnished or furnished and may be owned by the employer or taken on lease or rent by the employer. In such a case where accommodation is provided by central or state government to their employees either holding office or position, the value of perquisite shall be determined as under :

a) Accommodation is provided by Government to its employees : If accommodation is given by the government to its employees then value of accommodation shall be calculated as discussed here :

Nature of Accommodation	Value of Perquisite
1. Rent Free Accommodation Unfurnished	Value of the accommodation shall be the license fee determined by Union or State Government in respect of accommodation in accordance with the rules framed by that government.
2. Unfurnished accommodation at	First step is to find the value of accommodation as it is provided rent free on the basis of license fee determined by Union or State government.
3. Furnished Accommodation whether rent free or at concessional rate	<p>First step is to find out the value of unfurnished accommodation whether rent free or at concessional rate as discussed earlier.</p> <p>At the second step, value as calculated at the first step shall be increased by 10% of the cost of furniture. In case if furniture is hired from a third party, actual hire charges paid or payable shall be added to the unfurnished value of the accommodation.</p> <p>Here furniture means, furniture including television sets, refrigerators, AC or other household appliances.</p>

b) Accommodation is provided by any other Non-Government Employer : If accommodation is provided to employees by non-government employer then value of accommodation shall be determined as discussed here under :

Nature of Accommodation	Value of Perquisite
1. Accommodation is owned by employer	In this situation, value of accommodation may be 7.5%, 10% or 15% of salary depends upon population of city in which accommodation is

situated as mentioned here :

1. If population of the cities is more than 25 lakhs as per census of 2001, value of house is 15% of salary.
 2. If population of the cities is more than 10 lakhs but less than 25 lakhs as per census of 2001, value of house is 10% of salary.
 3. If population of the cities is equal to 10 lakh or less than 10 lakh as per 2001 census, then value of house is 7½% of salary.
2. Accommodation is taken on lease or hired by employer not owned by him
- In such a situation value of house is 15% of salary or Actual rent or Lease rent paid or payable whichever is less.

In the next step, if accommodation is furnished, the value of house as determined above shall be increased by 10% of the cost of furniture. In case if furniture is hired from a third party, actual hire charges paid or payable shall be added to the unfurnished value of the accommodation.

Here furniture means, furniture including television sets, refrigerators, AC or other household applicable.

c) Accommodation is provided by the Employer Government or Non-Government in a Hotel : In such a situation value of the accommodation shall be determined as follows :

Nature of Accommodation	Value of Perquisite
1. Accommodation is provided in a hotel. In this case, value of perquisite shall be the lower of	
	— 24% of salary paid or payable
	or
	— the actual charges paid or payable to such hotel
	If employee paid any rent for such accommodation then value of perquisite shall be reduced with the amount of rent so paid.
2. Accommodation is provided not for more than 15 days; or given on the transfer of employee.	In such situations value of perquisite shall be considered as Nil, hence not taxable.

Important terms with reference to perquisite of rent free Accommodation :

Meaning of some important terms required to calculate value of rent-free accommodation is explained here :

I. Hotel Accommodation : Meaning of hotel includes licensed accommodation in the nature of motel, service apartment, guest house or rest house etc.

II. Salary : Meaning of Salary to determine value of rent free accommodation includes the following terms :

- Basic pay and D.A. if terms of employment so provide
- Allowances
- Bonus or commission
- any other monetary payments by whatever name called.

The above payments may be received from one or more than one employers.

But this term salary doesn't include following items:

- D.A. if not considered for the computation of retirement benefits
- Employer's contribution towards employee's Provident Fund
- Exempted allowances
- Value of perquisites specified u/s 172
- Lump sum payments received at the time of retirement of service or superannuation or voluntary retirement.

2. Life Insurance Premium paid by employer on the life of employee : Any sum paid or payable on the behalf of employee by the employer i.e. Life Insurance premium or deferred annuity premium is no doubt a perquisite in the hands of employees. So, the same shall be included in the total income of the employee as a taxable perk, and employee shall also be entitled to get deduction u/s 80C of the income tax act.

Some schemes like Fidelity Guarantee scheme, Employee's State Insurance Scheme etc. has been introduced for the benefits of employers so if employer made payments towards such types of schemes then the amount/insurance premium contributed or paid shall not be regarded as perquisites in the hands of employees.

3. Value of specified security or sweat equity shares allotted or transferred to employee : The value of any specified security or sweat equity shares allotted or transferred, directly or indirectly, by the employer, or former employer to the assessee free of cost or at concessional rate shall be taxed as a perquisite. For the purpose of this sub-clause, meaning of sweat equity shares specified security or fair market value is defined as mentioned here :

Sweat Equity Shares : It means equity shares issued by a company to its employees or directors at a discount or for consideration other than cash for providing know-how or making available rights in the nature of intellectual property rights or value additions.

Specified Security : It means securities as defined in clause (h) of section-2 of the securities contracts regulation Act, 1956. Where employee' stock option has been granted under any plan or scheme therefore, includes the securities offered under such plan or scheme.

Fair Market Value : It means the value determined in accordance with the method as may be prescribed.

4. **Contribution to Superannuation Fund of the employee in excess of specified limit :**
In the year in which towards an approved superannuation fund the amount so contributed is taxable in the hands of employees to the extent it exceeds Rs. 1,50,000 per year.
5. **Any sum paid in respect of any obligation** which otherwise would have been payable by the assessee is taxable as perquisite. For examples:
 - Payment of employee's club or hotel bill.
 - Interest free or concessional loan.
 - Credit card facility given.
 - Payment of any loan due on his employee.
 - Payment of education expenses of the employee's children.
 - Income tax paid in respect of his employee's salary.
 - Payment of the domestic servant's salary by the employer.
 - Use or transfer of movable assets.
 - Travelling touring or accommodation connected payments.
 - Food or beverage facility given by employer.
 - Fringe benefit or amenity.
 - Gift voucher or token facility.

3.4.3. Perquisites taxable only in case of specified employees

The value of any benefit or amenity granted free of cost or at concessional rate in case of specified employees shall be included in the salary income. Thus, for only specified employees following perquisites are the taxable perquisites:

- (a) Motor Car or other automotive conveyance;
- (b) Supply of Gas, Electric Energy and Water;
- (c) Education facility to the family members of employee, i.e. children
- (d) Sweeper, Watchman, Gardener and Personal Attendant;
- (e) Transport facility, if employer is in transport business.
- (f) LTC (Leave Travel Concession)
- (g) Medical Facility

Meaning of Specified Employee : For income tax purposes specified employee means-

- (1) an employee who is a director of the company;
- (2) an employee being a person who has a substantial interest in the company, i.e., who is the beneficial owner of equity shares carrying not less than 20% of voting powers in employer's company;
- (3) an employee to whom the above mentioned provisions do not apply and whose income under the head 'salaries' exceeds Rs. 50,000. For computing the sum of Rs. 50,000 the following items are excluded :
 - (a) all non-monetary benefits;
 - (b) monetary benefits which are not taxable under section 10 (e.g. House rent allowance to the extent exempt u/s 10 (13A); and

- (c) deduction on account of entertainment and deduction on account of professional tax.

Note : Where salary is received from more than one employer, the aggregate salary from these employers will have to be taken into account for the purpose of calculating aforesaid monetary ceiling.

Following table shows the Taxability of Perquisites in case of Specified and Non-specified Employees.

Table-1 : Comparative Statement of Taxability of Perquisites in case of Specified and Non-specified Employees

	Specified Employees	Non-specified Employees
1. Motor-Car		
(a) Owned by employee - Expenses are met or reimbursed by employer for private purposes of employee or member of his household.	Taxable	Taxable
(b) Owned or hired by employer – Expenses are met or reimbursed by employer for private purposes of employee or member of his household.	Taxable	Exempt
2. Automotive Conveyance other than car owned by employee-Expenses are met or reimbursed by employer for private purposes of employee.		
	Taxable	Taxable
3. Sweeper, gardener, watchman or personal attendant -		
(a) Engaged by employee	Taxable	Taxable
(b) Provided by employer	Taxable	Exempt
In both the cases expenses are met or reimbursed by employer		
4. Gas, Electric energy or Water -		
(a) Connection in the name of an employee	Taxable	Taxable
(b) Supplied by employer	Taxable	Exempt
In both cases expenses are met or reimbursed by employer.		
5. Education facility :		
(a) Educational institution is owned and		

maintained by employer or educational facility is allowed in any other educational institution by reason of his being in employment of that employer :		
(i) Educational facility provided to children of employee-cost or value of the benefit does not exceed Rs. 1,000 p.m. per child.	Exempt	Exempt
(ii) Educational facility provided to other members of household	Taxable	Exempt
(b) Other educational institution	Taxable	Exempt
6. Provision of personal or private journey by an undertaking engaged in carrying of passengers or goods	Taxable	Exempt
7. Interest-free or concessional loan	Taxable	Taxable
8. Holiday enjoyment	Taxable	Taxable
9. Free meals -cost over Rs. 50 per meal	Taxable	Taxable
10. Gifts-Cost over Rs. 5,000 during previous year	Taxable	Taxable
11. Personal expenses charged to a credit card	Taxable	Taxable
12. Personal club expenses	Taxable	Taxable
13. Use of movable asset	Taxable	Taxable
14. Transfer of movable asset	Taxable	Taxable
15. Any other benefit, amenity, service, right or privilege provided by employer. This does not include the perquisites which are taxable in case of all employees or which are tax-free perquisites in case of all employees.	Taxable	Exempt

3.5 TAX TREATMENT OF PROVIDENT FUNDS

Meaning of Provident Fund: The scheme of Provident funds implies compulsory saving by the employees from their salary every month. This contribution with some fixed amount at some stipulated rate is deducted from the salary by the employer who is also generally obliged to contribute same amount to the fund simultaneously in addition to paying regular salary. The Provident account of any employee consists of the employer's contribution, employee's contribution and interest on both at any given time.

Types of Provident Funds: To encourage savings for the social security of employees, the government has set up various types of provident funds. Following are the most commonly available types of provident funds in India :

1. Statutory Provident Fund
2. Recognised Provident Fund
3. Unrecognised Provident Fund
4. Approved Superannuation Fund
5. Public Provident Fund

3.5.1 Statutory Provident Fund: Statutory provident funds are managed and administered under the Provident Funds Act, 1925. They are found in institutions like RBI, Insurance Companies, Colleges, Universities, Local bodies and Government Departments. They are also known as Government Provident Funds. This is the oldest type of fund started in 1925 this fund is maintained by Government and Semi-government departments like RBI, Colleges, Railways, Universities, Insurance Companies etc. In this fund employer contribution and interest earned on the credit balance of the account are not to be included in the income of employee. When the employee retires or leaves the service, any amount received from this fund will not be included in employee's total income. Employees own contribution in this fund will qualify for deduction u/s 80C.

3.5.2 Recognised Provident Fund : Provident Fund governed by the Provident Fund Act, 1952 is also known as a Recognised Provident Fund. Such funds are maintained by banks, insurance companies, manufacturing and trading concerns etc. operating in private sector, and governed by the rules contained in part A of the Fourth Schedule to the Income-tax Act, 1961. This fund is recognised by the Commissioner of Income Tax. This fund is maintained under Provident Fund Act 1952. In this fund, employer's contribution above 12% of employee's salary will be treated as income. For this purpose salary means Basic Pay + Dearness Allowance (if enter) + commission on turnover basis + D.P. (Dearness Pay)

Interest on credit balance for this fund is exempted upto 9.5% and more than 9.5% is included in Gross salary of the employee. Employee's own contribution in this fund is qualifying for deduction u/s 80C.

3.5.3 Unrecognised Provident Fund: These funds are not granted recognition by the Commissioner of income tax, and therefore, these are known as Unrecognised Provident Funds. Even employees own contribution in this fund will not qualify for deduction U/S 80C. Employer's contribution and interest on the credit balance of this fund are ignored for the time being, hence taxable at the time of receipt of lump sum amount.

Transferred Balance from Unrecognised Provident Fund to Recognised Provident Fund : This is the balance standing to the credit of the employee in the Unrecognised Provident Fund on the date when it gets recognition for the first time. This balance is automatically transferred from the Unrecognised Provident Fund to the Recognised Provident Fund. The amount of transferred balance is taxable to the extent of employer's contribution and interest thereon so it is included in salary. But the employee's own contribution is ignored because it has been taxed throughout as the fund was not recognised.

3.5.4 Approved Superannuation Fund: Superannuation funds are created to give pension benefits to employees. They are known as approved if they are kept in accordance with the rules contained in part B of the Fourth Schedule and approved by the Commissioner of income tax. The scheme is sometimes contributory when the employees are asked to contribute while at times only the employer may bear the whole burden.

(a) As regards administration of these funds, the whole scheme may be entrusted to LIC wherein periodical payments of these funds are made and in return the Corporation undertakes to pay annuities to the employees on retirement, cessation of service or on death. The annuity may be paid annually, half yearly, or monthly depending upon preference of the incumbent.

(b) The Superannuation Fund may also be administered privately by making trusts. In this case, contributions are invested by the trustees in approved securities and interest is earned thereon. On the retirement etc., pensions are paid from this fund. Employees own contribution to the fund will qualify for deduction u/s 80C and exempted upto Rs. 1.50 Lakh per annum.

Generally, contribution to this fund is purely by the employer, nothing will be paid from employee side.

3.5.5 Public Provident Fund: In order to mobilize personal savings, the Government has instituted a Public Provident Fund Scheme under the Public Provident Fund Act, 1968. It provides a medium for long-term saving to all sections of the community particularly self-employed persons like Doctors, Advocates, Actors, Chartered Accountants etc.. Membership of the fund is open to all individuals. Subscription during a year may range from a minimum of Rs. 500 to maximum of Rs. 1,50,000 and may be made in the multiple of Rs. 5 in as many instalments as the subscriber chooses. But in one month only single deposit is allowed. Subscriptions are received at all the offices and branches of the State Bank of India and its subsidiaries. The balance in this account earns a tax-free interest at rates prescribed by the Government from time to time. The lock-in period for this fund is 15 years, so person can get back the amount any time after 15 years from the end of the financial year in which the account is opened.

An individual participating in the Public Provident Fund is eligible for the same tax concessions as are available to participants in Government Provident Funds. Thus, contributions made to it qualify for deduction u/s 80C along with savings through other specified media, namely life insurance premium, 5 year term deposit in Post Office etc., subject to the existing overall qualifying limits. Any amount received from the Fund is also exempt from income tax in the hands of the recipient in the same manner as in the case of amounts received from Government Provident Funds.

Note-I : Here Salary = Basic Pay + DA and Dearness Pay if terms of employment so provide] + commission [if it is determined at a fixed percentage of turnover].

Note-II : In the undermentioned situations, accumulated balance payable to an employee contributing in a Recognised provident fund shall be exempt in the hands of employee :

- i) If the employee has rendered continued service with his employer for a period of 5 years or more, including service period of previous employer.

- ii) In case an employee has been terminated due to some reasons beyond the control of the employee, like ill health of employee, discontinuation of employer's business.
- iii) In case whole balance of Provident fund standing to the credit of employee is transferred to NPS (New Pension Scheme) referred u/s 80CCD.

Note-III : Lump sum amount received from URPF at retirement or termination of service shall be taxable as mentioned below :

- i) Taxable under the head 'salary' amount of employer's contribution and interest thereon received by the employee.
- ii) Taxable under the head 'Income from other sources,' the amount of interest received on employee's own contribution to Provident Fund.
- iii) Payment received about employee's own contribution to unrecognised Provident Fund is exempted from tax.

3.6 DEDUCTIONS UNDER THE HEAD SALARY

The income chargeable under the head 'salaries' is computed after making the following deductions :

- (A) Standard deduction [u/s 16(i)(ia)]
- (B) Entertainment allowance [u/s 16(ii)]
- (B) Professional tax [u/s 16(iii)]

3.6.1 Standard Deduction: From the assessment year 2019-20, standard deduction is allowed as mentioned here:

- 1. Rs. 40,000; or (Rs. 50,000 from w.e.f. 1-4-2019)
- 2. Actual amount of salary whichever is lower is allowed.

3.6.2 Entertainment Allowance: Amount granted as Entertainment Allowance to an employee is included in the income of the employee under the head 'salaries' and then the following deductions are allowed in this connection:

(a) Government Employee

- (1) Actual amount received
 - (2) 1/5th of salary, (**Salary includes Basic Pay only**)
 - (3) Rs. 5000,
- whichever is less.

Note :(1) 'Salary' for this purpose means salary exclusive of any allowance, benefit or other perquisite.

Note : (2) Amount actually expended towards entertainment out of entertainment allowance received is not taken into consideration.

(b) Non-Government Employee

Deduction is nil in case of non-government employee.

In order to qualify for deduction, it is not necessary that entertainment allowance received should have been actually spent.

3.6.3 Tax on Employment u/s 16 (III): Any sum paid by the assessee on account of a tax on employment (also known as professional tax) is chargeable by or under any law will be allowed as deduction. As per constitution of India, the state governments/Local Authorities are empowered to make law and collect taxes on professions, trades and employment. However, the total amount payable in respect of any one person shall not exceed Rs. 2500 per annum.

CHECK YOUR PROGRESS-II

- Q.1. What are the incomes that are chargeable to tax under the head salary? Illustrate your answer in brief.
- Q. 2. What is the exempted amount of leave Encashment?
- Q.3. Is amount contributed by an employee towards the specified provident funds taxable? If yes, then discuss the exempted limits against such contributions.

3.7 LET US SUM UP

This lesson is about the first head of income, i.e. 'salary' head. To understand the computation of income under the head 'salary' major concepts/items like salary income, allowances, provident funds, pension, gratuity, fee, commission, profits in lieu of salary, perquisites must be understood. At the beginning, gross salary has to be calculated by considering various incomes, allowances, and perquisites etc. which are taxable or exempt from tax according to provisions of this head. From the gross salary so computed, two deductions i.e. 1) Entertainment allowance under Section-16 (ii); and 2) tax on employment under section-16 (iii) are allowed as deductions to find net salary of the person.

3.8 KEY WORDS

- | | | | |
|-----|--------------------------|---|-----------------------------------------------------------------------------------------|
| 1. | BP | : | Basic Pay |
| 2. | DA | : | Dearness allowance |
| 3. | Perks | : | Privileges granting to employee in addition to his salary |
| 4. | CCA | : | City Compensatory Allowance |
| 5. | HRA | : | House Rent Allowance |
| 6. | UNO | : | United Nations Organization |
| 7. | UPSC | : | Union Public Service Commission |
| 8. | PF | : | Provident Funds |
| 9. | Profit in lieu of Salary | : | Profit in lieu of salary is a part of salary income and taxable under the head 'Salary' |
| 10. | Arrears of Salary | : | Amount of Salary due but not received |

3.9 ANSWERS TO SELF CHECK QUIESTIONS

Check your Progress-I

Ans.1. Yes

Ans.2. No

Ans.3. Yes

Ans.4. No

Ans.5 . Yes

CHECK YOUR PROGRESS-II

Ans.1. Incomes chargeable to tax under the head 'salary':

1. any salary due from an employer or former employer, whether paid or not in the previous year.
2. any salary paid or allowed to him in the previous year by or on behalf of an employer or former employer, though not due or before it became due to him.
3. any arrears of salary paid or allowed, if not charged to income tax for any earlier previous year.

Ans.2. Leave Encashment is the amount received by an employee at the time of retirement as cash equivalent of the leave salary in respect of the earned leave at his credit. For the calculation of exempted amount of leave encashment it has to divide into following two categories:

(a) Central and State Government Employees: Fully exempted.

(b) Other employees: Any payment received as leave encashment at the time of superannuation shall be exempt up to least of the following four amounts :

- Actual amount received;
- Amount calculated at Average salary of ten months.;
- Amount specified by the Government; and
- Cash equivalent of leave salary due at the time of retirement.

Ans.3. Yes, the amount contributed by an employee towards the specified provident funds is taxable in case this contribution will be made more than the allowed limits? By transferring money in provident funds a person can save tax on maximum taxable income of Rs.1,50,000.

3.10 TERMINAL QUESTIONS

Q.1. What do you mean by Retrenchment Compensation?

Q.2. What do you understand by salary income? Differentiate between advance salary and arrears of salary.

Q.3. What is meant by perquisites? What are tax-free perquisites?

Q.4. Define the term allowance. Discuss the tax treatment of various types of allowances.

Q.5. Write a detailed note on the current provisions of standard deduction.

Q.6. Discuss is the concept of Commuted and Uncommuted pension. What is the exempted/ taxable amount of pension?

3.11 REFERENCES AND SUGGESTED READINGS

1. <https://www.incometaxindia.gov.in>
2. <https://pdfcoffee.com>
3. <https://indiakanoon.org>
4. Students' Guide to Income Tax, Dr. Vinod K. Singhania & Dr. Kapil Singhania, edition, 2021.
5. The Income tax Law....A simple Guide to theory, Dr. Shailinder Sekhon, edition 2021.

COMPUTATION OF INCOME FROM HOUSE PROPERTY HEAD

STRUCTURE

- 4.0 Objectives**
- 4.1 Introduction**
- 4.2 Property Income Exempt from Tax**
- 4.3 Concept of Owner of House Property**
- 4.4 Meaning and Types of Annual Value**
- 4.5 Steps to Compute Annual Value**
 - 4.5.1 Let-out Building**
 - 4.5.2 Self-Occupied Buildings**
- 4.6 Deductions from Gross annual Value**
 - 4.6.1 Standard Deduction**
 - 4.6.2 Interest on Loan taken for Buying House Property**

Check your Progress

- 4.7 Let us Sum Up**
- 4.8 Key Words**
- 4.9 Answers to Self Check Exercise**
- 4.10 Terminal Questions**
- 4.11 References and Suggested Readings**

4.0 OBJECTIVES

After going through this lesson you should be able to :

1. Understand the concept of rental income under the head House property.
2. Explain the rules prescribed for determining income under the house property head.
3. Explain deductions available under section-24 of house property head.
4. Define and calculate the taxable income of Let-out building.
5. Define and calculate the taxable income of Self-Occupied building.

4.1 INTRODUCTION

Income from House Property is the second head of Total Income chargeable to tax under the Income Tax Act, 1961. The Rental Income of a property which satisfies some basic requirements is taxable under this head, like, that :-

- i. the property should consist of any buildings or lands appurtenant thereto;
- ii. assessee should be owner of the property; and
- iii. property should not be used by the owner for the purpose of carrying out

any business or profession by him, the profits of which are chargeable to income-tax, eg. factory etc.

The term property include residential buildings, buildings let out for business or profession, for storage or warehouse or auditoriums for entertainment programmes, Cinema Halls, buildings let out for office use, dance halls, music halls, lecture halls. But it doesn't include temporary hutments in the vacant land as any rental income therefrom will be assessed under the head 'Income from other sources'. The following buildings shall not be considered such properties; thus rental income of them is not taxable under the head, house property:

Exceptions

1. Buildings or staff quarters let out to employees
2. Building deemed to be used for own business
3. Composite letting of building with other assets
4. Paying Guest House accommodation/Hotel business
5. Accommodation facility by a club to its members

4.2 PROPERTY INCOME EXEMPT FROM TAX

Property Income exempt from Tax : Section-10 of the income tax act defines incomes that are absolutely exempt from tax as they do not form part of total income. Following rental incomes from properties are also exempt under section 10, 13, 22 and 23 of the act :

1. Income from farm house
2. Annual value of any one palace of an ex-ruler
3. Property income of a local authority
4. Property income of an approved scientific research association
5. Property income of a university or any other Educational institution.
6. Property income of a hospital or other medical institution.
7. Property income of a trade union.
8. House Property income which is held for charitable purposes.
9. Property income belongs to a political party.
10. Property used by a person for his/her own business or profession.
11. Rental income or Annual value of one self-occupied property of a person.
12. House-Property income of Co-operative Societies.

4.3 CONCEPT OF OWNER OF HOUSE PROPERTY

The dictionary meaning of the word 'ownership' is the state or fact of owning something. For the Purpose of House property head the term 'ownership' means both free hold and leasehold rights and it also covers deemed ownerships.

Deemed Owner : The section 27 of the act considers some other persons also the owner of the property even though they are not the legal owners of a property, hence following persons defined as deemed to be the owners of the property:

1. **Property transferred to a spouse :** If an individual transfers his house

property to his/her spouse otherwise than for adequate consideration, such transferor in this case is deemed to be the owner of the property so transferred. But this property should not be transferred in connection with an agreement to live apart.

2. Property transferred to a Child : If an individual transfers his house property to his/her minor child not being a married daughter, otherwise than for adequate consideration. Then such transferor in this case is deemed to be the owner of the property so transferred.

3. Holder of an Impartible Estate : The 'Impartible Estate' means a property which is not legally divisible. As per this section the holder of an impartible estate shall be deemed to be the individual owner of all the properties comprised in the estate.

4. Member of a Co-operative Society, Company or other AOPs : A member of a co-operative society, company or other association of persons to whom a building or part thereof is allotted or leased under a house building scheme of the society, company or association, shall be deemed to be the owner of that building or part thereof.

5. Person in Possession of a property – A person who is allowed to take or retain possession of any building or part thereof in part performance of a contract of the nature referred to in section 53A of the Transfer of Property Act, 1882, shall be deemed to be the owner of that building or part thereof, even it is not registered in his name.

6. Person having Right in a Property – If a person acquires any rights in or with respect to any building or part thereof, by virtue of any such transaction as is referred to in clause [f] of section 694UA, then such person shall be deemed to be the owner of that building or part thereof. For this provision a property on lease must not be for a term of less than 12 years.

4.4 MEANING AND TYPES OF ANNUAL VALUE

Under this head, Annual value of property has its importance with reference to finding out taxable income earned from such property, as rental income of a building depends upon the annual value. As per section-22 the annual value of any property shall be deemed to be as explained below :

1. **Annual Value** is the sum for which the property might reasonably be expected to let out from year to year; or
2. **Annual Value** is the actual sum/rent received or receivable by the owner where the property or any part of it is let-out; or
3. **Annual Value** is the actual sum/rent received after deducting loss of rent of vacancy period, where the property or any part of it is let out and the building was also vacant during the whole or any months of the previous year.

Types of Annual Value: For computing taxable rent annual value of properties can be divided

into two categories as mentioned below:

- a) Annual value of let-out property
- b) Annual value of self-occupied property

Furthermore, final calculation of annual value depends upon some factors connected to the nature of the rent of property those are discussed in the next section of the lesson.

Annual Value : According to Sec-23 {1} {a} the Annual value of any property shall be the sum for which the property might reasonably be expected to be let. It may neither valuation of the property nor the standard rent. Thus, Annual value is like a notional rent which could have been derived, if the property had been let out. For determining the Annual value following factors are normally taken into consideration :

1. Municipal Value
2. Fair rent of the property
3. Standard rent
4. Actual rent received
5. Rent Receivable

Municipal Valuation : Municipal valuation is made periodically by the local authorities/municipalities of all buildings in their jurisdiction. It is known as the net municipal valuation after deducting required adjustments on account of repairs and taxes from the Gross Municipal Valuation.

Fair Rent : The fair rent means such rent of the property which can be determined on the basis of a rent fetched by a similar property in the same or similar locality.

Standard Rent : It is the maximum amount of rent which an owner of the property can recover from his tenant under a Rent Control Act, if the property is covered by the Rent Control Act.

Actual Rent received or Receivable : It means the rent of the previous year or part of the previous year, in which year the property is available for letting out after deducting unrealised rent but before deducting the loss of vacancy therefrom.

Meaning of Unrealised Rent : In case property is let out by the assessee but he/she can't realise rent from a tenant inspite of all reasonable steps taken by him for the recovery of rent is known as 'unrealised rent'. The amount of unrealised rent is deductible from the taxable value of rent if following conditions are satisfied :

1. The tenancy is bonafide.
2. The defaulting tenant has vacated the taken property or otherwise steps have been taken to compel him to vacate the property.
3. The defaulting tenant does not occupy any other property of the assessee.
4. The assessee has taken all reasonable steps to institute legal proceedings for the recovery of unpaid rent.

Meaning of Loss of Vacancy : It is the actual amount of rent in proportion of vacancy period. In other words, 'loss of vacancy' is the actual loss of the amount of rent which is not receivable because property remains vacant for a whole or part of the previous year.

Concept of Reasonable Expected Rent : The term ‘Reasonable Expected Rent’ means a rent which is deemed to be the sum for which the house property might reasonably be expected to be let out from year to year. In majority of cases, reasonable expected rent can be determined by taking into consideration a) municipal valuation of the property; and b) fair rent of the property. By comparing these two values (i.e. municipal valuation and fair rent) higher one is taken as ‘reasonable expected rent’. But this higher value cannot exceed the standard rent, if property is covered by a Rent Control Act.

In other words, standard rent is the maximum amount of reasonable expected rent; or municipal valuation or Fair rent shall be considered reasonable expected rent only if their values remain lower than the value of standard rent, otherwise standard rent will be taken as reasonable expected rent.

Example–I : From the following information determine the annual value of the house :

	Rs.
Municipal Value	80,000
Fair Rent	1,20,000
Standard Rent	1,00,000

The house was self-occupied for 4 months and then let-out for (a) Rs. 10,000 p.m. (b) Rs. 15,000 p.m. Municipal tax paid by the owner Rs. 10,000.

Solution:

Computation of the Annual Value of the house		
	(a) (Rs.)	(b)(Rs.)
Municipal Value	80,000	80,000
Fair Rent	1,25,000	1,25,000
Standard Rent	1,00,000	1,00,000
Actual Rent i.e. (10000x8) (15000x8)	80,000	1,20,000
G.A.V. : (Expected Rent or Actual rent	Rs.	Rs.
whichever is greater)	1,00,000	1,20,000
Less : Municipal Taxes	10,000	10,000
Annual Value	90,000	1,10,000

(Source: “The income tax law... A simple guide to theory”: By Shailinder Sekhon)

4.5 COMPUTATION OF GROSS ANNUAL VALUE

The subject matter of computing income under this head is the ‘Annual Value’ of the property, which is computed as per rules provided in Section-23 of the Income Tax Act. Following are the basic steps to compute taxable income from a let out house property:

Steps to Compute Net Annual Value and Taxable rent

Step-I : Find out the Gross Annual Value

Step-II : Deduct Municipal taxes

Balance amount is Net Annual Value

Step-III : Reduce the balance with the amount of Deductions u/s-24

- 1) Standard deduction
- 2) Interest on borrowed capital

Balance amount is Income from House Property

Negative Annual Value : The annual value of let-out house or deemed let-out house can be negative when the municipal taxes paid by the owner are more than the gross annual value.

For computation of Annual Value of building it can be divided into two categories:

1. Annual Value of Let-out building
2. Annual Value of Self-occupied Building

4.5.1 **LET-OUT BUILDING**

Gross Annual Value [u/s 23(1)] : Though the tax under the head 'Income from House Property' is a tax on income, yet it is not a tax upon rents but upon inherent capacity of a building to yield income. Following are the basic steps to compute the Gross Annual value:

Steps to determine the Gross Annual value

Step-I : Find out the reasonable expected rent of the property.

Step-II : Find out actually received rent or rent receivable after excluding unrealized rent but before deducting loss due to vacancy of house.

Step-III : Find out which one is the higher income from the above two steps.

Step-IV : Find out loss due to vacancy of house.

Step-V : Find out the final Gross annual value after deducting loss of vacancy from the Gross annual value found at step-III.

- (a) **Expected Rent**: The expected rent is the sum for which property might reasonably be expected to be let out from year to year.

Following are the steps to determine the amount of Expected Rent :

Determination of Expected Rent

(I) Where standard rent has not been fixed :

From the following, whichever is more shall be the Expected Rent.

- (i) Municipal value determined by the local authority for charging house tax, etc. or
- (ii) Fair Rent - Rent of similar properties

(II) Where standard rent has been fixed:

From the following two values whichever is less shall be the expected rent

- (i) The value as determined under (I); or
- (ii) The standard rent fixed under rent control act of a State

(b) Actual Rent : It means the actual rent received or receivable from the let-out property.

Determination of Actual Rent

Sometimes the owner takes upon himself under an agreement the burden of providing certain facilities to the tenant, e.g. lift, water pump, electricity, vehicle parking, gardener etc. In such a case, the actual rent received/receivable minus such cost will be the actual rent.

If the tenant has undertaken certain obligations of the landlord e.g. electricity bill of the landlord's portion, such amount will be added to the rent received/receivable to arrive at actual cost. But no adjustment will be made to reduce the rental income with the following:

- (i) Tax paid by the tenant to the local authority regarding building occupied.
- (ii) Repair charges borne by the tenant.
- (iii) Notional interest on deposit taken from the tenant.

Deductions from Gross Annual Value

Income chargeable to tax shall be computed after making certain deductions from its annual value.

1. Standard Deduction : As per section 24(a), 30% of net annual value is allowed as deduction for expenses (except interest).

2. Interest on loan taken for house property : As per section 24(b) deduction is allowed on amount of interest paid or payable on loan taken for the purchase, construction, repair or renovation of house property.

Important Notes :

- (i) Interest on loan for purchasing, constructing, reconstructing or repairing the property is allowable as a deduction on accrual basis.
- (ii) Interest on unpaid interest is not deductible.
- (iii) Interest on a fresh loan merely to repay the original loan is allowable as deduction.
- (iv) Any brokerage or commission is not deductible.
- (v) If amount borrowed is not utilised for acquisition, construction, repair etc., deduction can't be claimed for interest due, if however claimed, then it will be withdrawn.

4.5.2 SELF-OCCUPIED BUILDING

Treatment of self-occupied property, treated as such, may fall in any one of the following categories:

1. House Property fully utilised throughout the previous year for self-residential purposes [Sec. 23(2) (a)]
2. House Property, not actually occupied by the owner owing to Employment or Business/Profession carried on at any other place [Sec. 23(2) (b)].
3. When a part of the property (being independent unit) is self-occupied and other part is let out.
4. When a house is self-occupied for a part of the year and let out for remaining part of the year.

(a) House Property fully utilized throughout the previous year for Self residential Purposes-[Section-23 (2) (a)]

Where the property consists of a house or part of a house which is occupied by the owner for his residence, the annual value of such house or part of the house shall be taken to be nil.

Deductions from Annual Value

- (1) Where such property has been acquired, constructed, repaired, renewed or reconstructed with borrowed capital before or after 1.4.1999, maximum deduction of interest shall be Rs. 30,000.
- (2) If capital borrowed on or after 1.4.1999 for the acquisition or construction of house property then deduction limit shall be maximum upto Rs. 2,00,000.

(b) House Property not Self-occupied by the owner due to his employment, Business or Profession, carried on at any other places-[Section-23 (2) (b)]

Where the property consists of a house or part of a house which can't actually be occupied because his business or profession carried on at any other place and he has to reside at that place.

The annual value of such house or part of the house shall be taken to be nil.

Deductions from Annual Value

- (1) Where such property has been acquired, constructed, repaired, renewed or reconstructed with borrowed capital before or after 1.4.1999, maximum deduction of interest shall be Rs. 30,000.
- (2) If capital borrowed on before or after 1.4.1999 for the acquisition or construction of house property then deduction limit shall be maximum upto Rs. 2,00,000.

(c) When Part of the Property is self-occupied and other part is let out

In this situation income is computed by dividing the property into two units viz. one unit is self-occupied and the second unit is let out as discussed here-

1. **Self-occupied unit for Residential purposes:** Income of the self-occupied unit for Residential purposes throughout the previous year, which is neither let out nor

put to any other use, Income shall be determined according to the method given [u/s 23(2)(b)] of the act. (See para no.-4.5.2)

2. Let out units not self-occupied: In case of let out unit income shall be determined as per method given u/s 23(1) of the act. (See section no.4.5.1)

(d) House self-occupied for part of the previous year and let-out for part of the previous year

The annual value of self-occupied house shall not be nil if,

- (a) the house or part of it is actually let out during the whole or any part of the previous year.
- (b) any other benefit therefrom is derived by the owner.

In this case the annual value will be determined u/s 23(1), as property is let out, and benefits of section 23(2)(a) and 4.5.2 are not available. (See section no. 4.5.1)

Example-II : Mr. Amrit Saini is the owner of a house. For the financial year 2020-21, its municipal valuation is fixed at Rs. 15,000. Municipal taxes levied were Rs. 3000 but he paid Rs. 1500. He has occupied a house for his own residence but as he was away from India for four months during July to October, 2020, he has let it out @ Rs.1600 p.m. His spending are :

	Rs.
(1) Brokerage	800
(2) Interest on loan for the construction of the house	6,000

The tenant has not paid him 1/2 month rent. The conditions required for getting deduction of unrealised rent are satisfied. From the above information compute the income from House Property for the A.Y. 2021-22.

Solution:

Computation Income From House Property

(Treated as let-out House)

	Rs.	Rs.
(a) Expected Rent Rs. 15,000	-	15,000
(b) Actual Rent Rs. 6,400 (1600×4)		
GAV (a) or (b) whichever is greater	-	-
Less : (1) Municipal Taxes paid	1500	
(2) Unrealised Rent	800	2,300
Annual Value		12,700
Other deductions :		
(1) 30% of A.V. (12,700×30%)	3,810	
(2) Interest on loan taken for the house construction	6,000	9,810
Income from house property	-	2,890

(Source: “The income tax law... A simple guide to theory”: By Shailinder Sekhon)

4.6 DEDUCTIONS FROM GROSS ANNUAL VALUE U/S -24

Income chargeable to tax under this head is the annual value of the house property which shall be computed after making following adjustments in its annual value :

1. Standard deduction under section 24 {a}
2. Deduction for Interest on Money borrowed under section 24 {b}

4.6.1 Standard Deduction-U/S 24 {a}

As per this provision a flat deduction @ 30% on net annual value is allowed as deduction for certain expenses, such as, rent collection charges, insurance of house, repair of house etc., but not for interest on loan expenses.

4.6.2 Interest on loan taken for Buying House-U/S 24 {b}

While computing income under the head 'House Property' interest paid or payable on loan taken for purchase, construction, repair or renovation etc. of house property is allowed as deduction under section-24 {b}. The treatment of deduction of interest paid or payable on housing loan can be explained by classifying it into two parts :

1. Deduction in case of let out/deemed to be let out house.
2. Deduction in case of self-occupied house.

Let out or Deemed to be let out house : In case of let-out property, if interest paid on loan taken for purchase/construction or for repair/renovation of it then the full actual amount of interest paid or payable is allowed as deduction. In other words in such a case, no maximum limit in respect of amount of interest allowed is fixed. Thus so for let out or deemed to be let out property amount of deduction is equal to actual interest paid on housing loan.

Self-Occupied House : In case of self-occupied house, the benefit of deduction of interest on loan is given to a person as interest paid will be considered a loss under the head 'Income from house property'; because income of one self-occupied house is taken as nil. Further the maximum limit on interest amount allowed as a deduction is also applied in case of self-occupied house property. In other words, in case of self-occupied house property actual amount of deduction is equal to the prescribed limits of deduction not the actual amount of interest paid by the assessee.

Amount allowed for Interest paid or payable on Housing Loan : The maximum limit of interest paid on housing loan depends upon the time period of the property constructed/acquired with the borrowed capital.

A} Property Acquired/Constructed/Repaired/Renewed/Reconstructed before 1999 : In case property is acquired or constructed or repaired, renewed, reconstructed with capital borrowed before 1st April 1999, then interest on loan is allowed to be deducted maximum of Rs. 30,000.

B} Property Acquired/Constructed on or after 1st April 1999 : In case property is acquired or constructed with borrowed capital after April 1999 then the interest amount of loan taken is allowed to be deducted upto maximum of Rs. 2,00,000 subject to following conditions :

1. The property must be acquired or constructed within three years from the end of the financial year in which capital was borrowed.

2. The assessee must furnish a certificate from the person or institution to whom any interest is paid against loan taken for the purpose of acquisition or construction of the property. The certificate should specify the amount of {1} interest paid/payable; or {2} repayment of original loan.

C} Pre-acquisition or Pre-construction period Interest : The basic condition for availing deduction under section 24 is that the construction or acquisition of house property must be completed within 3 years from the end of the financial year in which capital was borrowed. But if any interest had been paid or payable on borrowed capital for the period to the previous year in which the property has been acquired or constructed, (i.e. pre-construction period interest) then such interest is also allowed to be deducted in equal instalments (i.e. maximum Rs. 30,000) for the said previous year and for each of the four immediately succeeding previous years, which is known as pre-acquisition or pre-construction period based deduction of interest.

D} Property reconstructed, repaired or renovated etc: In case property is reconstructed, repaired, renovated etc. with borrowed capital on or after 1st April 1999, interest amount of loan taken is allowed to be deducted upto a maximum amount of Rs. 30000.

Meaning of Pre-Acquisition or Pre-Construction Period : It means period starting from the date of borrowing of capital for the purchase or construction of house property and ending on 31st March immediately preceding the year of completion of construction or acquisition.

CHECK YOUR PROGRESS

- Q.1. The annual value of house property will be negative in case municipal taxes paid by the owner are more than the gross annual value. **(True or False)**
- Q.2. Interest on borrowed money connected with the Pre-Acquisition or Pre-Construction Period (Period starting from the date of borrowing of capital for the purchase or construction of house property and ending on 31st March immediately preceding the year of completion of construction or acquisition) is also allowed to deduct from annual value of the house. **(True or False)**
- Q.3. The reasonable expected rent can be determined by taking the municipal valuation or Fair rent of the property. **(True or False)**
- Q.4. The standard rent of property is the maximum amount of reasonable expected rent or municipal valuation; or Fair rent shall be considered reasonable expected rent only if their values remain lower than the value of standard rent, otherwise standard rent will be taken as reasonable expected rent. **(True or False)**
- Q.5. What is the Annual Value of the self-occupied house property?
- Q.6. What are various types of Self-occupied properties? Explain.

4.7 LET US SUM UP

Under the head 'House Property' rental income of the person is taxable, if he is the owner

of property and property consists of any buildings or lands appurtenant thereto, but it should not be used by him for the purpose of any business or profession carried on by him. Apart from this a resident assessee is also taxable u/s 22 in respect of annual value of a property situated in a foreign country. Income of House Property is not chargeable to tax if it is used for own business or profession and/or residential purposes.

Under section-24, two deductions i.e. standard deduction; and deduction relating to interest on borrowed capital can be claimed by the person. But no other deduction can be claimed in the respect of expenses on insurance, ground rent, repairs, land revenue, collection charges, electricity, water supply etc.

4.8 KEY TERMS

- | | |
|----------------------------|----------------------------------------|
| 1. Annual Value | : Yearly value of the property |
| 2. Unrealised Rent | : Rent which is not realised |
| 3. Expected Rent | : Reasonable rent in the same locality |
| 4. Actual Rent | : Actual amount of rent received |
| 5. Exempted Rental Incomes | : Rental Incomes which are not taxable |
| 6. Concessional Rent | : Rent less than actual or real rent |
| 7. FR | : Fair rent |
| 8. MV | : Municipal Value |

4.9 ANSWERS TO SELF CHECK QUESTIONS

Ans.1 True

Ans.2 True

Ans.3 True

Ans.4. True

Ans.5. The Annual Value of the self-occupied house property shall be taken as Nil.

Ans.6. The main types of the self-occupied house property are:

1. Whole year self-occupied house for residential purpose.
2. Whole year not self-occupied house for self-resident due to employment, business or profession.
3. Whole year one unit of property is self-occupied and another one is let out.
4. Whole house is self-occupied for a part of year and let out for remaining part of the year.

4.10 TERMINAL QUESTIONS

- Q.1. What are the incomes that are chargeable to tax under the head Income from House Property? Illustrate your answer.
- Q.2. Which deductions are expressly allowed under section 24 from income chargeable to tax under the head Income from House Property?
- Q.3. Write a detailed note on the various types of annual value.

- Q.4. How would you arrive at the annual value of a house which is let-out for residential purposes?
- Q.5. What do you mean by negative annual value of house? Discuss exempted amount of annual value in case of Self-occupied property.
- Q.6. From the following information find out income from house property for the previous year 2020-21. As per agreement the rent amount will increase to Rs. 16,000 p.m. from 1st December 2021 onwards:

Particulars	Rs.
Standard rent	1,60,000
Actual rent received (12000x12)	1,44,000
Municipal rental value	1,80,000
Fair rental value	1,48,000
Municipal taxes	14,400
Interest of loan taken for purchase of house	45,000
Case-1	Self-occupied
Case-2	Let-out

4.11 **REFERENCES AND SUGGESTED READINGS**

1. <https://www.incometaxindia.gov.in>
2. <https://pdfcoffee.com>
3. <https://indiakanoon.org>
4. Students' Guide to Income Tax, Dr. Vinod K. Singhania & Dr. Kapil Singhania, edition, 2021.
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COMPUTATION OF INCOME UNDER PROFIT AND GAINS FROM BUSINESS AND PROFESSION HEAD

STRUCTURE

- 5.0 Objectives**
- 5.1 Introduction**
- 5.2 Basis of Charge under Profit and Gains from Business and Profession head**
- 5.3 Deductions allowed regarding Expenses paid in Business or Profession**
 - 5.3.1 Deduction for rent, rates, taxes, repairs and Insurance of building**
 - 5.3.2 Deduction for repairs and Insurance of Machinery, Plant and Furniture**
 - 5.3.3 Deduction for Depreciation**
 - 5.3.4 Benefit for opening Tea/Coffee/Rubber development account**
 - 5.3.5 Deduction for spending on Scientific Research**
 - 5.3.6 Amortization of Telecom License fee**
 - 5.3.7 Deduction for spending on Specified Business**
 - 5.3.8 Deduction for Preliminary Expenses**
 - 5.3.9 Deduction for Voluntary Retirement Scheme**
 - 5.3.10 Deduction for Insurance Premium paid for employees' health**
 - 5.3.11 Deduction for Bonus/Commission paid to employees**
 - 5.3.12 Deduction for Interest on Borrowed Capital**
 - 5.3.13 Deduction for eligible Provident Fund**
 - 5.3.14 Deduction for contribution made towards NPS**
 - 5.3.15 Deduction for contribution made towards Gratuity Fund**
 - 5.3.16 Deduction for contribution made towards Staff Welfare Schemes**
 - 5.3.17 Deduction for Bad debts**
 - 5.3.18 Deduction for amount paid towards Special Reserves**
 - 5.3.19 Deduction for Expenditure made to promote Family Planning among Employees**
 - 5.3.20 Deductions made towards Banking Cash Transactions, Securities Transaction Tax and Commodities Transaction Tax**
- 5.4 General Deduction**
 - Check your Progress-I**
- 5.5 Items Disallowed to deduct from taxable profit/Income**
 - Check your Progress-II**
- 5.6 Let us Sum Up**

- 5.7 Key Words
- 5.8 Answers to Self Check Questions
- 5.9 Terminal Questions
- 5.10 References and Suggested Readings

5.0 OBJECTIVES

After going through this lesson you should be able to :

1. Understand the Concept of Business and Profession according to the Income tax Act.
2. Learn the expenses allowed to deduct from the income of Business or Profession.
3. Learn the expenses disallowed to deduct from the income of Business or Profession
4. Explain the Conditions required to be fulfilled to get deductions under the head profits and gains of business and profession.
5. Measuring the Incidence of tax upon businessmen and professionals.

5.1 INTRODUCTION

As per Section-14 of the Income tax act, there are separate sections for computing the taxable income under each head, therefore all incomes have to be classified under the five heads. Out the five heads of Income, income under the heads 'profits and gains of business and profession', is covered in this lesson. Income chargeable to tax under this head is the most important source of tax collections for the Revenue department of government of India. The computation of income without knowing the meaning of Business and Profession under this head is a very difficult task, so one should first understand the concept of business and profession. **Concept of Business:** According to Evelyn Thomas, “Commercial occupations deal with the buying and selling of goods, the exchange of services, commodities and the distribution of the finished products”. In addition to this definition, commerce also includes trade and aids to trade. Furthermore, it includes all those activities which help in the expansion of trade.

Trade can be Internal (Domestic) or External (Foreign) or wholesale or Retail trade. Various problems are encountered in the course of exchange of goods or services which are overcome with the help of well-defined agencies known as ‘Aids to trade’. Thus, scope of business activities covers all the above discussed functions and can be divided into Industry and Commerce.

Concept of Profession: The profession involves services which are based on professional skill, intelligence, education, knowledge, training and experience etc. The main feature of profession is that the minimum educational qualifications are prescribed for entering into the particular profession and after that every professional requires a high degree of formal education and specialized training in such a particular field. For example, Services given by Doctors, Chartered Accountants, Advocates, Consultants, and Chartered Secretary etc. are covered under the term profession. The specified services are provided by them for a professional fees charged from their clients. Moreover, those professionals also need to get membership in the concerned

professional bodies and need to conduct their activities according to the standards and obey the guidelines and ethics set by those bodies.

To charge tax on such incomes the provisions of income under the head profits and gains of business and profession are contained in Section-28 to 44D, the same has been explained in detail in this lesson.

5.2 BASIS OF CHARGE UNDER THE HEAD PROFITS

Following nine types of incomes are chargeable to tax under this head:

- (a) Profit and gains of any Business or Profession;
- (b) Any compensation or other payments due to or received;
- (c) Income by a trade, professional or other associations from specific services performed for its members;
- (d) Profit on sale of import entitlement licenses, drawback of duty;
- (e) the value of any benefit or perquisite;
- (f) any salary, bonus, commission or remuneration received by a partner of firm from such firm;
- (g) any sum whether received or receivable, in cash or in kind, under an agreement for not carrying out any activity in relation to any business or not to share any know-how, patent, copyright, trade mark, license etc.;
- (h) any sum received under keyman insurance policy;
- (i) Profits and gains of managing agency;
- (j) income from speculative transaction.

5.3 DEDUCTIONS ALLOWED REGARDING EXPENSES PAID IN BUSINESS OR PROFESSION

Sections 30 to 37 enumerate deductions expressly allowed in respect of expenses and allowance as discussed below:

5.3.1 Deduction for rent, rates, taxes, repairs and Insurance of building [Section-30]

If the premises are occupied by the assessee and used for the purposes of the businesses or profession, the deductions in respect of rent, taxes, rates, repairs and insurance of the premises shall be allowed as discussed here.

- a. Actual expenses paid by the assessee.
- b. Cost of repairs to the premises if he has undertaken to bear this and paid by him.
- c. Expenditure of repair paid by the owner of the premises.
- d. Land revenue, local taxes or municipal taxes paid on account of premises.
- e. Premium amount paid in respect of insurance policy taken against the risk of damage or destruction of premises.

The above mentioned expenditures are allowed to be deducted upto the actual amount paid by the assessee.

5.3.2 Deduction for repairs & Insurance of Machinery, Plant and Furniture[Section-31]

In respect of repairs and insurance of plant, machinery or furniture used for the purpose of business or profession, following deductions are allowed :

- a. the actual amount of current repairs of such assets
- b. the actual amount of insurance premium paid against the risk of damage or destruction of such assets. The above mentioned expenditures are allowed to be deducted upto the actual amount paid by the assessee.

5.3.3 Deduction for Depreciation [Section-32]

Any asset, tangible or intangible e.g. plant, machinery, furniture, patents, copyrights etc. used for the purpose of business or profession is eligible for deduction u/s 32 as per following conditions:

1. Asset must be owned by Assessee.
2. Such asset must be used for the purpose of business or profession.
3. Asset should be used during the relevant previous year.

5.3.4 Benefit for opening Tea/Coffee/Rubber development account [Section-33 AB]

If an assessee carrying on business of growing and manufacturing tea in India has a) deposited with the National Bank any amount in an account approved in this behalf by the Tea, Coffee or Rubber Boards; or b) deposited any amount in an account opened by the assessee in accordance with, and for the purposes specified in, a scheme framed by the Tea, Coffee or Rubber Boards, then the assessee shall be allowed a deduction. The amount of deduction shall be minimum of the following two amounts :

- i. a sum equal to the amount or the aggregate of the amounts so deposited; or
- ii. a sum equal to 40% of the profits of such business.

In case any deduction is claimed under this section then in any other previous year no deduction shall be allowed in respect of such amount.

5.3.5 Deduction for spending on Scientific Research [Section-35]

To encourage the expenditure on scientific research section-35 of this act gives incentives to the assessee in following three ways:

1. Deduction in case of revenue expenditure.
2. Deduction in case of capital expenditure.
3. Deduction in case of approved in-house research
4. Deduction in case of contribution made to outside institutions engaged in research.

Section 35 [1]–Deduction for Revenue Expenditure : Where revenue expenditure is incurred by the assessee himself during the previous year as well as before the commencement of business [pre-commencement period i.e. within 3 years immediately before commencement period], expenditure is allowed for such expenditure only if the research relates to the business.

For this purpose, the term ‘Scientific research’ means “Any activities for the extension of knowledge in the fields of natural or applied sciences including agriculture, animal

husbandry or fisheries”.

Section 35 [2]-Deduction for Capital Expenditure : Where any capital expenditure is incurred by the assessee himself in the previous year or before the commencement of the business [i.e. within 3 years immediately preceding the commencement of business], it is allowable as deduction. To avail this benefit , the following conditions are needed to be satisfied :

- i] The expenditure should be incurred during the previous or pre-commencement period.
- ii] The expenditure should be of capital nature.
- iii] The expenditure should be incurred on scientific research.
- iv] The expenditure on land is not deductible.
- v] The expenditure by way of depreciation is not admissible in respect of those assets against which the assessee has availed deduction under this section.

Section 35 [2AB]-Deduction for expenditure incurred on in-house research : If assessee is a taxpayer company then under this section weighted deduction is allowed in respect of expenditure incurred on in-house research by the bio-tech or manufacturing company.

Amount of Deduction : Subject to the fulfillment of specified conditions, a sum equal to 100% of such expenditure shall be allowed as deduction.

Section 35 [i] [ii] [iii]-Deduction for contribution made to outsiders : In case the assessee does not himself carry on research but makes contribution to the undermentioned institution :

1. An approved research association having the object of undertaking scientific research related or unrelated with the business of the assessee.
Amount of Deduction = 100% of actual such expenditure
2. An approved university, college or other institution having object of undertaking scientific research related or unrelated with the business of the assessee.
Amount of Deduction = 100% of actual such expenditure
3. An approved university, college or other institution, established for conducting research in social sciences or statistical research related or unrelated to the business of the assessee.
Amount of Deduction = 100% of actual such expenditure

For this clause, university and college are undoubtedly educational institutions but the term ‘other institution’ would also mean an educational institution.

5.3.6 Amortization of Telecom License fee Tea/Coffee/Rubber development account [Section-33AB]

The expenditure of capital nature, if incurred, by the assessee for acquiring any right to operate telecommunication services, the payment which has been actually made by him will be allowed as deduction in equal installments. This expenditure either incurred before the commencement of business or at any time during the previous year will be allowed.

Amount of Deduction : Such payment will be allowed in equal instalments over the period for which the telecom license remains in force as mentioned below :

Situation-I : Fee paid before the commencement of Business

Deduction shall be allowed for the previous years beginning with the financial year in which business has started.

Situation-II : Fee paid after the commencement of Business.

Deduction shall be allowed for the previous years beginning with the financial year in which the license fee is actually paid.

If such telecom license is sold or transferred [Entire or a part of License], then sale proceeds shall be taxable as a

- 1) business income; or
- 2) capital gains according to situation, hence deduction would be disallowed.

5.3.7 Deduction for spending on Specified Business [Sec-35AD]

Subject to certain conditions, investment-linked tax incentives are available as a deduction under this section, only if expenditure is made on 'specified business' by the assessee. Following is the list of specified business.

1. Setting up and operating a cold chain facility.
2. Setting up and operating a warehousing facility for storage of agricultural produce.
3. Laying and operating a cross-country natural gas or crude or petroleum oil pipeline network for distribution.
4. Building and operating a Hotel of 2 stars or above, anywhere in India.
5. Building and operating a Hospital with minimum 100 beds, anywhere in India.
6. Developing a Housing Project.
7. Production of Fertilizer in India.
8. Setting up and operating an Inland container depot or a container freight station.
9. Production of honey and beeswax.
10. Setting up and operating a warehousing facility for storage of sugar.

Amount of Deduction : 100% of capital expenditure incurred wholly and exclusively for the purpose of specified business carried on by the assessee is deductible in the previous year in which it is incurred. But expenditure incurred on the acquisition of any land or goodwill or financial instrument is not deductible under section 35 AD.

Meaning of Specified Business : The specified business should be a new business, it should not be set up by splitting up or the reconstruction of a business already in existence. Moreover, it should not be set up by the transfer of old plant and machinery.

5.3.8 Deduction for Preliminary Expenses [Sec-35D]

Where preliminary expenses are incurred before or after the commencement of the business in connection with setting up a new unit or the extension of an undertaking.

Amount of Deduction : The assessee can avail 1/5th of the qualifying expenditure as

deduction in each of five successive years, beginning with the year in which the business starts.

In case of expenses that are incurred after the commencement of the business, the amount is allowable as deduction in five successive years from the previous year in which the extension of the industrial undertaking is completed or the new industrial unit commences production or operation.

Meaning of Qualifying Expenditure with respect to preliminary expenses :
Qualifying Expenditure means

- [a] expenditure in connection with 1) preparation of feasibility reports; 2) project report; 3) market survey; or 4) engineering services relating to the business of the assessee.
- [b] legal charges for drafting any agreement.
- [c] legal charges for drafting memorandum of association [MOA]
- [d] legal charges for drafting Articles of association [AOA]
- [e] Printing expenses of Memorandum of Association and Articles of Association.
- [f] Registration fee paid to register the company.
- [g] Expenses related to the public issue of shares or debentures, underwriting commission, brokerage and charges for drafting typing, printing and advertisement of the prospectus etc.

5.3.9 Deduction for Voluntary Retirement Scheme [Sec-35DDA]

In case payment is made by employer for any sum to an employee in connection with his voluntary retirement, such payment is allowed to be deducted in 5 equal instalments by the employer. The first installment is allowed to be deducted in the previous year in which the amount is actually paid, hence this deduction is not allowed on accrual basis.

5.3.10 Deduction for Insurance Premium paid for employees' health [Sec 36 (1) (ib)]

If any amount of insurance premium is paid by the employer to effect or to keep in force an insurance on the health of his employees then such amount is allowed as deduction. The insurance premium should be paid under a scheme framed by the General Insurance Corporation of India or any other insurer's scheme approved by IRDA.

5.3.11 Deduction for Bonus/Commission paid to employees [Sec 36 {1} {ii}]

If bonus or commission is paid to an employee then such payment is allowed as deduction subject to certain conditions.

5.3.12 Deduction for Interest on Borrowed Capital [Sec 36 {1} {iii}]

If the assessee borrowed money which has been used for the purpose of business, interest paid or payable on such borrowings is allowable as deduction. But interest on own capital is not deductible. In other words interest must be paid to another person.

5.3.13 Deduction for eligible Provident Fund [Sec-36 (1)(iv)]

Where employer contributes towards recognised provident fund and approved superannuation fund then amount so contributed subject to the allowable limits as prescribed under law is allowed as deduction. But the amount so contributed for any previous year must have been

actually paid either during the previous year or on/before the due date of furnishing of return of income of that previous year.

In case employer contributed towards unrecognised provident fund then deduction for such contribution shall be allowed under section 37 of the Income tax act.

5.3.14 Deduction for contribution made towards NPS [Sec. 36 (1) (iva)]

In case the assessee, being an employer, paid any sum by way of contribution towards a pension scheme (i.e. schemes eligible under section 80CCD) to his employee shall be allowed as deduction under this head. But the maximum limit of this deduction is allowed only to the extent of 10% of the salary paid in the year. For the computation of 10% of the salary, 'salary means Basic Salary plus dearness allowance (D.A.), if terms of employment so provide.

5.3.15 Deduction for contribution made towards Gratuity Fund [Sec 36 (1) (v)]

In case the assessee, being an employer, paid any sum by way of contribution towards an approved gratuity fund created by him exclusively for the benefit of his employees under an irrevocable trust is allowed as deduction. This deduction shall be allowed to the employer under section 43B i.e. the amount so contributed for any previous year must have been actually paid either during the previous year or on/before the due date of furnishing of return of income of that previous year.

5.3.16 Deduction for contribution made towards Staff Welfare Schemes [Sec 36(1) (va)] :

Where employees of the assessee contributed towards any staff welfare funds and such sum is received by the assessee as an employer, deduction in respect of such sum received is allowed only if same is credited by assessee to the employee's account in the relevant fund on or before the date.

5.3.17 Deduction for Bad debts [Sec 36 (i) (vii)]

In case of any amount of bad debts occurred in the business then assessee can claim deduction under this head and reduce his taxable income. Such deduction is allowed subject to following conditions :

1. There must be a debt and it must be incidental to the business or profession.
2. Such bad debts must be taken into account while computing total income of the assessee of the previous year in which it is written off.
3. The bad debts must have been written off in the books of account of the taxpayer.
4. The bad debts of a discontinued business is not allowable as a deduction.
5. The writing off of bad debts is also allowed in the hands of a successor of the business in case business is dissolved.
6. In case of recovery of bad debts, the amount of deduction will be adjusted accordingly. In other words, the amount of bad debts already claimed as deduction (which is now recovered) will be chargeable to tax in the assessment year relevant to the previous year of recovery.

5.3.18 Deduction for amount paid towards Special Reserves [Sec 36 (1) (viii)]

In case any special reserve is created or maintained by a special entity, then an amount not more than 20% of the profits derived from eligible business (computed under the head 'Profits and gains of business or professions') is allowed as deduction, hence not taxable.

But if the aggregate of the amount carried to such reserve account from time to time exceeds twice the amount of the paid up share capital plus general reserves of the entity, then no deduction under this clause will be made in respect of such excess amount.

Meaning of Specified Entity : The 'Specified Entity' means :

1. a financial corporation as specified in the Companies Act, 1956;
2. a financial corporation which is a public sector company;
3. a banking company;
4. a co-operative bank (other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank);
5. a housing finance company; and
6. any other financial corporation.

Meaning of Eligible Business : Following is the eligible business for the purpose of calculating 20% of the profits.

1. Any business providing long term finance in India for Industrial or Agricultural development or development of infrastructural facility or development of housing in India.
2. The business of providing long term finance for construction or purchase of residential houses in India.
3. Any business of providing long term finance for development of infrastructural facility.

Further, it is important to note that if any amount is withdrawn from the aforesaid reserve account (against which deduction was availed) then it will be chargeable to tax in the year in which the amount is withdrawn.

5.3.19 Deduction for Expenditure made to promote Family Planning among Employees [Sec 36 (1) (ix)]

In case of corporate assessee only this deduction is allowed if a company for the purpose of promoting family planning among its employee made expenditure of revenue or capital nature as discussed below :

1. This deduction is not allowed to non-corporate assesses (i.e. Individual, HUF, Firm)
2. If amount incurred for family planning purpose is of capital nature then deduction shall be 1/5th of such expenditure for the previous year in which it was incurred. And the balance is deductible in equal installments in the next four years.
3. Due to inadequacy of profits if such expenditure of capital nature is not possible to deduct from the profit then such unadjustable expenditure shall be set off and carry forward as unabsorbed depreciation in the coming years.

5.3.20 Deductions made towards Banking Cash Transactions, Securities Transaction Tax and Commodities Transaction Tax (Section-36 (1) (xv))

At present, these taxes are allowed to be deducted under this head. But Securities Transaction Tax and Commodities Transaction Tax are allowed to be deducted only if the

assessee is a dealer in such securities.

5.4 GENERAL DEDUCTION [SECTION-37 (1)]

This section covers any expenditure not being expenditure of the nature discussed in sections 30-36, laid out wholly or exclusively for the purpose of the business or profession shall be allowed in computing the income chargeable under the head 'Profits and gains of business or Profession'. But such expenditure should not be of capital nature and personal expenses of the assessee.

Thus, to claim deduction under this residuary section, the following conditions should be satisfied :

1. The expenditure should not be of the nature those described in section 30 to 36.
2. The expenditure should be of revenue nature, as capital expenditure even incurred for the purpose of earning income is not deductible.
3. Such expenditure should not be of personal expenses of the assessee. The personal expenses mean such expenses which are not related to the business.
4. The expenditure must have been incurred in the previous year in which deduction is claimed.
5. The expenditure should have been laid out wholly or exclusively for the purpose of business or profession.
6. For this deduction expenditure should be incurred for the purpose of business carried on by the assessee.

Note : To claim deduction of expenditure under section 37 (1) the proof of facts is necessary to support the claim of deduction, otherwise deduction is not admissible.

CHECK YOUR PROGRESS-I

Q.1. State ten examples of deductible expenditures provided under the third head of income i.e. income from business or professional head.

Q.2. What do you mean by General Deduction as per section-37.

5.5 AMOUNTS EXPRESSLY DISALLOWED UNDER THE ACT

Section 40, 40A and 43B enumerate deductions expressly disallowed while computing taxable income of an assessee.

1. Interest, royalty, fees for technical services payable to a non-resident [Section-40(a)(i)].
2. Compliance of TDS provisions in case of a resident [Section-40(a)(ia)].
3. Securities Transaction Tax [Section-40(a)(ib)].
4. A fringe benefit tax [Section-40(a)(ic)].
5. Income Tax [Section40(a)(ii)].
6. Wealth Tax [Section-40(a)(ia)].

7. Salary payable outside India without tax deduction [Section-40(a)(iii)].
8. Provident Fund payment without TDS [Section-40(a)(iv)].
9. Tax on perquisite paid by the employer [Section-40(a)(v)].
10. Amounts not deductible in the case of partnership firm [Section-40(b)].
11. Amount not deductible in the case of AOPs or BOI [Section-40(ba)].
12. Payment to relative [Section40A(2)].
13. Payments exceeding Rs. 20,000 paid otherwise than by crossed cheques or bank drafts [Section-40A(3)] in general Rs. 35,000 in use of payment made for playing, rising or leasing good carriages.
14. Expenditure on payment of salary or perquisite to employees [Section-40A(5)].
15. Provision for payment of gratuity [Section40A(7)].
16. Restriction on contributions by employers to non-statutory funds [Section-40A(9)].
17. Disallowance of unpaid liability [Section-43(B)].

CHECK YOUR PROGRESS-II

- Q.1. The amount of Income tax is deductible from the income of business or profession. (True or False)
- Q.2. The amount of fringe benefit tax is not deductible from the income of business or profession. (True or False)
- Q.3 The amount of securities transaction tax is deductible from the income of business or profession. (True or False)

5.6 LET US SUM UP

The scope of the word 'Business' is wider than that the words trade, commerce or manufacture, as it includes 1) any trade, commerce or manufacture; and 2) any adventure or concern in the nature of trade, commerce or manufacture as defined in section 2 [13] of the act. The word 'Profession' involves an occupation requiring purely some specific intellectual skill and ability apart from some specific qualifications which are must to carry on such profession.

The income earned from all activities of business or profession is taxable under the head, profits and gains from business or profession, after deducting eligible deductions allowed under the act, in respect of expenses or loss incurred by the assessee which was incidental to carrying on the business.

5.7 KEY WORDS

1. Illegal Business : Business which is not a allowed under law
2. Deemed Profit : Profits which are normally not taxable but somehow considered as taxable.
3. Profession : An occupation requiring pure intellectual skill.
4. Bad Debts : Debts recorded as unpaid

5. Mercantile or : Accounting systems for recording business transactions.
Cash System

5.8 ANSWERS TO SELF CHECK QUESTIONS

CHECK YOUR PROGRESS-I

Ans.1. Sections 30 to 37 enumerate deductions expressly allowed in respect of expenses and allowance as discussed in details in para-5.3 of this lesson.

Ans.2. The General deduction u/s 37 covers any expenditure not being expenditure of the nature discussed in sections 30-36, laid out wholly or exclusively for the purpose of the business or profession shall be allowed in computing the income chargeable under the head 'Profits and gains of business or Profession'.

CHECK YOUR PROGRESS-II

Ans.1. False

Ans.2. True

Ans.3. False

5.9 TERMINAL QUESTIONS

Q.1. What do you mean by business or profession?

Q.2. What do you mean by Deemed profits?

Q.3. Differentiate between business income and Professional income.

Q.4. What are the incomes that are expressly disallowed to be deducted from income chargeable to tax under the head 'profit and gains from Business and profession'? Illustrate your answer.

Q.5. Which deductions expressly allowed deducting from income chargeable to tax under the head profit and gains from Business and profession?

Q.6. Write a detailed note on the deduction given to assessee for the expenditure incurred on scientific research.

Q.7. Shri. Krishna is the proprietor of a business. His business's cash Account for the year ending March 31st, 2021 is as follows:

Particulars of Income	Rs.	Particulars of Expenditure	Rs.
To opening balance	10,000	By rent of clinic	18,000
To consultation fee	60,000	By purchase of medicine	38,000
To visiting fee	45,000	By staff salary	24,000

To gifts and presents	8,000	By surgical equipment	40,000
To Sale of medicine	42,000	By motor car expenses	8,000
To dividend from UTI	6,000	By purchase of motor car	1,40,000
To Life insurance maturity	1,00,000	By household expenses	7,000
To dividend from N.D.S.	6,000	By closing balance	2,000
	2,77,000		2,77,000

Following additional information is also given:

- 1) 50% of the motor car expenses incurred in connection with profession. Car was purchased in December 2021.
 - 2) Household expenses include Rs. 6,800 insurance premium.
 - 3) Gift and presents include Rs. 3,000 from relatives.
 - 4) Closing stock for medicine Rs. 12,000 and opening stock on 1-04-21 was Rs. 4,000.
- Compute his professional gain for the assessment year 2021-22.

5.11 **REFERENCES AND SUGGESTED READINGS**

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3. <https://financedocbox.com>
4. Students' Guide to Income Tax, Dr. Vinod K. Singhanian & Dr. Kapil Singhanian, edition, 2021.
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COMPUTATION OF INCOME UNDER CAPITAL GAINS AND INCOME FROM OTHER SOURCES HEADS

STRUCTURE

- 6.0 Objectives**
- 6.1 Introduction**
- 6.2 Concept of Capital Asset**
 - 6.2.1 Short term asset**
 - 6.2.2 Long term asset**
- 6.3 Basis of charge under the Capital Gains Head**
 - 6.3.1 Meaning of Transfer of Asset**
 - 6.3.2 Computation of Short term Capital Gains**
 - 6.3.3 Computation of Long term Capital Gains**
- 6.4 Determination of Cost of asset for charging Capital Gains**
 - 6.4.1 Cost of Acquisition**
 - 6.4.2 Cost of Improvement**
 - 6.4.3 Indexed Cost of Acquisition and Improvement**
 - 6.4.4 Cost Inflation Index table**
 - 6.4.5 Computation of Indexed Cost of Acquisition and Improvement**
- 6.5 Exempted Capital Gains**
 - Check your Progress-I**
- 6.6 Concept and Basis of charge under the Head Income from other Sources**
- 6.7 List of Important items chargeable to tax under section 56(1)**
- 6.8 Deductions under the Head Income from other Sources**
- 6.9 List of items not allowed deducting from tax under Income from other Sources head**
 - Check your Progress-II**
- 6.10 Let us Sum up**
- 6.11 Key Words**
- 6.12 Answers to Self Check Questions**
- 6.13 Terminal Questions**
- 6.14 References and Suggested Readings**
- 6.0 OBJECTIVES**

After going through this chapter you should be able to :

1. Understand the Concept of Capital asset as per Income tax Act, 1961.
2. Distinguish between Long term capital gain and short term capital gain.
3. Compute the Long term and short term capital gain tax.
4. Explain various conditions required to be fulfilled for availing exemptions from the

capital gain tax.

5. Understand the concept of 'Income from other Sources' and types of incomes chargeable to tax under this head.
6. Determine Expenditures deductible/not deductible from income under the head Income from other sources.
7. Compute taxable income under this fifth head of income.

6.1 INTRODUCTION

The another head deals with the gains/losses arising on the transfer of capital assets in the previous year which is chargeable to tax under the head 'Capital Gains' in the following assessment year. The liability under the head capital gains arises only when the following conditions are satisfied:

- (i) There should be a capital asset.
- (ii) The capital asset should be transferred by the assessee.
- (iii) Such transfer takes place during the previous year.
- (iv) The gain arises as a result of transfer.
- (v) Such gain should not exempt from tax sections under 54.

In other words, 'capital gain' is a profit that results from a sale of a capital asset, such as stock, intangible assets, bond, real estate etc. where the sale price exceeds the purchase price. Usually long term capital gains are taxed at a lower rate than regular income tax rates.

Every type of income which is not exempt under the income tax act shall be chargeable to tax under the fifth head i.e. 'Income from other Sources'. The second part of the lesson explains the important provisions of this fifth head of income. According to section 56(1), if income is not chargeable to income tax under any of the first four heads then it is taxable as per the provisions of the fifth head. To charge income under the fifth residuary head following conditions must be satisfied; 1) there must be an income; 2) income should not be exempted under the provisions of the income tax; 3) income should not be chargeable to tax under any of the first four heads.

6.2 CONCEPT OF CAPITAL ASSET

The term 'capital asset' means any kind of property held by the assessee, whether fixed or circulating, movable or immovable, tangible or intangible. It must be noted that movable assets for personal use like Furniture, carpets, T.V. refrigerators, cars, musical instruments etc. are not to be treated as capital assets because these are covered under personal effects. Thus, the expression 'capital asset' means property of any kind held by an assessee, whether or not connected with his profession or business. But the following assets are, however, excluded from the definition of capital asset :

- (i) Any stock-in-trade, consumable stores or raw material used for the purposes of business or profession.
- (ii) Personal effects or belongings of the assessee that is movable property including clothes and furniture held for his personal use or for the use of any member of his

family. However, jewellery, drawings, paintings, sculptures, archaeological collections and any work of art is treated as a capital asset even though it is meant for personal use of the assessee.

- (iii) Agricultural land in India provided it is not situated:
 - (a) In any area within the territorial jurisdiction of a Municipal Committee of a Cantonment Board, having a population of 10,000 or more, or
 - (b) In any notified area.
- (iv) 6.5% Gold Bonds, 1977 or 7% Gold Bonds, 1980 or National defense Gold Bonds, 1980 issued by the Central Government.
- (v) Special Bearer Bonds, 1991.
- (vi) Gold Deposit Bonds issued under Gold Deposit Scheme, 1999.

Capital assets are of following two types :

1. Short-term capital assets
2. Long-term capital assets

6.2.1 Short Term Asset [u/s 2(42A)]: It means a capital asset held by an assessee for less than 36 months (i.e. 3 years) immediately preceding the date of its transfer. However, the following assets shall be treated as short-term capital assets if they are held for less than 12 months or one year (instead of 36 months) immediately preceding the date of its transfer:

- (a) Equity or preference shares of a company held by the assessee.
- (b) Securities listed in a recognised stock exchange in India.
- (c) Units of the Unit Trust of India or units of a notified Mutual Fund.
- (d) Zero Coupon bonds

Additionally, following assets if held for less than 24 months or two years (instead of 36 month immediately preceding the date of its transfer are treated as short term assets:

- (a) Equity or preference shares in unlisted company if a transfer takes place on or after April Ist, 2016.
- (b) Immovable property, such as, land or building or both, if a transfer takes place on or after April Ist, 2017.

6.2.2 Long-Term Asset [u/s 2(42A)]: The asset which is not covered u/s 2(42A) is known as Long-Term Capital Asset (LTCA). So any asset if held by the assessee for more than 36 months/3years (or 12 months/one year in case of Shares, Units of mutual funds units of an equity oriented mutual fund, zero coupon bonds, and Securities) immediately preceding the date of its transfer is known as long-term capital asset.

6.3 BASIS OF CHARGE UNDER THE CAPITAL GAINS HEAD

Any profit or gain arising from the transfer of a capital asset during a previous year is chargeable to tax under the head 'Capital Gain' in the immediately following assessment year, if it is not eligible for exemption u/s 54. But in following cases capital gains are not chargeable to tax by virtue of section-10.

1. Capital gain on transfer of US 64 [Sec. 10 (33)]

2. Long term capital gain on transfer of BSE–500 Equity Shares [Sec. 10 (36)]
3. Capital gain on compulsory acquisition of urban agriculture land [Sec. 10 (37)]
4. Long term capital gain on transfer of securities not chargeable to tax in cases covered by transaction tax [Sec. 10 (38)]
5. Section 115 JG has been inserted by the Finance Act, 2012 w.e.f. the assessment year 2013–14, according to it if capital gains arise on conversion of an Indian branch of a foreign bank into an Indian subsidiary, it is not chargeable to tax.

An investor can own assets or shares that appreciate every year, but the investor does not incur a capital gains tax on such assets until they are sold. Capital gains are the profits that an assessee realizes when he or she sells the capital asset for a higher price than the purchase price. So, capital gains taxes are only triggered when an asset is realized, not while it is held by an investor.

From taxation point of view, Capital gains are of two types.

- (i) Short term capital gain which arises on the transfer of a short term capital asset.
- (ii) Long term capital gain which arises on the transfer of a long term capital asset.

6.3.1 Meaning of Transfer of Capital Asset: The term 'transfer of capital asset' means the sale, exchange or relinquishment of the asset or the extinguishment of any rights there in. Transfer also includes compulsory acquisition of the asset under any law. If any asset is converted by the owner into stock-in-trade of a business carried on by him then such conversion also amounts to transfer.

Following are some examples of transfer :

1. **Stock-in-trade :** If any asset is converted by the owner into stock-in-trade of a business carried on by him then such conversion amounts to transfer.
2. **Stock of Shares :** where an investor in shares starts a business of dealing in shares and treats his existing investments as the stock-in-trade of the new business, such conversion is regarded as a transfer.
3. **Immovable property :** Where, under a contract for transfer of an immovable property, the purchaser has paid the price and has taken the possession of property, there is transfer even though there is no registration of the deed.
4. **Flat in a co-operative society :** The member of a co-operative society is the deemed owner of the flat or house even though the legal owner is the co-operative society. So, any transaction by the member which has the effect of transferring the enjoyment of the flat will be regarded as transfer.

Cost of transfer (Expenses on transfer): In computing capital gain, any expenditure incurred wholly and exclusively in connection with the transfer shall be allowed as transfer. Expenditure incurred on payment of legal fees, brokerage, commission, registration etc. will be allowed as deduction from value of consideration.

6.3.2 Computation of Short Term Capital Gain : Following are the steps to compute taxable short term capital gain:

Steps to Compute STCG

- Step I** : Take the figure of the full value of consideration received on the transfer of the short term asset.
- Step II** : Less : Cost of transfer (expenses incurred wholly and exclusively in connection with such a transfer). Balance will be net sale consideration.
- Step III** : Less : Cost of Acquisition/Cost of improvement.
- Step IV** : The balance (Step II - Step III) is short term capital gain.

6.3.3 Computation of Long Term Capital Gain : Following are the steps to compute taxable long term capital gain:

Steps to Compute LTCG

- Step I** : Take the full value of consideration received on the transfer of the long term asset.
- Step II** : Less: Cost of transfer. Balance will be net sale consideration.
- Step III** : Less : (a) Indexed cost of acquisitions.
(b) Indexed cost of improvement.
- Step IV** : The balance (Step II - Step III) is long term capital gain.

6.4 DETERMINATION OF COST OF ASSET FOR CHARGING CAPITAL GAINS

The term 'cost of acquisition' means any capital expenses met at the time of purchasing capital asset, e.g. purchase price, expenditure incurred upto acquiring date in the form of registration, storage, interest paid on money borrowed to purchase an asset etc.

6.4.1 Cost of Acquisition (Section 49(I)) : Where the capital asset became the property of the assessee in any of the manner mentioned below, the cost of acquisitions of the asset shall be deemed to be the cost for which the previous owner acquired it :

- (a) On the distribution of the assets on total/partial partition of Hindu Undivided Family;
- (b) Under a gift or will;
- (c) By succession, inheritance or devolution;
- (d) On any distribution of assets on the liquidation of a company;
- (e) Under a transfer to a revocable or irrevocable trust;
- (f) On a transfer by a wholly owned Indian subsidiary company to its holding company or vice versa;
- (g) On any transfer in a scheme of amalgamation of two Indian companies subject to certain conditions u/s 47(vi);
- (h) On any transfer in a scheme of amalgamation of two foreign companies subject to certain conditions;

- (i) On conversion of self acquired property of a member of a Hindu Undivided Family to a joint family property.

Cost of Acquisition (fair market value as on 1.4.2001 as cost of acquisition):

An option is given to the assessee to beat the effect of inflation when the asset purchased is very old, like purchased before 1.4.2001. The assessee can substitute the fair market value of the asset as on 1.4.2001 for the actual cost of acquisition.

Again, when the capital asset has become the property of the assessee by any mode specified in section 49 (I) and the previous owner had acquired the asset prior to 1.4.1981, the cost of the asset to the assessee is the cost of the asset to the previous owner or the fair market value as on 1.4.01 at the option of the assessee.

6.4.2 Cost of Improvement: Another deduction allowed in computation of capital gains is the cost of improvement. Cost of improvement is the capital expenditure resulting in addition or alteration in the capital asset. Routine expenses on repairs and maintenance do not form part of cost of improvement. It also includes all expenses incurred 1) in protecting or curing the title of an asset; and 2) to increase the value of the capital asset. Thus, the cost of improvement is taken in the consideration in order to arrive at the long term capital gain in case of immovable property.

6.4.3 Indexed Cost of Acquisition and Improvement: As already mentioned, in the case of short term capital gain, the cost of acquisition and the cost of improvement are deducted from the full value of consideration for computation of capital gain. But in the case of long-term capital gain indexed cost of acquisition and indexed cost of improvement are deducted. Indexed cost of acquisition means an amount which bears to the cost of acquisition the same portion as cost inflation index for the year in which the asset is transferred bears to the cost inflation index for the first year in which the asset was held by the assessee or the year beginning on 1.4.2001 whichever is later. The Cost Inflation Index (CII) as notified by the Central Government is mentioned here in the table described as in para- 6.4.4.

6.4.4 Cost Inflation Index table: Following is the table described the Cost Inflation Index (CII) as notified by the Central Government:

Table-1 : Cost Inflation Index		
Sr.No	Financial Year	Cost Inflation Index (CII)
1.	2001-2002	100
2.	2002-2003	105
3.	2003-2004	109
4.	2004-2005	113
5.	2005-2006	117
6.	2006-2007	122
7.	2007-2008	129
8.	2008-2009	137
9.	2009-2010	148
10.	2010-2011	167
11.	2011-2012	184
12.	2012-2013	200
13.	2013-2014	220
14.	2014-2015	240
15.	2015-2016	254
16.	2016-2017	264
17.	2017-2018	272
18.	2018-2019	280
19.	2019-2020	289
20.	2020-2021	301

6.4.5 Computation of indexed cost of acquisition and indexed cost of improvement: As mentioned earlier, while determining long term capital gains, it is the cost of acquisition and improvement which has to be indexed.

Meaning of Indexed cost of acquisition : The cost of Acquisition becomes 'Index cost of Acquisition' after the adjustment of the effect of inflation on the purchase price of the asset. Indexation allows the investor to adjust the effect of inflation on the gains made on selling of property or asset purchased. In other words, indexation helps in knowing about the amount of return on investment that has been actually eaten up by inflation so that one can reduce his/her tax burden. In this way gain earned gets reduced due to inflation adjustment which helps in tax saving.

Meaning of Indexed cost of improvement: Index cost of Improvement is defined as an amount which bears to the cost of improvement in the same proportion as the CII for the year in which the asset is transferred bears to the CII for the year in which the improvement to the asset took place.

Situation-I : Where the capital asset is acquired under gift, will, partition of H.U.F. by the assessee before April 1st, 2001.

1. Indexed Cost of Acquisition

Fair market value of asset on April 1, 2001

Or cost of acquisition, whichever is more

$$\frac{\text{Fair market value of asset on April 1, 2001 or cost of acquisition, whichever is more}}{\text{CII for 2001-02}} \times \text{CII for the year in which asset transferred}$$

2. Indexed Cost of Improvement

Cost of Improvement (ignoring expenses incurred prior to April 1, 2001)

$$\frac{\text{Cost of Improvement (ignoring expenses incurred prior to April 1, 2001)}}{\text{CII for the year in which Improvement took place}} \times \text{CII for the year in which asset transferred}$$

Situation-2 : Where a capital asset is acquired by the assessee on or after April 1st, 2001

1. Indexed Cost of Acquisition

Cost of acquisition

$$\frac{\text{Cost of acquisition}}{\text{CII for the year in which asset is acquired}} \times \text{CII for the year in which asset transferred}$$

2. Indexed Cost of Improvement

Cost of Improvement incurred by assessee

_____ X CII for the year in which asset transferred

CII for the year in which

Improvement took place

Situation-3 : Where capital asset is acquired before April 1st, 2001 and the same is originally acquired by the previous owner prior to April 1st, 2001.

1. Indexed Cost of Acquisition

FMV of asset on April 1, 2001 or cost of

Acquisition to previous owner, whichever is more

_____ X CII for the year in which asset transferred

CII for 2001-02

2. Indexed Cost of Improvement

Cost of Improvement done by assessee

(ignoring expenses incurred prior to April 1, 2001)

_____ X CII for the year in which asset transferred

CII for the year in which

Improvement took place

Situation-4 : Where capital asset is acquired by the assessee on or after April 1st 2001; but it was originally acquired by the previous owner before April 1st, 2001.

1. Indexed Cost of Acquisition

FMV of asset on April 1, 2001 or cost of

Acquisition to previous owner, whichever is more

_____ X CII for the year in which asset transferred

CII for the year in which asset was first

held by the assessee

2. Indexed Cost of Improvement

Cost of Improvement done by assessee and

previous Owner (ignoring expenses incurred

prior to April 1, 2001)

_____ X CII for the year in which asset transferred

CII for the year in which

Improvement took place

Situation-5 : Where capital asset is acquired by the assessee on or after April 1st, 2001 and it was originally acquired by the previous owner on or after April 1st, 2001.

1. Cost of Acquisition

Cost of Acquisition to previous owner

_____ X CII for the year in which asset transferred
CII for the year in which asset was first
held by the assessee

2. Cost of Improvement

Cost of Improvement done by assessee and
previous owner

_____ X CII for the year in which asset transferred
CII for the year in which
Improvement took place

6.5 EXEMPTED CAPITAL GAINS

Income Tax Act grants total/partial exemption of capital gains under sections 54, 54B, 54D, 54EC, 54EE, 54F, 54G, 54GA, 54GB, 54H, 10(33), 10(36), 10(37), 10(38) and 10(40). These provisions are explained in the following list.

1. Capital gain arising on the transfer to a residential house property (Section 54)
2. Capital gain on transfer of self-cultivated agricultural land (section 54B)
3. Capital gain on compulsory acquisition of land and building which forms part of an industrial undertaking (section 54D)
4. Capital gain on transfer of any long term capital asset (section 54EC)
5. Exemption of Capital gain on investment in units of a specified fund (Section 54EE)
6. Capital gain on transfer of long-term asset other than house property (Section 54F)
7. Capital gain on shifting of industrial undertaking from urban areas to non-urban areas (Section 54G)
8. Exemption of capital gains on transfer of assets in case of shifting of industrial undertaking from urban area to any Special Economic Zone (Section 54GA)
9. Exemption of capital gain on transfer of residential property (Section 54GB)
10. Investment of compensation received (Section 54H)
11. Capital Gain on transfer of Units of US 64 exempt if transfer takes place on or after 1-4-02 u/s 10(33)
12. Capital gain on the sale of shares [Section 10 (36)]
13. Exemption of Capital gains on compensation received on compulsory acquisition of agricultural land situated within specified urban limits u/s 10(37)
14. Exemption of Long-term capital gain arising from sale of shares and units u/s 10(38)
15. Exemption of Capital gain on transfer of an asset of an undertaking engaged in the business of generation of power u/s 10(40).

CHECK YOUR PROGRESS-I

- Q.1.** State the conditions when assets are taxable under the head Capital Gains.
- Q.2.** State whether the following assets are “Capital asset” with reasons for your answer:
- 1) A car owned by an assessee and used by him for business. **(Yes/No)**
 - 2) An air-conditioning plant owned by a company and installed at the residence of its Managing Director. **(Yes/No)**
 - 3) Units of mutual funds held by an assessee in a SBI bank. **(Yes/No)**
 - 4) A Guest house belonging to a Hindu undivided Family which is used for business purposes on special occasions. **(Yes/No)**
- Q.3.** What do you understand by short term assets? How they are different than long term assets?
- Q.4.** Define the term CII.

6.6 CONCEPT AND BASIS OF CHARGE UNDER THE HEAD INCOME FROM OTHER SOURCES

Every type of income which is not exempt under the income tax act shall be chargeable to tax under the fifth head i.e. ‘Income from other Sources’. According to section 56(1), if income is not chargeable to income tax under any of the first four heads then it is taxable as per the provisions of this fifth head. To charge income under the fifth residuary head following conditions must be satisfied; 1) there must be an income; 2) income should not be exempted under the provisions of the income tax; 3) income should not be chargeable to tax under any of the first four heads.

As per section-145, under the head ‘Income from other Sources’ taxable income is to be computed with the method of accounting regularly employed by the assessee. In case the books of accounts are maintained on mercantile system, income is to be computed on due basis. But on the other hand, if the books of accounts are maintained on cash basis, income is taxable on receipt basis; then the expenditure shall be allowed as a deduction on payment basis. Actually assessee adopts both the earlier mentioned methods in a mixed form, known as hybrid system. In this system some transactions are recorded on cash basis and some are as per mercantile system, depending upon the need of transactions. The income tax authorities accept all the three methods of accounting for the assessment of taxable income.

Section 56 (2) specifies following nine incomes which are always taxable under this head :

- (1) Dividend
- (2) Winning from lotteries etc.
- (3) Employees contribution towards staff welfare scheme
- (4) Interest on Securities
- (5) Rental income from Plant, Machinery or Furniture.
- (6) Rental income from Letting out plant, machinery or furniture.
- (7) Sum received under keyman insurance policy
- (8) Gifts

- (9) Interest on compensation or enhanced compensation.
- (10) Amount received in advance in the course of negotiations for transfer of a capital asset.

6.7 LIST OF IMPORTANT ITEMS CHARGEABLE TO TAX UNDER SECTION 56(1)

Sub section (1) of Section 56 covers the last head of income that is 'Income from other Sources' it includes only those incomes which do not fall under any other head of income.

The following are main examples of incomes generally taxable under this last and residual head of income because such incomes are neither salary income, nor rental income from house property, nor income from business and profession, nor income from capital gains.

- (1) Income from sub-letting
- (2) Ground rent
- (3) Agricultural income received from outside India
- (4) Rent of Plot of land
- (5) Insurance Commission
- (6) Interest on bank deposits and loans
- (7) Interest on Foreign Government Securities
- (8) Income from royalty
- (9) Annuity payable under a will, contract, trust or deed
- (10) Salaries payable to members of Parliament
- (11) Director's fee
- (12) Director's Commission for standing as a guarantor to bankers
- (13) Director's Commission for underwriting shares of a new company
- (14) Income of the coal mine owner by way of rents and royalties from coal mines.
- (15) Income received by an assessee from a person other than his/her employer e.g. income from guest lectures, Answer books' evaluations, royalties of authors, remuneration from examination duties in case of teacher etc.
- (16) Interest Incomes, e.g., Interest received from current or saving accounts with banks.
- (17) Family pension received by family members of a deceased employee.
- (18) Interest received at the time of retirement on employee's contribution if made in unrecognised provident fund.
- (19) Casual Income
- (20) Income from undisclosed sources.

6.8 DEDUCTIONS UNDER THE HEAD INCOME FROM OTHER SOURCES

Under Section 57, the income chargeable to tax under this head is computed after making following deductions :-

- 1. Commission or remuneration for realizing dividend [Section-57(i)] :** Under Section 57(i), any reasonable amount paid by way of collection charges i.e. commission or remuneration to a banker or any other person for the purpose of realizing such dividend is allowed as a deduction, Interest paid on money borrowed for purchasing the shares can be claimed as deduction. Even though there is no dividend income earned on such shares this deduction is allowed.
- 2. Commission or remuneration for realising interest on securities [Section-57(i)] :** Under Section 57 (i) any amount of interest on such securities is allowed as deduction. This deduction is allowed even if there is no interest income earned on such securities.
- 3. Repairs, depreciation in the case of letting out of plant, machinery, furniture, building :** Under Section 56(2)(ii)(iii), following deductions are allowed if income is earned under section 56:
 - I. Current repairs to the premises held otherwise than a tenant.
 - II. Insurance premium against the risk of damage or destruction of the premises.
 - III. Repair and insurance of machinery, plant or furniture.
 - IV. Depreciation, if such assets are partly let and partly used for own purposes, is allowed to deduct u/s 38, to the extent it is let out.
- 4. Deduction in respect of employees' contribution towards staff welfare schemes [Section-57(ia)] :** As per section 57 (ia), in case employer deposits any amount out of such earned income in the welfare scheme for which such funds are created before the specified due dates, such deposited amount shall be allowed as deduction.
- 5. Standard deduction in the case of family pension [Section-57(ia)] :** As per section 57 (ia) a deduction of a sum equal to 33 1/3% of such income or Rs. 15,000 whichever is less, is allowed to be deducted from family pension. The family pension means a regular monthly amount payable by the employer to a person belonging to the family of an employee in the event of his death.
- 6. Any other expenses for earning income [Section-57 (iii)] :** If there is any other income, which is discussed or not discussed earlier, but is taxable under this head then the deduction will be allowed for any expenditure incurred wholly or exclusively for the purpose of making or earning such income as per section 57(iii). It is important to note that expenditure should not be of capital nature. For instance, royalty received by authors other than those writing for films is taxable under this head, so any expenditure incurred by them exclusively to earn this income will be allowed as deduction provided the prescribed conditions to claim such deduction are satisfied.
- 7. Deduction from Interest on Compensation or Enhanced compensation :** As per section 57 (iv), if Interest income on compensation or enhanced compensation is taxable under the head Income from other sources then deduction is also allowed of a sum equal to 50% of such income. But no other additional deduction shall be allowed under any other clause of section 57.

6.9 LIST OF ITEMS NOT ALLOWED DEDUCTING FROM TAX UNDER INCOME FROM OTHER SOURCES HEAD

Under the head, following are not deductible from the income chargeable under the head 'Income from other Sources' :-

1. Personal expenses of the assessee [Section-58(1) (A) (I)].
2. Interest payable outside India if TDS has not been deducted at source or paid, [Section-58(1)(A)(II)].
3. Salary payable outside India if tax has not been deducted at source or paid, [Section-58(1)(A)(III)].
4. Wealth/ Income Tax paid [Section-58 (1A)].
5. Amount specified by Section-40A [Section-58(2)].
6. Expenditure in respect of royalty and technical fees received from a foreign company [Section-58(3)], for example:-
 - 1) excessive or unreasonable payments to specified persons; and
 - 2) payment more than Rs. 20,000 otherwise than by way of account payee cheque.
7. Expenditure in respect of winnings from lotteries, crossword puzzles, races including horse races, card games, gambling or betting of any form [Section-58(4)].

CHECK YOUR PROGRESS-II

Q.1. Give 5 examples of incomes which are taxable under head Income from other Sources.

Q.2. Write short notes on the following :

- (i) Casual Income
- (ii) Less-Tax Securities
- (iii) Grossing up of income

6.10 LET US SUM UP

The term 'capital asset' includes all types of assets owned by the assessee whether movable or immovable, tangible or intangible, connected with business or not. Capital assets are of two types namely, short term capital asset or long term capital asset. There should be a transfer of assets in the previous year; if capital asset is not transferred or if there is any transaction which is not considered as transfer, there will not be any capital gain. Any profit and gains arising from the transfer of capital asset shall be chargeable to tax, if such asset is not eligible for exemption u/s 54, 54B, 54D, 54EC, 54FEE, 54F, 54G, 54GA, 54GB, and 54H.

The head 'Income from other sources' deals with the incomes those are not taxable under the preceding four heads of incomes. Main provisions of this head are explained within sections 56, 56 (i), 56 (ii), 57, 58 and 59. Under sections-56 various incomes and their tax treatment is given, however expenses allowed as deductions from this income are mentioned under section 57. Some expenses are disallowed as per section-58, so assessee can't reduce his income with the amount of these expenses.

6.11 KEY WORDS

1. Cost of Improvement : Expenditure of capital nature resulting in addition or alteration of asset.
2. Cost of Acquisition : Expenditure of capital nature incurred on purchase of asset.
3. Index Cost of Acquisition : Cost of Acquisition which is indexed on the basis of specified consumer price index.
4. Index Cost of Improvement : Cost of Improvement which is indexed on the basis of specified consumer price index.
5. Casual Income : Irregular Income
6. TDS : Tax Deducted at Source
7. Accrued Interest : Interest become due but not received by the person.
8. Less-tax Securities : Securities amount after deducting tax liability.
9. NSC : National Saving Certificates
10. Net Income under IFOS : Gross income after deducting TDS from it.

6.12 ANSWERS TO CHECK THE PROGRESS

CHECK YOUR PROGRESS-I

Ans.1. In case assets sold on profit then such assets are taxable under head Capital Gains. Following reasons/conditions to tax the capital asset under capital gains head:

- (i) There should be a capital asset.
- (ii) The capital asset should be transferred by the assessee.
- (iii) Such transfer takes place during the previous year.
- (iv) The gain arises as a result of transfer.
- (v) Such gain should not exempt from tax sections under 54.

Ans.2. 1) Yes

2) Yes

3) Yes

4) Yes

Ans.3. Short-term assets are those which are held by the assessee for less than 36 months, but in case of shares, securities, units of mutual funds or bonds then time period of holding such assets is 12 months only immediately preceding the date of its transfer. Against to this if assets are held by the assessee for more than 36 months/3years (or 12 months/one year in case of Shares, Units of mutual funds units of an equity oriented mutual fund, zero coupon bonds, and Securities) immediately preceding the date of its transfer is known as long-term capital asset.

Ans.4. CII: The term CII means Cost inflation index which is required to compute while calculating the Indexed cost of acquisition and Indexed cost of improvement of the asset sold after long period. The cost inflation index is notified by the central government and updated every year. For details see table -1 of this lesson.

CHECK YOUR PROGRESS-II

Ans.1. Examples of incomes which are taxable under head 'Income from other Sources':

- 1) Dividend income, 2) Interest on securities, 3) Rent on subletting of a part of house,
- 4) Gifts in cash or kind, and 5) winning from lotteries etc.

Ans.2. Write short notes on the following:

- i) Casual Income-** Such income are of irregular nature. eg. Lottery income, winning from horse races, winning from gambling, Remuneration from evaluation of answer sheets etc.
- ii) Less-Tax Securities-** Such securities amount of those received after deducting TDS from them.
- iii) Grossing up of income-** Grossing up is the process of adding back the amount of TDS in the net receipts of income.

6.13 TERMINAL QUESTIONS

(A) Questions with respect to Capital gains head:

- Q.1. What do you mean by 'Capital Gain'.
- Q.2. Define the term Cost of Improvement?
- Q.3. Write short notes on:
 - (i) Transfer of Asset
 - (ii) Capital Gain exempted from Tax
 - (iii) Long Term and Short Term capital gains
- Q.4. What are the main steps for computation of Short term and Long term Capital Gains?
- Q.5. What do you understand by, 'Cost of acquisitions' as used under the head 'Capital Gain'? Explain the rules given for the determination of cost of acquisitions?
- Q.6. Although there is a transfer of capital asset and there are capital gains, but they are also exempt from tax. Discuss.

(B) Questions with respect to 'Income from other sources' head:

- Q.1. Explain the meaning of the head 'Income from other Sources'.
- Q.2. State the items not deductible from the income chargeable under the head 'Income from other Sources'.
- Q.3. Explain the provisions of law relating to Dividend income put to tax under the head income from other sources.
- Q.4. Write one paragraph of about 100 words on following:
 1. Taxability on money received as gift.
 2. Rental income of let-out Plant and machinery.

6.14 **REFERENCES AND SUGGESTED READINGS**

1. <https://www.incometaxindia.gov.in>
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**BACHELOR OF COMMERCE (DIGITAL)
INCOME TAX LAW AND PRACTICE
SEMESTER-IV**

SET-OFF AND CARRY FORWARD OF LOSSES

STRUCTURE

- 8.0 Objectives**
 - 8.1 Introduction**
 - 8.2 Steps for Set off and Carry Forward of Losses**
 - 8.3 Intra Head Adjustment of Loss (Sec. 70)**
 - 8.3.1 Exceptions to Intra head Adjustment rules**
 - 8.4 Inter Head Adjustment of Loss (Sec. 71)**
 - 8.4.1 Exceptions to Inter head Adjustment rules**
 - 8.5 Carry Forward of Losses**
 - 8.5.1 Carry forward and Set off of Loss from House Property**
 - 8.5.2 Carry forward and Set off of Business Losses**
 - 8.5.3 Carry forward and Set off of Losses in Speculation Business**
 - 8.5.4 Carry forward and Set off of Losses under the head Capital Gains**
 - 8.5.5 Carry forward and Set off of Losses under the head Income from other Sources**
 - 8.5.6 Carry forward and Set off of Accumulated Loss and Unabsorbed Depreciation**
 - 8.6 Losses of Firms**
 - 8.7 Carry forward and Set off of Losses in Case of change in Constitution of Firm or a Succession**
 - 8.8 Summarized Discussion on the law about Set-Off and Carry Forward Of Losses**
- Check your Progress**
- 8.8 Let Us Sum Up**
 - 8.9 Key Words**
 - 8.10 Answers to Self Check Questions**
 - 8.11 Terminal Questions**
 - 8.12 References and suggested readings**

8.0 OBJECTIVES

After going through this chapter you should be able to :

1. Understand the meaning of Set-off of losses as per the income tax act.
2. Understand the meaning of carry forward of losses as per the income tax act.
3. Apply various rules of set-off and carry forward of losses.
4. Distinguish between intra head adjustment and inter head adjustments.
5. Employ various steps to set off and carry forward of losses.

8.1 INTRODUCTION

Income tax is a composite tax on the total income of a person earned during the previous year which is categorized under five heads of incomes, such as, Salary, House property, Business and profession, Capital gains, and Other sources. There might be cases where an assessee has different sources of incomes under the same head of income. Similarly, assessee may have income under different source/heads of income; and it might be possible that the net result from a particular source/ head may be a loss. So income tax act allows, set-off of losses under one head against the gains in another head but subject to certain conditions. The provisions for set off and carry forward of losses are contained in sections 70 to 80 of the Income tax act. The process of setting off losses and their carry forward is covered in various steps as discussed in this chapter.

8.2 STEPS FOR SET OFF AND CARRY FORWARD OF LOSSES

As per Income Tax Act, income of a person is taxable under earlier discussed five heads of income, i.e. Income from salary, House Property, Business and Profession, Capital Gains, Income from other sources. In addition to this, the act has also prescribed rules to adjust the loss arising from one head against the income of other heads which is known as set off of losses.

Therefore, where the net result for any assessment year in respect of income is a loss, the assessee is entitled to have the amount of such losses set off against his other incomes as per provisions of the income tax act as discussed here.

In this section of the lesson basic concept about set off and carry forward of losses has been described by dividing it into following three steps see figure-1 :-

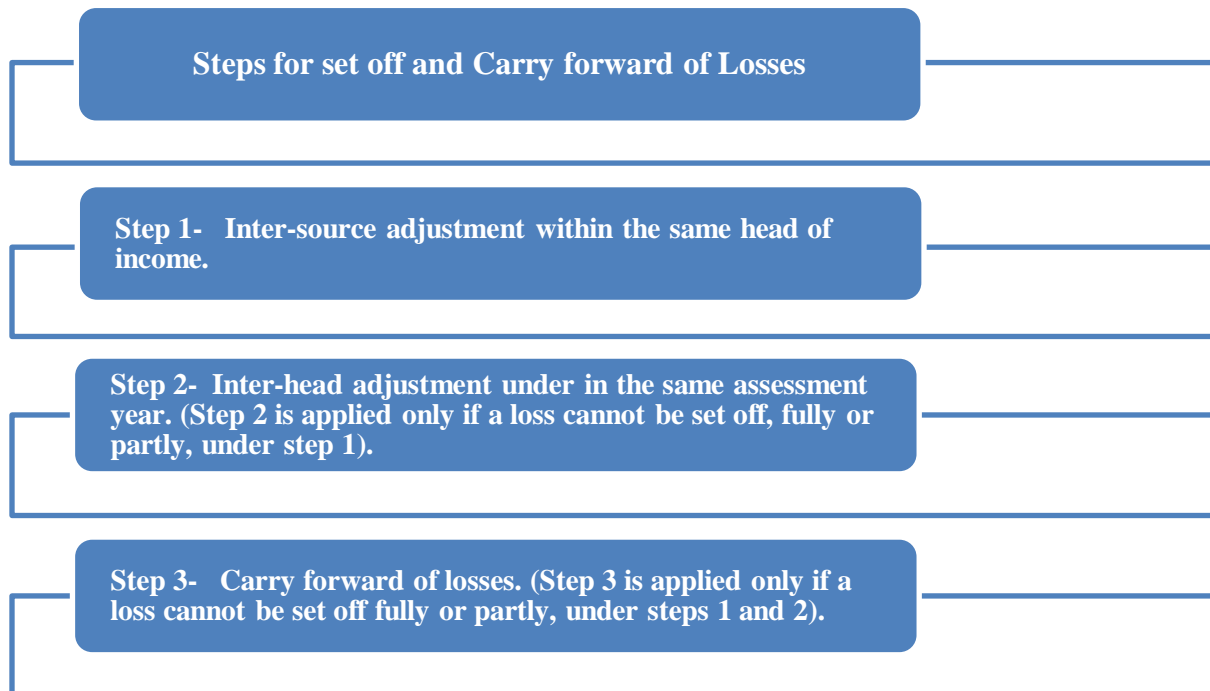


Figure-1: Steps to set off and carry forward of losses

8.3 INTRA HEAD ADJUSTMENT OF LOSS (SEC. 70)

As provided in this Act, where the net result for any assessment year in respect of any source falling under any head of income is a loss, the assessee shall be entitled to have the amount of such loss set off against his income from any other source under the same head. This type of adjustment is also known as intra head adjustment.

8.3.1 Exceptions to this Rule

- a) **Loss from speculation business :** Income from speculation business is computed under the head 'Profits and Gains of Business or Profession'. But if there is any loss from speculation business, it can't be set-off against the income from other business or profession. However, the loss of non-speculation business or profession can be set-off against the income from speculation business.
- b) **Loss from capital gains :** Long term capital gains and short term capital gains are assessable under the head 'Capital Gains'. But Long-term capital loss can't be set-off against short term capital gains. However, short-term capital loss can be set off against long-term capital gains.
- c) **Loss from activity of owning and maintaining race horses :** Loss from the activity of owing and maintaining race horses can be set-off against the respective income only.

8.4 INTER HEAD ADJUSTMENT OF LOSS (SEC. 71)

Where in respect of any assessment year, the net result under any head of income is a loss, the assessee shall, subject to the provisions of the Income tax act, be entitled to set off the amount of such loss against his income, if any, assessable for that assessment year under any other head.

8.4.1 EXCEPTIONS TO THIS RULE

- a) **Loss from speculation business :** Income from speculation business is computed under the head 'Profits and Gains of Business or Profession'. But if there is any loss from speculation business, it can't be set-off against the income from other heads. However, the loss of non-speculation business or profession can be set-off against the income from speculation business, and other heads also but subject to certain exceptions.
- b) **Loss from capital gains :** Long term capital gains and short term capital gains are assessable under the head 'Capital Gains'. Any short term capital loss can be set off against the income of short term or long term capital gain but not against the income of other heads. However, the Long-term capital loss can't be set-off against short term capital gains and other heads of income also.
- c) **Loss from activity of owning and maintaining race horses :** Loss from the activity of owning and maintaining race horses can be set-off against the respective income only.
- d) **Loss from winnings from lotteries, crossword puzzles etc :** A loss can't be set off against the income of winnings from lotteries, crossword puzzles, races, card games and gambling or betting.
- e) **Loss from Specified Business :** Loss from specified business (referred in section 35 AD) can't be set off, except against profits and gains of any other specified business.
- f) **Share of Loss from Firm or AOP :** The share of loss from Firm or AOP can't be set off from the individual income of partners/members.
- g) **Loss from Exempted Incomes :** In case a loss is incurred by an assessee from a source, income from which is exempt then such loss can't be set off against income from a taxable source.
- h) **Loss from Business and Salary income :** The loss from the head "profits and gains of business and Profession" cannot be set off from income under the head salaries (w.e.f. 1st April 2005, financial year).

Further, in case, if an assessee is not able to adjust his loss in the same financial year then he is also entitled to shift and adjust it in the subsequent financial years which is known as carry forward of losses.

8.5 CARRY FORWARD OF LOSSES

In case, for any financial year the net result of computation of assessee's income is loss and this loss can't be wholly set off against the income of any other head, such unadjusted losses can be allowed to carry forward to the subsequent assessment years in accordance with the provisions of section-70 and 71 of Income Tax Act, 1961 (See detail in Figure-2).

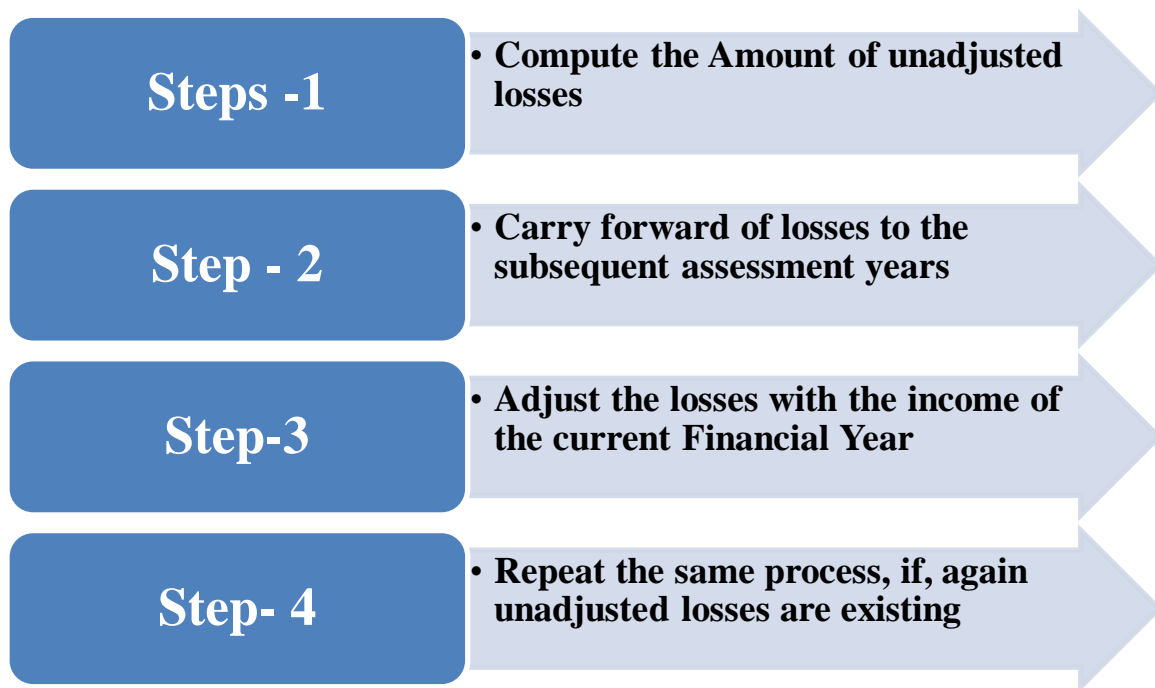


Figure-2: Process of Carry forward and Adjustment of Losses

In accordance with the discussion made in the previous part of the lesson, if losses can't be set-off fully in current year then it can be carried forward and set-off through inter-head adjustments only in the following assessment years. Following are the basic provisions with this regard:

8.5.1 Carry Forward and Set off of Loss from House Property (Sec-71B)

Where for any assessment year the net result of computation under the head "Income from house property" is a loss to the assessee and such loss cannot be or is not wholly set off against income from any other head of income in accordance with the provisions of section 71, such whole loss shall, subject to the other provisions of the act, be carried forward to the following assessment year and -

- (i) be set off against the income from house property assessable for that assessment year; and
- (ii) the loss, if any, which has not been set off wholly, the amount of loss not so set

off, shall be carried forward to the following assessment year, not being more than **eight assessment years** immediately succeeding the assessment year for which the loss was first computed.

8.5.2 Carry Forward and Set off of Business Losses

The carried forward losses of business or profession shall be set-off against the 'Profits or Gains of business or Profession' carried on by him. As per **Sec-72(1)** where for any assessment year, the net result of the computation under the head "Profits and gains of business or profession" is a loss to the assessee (except loss from speculation business), and such loss cannot be or is not wholly set off against income under any other head of income in accordance with the provisions of section 71, such unadjusted loss shall, subject to the other provisions of this Chapter, be carried forward to the following assessment year, and -

- (i) it shall be set off against the profits and gains, if any, of any business or profession carried on by him and assessable for that assessment year; and
- (ii) if the loss cannot be wholly so set off, the amount of loss not so set off shall be carried forward to the following assessment year and so on (i.e. not more than 8 Assessment Year).

But in case the whole or any part of such loss is sustained in any such business as is referred to in section 33B (i.e. Business is discontinued in the circumstances specified in that section, and, thereafter, at any time before the expiry of the period of three years, such business is re-established, reconstructed or revived by the assessee), the loss as is attributable to such business shall be carried forward to the assessment year relevant to the previous year in which the business is so re-established, reconstructed or revived, and

- (a) it shall be set off against the profits and gains, if any, of that business or any other business carried on by him and assessable for that assessment year ; and
- (b) if the loss cannot be wholly set off, the amount of loss not so set off shall, be carried forward to the following assessment year and so on for **eight assessment years** immediately succeeding.
- (c) In case succession takes place by inheritance, the loss incurred by father can be carried forward and set off by his son, if he succeeds to the business of his father on account of his death.
- (d) If the assessee transfers his business to his spouse and/or minor child, the assessee is entitled to set off his loss carried forward from the previous year against the income of minor and wife included in his income.

8.5.3 Carry Forward and Set off of Losses in Speculation Business-[Sec 73 (2) (4)]:

Any loss, computed in respect of a speculation business, shall not be set off only against profits and gains, if any, of another speculation business.

But where the assessee had no income from any other speculation business, he shall, subject to the other provisions of this Chapter, carry forward such loss to the following assessment year, and -

- (i) it shall be set off against the profits and gains, if any, of any speculation business carried on by him assessable for that assessment year; and
- (ii) if the loss cannot be wholly so set off, the amount of loss not so set off shall be carried forward to the following assessment year and so on (**i.e. not more than 4 Assessment Years**).

Note : In respect of allowance on account of depreciation or capital expenditure on scientific research, the provisions of sub-section (2) of section 72 shall apply in relation to speculation business as they apply in relation to any other business.

8.5.4 Carry Forward and Set off of Losses under the head Capital Gains [Sec-74]:

In case, the net result of the computation of income under the head 'Capital gains' is a loss then to the assessee, the whole loss shall subject to the other provisions of this Chapter, be carried forward to the following assessment year. Hence

- (a) it shall be set off against income, if any, under the head "Capital gains" assessable for that assessment year; and
- (b) if the loss cannot be wholly so set off, the amount of unadjusted loss shall be carried forward to the following assessment year, and so on, (**i.e. not more than 8 Assessment Year**).

8.5.5 Carry Forward and Set off of Losses under the head Income From Other Sources-[Sec-74 (B)]:

In the case of an assessee, being the owner of horses maintained by him for running in horse races have loss on account of the activity of owning and maintaining race horses in any assessment year, then such loss shall not be set off against income from any source other than the activity of owning and maintaining race horses in that year but such loss can be carried forward to the following assessment year as discussed here :

- (a) Such loss shall be set off against the income, if any, from the activity of owning and maintaining race horses assessable for that assessment year; and
- (b) In case the loss cannot be wholly so set off, the amount of such unadjusted loss not so set off shall be carried forward to the following assessment year and so on; however the loss shall be carried forward **maximum for four assessment years** immediately succeeding the assessment year for which the loss was first computed.

8.5.6 Carry Forward and Set off of Accumulated Loss and Unabsorbed Depreciation-[Sec-72A] :

Following are the provisions to carry forward and set off of the accumulated business losses and unabsorbed depreciation allowance in the case of amalgamation or demerger, etc. [Section 72A, 72AA & 72AB] :

- (A) **Carry forward of business loss and unabsorbed depreciation as per section 72A or 72AA** :This section allows carry forward of business loss and unabsorbed

depreciation in case of amalgamation of company; demerger of a company; and reorganisation of business.

In case of Amalgamation : Business loss of an amalgamating company shall be allowed to be carried forward and set off in the hands of amalgamated company for fresh eight years if certain conditions mentioned u/s 72A are satisfied. Similarly unabsorbed depreciation shall be allowed to be carried forward (indefinitely) and set off in the hands of amalgamated company.

In case of Demerger : In such a case, the accumulated business loss and unabsorbed depreciation of the demerged company shall be allowed to be carried forward and set off in the hands of resulting company, subject to certain conditions. Accumulated business loss can be carried forward for fresh 8 years; and unabsorbed depreciation for indefinite period.

In case of Reorganisation of business : In such cases, the accumulated loss and the unabsorbed depreciation of the predecessor firm or the proprietary concern or a company, shall be deemed to be the loss or allowance for depreciation of the successor company or successor LLP for the previous year in which business reorganisation was effected.

Business loss will be allowed to be carried forward and set off for fresh 8 years; and unabsorbed depreciation can be carried forward and set off indefinitely.

- (B) **Carry forward and set off of accumulated losses and unabsorbed depreciation allowance in business reorganisation of co-operative banks (Section : 72AB):** Subject to certain conditions section 72AB allows carry forward of business loss and unabsorbed depreciation in case of amalgamation of co-operative banks and demerger of co-operative bank.

8.6 LOSSES OF FIRMS (SEC 75)

Where the assessee is a firm, any loss in relation to the assessment year commencing on or before the 1st day of April, 1992, which could not be set off against any other income of the firm and which had been apportioned to a partner of the firm but could not be set off by such partner prior to the assessment year commencing on the 1st day of April, 1993, then, such loss shall be allowed to be set off against the income of the firm subject to the condition that the partner continues in the said firm and to be carried forward for set off under section 70, 71, 72, 73, 74 and 74A.

8.7 CARRY FORWARD AND SET OFF OF LOSSES IN CASE OF CHANGE IN CONSTITUTION OF FIRM OR A SUCCESSION (SECTION- 78) : Following are the provisions in case of change in constitution of Firm or a succession :

- (1) Where a change has occurred in the constitution of a firm, nothing in these Provisions shall entitle the firm to have carried forward and set off so much of the loss proportionate to the share of a retired or deceased partner as exceeds his share of profits, if any, in the firm in respect of the previous year.
- (2) Where any person carrying on any business or profession has been succeeded in

such capacity by another person otherwise than by inheritance, nothing in these Provisions shall entitle any person other than the person incurring the loss to have it carried forward and set off against his income.

CHECK YOUR PROGRESS

- Q.1.** Under the provisions of set off of losses, amount of losses can be settled against the other incomes of Same person.
(True /false)
- Q.2.** Under the provisions of carry forward of losses, amount of losses cannot be settled against the other incomes of same assessee.
(True /false)
- Q.3.** The Speculative losses can be adjusted against speculative profits only.
(True/False)
- Q.4.** The Speculative losses can be carry forward for adjustment against speculative profits for 8 years only.
(True/False)
- Q.5.** The House property losses can be adjusted against speculative profits only.
(True/False)
- Q.6.** The House property losses can be carry forward for adjustment for 5 years.
(True/False)
- Q.7.** The Unabsorbed Depreciation can be adjusted against speculative profits only.
(True/False)
- Q.8.** The Unabsorbed Depreciation can be carry forward for adjustment of losses without limit of period.
(True/False)
- Q.9** It is necessary that business of the assessee should be continued in case of setting off of Business loss.
(True/False)
- Q.10.** It is necessary that business of the assessee should be continued in case of setting off of losses from activity of owning and maintaining.
(True/False)

8.8 SUMMARIZED DISCUSSION ON THE LAW ABOUT SET-OFF AND CARRY FORWARD OF LOSSES

From whole discussion of the lesson it can be concluded that the loss in personal income shall be set off against the assessee's other personal income from property, interest etc. and if there is still a loss, it should be carried forward for being set-off against his taxable income in succeeding year. Following table-1 depicts such rules in brief.

Table-1: Set-Off and Carry Forward Of Losses at a Glance

Type of loss to be carried forward to next year (s)	Profit against which carried forward loss can be set off in next year (s)	How many years loss can be set off in next years (s)	Should be business continued intime	Is it necessary to submit return of loss
1. House property loss	Any income under the head "Income from house property"	8 years	NA	No
2. Speculation loss (not unabsorbed depreciation)	Speculation profits	4 years	Not necessary	Yes
3. Unabsorbed depreciation:				
3.1 On account of unabsorbed depreciation, capital expenditure on scientific research and family planning	All income except income from "salary"	No time limit	Not necessary	No
3.2 On account of loss From specified business u/s 35 AD	Income from a specified business u/s 35 AD	No time limit	Not necessary	No
3.3 Other remaining business loss	Any business Profit (whether from speculation or otherwise)	8 years	Not necessary	Yes
4. Capital loss:				
4.1 Short-term capital loss	Any income under the head "capital gains"	8 years	Not necessary	Yes
4.2 Long-term capital loss	Any income under the head "capital gains"	8 years	Not necessary	Yes
5. Loss from activity of owning and maintaining race horses	Income from the activity of owning and maintaining race horses	4 years	Yes	Yes

Source: SekhonShailinder- pp-210-211, The Income tax law, 2020

8.9 LET US SUM UP

There can be a loss suffered by a person because of risk factor in the business. As an assessee has paid tax on his income, he should be given some benefits under the law to adjust his losses. As such under the provisions of Income Tax Act 1961 an assessee is allowed deductions for losses suffered by him during previous years. However, when the income from property or source is exempt from tax, loss from the property or source can't be set-off against taxable income. The losses must be set-off against income liable to tax and not against exempted income. e.g. An assessee suffers a loss in his personal business and receive his share of an association of persons' profits which had already been taxed. The loss in personal business in such cases should be set off against the assessee's other personal income from property, interest etc. and if there is still a loss, it should be carried forward for being set-off against his taxable business income in succeeding year. Hence, the losses must be set-off against income liable to tax and not against exempted income.

8.10 GLOSSARY

1. Speculative Business : Business based on speculative activities
2. Non-speculative Business: Business other than speculative business
3. Benami transactions : Transactions without the name or with the name of such person who is not the actual beneficiary.
4. Accumulative losses : Losses of all the previous years taken collectively
5. Unabsorbed depreciation : Amount of Depreciation which is not written off due to insufficient profits.

8.11 ANSWERS TO SELF CHECK QUESTIONS

- Ans.1. : True
Ans.2 : False
Ans.3. : True
Ans.4. : False
Ans.5. : False
Ans.6. : False
Ans.7: False
Ans.8. : True
Ans.9. : False
Ans.10. : True

8.12 TERMINAL QUESTIONS

(A) Short Questions :

- Ques.1. What do you mean by carry forward of losses?
Ques.2. What do you mean by set off of losses?
Ques.3. Explain the concept of Inter-head adjustment?

(B) Long Questions :

- Ques.1. What do you mean by Intra-head adjustment? Discuss in detail.
Ques.2. What do you mean by Inter-head adjustment? Discuss in detail.
Ques.3. Discuss in detail various steps and rules of income tax regarding carry forward of losses.
Ques.4. Suresh submits the following information relevant for the P.Y. ending on 31, March, 2021 :

As per this section, if these two conditions are satisfied then brought forward loss cannot be set off.

	Rs.
Profit of business A carried on in India	90,000
Loss of business B carried on in India	(-) 30,000
Profits of business C carried on in Canada (Income earned and received in Canada and business controlled from Canada)	52,000
Loss of business D carried on in Canada (though profits are not received in India, business controlled from Delhi)	(-) 46,000
Unabsorbed depreciation of business D	63,000
Income from property situated in India	22,000
Income from Property situated in Canada (received in Canada)	1,92,000

Determine the net income of X for the A.Y. 2021-22 on the assumption that it is a Resident and ordinary resident.

- Ques.5. Mr. Ram submits his incomes and losses as mentioned below for the previous year 31-3-2021:

1.	Salary Income	240000
2.	Income from house property:	-
	House A (Income)	10000
	House B (Loss)	40000
	House C (self-occupied)	28000
3.	Income from Business:	-

	Business A (Profit)	10000
	Business A (Loss)	12000
	Speculative Business-I (Profit)	12000
	Speculative Business-II (Loss)	17000
4.	Capital Gains:	-
	Short-term (Gains)	8000
	Short-term (Loss)	24000
	Long-term (Gains)	8000
5.	Income from Other sources:	-
	Income from betting	12000
	Income from card games	9000
	Income from securities (gross)	8000

From the above mentioned information compute the total taxable income of Mr. Ram for the assessment year 2021-22 after adjusting his losses with the various incomes.

8.13 **REFERENCES AND SUGGESTED READINGS**

1. The Finance act, 2021
2. The Income tax Law....A simple Guide to theory, Dr. ShailinderSekhon, edition 2020.
3. Direct Taxes...Law and Practice, Dr. Vinod K. Singhanian & Dr. Kapil Singhanian, edition, 2020.

DEDUCTIONS FROM GROSS TOTAL INCOME

STRUCTURE

9.0 Objectives

9.1 Introduction

9.2 Deductions under Sections 80C to 80U

9.2.1 Deduction in respect of Life Insurance Premium, Deferred Annuity, Contribution to Provident Fund subscription etc.

9.2.2 Deduction for Contribution made to Pension Fund

9.2.3 Deduction for Contribution made to Pension Scheme of Central Government

9.2.4 Deduction in respect of investment made under any Equity savings scheme

9.2.5 Deduction in respect of Medical Insurance Premium

9.2.6 Deduction for maintenance of a dependent who is a person with disability

9.2.7 Deduction in respect of Medical treatment of specified Disease

9.2.8 Deduction in respect of Interest paid on Loan taken for Higher Education

9.2.9 Deduction in respect of interest on loan sanctioned during financial year for acquiring residential house property

9.2.10 Deduction in respect of donations given to certain funds and charitable institutions

9.2.11 Deduction available for house rent paid

9.2.12 Deduction in case of donations made for Scientific Research or Rural Development

9.2.13 Deduction in respect of contributions given by Indian companies to political parties

9.2.14 Deduction in respect of contributions given by any person to political parties

9.2.15 Deduction to Eligible start-up

9.2.16 Deduction in respect of royalty income of authors

9.2.17 Deduction in respect of royalty income of Patent

9.2.18 Deduction in respect of Interest on Deposits in Savings accounts

9.2.19 Deduction in respect of Interest Incomes of Senior citizen

9.2.20 Deduction in case of a Person with disability

9.3 Rebate under section 87-A

Check your Progress

9.4 Let us Sum Up

9.5 Key Words

9.6 Answers to Self Check Questions

9.7 Terminal Questions

9.8 References and suggested Readings

9.0 OBJECTIVES

After going through this chapter you should be able to :

1. Understand the meaning of Deductions from GTI (Gross Total Income).
2. Explain the purpose of claiming deductions prescribed under sections 80C to 80U of the income tax act.
3. Calculate the basic types of deductions available from taxable income due to Investments made by the assessee.
4. Calculate the basic types of deductions available from taxable income due to payments made by the assessee.

9.1 INTRODUCTION

The term 'tax deductions' connected with the lowering of taxable income of the person. To get such benefits person needs to investment or make payments in specified areas. With respect to deductions permitted from GTI benefits are provided under section 80-C to 80-U of the Income tax act, 1961. In case person wants to avail these benefits then he/she has to invest in various schemes, offered or promoted by government generally to encourage investments as per section 80. Thus, deductions are offered by the government to tempt taxpayers to participate in programs carrying societal benefits. These Deductions are given to the assessee, subject to conditions of making certain investments or payments towards specified schemes as defined under the Income Tax Law; and discussed in the present lesson in detail.

9.2 DEDUCTIONS UNDER SECTIONS 80C TO 80U

9.2.1 Deduction in respect of Life Insurance Premium, Deferred Annuity, Contribution to Provident Fund subscription etc. (Section 80C)

Assessee's entitled to deduction under this section are

- (a) an individual; or
- (b) a HUF only

The Quantum of Deduction is upto to Rs. 1,50,000 with respect to-
Following eligible payments and deposits under section 80C.

Any sums paid or deposited in the previous year by an assessee with respect to-

- (1) keep in force an insurance on the life of self, spouse or his or her child; It shall not exceed 20% of the actual capital sum assured, if policy is issued before April 1st, 2012. After April 1st, 2013 this amount is restricted upto 10% of sum assured except for person covered u/s 80DDB, here it is upto 15%
- (2) keep in force a contract of annuity, on the life of self, spouse or his or her child;
- (3) deduction from the salary payable by or on behalf of the Government to any individual being a sum deducted in accordance with the conditions of his service, for the purpose of securing to him a deferred annuity or for making provisions for his wife or children, doesn't exceed 1/5 of the salary;

- (4) contribution to any Provident Fund, to which the Provident Fund Act, 1925 applies;
- (5) contribution to Public Provident Fund, where such contribution is to an account standing in the name of self, spouse or his or her child;
- (6) contribution by an employee to a recognized provident fund;
- (7) contribution by an employee to an approved superannuation fund;
- (8) subscription to any notified pension fund set up by the National Housing Bank.
- (9) subscription to National Savings Certificates, VIII issue or IX issue and deposit in Sukanya Samriddhi account.
- (10) contribution, in the name of self, spouse or his/her child for participation in the Unit-linked Insurance Plan of the UTI (Note: Individuals holding multiple ULIPs with aggregate premium in excess of Rs.2.5 lakh will have to pay tax on the proceeds as per Finance Bill 2021);
- (11) contribution, in any such Unit-linked Insurance Plan of the LIC Mutual Fund notified u/s 10(23D);
- (12) sum paid for annuity plan of LIC of India; (JeevanDhera or Jeevan Akshay) or any other insurer;
- (13) sum paid as subscription to any unit of Mutual Fund or from administrator or specified company as the Central Government may notify;
- (14) sum paid as contribution to any pension fund set-up by any Mutual Fund or by the Administrator or specified company as the Central government may notify;
- (15) subscription or contribution to any such pension fund set up by the National Bank established u/s-3 of the National Housing Bank Act, 1987, as the Central government may by notification in the official Gazette, specify.
- (16) subscription to any such deposit scheme of (a) a public sector company which is engaged in providing long-term finance for construction or purchase of houses; or (b) any statutory authority formed for the purpose of dealing with and satisfying the need of housing accommodation;
- (17) tuition fees (excluding any payment towards any development fees or donation or payment of similar nature in India), for the purpose of full-time education of two children;
- (18) payment or repayment for the purpose of purchase or construction of a residential house property, the income of which is taxable under the head 'Income from house Property';
- (19) sum paid as subscription to equity shares or debentures of a public company engaged in infrastructure including (Power Sector) or a contribution to any pension fund set up by the National Housing Bank;
- (20) Subscription to bonds of NABARD (National Bank for Agriculture and Rural

- Development) also eligible for deduction if notified in the Official Gazette;
- (21) A fixed deposit for 5 years or more with a scheduled bank;
 - (22) Deposit in an account under the senior citizens savings scheme rules, 2004;
 - (23) Five year time deposit in an account under post office deposit rules, 1981.

Withdrawal of Deduction

This deduction can be withdrawn if the assessee - terminates his contract of insurance;

- terminates his participation in any Unit-linked insurance plan;
- transfers the house property;
- sells or transfers the equity shares or debentures.

Note : Under Section 80C, Gross qualifying amount is the aggregate amount of all the earlier mentioned eligible schemes for deduction; and net qualifying amount is the lower amount of a) Gross qualifying amount or b) Rs. 1,50,000.

9.2.2 Deduction for Contribution made to Pension Fund (Section 80CCC): This deduction is given to Individual Resident or Non Resident assessee only. Where an individual pays or deposits amount out of taxable income to effect or keep in force a contract for any annuity plan of the LIC of India or any other insurer for receiving pension from the fund specified in Section 10(23AAB), he shall be allowed a deduction of the amount of Rs. 1,50,000, subject to the condition that deduction u/s 80C, 80CCC, and 80CCD cannot exceed Rs. 1,50,000. Employer's contribution for NPS up to 10% of employee's salary shall not be considered for this ceiling amount of Rs. 1,50,000.

9.2.3 Deduction for Contribution made to Pension Scheme of Central Government (Section 80CCD): This deduction is given to Individual assessee only. An assessee being an individual employee of the Central Government, who has been appointed on or after 1.1.2004, is entitled to this deduction. Item eligible for deduction is the amount deposited in the account of employee during the previous year in the pension scheme notified by the Central Government as mentioned here :

Amount of Deduction-

- (1) Amount deposited by the employee or 10% of his Gross total income whichever is less; from the assessment year 2018-19, it extends to 20% of (GTI) Gross Total Income.
- (2) Amount contributed by the Central Government or 10% of salary, whichever is less.
- (3) As per new sub section inserted u/s 80CCD (1B), an additional deduction in respect of amount paid upto Rs. 50,000 more by employee under NPS, is eligible to get more deduction and ceiling limit of Rs. 1,50,000 is not applicable in such case.

As per Section 80CCE : The aggregate amount of deduction u/s 80C, 80CCC and 80CCD shall not in any case exceed Rs. 1,50,000.

9.2.4 Deduction in respect of investment made under any Equity savings scheme(80CCG)

: This deduction is given to Individual assessee only. Following are the conditions to avail this deduction :

- (i) The deduction under this section shall be available for 3 consecutive assessments years. A new retail investor can make maximum investment of Rs. 25,000 for each of the 3 years and claim 50% deduction of such investment in each of the 3 assessment years.
- (ii) The limit of maximum gross total income (for claiming the above deduction) has been increased to Rs. 12,00,000.
- (iii) Investment in listed units of an equity oriented mutual fund shall also be eligible for deduction u/s 80CCG.

9.2.5 Deduction in respect of Medical Insurance Premium (Section 80D) : This deduction is given to Resident or Non-Resident Individual and HUF Assessee. Following are the conditions for availing this deduction :

- (1) The premium should be paid for insurance on the health of the assessee, his spouse or dependent parents or dependent children or any member of HUF, where the assessee is a HUF.
- (2) The amount should be paid by any mode (but not in cash) for all payments except for preventive health check-up.
- (3) The scheme for insurance should be framed by the GIC of India and approved by the Central Government.
- (4) The actual amount paid for insurance premium or Rs. 25,000, whichever is less is the amount of deduction.
- (5) Deduction for preventive health checkup shall also be allowed upto Rs. 5,000 only.
- (6) Medical expenditure on the health of a Super Senior Citizen is allowed upto Rs. 30,000 (From A.Y. 2019-20 Rs. 50,000) even if medi-claim insurance is not taken by such person.

9.2.6 Deduction for maintenance of a dependent who is a person with disability (Section 80DD) : This deduction is allowed to are Resident Individual and HUF assessee. Following are the conditions for availing this deduction :

- (1) Expenditure incurred by way of medical treatment, training and rehabilitation of a disabled dependent; or
- (2) The amount paid or deposited under any scheme framed by the LIC or any other insurer or the administrator or specified company and approved by the Board in this behalf.
- (3) The scheme must provide for payment of annuity or lump-sum amount for the benefit of disabled dependent.
- (4) The assessee must nominate the disabled dependent or any other person or a

trust to receive the payment on behalf or for the benefit of disabled dependent.

- (5) The assessee shall furnish a copy of certificate issued by the medical authority in the prescribed form along with the return of income.

Amount of Deduction :

- (a) For normal disability Rs. 75,000 is allowed; and
- (b) For severe disability (i.e. 80% of more) it is Rs. 1, 25,000.

9.2.7 Deduction in respect of Medical treatment of specified Disease (Section 80DDB) : This deduction allowed to Resident or Non Resident Individual or HUF

assessee. Following Conditions are required to be fulfilled for claiming benefit under this head :

- (1) The assessee must have actually paid for the medical treatment of specified disease for himself, or any dependent or in case of H.U.F., any member of the family.
- (2) The assessee must be furnished, a certificate in the prescribed form, issued by the prescribed authority.
- (3) **Specified Diseases** means Neurological diseases, cancer, AIDs, chronic renal failure, Hemophilia, Thalassemia.

Amount of Deduction:

- (1) Amount actually paid or Rs. 40,000, whichever is less;
- (2) In case of senior citizen the deduction shall be amount actually paid or Rs. 60,000, whichever is less. From Assessment Year 2018-19 the allowed deduction shall be Rs. 1,00,000 instead of Rs. 60,000.
- (3) In case of super senior citizen, the deduction shall be amount actually paid or Rs. 80,000, whichever is less. (From A.Y. 2018-19 the allowed deduction shall be Rs. 1,00,000 instead of Rs. 80,000.

The deduction shall be reduced if any amount is received from the insurer or reimbursed by the employer.

9.2.8 Deduction in respect of Interest paid on Loan taken for Higher Education (Section 80E) :

This deduction allowed to Individual assessee. If any amount is paid by an Individual in the previous year (out of income chargeable to tax) by way of interest on loan taken by him from any financial institution or any approved charitable institution for the purpose of pursuing own or his relative's higher education, then the deduction is available for a maximum of 8 years or till the interest is paid, whichever is earlier. Here, relative shall mean spouse, children of the individual, or any student for whom the assessee is a Legal guardian.

The above deduction is allowed from the assessment year relevant to the previous year in which the assessee starts paying the interest on the loan and 7 immediately succeeding assessment years or until the above interest is paid in full, whichever is earlier.

9.2.9 Deduction in respect of interest on loan sanctioned during financial year for acquiring residential house property (Section 80EE) (w.e.f. A.Y. 2017-18): This deduction allowed to Resident or Non Resident Individual assessee. Following are the conditions for availing this benefits :

- (a) The loan for residential house property must be sanctioned by the financial institution (including bank and Housing finance company).
- (b) The loan taken during the period beginning on 1-4-2016 and ending on 31-03-2017.
- (c) The amount of loan does not exceed Rs. 35 lakh.
- (d) The value of residential property does not exceed Rs. 50 lakh.
- (e) The assessee does not own any residential house property upto the date of sanction of the loan.
- (f) No other deduction will be allowed in respect of such interest under any other provisions of the Act for the same or any other assessment year.

Amount of deduction for A.Y. 2017-18 is actual amount of Interest payable or Rs. 50,000 whichever is less. However, if the interest payable for the previous year 2016-17 is less than Rs. 50,000 the balance amount shall be allowed as deduction in the next fiscal year.

Note: With effect from A.Y. 2020-21 an additional deduction u/s 80EEB of Rs. 1.5 lakh is allowed on interest paid against amount borrowed to buy electric vehicle.

9.2.10 Deduction in respect of donation givento certain funds and charitable institutions (Section 80G) : This deduction is allowed to Resident or Non Resident Individual/HUF/ Firm/Company Assesseees. A deduction is allowed in respect of donations given to certain funds and charitable institutions in the form of money and not in kind. The donations can be classified as under :

1. No limit to made donations
2. With limit donations

1. No Limit with respect to Donations

The whole amount of such donation is qualified for deduction and can be classified as :

- (1) Deduction allowed @ 100% of qualifying amount; and
- (2) Deduction allowed @ 50% of qualifying amount.

2. With Limit Donations

In this situation the whole amount of donation is not qualified for deduction. The qualifying amount for deduction shall not exceed 10% of gross total income after deducting the following :

- (a) Exempted income including in gross total income;
- (b) Long-term capital gains;
- (c) Short-term capital gain taxable u/s 111A;

- (d) Incomes assessable u/s 115A, 115AB, 115AC, 115ACA or 115AD;
- (e) Deductions u/s 80C to 80U except 80G.

Such donations can further be classified as:

- (1) Deductions allowed @ 100% of qualifying amount;
- (2) Deductions allowed @ 50% of qualifying amount.

A. No limit donations where deduction is allowed @ 100% are as under :

- (1) National Defence Fund
- (2) The Prime Minister's National Relief Fund
- (3) The Prime Minister's Armenia Earthquake Relief Fund
- (4) The Africa Fund
- (5) The National Foundation for Communal Harmony
- (6) A University or Educational Institution
- (7) The Maharashtra Chief Minister's Earthquake Relief Fund
- (8) Zila Saksharta Samiti
- (9) National/State Blood Transfusion Council
- (10) State government Fund for Medical Relief to the poor
- (11) Welfare and Benevolent Funds of the Army, Air Force and Navy
- (12) The Andhra Pradesh Chief Minister's Cyclone Relief Fund, 1996
- (13) The National Illness Assistance Fund
- (14) The Chief Minister's Relief Fund or the Lt. Governor's Relief Fund
- (15) The National Sports Fund set-up by the Central Government
- (16) The National Cultural Fund set-up by Central Government
- (17) The Fund for Technology Development and Application set-up by the Central Government
- (18) Any fund set-up by the State Government of Gujarat exclusively for the victims of earthquake
- (19) The National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities
- (20) Any donation made to 'national children fund' shall be eligible for deduction @ 100% of amount donated (w.e.f. A.Y. 2014-15).
- (21) Swachh Bharat Kosh
- (22) Clean Ganga Fund
- (23) National Fund for Control of Drug of use (w.e.f. A.Y. 2016-17).

(B) No Limit Donations where deduction is allowed @ 50% are as under :

- (1) Jawahar Lal Nehru Memorial Fund
- (2) Prime Minister's Drought Relief Fund
- (3) Indira Gandhi Memorial Trust

- (4) Rajiv Gandhi Foundation
- (C) **With Limit Donations where deduction is allowed @ 100% of qualifying amount are as under :**
- (1) The Government or to any such local authority, institution or association as may be approved in this behalf by the Central Government to be utilized for the purpose of promoting family planning.
 - (2) Sums paid only by a company, to the Indian Olympic Association or to any other association or institution established in India and as notified by the Central Government, for development of infrastructure for sports and games in India or for, sponsorship of sports and games in India.
- (D) **With Limit Donations where deduction is allowed @ 50% of qualifying amount as mentioned here :**
- (1) to the Government or any other local authority and the amount is utilized for charitable purposes other than the purpose of promoting family planning.
 - (2) to any other fund or any institution which is established in India for a charitable purpose, if it fulfills the specified conditions.
 - (3) to any authority constituted in India by or under any law enacted either for the purpose of dealing with and satisfying the need for housing accommodation or for the purpose of planning, development or improvement of cities, towns and villages, or for both.
 - (4) to a corporation established by the Central Government or any State Government u/s 10(26BB) for promoting the interests of the members of a minority community.
 - (5) to any sums paid by the assessee in the previous year as donations for the renovation or repair of any such temple, mosque, gurudwara, church or any other place which is notified by the Central Government.

9.2.11 Deduction available for house rent paid (Section 80GG) : This deduction is allowed to individual assessee only.

An employee who does not receive house rent allowance from his employer.

or

A self-employed person can claim relief in respect of rent paid towards furnished unfurnished residential accommodation occupied by him.

Amount of Deduction :

The least of the following amount is deductible :

- (i) Actual Rent paid less 10% of total income (calculated before making deduction under this section but after deducting long-term capital gains, if any)
- (ii) 25% of total income
- (iii) Rs. 5000 p.m. (w.e.f. AY 2017-18)

Assessee not entitled to the deduction under following situations:

- (1) Assessee receiving H.R.A.
- (2) The assessee, whose spouse or minor child; or the HUF of which he is a member owns any residential house at the place where he ordinarily resides or performs duties of his office or employment or carries on his business or profession.
- (3) Where the residential accommodation owned by him is situated at any other place if it is occupied by him for the purposes of his own residence.
- (4) Rent-free house provided by employer.

9.2.12 Deduction in case of donations made for Scientific Research or Rural Development (Section 80GGA) :

Any type of assessee is entitled to deduction who does not have income under profit and gains of business or Profession head.

While computing the total income of an assessee if his GTI includes income chargeable to tax under the heads other than 'Profits and gains of Business or Profession' the deduction shall be allowed as mentioned here :

- (1) Any sum paid (i.e. 100%) in the previous year to an approved research association or to a University, college or other institution to be used for scientific research, provided that such association is approved for this purpose.
- (2) Any sum paid to any rural development fund that may be set up by the Central Government and notified in this behalf.
- (3) Any sum paid in cash for more than Rs. 10,000 shall not be eligible for deduction.

9.2.13 Deduction in respect of contributions given by Indian companies to political parties (Section 80GGB) : This deduction is connected to an Indian Company only. While computing the total income of an Indian company, any sum contributed by it to any political party in the previous year is deductible. No deduction shall be allowed to an assessee in respect of contribution given to political parties by way of cash.

9.2.14. Deduction in respect of contributions given to political parties by any person (Section 80GGC) : This deduction is connected to any assessee other than the Indian Company; and local authority or every artificial judicial person funded by the government. While computing the total income of an assessee any amount of contribution made by him to a political party or an electoral trust in the previous year is deductible. No deduction shall be allowed to persons in respect of contribution given to political parties by way of cash.

9.2.15 Deduction to Eligible start-up (See-80 IAC) : This deduction is allowed to LLP firms or Companies. With effect from assessment year 2017-18, benefits u/s 80-IAC is given in respect of start-up business subject to following conditions :

- 1) The assessee should be a company or LLP, engaged in an eligible business [Eligible Business are those business which is involved in innovation, development, deployment or commercialization of new products, processes or services driven by technology or intellectual property] must be incorporated after 31-03-2016 but before 1-4-2021. This date of incorporation for eligible start up is extended from 1-4-21 to 1-4-22.
- 2) The Annual turnover of such unit should not exceed Rs. 25 crore (Rs. 100 crore from 2020-21) in any five previous years (i.e. during 2016-17 to 2020-21 Previous years).
- 3) The above mentioned business should not be formed by splitting up or the reconstruction of already existed business, except business referred in section-33B.
- 4) It must hold a certificate of eligible business from the Inter-Ministerial Board of Certification as notified in the Official Gazette by the Central Government.

Amount of Deduction : If these conditions are satisfied then 100% of the profits and gains derived from such business is tax free for 3 consecutive assessment years out of 7 years. (And 10 years from the A.Y. 2020-21).

9.2.16 Deduction in respect of royalty income of authors (Section 80-QQB) : This deduction is allowed to Resident Individual assessee only. The detail of the provisions of Section 80-QQB, is as follows :

- (1) The taxpayer must be an individual resident in India. And he/she is an author or joint author.
- (2) The book authored by him is work of literary, artistic or scientific nature. But it doesn't include brochures, commentaries, diaries, guides, journals, magazines, newspapers, pamphlets, text books for schools etc.
- (3) Income includes royalty or copyright fees in respect of aforesaid book; or Lumpsum consideration for transfer of any interest in the copyright of the book.
- (4) The taxpayer shall have to submit a certificate in Form No. 10CCD, along with the return of income.

Amount of Deduction : The amount of deduction is Rs. 3,00,000 or income actually received whichever is lower.

9.2.17 Deduction in respect of royalty income on patent (Section-80RRB) : This deduction is allowed to Resident Individual assessee only. The detail of the provisions of Section 80-RRB, is as follows :

- (1) The taxpayer is an individual resident in India (may be an Indian Citizen or Foreign Citizen).
- (2) He should be the Owner/Co-owner of patent.
- (3) He is in receipt of any income by way of royalty in respect of patent, which is registered under the Patent Act after March 31, 2003.
- (4) The assessee shall furnish a certificate in Form No. 10CCE, duly signed by the prescribed authority along with the return of income.

Amount of deduction : The amount of deduction is Rs. 3,00,000 or income actually

received whichever is lower.

9.2.18 Deduction in respect of Interest on Deposits in savings accounts (Section-80TTA) :

This deduction is allowed to Individual or HUF assessee only. From the assessment year 2013-14, deduction is available to the individual or HUF in respect of interest on deposits in Saving account with a:-

- banking company; or
- Co-operative Society; or
- Post Office

Amount of deduction : The amount of deduction is the actual amount of interest or Rs. 10,000 whichever is less. But in case of Post Office's is savings exemption is allowed only upto Rs. 3500 (Single account) and Rs.7000 (Joint account).

9.2.19 Deduction in respect of Interest incomes of Senior Citizen (Section - 80TTB):

This deduction is allowed to Senior Citizen assessee only. From the assessment year 2019-20, deduction is available to the resident individual who is at least 60 years of age at any time during the previous year in respect of interest on deposits with a bank/co-operative bank/post office. This interest income includes interest on fixed Deposits, Savings account or any other interest.

Amount of deduction: The amount of deduction is the actual amount of interest or Rs. 50,000 whichever is less.

9.2.20 Deduction in case of a person with disability (Section-U):This Section is applicable if following conditions are satisfied :

- (1) The taxpayer is an individual resident in India (may be a citizen of India or not).
- (2) The taxpayer suffers 40% or more of any disability given below :
 - I blindness;
 - II low vision ;
 - III leprosy-cured;
 - IV hearing impairment;
 - V locomotor disability;
 - VI mental retardation;
 - VII mental illness.
- (3) The taxpayer shall have to furnish a copy of the medical certificate along with the return of income.

Amount of Deduction : The fixed deduction is Rs. 75,000. But a higher deduction of Rs.1,25,000 is also allowed in respect case of a person with severe disability. (i.e. having any disability over 80%).

9.3 **REBATE FOR RESIDENT INDIVIDUALS (SECTION 87/A):**

The resident individual assessee 'ordinary resident or not ordinary resident' who falls in lower income bracket i.e. Rs. 5,00,000 for F.Y. 2019-20 can get tax rebate maximum upto Rs. 12,500 under section 87-A.

Amount of Rebate : The amount of rebate is 100% of income-tax payable by the individual on his total income if tax amount will not exceed Rs. 12,500. But from financial year 2018-19, amount of rebate will be Rs. 2,500 maximum instead of Rs. 12,500.

New Tax Regime and Rebate u/s 87/A: For the financial year 2020-21 (A.Y. 2021-22) the amount of rebate u/s 87/A has been kept unchanged under both old and new tax regime. As earlier mentioned a resident individual having taxable income upto Rs. 5,00,000 will get rebate of Rs. 12,500 or equal to the amount of tax payable whichever is lower. As per the 'New Tax Rates' the benefits of reduced tax rates can be claimed by the tax payer only if he opt to forego benefits given under various deductions & exemptions except for benefits given u/s 80CCD (2) and 80JJAA.

Check your Progress

- Q 1. What do you mean by Deductions from GTI and exemptions?
- Q 2. Enlist the ten names of deductions given on the basis of Payment made by assessee.
- Q 3. What is the method of calculating amount of Rebate u/s 87/A?

9.4 **LET US SUM UP**

As explained in the previous lessons the whole income of the assessee is taxable as per rules given under the five heads of incomes. In each head of income, some benefits are given to reduce the taxable incomes which are known as deductions, exemptions or allowable expenditures. On the same line, major benefits are given from Gross total income of the assessee to reduce their tax liability. These benefits are provided under the name of 'deductions from gross total income' from section 80C to section 80U of the income tax act and are discussed in detail in this lesson. These deductions are allowed only if assessee has made payments or investments towards the specified sources of expenditures or investments according to prescribed conditions. In addition to this, for the financial year 2020-21 (A.Y. 2021-22) the amount of rebate u/s 87/A has been kept unchanged under both old and new tax regime.

9.5 **KEY WORDS**

1. IT : Income Tax
2. Deduction : Benefit which reduces Taxable Income of the person
3. GTI : Gross Total Income
4. UTI : Unit Trust of India
5. HUF : Hindu Undivided Family
6. SEZ : Special Economic Zones

7. Rebate : Benefit which reduces tax amount of the person
8. N.C.R. : National Capital Region

9.6 ANSWERS TO SELF CHECK QUESTIONS

Ans.1. Many benefits are given under the income tax act, 1961 to reduce the taxable incomes with the name of deductions, exemptions or allowable expenditures. Under five heads of incomes such benefits are given as deductions u/s 16; deductions u/s 24; allowable expenditures u/s 30-37; exempted gains u/s 45; and deductions u/s 57. These benefits are provided in each head, so, different than deductions from GTI. Additionally many incomes declared as exempted incomes u/s 10 (for details see lesson-1) are also different than deductions from GTI as they are specifically declared as tax free incomes.

Ans.2. Following are the name of the deductions allowed subject to certain conditions:

1. Deduction in respect of Life Insurance Premium paid
2. Deduction in respect of Contribution to Provident Fund subscription
3. Deduction for Contribution made to Pension Fund
4. Deduction for Contribution made to Pension Scheme of Central Government
5. Deduction in respect of investment made under any Equity savings scheme
6. Deduction in respect of Medical Insurance Premium
7. Deduction for maintenance of a dependent who is a person with disability
8. Deduction in respect of Medical treatment of specified Disease
9. Deduction in respect of Interest paid on Loan taken for Higher Education
10. Deduction for payment made as a donation

Ans.3

Method of calculate amount of Rebate :	Amount
I) Find out taxable income of the person	XXXX
II) Calculate amount of tax by applying tax rate on the taxable income.	XXX
III) Less : Rebate allowed u/s 87 A	XX
Balance Tax	XXX
Add : Education Cess on this tax	XX
Tax amount after Rebate	XXX

9.7 TERMINAL QUESTIONS

- Q.1. What do you mean by Deductions from Gross total income? Differentiate between the term Deduction and Rebate.
- Q.2. Write a detailed note on the deduction in respect of donation to certain funds and charitable institutions under Section 80G.
- Q.3. What are the conditions and amount of deduction specified in case of a person with

disability as per Section-80 U.

Q.4. Give in brief, the provisions regarding deduction allowed under section 80-C.

Q.5.State the provisions with respect to royalty income received by the individual.

9.8 REFERENCES AND SUGGESTED READINGS

1. The Finance act, 2020
2. The Finance act, 2021
3. <http://taxguru.in>
4. Direct Taxes...Law and Practice, Dr. Vinod K. Singhania & Dr. Kapil Singhania, edition, 2021.

COMPUTATION OF TOTAL INCOME OF INDIVIDUAL

STRUCTURE

- 10.0 Objectives**
- 10.1 Introduction**
- 10.2 Concept of Individual for income tax purposes**
 - 10.2.1 Residential Status of individual**
 - 10.2.2 How Individual assessee is different than Hindu Undivided Family (HUF)**
- 10.3 Computation of Taxable Income of an Individual**
 - 10.3.1 Deductions allowed to Individual assessee**
 - 10.3.2 Steps to Compute Taxable Income of the Individual**
 - 10.3.3 Income Tax Rates to Compute Tax Liability of Individual**
- 10.4 Steps to Compute Taxable Income of the Individual**
- 10.5 Income Tax Liability under Old Tax Regime**
- 10.6 Income Tax Liability under New Tax Regime**
 - Practical Questions I, II, III, IV**
 - Situation-I: Compute taxable income of an employee assessee**
 - Situation-II: Compute the taxable income of the businessman**
 - Situation-III: Compute the taxable income Total income of the Professional**
 - Situation-IV: Compute the taxable income of an Individual and HUF**
 - Check your Progress**
- 10.7 Let us Sum Up**
- 10.8 Key Words**
- 10.9 Answers to Self Check Questions**
- 10.10 Terminal Questions**
- 10.11 References and suggested readings**

10.0 OBJECTIVES

After going through this lesson you should be able to :

1. Understand the meaning of Individual and able to compare it with HUF.
2. Identify various types of deductions allowed to Individual assessee. under Income tax law.
3. Describe major steps for computing Income tax liability in case of Individual.
4. Calculate the tax liability of Individual assessee.

10.1 INTRODUCTION

As per Indian Income tax law every person is liable to pay tax on his taxable income. The term person includes Individual, HUF(Hindu Undivided Family), Partnership Firm, AOPs (Association of Persons), BOIs (Body of Individuals), Company, Local Bodies or any Artificial Juridical Person. This classification of various types of assesseees is required under Income Tax act, because every person is supposed to pay tax on their income as per different income tax rates applied upon his income. The present lesson elaborates the provisions relating to computation of taxable income and final income tax liability in case of individual assesseees. Every individual has to pay tax on his or her total income at a graded scale of tax rates applicable during the concern financial year. From the financial year 2021-22 a person can opt to pay tax as per new tax rates provided by the government against income earned by him during previous year 2020-21.

The term HUF is nowhere defined in the income tax act, so the meaning of HUF as defined under the Hindu law is considered a base for imposing tax on a business income of a Hindu undivided family.

10.2 CONCEPT OF INDIVIDUAL FOR INCOME TAX PURPOSES

Generally, we use the words '**person**' and '**individual**' interchangeably but this is not the case in Income Tax. In Income Tax Act the following individual or groups are considered as persons :

- Individual
- HUF
- Partnership Firm
- Association of Persons(AOPs)
- Body of Individuals(BOIs)
- Company
- Local authority etc.

The present unit explains the method required for computing the taxable income of individual persons. For example, Ram, Tariq, John, you, me are individual assesseees. As discussed in the previous lessons for computing income tax two components are important as per tax laws, first are residential status of the person; and second are the nature of his income, therefore explained in next para.

10.2.1 Residential Status of individual:

An individual can be a resident or not resident in India. The residential status is further subdivided into resident and ordinary resident; and resident but not ordinary resident categories of residential status. For detail study of residential status of individual check section no. 2.2 in unit-II.

10.2.2 How Individual assessee is different than Hindu Undivided Family (HUF):

Hindu Undivided Family is not defined in the Income Tax Act. The concept comes from Hindu Law which states that “the three generation of descendents from a common ancestor, with their wives, unmarried daughters and daughter-in-laws form a Hindu Undivided Family”. Additionally, the senior male member of the family named as ‘Karta’ has the exclusive powers of decision making in business run by HUF. All in the family are the members of the family though only the male members in the family may be coparceners. Coparceners are those

members who have the right to partition of the property. With respect to elaborating working philosophy of the HUF group, following two groups with the name of schools of HUF are popular in India:

1. Dayabhaga school
2. Mitakshara school

In **Dayabhaga school**, the decision of Karta (i.e., the head of the HUF) is ultimate. Here, Karta of the family can distribute property to any person of his choice (male or female) and other members of the family can have no say on his decision. This school is applicable in West Bengal & Assam. On the other hand, **Mitakshara** is the school which is applicable in the rest of India. Here, the male member of the family has the right to partition the property from his birth.

Thus it is clear from the above explanation that HUF represents to a group of family as a 'person' for income tax purposes, but in case of an Individual assessee a single person comes under the definition of person.

10.3 COMPUTATION OF TAXABLE INCOME OF THE INDIVIDUAL

As per Section 14, income of the assessee is computed under the five heads (which are earlier discussed in detail). The aggregate income under these heads is termed as 'gross total income'. In other words, gross total income means total income as reduced by the amount deductible u/s 80C to 80U in accordance with the provisions of the Act.

10.3.1 Deductions allowed to Individual Assessee

Following deductions are allowed from GTI of an individual to find out his/her net total income: (For detail see Unit-9).

Table-1 : List of Deductions allowed to Individual

Section	Nature of the Deduction
80C	Deduction regarding approved savings in Provident Fund, Life Insurance premium etc.
80CCC	Deduction regarding contribution to pension fund.
80CCD	Deduction regarding contribution to NPS.
80CCG	Deduction for investment made under any equity saving scheme.
80D	Deduction for payment made towards medical insurance premia.
80DD	Deduction for payment made on maintenance and medical treatment of handicapped dependents.
80DDB	Deduction for Expenditure made on medical treatment.
80E	Deduction for repayment of loan taken for higher Education.
80EE	Deduction for acquiring Residential Property.
80G	Deduction for donation given to charitable institutions or funds.
80GG	Deduction allowed with respect to rent paid.
80GGA	Deduction for Donation given towards scientific research or

	rural development.
80GGC	Deduction for contribution given to Political Parties.
80IA	Deduction from profits of industrial under takings engaged in infrastructure development.
80IAB	Deduction from profits of an undertaking engaged in special economic zone.
80IB	Deduction from profits of industrial undertaking engaged in other than infrastructure development.
80IC	Deduction from profits of undertakings set up in certain states.
80ID	Deduction from profits of hotels and convention centres.
80IE	Deduction from profits of undertakings set up in North Eastern states.
80JJA	Deduction on profits earned from business of collecting and processing of bio-degradable waste.
80JJAA	Deduction for payment made to new workmen.
80QQB	Deduction for Royalty received on income of authors.
80RRB	Deduction for Royalty received on Patents.
80TTA	Deduction for Interest received on deposits in saving account.
80TTB	Deduction for Interest to Senior Citizen
80U	Deduction allowed to blind/handicapped person on their incomes.

10.3.2 Steps to Compute Taxable Income of the Individual

See section no. 10.4 of Unit-10.

10.3.3 Income Tax Rates to Compute Tax Liability of Individual

See section no. – 10.5 & 10.6 of Unit-10.

10.4 STEPS TO COMPUTE TAXABLE INCOME OF THE INDIVIDUAL

The scheme of computation of total income and tax liability can be easily understood with the help of the following chart:

Computation of Income		
	Rs.	Rs.
1. Find out gross total income	××××	
2. Less : Deductions (Under Section 80C to 80U)	××	
3. Find out net income [(1) - (2)]		×××××

4.	Divide the net income into the following:		
4.1	Income subject to special tax rates	××	
4.2	Remaining income subject to normal rates	××	
5.	Find out income-tax on net income:		
5.1	Tax on income (as mentioned in 4.1) at the rates given in Finance Act	××	
5.2	Tax on remaining income at the normal rate	××	×××
6.	Deduct : Tax rebates		
6.1	Under Section 87 A		××
7.	Find out the balance [(5)-(6)]		×××
8.	Add : Surcharge on (7)		××
9.	Find out the total [(7) + (8)]		××××
10.	Add: HEC Cess [4% of (9)]		××
11.	Find out the total [(9) + (10)]		××××
12.	Deduct : Rebate under Sections 86, 89, 90 90A and 91		××
13.	Tax liability [(11) - (12)]		××××
14.	Add : Interest/penalty etc.	××	
15.	Less: Pre-paid taxes [i.e., advance tax, self-assessment tax, TDS, TCS]	××	
16.	Tax payable [(13) + (14) - (15)]		××××

Source: Direct tax Laws, 2021, Taxmann publication.

10.5 INCOME TAX LIABILITY UNDER OLD TAX REGIME

Provisions for computation of taxable income are given by the Income-Tax Act, but tax rates announced by the Finance Act that is passed every year by the Parliament along with budget for the Central Government. For instance, the Finance Act, 2020, provides tax rates in the first schedule (Part I, II and III) as follows -

Tax rates as per the Finance Act, 2020- It gives income-tax rates for different assesseees for the Assessment year 2021-22 as given below.

- I. In case **every individual** other than referred to in items mentioned below as no. II and III.
- II. For **resident senior citizen** in India (who is 60 years or more at any time during the previous year)
- III. For resident **super senior citizen in India**, (who is of the age of 80 years or more at any time during the previous year.)

Assessment Year 2021-22: (Individual)

Tax Rate	Individual (below 60 years)	Senior Citizens of (60 or above 60 years)	Super Senior Citizens (80 or above 80 years)
NIL	Upto Rs.2,50,000	Upto Rs.3,00,000	Upto Rs.5,00,000
5%	Rs.2,50,000 - 5,00,000	Rs.3,00,000 - 5,00,000	-----
20%	Rs.5,00,000 - 10,00,000	Rs.5,00,000 - 10,00,000	Rs.5,00,000 -10,00,000
30%	Above Rs.10,00,000	Above Rs.10,00,000	Above Rs.10,00,000

10.6 INCOME TAX LIABILITY UNDER NEW TAX REGIME(SONU)

As per the finance act, 2020 new rules about lower tax under section 115BAC of the income-tax Act has been inserted those are applicable for income earned from 1 April 2020 (i.e. F.Y. 2020-21), which relates to A.Y. 2021-22. The new tax regime is giving an option to individuals to choose between following two types of income tax rates. These lower rates are mentioned below:

Existing Tax Rates		New Tax rates	
Upto 2,50,000	Nil rate in both the regime		
2,50,000- 5,00,000	5%	2,50,000- 5,00,000	5%
5,00,000- 7,50,000	20%	5,00,000- 7,50,000	10%
7,50,000- 10,00,000	20%	7,50,000- 10,00,000	15%
10,00,000-12,50,000	30%	10,00,000-12,50,000	20%
12,50,000-15,00,000	30%	12,50,000-15,00,000	25%
Above 15,00,000	30%	Above 15,00,000	30%

Under section 115BAC an option is given to individuals and HUF taxpayers to pay income tax at lower rates; but this benefit is given subject to certain conditions as discussed below:

(A) **Condition with respect to Benefits withdrawn under new tax regime:** resently the assessee can claim many deductions/ exemptions/ set off benefits under the existing income tax system. Out of such benefits some most common and important benefits are mentioned here:

1. Standard deduction
2. Professional tax
3. Entertainment allowances on salaries
4. Leave Travel Allowance (LTA)
5. House Rent Allowance (HRA)
6. Minor child income allowance
7. Helper allowance
8. Children education allowance
9. Special allowances under section 10(14)

10. Interest on housing loan on self-occupied property or vacant property (Section 24)
11. Set off of loss under the head 'Income from House property' with any other Income
11. Business deductions/expenditures allowed on specified business under Income-tax act
12. Tax saving investments under section 80C (Chapter VI-A deductions)
13. Tax saving investments under section 80D (Chapter VI-A deductions)
14. Tax saving investments under section 80E (Chapter VI-A deductions) etc
15. No exemption or deduction for any other allowances
16. No exemption or deduction for any other perquisites
17. Deduction from family pension income.
18. Set off of any loss carried forward from earlier years in relation to the specified businesses.
19. Set off of any depreciation carried forward from earlier years in relation to the specified businesses.

Under new tax regime above stated benefits are disallowed in case a person opts new tax rates to compute his/her tax liability at lower tax rates.

(B) Condition with respect to Benefits not withdrawn under new tax rate system: From the available deductions/exemptions following benefits to be claimed as deductions in new regime also in case a person opts new lower tax rates to compute his/her tax liability.

1. Agricultural income
2. Transport allowance for specially abled person.
3. Conveyance allowance
4. Contribution made for Notified Pension Scheme under section 80CCD(2).
5. Leave encashment on retirement
6. Standard deduction on rent
7. Depreciation under section 32 (except additional depreciation).
8. Any allowance granted to meet the cost of travel on tour.
9. Any allowance whether granted on tour or for the period of journey in connection with transfer to meet the ordinary daily charges incurred by an employee on account of absence from his normal place of duty.
10. Any allowance granted to meet the expenditure incurred on conveyance (only if free conveyance is not given) in performance of duties of an office or employment of profit.
11. Transport allowance granted to an employee, who is blind or deaf and dumb or orthopedically with disability of lower extremities, to meet his expenditure for the purposes of commuting between the place of his residence and the place of his duty.
12. Income from life insurance
13. Retrenchment compensation
14. VRS proceeds

15. Deduction of employment of new employees under section 80JJAA.

(C) Condition with respect to Benefit of opt-in and Opt-out: An assessee having any income except from income Business or profession can choose the new tax regime at the beginning of FY 2020-21 and can also withdraw the option for any year other than the year for which it was exercised. It means a person can opt-in and opt-out for new tax rates every year. But if a person have opted for a new tax regime at the start of the year then it cannot be charged anytime during the financial year for the purpose of TDS, however the option can be changed at the time of filing of Income-tax return.

In case the person have taxable income under the head “Income from Business or profession” also and opt for the new tax regime only then he/she can never be eligible to exercise the previous option again.

Note-I : Surcharge : Surcharge is 15% of income-tax if net income exceeds Rs.1 crore but it is subject to Marginal Relief.

Note-II :Health and Education Cess (HEC):It is 4% of income tax and surcharge from the A.Y. 2019-20.

Note-III :Rebate u/s 87A : A resident individual whose net income does not exceed Rs.5,00,000 can get this benefit. The actual amount of income tax or Rs. 12,500 whichever is less is the amount of rebate u/s 87A.

Practical Questions:

Situation-I: Computation of taxable income of an employee (Individual assessee)

Illustration-I:From the particulars given below, compute the total income and tax payable of Mr. Deb,a Central Govt. employee working at Chandigarh :

I. (1) Salary	25,000
(2) D.A. @ 50% of Salary	-
(3) T.A. Bill	5,000 p.a.
(4) Actual Expenditure	6,000 p.a.
(5) Bonus	35,000
(6) His contribution to Statutory Provident Fund	2,500 p.m.
(7) Employer's contribution to S.P.F.	10% of salary
(8) Interest on accumulated Balance of S.P.F13%	12,000
(9) Entertainment Allowance	1,000 p.m.

II He owns two houses, one of which is let out at a rent of ₹4,000 p.m. and other (whose annual value is ₹10,000) remained vacant throughout the year on account of his employment at Ambala where he has taken a house on rent. The two houses are subject to Municipal Taxes of ₹5,000 and 1,000 respectively.

III. During the year he sold shares of Hero Honda Ltd, and earned a short-term capital gain of ₹ 50,000. (STT paid)

IV. He earned ₹ 11.500 as interest from the Government securities and bank interest on SBI fixed deposits 11.000 and on a saving account ₹20,600.

He pays Life Insurance premium of ₹25,000 on his life policy of ₹4,00,000. He deposited ₹ 10,000 in Home Deposit Account

(Source: Income tax-Law and Practice: Kalyani Publishers, 2021)

Solution:

Computation of Total Income of Mr. Deb for the Assessment Year 2021-22

1. Income from Salary	₹	₹	₹
(i) Salary 25,000 p.m.		3,00,000	
(ii) D.A. @ 50% of Salary		1,50,000	
(iii) Travelling Allowance-Exempted		Nil	
(iv) Entertainment Allowance		12,000	
(v) Bonus		35,000	
Gross Salary		4,97,000	
Less : Deductions u/s 16			
U/s 16(ii) Entertainment Allowance (Note 2]	5,000		
U/s 16(ia) Standard deduction	50,000		
		55,000	
			4,42,000
 II. Income from House Property			
Rent of let out house			48,000
Less: Municipal taxes			5,000
Net Annual Value			43,000
Less : Deductions u/s 24 :			
Standard deduction : 30% of NAV			12,900
			30,100
The other house is exempted u/s 23 (2)			NIL
			30,100
 III. Capital Gain : Short term capital gain on shares covered under STT			50,000
 IV. Income from other sources			
Bank Interest :			
On fixed deposits	11,000		
On Saving account	20,600		
		31,600	
		11,500	

Interest on Govt. securities		43,100
Gross Total Income		5,65,200
Less : Deductions u/s 80		
1.u/s 80C :		
(i) Contribution to S.P.F.	30,000	
(ii) Premium of Life Insurance	25,000	
(iii) Contribution to Home Deposit Account	10,000	
	Q.A	65,000
2. u/s 80TTA :		
Interest credited in SBI Saving Bank A/c restricted to 10,000	10,000	75,000
Total Income		4,90,200

Note: 1. Deduction u/s 16(ii) Entertainment Allowance Govt. Employee: No precondition. Least of 3 items shall be the deduction.

Limits	₹
(i) Statutory limit	5,000
(ii) 1/5th of 3,00,000	60,000
(iii) Actual E. A received	12,000

Least is 5,000

2. Interest credited on credit balance in S.P.F. is fully exempted.

Tax Liability :

Total income = ₹4,90,200	
Tax on short term capital gain = 50,000 x 15% =	7,500
Tax on balance income = 4,90,200 - 50,000 = 4,40,200	
On first ₹2,50,000	NIL
On balance ₹. 1,90,200 @ 5%	9,510
Tax	17,010
Less : Rebate u/s 87A (as total income does not exceed ₹5,00,000]	12,500
	4,510
Add : Health and Education Cess @ 4% of tax	180
Tax payable	<u>4,690</u>

Situation-II: Computation of taxable income of a Businessman (Individual assessee)

Illustration-II: Kishore Kumar is the proprietor of a business. The following was the Profit & Loss Account of his business for the year ended March 31, 2021.

	₹		₹
To Office Expenses	10,000	By Gross Profit	29,225
To Proprietor's Salary	6,000	By sale of import entitlements	30,000
To General Expenses	7,500	By profit on sale of residential	
To Bad Debts	1,500	house (long term)	24,000
To Fire Insurance Premium	1,800	By Bad debts recovered	6,000
To Advertisement	4,200	(disallowed earlier by the ITO for	
To Depreciation	3,900	want of evidence)	
To Motor Car Expenses	1,500	By Interest from Govt. securities	7,000
To Legal Charges for		By Dividends from agricultural	2,000
defending a suit for alleged		companies	
breach of a trading contract	600	By Interest on National relief	1,775
		bonds	
To Donation to Bombay	2,500	By Income from Horse races	5,000
University		(gross)	
To Interest on Proprietors'	1,400		
Capital			
To Reserve for future losses	5,000		
To Income tax paid on last			
assessment	4,400		
To Life Insurance Premium	4,000		
To Advance Income tax paid	3,600		
To Net Profit	47,100		
	<u>1,05,000</u>		<u>1,05,000</u>

Further information is given :

- (a) General expenses include ₹ 1,200 paid as compensation to an old employee whose services were terminated as his services were considered detrimental to the profitable conduct of the business and ₹ 400 as help to a poor university student.
- (b) A sum of 4,740 being cost of a small machine has been included in general expenses.
- (c) The advertisement cost includes expenditure ₹400 on one wooden show case and ₹1,800 on calendar and diaries.
- (d) One-third of Motor Car expenses is for personal use of the car.
- (e) Depreciation is found to be in excess by ₹1,700 compared to the amount allowable under income tax rules.
- (f) Reserve for future losses represents a demand of GST. Mr. Kumar paid ₹ 3,600 on 30-7-2021 and balance ₹ 1,400 on 1-10-2021. Date of filing of return is 31-7-2021. Compute Kishore Kumar's taxable profit and total income for the assessment year 2021-22.

(Source: Income tax-Law and Practice: Kalyani Publishers, 2021)

Solution: Computation of Kishore Kumar's taxable profit and total income for the assessment year 2021-22.

Business Income	₹	₹
Net Profit as per P & L A/c		47,100
Add : Disallowed Expenses :		
Proprietor's salary	6,000	
Donations	2,500	
Interest on capital	1,400	
Reserve for future losses	5,000	
Income tax	4,400	
Life Insurance Premium	4,000	
Advance Income tax	3,600	
Help to a poor student	400	
Cost of a small machine	4,740	
Motor Car expenses (1/3rd)	500	
Excess Depreciation	1,700	
Cost of wooden show case	400	
		34,640
		81,740
Less: Allowable Depreciation and other expenses		
On small machine 15% of 4,740	711	
On wooden show case 10% of 400	40	
GST paid before due date	3,600	
		4,351
		77,389
Less : Incomes credited but to be treated under other heads :		
Long term capital gain	24,000	
Bad debts recovered (disallowed earlier)	6,000	
Interest on Govt, securities	7,000	
Dividend	2,000	
Interest on National Relief Bonds	1,775	
Horse race winnings	5,000	
		<u>45,775</u>
Business Income		<u>31,614</u>

Computation of Total Income	₹	₹
Profils& Gains:		
Business Profit		31,614
Capital Gains:		
Long term Capital gain		24,000
Other Sources:		
Interest on National Relief Bonds (Exempted)	NIL	
Interest on Govt, securities	7,000	

Dividend Taxable (See note below)	2,000	
Race winnings	<u>5,000</u>	<u>14,000</u>
Gross Total Income		69,614
Less : Deductions u/s 80		
u/s 80 C:	4,000	
u/s 80 G : (Donation to Bombay University)		
Donations 2,500 Q.A. = ₹2,500 @ 100%	<u>2,500</u>	<u>6,500</u>
Total Income		<u>63,114</u>
Rounded off to ₹ 63,110		

- NOTE 1. Amount of GST paid after 31-7-2021 cannot be allowed as deduction in P.Y.2020-21 u/s 43B but it shall be an allowable deduction in the previous year 2021-22
2. Dividend from an Indian company (domestic company) has been made taxable in the hands of recipient shareholders w.e.f. A.Y. 2021-22. Company may be an agricultural company or any other industrial company.

Situation-III: Computation of taxable income of a Professional (Individual assessee)

Illustration-III: From the following Receipts and Payments Account for the year ended 31st March 2021 of Dr. Handa and from further particulars given below, compute his total income and tax payable.

Receipts	₹	Payments	₹
To Opening cash balance	1,024	By Consulting Room	
To Consultation fees	90,000	Expenses	12,000
To Salary from Medical College	2,66,000	By Cost of X-ray machine	60,000
To Short-term Capital gain on		By Car Expenses	6,000
sale of shares (STT not paid)	38,976	By Life Insurance Premium	22,000
To Interest from bank (fixed deposit)	23,200	By Son's marriage Expenses	5,000
To Loan from Bank	10,000	By Advance Income Tax	5,000
To Cash Gifts on Son's		By Household Expenses	1,72,000
Marriage	10,000	Closing Cash Balance	1,59,200
	<u>4,39,200</u>		<u>4,39,200</u>

Particulars :

- (i) 1/2 of car expenses are treated as personal.
 - (ii) He deposited ₹5,000 in P.P.F. on 30-3-2021 and ₹ 10,000 in NSC VIII issue.
 - (iii) Household expenses includes interest on loan of ₹5,000 for purchase of office computer.
 - (iv) He has insured himself for ₹2,00,000 on 1-5-2020,
- (Source: Income tax-Law and Practice: Kalyani Publishers, 2021)

Solution:

Computation of Total Income of Dr. Handa for the Assessment Year 2021-22

1. Income from salary :		₹	₹
Salary from Medical College		2,66,000	
Less: Deductions u/s 16: Standard deduction u/s 16(ia)		50,000	
			2,16,000
Professional Income:			
Professional Receipts :			
Consultation fees		90,000	
Less: Professional Expenses :		₹	
Consultation Room Expenses	12,000		
Depreciation on X-ray machine @ 15% of 60,000	9,000		
Car expenses (1/2 allowable)	3,000		
Interest on loan for office computer	5,000		
		29,000	
			61,000
III. Capital Gains :			
Short term capital gain on sale of shares (STT not paid)			38,976
IV. Other sources:			
Interest from Bank on fixed deposits			23,200
Gross Total Income			3,39,176
Less : Deduction : u/s 80C : (See Note 1]			35,000
Total Income			3,04,176
Total income rounded off =3,04,180			
Tax Liability			
Total Income = 3,04,180			NIL
On first ₹ 2,50,000	NIL	NIL	
On balance ₹54,180	5%	2,709	
Tax amount		2,709	
Less : Rebate u/s 87A		2,709	
Tax Payable			NIL

Notes:	₹
1. Q.A. for deduction u/s 80C	
Life Insurance Premium (Actual 22,000 or 10% of sum assured ₹2,00,00)	
= 20,000 whichever is less	20,000
Amount deposited in P.P.F	5,000
NSC (VIII issue)	10,000
Total Q.A	35,000
2. Short term capital gain on sale of share not covered under STT is treated as normal income and hence	

Situation-IV: Computation of taxable income of an Individual and HUF

Illustration-IV: The assessee is a non-corporate assessee (i.e. Individual or HUF assessee) for the assessment year 2021-22, his Income is considered as given below for the said period:

	Rs.
Net Profit as per P & L A/C	67,60,000
Add : Excess depreciation debited over the normal percentage of depreciation allowed u/s 32	2000
Add : Disallowance of expenditure u/s 37(1)	<u>60,000</u>
Total	68,22,000
Less : Deduction u/s 10AA	65,00,000
1) Business income u/s 28	3,22,000
2) Long term Capital Gain (on transfer of gold)	50,000
3) Long term Capital Gain (on transfer of equity) shares in stock exchange) : Rs. 6,00,000	Exempt
(1) + (2) + (3) = Gross Total Income	3,72,000
Less : Deductions	
1) under Section 80G	3,000
2) under Section 80IB	48,000
Net Income	3,21,000

Compute the tax liability in case of Resident Individual and HUF (Non Resident) under the normal provisions as well as under the alternative Minimum Tax (AMT) provisions.

(Source: Income tax-Law and Practice: Kalyani Publishers, 2021)

Solution :

Particulars	Resident	
	Individual	HUF
	Rs.	Rs.
(A) Computation of tax under Normal provisions :		
Tax on long term Capital gain of Rs.50,000 @ 20%	10,000	10,000
Tax on remaining income of Rs.2,71,000	1050	1050

(3,21,000 - 50,000) i.e. Net Income-LTCG			
	Total	11050	11050
Less : Rebate u/s 87 A as his net income doesn't increase Rs. 3,50,000	Balance	2500	—
Add : HEC @4% on Balance Profit		8550	11,050
		342	442
	Tax Liability(a)	8892	11492
(B) Computation of tax liability under AMT :			
	Net Income	3,21,000	3,21,000
Computation of Adjusted total income :			
	Net Profit	3,21,000	3,21,000
Add : Deduction claimed u/s 80IB		48,000	48,000
Add : Deduction claimed u/s 10AA		65,00,000	65,00,000
Adjusted Total Income	68,69,000	68,69,000	
Calculate 18.5% on adjusted total income under			
	AMT system	12,70,765	12,70,765
Add : HEC @4% (Surcharge is not applicable as income is less than Rs.1 Crore)		50831	50831
Amount (b)	13,21,596	13,21,596	
	Round of	₹13,21,600	13,21,600
Final tax liability is maximum of (a) or (b) i.e. Rs.8892 or Rs. 13,21,600 in case of			
	Individual	13,21,600	---
	Rs. 11,492 or Rs.13,21,600 in case of HUF	---	13,21,600

Note-

- I Rebate u/s 87A is allowed to Individual Resident assessee only, not to HUF or other non-corporate assessee.
- II In these cases surcharge is not applicable as income is less than Rs.1Crore.

Check your Progress

- Q.1. Taxable Income means the final income upon which tax amount will be calculated.
(True/False)
- Q.2. Tax liability is the final income upon which tax amount will be calculated.
(True/False)
- Q.3. An Individual can choose income tax rates to pay his/her tax liability from the old and new tax regimes.
(True/False)
- Q.4. There is no difference in the age limit of Senior citizen or Super Senior citizen.

(True/False)

Q.5. The rebate u/s 87A is allowed to an individual resident assessee only, not to HUF and other non Corporate assessees.

(True/False)

Q.6. The rate of Education Cess was 4% for the financial year 2020-21.

(True/False)

Q.7. The rate of Health and Education Cess is 4% for the financial year 2020-21.

(True/False)

Q.8. The provisions of Alternate Minimum Tax (AMT) is not applicable in case of Individual assessee.

(True/False)

Q.9. Coparceners are those members in HUF who have the right to partition of the property.

(True/False)

Q.10. While paying income tax at lower tax rates assessee will have to left some most commonly available benefits under new tax regime.

(True/False)

10.7 LET US SUM UP

Income Tax occupies a dominant place in the Direct Tax Laws and it is an important source of revenue for the Government. The Finance Act is passed by the Parliament every year. It fixes 1) the rates of tax for the relevant assessment year; 2) rates for tax deduction at source; and 3) rates for advance payment of tax. As per Section 14, income of the assessee is computed under the five heads (which are earlier discussed in detail in previous chapters). The aggregate income under these heads is termed as 'gross total income'. In this chapter, the latest scheme regarding the computation of gross total income after deductions u/s 80C to 80U, amount of rebate as per section 88, and rates of tax for the relevant financial year is given.

10.8 KEY WORDS

1. Senior Citizen - Indian Citizen having age more than 60 years
2. Very Senior Citizen - Indian Citizen having age more than 80 years
3. Qualifying amount - Gross amount (maximum) on which deduction is allowed
4. Net qualifying amount - Net maximum amount on which deduction is given
5. SHEC: Secondary and Higher Education Cess
6. HEC: Health and Education Cess

10.9 ANSWERS TO SELF CHECK QUESTIONS

Ans.1. : True

Ans.2. : False

Ans.3. : True

Ans.4. : False

Ans.5. : True

- Ans.6. : False
Ans.7. : True
Ans.8. : False
Ans.9. : True
Ans.10. : True

10.10 TERMINAL QUESTIONS

- Q.1 What do you mean by Taxable Income? Define the term Gross total income.
Q.2. Discuss the meaning of 'Karta' explain this concept in relation to HUF.
Q.3. Give in brief, the steps taken regarding computation of tax liability of individual.
Q.4. Give in brief the steps taken regarding computation of tax liability of an individual.
Q.5. What do you understand by Tax liability of an individual? State the current income tax rates applicable on the individual taxable income.

10.11 REFERENCES AND SUGGESTED READINGS

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2. Professional Approach to Direct Taxes, Dr. Girish Ahuja and Dr. Ravi Gupta, Bharat Publishers, 2021
3. Students' guide to Income tax, Dr. Vinod K. Singhanian & Dr. Kapil Singhanian, Taxmann Publishers, 2021
4. Direct Taxes (Law and Practice), Dr. Vinod K. Singhanian & Dr. Kapil Singhanian, edition, 2021.

Unit I: Knowledge of Form no 16, 16A, 26AS, 15G, 15H and Annual Information System(AIS).

STRUCTURE

1. Form no 16
 - 1.1 Introduction
 - 1.2 Who can issue
 - 1.3 Purpose of form 16
 - 1.4 Contents of the form 16
2. Form no 16A
 - 2.1 Introduction
 - 2.2 Who can issue
 - 2.3 Purpose of form 16A
 - 2.4 Contents of the form 16A
3. 3. Form 26AS, Annual Tax Statement under Section 203AA of the Income Tax Act, 1961
 - 3.1 Introduction
 - 3.2 How to Download Form 26AS?
 - 3.3 Different Parts of Form 26AS
 - 3.4 Why is Form 26AS Important?
4. Form 15 G
5. Form 15 H
6. Annual Information System (AIS)
 - 6.1 Procedure to check AIS
 - 6.2 Information displayed in the AIS

1. Form 16

1.1 Introduction: Form 16 is a certificate issued by the employer to their employees on paying the salary when the employer deducts tax from the employee salary. Form 16 is a vital document that is issued in accordance with the provisions of the Income Tax Act, 1961. It includes details of the amount of tax deducted at source (TDS) on salary by your employer along with the salary breakup for the financial year. This is a certificate under section 203 of the Income-tax Act, 1961 for tax deducted at source on salary paid to an employee under section 192 or pension/interest income of specified senior citizen under section 194P, also [see rule 31(1)(a)].

1.2 Who can issue Form 16?

It is required by the Income Tax Act 1961 that the employer who holds valid TAN number and deducts tax on the salary of an employee is required to issue Form 16.

1.3 Purpose of form 16

Form 16 is a very important document as it is a proof that the employer has deposited the tax with the government for the tax deducted by the employer. This form assists in the process of filing the income tax return with the Income Tax Department.

1.4 Contents of the form 16

Form 16 is divided in to two section Part A and Part B.

Part A of Form 16:

Part A of income tax form 16 covers employer, employee, TDS payment details. It also shows quarter-wise details of the tax deducted and deposited with the government. Some of the details which are the included in Part A are Name and Address of the employer, PAN and TAN of the employer, Name and Address of the employee, PAN of the employee and Statement of taxes paid by the employer.

Part B of Form 16:

This section contains the breakup of the salary paid by your employer, various deductions, exemptions (if any) and the tax calculation after considering all the items according to the effective tax rates. The details mentioned in Part B are as follows.

Whether opting for Taxation under section 115BAC: Yes or No

1. **Gross Salary:** This part of Form 16 requires details of salary as per provisions of section 17(1), perquisites and any profits received in lieu of salary u/s 17(2)&17(3) respectively.

2. **Exemptions and allowances considered:** Earlier in this part of form, total information of all the exemptions under Section 10 was required, but with the change of the new Form 16, a list of allowances is provided, and the details are required to be filled. Like Travel concession or assistance under section 10(5), Death-cum-retirement gratuity under section 10(10), Commuted value of pension under section 10(10A), Cash equivalent of leave salary encashment under section 10(10AA), House rent allowance under section 10(13A) and Amount of any other exemption under section 10.
3. **Total Amount of Salary received from Employer:** This part of the form calculates the total salary received including allowances and other perquisites.
4. **Deductions under Section 16:** Like, Standard deduction under section 16(ia), Entertainment allowance under section 16(ii) and Tax on employment under 16(iii).
5. Total amount of deduction under section 16.
6. **Income Chargeable under the head Income from Salaries :** This section shows the net income from salary after deduction of all the allowances and deductions. This includes Income from House Property and Income from Other Sources.
7. **Any other income declared by the employee as per section 192(2)B:** This includes the details of any other income to be reported for deduction of TDS to the employer, like Income from house property and income from other sources.
8. **Total amount of other income reported by the employee:** This column provides a total of all income earned by an employee other than salary.
9. **Gross Total Income :** This column of the form indicates the total income of employees reduced by the exemptions but before deduction under Chapter VI-A.
10. **Deduction under Chapter VI-A: Under this column deduction under section, 80C, 80CCC, 80CCD, 80CCE, 80D, 80DD, 80DDB, 80E, 80EE, 80EEB, 80G, & 80TTA are required to be reported.**
11. **Aggregate of deductible amount under Chapter VI-A:** This column totals the amount of deduction from all the sections under Chapter VI- A as claimed by the employee.
12. **Total taxable Income (12):** This column refers to the net income of the employee after providing deduction under Chapter VI-A. This is the amount on which tax is to be calculated.
13. **Tax on Total Income:** This column specifies the Tax amount to be paid as per the applicable tax slabs on the income declared in point number column above.

14. **Rebate under section 87A, if applicable :** This Column specifies the tax rebate, If the total income of a person doesn't exceed Rs. 5,00,000/- then a tax rebate of 100% will be available to the person under this column subject to a maximum amount of Rs. 12,500/-.
15. **Surcharge, wherever applicable:** This column refers to the additional tax in form of a surcharge which is applicable if income exceeds a certain benchmark limit.
16. **Health and Education Cess :** The health and education Cess is applicable at the applicable rates.
17. **Tax payable :** This column is sum total of 13+15+16-14.
18. **Relief under section 89 :** This column refers to any relief which is allowed against the arrear of salary received in the Previous year.
19. **Net tax payable:** This column is sum total of **17-18.**

At the end verification is required to be done on the form by the employer or his designated person in this regards. This include name of the person signing the documents, his father name, designation, place and date. Further the designated person is required to certify that the information given above is true, complete and correct and is based on the books of account, documents, TDS statements, and other available records.

2. Form 16A

2.1 Introduction

Form 16A is also a TDS Certificate. While Form 16 is for only salary income. Form 16A is applicable for TDS on Income Other than Salary. For instance, a Form 16A shall be issued to the receiver of any income, when a bank deducts TDS on the interest income paid by the banks on fixed deposits, interest on secured and unsecured loans by any person, TDS deducted on insurance commission, TDS deducted on rent receipts, fees for professional or technical services etc. In fact, when TDS is deducted on any income other than salary by the payer that payer is liable for such deduction. There are different rates of TDS for different types of income and each income has a different threshold limit for TDS. This certificate is issued under section 203 of the Income-tax Act, 1961 for tax deducted at source also [See rule 31(1)(b)].

2.2 Who can issue?

The form no 16A is issued by the person who is the payer of the income to the payee and liable to deduct TDS at applicable rates as per the provisions of the Income Tax Act 1961.

2.3 Purpose of form 16A

Form 16A is a very important document as it is a proof that the deductor of the TDS has deposited the tax with the government for the tax deducted by the payer. This form assists in the process of filing the income tax return with the Income Tax Department.

2.4 Contents of the form 16A

- i. It contains the unique certificate number mentioned at the top on the left side.
- ii. It contains basic information about the tax deductor like name, address etc. Deductor is the individual who pays you and he/she is required to deduct TDS (if subject to it) before discharging the payment.
- iii. It provides basic information of the deductee like name, address PAN number etc. Deductee is the person receiving the payment.
- iv. PAN/ TAN are a unique identification of every deductor which is required on the certificate.
- v. Then there are details of CIT (TDS) Assessment year and period normally quarter.
- vi. Summary of payment includes Amount paid/ credited, Nature of Payment under which section, Deductee Reference No. provided by the Deductor (if any) & Date of payment/credit.
- vii. Summary of tax deducted at source in respect of Deductee includes Quarter, Receipt Numbers of original quarterly statements of TDS under sub-section (3) of section 200 , Amount of tax deducted in respect of Deductee and Amount of tax deposited/remitted in respect of Deductee.
- viii. DETAILS OF TAX DEDUCTED AND DEPOSITED IN THE CENTRAL GOVERNMENT ACCOUNT THROUGH BOOK ADJUSTMENT (The deductor to provide payment wise details of tax deducted and deposited with respect to the deductee). Government deductor to fill information, if tax is paid without production of an income-tax challan.
- ix. DETAILS OF TAX DEDUCTED AND DEPOSITED IN THE CENTRAL GOVERNMENT ACCOUNT THROUGH CHALLAN (The deductor to provide payment wise details of tax deducted and deposited with respect to the deductee).

At the end verification is required to be done on the form by the employer or his designated person in this regards. This include name of the person signing the documents, his father name, designation, place and date. Further the designated person is required to certify that the information given above is true, complete and correct and is based on the books of account, documents, TDS statements, and other available records.

Details of specimen of the Form 16 and Form 16A can be downloaded from the income tax website, <https://incometaxindia.gov.in/Pages/downloads/most-used-forms.aspx>.

3. Form 26AS, Annual Tax Statement under Section 203AA of the Income Tax Act, 1961. See Section 203AA and second provision to Section 206C (5) of the Income Tax Act, 1961 and Rule 31AB of Income Tax Rules, 1962.

3.1 Introduction:

Form 26AS is an annual tax statement that includes all the details about the tax deducted at source (TDS) by the payer of the income, information regarding the tax collected by your collectors (TCS) is also displayed on this form, the advance tax which has been paid by the assessee during the previous year, self-assessment tax payments, information in regards to the refund which has been received, regular assessment tax, Details of SFT Transaction, Details of Tax Deducted at Source on Sale of Immovable Property, TDS Defaults* (Processing of Statements) and Details of Turnover as per GSTR-3B under GST.

3.2 How to Download Form 26AS?

Login to the Income Tax portal by following the link. <https://www.incometax.gov.in/iec/foportal>.

1. Click on 'Login'.
2. Enter the User ID. Then enter the PAN or the Aadhaar number to complete the login process. Before starting the process of viewing form 26AS one must be registered on the portal with the valid credentials.
3. After you have entered the User ID, click on 'Continue'. Tick the confirm message and enter the password.
4. Select 'e-file' and click on 'Income Tax Returns'.
5. Next, click on 'View Form 26AS' from drop down box.
6. Select 'Confirm' next.
7. On the next page, click on 'Proceed' after ticking the acceptance.
8. Next, click on 'View Tax Credit and select (Form 26AS)'.
9. Choose the 'View Type' Text or HTML and 'Assessment Year' next.
10. Select 'View/ Download' to complete the process
11. On clicking the download tab, the form can also be downloaded in pdf format.

3.3 Different Parts of Form 26AS

Form 26AS has 9 parts, viz. Part A, Part A1, Part B, Part C, Part D, Part E, Part F, Part G and Part H. Here are the different parts of Form 26AS:

- **Part A:** Information regarding TDS Part A of the form 26AS shows tax credit statement, which contains information regarding TDS on the salary, pension income, interest income, prize winnings, and any other income on which tax has been deducted at source. It also contains the section under which tax has been deducted, deductor's details, TAN of the deductor, Amount paid as income, tax deducted at source and tax deposited.
- **Part A1:** Information regarding TDS for Form 15G/Form 15H
Part A1 of Form 26AS contains information regarding the income where TDS has not been deducted as the assessee has submitted Form 15G/Form 15H. The status of the TDS deduction can be confirmed, if the assessee has submitted the above said form. 'No transactions will be displayed in this section in case the assessee has not furnished Form 15G/Form 15H.
- **Part A2:** Details of Tax Deducted at Source on Sale of Immovable Property u/s 194IA/ TDS on Rent of Property u/s 194IB / TDS on payment to resident contractors and professionals u/s 194M (**For Seller**/Landlord of Property/Payee of resident contractors and professionals) will be displayed here.
- **Part B:** Information regarding TCS
Part B of Form 26AS contains information on the tax collected at the source by the seller. Entries will be shown in the Part B, if any person has purchased any items which is liable for TCS by the seller.
- **Part C:** Information regarding tax paid (other than TDS and TCS)
In case a person has made any tax deposits himself, details regarding the same will appear in Part C of Form 26AS. Information regarding self-assessment tax and advance tax will also be present in this part of Form 26AS. It will also include details regarding the challan used to deposit tax and contain the information as given in the challan.
- **Part D:** Information regarding paid refund
Part D of Form 26AS will contain details regarding refunds, if any. It will contain the details like the assessment year for which refund has been given, the mode of payment, the amount as well as the interest paid along with the date on which the payment was made.

- **Part E: Details of SFT Transaction.** SFT is a report of specified financial transactions by specified persons including prescribed reporting financial institutions. High-value transactions are expected to be reported by banks and financial institutions to the tax authorities. Part E of Form 26AS will contain information regarding purchases of high-value mutual funds, purchase of high-value corporate bonds, property purchases, etc.
- **Part F:** Details of Tax Deducted at Source on Sale of Immovable Property u/s 194IA/ TDS on Rent of Property u/s 194IB /TDS on payment to resident contractors and professionals u/s 194M (**For Buyer**/Tenant of Property /Payer of resident contractors and professionals. Information regarding tax deducted on the sale of immovable property Part F of Form 26AS contains information regarding the TDS you have deducted and deposited in case you have purchased a property.
- **Part G:** Information regarding TDS defaults. Part G of Form 26AS contains information regarding the processing of statements in case of TDS defaults.
- **Part H:** Details of Turnover as per GSTR-3B. In this section the details of GSTR3B will be displayed for the data filed with the GST department. Main data fields will be like GSTIN, Application Reference Number(ARN), Date of Filing, Return period, Taxable Turnover and Total Turnover.

3.4 Why is Form 26AS Important?

Form 26AS is a very important document as one can check whether the deductor has properly filled the TDS statement or if the collector has correctly filled the details of Tax Collected at Source (TCS). The form contains all the details of the tax deducted and collected on behalf of the assessee. One can also check whether the tax deducted and collected on behalf of the deductee has been deposited in the government treasury on time. Person filing the returns must check the details of TDS and TCS appearing in the form 26 AS before filing the income tax return.

4. Form 15 G [See section 197A (1), 197A(1A) and rule 29C]

Declaration under section 197A (1) and section 197 A (1A) to be made by an individual or a person (not being a company or firm) claiming certain incomes without deduction of tax.

Form 15G is a self- declaration forms that an individual submits to the payer of the income like bank requesting not to deduct TDS on interest income as their income is below the basic exemption limit. For this, providing PAN is necessary. Now a day some banks allow you to submit these forms online through the bank's website.

This form can be submitted by the Resident Individual or HUF or trust or any other assessee (but not a company or a firm) with age less than 60 years to the payer of the income, declaring that his income is less than the basic exemption limit, which is currently Rs 250000/-.

Form 15G are valid for one financial year. So, the person has to submit these forms every year at the beginning of the financial year. This will ensure that the bank does not deduct any TDS on your interest income.

How to fill Form 15G?

Name of the Assessee – Enter your name as per income tax records

PAN number as per your PAN card.

Status: Mention the status whether assessee is Individual, HUF or any other person.

Previous Year –Mention the previous year for which form is filled.

Residential Status: Mention the residential status only residents are allowed to fill this form.

Fill in Address details along with PIN code, email, and telephone number.

Whether assessed to tax under the income tax act, 1961? if yes, the latest assessment year for which assessed. The assessee is required to provide the latest year in which the income was above the taxable limit.

Estimated income for which this declaration is made. Provide the details of income on which TDS should not be deducted.

Estimated total income of the Previous Year. Calculate the income from all the sources and include the income mentioned in the above point.

Details of Form No. 15G other than this form filled during the previous year, if any. Person is also required to mention the total number of Form 15G filed for that particular year along with the total income of the previous year.

Declarant is also required to provide details of income for which the declaration is filed. The required details are like identification number of relevant investment account, etc., nature of income, section under which tax is deductible and amount of income. After putting the signature, the declarant is required to give verification as mentioned in the form 15 G.

Form 15G is divided in two parts. Part 1 is to be filled by the declarant and part 2 is to be filled by the person paying the income.

5. Form 15 H [See section 197A(1C) and rule 29C]

Declaration under section 197A(1C) to be made by an individual who is of the age of sixty years or more claiming certain incomes without deduction of tax.

Name of the Assessee – Enter your name as per income tax records

PAN number as per your PAN card. **Date of birth. Previous Year** –Mention the previous year for which form is filled.

Fill in Address details along with PIN code, email, and telephone number.

Whether assessed to tax under the income tax act, 1961? if yes, the latest assessment year for which assessed. The assessee is required to provide the latest year in which the income was above the taxable limit.

Estimated income for which this declaration is made. Provide the details of income on which TDS should not be deducted.

Estimated total income of the Previous Year. Calculate the income from all the sources and include the income mentioned in the above point.

Details of Form No. 15H other than this form filled during the previous year, if any. Person is also required to mention the total number of Form 15H filed for that particular year along with the total income of the previous year.

Declarant is also required to provide details of income for which the declaration is filed. The required details are like identification number of relevant investment account, etc., nature of income, section under which tax is deductible and amount of income. After putting the signature, the declarant is required to give verification as mentioned in the form 15H.

Form 15H is divided in two parts. Part I is to be filled by the declarant and Part II is to be filled by the person paying the income.

One can download the form 15G and 15 H from the income tax website link <https://incometaxindia.gov.in/Pages/downloads/most-used-forms.aspx>.

6. Annual Information System (AIS)

Annual Information Statement (AIS) is a wide view of information for a taxpayer displayed in Form 26AS. It also accepts feedback from the taxpayers on the facts displayed in AIS. AIS shows both reported value (value reported by the reporting entities) and modified value (i.e. the value after considering taxpayer's feedback) for each type of information, i.e. TDS, SFT, other information, etc.

The main purpose behind the introduction of AIS is to display the complete information in regards to the financial transactions done by the tax payers with a facility to capture online feedback. Encourage the tax payer for the voluntary compliance while filling the income tax return after considering the information displayed in the AIS. Deterring the tax payer for being non-complaint.

6.1 Procedure to check AIS

Login to the Income Tax portal by following the link.

<https://www.incometax.gov.in/iec/foportal>. After that Click on 'Login', Enter the User ID. Then enter the PAN or the Aadhaar number to complete the login process. Before starting the process of viewing form AIS one must be registered on the portal with the valid credentials. After you have entered the User ID, click on 'Continue'. Tick the confirm message and enter the password.

Go to 'Services' > 'Annual Information Statement'. Click on the 'Proceed' button. It will redirect to the compliance portal. One can view Taxpayer Information Summary (TIS) and Annual Information Statement (AIS) on the AIS home page.

After selecting the relevant financial year one can view the Taxpayer Information Summary (TIS) or the Annual Information Statement (AIS) by clicking the relevant tiles. One can also download the AIS and TIS by clicking on the download button in the respective tiles. One can download the TIS in PDF format. AIS can be downloaded in PDF or JSON formats. The downloaded pdf file is password protected. To open the pdf file, the person is required to enter combination of the PAN (in upper case) and the date of birth in case of individual taxpayer or date of incorporation for a non-individual taxpayer in the format DDMMYYYY without any space.

6.2 Information displayed in the AIS

Part A General Information;

It displays general information such as PAN, concealed Aadhaar number, name, date of birth/incorporation/formation, contact details, email of the taxpayer.

Part B

TDS/TCS information: Information related to TDS/TCS is deducted by the payer of the income is displayed here. The Information in regards to the date of credit of the income, amount of income, TDS deducted, TDS deposited and status is shown.

SFT Information received from reporting authorities specified under the income tax act under Statement of Financial transaction (SFT) is displayed in this section. The various column includes information Category, SFT code, Information description, source of the information, no of data count, amount description and amount is depicted.

Payment of Taxes: Information relating to taxes such as advance tax and self-assessment tax is shown. Full breakup of the taxed paid is displayed here like amount of tax, assessment year, surcharge, education cess, date of deposit and challan identification number (CIN).

Demand and Refunds. Details of the demand raised and refund initiated by the income tax authorities are displayed here. Information like assessment year, mode of refund, nature, amount and date of payment is mentioned in this section.

Any other information in relation to sub-rule (2) of rule 114-I. Details of the information received from the other sources, such as data pertaining to Annexure II salary, Interest on refund, outward foreign remittance/purchase of foreign currency etc. is displayed here.

Review Questions

1. What is Form 16? Discuss its content?
2. What is Form 16? Briefly explain its contents?
3. Write short note on form 15G? How it is different from Form 15H?
4. Why it is important to check Form 26AS before filing the Income Tax Return?
5. What is Form AIS? How to download it from the website?
6. Briefly discuss the content of Form AIS? Why it is necessary to check Form AIS?

CERTIFICATE COURSE IN INCOME TAX

TAX ACCOUNTING, DOCUMENTATION AND E-FILING AT INCOME TAX PORTAL.

UNIT –II

TRIAL BALANCE AND FINAL ACCOUNTS

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OBJECTIVES

After studying this Unit, Students will be able to

- ✓ Define the concept of Trial Balance and Final Accounts.
- ✓ Explain the Advantages and limitation of the Trial Balance.
- ✓ Errors revealed and not revealed by Trial Balance.
- ✓ Procedure for preparing Trial Balance.
- ✓ Understand the Trading account and Profit & Loss account.
- ✓ Concept of Balance Sheet.
- ✓ Documents required for Filing a Income Tax Return.

3.0 Introduction

Just prior to generating final accounts, a trial balance is created, which comprises a balance sheet, profit and loss statement, cash flow statement, and notes to accounts. We can presume that it is the fundamental methodology used to prepare the final accounting. Each general ledger account's closing balance is shown in the trial balance, an accounting report. Accordingly, it gives the sum for each account's asset, liability, equity, income, expense, profit and loss.

The trial balance is prepared when posting to the ledger is completed. It consists of two columns for amounts: Debit columns with amount and Credit column with amount. Trial balance

agreement from both parties demonstrates that all transactions have been recorded and that the accounts are mathematically correct. But, if two sides do not agree, there are errors that need to be found and fixed.

Definitions:

“Trial balance is a statement, list of all the balance standing in the ledger and cash book of a concern at any given time”. *Spicer & Pegler*

“Trial Balance is the list of Debit and Credit balances, taken out from ledger, it also includes the balances of cash and bank taken from cash book”
Carter.

3.1 Features of Trial Balance

- In accounting, the trial balance lists all ledgers, including the cash book.
- It is not a component of the double-entry accounting system. It is just used as a guide.
- A trial balance can be created at any moment, including the beginning and end of the year.
- It is an essential tool for assessing the mathematical precision of the books.
- It serves as a link between the balance sheet and the profit and loss account.
- It does not offer unambiguous evidence that a mistake did not occur. Principal errors and other mistakes could still happen.

3.2 Objectives of Trial Balance

- It helps in detecting clerical errors.
- It also assists in preparation of Final accounts.

- If there is any arithmetic error then it will get reflected in the Trial balance and ensure that the posting from ledger to Trial balance is done correctly.
- It is the summary of all ledger accounts.
- The objective of preparing Trial balance to use it as a connecting link between ledger and final accounts.

3.3 Preparation of Trial Balance

- First step is to compute the balances of Ledger Accounts.
- Enter the balances of debit and credit in the trial balance.
- Keep track of all the ledger entries' debit balances and add them to the trial balance's debit column.
- Record all the credit balances of the various accounts of the ledger and put them to the credit column of the Trial Balance.
- Now, sum up the both columns (debit and credit).
- Check if debit is equal to credit column.

A specimen of Trial Balance

S. No.	Name of the Account	Ledger Folio	Debit Amount	Credit Amount

3.4. TEST YOUR UNDERSTANDING A

1. Define the term Trial Balance.

2. State the any four features of Trial Balance.

3. Explain the objectives of Trial Balance.

3.5. Methods of Trial Balance

3.5.1. Total method: If the total of the credit side of all the ledger accounts is placed in a distinct column from the total of the debit side of all the ledger accounts, it will be known that this list of totals was produced using the total technique. If both sides are equal after adding up all the accounts, it is assumed that the accounts are reasonably accurate. Despite being outdated, it is still used.

3.5.2. Balanced method: balanced approach In accordance with this system, a trial balance is created using account balances. Its foundation is the mathematical axiom that says that when equals are subtracted from equals, the results are still equal. This process is easy and involves less effort. The balance acquired through this process can easily be applied to the creation of the final account.

3.6. Errors revealed by Trial Balance

The Trial Balance cannot agree due to:

- I. **Failure to record a balance in the trial balance** will inevitably result in a discrepancy between the two sides of the trial balance, which is a sign of an accounting error.
- II. **Failure to post an item to the ledger:** The two sides of the trial balance must agree if an item is not posted from the journal or subsidiary book to the ledger.
- III. **Posting on the incorrect side:** If an item is inadvertently posted on the incorrect side of a ledger account, it will consequence in a discrepancy between the two sides of the trial balance. For instance, if a discount of Rs. 200 was authorised but the amount was credited to the account when it was posted to the discount account, there will be a discrepancy of Rs. 400 between the two sides of the trial balance.

- IV. Incorrect posting:** If an incorrect amount is posted in one of the two accounts during posting, it will immediately result in a discrepancy in the trial balance. For instance, if goods worth Rs. 690 were sold to Y but his account was debited with Rs. 960, the debit side of the trial balance will raise by Rs. 270.
- V. Incorrect total of a subsidiary book:** If a subsidiary book's total is calculated incorrectly, it will result in a discrepancy in the Trial Balance. For instance, if the purchase book's total is Rs. 2500 instead of Rs. 2050, the debit side of the Trial Balance will be Rs. 450 more than the credit side.
- VI. Failing to record a sum in the ledger:** Two sides of the trial balance must agree if an item is not posted from a journal or subsidiary book to the ledger. For instance, if goods are sold to Y on credit and duly documented in the transaction but not deducted from Y's account in the ledger, the debit side of the trial balance must be short.

3.7. Errors not revealed by trial balance

- I. Errors of commission:** These mistakes are the result of accountants' negligence and cannot be found by creating a trial balance. 30,000 sales, for instance, were listed in books as 300. The trial balance won't be impacted because the balances of both accounts, the cash account and the sales account will only change by 300.
- II. Errors of omission:** The agreement of the trial balance is not impacted if a transaction is entirely missed from the books of accounts. For instance, a credit purchase of Rs 1000 from Ram was missed from the Purchase Book. The totals of Ram's account and the purchases book will not be impacted by this omission, and consequently, neither will the trial balance.

III. Compensating errors: These type of errors neutralizes the impact of errors committed earlier. For example the inflated price of a book Purchase Rs. 5000, and the extra credit to the sales account will then be mathematically balanced by either over-debiting or under-crediting one or more accounts with the total of Rs. 5000.

3.8. TEST YOUR UNDERSTANDING (B)

1. Explain the errors of commission.

2. Fill in the blanks:

- i. If purchase of goods on credit is not recorded in the books of accounts, it is known as an error of
- ii. If bought furniture is recorded in the purchase book, it is considered as an error of.....
- iii. There is a.....column and a..... Column for balances of accounts in a Trial Balance.
- iv. Errors cancelled by them are called.....
- v. Posting of Rs. 585 in X 'account as Rs.558 and error of.....

3.9. ILLUSTRATION

Enter the following transaction in Ram's journal and post them into ledger and prepare a trial balance:

June 2021		Rs.
2	Purchased goods for cash	2,000
3	Paid for carriage	500
5	Rent paid	500
7	Received Commission	8,000
8	Paid salaries	1,000

Solution:

Journal

Date	Particular	L.F.	Dr.	Cr.
2021	Purchase a/c Dr.		2,000	
June 2	To Cash a/c			2,000
June 3	Carriage a/c Dr.		500	
	To cash a/c			500
June 5	Rent a/c Dr.		500	

	To cash a/c			500
June 7	Cash a/c	Dr.	8,000	
	To commission received a/c			8,000
June 8	Salaries a/c	Dr.	1,000	
	To cash a/c			1,000

LEDGER

Cash Account

Date	Particular	J.F.	Amount	Date	Particular	J.F.	Amount
June 7	To commission received a/c		8,000	June 30	By purchase a/c		2,000
				June 3	By carriage a/c		500
				June 5	By rent a/c		500
				June 8	By salaries a/c		1,000
				June 30	By balance c/d		4,000
			8,000	\			8,000
July 1	To Balance b/d		4,000				

Purchase Account

Date	Particular	J.F.	Amount	Date	Particular	J.F.	Amount
------	------------	------	--------	------	------------	------	--------

June2	To cash a/c		2,000	June30	By Balance c/d		2,000
			2,000				2,000
July 1	To Balance b/d		2,000				

Carriage Account

Date	Particular	J.F.	Amount	Date	Particular	J.F.	Amount
June3	To cash a/c		500	June30	By Balance c/d		500
			500				500
July 1	To Balance b/d		500				

Commission Received Account

Date	Particular	J.F.	Amount	Date	Particular	J.F.	Amount
June7	To cash a/c		8,000	June30	By Balance c/d		8,000
			8,000				8,000
July 1	To Balance b/d		8,000				

Salaries Account

Date	Particular	J.F.	Amount	Date	Particular	J.F.	Amount
June8	To cash a/c		1,000	June30	By Balance c/d		1,000
			1,000				1,000
July 1	To Balance b/d		1,000				

Trial Balance as on 31st March, 2021

Name of Account	Debit Balance	Credit Balance
Purchase a/c	2,000	
Cash a/c	4,000	
Rent a/c	500	
Carriage a/c	500	
Commission Received a/c		8,000
Salaries a/c	1,000	
Total	8,000	8,000

3.10. Advantages of Trial Balance

- It demonstrates the mathematical precision of a ledger's accounting entries.
- Any error that it finds can then be fixed.
- Without a trial balance, it is impossible to prepare final accounting.
- It guarantees that the transactions listed in the books have the identical amount for the debit and credit.
- If a mistake is made, it is simple to fix.

3.11. Disadvantages of trial balance

- It merely provides a summary of each account's information.
- By accident, an entry was posted twice.

- The final accounting generated from an inaccurately written trial balance would not be trustworthy.
- It doesn't guarantee that every transaction has actually been recorded in the subsidiary records.

3.12. TEST YOUR UNDERSTANDING (C)

1. Explain any three advantages of Trial Balance.

2. What are the limitations of Trial Balance?

3. State which of the following statements are true or false:

- i. A Trial Balance is drawn as on a particular date.

- ii. All nominal accounts will appear in the credit column of the Trial Balance.
- iii. Compensating errors affect the Trial Balance.
- iv. Errors of Principle cause disagreement of a trial balance.
- v. The balances of ledger accounts are posted to the Trial Balance.

3.13. FINAL ACCOUNT

Final accounts are prepared following the preparation of the Trial Balance. Organization is interested to know the final results of the company. The prime objective of preparing final accounts is to know whether company has earned income or incurred loss and to ascertain the financial status of the company.

Financial statements are created at the conclusion of the accounting year in order to accomplish the aforementioned goals. An income statement, trading, and profit and loss accounts are created to track profit and loss. Final accounts are the condensed statements created to demonstrate a company organization's periodic performance and its financial state at the conclusion of that period. The balance sheet and profit and loss account are referred to as the final accounts.

As per American Institute of certified public accountants “Financial statements are prepared for the purpose of presenting a periodic review on the progress by the management and deal with the status of the investments in the business and result achieved during the period under review”

3.14. Advantages of Final Accounts

- The creation of final accounts improves the efficacy and correctness of the accounts.

- Any unintentional errors or fraud can be found during the preparation and swiftly fixed.
- The audit of this account provides a check on the entity and its operations, lowering the risk of fraud and misrepresentation. This account displays the status of the entity and business for the time.
- The information needed to value the company and determine its true worth should be provided.

The following two income statements are prepared:

3.15.Trading Account: Trading account is the name of the first section of the revenue statement. When the accounting period is through, this account will reveal the gross profit or loss. Only direct expenses are taken from this account.

Format of Trading Account

Particulars	Amount	Particulars	Amount
To Opening Stock		By Sales	
To Purchase		Less: sales return	
Less: purchase return		By Closing Stock	
To Direct Expenses		By Gross Loss (balancing Figure)	
To Gross Profit (balancing figure)			
Total	Xxxxx	Total	xxxxx

3.16.Profit and loss Account: The second part of income statement is Profit and Loss

Account. It discloses the Net Profit or Net Loss at the end of accounting period. All indirect

expenses like general and administrative, selling and distribution are shown on the debit side of the Profit and Loss account. On credit side, other incomes such as discount received, gain from sale of fixed assets, commission received are taken.

Specimen of Profit & Loss Account

Particulars	Amount	Particulars	Amount
To Gross Loss b/d		By Gross Profit b/d	
To general and administration expenses:		By Other income:	
✓ Rent, rates and taxes		✓ Rent received	
✓ Salaries		✓ Discount received (Cr.)	
✓ Stationary and printing		✓ Sale of scrap material	
✓ Telephone bill		✓ Commission received	
✓ General expenses		✓ Interest received	
✓ Trade expenses		✓ Dividend received	
✓ Insurance premium		✓ Bad debt recovered	
✓ Loss by fire, theft, etc.			
✓ Discount allowed (dr)		By Net Loss (bal. fig)	
✓ Office lighting			
✓ Depreciation			
To selling and distribution			

expenses: ✓ Carriage outward ✓ Packaging material ✓ Salesman commission ✓ Conveyance ✓ Advertisement ✓ Export duty etc. To Financial Expenses: ✓ Interest paid ✓ Tax paid To Net Profit (bal.fig)			
Total	Xxxxx	Total	Xxxxx

3.17. Balance Sheet: It is prepared to measure the financial position of a business on a particular day. In other words, it is a brief statement of various assets and liabilities as on that day. Balance sheet has two sides; on the left hand side the liabilities of business are shown while on the right hand side, the Assets of the business are shown.

According to Palmer “The balance sheet is a statement at a given date showing on side the traders property and possessions and on the other side his liabilities”

The format of balance sheet

<i>Liabilities</i>	<i>Amount</i>	<i>Assets</i>	<i>Amount</i>
Capital	—	Fixed Assets	———
	—	- Land and building	
Add Net Profit or Less Net Loss		- Plant and machinery	
(as per P & L A/c)		- Furniture	
Less drawings		- Fixture and fittings	
Long-term loan	—	Investments	———
	—	- Marketable securities	
Current liability	—	Current assets	———
	—	- Cash in hand	
- Trade creditors/sundry creditors (Crs)		- Cash at bank	
- Bills Payable (B/P)		- Trade debtors/sundry debtors (Drs)	
- Bank overdraft		- Bills Receivable (B/R)	
- Outstanding expenses e.g. Outstanding Rent/Tax/Wages etc.		- Prepaid expenses like Prepaid Rent/Tax/Wages etc.	
Total	=	Total	=

3.18. TEST YOUR UNDERSTANDING (D)

1. What is Trading Account?

2. What is Profit and Loss Account?

3. Tick the correct alternatives

- i. Trading account is prepared to ascertain the:
 - a) Gross Profit
 - b) Gross Loss
 - c) Both (a) & (b)
 - d) Net Profit
- ii. Final accounts are prepared:

- a) At the end of the accounting period
 - b) During the accounting period
 - c) At the beginning the accounting period
 - d) None of above
- iii. Profit and Loss accounts deal with:
- a) Real account
 - b) Nominal account
 - c) Personal account
 - d) All of the above

3.19. Documentation related to filing of returns

Filing of Return (Section 139 (1))

- (i) Any person who is a company or a firm, regardless of whether they had profits or losses in the previous year; or
- (ii) any person who isn't a company or a firm whose total income, or the total income of any other person for whom he is liable for assessment under the act, does not exceed the exempted limit;
- (iii) Individual, HUF, AOP/BOI- Gross total income (total income for allowing deduction under section 80c to 80u for without giving impact to exemption under section 10 (38) for examination under section 10A or tax free zone or under section 10B under 100 percent EOU or under section can be a for export a certain special goods the example limit he will be obtained to find his return of income for due date mentioned under Section 139 (1).

3.20. PRESCRIBED FORMS FOR FILLING RETURN OF INCOME (Rule 12 of income-tax rules 1962)

- **Form no. ITR-1 (Rule 12 (1)(a):** For individual having income from salary tension one house property other sources (expect winning from lottery and race horse) and having total income up-to rupees 50 lakh

. Who cannot file returned in ITR 1

Return in ITR1 cannot be filled by a individual if he:

- a) is resident and ordinarily resident and has an assets located outside India or has signing authority outside India or income from any source outside India;
 - b) has claimed any relief under section 90 or 90 A;
 - c) has income not chargeable to tax, rupees 5000;
 - d) has total income exceeding rupees 50 lakh;
 - e) has income taxable under section 115BBDA;
 - f) has losses under the head income from other sources
- **Form No. ITR-2 (Rule 12 (1)(c):** For a person who is an individual Hindu undivided family, where the total income excludes money from a proprietary business or profession, or from income obtained from a proprietary business.
 - **Form no. ITR-3(Rule 12 (1)(d):** For a person who is an individual or a Hindu undivided family other than the ones mentioned in clauses (a), (c), or (ca) and who derives their income from a private company or profession.
 - **Form no. ITR-5 (Rule 12 (1) (e):** For someone who is not an individual, a Hindu undivided family, a business, or someone to whom clause (g) applicable.
 - **Form no. ITR-6 (Rule 12 (1) (f):** For a business that is not a business to which clause (g) applicable.

- **Form no. ITR- 7(Rule 12 (1)(g)):** For anyone, including corporations, who is required to submit a return under Section 139 (4A), Section 139 (4B), Section 139 (4C), Section 139 (4D), Section 139 4E, or Section 139 of the Company Act of 1956, (4F).
- **Form no. ITR-V:** when submitting tax return data electronically without using a digital signature or an electronic confirmation code

3.21. Documents required for filling Income Tax Return

- **Form 16:** The TDS (Tax Deducted at Source) Certificate is another name for Form 16. The foundation for submitting income tax returns is Form 16. Form 16 should be obtained first as a result. Your employer gives you the form after giving you the details about the taxes they paid for you. Your salary, allowances, and deductions are taken into account while determining this.
- **Form 16 A:** The form known as Form 16 A is used to record all information pertaining to tax deducted at source by parties other than the employer. Banks and other organizations typically deduct this tax from the interest and commission you earn throughout the year. You can obtain this Form from the relevant banks or organizations.
- **Form 26AS:** Form 26AS contains information on each tax that has been withheld from your income and submitted on your behalf by any withholding agent. The income tax department's official website offers a download for Form 26AS. You will be taken to the TRACES website, where you can download the statement, as soon as you choose the Form 26AS option on the page. The entire tax paid in relation to a PAN during a fiscal year is shown on this statement. It is advised that you pay the necessary tax if there is a disparity in order to prevent any future issues.

- **Capital Gain Tax:** You must obtain a capital gain statement if you invested in shares, mutual funds, etc. Your broking house will issue this statement. It includes information on any short-term capital gains that must be paid if you sold particular shares before their one-year holding period. Long-term capital gains may not be subject to taxation, but you are still obligated to include them in your statement.
- **Aadhaar Card:** Because the Supreme Court decision is still pending, there is a stay order on the mandate requiring the linking of Aadhaar and PAN. However, it is advised to have your Aadhaar card on hand since you must enter your Aadhaar number in the ITR form. By using the One Time Password (OTP) that is delivered to the phone number associated with your Aadhaar, the e-verification process is made simpler with an Aadhaar number.
- One of the most crucial things you should always have with you is your PAN card. Your income tax returns must include information about your Permanent Account Number (PAN), which serves as identification.
- **Tax-saving evidence:** By claiming exemptions on investments and expenses that qualify for exemption under Sections 80C, 80CCC, and 80CCD(1) of the Income Tax Act, you can reduce your tax obligation. Several frequent investments and costs that reduce taxes include:
 - **National Pension Plan (NPP)** Employees Provident Fund (EPF) (NPS), Paid life insurance premiums, investments in mutual funds' ELSS plans, contributions to the Public Provident Fund (PPF), etc.

- **Advance tax and self-assessment challan:** When submitting your income tax returns, you must fill out the relevant form if you have completed a self-assessment and paid any self-assessment taxes.
- **Details for accessing Income Tax (IT):** Finally, in order to access the official portal and begin the e-filing process, you will need your IT login credentials.

3.22. TEST YOUR UNDERSTANDING E

1. Tick the correct alternatives

- i. In the income tax following certificate is issued by employer to his employees:
 - a) Form 16
 - b) Form12
 - c) Form 15
 - d) Form 26AS
- ii. The partnership firm is required to file its return of income in:
 - a) Form ITR-4
 - b) Form ITR-3
 - c) Form ITR-2
 - d) Form ITR-7
- iii. Which Form is used where the data of the return of the income is transmitted electronically without Digital Signature or without electronic verification code?
 - a) Form ITR-2
 - b) Form ITR-2
 - c) Form ITR-2
 - d) Form ITR-V

3.23. REVIEW QUESTIONS

1. What do you mean by Trial Balance? What are its objectives?
2. Write the steps in preparation of Trial Balance.
3. Explain in detail the advantages and limitation of Trial Balance.
4. Explain the Errors not revealed by trial balance.
5. Explain the Errors revealed by trial balance.
6. Draw the format of Profit and Loss Account.
7. What are the advantages of Final Accounts?
8. Explain in detail documents required for filing returns.
9. Explain the Rule 12 forms of Income Tax Act.
10. Draw the format of Balance Sheet.

3.24. ANSWERS TO TEST YOUR UNDERSTANDING

Test your understanding B

2 (i) Omission

2 (ii) Principle

2 (iii) Debit, Credit

2 (iv) Compensating

2 (v) Commission

Test your understanding C

3 (i) True

3 (ii) False

3 (iii) False

3 (iv) False

3 (v) True

Test your understanding D

3 (i) (a)

3 (ii) (a)

3 (iii) (b)

Test your understanding E

1. (i) (a)

2. (ii) (b)

3. (iii) (d)

Further Reading

1. Charles T. Horngren and Donna Philbrick, *Introduction to Financial Accounting*, Pearson Education.
2. J.R. Monga, *Financial Accounting: Concepts and Applications*. Mayur Paper Backs, New Delhi.
3. Tulsian, P.C. *Financial Accounting*, Pearson Education.
4. Taxmann's, *Income Tax Act*, as amended by Finance Act 2021.

UNIT- VI

AWARENESS IN REGARDS TO THE INCOME E-FILING PORTAL

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6.0. Objectives

- After studying this unit student is able to understand the:
- Meaning of e-filing of return.
- How to use e-filing portal.
- Process of e-filing.
- Methods of e-filing of returns.
- Benefits and drawbacks of e-filing.
- Forms required for e-filing.

6.1. Introduction

In the era of advancement and technology, everything is going to be digital and government has understood the significance of the technology and innovation. so, prefers e-filing of all income tax returns. E-filing an income tax return is the successful submission of an income tax return online. The idea and methods for electronically filing income tax returns using the internet have been created by e-governance

6.2. What is electronic filing of return?

E-filing is the procedure for electronically submitting income tax returns online. The Indian government has recently adopted a number of initiatives. One of the most significant and cutting-edge E-government services is e-filing. It makes tax assessments and payments more convenient for taxpayers. With a few mouse clicks, consumers may complete transactions online.

6.3. E-filing methods

The assessee has the following three alternatives if the return of income is submitted electronically:

6.3.1 Electronic filing with a digital signature: To file electronically, use a DSC. If the return is filled out with DSC, no further action is required.

6.3.2. E-filing without a digital signature: File electronically without a certificate of digital signature. An ITR-V form is produced in this instance. Within 120 days of the date of filing, the form must be printed, signed, and sent to CPC, Bangalore, through regular mail or speed mail.

6.3.3. Submitting electronically using an electronic verification code

6.3.3.1 Definition of EVC It refers to a code created with the intention of electronically verifying the identity of the individual providing the income tax return in as per the data structure and rules established by the primary director general of income tax.

6.3.3.2 Who the EVC cannot return: utilizing this technique, the following person cannot locate a return:

- a) individuals whose finances must be audited in accordance with Section 44ab
- b) political parties submitting income tax returns in ITR 7
- c) companies

6.3.3.3 There are four different ways for taxpayers to generate EVC, as listed below:

(i) Using online banking: The account holder of a bank that is registered with the Income Tax Department has access to the website for electronic filing. The account holder can generate the EVC utilizing the E-file menu by selecting the e-filing option, which will bring him to the e-

filing website. The taxpayer's registered email address and mobile number will receive the created EVC, which may be applied to authenticate their income tax return.

(ii) **Assessee can create EVC by linking their Aadhar card** number to their PAN on the e-filing website. Aadhaar numbers can only be used if the PAN database's data matches that of the UIDAI for taxpaying individuals' Aadhaar numbers.

(iii) **By using an ATM:** A taxpayer may only create an EVC using an ATM if their ATM card is connected to a PAN-validated bank account and their bank is registered with the Income Tax Department. Taxpayers can use their debit or credit cards to access registered bank ATMs, and then on the ATM screen, they must choose the option to create EVC for filing income tax returns. In order to produce and send the EVC to the assessee on his registered mobile number, the bank will send this information to the e-filing website.

(iv) **Through the Income Tax e-filing official website:** The assessee can also produce EVC utilizing the Income Tax official e-filing website. (www.Incometaxindiafiling.gov.in) However, only those assesseees who have total incomes of rupees 5 lakhs or less and who are not requesting income tax refunds are eligible for this provision.

6.4. TEST YOUR UNDERSTANDING A

1. What do you mean by e-filing of returns?

--

2. What are the modes of generating EVC?

6.5. E-FILING PROCESS

6.5.0 Generate the User ID and Password

For E-filing of Income Tax Return as assessee has to get himself registered on the official website of the Income Tax Department.

www.incometaxindiaefiling.gov.in

Procedure of Registration

- Go to the webpage www.incometaxindiaefiling.gov.in
- Select Register as New User by clicking.
- Mention your PAN because your PAN is your user ID.
- A new page will load if the PAN has not yet been registered; otherwise, the message "PAN is already registered" will show.

- The assessor must provide his name, his father's name, his date of birth, his email address, his phone number, and a password of his choosing.
- Choose one of the four provided hidden questions, and then offer any possible response.
- After entering the provided verification code, click "register."
- Delivered to the registered email address.
- The user will be able to utilize all of the income tax department's facilities and can e-file his return once the link is established.

6.5.1 Income tax return preparation utility

Procedure

- Go to the portal: www.incometaxindiafiling.gov.in
- Decide on e-filing A.Y.
- Choose the assessee who will file the income tax return next.
- Choose and download the relevant tool in accordance with the assessee's ITR form.

6.5.2 Selection of appropriate ITR Form

There are many forms available for different categories of assessees generating various types of income to file their income returns. According to Rule 12 of the Income Tax Rule of 1962, following forms are required. An assessee who must file an income return must only use the designated approved form.

6.5.3 Pre-requisite for filling of forms

- a) Enable Macros in excel worksheet before filling the ITR.
- b) Filling the excel utility.

6.5.4 Import of data-form 26AS

- First by entering the assessee's user ID and password, log on to www.incometaxindia.gov.in.
- Visit "My Account." then select View Tax Credit Statement (Form 26AS), and then enter the information requested.
- Once you click "Submit," a new window will open.
- Once you select "Confirm," Form 26AS will display.
- Copy the Form 26AS data from the website, and then put it on a regular Excel worksheet.
- Paste the format cell (green colour) from the Excel TDS scheduling tool onto a blank Excel worksheet. Rows and columns after the one holding the data shown below should be deleted.
- Using the structure Excel's formal TDS scheduling tool can be used to paint every column of a standard Excel spreadsheet.
- Add the necessary number of rows to the Excel tool's TDS schedule.
- Paste the TDS information from that standard Excel spreadsheet into the Excel utility's TDS schedule.

6.5.5 Validation of files

- Once the correct income tax return has been filed, click the validate button that appears on each and every sheet of the form.
- This aids in locating any errors in the sheet. If the sheet is error-free, the window will show that the sheet is valid.
- Every single sheet must be handled using the same process.

- Avoid using special characters like percent, &, etc. because the income tax return software won't allow them.

6.5.6 Creating an XML file

- Click on generate XML to do a final validation check after all necessary schedules have been filled up and verified.
- The next choice that appears once XML is generated is for XML to be saved.
- Click the "Save XML" button to store the XML in the same folder as the Excel result.

6.5.7 Submitting the tax return online

- By using the following process, the validated XML file produced is ready for upload to the Income Tax Department:
- Using the user name and password, log in to the Income-Tax Department website.
- On the left panel, select the assessment year by clicking on submit return.
- The ITI form that needs to be filled out.
- Choose whether to submit the IT work with or without a digital signature.
- Your return will be submitted on screen after you click the next button.
- By choosing a file, enter the location of an XML file that has been validated.
- Send the ITR-V with the proper signatures to CPC Bengaluru if the return was filled out on the digital press and printed.
- Follow the steps listed below to update the digital signature with the department if the return is to be filled out using a digital signature and signing and uploading the income tax return form.

6.5.8 Acknowledgement Receipt

An acknowledgment receipt is generated once the income tax returns have been successfully uploaded. It is known as ITR-V for this acknowledgement.

- ITR-V is not necessary to be provided to the Income Tax Department if the return is submitted online and includes a digital signature.
- If the return is electronically filed without a digital signature, ITR-V must be sent to the Income Tax Department as proof of filing the tax return. 120 days of electronic data transmission must be included in ITR-V.

6.6 Benefits of e-filing

- The ease of submitting returns electronically allows taxpayers to do so from the comfort of their homes, which lessens the burden.
- The ability to track status as desired is a benefit of filing tax returns online for the taxpayer. It makes it easier for the user to determine whether a specific return has been received by the Income Tax Department and its current status.
- When filing returns electronically, the user is prompted to upload the required files, creating a database that may be accessed anytime necessary. There was no such clause for manual filing of returns.
- The e-verification capability now allows for the online verification of income tax returns. However, the assessee needs to have an Aadhaar card in order to use the e-filing facility. Additionally, the Aadhaar card's phone number must be current because it is the only one to which the verification OTP (One Time Password) is issued.

6.7 Limitation of e-filing

- At the Income Tax Portal, the assessee's digital signature is not being updated correctly and is frequently buggy.
- At the e-proceeding portal of the e-filing site, uploading answers and submissions happens quite slowly. The Income Tax Portal occasionally does not display responses that have been uploaded.
- There are no requests for refunds.

6.8 TEST YOUR UNDERSTANDING B

1. Chose the right alternative
 1. To submit an online return, a person must upload an XML file, which they can create using one of the tools the income tax department has made available:
 - a) Word utility
 - b) Excel utility
 - c) Access utility
 - d) PPT utility
 2. Mr. X can electronically check his return if his income is less than Rs. 5 lakhs and he is not requesting a refund:
 - a) Net banking
 - b) Email ID
 - c) Aadhaar card
 - d) All of the above
 3. Which of the following is not true?
 - a) E-filing enables assessors to see the return's current status.

b) For residents of India with incomes over Rs. 5 lacs, electronic filing of returns is required.

c) Companies are not required to file returns electronically.

d) One of the steps in the electronic filing process is to browse and choose the XML file.

4. Which of the following describes how to properly file an income tax return electronically?

i) Fill out the Java or Excel utility and validate

ii) Make an XML file and store it in the desired location.

iii) Download the Excel or Java version of the ITR tool.

iv) Check out the website at www.incometaxindiaefiling.gov.in.

a) iv, iii, ii, i

b) iv, iii, I, ii

c) i, ii, iii, iv

d) ii, iii, iv, i

5. full form of EVC is.....

a) Electronic verified code

b) Electronic verification code

c) Electrical vocal code

d) Electronic verified centre

2.what are the benefits of the e-filing of returns?

3. Explain the limitation of e-filing of returns.

6.9 Review Questions

1. Explain the procedure of e-filing in detail.
2. What are the methods of e-filing of returns?
3. What types of ITR forms required for e-filing?
4. How to create XML File?
5. What are the modes to create EVC?
6. What are the benefits and drawback of e-filing?

6.10 Answer to test your understanding B

1. 1 (b)
- 2 (d)
- 3 (b)

4 (b)

5 (b)

6.8 Further Reading

- Rahul Agarwal, *Direct Tax Law*. 4TH edition. Taxmann.
- Vinod K.Singhania and Dr. Kapil Singhania, *Direct Taxes: Law & Practice*. 64th edition. Taxmann.

APPLYING NEW PAN AND TAN, REGISTRATION AND AMENDMENTS OF THE TAX PAYER INFORMATION AT THE PORTAL

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7.0. Objectives

After studying this unit student is able to understand the:

- Meaning of PAN CARD.
- How to apply for PAN CARD.
- Process of PAN CARD.
- Uses of PAN CARD.
- Meaning of TAN.
- Who can apply for TAN
- Procedure of TAN
- Forms required for PAN and TAN

7.1. Introduction

Every taxpayer receives a Permanent Account Number (PAN), a code number provided by the Income Tax Department. Using this code, you may identify an assessee who is covered by the Income Tax Act of 1961. This PAN, which has 10 characters of alphanumeric data, is given out in the form of a laminated card. A Form 49A application must be submitted to the Assessing Office with the authority to assess the applicant. The simplicity of finding the Assessing Officer, faster assessment, processing refunds, assuring tax compliance, credit for payment of taxes, and monitoring over unregulated and undeclared transactions are the key benefits of having a PAN.

The application form must be filled out completely and accurately, including the assessee's name, father's name, residence, birth date, and income sources.

7.2. Obtaining a PAN is a requirement, mandatory

The following persons are required to obtain a PAN:

- **If person income exceeds the exemption limit or your turnover exceeds Rs. 5,000,00 (Rs. 5 lakh)**

A person must apply for a PAN before May 31 of the assessment year in which your income exceed amount of tax you can pay or before the end of the accounting year in which your gross receipts or turnover exceed Rs. 5,000,000.

- **Charitable Trust**

A charity trust that is required to submit a return of income under section 139(4A) must get a PAN.

- **Financial transactions totaling at least Rs. 2,50,000 -**

With effect from April 1, 2018, PANs are required for any resident person (who is not an individual) who engages in financial transactions totaling Rs. 2,50,000 or more during a fiscal year, as well as any managing director, director, partner, trustee, writer, creator, karta, chief executive officer, principal officer, or office bearer of such a person or any person qualified to act on their behalf.

- **Central Government specified person:**

The Central Government has the authority to notify any individual to apply for a PAN (for the purpose of collecting any information). The Central Government has informed the following individuals that they must apply to the Assessing Officer for a PAN for this objective: exporters, importers, and assesseees under the Central Excise, Service Tax, and Sales Tax.

7.3. Who must submit a PAN application? Article 139A(1)

In the following circumstances, anybody who has not yet received a permanent account number must submit an application to the Assessing Officer for the issuance of a permanent account number:

- a) if his total income during any prior year, or the total income of any other person for whom he is assessable under this Act, exceeds the maximum amount exempt from income tax; or
- b) if he is engaged in any company or profession with annual sales, turnover, or gross earnings that exceed or are anticipated to exceed Rs. 5,00,000; or
- c) He must submit a return of income, or return of trust and charity organizations, in accordance with section 139(4A).

7.4. USES OF PAN CARD

- In order to create a new bank account, whether it be a savings or a current account, a PAN card is necessary. To open an account with any bank, whether public, private, or cooperative, a PAN card must be submitted.
- IT Returns Filing: IT returns must be filed by all people and organizations that qualify for income tax. People and other entities apply for a PAN card primarily because doing so is required in order to file IT returns.
- Applying for a credit or debit card: According to rules, you must provide your PAN card information when applying for a debit card or credit card at any bank or financial institution. If this criterion is not satisfied, the bank will not issue the card.
- Investments: Purchasing securities is regarded as a wise strategy to increase your money. If you're thinking about investing in securities, you'll need to provide your PAN

information for any transactions that cost more than Rs. 50,000. This includes bonds, debentures, mutual funds, and stocks.

- Loans: If you need a loan, all banks and other lending organizations will ask you to supply information about your PAN when you apply for the loan. For the loan to be granted, PAN information is required for all loans, including personal and student loans.
- Proof of Identity: A PAN card is recognized throughout the nation as a reliable form of identification and is also taken into account as evidence of age. Additionally, it may be used as identification evidence when applying for a passport, voter ID, driver's licence, power connection, etc.
- Opening a demat account with a depository, participant, securities custodian, or any individual registered with SEBI.
- A contract that exceeds Rs. 1 lakh in value for the sale or acquisition of securities (other than shares).

7.5. How to apply for PAN

UTI Infrastructure Technology and Services Limited (UTIITSL) and National Securities Depository Limited (NSDL) have been given permission by the Income Tax Department to establish and operate PAN Service Centers. PAN application centers of UTIITSL/NSDL are the PAN Service centers and TIN facilitation centers that UTIITSL and NSDL have created in various locations around India's main cities. Thus, a person who wants a PAN can apply for one by bringing the required paperwork, Form 49A/49AA, to the UTIITSL or NSDL PAN Application facility, along with the required costs. Additionally, a website for UTIITSL or NSDL can be used to submit an online application.

Therefore, it won't be required for a person (as stated above) to provide his or her Aadhaar Number in the PAN application form. The application for the assignment of a Permanent Account Number may be made in Spice- INC-32, which is designated under sub-section (1) of section 7 of the aforementioned Act for incorporation of the company, in the case of an applicant being a company that has not been registered under the Companies Act, 2013, for the said Act.

When applying for a PAN, a resident must use form 49A, and non-residents, including foreign companies, must use form 49AA.

On the PAN application form, each individual applicant must attach two current, colored photographs (stamp size 3.5 cm × 2.5 cm). An official document that verifies your "identity," "address," and "date of birth" must be provided.

In the PAN application form, the Designation and Code of the relevant Assessing Office of the Income Tax Department must be specified.

You may get information on PAN application centers run by UTIITSL or NSDL, including their addresses and contact information, by visiting the following websites:

- i. UTIITSL's website is at www.utiitsl.com
- ii. Visit NSDL's website at www.tin-nsdl.com.

7.6. TEST YOUR UNDERSTANDING A

1. The Income Tax Department issues Permanent Account Numbers (PANs), which are unique alphanumeric numbers with _____ digits.

2.Form must be used to submit an application for a PAN (in case of a resident).
3. The last character of PAN indicates.....
4. The provisions for allotment of PAN are laid down under section.....
5. PAN card application form for a PAN of a company is to be signed by.....
6. Each individual must use their PAN, which is defined in regulation 114B, in which of the following transactions.
 - a. Opening an account with a bank
 - b. Sale of motor vehicle
 - c. Demate account
 - d. all of the above

7. How can a person obtain PAN CARD?

8. What are the uses of PAN CARD?

9. How can we apply for PAN?

7.7. Meaning of TAN

A 10-digit alphanumeric number known as a tax deduction account number or tax collection account number is one that the income-tax department issues (we will refer to it as TAN). All individuals who are obligated to collect or are responsible for deducting tax at source (TDS) must get a TAN (TCS).

The TAN's first four digits are alphabets, the following five digits are numeric, and the last digit is an alphabet.

The first three letters of a TAN stand for the jurisdiction code, and the fourth letter is the first letter of the TAN holder's name, which may be a person, business, or other entity. For instance, the TAN allocated to Adarsh of Punjab may look as:

PUN A 12345

7.8. PERSONS LIABLE TO APPLY FOR TAN

Everybody who is obligated to withhold tax at source or collect tax at source must get a TAN. However, as they are not needed to get TAN, those who are obligated to deduct tax under section 194-IA may use their PAN in place of it.

Additionally, a person who must deduct tax under sections 194-IB or 194M is exempt from needing a tax deduction account number (TAN).

If the rent paid for any land or building, or both, exceeds Rs. 50,000 for a month or part of a month, section 194-IB requires any individual or HUF [whose books of account are not required to be audited under section 44AB] to deduct tax at the rate of 5%.

A person or HUF [whose books of account are not required to be audited under Section 44AB] who pays or credits a resident in a year for contractual work, commission (other than insurance commission as referred to in Section 194D), brokerage, or professional fees is subject to tax deduction under Section 194M at the rate of 5% if the total of such sum exceeds Rs. 50 lakhs.

7.9. Significance of TAN

Every person that withholds or collects tax at source is required to apply for the allocation of a TAN under section 203A of the Income-tax Act of 1961. In accordance with Section 203A, the following papers must use TAN quotation marks:

- A) TDS statements, or returns,
- B) Return TCS statements
- C) Statement of financial transactions
- D) TDS/TCS certificate

7.10. PROCEDURE FOR APPLYING TAN

There are two methods for applying for TAN:

1. ONLINE MODE
2. OFFLINE MODE

1. **ONLINE MODE:** On the NSDL-TIN website, an online TAN application may be submitted.

Where Form 49B may be purchased

- a. The Income Tax Department's website (<http://www.incometaxindia.gov.in>) offers a free download of Form 49B.
 - b. IN-FCs furthermore sell it.
 - c. Forms legibly printed in accordance with the Income-tax Department's format or legible photocopies of Form 49B are also acceptable.
2. **OFFLINE MODE:** Any TIN-FC must receive a completed Form 49B application in duplicate requesting the allocation of a TAN. TIN-FC addresses may be found on the NSDL-TIN website (<https://www.tin-nsdl.com>).

The application for the allocation of a Tax Deduction Account Number may be made in Form No. INC-32 (SPICe), which is specified under subsection (1) of Section 7 of the said Act for

incorporation of the company, if the applicant is a company that has not been registered under the Companies Act, 2013, for that Act.

7.11. Authority empowered to allot TAN

The Income-tax Department assigns TANs based on applications filed either offline to TIN-FC run by NSDL or online at the NSDL-TIN website. At the location provided in the application, NSDL will notify the applicant of TAN.

7.12. Procedure for Online TAN Application

On the NSDL-TIN website, the deductor can submit an online application for a TAN (<https://tin.tin.nsdl.com/tan/index.html>).

7.12.1 An acknowledgment will appear on the screen upon verification of the validity of the online application upload. The list of acknowledgements includes:

Unique 14-digit acknowledgement number

- Status of the applicant
- Name of the applicant
- Contact details
- Payment details
- Space for signature

7.12.2. The acknowledgement must be saved by the applicant, who should also print it off.

7.12.3. The acknowledgement must be signed by the applicant. Only the space given in the acknowledgment box should be signed.

7.12.4. The authorised signatory must sign the acknowledgement and affix the proper seal or stamp in the case of applicants other than individuals.

7.12.5. If a thumb impression is utilised, it must be confirmed by a magistrate, notary public, or officer with a gazette.

7.13. PAN cannot replace TAN when being quoted.

In fields where TAN must be quoted, PAN should never be used. In other words, neither the deductor nor the collector may substitute his PAN for the TAN. If he does not already have TAN, he must apply for it. However, as they are not needed to get TAN, those who are obligated to deduct tax under section 194-IA may use their PAN in place of it.

7.14. A taxpayer is only allowed to own one TAN.

Multiple TANs are prohibited for both possession and usage. However, different branches or divisions of a business may have their own TANs. The TAN that is now being used frequently should be kept and the other TAN should be immediately submitted for cancellation using the "Form for modifications or correction in TAN," which may be acquired from the NSDL-TIN website or obtained from TIN-FC.

7.15 TEST YOUR UNDERSTANDING B

- 1. An alpha-numeric number called a Tax Deduction Account Number (TAN) or Tax Collection Account Number (TAN) is one that the Income-tax Department issues.**
 - a. 10 digits
 - b. 5 digits

- c. 15 digits
- d. 20 digits

2. The first three alphabets of TAN represent the:

- a. Surname of the TAN holder
- b. Name of the TAN holder
- c. Jurisdiction code
- d. Residential status of the TAN holder

3. What do you mean by TAN?

4. Explain the procedure of how to apply for TAN?

5. What is the importance of TAN?

7.16 ANSWER OF TEST YOUR UNDERSTANDING A

1. Ten
2. 49 A
3. Alphabetic check digit
4. 49A
5. Director
6. All of the above

7.17. ANSWER OF TEST YOUR UNDERSTANDING B

1. (A)
2. (C)

7.18. Further Readings

- Rahul Agarwal, *Direct Tax Law*. 4TH edition. Taxmann.

- Vinod K.Singhania and Dr. Kapil Singhania, *Direct Taxes: Law & Practice*. 64th edition. Taxmann.

Form No 49A and 49B, ITR 1, ITR2, ITR3, and ITR 4

STRUCTURE

1. Permanent Account Number (PAN) Section 139A and Rule 114.
 - 1.1 Steps for filing form 49 A
2. Form 49 B TAN [See sections 203A and rule 114A].
 - 2.1 How to apply for TAN?
3. Who should file return of income [sixth proviso to section 139(1)]?
 - 3.1 Further, other persons who are required to file return of income mandatorily.
 - 3.2 Documents required to be attached with the return of income.
 - 3.3 Belated Return [Section 139(4)].
 - 3.4 Revised Return [Section 139(5)].
4. Income tax return forms.
 - 4.1 ITR 1
 - 4.1.1 Who cannot file ITR-1
 - 4.1.2 Structure of the ITR-1 Form
 - 4.2 ITR 2
 - 4.2.1 Structure of the ITR-2 Form
 - 4.3 ITR 3
 - 4.3.1 Eligibility to file ITR3
 - 4.3.2 Structure of the ITR-3 Form
 - 4.4 ITR-4 SUGAM
 - 4.4.1 Structure of ITR4 SUGAM

1. Permanent Account Number (PAN) Section 139A and Rule 114.

Every person who has not having permanent account number shall with in such time as may be prescribed apply to the Assessing Officer for the allotment of PAN.

In the following cases every person is required to apply for the PAN in the prescribed manner and time. The relevant form for applying the PAN is form no **49A**. Permanent Account Number is a 10 -digit alpha-numeric number issued by the Income-tax Department.

- i. If the total income or the total income of any other person in respect of which he is assessable under this Act during any previous year exceeded the maximum amount which is not chargeable to income-tax; or
- ii. he is carrying on any business or profession whose total sales, turnover or gross receipts are or is likely to exceed Rupees 500000/- in any previous year; or
- iii. who is required to furnish a return of income under sub-section (4A) of section 139 i.e. return of trust and charitable institution,

- iv. Any resident person (not being an individual) who enters into a financial transaction of an amount aggregating to Rs. 2,50,000 or more during a financial year
- v. The person is the managing director, director, partner, trustee, author, founder, karta, chief executive officer, principal officer or office bearer of such person or any person competent to act on behalf of such person) is required to obtain PAN.
- vi. If the person intends to enter in to such transactions as may be prescribed by the Board in this regards.

The form prescribed for applying the permanent account number is Form No 49A. Application for Allotment of Permanent Account Number [In the case of Indian Citizens/Indian Companies/Entities incorporated in India/ Unincorporated entities formed in India] See Rule 114.

Form can be downloaded from the website of the income tax. <https://incometaxindia.gov.in/forms/incometax%20rules/103120000000007917.pdf> for offline filing with **the nearest NSDL office or UTIITSL PAN service centre** along with the application charges as prescribed.

The form can also be downloaded in offline mode from the website https://www.tinnsdl.com/downloads/pan/download/Form_49A.PDF.

The necessary instructions for filing the form 49A is available at the bottom of the form. One must read the instructions before filing the form either offline or online mode. Online applicant for applying the PAN can be made on the website after following necessary instructions. <https://www.onlineservices.nsd.com/paam/endUserRegisterContact.html>

Detailed instructions for filing the form 49A on online basis can be studied by logging the website link before filing the form. <https://tin.tin.nsd.com/pan/Instructions49A.html>

1.1 Steps for filing form 49 A

1. Mention the name of the person applying the PAN application as per instructions given in the form. HUFs shall mention HUF after their full name. In case of Company, the name should be provided without any abbreviations.
2. Abbreviation of the full name to be printed on the PAN card. Individual applicants should provide full/abbreviated name to be printed on the PAN card.
3. Have you ever been known by any other name? If applicant selects 'Yes', then it is mandatory to provide details of the other name.
4. Gender. This field is mandatory for Individuals. Field should be left blank in case of other applicants.

5. Date of Birth/Incorporation / Agreement / Partnership or Trust Deed / Formation of Body of Individuals / Association of Persons. Date cannot be a future date. Read the full instructions as provided in the form 49A.
6. Details of Parents (Applicable to Individuals only). If none of the option is selected, then father's name shall be considered for printing on the PAN card. In case of mother as a single parent, mother's name shall be considered for printing on the PAN Card. Read the full instructions as provided in the form 49A.
7. Address - Residence and office. For Individuals, HUF, AOP, BOI or AJP, residential address is mandatory. Other applicants should leave this field blank. In case of Firm, LLP, Company, Local Authority and Trust, name of office and complete address of office is mandatory.
8. Address for communication. Individuals/HUFs/AOP/BOI/AJP may indicate either 'Residence' or 'Office' and other applicants should necessarily indicate 'Office' as the Address for Communication.
9. Telephone Number and Email ID. Telephone number should include country code (ISD code) and STD code or Mobile No. should include Country code (ISD Code). It is mandatory for the applicants to mention either their "Telephone number" or valid "e-mail id" so that they can be contacted in case of any discrepancy in the application and/or for receiving PAN through e-mail.
10. Status of Applicant. This field is mandatory for all categories of applicants. In case of 'Limited Liability Partnership', the PAN will be allotted in 'Firm' status.
11. Registration number. Not applicable to Individuals and HUFs. Mandatory for 'Company'.
12. In case of a person, who is required to quote Aadhaar number or the Enrolment ID of Aadhaar application form as per section 139AA. As per provisions of section 139AA of Income Tax Act, 1961, Aadhaar number has to be provided. Copy of Aadhaar letter/card shall be provided as proof of Aadhaar.
13. Source of Income. It is mandatory to indicate at least one of the sources of incomes, as mentioned in the form. In case, the income from Business/profession is selected by the applicant then an appropriate business/ profession code should be mentioned. Table given in the form should be referred in this regard.
14. Name and address of Representative Assessee. This field will contain particulars of the Representative Assessee. This field is mandatory if applicant is minor, deceased, idiot, lunatic or mentally retarded. Column 1 to 13 will contain details of person on whose behalf this application is submitted. Proof of Identity and Proof of address are also required for representative assessee.
15. Proof of Identity, Proof of Address and Proof of Date of Birth documents. It is mandatory to attach proof of identity, proof of address and proof of date of birth with PAN application. Documents should be in the name of applicant. List of

documents which will serve as proof of identity, address and date of birth for each status of applicant is provided in the form 49A.

16. Signature / Thumb impression. Application must be signed by (i) the applicant; or (ii) Karta in case of HUF; or (iii) Director of a Company; or (iv) Authorised Signatory in case of AOP, Body of Individuals, Local Authority and Artificial Juridical Person; or (v) Partner in case of Firm/LLP; or (vi) Trustee; or (vii) Representative Assessee in case of Minor/deceased/idiot/lunatic/mentally retarded. Applications not signed in the given manner and in the space provided are liable to be rejected.

2. Form 49 B TAN [See sections 203A and rule 114A]

Tax Deduction Account Number or Tax Collection Account Number is a 10 -digit alpha-numeric number issued by the Income-tax Department. TAN is to be obtained by all persons who are responsible for deducting tax at source (TDS) or who are required to collect tax at source (TCS).

Every TDS payment or TCS payment should be made using the TAN. Also, every TDS return must have TAN quoted on it. A penalty of up to Rs. 10,000 can be levied if a person deducting tax at source does not have a TAN. Also, a penalty of Rs. 10,000 is levied for a failure to quote TAN in TDS challans and TDS certificates.

2.1 How to apply for TAN?

There are two modes for applying for TAN:

- **OFFLINE** - An application for allotment of TAN is to be filed in Form 49B in duplicate and submitted to any TIN-FC. Addresses of TIN FCs are available at NSDL TIN website (<https://www.tin-nsdl.com>).
- **ONLINE** — Online application for TAN can be made from the website of NSDL- TIN website.

Steps for filing form 49 B online mode.

Step 1: Visit the URL <https://tin.tin.nsdl.com/tan/form49B.html>

Step 2: Click on the option ‘Online Application for TAN (Form 49B)’.

Step 3: Scroll down to the end of the screen to find a drop-down list under ‘Category of Deductors’.

Step 4: After that applicant will be redirected to a page displaying Form 49B. Fill in all the necessary details, check the entered details, and submit the form by clicking on 'Confirm' button. Pay the necessary fees online and an acknowledgement will be displayed.

Step 5: A screen will be displayed confirming the submission of the form to the income tax department. Make a note of the 14-digit acknowledgement number displayed.

Step 6: Print the acknowledgement form and sign on the printed copy in the space provided.

Step 7: Send the acknowledgement slip to NSDL along with the supporting documents mentioned in the printout.

Steps for filing form 49 B offline mode.

1. Name: Deductor/Collector should fill the details of its name depending on its category in only one of the fields 1 (a) to 1 (h) specified in the form.
2. Address: Deductor/Collector should mention the address of the location where the tax is being deducted. It is compulsory for the deductor/collector to mention at least two details out of four i.e. (Flat/Door/Block No., Name of Premises/Building/Village, Road/Street/Lane/Post Office and Area/Locality/Taluka/Sub Division). Town/City/District, State/ Union Territory and PIN Code are mandatory. The applicant should not mention a foreign address.

Telephone Number and e-mail ID. It is mandatory for applicants to mention either their telephone number or e-mail id so that they can be contacted in case of any discrepancy in the application form. Applicants may provide their valid e-mail IDs for receiving intimation about the status of their application through e-mail.

3. Nationality of Deductor/Collector. This field is mandatory for all categories of deductor/collector.
4. Permanent Account Number. Deductor/Collector should mention the existing 10-digit Permanent Account Number allotted to it, if any, (PAN) else leave this field blank.
5. Existing Tax Deduction Account, If a deductor has existing Tax Deduction Account number in old format, it should mention the same in this Number (TAN) field.
6. Existing Tax Collection Account. If a collector has Tax Collection Account Number in the old format, it should mention the same in this field. Number (TAN).
7. Applicant is required to put his signature along with the date in the format DD/MM/YY. After signing the applicant verification is to be done on the application with signature, date and place.

3. Who should file return of income [sixth proviso to section 139(1)]?

Every individual , HUF, Association of Person (AOP) , Body of Individual whether incorporated or not has to file the return of income if his total income (including income of any other person in respect of which he is assessable) without giving effect to the provisions of section 54 or 54B or 54D or 54EC or 54F or 54G or 54GA or 54GB Chapter VIA (i.e., deduction under section 80C to section 80U), exceeds the maximum amount which is not chargeable to tax i.e. exceeds the exemption limit.

3.1 Further, other persons who are required to file return of income mandatorily, if that person fulfills one or more conditions specified below is obligated to furnish his return of income [seventh proviso to section 139(1)].

- i) Deposit of amount or aggregates of amount exceeding Rs 1 crore in one or more current accounts maintained with the banking company or a cooperative bank;
- ii) Incurred expenditure of an amount or aggregate of amount exceeding Rs 2 lakh for **travel to a foreign country** for himself or any other person;
- iii) Incurred expenditure of amount or aggregate of amount exceeding Rs 1 lakh on consumption of electricity.
- iv) Fulfills such other conditions as may be prescribed in this behalf.

3.2 Documents required to be attached with the return of income

ITR return forms are attachment less forms and, hence, the taxpayer is not required to attach any document (like proof of investment, TDS certificates, etc.) along with the return of income (whether filed manually or filed electronically). However, these documents should be retained by the taxpayer and should be produced before the tax authorities when demanded in situations like assessment, inquiry, etc.

However, in case of a taxpayer who is required to furnish a report of audit under various section of the act as prescribed shall furnish it electronically on or before the date of filing the return of income.

3.3 Belated Return [Section 139(4)]

As the name suggests, a belated return is a return which is filed after the stipulated due date mentioned in the income tax rules. “Under Section 139(1) of the Income-tax Act (“the Act”). Section 139(4) of the Act allows a taxpayer to file a belated return up to three months before the end of the assessment year i.e. December 31 of the relevant assessment year or before completion of the assessment, whichever is earlier.

3.4 Revised Return [Section 139(5)]

If any person, having filed the return of income under section 139(1) or section 139(4), discovers any omission or any wrong statement therein, he may furnish the revised return at any time before the end of the relevant assessment year or before completion of the assessment, whichever is earlier.

4. Income tax return forms

Every person who is required to furnish the return of income must select appropriate income tax return form before filing, See income tax [Rule 12]. Before filing the returns one must be aware of the different provisions of the Income Tax Act 1961 and Income Tax Rules so that the return of income can be filed accurately.

To make tax compliance easier, the income tax department has categorized taxpayers into many groups based on income and its source. So, one need to file correct return form.

4.1 ITR 1, also known as Sahaj Form, is for a person who is resident other than not ordinary resident and with an income of up to Rs.50 lakhs. This form can be used by a person whose total income includes income chargeable to income tax, under the head-

i. income from Salary/Pension

ii. Income from One House Property (excluding cases where loss is brought forward from previous years or loss to be carried forward).

iii. Income from Other Sources (excluding winning from Lottery and Income from Race Horses and does not have loss under that head).

4.1.1 Who cannot file ITR-1

An individual having an income above Rs 50 lakh cannot use this form.

An individual who is either a director in a company and any person who has held any unlisted equity shares at any time during the financial year cannot use this form. Also, individuals who have earned income through the following means are not eligible to file form ITR-1. Person having more than one House Property, income from lottery, racehorses, legal gambling, etc. Taxable capital gains (Short term and Long term), Agricultural income exceeding Rs. 5,000, Business and Profession and Individual who is a Resident and has assets (including financial interest in any entity) outside India or signing authority in any account located outside India etc.

4.1.2 Structure of the ITR-1 Form

PART A GENERAL INFORMATION

PART B GROSS TOTAL INCOME.

Part C - Deductions and Taxable Total Income.

PART D - COMPUTATION OF TAX PAYABLE.

PART E - OTHER INFORMATION

Details of all Bank Accounts held in India at any time during the previous year (excluding **dormant accounts**).

Mode of filing ITR-1 Form: One can submit ITR-1 Form either online or offline.

Offline mode: An individual at the age of 80 years or more at any time during the previous year. For offline, the return is furnished in physical paper form. The Income Tax Department will issue an acknowledgement at the time of submission of your physical paper return.

Online mode: By filing the tax return electronically and one can then submit the verification of the return either in the form of sending ITR-V to CPC, Bengaluru within 120 days of e-filing or by doing the verification on online mode and e verifying the ITRV through net banking/aadhaar OTP/EVC. If the return has been submitted electronically, the acknowledgement will be sent to the registered email id. Acknowledgement and return form which has been filed in electronic mode can also be downloaded manually from the income tax website. One can send the ITRV form after signing to the Income Tax Department's CPC office in Bangalore within 120 days of e-filing. Alternatively, one can e-verify the filed return.

4.2 ITR 2: Please see Rule 12 of the Income-tax Rules, 1962) (Please refer instructions for filling the ITR2 form)

Eligibility to file ITR2

ITR2 form can be used by a person being an individual or Hindu undivided family (HUF) whose total income does not include income under the head business or profession.

Income from the following sources can be shown in the ITR2.

Income from Salary/Pension, income from House Property (Income Can be from more than one house property), Income from Capital Gains/loss on sale of investments/property (Both Short Term and Long Term), Income from Other Sources (including winning from Lottery, bets on Race Horses and other legal means of gambling), Foreign Assets/Foreign Income, Agricultural Income more than Rs 5000 and Resident not ordinarily resident and a Non-resident.

Any individual or HUF who is having income chargeable under the head Business or Profession and individuals who are eligible to fill out the ITR-1 form cannot file ITR2.

4.2.1 Structure of the ITR-2 Form

Before filing the return form ITR2 one must read the necessary instructions given in the form.

Part A: General Information.

Schedule S: Details of income from salaries.

Schedule HP: Details of income from House Property.

Schedule CG: Computation of income under Capital gains both short term and long term.

Schedule 112A- From sale of equity share of a company or a unit of equity oriented fund /business trust on which STT is paid.

Schedule 115AD (I)b(b) (iii) proviso- For Non-Residents -From sale of equity share of a company or a unit of equity oriented fund /business trust on which STT is paid.

Schedule OS: Computation of income under Income from other sources.

Schedule CYLA: Statement of income after set off of current year's losses.

Schedule BFLA: Statement of income after set off of unabsorbed loss brought forward from earlier years.

Schedule CFL: Statement of losses to be carried forward to future years.

Schedule VIA: Statement of deductions (from total income) under Chapter VIA.

Schedule 80G: Statement of donations entitled for deduction under section 80G.

Schedule 80GGA: Statement of donations for scientific research or rural development.

Schedule AMT: Computation of Alternate Minimum Tax payable under section 115JC.

Schedule AMTC: Computation of tax credit under section 115JD.

Schedule SPI: Statement of income arising to spouse/ minor child/ son's wife or any other person or association of persons to be included in the income of the assessee in Schedules-HP, CG and OS.

Schedule SI: Statement of income which is chargeable to tax at special rates,

Schedule EI: Details of Exempt Income. Agriculture income or other exempt income.

Schedule PTI: Pass through income details from business trust or investment fund as per Section 115UA, 115UB.

Schedule FSI: Statement of income accruing or arising outside India.

Schedule TR: Details of taxes paid outside India.

Schedule FA: Details of Foreign Assets and income from any source outside India.

Schedule 5A: Statement of apportionment of income between spouses governed by Portuguese Civil Code.

Schedule AL: Asset and liability at the year-end (applicable in case the total income exceeds Rs 50 lakhs).

Part B-TI: Computation of Total Income.

Part B-TTI: Computation of tax liability on total income.

Tax payments- Details of payment of advance tax and self-assessment tax.

Details to be filled if the return has been prepared by a Tax Return Preparer.

For ease of filing and processing of the return the same should be filed in electronic mode and e-verify the same at the portal as discussed earlier.

4.3 ITR 3: Please see Rule 12 of the Income-tax Rules, 1962) (Please refer instructions for filling the ITR3 form)

4.3.1 Eligibility to file ITR3:

ITR3 can be filed by individuals or HUFs having income from profits and gains of business or profession and whose income is not computed in accordance with the special provisions referred to in section 44AD, section 44ADA and section 44AE of the Income Tax Act.

The persons having income from following sources are eligible to file ITR 3

Carrying on a business or profession (both tax audit and non-audit cases)

The return may include income from House property, Salary/Pension, capital gains and Income from other sources.

4.3.2 Structure of the ITR-3 Form

Part A-GEN: General information and Nature of Business

Part A-BS: Balance Sheet as of March 31, of the Proprietary Business or Profession

Part A- Manufacturing Account: Manufacturing Account for the financial year ending on 31st March.

Part A- Trading Account: Trading Account for the financial year.

Part A-P&L: Profit and Loss for the financial Year.

Part A-OI: Other Information (optional in a case not liable for audit under Section 44AB).

Part A-QD: Quantitative Details (optional in a case not liable for audit under Section 44AB).

Schedule-S: Computation of income under the head Salaries.

Schedule-HP: Computation of income under the head Income from House Property.

Schedule BP: Computation of income from business or profession.

Schedule-DPM: Computation of depreciation on plant and machinery under the Income-tax Act

Schedule DOA: Computation of depreciation on other assets under the Income-tax Act

Schedule DEP: Summary of depreciation on all the assets under the Income-tax Act

Schedule DCG: Computation of deemed capital gains on the sale of depreciable assets

Schedule ESR: Deduction under section 35 (expenditure on scientific research)

Schedule-CG: Computation of income under the head Capital gains both long term and short term.

Schedule 112A: Details of Capital Gains where section 112A is applicable

Schedule 115AD(1)(b)(iii) Proviso: For Non-Residents Details of Capital Gains where section 112A is applicable

Schedule-OS: Computation of income under the head Income from other sources.

Schedule-CYLA-BFLA: Statement of income after set off of current year's losses and Statement of income after set off of unabsorbed loss brought forward from earlier years.

Schedule-CYLA: Statement of income after set off of current year's losses

Schedule BFLA: Statement of income after set off of unabsorbed loss brought forward from earlier years.

Schedule CFL: Statement of losses to be carried forward to future years.

Schedule- UD: Statement of unabsorbed depreciation.

Schedule ICDS – Effect of Income Computation Disclosure Standards on Profit

Schedule- 10AA: Computation of deduction under section 10AA.

Schedule 80G: Statement of donations entitled for deduction under section 80G.

Schedule RA: Statement of donations to research associations etc. entitled for deduction under section 35(1)(ii) or 35(1) (ia) or 35(1)(iii) or 35(2AA)

Schedule- 80IA: Computation of deduction under section 80IA.

Schedule- 80IB: Computation of deduction under section 80IB.

Schedule- 80IC/ 80-IE: Computation of deduction under section 80IC/ 80-IE.

Schedule VI-A: Statement of deductions (from total income) under Chapter VIA.

Schedule AMT: Computation of Alternate Minimum Tax Payable under Section 115JC

Schedule AMTC: Computation of tax credit under section 115JD

Schedule SPI: Statement of income arising to spouse/ minor child/ son's wife or any other person or association of persons to be included in the income of the assessee in Schedules-HP, BP, CG and OS.

Schedule SI: Statement of income which is chargeable to tax at special rates

Schedule-IF: Information regarding partnership firms in which assessee is a partner.

Schedule EI: Statement of Income not included in total income (exempt incomes)

Schedule PTI: Pass through income details from a business trust or investment fund as per section 115UA, 115UB

Schedule TPSA: Secondary adjustment to transfer price as per section 92CE(2A)

Schedule FSI: Details of income from outside India and tax relief

Schedule TR: Statement of tax relief claimed under section 90 or section 90A or section 91.

Schedule FA: Statement of Foreign Assets and income from any source outside India.

Schedule 5A: Information regarding apportionment of income between spouses governed by Portuguese Civil Code

Schedule AL: Asset and Liability at the end of the year (applicable where the total income exceeds Rs 50 lakhs)

Schedule GST: Information regarding turnover/ Gross receipt reported for GST

Part B-TI: Computation of Total Income.

Part B-TTI: Computation of tax liability on total income.

Verification

4.4 ITR-4 SUGAM

For Individuals, HUFs and Firms (other than LLP) being a resident having total income up to Rs.50 lakhs and having income from business and profession which is computed under sections 44AD, 44ADA or 44AE. [Not for an individual who is either Director in a company or has invested in unlisted equity shares or if income-tax is deferred on ESOP or has agricultural income more than Rs.5000] (Please refer instructions of the ITR4 SUGAM for eligibility).

The income computed shall be presumed to have been computed as if full effect to every loss, allowances, depreciation or deduction under the Income Tax Act has been given.

The persons having income from following sources are eligible to file ITR4 SUGAM.

Business income under section 44AD or 44AE

Income from profession calculated under section 44ADA

Salary/pension income. Income from One House Property (excluding the brought forward loss or loss to be carried forward cases under this head). Income from Other Sources (Excluding winning from lottery and income from horse races).

4.4.1 Structure of ITR4 SUGAM

PART A GENERAL INFORMATION

PART B GROSS TOTAL INCOME

Part C - Deductions and Taxable Total Income (Refer to instructions for Deductions limits as per Income-tax Act

PART D - TAX COMPUTATIONS AND TAX STATUS

SCHEDULE BP - DETAILS OF INCOME FROM BUSINESS OR PROFESSION. COMPUTATION OF PRESUMPTIVE BUSINESS INCOME UNDER SECTION 44AD. COMPUTATION OF PRESUMPTIVE INCOME FROM PROFESSIONS UNDER SECTION 44ADA. COMPUTATION OF PRESUMPTIVE INCOME FROM GOODS CARRIAGES UNDER SECTION 44AE.

INFORMATION REGARDING TURNOVER/GROSS RECEIPT REPORTED FOR GST

FINANCIAL PARTICULARS OF THE BUSINESS

SCHEDULE IT DETAILS OF ADVANCE TAX AND SELF ASSESSMENT TAX PAYMENTS

Schedule TCS Details of Tax Collected at Source [As per Form 27D issued by the Collector(s)]

SCHEDULE TDS1 DETAILS OF TAX DEDUCTED AT SOURCE FROM SALARY

[As per Form 16 issued by Employer(s)]

SCHEDULE TDS2 DETAILS OF TAX DEDUCTED AT SOURCE ON INCOME OTHER THAN SALARY

[As per Form 16 A issued or Form 16C or Form 16D furnished by Deductor(s)]

Details of Tax Deducted at Source [TDS 2(ii)] [as per form 16C furnished by the payer(s)]

Schedule 80D & DETAILS OF DONATIONS ENTITLED FOR DEDUCTION UNDER SECTION 80G

VERIFICATION

If the return has been prepared by a Tax Return Preparer (TRP) give further details of the TRP

Review Questions.

1. What are the steps involved in filing new PAN in Form number 49A?
2. When TAN is necessary? How to file Form 49B in online mode?
3. What is belated return?
4. Who can file ITR Form number 2?
5. What is the structure of ITR form 3?
6. Who can file ITR-4 SUGAM? What are the steps involved in it?

Advance tax, Filling of income tax challan for self-assessment tax and advance tax etc.

STRUCTURE

1. Introduction to Advance Tax
 - a. Liability for payment of advance tax [Section 207]
 - 1.2 Senior citizen is not required to pay any advance tax.
 - 1.3 Conditions for being liable to pay advance tax Section [208]
 - 1.4 How Advance Tax Liability is calculated by the assessee himself [Section 209(1)(a) and (d)]?
 - 1.5 What is included in current income?
 - 1.6 Payment of Advance tax.
 - 1.7 Instalments of Advance tax and due dates [Section 211]
 - 1.8 Section 218 of Income Tax Act "When assessee deemed to be in default
 - 1.9 Section 219 of Income Tax Act "Credit for advance tax":
 - 1.10 Payment of advance tax in case of capital gains and casual income [Proviso to section 234C]

2. Self-Assessment [section 140A]
 - 2.1 Procedure to deposit self -assessment tax and determining the tax liabilities.
 - 2.2 Consequences of failure to pay self-assessment.
 - 2.3 Filling of income tax challan for self-assessment tax and advance tax etc.
 - 2.4 Deposit of tax on online mode.
 - 2.5 Deposit of tax on offline basis.
 - 2.6 It is a convenient method to deposit the taxes in online mode as this has the under mentioned advantages.
 - 2.7 Cautions to be taken while depositing the taxes
 - 2.8 Challan Status Inquiry: One can check the status of tax deposited by following the undermentioned steps.
 - 2.9 Correction of challan for providing incorrect details in challan like selecting wrong assessment year etc.
 - 2.10 If the payment has been made by online challan

Annexure A Copy of the Challan number ITNS 280

1. Introduction to Advance Tax

Advance payment of tax is another method of collection of income tax by the Central Government in the form of prepaid taxes. The advance tax is in addition to the TDS/ TCS deducted. The scheme of advance tax is also known as 'Pay as you Earn'. Meaning there by the assessee is required to pay the advance tax in the previous year itself, although, income is chargeable to tax during the assessment year. In other words, advance tax is payable on current income in specified instalments during the previous year.

Advance tax payments benefit both the government and all the assessee. From the government's point of view, it provides a continuous flow of income throughout the year. From the assessee's perspective, it reduces the year-end burden of paying taxes in a lump sum. Non-payment of advance tax could result in the taxpayer being liable to interest under the Income Tax law. Hence, timely payments of advance tax should be made.

1.1 Liability for payment of advance tax [Section 207]

As per the provision laid down in the Income Tax Act, tax shall be payable in advance in the financial year in respect of the total income of the assessee earned during that financial year. Although, income is chargeable to tax in the assessment year but advance tax is to be paid in the financial year immediately preceding that assessment year in which such income is chargeable to tax earned. For Example, total income earned during the previous year 2021-22, advance tax on such total income was to be paid in the year 2021-22 itself. Although, such total income was chargeable to tax in the assessment year 2022-23.

1.2 Senior citizen is not required to pay any advance tax.

Senior citizens who are resident in India and who are 60 years or older at any time during the previous year and do not run a business, are exempt from paying advance tax.

1.3 Conditions for being liable to pay advance tax Section [208]

Liability to pay advance tax according to the provision of The Income Tax Act only arises during the financial year, if an assessee is required to pay Rs 10000 or more as tax on the total income after deducting TDS/TCS.

1.4 How Advance Tax Liability is calculated by the assessee himself [Section 209(1)(a) and (d)]?

The advance tax payable by the assessee on his total income as computed by himself will be paid by following under mentioned steps.

Step 1 Make an estimate of the current income for which advance tax is payable from 1st of April to 31st March.

Step 2 compute the income tax payable on the income computed at step 1 as per the prevailing tax rates.

Step 3 On the tax computed at step 2 add surcharge if the same is applicable.

Step 4 Add the health and education cess on the amount calculated at step 3.

Step 5 Allow the reliefs as computed in section 89, 90, 90A and 91, if any.

Step 6 Deduct the amount of TDS and TCS if any deducted.

Step 7 The balance is the amount of advance tax to be paid. The liability to pay only arises if the tax payable is Rs 10000 or more.

However, the tax is to be paid in instalments as discussed later in this UNIT.

1.5 What is included in current income? Current income includes all types of income which are taxable under the five different heads of income as provided in the Income Tax Act. It also included both long term and short term capital gains, winning from the lotteries, crossword puzzles, etc. For computing the current income as mentioned in this paragraph, even agriculture income will be taken in to account for the rate purposes, wherever it is provided in the Act.

1.6 Payment of Advance tax.

By the assessee of his own accord under section 210 (1): Every person who is liable to pay advance tax under section 208 (whether or not he has been previously assessed by way of regular assessment) shall, of his own accord, pay, on or before each of the due dates specified in section 211, the appropriate percentage, specified in that section, of the advance tax on his current income, calculated in the manner laid down in section 209.

As per section 210(2), a person who pays any instalment or instalments of advance tax under sub-section (1), may increase or reduce the amount of advance tax payable in the remaining instalment or instalments to accord with his estimate of his current income and the advance tax payable thereon, and make payment of the said amount in the remaining instalment or instalments accordingly.

Section 210(3): This section says it is compulsory to pay advance tax, if there is any liability to be discharged in this regards. In the case of a person who has been already assessed by way of

regular assessment in respect of the total income of any previous year , the Assessing Officer, if he is of opinion that such person is liable to pay advance tax, may, at any time during the financial year but not later than the last day of February, by order in writing, require such person to pay advance tax calculated in the manner laid down in section 209, and issue to such person a notice of demand under section 156 specifying the instalment or instalments in which such tax is to be paid.

Section 210(4): If, after the making of an order by the Assessing Officer under sub-section (3) and at any time before the 1st day of March, a return of income is furnished by the assessee under section 139 or in response to a notice under sub-section (1) of section, or a regular assessment of the assessee is made in respect of a later previous year for higher figure, then the Assessing Officer may make an amended to his order and issue to such assessee a notice of demand under section 156 on the basis of the income so declared in such return or income so assessed (including agriculture income which has been taken in to account for the rate purposes), requiring the assessee to pay, on or before the due date or each of the due dates specified in section 211 falling after the date of the amended order, the appropriate percentage, specified in section 211, of the advance tax computed on the basis of the total income declared in such return or in respect of which the regular assessment aforesaid has been made.

Section 210(5): A person who is served with an order of the Assessing Officer under sub-section (3) or an amended order under sub-section (4) may, if in his estimation the advance tax payable on his current income would be less than the amount of the advance tax specified in such order or amended order, send an intimation in the prescribed form to the Assessing Officer to that effect and pay such advance tax in accordance with his estimate, calculated in the manner laid down in section 209, at the appropriate percentage thereof specified in section 211, on or before the due date or each of the due dates specified in section 211 falling after the date of such intimation.

Section 210 (6): A person who is served with an order of the Assessing Officer under sub-section (3) or amended order under sub-section (4) shall, if in his estimation the advance tax payable on his current income would exceed the amount of advance tax specified in such order or amended order or intimated by him under sub-section (5), pay on or before the due date of the last instalment specified in section 211, the appropriate part or, as the case may be, the whole of such higher amount of advance tax in accordance with his estimate, calculated in the manner laid down in section 209.

1.7 Instalments of Advance tax and due dates [Section 211]

Advance tax payable by the assessee calculated in accordance with the provisions of section 209 shall be payable as per under.

1. The due dates of payment of advance tax for all assessee are given below other than covered under section 44AD or 44ADA [Section 211(1)(a)].

Due Date of payment of Advance Tax	Amount of advance tax
On or before June 15	Up to 15% of advance tax liability.
On or before September 15	Up to 45% of advance tax liability as reduced by the amount paid in earlier instalment.
On or before December 15	Up to 75% of advance tax liability as reduced by the amount or amounts, if any, paid in earlier instalment or instalments.
On or before March 15	Up to 100% of advance tax liability as reduced by the amount or amounts, if any, paid in earlier instalment or instalments.

2. Advance tax payable by the assessee covered under section 44AD or 44ADA Section 211(1)(b)].

Taxpayers covered under the presumptive scheme are required to pay the whole of tax at once before 15th March. Thus, persons who are opting for 44AD or 44ADA need not to pay the advance tax in 4 instalments i.e. need to pay in one instalment only in the month of March.

1.8 Section 218 of Income Tax Act "When assessee deemed to be in default"

If any assessee does not pay on the date specified in sub-section (1) of section 211, any instalment of the advance tax that he is required to pay by an order of the Assessing Officer under sub-section (3) or sub-section (4) of section 210 and does not, on or before the date on which any such instalment as is not paid becomes due, send to the Assessing Officer an intimation under sub-section (5) of section 210 or does not pay on the basis of his estimate of his current income the advance tax payable by him under sub-section (6) of section 210, he shall be deemed to be an assessee in default in respect of such instalment or instalments.

1.9 Section 219 of Income Tax Act "Credit for advance tax": Any sum, other than a penalty or interest, paid by or recovered from an assessee as advance tax in pursuance of this Chapter shall be treated as a payment of tax in respect of the income of the previous year, which is chargeable to tax in the assessment year, next following the financial year in which it was payable, and credit therefor shall be given to the assessee in the regular assessment. Once the advance tax is paid by the assessee, the same will be reflected in the assessee's Form 26AS within 3-4 working days.

1.10 Payment of advance tax in case of capital gains and casual income [Proviso to section 234C]

As advance tax is payable in every type of income, including capital gains and winning of lotteries, crossword puzzles etc. Though, it is difficult to estimate the following income but still liability for advance tax arises.

- i. The amount of capital gains; or
- ii. Winning from lotteries, crossword puzzles, etc.:
- iii. Income under the head business or profession as in the of newly started business the income might arise after due dates of payment of advance tax.
- iv. Dividend income received in excess of Rs 10.00 lacs [section 115BBDA (1)]

Hence, in the above mentioned cases where income arises after the due date of instalment of advance tax the same may be paid in the remaining due instalments after deduction of TDS /TCS, if any. In case no instalment then by 31st March of the relevant Financial Year. If the entire amount is paid in this manner no interest will be levied on late payment of advance tax.

2. Self-Assessment [section 140A]

Every person who is required to file income tax return under section 139 or section 142(1) or section 148 or section 153A, is mandatorily required to make self-assessment of his income and after taking in to account the amount of tax, if any, already paid. pay the self-assessment tax, if due.

Tax calculated under self-assessment is required to be deposited by the assessee before submitting a return of income. The tax so paid shall be adjusted towards the tax liability as ascertained on regular assessment. The assessee shall be liable to pay such tax together with interest payable under any provision of this Act and fees for any delay in furnishing the return, or any default or delay in payment of advance tax before furnishing the return.

2.1 Procedure to deposit self -assessment tax and determining the tax liabilities

The detailed procedure for making self-assessment and determining the tax liabilities in this regards has been explained in the undermentioned steps.

- i. Compute the total income earned during the previous year.
- ii. Calculate the tax liability on the total income at the tax rates in force.
- iii. Add surcharge, if applicable, on tax so computed.
- iv. Add health and education cess @4%.
- v. Form the tax computed at step (i) to (iv), deduct the following items.
 - a. Advance tax, if any, paid

- b. Any tax deducted or collected at source.
 - c. Any relief of tax claimed under section 89.
 - d. Any relief of tax or deduction of tax claimed u/s 90 or 91 (Double Taxation Relief) on account of tax paid in a country outside India.
 - e. Any relief of tax claimed u/s 90 A on account of tax paid in any specified territory outside India.
 - f. Any tax credit claimed to be set off in accordance with the provision of section 115JAA or section 115JD.
- vi. Add interest and fees payable for the undermentioned items to the net tax computed at step(v).
- a. Interest for late filing of return under section 234A computed on the amount of tax on the total income as declared in the return as further reduced by the following items.
 - 1. Advance tax, if any, paid
 - 2. Any tax deducted or collected at source.
 - 3. Any relief of tax claimed under section 89.
 - 4. Any relief of tax or deduction of tax claimed u/s 90 or 91 (Double Taxation Relief) on account of tax paid in a country outside India.
 - 5. Any relief of tax claimed u/s 90 A on account of tax paid in any specified territory outside India.
 - 6. Any tax credit claimed to be set off in accordance with the provision of section 115JAA or section 115JD.
 - b. Interest for default in payment of advance tax us 234B will be calculated on an amount equal to the assessed tax or as the case may be on the amount by which the advance tax paid falls short of assessed tax. Assessed tax means the tax on the total income as declared in the return as reduced by tax deducted or collected at source, any relief of tax claimed u/s 89, any relief of tax or deduction of tax u/s 90, 91 and 90A and any tax credit claimed to be set off under section 115JAA or 115JD, on balance amount interest will be computed.
 - c. Interest for Deferment of advance tax under section 234C to be paid by the tax payer.
 - d. Fees for delaying in filing the income tax return as explained in section 234F of the Act.
- vii. The above tax, interest, and fees payable should be paid as self-assessment tax before filing of the income tax return.

2.2 Consequences of failure to pay self-assessment

If the assessee fails to pay the whole or any part of such tax, interest, fees, he shall without prejudice to any other consequences which he may face, be deemed to be assessee in default in respect of the tax, interest or fees remaining unpaid and therefore all the provisions of the act shall apply accordingly. Penalty under section 221 would also be levied.

2.3 Filling of income tax challan for self-assessment tax and advance tax etc.

The challan for the advance tax and self-assessment tax is deposited through challan number **ITNS 280**. The challan for depositing both the taxes is common. For depositing the advance tax assessee has to select account code 100 mentioned against advance tax in the challan. For depositing the self-assessment tax, the account code is 300 mentioned against self-assessment tax. The tax can be deposited both on online mode and in offline mode by filling the hard copy of the challan and depositing the same with the designated branch of a bank.

2.4 Deposit of tax on online mode: The above mentioned tax can be deposited on online mode by following the under mentioned website links <http://www.tin-nsdl.com> > Services > e-payment or <https://onlineservices.tin.egov-nsdl.com/etaxnew/tdsnontds.jsp>. Below mentioned are the steps for depositing the tax in online mode. One should go through it before depositing the tax.

Step-1

To pay taxes online, login to <http://www.tin-nsdl.com> > Services > e-payment: Pay Taxes Online.

Step-2

Select the relevant challan i.e. ITNS 280.

Step-3

Enter PAN (as applicable) and other mandatory challan details like accounting head under which payment is made.

For Individuals and non-companies assessee, first select the relevant assessment year for which tax is to be deposited and then select (0021) Income Tax (Other than Companies). (100) Advance Tax, (300) Self-Assessment Tax.

Select 'Self-assessment tax', if you have any taxes due to pay while filing your income tax returns. If a person wants to deposit advance tax, then select that option.

Step-4

On submission of data entered, a confirmation screen will be displayed. If PAN is valid as per the ITD PAN master, then the full name of the taxpayer as per the master will be displayed on the confirmation screen. Fill the relevant details as displayed on the website like complete address, State, Pin code email ID and mobile number.

Step-5

On confirmation of the data so entered, the taxpayer will be directed to the net-banking site of the bank.

Step-6

The taxpayer has to login to the net-banking site with the user id / password provided by the bank for net-banking purpose and enter payment details at the bank site.

Step-7

On successful payment a challan counterfoil will be displayed containing CIN, payment details and bank name, BSR code of the bank through which e-payment has been made. This counterfoil is proof of payment being made.

The self-assessment taxes can also be paid while filing the income tax return, if there is any shortfall in the taxes which is to be paid before filing the income tax return. While filing the return if there is any tax to be paid then automatically the option of e-pay taxes will appear on the portal. Through clicking on the tab online payment of taxes can be done by following the above mentioned steps.

2.5 Deposit of tax on offline basis: advance tax and self-assessment taxes can also be paid by depositing the challan number ITNS280 in physical form (paper form). The challan can be downloaded from the website. <https://incometaxindia.gov.in/Pages/downloads/challans.aspx> The specimen of the challan is hereby attached as **Annexure-A** for ready reference. One must read the instructions at the first place before filling this challan. The contents of the challan are self-explanatory but care should be taken while mentioning the assessment year, applicability of tax as per status of the assessee, correct PAN should be mentioned otherwise penalty will be levied under the Income Tax Act.

Further name as per PAN card should be mentioned, address. Mobile number and PIN code is also required to be mentioned. After ticking the appropriate box in regards to advance tax or self-assessment tax, details of payment column should be filled carefully. Then the amount should also be mentioned in words and appropriate cheques details should be signed. The challan must be signed by the assessee before depositing with the bank and date is also necessary to be mentioned on the challan. The assessee must mention the details in the counterfoil of the challan. Before leaving the counter at the bank one must recheck the CIN, BSR code of the bank, amount of the tax deposited, and date of deposit of the challan.

One must verify form no 26AS in regards to the tax deposited before filing the income tax return to cross check the necessary details.

2.6 It is a convenient method to deposit the taxes in online mode as this has the under mentioned advantages.

- There is no chance of penalty as funds are transferred immediately after the payment is initiated from your end.

- All the information provided by you remain confidential and secured.
- Now keep your challan copy & receipt copy safe online.
- With online payment, checking your tax payment status is easy by visiting the Tax Information Network website.
- Upon your bank initiate the payment, a receipt of the payment will be forward to you
- You will get the transaction id of the e-payment in your bank statement.
- You can even check the status of your money, whether it is reached to the IT department or not.
- With an online facility, you can pay the taxes at any point of time from anywhere using the net banking facility.

2.7 Cautions to be taken while depositing the taxes

- Do not use incorrect type of challan for payment of taxes.
- Do not make mistake in quoting PAN / TAN.
- Do not give PAN in place of TAN or vice versa.
- Do not use a single challan to deposit tax deducted for corporate and non-corporate deductees.
- Do not use same challan for depositing various types of tax like advance tax, self-assessment tax etc.
- Do not make mistake in the F.Y. and A.Y. to be indicated in the challan.
- If you have multiple TANs for the same division filing TDS statements, do not use different TANs in different challans. Use one TAN consistently and surrender the others.

2.8 Challan Status Inquiry: One can check the status of tax deposited by following the undermentioned steps.

For Tax Payers

To track the status of challan deposited in bank

Step – 1

Visit <https://tin.tin.nsdl.com/oltas/index.html> or

Step – 2

Select either from CIN (Challan Identification Number) based view or TAN based view

Step – 3

Fill the requisite details in order to view the Status

Step – 4

Tax Deductors may also download the Challan Details file for a selected period through TAN based view, which shall be used to verify the Challan entries filled in the e-TDS/TCS Statement

For Bank Branch

a) Collecting Bank Branch

On providing the branch scroll date and the major head code - description, the tax collecting branch can access the total amount and total number of challans for each major head code. Further, the collecting branch can view following details:

- Challan Serial Number
- Challan Tender Date
- PAN/TAN
- Name of Taxpayer
- Amount
- Date of receipt by TIN

2.9 Correction of challan for providing incorrect details in challan like selecting wrong assessment year etc.

If the payment has been made by physical challan: there are two scenarios applicable.

i] Correction within 7 days from payment of tax:

Many taxpayers make the tax payment through physical challans. In such cases, Income-tax department has allowed a 7-day period during which the correction in Assessment Year could be made by the Bank. The taxpayer needs to apply for correction to the bank within 7 days of the date of deposit of challan. In this case, the taxpayer can send a challan correction application form to your respective bank.

Challan correction application form to the bank will be consisting of the below- mentioned details.

- Taxpayer's Name
- Taxpayer's Address
- Taxpayer's TAN/PAN
- Name of the Authorized signatory in case of a non-individual taxpayer

Along with these details, taxpayer ought to mention other important details related to the challan i.e. the BSR Code, Challan Serial number and the challan date.

Taxpayer needs to tick out or highlight the fields which need correction in your case.

ii] Correction after 7 days from payment of tax:

In case taxpayer realizes the mistake after 7 days, then he is required to apply to his Income-tax officer for the correction in challan. The taxpayer can send a challan correction form to the Assessing Officer to rectify your wrong paid challan. The draft format of the challan correction application to the Assessing Officer should contain the below mentioned basic details.

- Name, Address, and PAN of the taxpayer
- Details of the Assessing Officer I.e. Ward Number and Address
- Challan Details
- Name of the Bank where payment has been done
- BSR Code
- Challan Number
- Amount Paid
- Assessment Year as per the Challan
- Correct Assessment Year

The Income-tax officer will consider the said application and correct the mistake accordingly. Assessing Officer is the Income Tax Officer who has the power and authority to calculate the taxable income of an assessee. The Assessing Officer can verify the tax details and books of accounts of the assessee. The jurisdiction of an Assessing Officer can be determined by the address mentioned by the assessee in his records for PAN.

2.10 If the payment has been made by online challan:

If the payment of taxes is made by the taxpayer by way of online banking, the taxpayer is required to apply to his Jurisdictional Assessing Officer (Income-tax officer) and request him to correct the details. The Income-tax officer will consider the said application and correct the mistake accordingly. On making the application to the Assessing Officer, the necessary corrections will be made by him in the Income-tax details of the taxpayer. Taxpayer may refer Form 26AS to ensure that requisite corrections have been made in his tax records.

Once the taxpayer ensures himself that the correction has been done, he may proceed to file an Online Rectification application claiming that the Income-tax Return for the said Assessment Year shall be re-processed.

Review Questions.

1. Who is liable to pay advance tax?
2. How to calculate the amount of advance tax payable? What are the steps?
3. What are the instalment due date to pay the advance tax and its quantum?
4. What are the liabilities of a person to pay the advance tax in case of Capital Gains?
5. What is the procedure to deposit self -assessment tax and determining the tax liabilities?
6. What are the steps involved in depositing self-assessment tax in online basis?
7. How to check the Challan status inquiry?
8. Is challan for deposit of tax can be corrected if wrongly filed? what are the steps involved?

Annexure -A

Important: Please see notes overleaf before filling up the challan						Single copy (to be sent to the ZAO)																																																							
CHALLAN NO.	Tax Applicable (Tick one)						Assessment Year																																																						
<i>ITNS 280</i>	(0020) INCOME –TAX ON			<input type="checkbox"/>	(0032) WEALTH			<input type="checkbox"/>																																																					
	(0021) INCOME TAX			<input type="checkbox"/>	TAX																																																								
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Self-Assessment Tax (300)				<input checked="" type="checkbox"/>		Tax on Distributed Profits of Domestic Companies (106)				<input type="checkbox"/>																																																			
Tax on Regular Assessment (400)				<input type="checkbox"/>		Tax on Distributed Income to Unit Holders (107)				<input type="checkbox"/>																																																			
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Amount (in Rs. Only)						FOR USE IN RECEIVING BANK																																																							
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Paid in Cash/Debit to A/c/Cheque No.	Dated
Drawn on	(Name of the Bank and Branch)
Date:	Signature of person making payment
Tear Off	

Taxpayers counterfoil (To be filled up by tax payer)

PAN	<input type="text"/>
Received from	<input type="text"/>
(Name)	
Cash/Debit to A/c/Cheque No.	For Rs. <input type="text"/>
Rs. (in words)	<input type="text"/>
Drawn on	<input type="text"/>
(Name of the Bank and Branch)	
On account of Income Tax on	<input type="text"/>
Type of Payment	<input type="text"/>
for the Assessment Year	<input type="text"/>

SPACE FOR BANK SEAL

*NOTES

- Please use a separate challan for each type of payment.**
- Please note that quoting your Permanent Account Number (PAN) is mandatory.
- Please note that quoting false PAN may attract a penalty of Rs. 10,000/- as per section 272B of I.T. Act, 1961.
- Please note that to deposit Appeal Fees either **Major Head 020 or 021** (depending upon the tax payer's status) has to be ticked under 'Tax Applicable'. Followed by this; **Minor Head: Self-Assessment Tax (300)** has to be ticked under 'Type of Payment' and the amount is to be filled under **Others** in 'Details of Payments'.
- To deposit taxes, appeal fees, etc. in respect of block period cases, enter the first Assessment Year of the block period followed by the last Assessment Year of the period. For example, if the block period is 1/04/85 to 5/3/96, it would be entered as 1986-97 in the space indicated for Assessment Year. If taxes are being deposited, tick the box Self-Assessment (300) under

Type of Payment and fill up amount under 'Tax' while in respect of appeal fees, enter amount under 'Others'.

PLEASE USE THIS CHALLAN FOR DEPOSITING TAXES (TYPES OF PAYMENT) MENTIONED OVERLEAF. KINDLY DO NOT USE THIS CHALLAN FOR DEPOSITING TAX DEDUCTION AT SOURCE (TDS)

KINDLY ENSURE THAT THE BANK'S ACKNOWLEDGEMENT CONTAINS THE FOLLOWING:

1. 7 DIGIT BSR CODE OF THE BANK BRANCH
 2. DATE OF DEPOSIT OF CHALLAN (DD MM YY)
 3. CHALLAN SERIAL NUMBER
- THESE WILL HAVE TO BE QUOTED IN YOUR RETURN OF INCOME.

UNIT X: Tax deduction at source and introduction to tax collection at source

STRUCTURE

1. Introduction
2. Procedure and schema of TDS
3. Deduction of TDS under the head Salaries Section 192
4. TDS on Interest on Securities Section 193
5. Requirements to deduct TDS under section 194
6. TDS on Interest other than Interest on Securities Section 194A
7. Income Tax on winnings from Lottery, Game Shows, Puzzle Section 194B
8. TDS on winnings from Horse Races Section 194BB
9. Payment to resident Contractor 194C
10. TDS on Insurance Commission Section 194D
11. TDS on Payment of Life Insurance Policy Section 194DA
12. TDS on Payment to non-resident sportsmen or sports associations or non-resident entertainer [Section 194E]
13. TDS on Payment in respect of deposits under National Savings Scheme, etc. [Section 194EE]
14. Commissions, etc. on sale of lottery tickets [Section 194G]
15. Commissions and Brokerage [Section 194H]
16. TDS on Rent [Section 194I]
17. TDS on transfer of certain Immovable Property [Section 194IA]
18. TDS from payment of rent by certain individuals [Section 194IB]
19. Fees for professional or technical services [Section 194J]
20. Income in respect of Units [Section 194K]
21. TDS on Payment of Compensation on Acquisition of Certain Immovable Property [Section 194LA]
22. TDS on Income by way of Interest from Infrastructure Debt Fund [Section 194LB]
23. TDS on Certain Income from Units of a Business Trust [Section 194LBA]
24. TDS on Income in Respect of Units of Investment Fund [Section 194LBB]
25. TDS on Income in Respect of Investment in Securitisation Trust [Section 194LBC]
26. TDS on Income by way of Interest from Indian Company or Business trust [Section 194LC]
27. Payment of certain sums by certain individuals or HUF [Section 194M]
28. TDS on certain cash withdrawal [Section 194N]
29. TDS on Payments Made to e-commerce Participants [Section 194O]
30. Deduction of tax in case of specified senior citizen Section 194P
31. TDS on purchase of goods under Section 194Q
32. Section 195 of the IT Act
33. Statement of deduction of tax under sub-section (3) of section 200.
34. Consequences of failure to deduct or pay tax Section 201.

- 35. Interest for failure to deduct tax at source/delay in payment of TDS**
- 36. Certificate for the tax deducted [Section 203 and Rule 31]**
- 37. Time and mode of payment to Government Rule-30, Income-tax Rules**
- 38. Tax collected at source (TCS) [Section 206C]**
- 39. Statement of collection of tax under proviso to sub-section (3) of section 206C**

1. Introduction

TDS or Tax Deducted at Source is the form of income tax which is deducted by a person who is responsible to make specified payments such as salaries, rent, commission, professional fees, interest etc. on which provisions of TDS apply i.e. Section 192 to 196D. Usually, the person receiving income is liable to pay income tax. But the Government with the help of Tax Deducted at Source provisions makes sure that income tax is deducted in advance from the payments being made to the assessee at prescribed rates. The recipient of income receives the net amount (after deducting TDS). The recipient will add the gross amount to his income and the amount of TDS is adjusted against his final tax liability. The recipient takes credit for the amount already deducted and paid on his behalf. TDS is based on the principle of 'pay as when you earn'.

Tax collected at source (TCS). In some cases, tax is collected at source by the seller from a buyer of the goods or person from his licensee/ lessee, etc. at the time of debiting the amount to their account or the receipt of the payment whichever is earlier.

2. Procedure and schema of TDS. The payer of the income/amount is mandatorily required to deduct the TDS, if such payment/income is subject to tax deducted at source under the provisions of Chapter XVIIA & B. Hence such payer is required to follow the laid down procedure in the ACT which is mentioned below.

- i.) The payer must be having TAN, if not the same may be applied in form no 49B for tax deduction and tax collection. In case of tax deducted under section 194-IA or 194-IB Section or 194M there is no need to have TAN.
- ii.) The payer is required to deduct as per the provisions laid down in section 192 to 196D, if he makes any payment income.
- iii.) The amount so deducted should be deposited through Challan number ITNS 281 (except in case of 194-IA or 194-IB Section or 194M) with in the requisite time as prescribed to the credit of the Central Government. Separate challan is required to be made for each section in which tax has been deducted and proper code should be mentioned in the column of the challan relevant to that section.

For section 194-IA TDS is to be deposited with in prescribed time period electronically in form no 26QB, which is a challan cum statement of TDS under section 194-IA.

For section 194-IB TDS is to be deposited with in prescribed time period electronically in form no 26QC, which is a challan cum statement of TDS under section 194-IB.

- For section 194M TDS is to be deposited with in prescribed time period electronically in form no 26QD, which is a challan cum statement of TDS under section 194M.
- iv.) Tax is to be deducted at the basic rates as prescribed under various section of the Act. No surcharge or education cess (H&EC) will be added while computing the TDS liability except in the undermentioned cases.
 - a. TDS in regards to the payment of salary, whether the receiver of the salary is resident or non-resident. In such cases surcharge and education cess (H&EC) will be added wherever applicable as per the provisions of the Act.
 - b. Tax deduction in regards to the payment/credit of any amount (other than salary) made to non-resident other than company. In such cases surcharge and education cess (H&EC) will be added wherever applicable as per the provisions of the Act.
 - c. Tax deduction from payment / credit of any amount to foreign company. In such cases surcharge and education cess (H&EC) will be added wherever applicable as per the provisions of the Act.

As per section 206AA, every receiver of any sum on which provision of tax deducted at source are applicable is required to provide PAN to the deductor, otherwise rate of TDS will be normal rate or 20% whichever is higher. Further in case of Section 206CC (1), incase PAN or Aadhaar is not provided by the collectee, tax will be collected at the higher of the following rates

- a. At double the rate prescribed in the relevant provision of the Act.
 - b. At the rate of 5%,
- v.) Payee should be issued TDS certificate for the tax deducted at source on or before the time period laid down in the Act.
 - vi.) The payer or the deductor is required to file such statements as prescribed in the Act and file the same with the designated income tax authorities or the person authorized by such authority in such form and verified in such manner as may be prescribed.
 - vii.) Tax has to be deducted at the rates as specified in the Act or where no rates has been given in the Act, tax shall be deducted as per rates given in Schedule I Part II of the relevant Finance Act. However, in the case of salary, it shall be required to be deducted at the rates given in Schedule I Part III of the relevant Finance Act.

3. Deduction of TDS under the head Salaries:

[Section 192] of the Income Tax Act, 1961 deals with tax deducted at source (TDS) on salary income paid by the employer to its employees. The employer will deduct TDS from the salary payable to the employees and the employer will be responsible for deducting TDS at normal income tax rates applicable to the employees on the estimated income for the relevant financial year. The tax so computed is divided by the number of month and amount so arrived will be monthly deduction for the TDS. TDS which is deducted u/s 192 is reflected in Form 16, which is issued by the employer to the employee at the end of the relevant financial year for which tax has been deducted.

The employer can be Central Government, State Government, Individuals, HUF, Partnership Firm, Companies, Trusts, Co-operative Societies. As per section 192 of the Income Tax Act, there must be an employer-employee relationship for the deduction of tax at source. Moreover, the number of employees employed by the employer does not matter while calculating and deducting TDS.

When is TDS Deducted under Section 192: TDS is deducted at the time of actual payment of salary and not during the accrual of salary. It means tax will be deducted if the employer pays salary in advance or at the time of salary payment in arrears. In case the estimated salary is not more than the basic exemption limit, tax amount will be zero and hence, TDS will not be deducted.

Salary from More Than One Employer [Section 192(2)]

If an assessee is working under the more than one employer simultaneously or has changed the employment during the previous year. Such employees may provide details about the salaries due or received by him from other employers, tax deducted at source therefrom and such other particulars as may be prescribed in Form 12B [Rule 26A (1)] to any one of the employers of its choice duly verified. Once the employer receives all kinds of information from the employee, then the employer will be responsible for computing the gross salaries and to deduct TDS thereon. Subsequently, if any employee resign and join a different employer, that employee can provide details of his previous employment in Form 12B to the new employer. This employer will consider the previous salary details and TDS will be deducted for the remaining months of the financial year. If the employee choose not to provide details of income of other employment, each employer will deduct TDS only from the salary paid by him respectively.

How is TDS Deducted on Salary

Calculation of Taxable Income of the Employee: Taxable salary is computed as per section 15 to 17 of the Income Tax Act 1961 as explained in the earlier units while discussing heads of income under salaries.

Relief under section 89 [Section 192(2A) and Rule 21AA: where the assessee is a Government servant or working in a (i) company, (ii) co-operative society, (iii) university, (iv) local authority, (v) association or body. (vi) institution and the employee is entitled to claim relief under section 89, he may furnish such details to his employer in form 10EE. The employer will take in to account the information provided by the employee and compute the relief accordingly after taking in to account such information and deduct the tax accordingly. **No relief is available under section 89, if exemption under section 10(10C) is availed.** If an assessee has received or any amount is receivable in regard to the termination of the service or voluntary retirement and the assessee has claimed exemption under section 10(10C) then no relief is available under section 89.

Details of other income [Section 192(2B) and Rule 26B]

Where an employee has any income under any other head of income (not being a loss) for the same financial year, he may furnish the details of such income and any tax deducted thereon to his employer to take them in to account while deducting the TDS on the salary. However, the resultant tax should not be less than the amount of tax that has been deductible if such income and tax deducted thereon not taken in to consideration.

Loss from the house property may be adjusted [Rule 26B]

Although, as stated above, the statement for the loss under any other head cannot be furnished but a statement of loss under the head income from house property can be furnished. If the employee incurring the loss from house property furnishes the above said statement of such loss to the employer, the resultant tax deductible at source can be less than the amount that would have been deductible if such loss had not been taken into account. Loss under the head "income from house property" shall be allowed to be set off from salary and other head of income subject to maximum of Rs. 2,00,000.

Form 12BA alongwith Form 16 issued by Employer to Employee with TDS on Salary Certificate [Section 192(2C) and Rule 26A (2)].

A person responsible for paying any income chargeable under the head "Salaries" shall furnish to the person to whom such payment is made, a statement giving correct and complete particulars of perquisites or profits in lieu of salary provided to him and the value thereof in Form No. 12BA alongwith Form No. 16 issued by the employer. Form 12BA alongwith Form 16, as issued by the employer are required to be produced on demand before the Assessing Officer in terms of section 139C of the Income Tax Act.

Employer to obtain Evidence / Proof regarding Deductions, Exemptions or Allowances Claimed by the Employee for estimating Income towards TDS on Salary U/s 192 [Section 192(2D)]

The person responsible for making the payment of salary shall, for the purposes of estimating income of the assessee or computing tax deductible from salary, obtain from the assessee the evidence or proof or particulars of prescribed claims (including claim for set-off of loss) under the provisions of the Act in such form and manner as may be prescribed.

Adjustment in the amount of TDS on Salary [Section 192(3)]

The person responsible for making the payment may, at the time of making any deduction of tax, increase or reduce the amount to be deducted under this section for the purpose of adjusting any excess or deficiency arising out of any previous deduction or failure to deduct during the financial year. If any tax has been deducted in excess in the earlier months, the employer is authorised to adjust such excess in the subsequent months. On the other, if the employer has deducted less tax in the earlier

months, he will have to make higher deduction in the subsequent months. The above adjustment is permissible only in respect of same employee and not for all employees.

TDS payable on Accumulated Balance of Recognised Provident Fund (RPF) [Section 192(4)]

The trustees of a recognized provident fund, or any person authorised by the regulations of the fund to make payment of accumulated balances due to employees, shall, in cases where payment from recognised provident fund is taxable, at the time an accumulated balance due to an employee is paid, deduct therefrom the amount of tax payable on the taxable portion of such amount.

TDS on Contribution paid to an Employee out of Approved Superannuation Fund [Section 192(5)]

Where any contributions made by an employer, including interest on contributions, if any, are paid to an employee during his lifetime, in circumstances other than those referred to in section 10(13), tax on the amounts so paid shall be deducted at the average rate of tax at which the employee was liable to tax during the preceding three years or during the period, if less than three years, when he was a member of the fund, and shall be paid by the trustees to the credit of the Central Government within the prescribed time and in such manner as the Board may direct. In this case, as per rule 33, the trustees of the approved superannuation fund shall send within two months from the end of the financial year, to the Assessing Officer, a statement giving particulars as required under the above said rule.

Where there is No TDS on Salary or TDS on Salary at a Lower Rate [Section 197 and Rule 28 & 28A]

The assessee to whom the salary is payable may make an application in Form No. 13 to the Assessing Officer and if the Assessing Officer is satisfied that the total income of the recipient justifies the deduction of income tax at any lower rate or no deduction of income-tax, he may give such certificate as may be appropriate. Where such certificate is given, it will be valid for the assessment year to be specified in the certificate and the person responsible for paying the salary, until such certificate is cancelled by the Assessing Officer, deduct income-tax at the rate specified in such certificate or deduct no tax, as the case may be. As per section 206AA (4), no certificate under section 197 shall be granted unless the application made in Form No. 13 under that section contains the Permanent Account Number of the applicant.

4. TDS on Interest on Securities Section 193

The provisions pertaining to TDS on interest on securities are covered in Section 193. If a person sends a resident any income in the form of interest on securities, he or she must deduct tax under section 193 at the rate in force, presently @ 10 % on the amount of the interest paid/ payable. As a result, when paying interest on securities to a non-resident, the restrictions of section 193 do not apply but the provisions as explained in section 195 will apply.

When does the liability to deduct TDS arise. The tax to be deducted (a) either at the time of payment thereof in cash or by issue of cheque or bank draft or by any other mode, or (b) at the time of credit of interest to the account of the payee or to interest payable account or suspense account, whichever happens earlier.

Meaning of interest of securities. As per section 2(28B) of Income Tax Act, “interest on securities” means any interest on security issued by the Central Government State Government. Interest on debentures/securities issued by the company a corporation or local authority established by Central, State or Provincial act. Hence, any such interest income as received above will attract tax deduction u/s 193.

Exemptions for TDS deduction under section 193. Interest paid or credited by widely held companies not exceeding Rs 5000. No tax to be deducted if interest is paid/ payable to individual or HUF who is resident in India, interest is paid by an account payee cheque, such debenture may or may not listed on a stock exchange in India and the amount or aggregate of the amount of such interest paid or payable during the financial year does not exceed Rs 5000.

5. Requirements to deduct TDS under section 194

The principal officer of an Indian company or a company which has made the prescribed arrangements for the declaration and payment of dividend is liable to deduct TDS, (dividend on equity or preference or both) in India, is required to deduct tax on dividend. TDS is required to be deducted before making any payments by any mode in respect of dividend or before making any distribution or payment to a shareholder, who is resident of India if any. Meaning of the dividend is as covered in the sub-clause (a) or (b) or (c) or (d) or (e) of clause 22 of section 2. Presently rate of deduction of tax is 10%. No tax deduction will be made u/s 194 in case of shareholder (who is an individual), when the dividend is paid by way of account payee cheque & such amount (alone or aggregate during financial year) does not exceed Rs.5000.

6. TDS on Interest other than Interest on Securities Section 194A

Section 194A deals with deduction of TDS on interest other than interest on securities like Interest on fixed deposits, Interest on Loans and Advances other than banks. Any person (other than an individual or a Hindu Undivided Family) who is paying the interest other than interest on securities as explained in section 194A to any resident in India is required to deduct tax at source. Any individuals and HUF whose total sales, gross receipts or turnover from the business or profession carried on by him exceed rupees one crore in case of business or fifty lakhs rupees in case of profession during the financial year immediately preceding the financial year, are also required to deduct TDS on interest payment.

When does TDS under Section 194A need to be deducted?

The payer/deductor shall deduct TDS if the amount of such interest paid or credited or is likely to be paid or credited in a financial year, exceed Rs 40000, where payer is

- Banking company or any bank or a banking institution to which Banking Regulation Act 1949 applies.
- Co-operative society engaged in the business of banking
- Post office (on deposit under scheme framed and notified by Central Government)
- 5,000 in any other case.

No TDS will be deducted on interest earned upto INR 50,000 by senior citizens. The interest amount should be earned from the following. Only fixed deposit and recurring deposit interest will be covered under above said limit. Interest on saving bank account is exempt from TDS rules.

The tax to be deducted (a) either at the time of payment thereof in cash or by issue of cheque or bank draft or by any other mode, or (b) at the time of credit of interest to the account of the payee or to interest payable account or suspense account, whichever happens earlier.

What is the rate of TDS?

The applicable rate of tax is 10% when the PAN is furnished; 20% if the PAN is not provided. No surcharge, education cess or SHEC shall be added to the above rates. Hence, tax will be deducted at source at the basic rate.

7. Income Tax on winnings from Lottery, Game Shows, Puzzle Section 194B

The person who is responsible for paying income to any one by way of from winning of lottery or crossword puzzles, card games or any other game of any sort in an amount exceeding Rs 10000, shall deduct income tax thereon at the rate in force presently 30%. TDS is to be deducted at the time of payment of such income where lottery or prize money etc. is paid in instalments, TDS is to be deducted on each such instalment.

If the prizes are given in Kind say a car, then prize distributor shall ensure before releasing the prize that tax has been paid. Tax is paid as per the market value of the prize given. The prize distributor can either recover from the winner or he himself can bear the burden of the tax. In cases where the prize is given both in cash and kind, then the total tax should be calculated on the cash portion of the prize and on the market value of the prize given in kind. And the tax amount should be deducted while giving the cash portion of the prize to the winner. But if the cash prize is not sufficient to cover the total tax liability, then either the winner or prize distributor should pay the deficit.

8. TDS on winnings from Horse Races Section 194BB

Section 194BB of the Income Tax Act, 1961 deals with the provisions of TDS in case of winnings from horse races. According to section 194BB, any person: Being a bookmaker or a person to whom license has been granted by the Government for horse racing in race course or for arranging for wagering or betting in race course is liable to deduct tax on payment of

winnings in an amount exceeding Rs 10000, made to any person (resident as well as non-resident) income tax thereon at the rate in force presently 30%.

9. Payment to resident Contractor 194C

Section 194C states that any person responsible for paying any sum to the resident contractor for carrying out any work (including the supply of labour), in pursuance of a contract between the contractor and the following person is required to deduct tax at source at the time of such payment thereof in cash or by issue of a cheque or draft or by any other mode or its credit to contractor's account or any other account by whatever name called, whichever happen earlier.

- The Central Government or any State Government
- Any local authority
- Any corporation established by or under a Central, State or Provisional Act Any company
- Any co-operative society
- Any authority constituted in India by or under any law, engaged either for the purpose of dealing with and satisfying the needs for housing accommodation or for the purpose of planning, development or improvement of cities, towns and villages or for both
- Any society registered under the Society Registration Act, 1980 or under any such corresponding law to the Act in any Part of India
- Any trust
- Any university or deemed university
- Any firm
- Any individuals or a HUF or an AOP or BOI whose total sales, gross receipts or turnover from the business or profession carried on by him exceed rupees one crore in case of business or fifty lakhs rupees in case of profession during the financial year immediately preceding the financial year, are also required to deduct TDS on interest payment.

The expression, "work" in this section would include-

- Advertising
- Broadcasting and telecasting including production of programs for such broadcasting or telecasting
- Carriage of goods and passengers by any mode of transportation, other than railways
- Catering
- Manufacturing or supplying of a product according to the requirement or specification of a customer by using the materials purchased from such customer or its associate as defined in section 40A (2), But does not include manufacturing or supplying of a product according to the requirements or specifications of a customer by using the materials purchased from a person, other than such a customer.

Rate of TDS under section 194C: where payment is made to or credit is given to individual or a HUF rate of TDS presently is 1%. The rate of deduction of TDS is presently 2%, where payment is made to or credit is given to any other entity. Rate of TDS will be 20% where PAN is not quoted by the deductee. No surcharge, education cess will be added in tax to be deducted at source.

What will be the rate of deduction of tax when GST amount is charged in the bill?

Wherever as per the terms of the agreement or contract between the payer and payee, the amount of GST is mentioned separately in the bill in regards to the services provided then the tax will be deducted at source on the amount paid or payable without including such GST on service component. [circular no. 23/2017, dated 19/07/2017].

Under what circumstances TDS u/s 194C is not deductible? No tax is required to be deducted in the following cases:

- Where the sum paid or credited in pursuance of any contract does not exceed Rs. 30,000, or
- Where the aggregate of the amounts of such sums credited or paid or likely to be credited or paid during the financial year does not exceed Rs. 1,00,000 the person responsible for paying such sums will not deduct TDS under this section.
- Individual or HUF not to deduct tax if the payment or amount credited to the contractor is for personal use. No individual or HUF shall be liable to deduct income-tax on the sum credited or paid to the account of the contractor where such sum is credited or paid exclusively for the personal purpose of such individual or any member of HUF
- No deduction shall be made from any sum credited or paid or likely to be credited or paid during the previous year to the account of a contractor during the course of business of plying, hiring or leasing goods carriages, where such contractor owns 10 or less goods carriages at any time during the previous year and furnish a declaration to that effect along with his PAN, to the person paying or crediting such amount.

10. TDS on Insurance Commission Section 194D

The person who is responsible for paying to resident, remuneration or reward whether by way of commission or otherwise (a) for soliciting or procuring insurance business, or (b) for continuance, renewal or revival of policies of insurance. Payment to non-resident is covered under section 195.

What is the rate & time of tax deduction u/s 194D?

The rate of tax u/s 194D is 5% (Resident person other than the company)/ 10% (Domestic company) (as the case may be) and 20% if the deductee does not quote his PAN. And the time of

deduction is earlier of, the credit of income to the account of the payee (receiver) or actual payment (in cash, cheque, draft or other modes).

No TDS Requirement: If the amount of such income (whether individually or in aggregate for the financial year) does not exceed Rs. 15000 or if Form 15G/H has been received, then no TDS u/s 194D is required.

11. TDS on Payment of Life Insurance Policy Section 194DA

Who is required to deduct TDS u/s 194DA? Any person who is paying an amount to a resident by way of an insurance policy (including bonus amount, if any) will have to deduct tax before releasing the amount, if such amount is not exempted under section 10(10D) of the Act.

What is the rate & time of tax deduction u/s 194DA? The rate of tax u/s 194DA is 5% at the time of making the payment. (20% if the deductee does not quote his PAN). No surcharge, or health education cess shall be added to the above rates.

No TDS Requirement: Where the amount of such payment (or aggregate amount during the financial year) is less than Rs.1,00,000.

12. TDS on Payment to non-resident sportsmen or sports associations or nonresident entertainer [Section 194E]

Where any person is responsible to pay to a non-resident sportsman (including an athlete) or an entertainer who is not a citizen of India or a non-resident sports association or institution, the person responsible for making the payment shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of twenty per cent. Surcharge, or health education cess shall be added to the above rates as per applicable rates.

13. TDS on Payment in respect of deposits under National Savings Scheme, etc. [Section 194EE]

Where any person is responsible for paying to any other person any amount standing to the credit of such person under National Savings Scheme, to which section 80CCA was applicable together with interest accrued thereon, shall deduct tax at source on such amount at the time of payment. The rate of tax deduction u/s 194EE is 10% and the time of deduction is when the payment is made. No surcharge, or health education cess shall be added to the above rates.

No TDS Requirement: (a) When the amount paid (at once or total during the financial year) to the payee (i.e. the receiver) is less than 2500. (b) No deduction when the amount is given to the legal heirs of the assessee.

14. Commissions, etc. on sale of lottery tickets [Section 194G]

Any income earned by a person in the form of commission, remuneration, or prize on lottery tickets (deductee) who has been selling lottery tickets (also stocking, distributing, and

purchasing) is liable to pay taxes. The person responsible for making such payment (deductor) for an income exceeding Rs 15,000 must deduct an income tax.

Rate of TDS under Section 194G: A tax deduction of 5% will be made at the source for such income. No surcharge, education cess, and SHEC will be levied on the specified rate. If PAN is not quoted by the deductee, a tax deduction rate of 20% will be applicable.

Time of Tax Deduction under 194G: Tax on income from lottery tickets can be deducted at the time of income credit to the deductee's account or at the time of payment in cash, cheque, draft, or other payment methods, whichever is earlier. Irrespective of such income being credited to a 'suspense account' or any other account in the books of account of the deductor, it is considered to be a payment made to the deductee's account and the provision of the section is applicable.

15. Commissions and Brokerage [Section 194H]

Section 194H is for income tax deducted on any income by way of commission or brokerage, by any person responsible for paying to a resident. Individuals and Hindu Undivided Family who were covered under section 44AB are also required to deduct TDS. From FY 2020-21, individual and HUF whose turnover from business is above Rs 1 crore or gross receipts from profession are above Rs 50 lakh are also required to deduct TDS. Section 194H does not include insurance commission referred to in section 194D.

When does TDS under Section 194H need to be deducted: TDS under Section 194H will be deducted at the time of credit of such income to the account of the payee or to any other account. Whether called suspense account or by any other name at the time of payment, of such income in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier.

Meaning of Commission and Brokerage: Commission or brokerage for deduction of tax includes (a) any payment for services rendered (not being professional services), (b) or for any services in the course of buying or selling of goods, (c) or in relation to any transaction relating to any asset, valuable article or thing, except securities.

Rate of TDS: The rate of TDS is 5%. No surcharge, education cess or SHEC shall be added to the above rates. Hence, the tax will be deducted at source at the basic rate. The rate of TDS will be 20% in all cases if PAN is not quoted by the deductee.

Rate of deduction of tax when GST amount is charged in the bill. Wherever as per the terms of the agreement or contract between the payer and payee, the amount of GST is mentioned separately in the bill in regards to the services provided then the tax will be deducted at source on the amount paid or payable without including such GST on service component. [circular no. 23/2017, dated 19/07/2017].

16. TDS on Rent [Section 194I]

The person (not being an Individual or HUF) who is responsible for paying of rent to any resident person is liable to deduct tax at source. TDS to be deducted on rent if the aggregate

amount payable in a financial year is more than Rs 2,40,000. Also, individuals and/or HUFs who are subject to tax audit are under an obligation to deduct the tax at source on rent.

Meaning of ‘Rent’ in reference to Section 194I: Rent’ means any payment, by whatever name called, under any lease, sub-lease, tenancy or any other agreement or arrangement for the use of (either separately or together) any: land or Building (including factory building) or Land appurtenant to a building (including factory building) or Machinery or Plant or Equipment or Furniture or Fittings.

Rate of TDS: Applicable rate of tax deduction at source presently is (a) Rent of plant and machinery @ 2%, (b) Rent of land or building or furniture or fitting @ 10%. No surcharge, education cess or SHEC shall be added to the above rates. Hence, the tax will be deducted at source at the basic rate. The rate of TDS will be 20% in all cases if PAN is not quoted by the deductee.

When does TDS under Section 194I need to be deducted: TDS under Section 194I will be deducted at the time of credit of such income to the account of the payee or to any other account. Whether called suspense account or by any other name at the time of payment, of such income in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier.

17. TDS on transfer of certain Immovable Property [Section 194IA]

A person who is purchasing any immovable property (other than agricultural land) from a resident is required to deduct TDS @ 1% from the amount payable in this behalf. TDS is not required to be deducted If the property value is less than Rs. 50 lakhs. Also, TDS is required to be deducted on all type of immovable property such residential property, commercial property or industry except agricultural land. The provisions of this section is not applicable where section 194LA regarding compulsory acquisition is applicable. If the seller is non-resident or NRI then TDS is to be deducted under section 195 on basis of capital gains and not under this section.

Rate of TDS: TDS is required to be deducted @ 1% on the amount payable to the seller of property. If the PAN number of the seller is not available, then the TDS is required to be deducted @ 20%.

Time of Deduction: Tax is required to be deducted at the time of credit of such sum to the account of the payee or at the time of payment whichever is earlier.

18. TDS from payment of rent by certain individuals [Section 194IB]

If an individual or a HUF is responsible for paying to a resident any income by way of rent exceeding Rs. 50,000 for a month or part of a month during the previous year, shall deduct an amount equal to 5% of such income as income-tax thereon. In simple words, this section says that, an individual or HUF who is not liable for audit u/s 44AB, will have to deduct TDS. Such

TDS will have to be deducted when they are paying income of rent to any resident in the year. But there is an exemption limit given. TDS on rent will be deducted only when rent paid exceeds Rs 50,000 per month. The deductor is not required to have TAN for deducting TDS under this section. If the PAN number of the deductee is not available, then the TDS is required to be deducted @ 20%.

19. Fees for professional or technical services [Section 194J]

Types of payments covered: Professional fees, Fees for technical services, Remuneration paid to directors excluding salary (For e.g., sitting fees to attend board meetings), Royalty, Payments in the nature of non-compete fees (i.e., fees paid to not carry on any business or profession for a specified time and within certain geographical boundaries) or fees paid to not share any technical knowledge or know-how.

Professional Services: It implies the services provided by a person for carrying on medical, legal, architectural, or engineering professions. It also includes accountancy, advertising, interior decoration, technical consultancy or any other profession notified by CBDT Board under Section 44AA. CBDT has further notified sportspersons, commentators, event managers, anchors, umpires and referees, physiotherapists, coaches and trainers, team physicians, and sports columnists under Section 194J.

When does TDS under Section 194J need to be deducted: Tax has to be deducted in case the payment for the professional and technical services is greater than Rs 30,000 during the year. All entities (other than individuals/HUF who are not required to do tax audit in the preceding year) need to deduct tax (TDS) while paying fees for professional or technical services. Tax is required to be deducted at the time of credit of such sum to the account of the payee or at the time of payment whichever is earlier.

Rate of TDS under section 194J: TDS will be deducted as per following rate. No surcharge, education cess or SHEC shall be added to the below mentioned rates.

Nature of payment	Rate of TDS
Any payment of fees for technical service.	2%
Payments made to operators of call centers.	2%
Payment of royalty for sale, distribution or exhibition of cinematographic films.	2%
All other payments covered under this section.	10%
Payee does not furnish his/her PAN.	20%

20. Income in respect of Units [Section 194K]

Any person who is responsible for paying to resident any income in respect of –

- a. Units of a Mutual Fund specified under section (1023D); or
- b. Units from the Administrator of the specified undertaking; or

c. Units from the specified company.

Shall deduct the tax at source from such income. Tax is required to be deducted at the time of credit of such sum to the account of the payee or at the time of payment whichever is earlier. Rate of TDS presently is 10% provided the total and complete dividend in a financial year exceeds the amount of Rs. 5,000. The capital gain income is exempted from the scope of Section 194K of the income tax act.

21. TDS on Payment of Compensation on Acquisition of Certain Immovable Property [Section194LA]

Who has the need to deduct TDS u/s 194LA? Any person who pays to a resident a sum (being consideration/ compensation or enhanced consideration/ compensation) on compulsory acquisition of any immovable property (other than agriculture land) is required to deduct tax at source.

What is the rate & time of tax deduction u/s 194LA? The rate of tax u/s 194LA is 10%. Tax is required to be deducted at the time of credit of such sum to the account of the payee or at the time of payment whichever is earlier. If the PAN number of the deductee is not available, then the TDS is required to be deducted @ 20%. No surcharge, education cess or SHEC shall be added to the below mentioned rates.

No requirement of TDS in the following cases: When the amount (at once or in total for the whole financial year) does not exceed 250000. When any payment is made u/s 96 of the Right to Fair Compensation and Transparency in Land, Acquisition, Rehabilitation and Resettlement Act, 2013.

22. TDS on Income by way of Interest from Infrastructure Debt Fund [Section194LB]

Who has the need to deduct TDS u/s 194LB? Any person who makes payment of interest [which is payable by an infrastructure debt fund, as per section 10(47)] to a non-resident (not a company/ foreign company) is required to deduct tax at source.

What is the rate & time of tax deduction u/s 194LB?

The rate of tax u/s 194LB is 5%. Surcharge will be added if applicable. Education Cess & SHEC will also be applicable. The time of deduction is at the time of payment of such sum. TDS under Section 194LB will be deducted at the time of credit of such income to the account of the payee or to any other account by any other name or at the time of payment, of such income in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier.

23. TDS on Certain Income from Units of a Business Trust [Section194LBA]

Who has the need to deduct TDS u/s 194LBA? Any person who makes payment of income [as per section 115UA] which is payable by a business trust to its unitholder is required to deduct tax at source. Such unit holder can be a resident, non-resident (but not a company).

What is the rate & time of tax deduction u/s 194LBA?

The rate of tax u/s 194LBA is 10% of the such distributed income (if the payee is resident). 5% of the such distributed income, if income is in the nature of interest otherwise 10 % (if the payee is non-resident). The time of deduction is earlier of, the credit of income to the account of the payee (receiver) or actual payment (in cash, cheque, draft or another mode).

24. TDS on Income in Respect of Units of Investment Fund [Section194LBB]

Who has the need to deduct TDS u/s 194LBB? Any person who gives an income (as referred u/s 115UB) to a unitholder in respect of units held in an investment trust has to deduct tax under this section.

What is the rate & time of tax deduction u/s 194LBB?

The rate of tax u/s 194LBB is 10% (if the payee is resident). If the PAN number of the deductee is not available, then the TDS is required to be deducted @ 20%. No surcharge, education cess or SHEC shall be added to the below mentioned rates.

if the payee is non-resident (not being a company) or a foreign company then tax will be as per the rates in force during FY. Surcharge will be added if applicable. Education Cess & SHEC will also be applicable. The time of deduction is earlier of, the credit of income to the account of the payee (receiver) or actual payment (in cash, cheque, draft or another mode).

25. TDS on Income in Respect of Investment in Securitisation Trust [Section194LBC]

Who has the need to deduct TDS u/s 194LBC? Any person who gives income to an investor with respect to investment in securitization trust is required to deduct tax under this section.

What is the rate & time of tax deduction u/s 194LBC?

The rate of tax u/s 194LBC is: 25% (if the payee is resident Individual & HUF), 30% (if the payee is another person). No surcharge, education cess or SHEC shall be added to the below mentioned rates.

- At the rates in force [if the payee is non-resident (not being a company) or foreign company] Surcharge will be added if applicable. Education Cess & SHEC will also be applicable. The time of deduction is earlier of, the credit of income to the account of the payee (receiver) or actual payment (in cash, cheque, draft or another mode).

26. TDS on Income by way of Interest from Indian Company or Business trust [Section194LC]

Who has the need to deduct TDS u/s 194LC? If an Indian company or a business trust pays income by way of interest to non-resident (not being a company) or foreign company, has to deduct TDS under this section.

Interest on which TDS is to be deducted. The Interest must be in respect of money borrowed by the specified company or business trust from a source outside India by the way of issue of rupee-denominated bond.

What is the rate & time of tax deduction u/s 194LC? The rate of tax u/s 194LC is 5% (plus Health & Education Cess), surcharge to be added, if applicable. The time of deduction is earlier of, the credit of income to the account of the payee (receiver) or actual payment (in cash, cheque, draft or another mode).

27. Payment of certain sums by certain individuals or HUF [Section 194M]

An individual and/or Hindu undivided family (HUF) has to deduct tax at source under Section 194M. It applies when the total amount paid to a resident individual, for carrying out any contractual work or providing any professional service, in a financial year exceeds Rs 50,00,000 in aggregate. The individual or HUF who have to deduct TDS under Section 194C, Section 194H and 194J do not have to deduct tax at source under Section 194M. The individual or HUFs who has to deduct tax can pay the tax to the government by quoting his or her PAN only. Not required to get a tax deduction account number (TAN) for TDS deduction. TDS amount will be deducted on the earlier of the following dates, at the time of credit of the amount or at the time of payment by cash or by the issue of a cheque or draft. TDS at 5% will be deducted under 194M if the total amount paid to a resident exceeds Rs 50,00,000 in a particular financial year. In case the PAN of the deductee is not available, then TDS will be deducted at 20%. No Health & Education Cess, surcharge to be added.

28. TDS on certain cash withdrawal [Section 194N]

The person (payer) making the cash payment will have to deduct TDS under Section 194N. Here is the list of such persons: Any bank (private or public sector), a co-operative bank or a Post office. The payer should deduct TDS while making the cash payment over and above Rs 1 crore in a financial year to the payee. If the payee withdraws a sum of money at regular intervals, the payer will have to deduct TDS from the amount once the total sum withdrawn exceeds Rs 1 crore in a financial year.

Rate of TDS: The payer will have to deduct TDS at the rate of 2% on the cash payments/withdrawals of more than Rs 1 crore in a financial year under Section 194N. If the individual receiving the money has not filed an income tax return for three years immediately preceding the year, the tax deduction limit is reduced to Rs 20 lakh. The TDS will be deducted at: -2% on the cash payments/withdrawals of more than Rs 20 lakh and up to Rs 1 crore -5% for withdrawal exceeding Rs 1 crore. In case the PAN of the deductee is not available, then TDS will be deducted at 20%. No Health & Education Cess, surcharge to be added.

29. TDS on Payments Made to e-commerce Participants [Section 194O]

According to Section 194O, an e-Commerce operator is required to deduct TDS for facilitating any sale of goods or providing services through an e-Commerce participant.

Who are e-Commerce operators and participants? An e-Commerce operator is a person who owns, operates, or manages a digital/electronic facility for the sale of goods and services. He is responsible for making payments to the e-Commerce participant on such sales. An e-Commerce participant is a person who sells goods, services, or both through an electronic facility provided by an e-Commerce operator. He must be a resident of India.

E-Commerce operators should deduct TDS @1% at the time of credit of the amount of sale of goods, services, or both to the account of an e-commerce participant or at the time of making payment to an e-Commerce participant by any other mode, whichever is earlier.

If an e-Commerce participant being a resident individual or a HUF. E-commerce operator is not required to deduct TDS if the gross amount of sale of goods, services, or both during the previous year does not exceed Rs 5 lakh and if the e-Commerce participant has furnished his PAN or Aadhaar. If the e-Commerce participant does not furnish his PAN or Aadhaar, TDS must be deducted at the rate of 5%, as per provisions of Section 206AA.

30. Deduction of tax in case of specified senior citizen Section 194P

Notwithstanding anything contained in the provisions of chapter XVII-B, in case of specified senior citizen, the specified bank shall after providing the effect to the deduction under chapter VI-A and rebate allowable under section 87A, compute the total income of such specified senior citizen for the relevant assessment year and deduct income tax on such total income on the basis of rate in force. Section 194P was introduced in Budget 2021 to provide conditional relief to the senior citizen above the age of 75 years from filing the Income-tax return

Conditions for exemption under section 194P

- Senior citizens should be of age 75 years or above.
- Senior citizens should be 'Resident' in the previous year.
- He has pension income and interest income only. Interest income accrued/ earned from the same specified bank in which he is receiving his pension.
- The senior citizen will submit a declaration containing some details to the specified bank.
- The bank is a 'specified bank' as notified by the Central Government. Such banks will be responsible for the TDS deduction of senior citizens after considering the deductions under Chapter VI-A and rebate under 87A.

Once the specified bank, as mentioned above, deducts tax for senior citizens above 75 years of age, there will be no requirement to furnish income tax return by senior citizens.

Filing of a declaration by senior citizen

The specified bank as mentioned above shall deduct TDS on the basis of a declaration submitted by the senior citizen to the bank. The declaration should contain the details like, total income of the senior citizen, deductions availed under section 80C to 80U and rebate available under section 87A. Confirmation from the senior citizen of having only pension and interest income

31. TDS on purchase of goods under Section 194Q

Section 194Q of the Income Tax Act is recently introduced vide the Finance Act, 2021. Under section 194Q “It is provided for TDS by the person responsible for paying any sum to any resident for purchase of goods. The rate of TDS is kept very low at 0.1%. The tax is only required to be deducted by that person (i.e. —buyer) whose total sales, gross receipts, or turnover from the business carried on by him exceed ten crore rupees during the financial year immediately preceding the financial year in which the purchase of goods is carried out. Tax is required to be deducted by such person if the purchase of goods by him from the seller is of the value or aggregate of such value exceeding fifty lakh rupees in the previous year.” The transaction with any supplier with the addition of which your aggregate purchase/payment for a purchase from that supplier exceeds Rs.50 lacs, will be the transaction effective which TDS will have to be deducted @.1% of the Purchase transaction or payment thereof whichever is earlier.

Thus, the obligation to deduct tax under this provision arises only when the payment is made to a resident seller. As in the case of import, the seller is a non-resident, the buyer will not have any obligation to deduct tax under this provision. The buyer may take a declaration regarding the residential status of the seller. Rate of TDS under section 194Q is 0.1% and where PAN is not provided the rate of deduction shall be 5%.

The provisions of this section shall not apply to a transaction on which -

- tax is deductible under any of the provisions of this Act: and
- tax is collectible under the provisions of section 206C other than a transaction to which subsection (1H) of section 206C applies.’.

If on a transaction TCS is required under section 206C(1H) as well as TDS under this section, then on that transaction only TDS under this section shall be applicable.

32. Section 195 of the IT Act

Section 195 of the Income Tax Act, 1961 specifies the TDS provision in the case of any person responsible for paying any amount by way of interest or any other amount (other than salary) to a non-resident not being a company or a foreign company shall at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or any other mode, whichever is earlier deduct income tax thereon at the rate in force. Non-resident Indians (NRIs) also need to file their tax returns for the income earned in India. Similarly, they also can claim the tax deducted at source (TDS) when filing tax returns.

Any person who makes any payment (other than salary or interest referred to in sections 194LB, 194LC and 194LD) taxable in India to a non-resident must deduct tax under this section. There is no threshold limit to deduct TDS under Section 195. However, the payer must deduct tax only when the payment made to a non-resident is taxable in India.

When the payer believes that no amount or only a partial amount (other than salary) is taxable in the hands of the non-resident in India or that TDS is to be done at a lower rate, then he may make an application under prescribed form to the Assessing Officer (AO) for obtaining a lower or nil deduction certificate.

In the backdrop of the provisions of section 195, any person making any payment to a non-resident is required to obtain TAN and deduct tax at the applicable rates. The payer must deposit the tax deducted with the government against the PAN of the payee within the applicable due dates. Further, the payer would also need to furnish the TDS return in Form 27Q within the quarterly due dates and issue the TDS certificate in Form 16A to the non-resident.

33. Statement of deduction of tax under sub-section (3) of section 200.

31A. (1) Every person responsible for deduction of tax under Chapter XVII-B, shall, in accordance with the provisions of sub-section (3) of section 200, deliver, or cause to be delivered, the following quarterly statements to the Director General of Income-tax (Systems) or the person authorised by the Director General of Income-tax (Systems), namely: —

- (a) Statement of deduction of tax under section 192 [and section 194P] in Form No. 24Q;
- (b) Statement of deduction of tax under sections 193 to 196D [(other than section 194P)] in
 - (i) Form No. 27Q in respect of the deductee who is a non-resident not being a company or a foreign company or resident but not ordinarily resident; and
 - (ii) Form No. 26Q in respect of all other deductees.

TDS Due Dates for Return Filing

Quarter	Period	Last Date of Filing
1st Quarter	1st April to 30th June	31st July of the financial year.
2nd Quarter	1st July to 30th September	31st October of the financial year.

3rd Quarter	1st October to 31st December	31st Jan of the financial year.
4th Quarter	1st January to 31st March	31st May of the financial year immediately following the financial year in which collection of tax is made.

(3) (i) The statements referred to in sub-rule (1) may be furnished in any of the following manners, namely: —

- (a) furnishing the statement in paper form;
- [(b) furnishing the statement electronically under digital signature in accordance with the procedures, formats and standards specified under sub-rule (5);
- (c) furnishing the statement electronically along with the verification of the statement in Form 27A or verified through an electronic process in accordance with the procedures, formats and standards specified under sub-rule (5).]

Return can be prepared online by using NSDL e-Gov e-TDS/TCS Return Preparation Utility (RPU) that can be downloaded free of cost from the website of TIN. Prepared return has to be submitted to any of the TIN-FCs established by NSDL e-Gov.

[(4A) Notwithstanding anything contained in sub-rule (1) or sub-rule (2) or sub-rule (3) or sub-rule (4) of section 200, every person responsible for deduction of tax under section 194-IA shall furnish to the Director General of Income-tax (System) or the person authorised by the Director General of Income-tax (System) a challan-cum-statement in Form No. 26QB electronically in accordance with the procedures, formats and standards specified under sub-rule (5) within [thirty days] from the end of the month in which the deduction is made.]

[(4B) Notwithstanding anything contained in sub-rule (1) or sub-rule (2) or sub-rule (3) or sub-rule (4), every person responsible for deduction of tax under section 194-IB shall furnish to the Principal Director General of Income-tax (Systems) or Director General of Income-tax (System) or the person authorised by the Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems) a challan-cum-statement in Form No.26QC electronically in accordance with the procedures, formats and standards specified under sub-rule (5) within thirty days from the end of the month in which the deduction is made.]

[(4C) Notwithstanding anything contained in sub-rule (1) or sub-rule (2) or sub-rule (3) or sub-rule (4), every person responsible for deduction of tax under section 194M shall furnish to the Principal Director General of Income-tax (Systems) or Director General of Income-tax (System) or the person authorised by the Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems) a challan-cum-statement in Form No.26QD electronically in accordance with the procedures, formats and standards specified under sub-rule (5) within thirty days from the end of the month in which the deduction is made.]

34. Consequences of failure to deduct or pay tax Section 201.

Assessee to be deemed as assessee in default [Section 201(1)]

"(1) Where any person, including the principal officer of a company, —

(a) who is required to deduct any sum in accordance with the provisions of this Act; or

(b) referred to in sub-section (1A) of section 192, being an employer,

does not deduct, or does not pay, or after so deducting fails to pay, the whole or any part of the tax, as required by or under this Act, then, such person, shall, without prejudice to any other consequences which he may incur, be deemed to be an assessee in default in respect of such tax and hence liable to penalty under section 221 of the Income Tax Act 1961.

35. Interest for failure to deduct tax at source/delay in payment of TDS

As per section 201, if any person who is liable to deduct tax at source does not deduct it or after so deducting fails to pay, the whole or any part of the tax to the credit of the Government, then, such person, shall be liable to pay simple interest as given below: —

a) Interest shall be levied at 1% for every month or part of a month on the amount of such tax from the date on which such tax was deductible to the date on which such tax was deducted.

b) Interest shall be levied at 1.5% for every month or part of a month on the amount of such tax from the date on which such tax was deducted to the date on which such tax was actually remitted to the credit of the Government. In other words, interest will be levied at 1% for every month or part of a month for delay in deduction and at 1.5% for every month or part of a month for delay in remittance after deduction.

36. Certificate for the tax deducted [Section 203 and Rule 31]

Every person deducting the tax as per the provisions of TDS shall with in such time as may be prescribed from the time of payment or credit of the sum, furnish to the person to whose account such payment is made or credit is given, a certificate to the effect that tax has been deducted, the rate at which tax has been deducted and such other particulars as may be prescribed.

The certificate of deduction of tax at source by any person in accordance with Chapter XVII-B or the certificate of payment of tax by the employer on behalf of the employee under sub-section (1A) of section 192 shall be in—

(a) Form No. 16, if the deduction or payment of tax is under section 192 ¹[and section 194P]; and

(b) Form No. 16A if the deduction is under any other provision of Chapter XVII-B.

37. Time and mode of payment to Government Rule-30, Income-tax Rules

Time and mode of payment to Government account of tax deducted at source or tax paid under sub-section (1A) of section 192.

(1) All sums deducted in accordance with the provisions of Chapter XVII-B by an office of the Government shall be paid to the credit of the Central Government—

- (a) on the same day where the tax is paid without production of an income-tax challan; and
- (b) on or before seven days from the end of the month in which the deduction is made or income-tax is due under sub-section (1A) of section 192, where tax is paid accompanied by an income-tax challan.

(2) All sums deducted in accordance with the provisions of Chapter XVII-B by deductors other than an office of the Government shall be paid to the credit of the Central Government—

- (a) on or before 30th day of April where the income or amount is credited or paid in the month of March; and
- (b) in any other case, on or before seven days from the end of the month in which—
 - (i) the deduction is made; or
 - (ii) income-tax is due under sub-section (1A) of section 192.

38. Tax collected at source (TCS) [Section 206C]

Tax collected at source (TCS) is the tax collected by the seller from the buyer on sale so that it can be deposited with the tax authorities. Section 206C of the Income-tax act governs the goods on which the seller has to collect tax from the buyers.

- i. **TCS on sale of certain specified goods [Section 206C (1).** Every person, being a seller shall, at the time of debiting the amount payable by the buyer to the account of the buyer or at the time of receipt of such amount from the said buyer, whichever is earlier, collect from the buyer as income tax, the sum specified in the undermentioned table on the goods mentioned therein.

Table

Sl. No	Nature of goods	Percentage
I	Alcoholic Liquor for consumption by humans	1%
ii	Tendu leaves	5%
iii	Timber obtained under a forest lease	2.5%
iv	Forest produce other than Tendu leaves and timber	2.5%
v	Timber obtained by any mode other than under a forest lease	2.5%
vi	Scrap	1%
vii	Minerals like lignite, coal or iron ore	1%

No surcharge or health and education cess shall be added to the above rates.

TCS on Sale of any Motor Vehicle of the value exceeding Rs.10 Lakh [Section 206C(1F)]

Every person, being a seller, who receives any amount as consideration for sale of a motor vehicle of the value exceeding Rs.10,00,000, shall, at the time of receipt of such amount, collect from the buyer, a sum equal to 1% of the sale consideration as income-tax. The term and seller has been specified in the provision of this section.

TCS in case of Parking Lot, Toll Plaza, or Mining or Quarrying [Section 206C(1C)]

Every person, who grants a Lease or a Licence or enters into a contract or otherwise transfers any right or interest in any parking lot or toll plaza or mine or quarry, to another person (hereafter in this section referred to as “licensee or lessee”) for the use of such Parking Lot or Toll Plaza or Mine or Quarry for the purpose of business, shall , at the time of debiting of the amount payable by the licensee or lessee to the account of the licensee or lessee or at the time of receipt of such amount from the licensee or lessee in case or by the issue of a cheque or draft or by any other mode, whichever is earlier, collect from the licensee or lessee of any such licence, contract or lease of the nature specified in column (2) of the Table below, a sum equal to the percentage, specified in the corresponding entry in column (3) of the said Table, of such amount as income-tax:

Sl. No	Nature of Contract or Licence or Lease, etc.	Percentage
i	Parking Lot	2%
ii	Toll Plaza	2%
iii	Mining and Quarrying	2%

TCS on foreign remittance and on overseas tour programme [Section 206C(1G)]

Every person, —

- (a) being an authorised dealer, who receives an amount, for remittance out of India from a buyer, being a person remitting such amount out of India under the Liberalised Remittance Scheme of the Reserve Bank of India;
- (b) being a seller of an overseas tour program package, who receives any amount from a buyer, being the person who purchases such package,

shall, at the time of debiting the amount payable by the buyer or at the time of receipt of such amount from the said buyer, by any mode, whichever is earlier, collect from the buyer, a sum equal to five per cent of such amount as income-tax:

Provided that the authorised dealer shall not collect the sum, if the amount or aggregate of the amounts being remitted by a buyer is less than Rs 7 lakh rupees in a financial year and is for a purpose other than purchase of overseas tour program package:

Provided Further that the sum to be collected by an authorised dealer from the buyer shall be equal to 5 per cent of the amount or aggregate of the amounts in excess of Rs 7 lakh rupees remitted by the buyer in a financial year.

Provided also that the authorised dealer shall collect a sum equal to one half per cent of the amount or aggregate of the amounts in excess of 7 lakh rupees remitted by the buyer in a financial year, if the amount being remitted out is a loan obtained from any financial institution as defined in section 80E, for the purpose of pursuing any education:

Provided also that the authorised dealer shall not collect the sum on an amount in respect of which the sum has been collected by the seller:

Provided also that the provisions of this sub-section shall not apply, if the buyer is, —

(i) liable to deduct tax at source under any other provision of this Act and has deducted such amount;

(ii) the Central Government, a State Government, an embassy, a High Commission, a legation, a commission, a consulate, the trade representation of a foreign State, a local authority as defined in the Explanation to clause (20) of section 10 or any other person as the Central Government may, by notification in the Official Gazette, specify for this purpose, subject to such conditions as may be specified therein.

Explanation. —For the purposes of this sub-section,

(i) "authorised dealer" means a person authorised by the Reserve Bank of India under sub-section (1) of section 10 of the Foreign Exchange Management Act, 1999 (42 of 1999) to deal in foreign exchange or foreign security;

(ii)

(ii) "overseas tour programme package" means any tour package which offers visit to a country or countries or territory or territories outside India and includes expenses for travel or hotel stay or boarding or lodging or any other expenditure of similar nature or in relation thereto.

TCS provision under section 206C (1H) of the Income Tax Act

As per this provision, a seller whose turnover is above Rs 10 crore is required to collect tax, when he receives more than Rs 50 lakh from one buyer during a financial year. It is to be noted that the TCS should be collected at the time of receipt of the amount. This provision applies only to a seller whose gross turnover exceeds Rs.10 crores during the financial year preceding the FY in which such sale is carried out. Goods do not include exports and goods covered under section 206C (1)- TCS on sale of alcohol, tendu leaves, forest produce and scrap; 206C(1F)- TCS on sale of motor vehicles and 206C(1G)- TCS on foreign remittance. If the buyer is required to deduct TDS under any other provisions of the Income Tax Act on the goods purchased by him from the seller and has deducted such amount, then the seller is not required to collect TCS on such transactions. This provision does not apply to the import of goods to India.

The seller of goods is responsible for collecting TCS from the buyer and paying it to the government. The person responsible for collecting tax shall deposit the TCS amount within 7 days from the last day of the month in which the tax was collected. The TCS is to be paid by

the 7th of the following month. The rate of TCS is .1% of the sale consideration exceeding Rs. 5000000/-. If buyer fails to provide PAN or Aadhar number, the rate of TCS under this section will be 1%.

39. Statement of collection of tax under proviso to sub-section (3) of section 206C.

31AA. (1) Every collector, shall, in accordance with the provisions of the proviso to sub-section (3) of section 206C, deliver, or cause to be delivered, to the Director General of Income-tax (Systems) or the person authorised by the Director General of Income-tax (Systems), a quarterly statement in Form No. 27EQ.

Last Dates for TCS Return Filing [Rule 31AA (2)]

Quarter	Period	Last Date of Filing
1st Quarter	1st April to 30th June	15th July of the financial year.
2nd Quarter	1st July to 30th September	15th October of the financial year.
3rd Quarter	1st October to 31st December	15th Jan of the financial year.
4th Quarter	1st January to 31st March	15th May of the financial year immediately following the financial year in which collection of tax is made.

Return can be prepared online by using NSDL e-Gov e-TDS/TCS Return Preparation Utility (RPU) that can be downloaded free of cost from the website of TIN. Prepared return has to be submitted to any of the TIN-FCs established by NSDL e-Gov.

Interest for failure to collect tax at source/delay in payment of TCS as per section 206C (7), if the person responsible for collecting tax does not collect the tax or after collecting the tax fails to pay it to the credit of Government within the due date prescribed in this regard, then he shall be

liable to pay simple interest at the rate of 1% per month or part thereof on the amount of such tax. Interest shall be levied for a period from the date on which such tax was collectible to the date on which the tax was actually paid.

Review Questions.

1. Explain the Procedure and schema of TDS?
2. Briefly discuss the main provision of Section 192 of the Income Tax Act?
3. What are points to be taken in to account while deducting TDS in case of resident contractor?
4. Discuss the TDS provisions for payment to professionals and fees for technical services?
5. Elaborate the law in relation to TDS on certain cash withdrawal [Section 194N]?
6. Mr X a non-resident sold his property to Mr. Y a resident. Mr Y wants to deduct TDS under section 195 and approached you for the guidance. What steps you will advise for discharging the TDS liability under section 195?
7. What are the consequences for a person who fails to deduct or pay tax under Section 201?
8. What are the TCS provision under section 206C (1H) of the Income Tax Act?
9. Discuss the due dates for filing the TDS/ TCS return?