

**UNIT: 1 –: INTRODUCTION TO INCOME TAX AND IMORTANT DEFINITIONS**

<b>Unit Code:</b>	<b>UNIT TITLE: INTRODUCTION TO INCOME TAX AND IMORTANT DEFINITIONS</b>			
	Duration:			
<b>Location:</b>	<b>SESSION 1: RESIDENTIAL STATUS AND INCIDENCE OF TAX</b>			
Classroom	<b>Learning Outcome</b>	<b>Knowledge Evaluation</b>	<b>Performance Evaluation</b>	<b>Teaching and Training Method</b>
	1. Introduction to income tax	1. Become aware of the Income Tax Law of India  2. Become familiar with the concept of tax and history of taxation in India	1. List out the various components of the Income Tax Law in the country  2. Understand the history of taxation system in the country	<b>Interactive Lecture:</b> Discussion on the Income Tax Law of India and history of taxation system in the country
	1. Basis of charge of income tax (sec.4)	1. List out various concepts under section 4	1. Understand the basic principles of charge of income tax  2. Understand the various concepts under section 4, viz., assessment and previous year, person, assessee, income, etc.	<b>Interactive Lecture:</b> Discussion on basis of charge of income tax and Various concepts under section 4

*(Note: The location would be the classroom for the theoretical interactions. Students can visit website like [incometaxindia.gov.in](http://incometaxindia.gov.in))*

## UNIT-1

### ***Learning Objectives:***

After studying this unit, the students will be able to:

1. list out the various components of the Income Tax Law in the country and determine the scope of total income of various persons
2. understand the history of taxation system in the country
3. understand the various terms that are used in Income Tax Law

### **SESSION 1: INTRODUCTION TO INCOME TAX AND IMPORTANT DEFINITIONS**

## **INTRODUCTION**

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 (*subject to Section 10(1)*). The Income Tax Law comprises The Income Tax Act 1961, Income Tax Rules 1962, Notifications and Circulars issued by Central Board of Direct Taxes (CBDT), Annual Finance Acts and Judicial pronouncements by Supreme Court and High Courts.

The word 'Tax' originated from the 'Taxation,' which mean 'Estimate.' Hence, 'Income Tax' mean 'Income Estimate,' which helps the government to know the actual economic strength of a person. It helps the Government to know the distribution of money among country's people.

Income Tax has been in force in different forms since years. If we go through the history of India, we get relevant information regarding the taxation system of India. In ancient history, it is mentioned about such system which was imposed on the income, expenditure and other subject. Even information of the same is given in Manu Smriti and Arthasatra which confirms its existence at that time.

In India, income tax was introduced for the first time in 1860 by Sir James Wilson in order to meet the losses sustained by the Government on account of the Military Mutiny of 1857. Thereafter several amendments were made in it from time to time. After

implementation of this Act, people became aware of the actual meaning of Income Tax. This act was in force for first five years. After this, in 1865, second Act came into force. There were major changes in this Act relative to the first. It proved itself as a good factor for the growth of our economy. With this Act a new concept of Agriculture Income came into existence. The direct tax which is paid by individual to the Central Government of India is known as Income Tax. It is imposed on our income and plays a vital role in the economic growth & stability of our country.

### **BASIS OF CHARGE OF INCOME TAX (SEC.4)**

Here are some basic principles of charge of income tax:

1. Tax is charged on every person as defined in section 2(31)
2. Income tax is an annual tax on income
3. The income of the previous year is taxed and not of the year of assessment
4. Income-tax is to be charged at the rate or rates fixed for the year by the annual Finance Act
5. The levy is on the total income of the assessable entity computed in accordance with and subject to the provisions of the Act
6. Income tax is to be deducted at the sources or paid in advance as provided under the provision of the Act

### **IMPORTANT DEFINITIONS**

#### **(i) Assessment Year: Sec.2 (9)**

Financial year starts from 1st April and ends on 31st March (wherein there is income pertaining to the whole year or part of the year). Assessment year is the year immediately following the financial year wherein the income of the F.Y. is assessed. For example, during the assessment year 2015-16, tax shall be paid for the previous year 2014-15.

#### **(ii) Previous Year or Financial Year: Sec.3**

“Previous Year” means the financial year immediately preceding the assessment year. In other words, the year in which income is earned is known as previous year and the next year in which this income is taxable is known as assessment year. For example, for the income accrued in FY 2014-2015, assessment year is 2015-2016. So, financial year is the previous year while assessment year is the current year. In the AY, your total tax liability for the income earned in the previous or financial year is evaluated and computed.

Consequently, tax for the income earned in the previous year is paid in the current year or assessment year.

**(iii) Person: Sec. 2(31)**

Income-tax is to be paid by every person. The term 'person' as defined under the Income-tax Act covers in its ambit natural as well as artificial persons.

For the purpose of charging Income-tax, the term 'person' includes Individual, Hindu Undivided Families [HUFs], Association of Persons [AOPs], Body of individuals [BOIs], Firms, LLPs, Companies, Local authority and any artificial juridical person not covered under any of the above. Thus, from the definition of the term 'person' it can be observed that, apart from a natural person, i.e., an individual, any sort of artificial entity will also be liable to pay Income-tax.

**(iv) Assessee: Sec. 2(7)**

Normally the term 'Assessee' is considered as one who is supposed to pay tax under Income Tax. However, it is advisable to understand complete meaning of the term as envisaged under the Income Tax Act. To better understand the term assessee, we need to understand the following as well:

**a. Normal Assessee**

- any person against whom proceedings under Income Tax Act are going on, irrespective of the fact whether any tax or other amount is payable by him or not;
- any person who has sustained loss and filed return of loss u/s 139(3);
- any person by whom some amount of interest, tax or penalty is payable under this Act;
- any person who is entitled to refund of tax under this Act.

**b. Representative Assessee**

A person may not be liable only for his own income or loss but he may also be liable for the income or loss of other persons e.g. agent of a non-resident, guardian of minor or

lunatic etc. In such cases, the person responsible for the assessment of income of such person is called representative assessee. Such person is deemed to be an assessee.

**c. Deemed Assessee**

- In case of a deceased person who dies after writing his will the executors of the property of deceased are deemed as assessee.
- In case a person dies intestate (without writing his will) his eldest son or other legal heirs are deemed as assessee.
- In case of a minor, lunatic or idiot having income taxable under Income-tax Act, their guardian is deemed as assessee.
- In case of a non-resident having income in India, any person acting on his behalf is deemed as assessee.

**d. Assessee-in-default**

A person is deemed to be an assessee-in-default if he fails to fulfill his statutory obligations. In case of an employer paying salary or a person who is paying interest, it is their duty to deduct tax at source and deposit the amount of tax so collected in Government treasury. If he fails to deduct tax at source or deducts tax but does not deposit it in the treasury, he is known as assessee-in-default.

**(v) Income: Sec. 2(24)**

This is very important term as income tax is charged on the income of a person. This term has not been defined in the Income Tax Act. It includes the following:

(i) profits and gains;

(ii) dividend;

(iii) voluntary contributions received by a trust created wholly or partly for charitable or religious purposes or by an institution established wholly or partly for such purposes.

(iv) the value of any perquisite or profit in lieu of salary.

(v) any special allowance or benefit, other than perquisite specifically granted to the assessee to meet expenses wholly, necessarily and exclusively for the performance of the duties of an office or employment of profit;

(vi) any allowance granted to the assessee either to meet his personal expenses at the place where the duties of his office or employment of profit are ordinarily performed by him or at a place where he ordinarily resides or to compensate him for the increased cost of living;

(vii) the value of any benefit or perquisite, whether convertible into money or not, obtained from a company either by a director or by a person who has a substantial interest in the company, or by a relative of the director or such person, and any sum paid by any such company in respect of any obligation which, but for such payment, would have been payable by the director or other person aforesaid;

(viii) any sum chargeable to income-tax under clauses (ii) and (iii) of section 28 or section 41 or section 59;

(ix) any capital gains chargeable under section 45;

(x) the profits and gains of any business of insurance carried on by a mutual insurance company or by a co-operative society, computed in accordance with section 44 or any surplus taken to be such profits and gains by virtue of provisions contained in the First Schedule;

(xi) any winnings from lotteries, crossword puzzles, races including horse races, card games and other games of any sort or from gambling or betting of any form or nature whatsoever.

(xii) any sum received by the assessee from his employees as contributions to any provident fund or superannuation fund or any fund set up under the provisions of the Employees' State Insurance Act.

(xiii) any sum received under a Keyman insurance policy including the sum allocated by way of bonus on such policy.

(xiv) any consideration received for issue of shares as exceeds the fair market value of the shares.

(xv) any assistance in the form of a subsidy or grant or cash incentive or duty drawback or waiver or concession or reimbursement (by whatever name called) by the Central Government or a State Government or any authority or body or agency in cash or kind to the assessee other than the subsidy or grant or reimbursement which is taken into account for determination of the actual cost of the asset in accordance with the provisions of Explanation 10 to clause (1) of section 43.

**(vi) Gross Total Income:**

A person may earn income from many sources. The income received from different sources is grouped under five heads of income. Aggregate of incomes computed under the five heads( salary , house property, business or profession, capital gain, other sources) of income after applying clubbing provisions and making adjustments of set off and carry forward of losses is known as gross total income.

**(vii) Total income: Sec. 2(45)**

The amount left after making deductions under section 80C to 80U from the gross total income is known as total income. Total income is rounded off to nearest multiples of ten rupees. Income tax is computed on this income.

**(viii) Casual Income:**

If an assessee, by chance or without any pre-expectation or accidentally gets any income which is of non recurring nature is regarded as casual income. The casual income includes winning from lotteries, crossword puzzles, races, card games, gambling, betting, prize awarded for coin collection or stamp collection or gardening, receipt of reward to a

person for tracing out any lost child, receipt of remuneration for acting as an arbitrator in any dispute etc.

**The tax treatment of casual incomes is:**

- It is taxable under the head 'income from other sources'.
- Maximum amount of casual income up to Rs. 5000 and Rs 2500 in case of horse race is exempted from income tax.
- Expense incurred to earn such income is not allowed as deduction.
- The benefit of basic exemption limit i.e. RS. 250000 is not allowed. In other words, if you earn Rs. 50,000 from casual income which is the total income in a F.Y then also tax will be deducted irrespective of basic exemption limit.
- Tax on casual income is deducted at flat rate of 30% for all assesses u/s 115BB.
- Losses cannot be set-off against casual income. Even casual losses cannot be set-off against casual income.
- No deduction is allowed under chapter VI-A against casual income.

**(ix) Agricultural Income: Sec. 2(1A)**

Agriculture income is exempt under the Indian Income Tax Act. This means that income earned from agricultural operations is not taxed. However while computing tax on non-agricultural income, agricultural income is also taken into consideration. Agriculture income is computed same as business income. Losses from agricultural operations could be carried forward and set off with agricultural income of next eight assessment years.

**What does the term Agricultural Income mean?**

As per Income Tax Act, income earned from any of the under given three sources meant Agricultural Income;

- (i) Any rent received from land which is used for agricultural purpose.



(ii) Any income derived from such land by agricultural operations including processing of agricultural produce, raised or received as rent in kind so as to render it fit for the market, or sale of such produce.

(iii) Income attributable to a farm house subject to the condition that building is situated on or in the immediate vicinity of the land and is used as a dwelling house, store house etc.

Now income earned from carrying nursery operations is also considered as agricultural income and hence exempt from income tax.

**In order to consider an income as agricultural income certain points have to be kept in mind:**

(i) There must be a land and it must be situated in India.

(ii) The land is being used for agricultural operations.

(iii) Agricultural operation means that efforts have been induced for the crop to sprout out of the land.

(iv) If any rent is being received from the land then in order to assess that rental income as agricultural income there must be agricultural activities on the land.

(v) In order to assess income of farm house as agricultural income the farm house building must be situated on the land itself only and is used as a store house/dwelling house.

Certain income which is treated as Agriculture Income;

(a) Income from sale of replanted trees.

(b) Rent received for agricultural land.

(c) Income from growing flowers and creepers.

- (d) Share of profit of a partner from a firm engaged in agricultural operations.
- (e) Interest on capital received by a partner from a firm engaged in agricultural operations.
- (f) Income derived from sale of seeds.

**Certain income which is not treated as Agricultural Income;**

- (a) Income from poultry farming.
- (b) Income from bee hiving.
- (c) Income from sale of spontaneously grown trees.
- (d) Income from dairy farming.
- (e) Purchase of standing crop.
- (f) Dividend paid by a company out of its agriculture income.
- (g) Income of salt produced by flooding the land with sea water.
- (h) Royalty income from mines.
- (i) Income from butter and cheese making.
- (j) Receipts from TV serial shooting in farm house is not agriculture income.

### ***Knowledge Assessment - I***

1. The term 'income' includes the following types of incomes:
  - a. Legal
  - b. Illegal
  - c. Legal and illegal both
  - d. None of the above
  
2. Which of the following income is not included in the term 'income' under the Income Tax Act, 1961:-
  - a. Profits and gains
  - b. Profit in lieu of salary
  - c. Dividend
  - d. Reimbursement of travelling expenses.
  
3. Income tax in India is charged at the rate prescribed by :
  - a. The Finance Act
  - b. The Income Tax Act
  - c. The Central Board of Direct Taxes
  - d. the Ministry of Finance
  
4. Which of the following is included in the agricultural income?
  - a. Income from bee hiving
  - b. Income from dairy farming.
  - c. Royalty income from mines
  - d. Income earned from carrying nursery operations

### **Answers**

1.c, 2.d, 3.a, 4.d, 5.d

### **KEY WORDS**

1. **Assessment Year:** Assessment year is the year immediately following the financial year wherein the income of the F.Y. is assessed.
2. **Previous Year or Financial Year:** "Previous Year" means the financial year immediately preceding the assessment year.
3. **Person:** For the purpose of charging Income-tax, the term 'person' includes Individual, Hindu Undivided Families [HUFs], Association of Persons [AOPs], Body of individuals [BOIs], Firms, LLPs, Companies, Local authority and any artificial juridical person not covered under any of the above.

4. **Assessee:** Normally the term 'Assessee' is considered as one who is supposed to pay tax under Income Tax. It can be a normal assessee, a representative assessee, a deemed assessee or an assessee-in-default.
5. **Agricultural Income:** As per Income Tax Act, income earned from any of the under given three sources meant Agricultural Income;
  - (i) Any rent received from land which is used for agricultural purpose.
  - (ii) Any income derived from such land by agricultural operations including processing of agricultural produce, raised or received as rent in kind so as to render it fit for the market, or sale of such produce.
  - (iii) Income attributable to a farm house subject to the condition that building is situated on or in the immediate vicinity of the land and is used as a dwelling house, store house etc.

### **SUMMARY**

- Financial year starts from 1st April and ends on 31st March (wherein there is income pertaining to the whole year or part of the year). Assessment year is the year immediately following the financial year wherein the income of the F.Y. is assessed.
- Previous Year” means the financial year immediately preceding the assessment year. In other words, the year in which income is earned is known as previous year and the next year in which this income is taxable is known as assessment year.
- For the purpose of charging Income-tax, the term 'person' includes Individual, Hindu Undivided Families [HUFs], Association of Persons [AOPs], Body of individuals [BOIs], Firms, LLPs, Companies, Local authority and any artificial juridical person not covered under any of the above.
- The term 'income' has not been defined in the Income Tax Act. It includes the following:
  - (i) profits and gains;
  - (ii) dividend;

(iii) Voluntary contributions received by a trust created wholly or partly for charitable or religious purposes or by an institution established wholly or partly for such purposes, etc.

## **EXERCISE QUESTIONS**

### **Short Answer Questions**

1. Distinguish between assessment year and previous year.
2. Who is a person under Income Tax Act?
3. Who is a deemed assessee?

### **Long Answer Questions**

1. Describe the different types of assessees.
2. Define the concept of agricultural income according to Income Tax Act, 1961.
3. Describe the basic principles of charge of income tax under section 4.

**UNIT:2 – RESIDENTIAL STATUS, INCIDENCE OF TAX LIABILITY AND EXEMPTED INCOMES**

<b>Unit Code:</b>	<b>UNIT TITLE: RESIDENTIAL STATUS, INCIDENCE OF TAX LIABILITY AND EXEMPTED INCOMES</b>			
	Duration:			
<b>Location:</b>	<b>SESSION 1: RESIDENTIAL STATUS AND INCIDENCE OF TAX</b>			
Classroom	<b>Learning Outcome</b>	<b>Knowledge Evaluation</b>	<b>Performance Evaluation</b>	<b>Teaching and Training Method</b>
	1. Residential status and tax liability	1. Explain the concept of residential status of a person 2. List out the conditions to be satisfied by various persons to be ROR, RNOR, and NR	1. Understand the concept and importance of the residential status a person in calculating taxable income 2. Determine the residential status of various persons by applying the specified conditions	<b>Interactive Lecture:</b> Discussion on the concept of residential status and determination of residential status of various persons
	1. Scope of total income 2. Income received, income deemed to be received, income deemed to accrue or arise in India	1. Explain the meaning and scope of total income of various persons on the basis of residential status 2. Explain the concept of income received, income deemed to be received, income deemed to accrue or arise in India	1. Understand the various items of total income of various persons on the basis of residential status 2. Apply the concept of income received, income deemed to be received, income deemed to accrue or arise in India while determining the taxable income of various persons	<b>Interactive Lecture:</b> Discussion on the scope of total income and items to be included in the total income of different persons

<b>SESSION 2: EXEMPTED INCOMES</b>				
	1. Items of exempted incomes	1. Explain the meaning of exempted incomes and deductions 2. List out the various exempted incomes	1. Describe the provisions related to various exempted incomes 2. Find out the taxable income of persons after determining the residential status, scope of total income and various exemptions available	<b>Interactive Lecture:</b> 1. Discussion on the various exemptions

*(Note: The location would depend upon the topic under discussion, wherein it will be the classroom for the theoretical interactions, the student will be required to interact with various assesses and ask them about their residential status in various years, scope of their taxable income and various exemptions available to them. Students can visit website like [incometaxindia.gov.in](http://incometaxindia.gov.in))*

## UNIT:

### *Learning Objectives:*

After reading this unit, the students will be able to:

1. find out the residential status of various persons
2. determine the scope of total income of various persons
3. understand the concept of income received, income deemed to be received and income deemed to accrue or arise in India
4. understand various exemptions available to tax payers
5. determine taxable income of various persons after determining residential status and exemptions available

### **SESSION 1: RESIDENTIAL STATUS AND INCIDENCE OF TAX**

The basis of charging income tax is the taxable income of every person. To determine taxable income, it is essential to find out residential status of the person and scope of total income. There are two types of taxpayers from residential point of view – Resident in India and Non-resident in India. Indian income is taxable in India whether the person earning income is resident or non resident. Conversely, foreign income of a person is taxable in India only if such person is resident in India. Foreign income of a non-resident is not taxable in India. Therefore, the tax liability of a person is dependent upon the residential status of a person.

#### **RESIDENTIAL STATUS AND TAX LIABILITY (SECTION 6)**

According to the residential status, the assessee can either be;

- Resident in India, or
- Non-resident in India

However, a resident individual and a resident HUF can further be classified as:

- Resident and Ordinarily resident in India (ROR) or
- Resident but not Ordinarily resident in India (RNOR).

It must be noted that only an individual or a HUF can be resident, not ordinarily resident or non resident in India. All other assesses can be either resident or non-resident in India but cannot be not ordinarily resident in the matter of their residential status for all purposes of



income tax. Section 6 of the Income-tax Act prescribes the conditions to be fulfilled by various taxpayers to determine their residential status.

## **RESIDENTIAL STATUS OF INDIVIDUALS**

An individual first needs to satisfy basic condition in order to become resident in India. If a resident individual satisfies additional conditions, he becomes resident and ordinarily resident (ROR), otherwise he is resident but not ordinarily resident (RNOR).

### **BASIC CONDITIONS FOR AN INDIVIDUAL TO BE RESIDENT**

Under Section 6(1) of the Income-tax Act, an individual is said to be resident in India in any previous year if he:

1. he has been in India for at least 182 days during the previous year; or,
2. he has been in India for at least sixty days (60 days) during the previous year and for at least three hundred and sixty-five days (365 days) during the four years immediately preceding the previous year.

### **Exceptions to above conditions**

In the following two cases, second condition is not applicable, i.e., if condition (1) is satisfied then an individual is resident otherwise he will be non-resident:

- i. the individual is a citizen of India, who leaves India in any previous year as a member of the crew of an Indian ship, or for the purpose of employment outside India, or
- ii. the individual is a citizen of India or person of Indian origin engaged outside India (whether for rendering service outside or not) and who comes on a visit to India in the any previous year.

Therefore, in the above two exceptional cases, only the basic condition 1 needs to be checked. If it is satisfied, then the individual is treated as a resident, otherwise he will be treated as non resident.

#### ***NOTE:***

A person is deemed to be of Indian origin if he, or either of his parents or any of his grandparents, was born in Undivided India. It may be noted that grandparents include both maternal and paternal grand parents

## **NON-RESIDENT**

If an individual does not satisfy any of the above two basic conditions then, he will be treated as non-resident.

It must be noted that the fulfilment of any one of the above conditions 1 or 2 will make an individual resident in India since both these conditions are alternative and not cumulative in their application

## **ADDITIONAL CONDITIONS FOR AN INDIVIDUAL TO BE RESIDENT AND ORDINARY RESIDENT (ROR)**

An individual may become a resident and ordinarily resident in India if he satisfies both the following conditions given u/s 6(1) besides satisfying any one of the above mentioned conditions:

1. he is a resident in atleast any two out of the ten previous years immediately preceding the relevant previous year, and
2. he has been in India for 730 days or more during the seven previous years immediately preceding the relevant previous year.

## **RESIDENT AND NOT ORDINARY RESIDENT (RNOR)**

If a resident individual is not able to satisfy both the additional conditions, then he will be resident but not ordinary resident (RNOR).

## **STEPS TO SOLVE RESIDENTIAL STATUS OF AN INDIVIDUAL**

1. Determine whether the person falls under exception to basic condition;
2. If yes, apply only first basic condition, if satisfied, then he will be resident otherwise non-resident. If the person does not fall under exception to basic condition, then apply both basic conditions. Individual becomes resident on satisfaction of any one condition.
3. Resident Individual will be called ROR if satisfies both the additional conditions, otherwise he will be called RNOR.

## **Important Points to be considered while determining Residential Status**

The residential status of the assessee should be determined for each year separately. This is because a person resident in one year may become non-resident or not ordinarily resident in another year and vice versa.

1. The residential status of an individual for tax purposes does not depend upon his citizenship, nationality and place of birth or domicile. This is because for tax purposes, an individual may be resident in more than one country in respect of the same year.
2. The period of stay required in each of the conditions need not necessarily be continuous nor is the purpose of stay is insignificant in determining the residential status.
3. It is not required that the stay should be at the usual place of residence, business or employment of the individual. The stay may be anywhere in India and for any length of time at each place.
4. India means territory of India, its territorial waters, continental shelf, Exclusive Economic Zone (upto 200 nautical miles) and airspace above its territory and territorial waters.
5. Where the exact arrival and departure time is not available then the day he comes to India and the day he leaves India is counted as stay in India.

### **Illustration 1**

Mr. Kishore is a foreign citizen. Determine his residential status for the assessment year 2017-18 on the assumption that during financial years 2002-03 to 2016-17, he was present in India as follows:

<b>Previous Year</b>	<b>Days</b>	<b>Previous Year</b>	<b>Days</b>
2016-2017	187	2008- 2009	295
2015-2016	85	2007- 2008	150
2014- 2015	270	2006- 2007	205
2013- 2014	76	2005- 2006	175
2012- 2013	201	2004- 2005	25
2011- 2012	89	2003- 2004	35
2010- 2011	145	2002- 2003	300
2009- 2010	35		

### **Solution**

- a. Stay of Mr. Kishore during the previous year 2016-17 is 187 days, therefore he is a resident in the assessment year 2017-18.
- b. Mr. Kishore is resident in India in two out of ten previous years immediately preceding the relevant previous year (viz. resident in 2015-16 on satisfaction of 2nd Basic Condition and resident in 2014-15 on satisfaction of 1<sup>st</sup> Basic Condition).
- c. Stay of Mr. Kishore in India is also more than 730 days in 7 previous years preceding the relevant previous year.

Hence, Mr. Kishore shall be a resident and ordinary resident for the assessment year 2017-18

### **Illustration 2**

Mr. Raj is a foreign citizen. His father was born in Delhi in 1953 and mother was born in USA in 1960. His grandfather was born in Mumbai in 1929. Mr. Raj. He visited India on 1st November, 2016 for 200 days to visit historical places. He had never come to India before. Determine his residential status for AY 2017-18.

### **Solution**

Mr. Raj falls in exception to basic conditions as he is a Person of Indian Origin (as his grandfather was born in undivided India) and he visited to India during relevant previous year. Therefore, only first basic condition of 182 days during relevant previous year needs to be checked.

Stay in India during relevant PY 2016-17 = 1st Nov, 2016 to 31st March, 2017 =  $30+31+31+28+31 = 151$  days. Thus, Mr. Raj is a Non-resident in India for AY 2017-18 as he does not satisfy first basic condition.

### **RESIDENTIAL STATUS OF HINDU UNDIVIDED FAMILIES**

An HUF can be a resident or non resident. Similar to an individual, it can further be classified as a resident and ordinarily resident (ROR) or resident but not ordinarily resident (RNOR).

### **BASIC CONDITION TO BE RESIDENT/NON RESIDENT**

A HUF is said to be resident in India within the meaning of Section 6(2) in any previous year, if during that year the control and management of its affairs is situated wholly or partly in India. If the control and management of its affairs is situated wholly outside India during the relevant previous year, it is considered non resident.

## **Meaning of place of control and management**

The control and management is situated at that place where policy decisions are taken not the places where from the business is carried on. Policy decisions should be related with finance, marketing, production, advertising, personnel etc. It does not mean day to day operations of the concern/assessee. Control and Management of HUF lies with Karta or its Manager.

## **ADDITIONAL CONDITION FOR AN HUF TO BE RESIDENT AND ORDINARY RESIDENT (ROR)**

If the manager or Karta of A Resident HUF satisfies both the following additional conditions (as applicable in case of Individual) then Resident HUF will be ROR, otherwise it will be RNOR, i.e., if the

1. karta of Resident HUF is resident in atleast 2 previous years out of 10 previous year immediately preceding relevant previous year, and
  2. stay of Karta during 7 previous year immediately preceding relevant previous year is 730 days or more,
- then the HUF is an ROR, otherwise an RNOR.

### ***NOTE:***

*It is immaterial whether Karta is Resident or Non-Resident during relevant previous year, for the purpose of determining whether HUF is ROR or RNOR. If Karta satisfies both the additional conditions, then HUF will be ROR, otherwise RNOR.*

## **RESIDENTIAL STATUS OF FIRMS/AOP/ OTHER ARTIFICIAL JUDICIAL PERSONS**

Firms, association of persons, local authorities and other artificial juridical persons can be either resident (ordinarily resident) or non-resident in India but they cannot be not ordinarily resident in India. These are said to be resident in India within the meaning of Section 6(2) in any previous year, if during that year the control and management of its affairs is situated wholly or partly in India. If the control and management of its affairs is situated wholly outside India during the relevant previous year, it is considered non resident.

### **Illustration 3**

ABC HUF's whole affairs of business are completely controlled from India. Determine its Residential status for AY 2014-15 (a) if Karta is ROR in India for that year (b) If Karta is NR in India but he satisfies both the additional conditions (c) If Karta is RNOR in India.

#### **Solution**

HUF would be Resident in India as Control and Management is wholly situated in India.

#### **Determination of whether HUF is ROR or RNOR:**

- a. Since Karta is ROR he would be satisfying both the additional conditions. Therefore, HUF is ROR.
- b. HUF is ROR in India as Karta is satisfying both the additional conditions. Karta's residential status during relevant previous year (i.e. resident/non-resident) is irrelevant.
- c. Since Karta does not satisfy both the additional conditions, HUF is RNOR.

### **Illustration 4**

Mehta and Sons is a partnership firm whose operations are carried out in India. However, all meetings of partners take place in England as all the partners are settled there. Determine residential status of firm for AY 2017-18.

#### **Solution**

Mehta and Sons is Non-Resident in India during relevant previous year as control and management (place where policy decisions are taken, here it is the place where meetings are held) is wholly situated outside India.

## **RESIDENCE FOR COMPANIES**

All Indian companies within the meaning of Section 2(26) of the Act are always resident in India regardless of the place of control and management of its affairs.

According to Section 6(3) a non-Indian company (foreign company) would be resident in India only if the whole of the control and management of its affairs throughout the relevant previous year are exercised from India. In other words, even if a negligible part of the control and management is exercised from outside India the company would be a non resident for income-tax purposes.

## **MEANING AND SCOPE OF TOTAL INCOME (SECTION 5)**

The scope of total income and consequently the liability to income-tax depends upon the following facts:

- a. whether the income accrues or is received in India or outside,
- b. the exact place and point of time at which the accrual or receipt of income takes place, and
- c. the residential status of the assessee.

### **Scope of Total income has been defined on the basis of Residential status**

#### **1. Resident and Ordinarily Resident Assessee**

According to Sub-section (1) of Section 5 of the Act the total income of a resident and ordinarily resident assessee would consist of:

- i. income received or deemed to be received in India during the accounting year by or on behalf of such person;
- ii. income which accrues or arises or is deemed to accrue or arise to him in India during the accounting year;
- iii. income which accrues or arises to him outside India during the accounting year.

It is important to note that under clause (iii) only income accruing or arising outside India is included. Income deemed to accrue or arise outside India is not includible in the total taxable income.

#### **2. Resident but Not Ordinarily Resident In India**

Proviso to section (1) of section 5 provides that the total income in case of resident but not ordinarily resident in India would consist of:

- i. income received or deemed to be received in India during the accounting year by or on behalf of such person;
- ii. income which accrues or arises or is deemed to accrue or arise to him in India during the accounting year;
- iii. income which accrues or arises to him outside India during the previous year if it is derived from a business controlled in or a profession set up in India.

#### **3. Non-Resident**

Sub-section (2) of Section 5 provides that the total income of a non-resident would comprise of:

- i. income received or deemed to be received in India in the accounting year by or on behalf of such person;
- ii. income which accrues or arises or is deemed to accrue or arise to him in India during the previous year.

### **INCOME RECEIVED**

Income received in India is taxable regardless of the assessee residential status therefore it has great significance.

1. The receipt contemplated for this purpose refers to the first receipt of the amount in question as the income of the assessee.  
For instance, if A receives his salary at Delhi and sends the same to his father, the salary income of A is a receipt for tax purposes only in the hands of A; his father cannot also be said to have received income when he receives a part of the income of A. In the hands of A's father it is only a receipt of a sum of money but not a receipt of income.
2. The taxable income of an assessee shall be calculated according to the method of accounting (cash system or mercantile system of accounting) that the assessee follows.
3. While considering the receipt of income for tax purposes both the place and the date of its receipt must be taken into account. The income in question should be not only received during the relevant previous year but must also be received in India in order to constitute the basis of taxation.
4. Receipt by some other person on behalf of the assessee should be treated as receipt by the assessee for being taxed in his hands.
5. The question of taxability of a particular income received by the assessee depends upon the nature of income. For instance, income from salaries and interest on securities would attract liability to tax immediately when it falls due to the assessee regardless of its actual receipt by or on behalf of the assessee.

## **INCOME DEEMED TO BE RECEIVED**

In addition to the income actually received by the assessee or on his behalf, certain other incomes not actually received by the assessee and/or not received during the relevant previous year, are also included in his total income for income tax purposes. Such incomes are known as income deemed to be received. Some of the examples of such income are:

- i. All sums deducted by way of taxes at source (Section 198).
- ii. Incomes of other persons which are included in the income of the assessee under Sections 60 to 64.
- iii. The amount of unexplained or unrecorded investments (Section 69).
- iv. The amount of unexplained or unrecorded moneys, etc. (Section 69A).
- v. The transferred balance in a Recognised Provident Fund to the extent provided in Rule 11(4) of Part A - Fourth Schedule [Section 7(ii)].
- vi. Any dividend declared by a Company or distributed or paid by it within the meaning of Section 2(22) [Section 8(a)].

## **INCOME DEEMED TO ACCRUE OR ARISE IN INDIA**

According to section 9 of the Act, certain incomes are deemed to accrue or arise in India which are discussed below:

### **1. Income by virtue of business connection**

Income arising through or from business connection to any assessee is deemed to accrue or arise in India where a business connection actually exists whether with or without a regular agency, branch or other type of commercial association.



The expression business connection includes:

- i. the maintenance of a branch office, factory, agency, receivership, management or other establishment for the purchase or sale of goods or for transacting any other business;
- ii. the erection of a factory where the raw products purchased locally are processed or converted into some form suitable for export outside India;
- iii. appointing an agent or agents in India for the systematic and regular purchase of raw materials or other commodities or for the sale of the non-residents goods, or for any other purpose;
- iv. the formation of a close financial association between a resident and a non-resident company which may or may not be related to one another as a holding and subsidiary company;
- v. the formation of a subsidiary company to sell or otherwise deal with the products of the non-resident parent company;
- vi. the grant of a continuing licence to a non-resident for the purpose of exploitation for profit of an asset belonging to the non-resident even though the transaction in question may be treated as an out and out sale by the parties concerned.

## **2. Income arising from any asset or property in India**

Income arising in a foreign country from any property situated in India would be deemed to accrue or arise in India. In this context, the term property refers to all tangible properties whether movable or immovable.

## **3. Capital asset**

Capital gains arising to an assessee from the transfer of a capital asset situated in India would be deemed to accrue or arise in India irrespective of the fact whether the capital asset in question represents a movable or immovable property or a tangible or intangible asset.

## **4. Income from salaries**

Income which is chargeable under the head Salaries is deemed to accrue or arise in India in all cases when earned in India. For this purpose income is said to be earned in India if the services are rendered in India.

Income from salaries payable by the Government to a citizen of India outside India for his services rendered outside India, is deemed to accrue or arise in India even though the income is actually accruing outside India and is also received outside India.

## **5. Taxability of Interest**

Interest payable in following cases will be deemed to accrue or arise in India and will be taxable in the hands of recipient irrespective of his residential status (i.e. ROR, RNOR or NR).

Interest payable by:

- i. Government; or
- ii. A Resident in India, except where interest is payable in respect of moneys borrowed and used for the purpose of business or profession carried outside India or earning any income from any source outside India (i.e. Interest payable by a Resident for loan used in India for any purpose, whether for business or profession or otherwise);
- iii. A Non-Resident in India provided interest is payable in respect of moneys borrowed and used for a business or profession carried on in India (i.e. Interest payable by a Non-Resident for loan used for only business or profession in India)

## **6. Taxability of Royalty**

Royalty payable in following cases will be deemed to accrue or arise in India and will be taxable in the hands of recipient irrespective of his residential status (i.e. ROR, RNOR or NR).

Royalty payable by:

- i. Government; or
- ii. A Resident in India except where it is payable in respect of any right/ information/ property used for the purpose of a business or profession carried on outside India or earning any income from any source outside India (i.e. Royalty payable by a Resident for right/information/property used for any purpose in India whether business or profession or for earning other incomes);
- iii. A Non-Resident in India provided royalty is payable in respect of any right/ information/ property used for the purpose of the business or profession carried on in India or earning any income from any source in India (i.e. Royalty payable by a Non-Resident for right/information/property used for any purpose in India whether business or profession or for earning other incomes).

**7. Taxability of Fees for Technical Services:** Fees for technical services payable in following cases will be deemed to accrue or arise in India and will be taxable in the hands of recipient irrespective of his residential status (i.e. ROR, RNOR or NR).

Fees for technical services payable by:

- i. Government; or
- ii. A Resident in India except where services are utilized for the purpose of a business or profession carried on outside India or earning any income from any source outside India (i.e. Fees for technical services payable by a Resident for services utilised for any purpose in India whether business or profession or for earning other incomes);
- iii. A Non-Resident in India provided fee is payable in respect of services for the purpose of a business or profession carried on in India or earning any income from any source in India (i.e. Fees for technical services payable by a Resident for services utilised for any purpose in India whether business or profession or for earning other incomes);

## 8. Taxability of Dividend

Dividend paid by any Indian company outside India is deemed to accrue or arise in India and the income is consequently chargeable to income-tax irrespective of the fact whether the dividend is interim dividend or a final dividend and whether it is an actual dividend or a notional dividend.

### Illustration 5

Mr. Naqvi earns the following income during the previous year ended 31st March, 2017. Determine the income liable to tax for the assessment year 2017-18 if Mr. Naqvi is (a) resident and ordinarily resident in India, (b) resident and not ordinarily resident in India, and (c) non-resident in India during the previous year ended 31<sup>st</sup> March, 2017.

1. Profits on sale of a building in India but received in USA- Rs. 35,000
2. Pension from former employer in India received in USA- Rs. 24,000
3. Interest on U.K. Development Bonds (1/3 being received in India) - Rs. 10,000
4. Income from property in England and received in Canada - Rs. 25,000
5. Income earned from a business in Australia which is controlled from Denmark (Rs. 40,000 received in India) - Rs. 80,000
6. Dividend on shares of an Indian company but received in USA [not qualifying for exemption under Section 10(34)] - Rs. 10,000
7. Profits not taxed previously brought into India- Rs. 40,000
8. Profits from a business in Punjab which is controlled from USA Rs. 17,000
9. Income from agriculture in Korea being invested there-Rs.12,000
10. Income from business in Sri Lanka, being controlled from India- Rs. 10,000

### Solution

Computation of income liable to tax:

Particulars	Resident & Ordinarily Resident	Resident but not Ordinarily Resident	Non-Resident
Profits on sale of a building in India but received in USA	35,000	35,000	35,000
Pension from former employer in India received in USA	24,000	24,000	24,000
Interest on U.K. Development Bonds (1/3 taxable on receipt basis)	10,000	10,000	10,000
Interest on U.K. Development Bonds (2/3 taxable on receipt basis)	20,000	20,000	20,000
Income from property in England and received in Canada	25,000	25,000	25,000
Income earned from a business in Australia which is controlled from Denmark	80,000	80,000	40,000
Dividend on shares of an Indian	10,000	10,000	10,000

company but received in USA			
Profits not taxed previously brought into India	Nil	Nil	Nil
Profits from a business in Punjab which is controlled from USA	17,000	17,000	17,000
Income from agriculture in Korea being invested there	12,000	Nil	Nil
Income from business in Sri Lanka, being controlled from India	10,000	10000	Nil
<b>Total income</b>	<b>2,43,000</b>	<b>2,31,000</b>	<b>1,81,000</b>

### ***Knowledge Assessment - I***

1. Which of the following meaning does the expression 'Business Connection' take into account?
  - a. Maintenance of branch office
  - b. Appointing an agent
  - c. Formation of close financial association
  - d. All of the above
2. Every year, the residential status of an assessee —
  - a. May change
  - b. Will certainly change
  - c. Will not change
  - d. None of the above.
3. Foreign income received in India during the previous year is taxable in the case of –
  - a. Resident
  - b. Not-ordinarily resident
  - c. Non-resident
  - d. All of the above.
4. Income accruing in India in previous year is taxable for –
  - a. Resident
  - b. Not ordinarily resident
  - c. Non-resident
  - d. All of the above.
5. Income accruing from agriculture in a foreign country is taxable in the case of an assessee who is -
  - a. Resident
  - b. Not-ordinarily resident
  - c. Non-resident
  - d. None of the above.

### **Answers**

1.d, 2. a, 3.d, 4.d, 5.a

## **SESSION 2: EXEMPTED INCOMES**

For providing relief to the tax payers from payment of tax, income tax law provisions contains concept of exemption and deduction. Exempted income means the income which is not at all charged to any taxes, while calculating the Gross Total Income. Whereas deduction means the amount which needs to be included in the income first then it is allowed for deduction in full or in part on fulfilment of certain conditions.

Under Section 10, 10AA, 11, 12, 12A, 13 and 13A of the Income-tax Act, various items of income are totally exempt from income-tax. Therefore, these incomes shall not be included in the total income of an assessee, provided the assessee proves that a particular item of income is exempt and falls within a particular clause.

The items of 'exemptions' specified in Section 10, are explained as follows:

### **1. AGRICULTURAL INCOME [SECTION 10(1)]**

Agricultural income as defined in Section 2(1A) is exempt from income-tax in the case of all assesses. Agricultural income is defined under section 2(1A) of the Income-tax Act. As per section 2(1A), agricultural income generally means:

- a. Any rent or revenue derived from land which is situated in India and is used for agricultural purposes.
- b. Any income derived from such land by agriculture operations including processing of agricultural produce so as to render it fit for the market or sale of such produce.
- c. Any income attributable to a farm house subject to satisfaction of certain conditions specified in this regard in section 2(1A).

### **2. AMOUNT RECEIVED BY A MEMBER OF THE HUF [SECTION 10(2)]**

As per section 10(2), amount received out of family income, or in case of impartible estate, amount received out of income of family estate by any member of such HUF is exempt from tax in the hands of the member, because that has been taxed in hand of H.U.F.

### **3. SHARE OF PROFIT RECEIVED BY A PARTNER FROM THE FIRM [SECTION 10(2A)]**

As per section 10(2A), share of profit received by a partner from a firm is exempt from tax in the hands of the partner. Further, share of profit received by a partner of LLP from the LLP will be exempt from tax in the hands of such partner. This exemption is limited only to share of profit and does not apply to interest on capital and remuneration received by the partner from the firm/LLP.

### **4. CERTAIN INTEREST TO NON-RESIDENTS [SECTION 10(4)]**

As per section 10(4)(i), in the case of a non-resident any income by way of interest on certain notified securities or bonds (including income by way of premium on the redemption of such bonds) is exempt from tax.

As per section 10(4)(ii), in the case of an individual, any income by way of interest on money standing to his credit in a Non-Resident (External) Account in any bank in India in accordance with the Foreign Exchange Management Act, 1999, and the rules made there under is exempt from tax.

#### **5. INTEREST ON NOTIFIED SAVINGS CERTIFICATES [SECTION 10(4B)]**

As per section 10(4B), in the case of an individual, being a citizen of India or a person of Indian origin, who is a non-resident, any income by way of interest on notified savings certificates (subscribed in convertible foreign exchange) issued before the 1st day of June, 2002 by the Central Government is exempt from tax.

#### **6. LEAVE TRAVEL CONCESSION [SECTION 10(5)]**

An employee (Indian as well as foreign citizens) can claim exemption under section 10(5) in respect of Leave Travel Concession. Exemption is available in respect of value of any travel concession or assistance received or due to the employee from his employer (including former employer) for himself and his family members in connection with his proceeding on leave to any place in India. Quantum of exemption will be as follows:

- a. Where journey is performed by air, amount of exemption will be lower of amount of economy class air fare of the National Carrier by the shortest route or actual amount spent.
- b. Where place of origin of journey and destination are connected by rail and the journey is performed by any mode of transport other than by air, air-conditioned first class rail fare by the shortest route to the place of destination..
- c. Where the place of origin and destination are not connected by rail and journey is performed by any mode of transport other than by air the exemption will be:
  - i. If recognised public transport exists, lower of first class or deluxe class fare by the shortest route or actual amount spent.
  - ii. If no recognised public transport exists, lower of amount of air conditioned first class rail fare by the shortest route (considering as if journey is performed by rail) or actual amount spent.

#### **7. EXEMPTIONS TO AN INDIVIDUAL WHO IS NOT A CITIZEN OF INDIA [SECTION 10(6)]**

##### **Remuneration of Diplomats etc. [Section 10(6)(ii)]**

In case of an individual who is not a citizen of India, remuneration received by him as an official (by whatever name called) of an embassy, high Commission, legation, Commission, consulate or trade representative of a foreign State, or member of the staff of any of that

official is exempt from tax, if corresponding Indian official in that foreign country enjoys a similar exemption.

### **Salary of a foreign employee and non-resident member of crew [Section 10(6)(vi), (viii)]**

As per section 10(6)(vi), the remuneration received by a foreign national as an employee of a foreign enterprise for services rendered by him during his stay in India is exempt from tax, provided the following conditions are fulfilled—

- the foreign enterprise is not engaged in any trade or business in India ;
- his stay in India does not exceed in the aggregate a period of 90 days in such year ; and
- such remuneration is not liable to be deducted from the income of the employer.

As per section 10(6)(viii), any salaries received by or due to a non-resident foreign national for services rendered in connection with his employment on a foreign ship where his total stay in India does not exceed in the aggregate a period of 90 days in the year is exempt from tax.

### **Remuneration of a foreign trainee [Section 10(6)(xi)]**

As per section 10(6)(xi), the remuneration received by a foreign trainee as an employee of foreign Government during his stay in India in connection with his training in any establishment or office of, or in any undertaking owned by,—

- i. the Government ; or
- ii. any company owned by the Central Government, or any State Government
- iii. any company which is a subsidiary of a company referred to in item (ii) ; or
- iv. any corporation established by or under a Central, State or Provincial Act ; or
- v. any co-operative society wholly financed by the Central Government, or any State Government

### **Tax paid on behalf of foreign company deriving income by way of royalty or fees for technical services [Section 10(6A)]**

Tax paid by Central Government, State Government or an Indian concern on behalf of a foreign company deriving income by way of royalty or fees for technical services in pursuance of an agreement made after March 31, 1976 but before June 1, 2002 will be exempt from tax in the hands of such foreign company provided such agreement is in accordance with the industrial policy of the Indian Government or it is approved by the Central Government.

### **Tax paid on behalf of foreign company or non-resident in respect of other income [Section 10(6B)]**

Tax paid by Central Government, State Government or an Indian concern on behalf of a foreign company or non-resident in respect of any income (not being salary, royalty or fees for technical services) will be exempt from tax in the hands of such foreign company or non-resident if such income is received in pursuance of an agreement entered into before June

1, 2002 by the Central Government with the Government of a foreign State or international organisation or any other related agreement approved by the Central Government.

#### **8. ALLOWANCE/PERQUISITES TO GOVERNMENT EMPLOYEE OUTSIDE INDIA [SECTION 10(7)]**

As per section 10(7), any allowances or perquisites paid or allowed as such outside India by the Government to a citizen of India for rendering service outside India is exempt from tax.

#### **9. INCOME OF FOREIGN GOVERNMENT EMPLOYEE UNDER CO-OPERATIVE TECHNICAL ASSISTANCE PROGRAMME [SECTION 10(8)]**

As per section 10(8), remuneration received directly or indirectly by an individual, from the foreign Government in connection with a co-operative technical assistance programme and projects in accordance with an agreement entered into by the Central Government and such foreign Government, is exempt from tax. Further, exemption is available in respect of any other income of such an individual which accrues or arises outside India and is not deemed to accrue or arise in India, provided such individual is required to pay income-tax/ social security tax to the foreign Government.

#### **10. DEATH-CUM-RETIREMENT GRATUITY RECEIVED BY GOVERNMENT SERVANTS [SECTION 10(10)(I)]**

The amount of any death-cum-retirement gratuity received by Government employee (*i.e.*, Central Government or State Government or local authority) is wholly exempt from tax under Section 10(10)(i) of the Act.

#### **Illustration 6**

Mr. Kumar, an employee of the Delhi Government receives Rs. 1,00,000 as gratuity at the time of his retirement on May 1, 2016 under the new pension code. Determine the taxability of the gratuity in his hands for the assessment year 2017-18. In case he joins a private sector company on July 1, 2016 as its Manager, will it make any difference?

#### **Solution**

Gratuity received by Mr. A shall be fully exempt from tax under Section 10(10)(i) of the Income-tax Act, 1961 as he is an employee of Central Government. Even if he joins a private sector company after the retirement, the aforesaid exemption shall still be available to him.

#### **11. GRATUITY RECEIVED BY A NON-GOVERNMENT EMPLOYEE COVERED BY PAYMENT OF GRATUITY ACT, 1972 [SECTION 10(10)(II)]**

As per section 10(10)(ii), exemption in respect of gratuity in case of employees covered by the Payment of Gratuity Act, 1972 will be lower of following :

- 15 days' salary  $\times$  years of service.
- Maximum amount specified, *i.e.*, Rs. 10,00,000.



- Gratuity actually received.

Note:

1. Instead of 15 days' salary, only 7 days salary will be taken into consideration in case of employees of seasonal establishment.
2. 15 days' salary = Salary last drawn  $\times$  15/26
3. Salary for this purpose will include basic salary and dearness allowance only. Items other than basic salary and dearness allowance are not to be considered.
4. In case of piece rated employee, 15 days' salary will be computed on the basis of average of total wages (excluding overtime wages) received for a period of three months immediately preceding the termination of his service.
5. Part of the year, in excess of 6 months, shall be taken as one full year.

## **12. GRATUITY RECEIVED BY A NON-GOVERNMENT EMPLOYEE NOT COVERED BY PAYMENT OF GRATUITY ACT, 1972 [SECTION 10(10)(III)]**

As per section 10(10)(iii), exemption in respect of gratuity in case of employees not covered by the Payment of Gratuity Act, 1972 will be lower of following :

- Half month's salary for each completed year of service, *i.e.*, [Average monthly salary  $\times$   $\frac{1}{2}$ ]  $\times$  Completed years of service.
- Rs. 10,00,000.
- Gratuity actually received.

Note:

1. Average monthly salary is to be computed on the basis of average of salary for 10 months immediately preceding the month of retirement.
2. Salary for this purpose will include basic salary, dearness allowance, if the terms of service so provide and commission based on fixed percentage of turnover achieved by the employee.
3. While computing years of service, any fraction of a year is to be ignored.

### **Illustration 7**

Mr. Sharma is employed in a factory. He gets a salary of Rs. 3,000 per month. He gets D.A @ Rs. 600 P.M. and bonus @ Rs. 400 per month. He retires on December 31, 2016 and gets Rs. 1,00,000 as gratuity under the Payment of Gratuity Act after serving 31 years and 4 months in that factory. Compute the amount of gratuity which is exempt under the Income-tax Act, 1961.

### **Solution**

In this case 31 years shall be taken as completed years of service.

15 days' salary is Rs.2076.92 (*i.e.* 3,600  $\times$  15  $\div$  26)

Out of Rs. 1,00,000 received as gratuity, the least of the following will be exempt from tax:

- (i) Rs. 64,384 (being 15 days salary for each completed year of service i.e. Rs. 2076.92 x 31);
- (ii) Rs. 10,00,000; or
- (iii) Rs. 1,00,000 (being gratuity actually received).

Hence, Rs. 64,384 being the least, is exempt from tax and the balance Rs. 21,346 is taxable for the assessment year 2017-18.

### **13. PENSION [SECTION 10(10A)]:**

As per section 10(10A), any commuted pension, i.e., accumulated pension in lieu of monthly pension received by a Government employee is fully exempt from tax. Exemption is available only in respect of commuted pension and not in respect of un-commuted, i.e., monthly pension. Exemption in respect of commuted pension in case of a non-Government employee will be as follows:

- If the employee receives gratuity, one third of full value of commuted pension will be exempt from tax under section 10(10A).
- If the employee does not receive gratuity, one half of full value of commuted pension will be exempt from tax under section 10(10A).

### **14. LEAVE SALARY [SECTION 10(10AA)]**

As per section 10(10AA), leave encashment by a Government employee at the time of retirement (whether on superannuation or otherwise) is exempt from tax. In the hands of non-Government employee exemption will be least of the following:

1. Period of earned leave standing to the credit in the employee's account at the time of retirement (\*) × Average monthly salary (\$).
2. Average monthly salary × 10 (i.e., 10 months' average salary).
3. Maximum amount as specified by the Government, i.e., Rs. 3,00,000.
4. Leave encashment actually received at the time of retirement.

(\*)Leave credit to the account of the employee at the time of retirement should be restricted to 30 days per year of service if leave entitlement as per service rules exceeds 30 days per year of actual service.

Salary for the above purpose means average salary drawn in the past ten months immediately preceding the retirement (i.e., preceding the day of retirement) and will include basic salary, dearness allowance (if considered for computing all the retirement benefits) and commission based on fixed percentage of turnover achieved by the employee.

### **15. EXEMPTION IN RESPECT OF AMOUNT RECEIVED FROM VARIOUS PROVIDENT FUNDS [SECTION 10(11)/(12)]**

The tax treatment of various items in case of different provident funds is as follows:

### **Statutory Provident Fund**

Employer's Contribution	Employer's contribution to such fund is not treated as income of the employee.
Interest	Interest credited to such fund is exempt in the hands of the employee.
Amount received at the time of termination	Lump sum amount received from such fund, at the time of termination of service is exempt in the hands of employees.

### **Recognised Provident Fund**

Employer's Contribution	Employer's contribution to such fund, up to 12% of salary is not treated as income of the employee ( <i>see Note 1</i> ).
Interest	Interest credited to such fund up to 9.5% per annum is exempt in the hands of the employee, interest in excess of 9.5% is charged to tax in the hands of the employee.
Amount received at the time of termination	If certain conditions are satisfied, then lump sum amount received from such fund, at the time of termination of service, is exempt in the hands of employees. ( <i>see Note 2</i> )

### **Un-recognised Provident Fund**

Employer's Contribution	Employer's contribution to such fund is not treated as income of the employee.
Interest	Interest credited to such fund is exempt in the hands of the employees.
Amount received at the time of termination	( <i>See note 3</i> )

### **Public Provident Fund**

Employer's	Contribution Employers do not contribute to such fund.
Interest	Interest credited to such fund is exempt.
Amount received at the time of termination	Lump sum amount received from such fund at the time of termination of service is exempt from tax.

**Notes:**

1. Salary for this purpose will include basic salary, dearness allowance, if the terms of service so provide and commission based on fixed percentage of turnover achieved by the employee.  
2. Accumulated balance paid from a recognised provident fund will be exempt from tax in following cases:

- a. If the employee has rendered a continuous service of 5 years or more.
- b. If the service of employee is terminated before the period of 5 years, due to his ill health or discontinuation of business of the employer or other reason beyond his control.
- c. If on retirement, the employee takes employment with any other employer and the balance due and payable to him is transferred to his individual account in any recognised fund maintained by such other employer, then the amount so transferred will not be charged to tax.

Except above situations, payment from a recognised provident fund will be charged to tax considering such fund as un-recognised from the beginning (*See* note 3 given below for tax treatment of un-recognised provident fund).

3. Payment on termination will include 4 things, *viz.*, employee's contribution and interest thereto and employer's contribution and interest thereto. The tax treatment of such payment is as follows:

- Employee's contribution is not chargeable to tax; interest on employee contribution is taxed under the head "Income from other sources".
- Employer's contribution and interest thereon are taxed as salary income, however, an employee can claim relief under section 89 in respect of such payment.

### **KEY WORDS**

1. **Resident:** An individual becomes a resident when he satisfies any one of the basic conditions. Other persons become resident on the basis of control and management.
2. **Resident and ordinarily resident:** An individual or an HUF become ROR when the individual or the Karta of HUF satisfies both the additional conditions.
3. **Resident but not ordinarily resident:** An individual or an HUF become RNOR when the individual or the Karta of HUF does not satisfy both the additional conditions.
4. **Person of Indian origin:** A person is deemed to be of Indian origin if he, or either of his parents or any of his grandparents, was born in Undivided India. It may be noted that grandparents include both maternal and paternal grandparents.
5. **Income deemed to accrue or arise in India:** the incomes mentioned in section 9 of the Act, are deemed to accrue or arise in India.

### **SUMMARY**

- To determine taxable income, it is essential to find out residential status of the person and scope of total income.
- An individual or a HUF can be resident, not ordinarily resident or non resident in India. All other assesses can be either resident or non-resident in India but cannot be not ordinarily resident in the matter of their residential status.
- Section 6 of the Income-tax Act prescribes the conditions to be fulfilled by various taxpayers to determine their residential status.
- The scope of total income and consequently the liability to income-tax depends upon (a) whether the income accrues or is received in India or outside, (b) the exact place and point of time at which the accrual or receipt of income takes place, and the residential status of the assessee.
- Scope of Total income has been defined on the basis of Residential status
- Section 9 describes the various incomes which are deemed to accrue or arise in India.
- Exempted income means the income which is not at all charged to any taxes, while calculating the Gross Total Income. Whereas deduction means the amount which needs to be included in the income first then it is allowed for deduction in full or in part on fulfilment of certain conditions.
- Exempted income means the income which is not at all charged to any taxes, while calculating the Gross Total Income.
- Deduction means the amount which needs to be included in the income first then it is allowed for deduction in full or in part on fulfilment of certain conditions.

## **EXERCISE QUESTIONS**

### **Short Answer Questions**

1. Discuss the treatment of Death-cum- retirement gratuity while calculating taxable income of an individual.
2. Describe the concept of agricultural income under section 2(1A) of the Income-tax Act.
3. What is the quantum of exemption under section 10(5) for leave travel concession.
4. Distinguish between:
  - a. Resident and Not Ordinary Resident
  - b. Domestic Company and Foreign Company
  - c. Resident and Non-Resident

### **Long Answer Questions**

1. What are the different categories into which the assesseees are divided regarding residence and how is the residence of assesseees determined for income-tax purposes? Explain.
2. What tests would you apply to determine the residence of :
  - a. a Hindu Undivided family,
  - b. a firm,
  - c. a limited company,

- d. an individual.
- 3. Describe the concept of income deemed to accrue or arise in India.
- 4. Describe various incomes which are exempted under section 10 of Income Tax Act, 1961.

### **Numerical Questions**

1. Mr. Pandey earns the following income during the previous year ended on 31st March, 2016. You are required to determine the income of Mr. Pandey liable to tax for the assessment year 2017-18 if he is (a) resident and ordinary resident (b) resident and not ordinary resident, and (c) non-resident in India during the previous year ended on 31st March, 2016.
  - a. Honorarium received from Government of India (Travelling and other incidental expenses of Rs. 7,000 were incurred in this connection)- Rs.40,000
  - b. Profits earned from a business in Jalandhar controlled from USA - Rs.70,000
  - c. Dividends declared but not received from an Indian company- Rs.20,000
  - d. Profits earned from a business in Australia controlled from Mumbai- Rs. 30,000
  - e. Income from a property in U.K, received in India-Rs. 10,000
  - f. Agricultural income from Sri Lanka not remitted to India-Rs. 40,000
  - g. Pension for services rendered in India, but received in Sri Lanka- Rs. 30,000
  - h. Profits earned from a business in Australia controlled from USA and amount deposited in a bank there- Rs.40,000
  - i. Past untaxed foreign income brought into India during the year- Rs. 25,000
  - j. Dividends from a Australian company credited to his account in USA- Rs.35,000

*(Answer: ROR- Rs. 2, 95,000; RNOR- Rs. 1, 80,000; NR-Rs. 1, 50,000)*
2. Ms. Nisha received a gratuity of Rs. 90,000 on retirement on November 31, 2016 after serving 35 years (forms part of salary for retirement benefits) and 7 months. Details of her last drawn emoluments are: Basic salary Rs. 4,000 per month, dearness allowance Rs. 1,000 per month. Annual increment of Rs. 200 per month falls due on 1st October each year. Determine the amount of gratuity exempt from tax for the assessment year 2017-18 if she is not covered by the Payment of Gratuity Act.

*(Answer: Rs.84,700 )*

**UNIT: 3 (i) – INCOME FROM SALARY**

<b>Unit Code:</b>	<b>UNIT TITLE: INCOME FROM SALARY</b>			
	Duration:			
<b>Location:</b>	<b>SESSION 1: INTRODUCTION TO SALARY</b>			
Classroom	<b>Learning Outcome</b>	<b>Knowledge Evaluation</b>	<b>Performance Evaluation</b>	<b>Teaching and Training Method</b>
	1. Meaning of salary and its related rules and provisions	1. Explain the meaning of salary 2. What are the basic rules governing salaries.	1. Define the term salary as per section 17(1) 2. Discuss in brief the basic rules governing salaries. 3. What does gross salary includes	<b>Interactive Lecture:</b> Discussion on the concept of salary and related provisions and rules governing salaries. <b>Activity:</b> Collect the salary slip of any of your parent or relative, analyze and match the components mentioned in the pay slip.
<b>SESSION 2: BASIC KNOWLEDGE ABOUT TAXABILITY OF ALLOWANCES</b>				
	1. Meaning of Allowances	1. Explain the meaning of term 'allowances'.	1. What do you mean by allowances?	<b>Interactive Lecture:</b> Acquaint with the concept of allowances.
	2. Taxability of HRA and personal and special allowance	1. List the personal and special allowances. 2. Explain the taxability provision of HRA and entertainment allowance.	1. Mention the personal and special allowances that are taxable in hands of employees. 2. Discuss the provisions regarding taxability of HRA and entertainment allowances. 3. List the allowances exempted in case of certain persons.	<b>Interactive Lecture:</b> Discussion on the perquisites and their taxability according to the category of employees.

3. Computation of taxable value of different allowances.	1. Explain the tax treatment of allowances.	1. Compute the taxable value of different allowances as given in practical question.	<b>Interactive Lecture:</b> Discussion on Practical problems
<b>SESSION 3: TAXABILITY OF PERQUISITES</b>			
1. Meaning of Perquisites	1. Explain the meaning of term 'perquisites'.	1. What do you mean by perquisites? 2. What does a perquisite include?	<b>Interactive Lecture:</b> Acquaint with the concept and constituents of perquisites.
2. Taxability of perquisite in hands of all employees and specified employees.	1. List the perquisites that are taxable in the hands of all categories of employees.  2. Explain the perquisites which are not taxable in hands of all employees.	1. Mention the perquisites that are taxable in the hands of all categories of employees. 2. List the perquisites which are not taxable in hands of all employees.  3. Who is specified employee? Name the perquisites that are taxable in the hands specified employees.	<b>Interactive Lecture:</b> Discussion on the perquisites and their taxability according to the category of employees.
3. Computation of taxable value of different perquisites	1. Explain the tax treatment of perquisites like valuation of housing accommodation, valuation of servant, gas electricity, moveable assets, medical facility, education facility etc.	1. Compute the taxable value of different perquisites as given in practical question.	<b>Interactive Lecture:</b> Discussion on Practical problems
<b>SESSION 4: BENEFITS RECEIVED AFTER RETIREMENT FROM EMPLOYER</b>			
1. Retirement benefits received after retirement from employer.	1. What retirement benefits are received by an employee after retirement from the employer?	1. Explain retirement benefits that are received by an employee after retirement from the employer?	<b>Interactive Lecture:</b> Discussion on the retirement benefits and their taxability according to provisions of act.
2. Computation of taxable value	1. Explain the tax treatment of retirement	1. Compute the taxable value of	<b>Interactive Lecture:</b>



	of different retirement benefits.	benefits like leave encashment, gratuity, pension and VRS and retrenchment compensation.	different retirement benefits.	Discussion on Practical problems
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## UNIT: INCOME FROM SALARY

### *Learning Objectives:*

After reading this unit, the students will be able to:

1. Explain the meaning of term 'salary'.
2. List the items included under the head 'salaries'.
3. Define the term 'allowances'.
4. State the different types of allowances and their taxability as per provisions of Income tax act.
5. Define the term 'perquisites'.
6. List different types of perquisites made available to salaried employees.
7. Compute the value of such perquisites.
8. Explain the provisions of Income tax act, 1961 in relation to benefits received by an employee after retirement from employer.
9. Name different types of Provident funds and their tax treatment for tax purposes.

### SESSION 1: INTRODUCTION TO SALARY

A salary is a form of periodic payment from an employer to an employee, which may be specified in an employment contract. Salary is basically a fixed amount of money agreed every year as pay for an employee, usually paid directly into his or her bank account every month. The following points should be considered:

1. Wages are treated just like salary and are taxable on the same basis as salary.
2. As per section 17(1), salary includes-
  - Wages;
  - Any annuity or pension;
  - Any gratuity;
  - Any fees, commissions, perquisites or profits in lieu of or in addition to any salary or wages;
  - Any advance of salary;
  - Any payment received by an employee in respect of any period of leave not availed by him;
  - Employer's contribution to Recognized Provident Fund (RPF) in excess of 12% of employee's salary and interest credited to recognized provident fund in excess of 9.5% p.a.;

- The aggregate of all sums that are comprised in the transferred balance of an employee participating in a recognized provident fund to the extent to which it is chargeable to tax;
- The contribution made by the Central Government or any other employer in the previous year, to the account of an employee under a notified pension scheme referred to in section 80CCD.

All these above incomes are taken in Gross Salary after considering the deductions under section 16, i.e.,

- Deduction for entertainment allowance [section 16(ii)]; and
- Deduction on account of any sum paid towards tax on employment [section 16(iii)]

## **BASIS OF CHARGE [SECTION 15]**

As per section 15, the following income shall be chargeable to income-tax under the head “Salaries” –

- a. Any salary due from an employer or a former employer to an assessee in the previous year, whether paid in that previous year or not;
- b. Any salary paid or allowed to him in the previous year by or on behalf of an employer or a former employer though not due in that previous year or before it became due to him.
- c. Any arrears of salary paid or allowed to him in the previous year by or on behalf of an employer or a former employer, if not charged to income-tax in any earlier previous year.

## **BASIC RULES GOVERNING SALARIES**

### **1. Employer and employee relationship**

**2. Place of accrual of salary:** According to section 9(1) of the Income-tax Act, salary is deemed to accrue at the place where the service for which it is paid, is rendered. Salary accrued in India is deemed to accrue or arise in India though it has been paid outside India.

**3. Due date of salary:** Rules regarding due date of salary are –

- (a) For government and semi-government employees, the salary is due on the first date of next month, i.e., salary of February is due on 1<sup>st</sup> March. For this purpose, previous year salary will be from 1<sup>st</sup> March to 28<sup>th</sup> February of next year.
- (b) For employees of bank and non-government organizations, the salary is due on last date of same month, i.e., salary for February is due on 28<sup>th</sup> February. For this purpose, previous year salary will be from 1<sup>st</sup> April to 31<sup>st</sup> March next year.

**4. Advance salary:** It is common practice of employees to receive salary in advance under conditions of emergency. Tax is chargeable to all salaries which are due whether actually paid or not and also on those which are paid whether due or not to the employee during the financial year.

**5. Arrears of salary:** Although salary is taxable on ‘due’ or ‘receipt’ basis whichever is earlier, but if there are any arrears of salary which have not been taxed in the past, such arrears will be taxed in the year in which these arrears are paid or allowed to the employee. These arrears will be taxed in the previous year in which these are paid or allowed although

the arrears of salary relate to the past years. In such a case the assessee can claim relief of income-tax u/s 89, if so desires.

**6. Foregoing of salary:** Once salary has been earned by an employee, it becomes taxable in his hands though he may subsequently waive the right to receive the same from the employer. The waiver of salary by the employee would be treated as application of the income and salary though waived would be taxable in his hands.

**7. Tax-free salary:** When the employee receives tax-free salary from his employer, it normally means that the employer himself pays the tax which is due on the salary of such employee. The amount of tax, so paid by the employer, is also to be considered as the income of the employee and will be added to his salary.

**8. Salary paid by Foreign Government/Enterprises:** Salary paid by foreign government/enterprises to its employees serving in India is taxable under the head Salaries, unless it is specifically exempt u/s 10.

### **COMPUTATION OF SALARY IN THE GRADE SYSTEM**

Certain employees are entitled to a grade system of salary. Under this system, the normal annual increments to be given to the employee are already fixed in the grade. For example, if an employee joins the service on 01-05-2007 and is placed in the grade of Rs. 24,000-300-30,000-500-45,000. This means that, he will get a basic salary of Rs. 24,000 with effect from 01-05-2007. He will get annual increment of Rs. 300 with effect from 01-05-2008 and onwards till his salary reaches Rs. 30,000. Thereafter, he will get an annual increment of Rs. 500 till his salary reaches Rs. 45,000. No further increment will be given thereafter till he is placed in other grade. Further, in certain cases, it may happen that he may join the service in a particular grade but his salary is fixed not at the initial stage of the grade but an amount somewhere between the grades. For example, Mohan joins a service on 01-05-2007 in the grade of Rs. 24,000-300-30,000-500-45,000, but his salary from the date of joining the service is fixed at Rs. 27,000, this means that he will get a basic salary of Rs. 27,000 from the date of joining and his annual increment will be Rs. 300 till he reaches at a basic salary of Rs. 30,000. Thereafter, he will get an annual increment of Rs. 500 till his salary reaches Rs. 45,000. No further increment will be given thereafter till he is placed in other grade.

#### ***Knowledge Assessment – I***

State whether the following statements are true or false:

1. Salary due but not yet received is advance salary.
2. Tax free salary means that the employer himself pays the tax which is due on the salary of employee.
3. Salary paid by foreign government to its employees serving in India is not taxable.
4. Section 18 of Income-tax Act defines the basis of charge for income to be chargeable under the head Salaries.
5. Salary is deemed to accrue at the place where the service of which it is paid, is rendered.
6. Advance against salary is loan which is availed by employee and is repayable in installment.

#### **Answers**

1. False, Arrears of salary 2.True 3.False, not taxable if exempt u/s 10, otherwise taxable 4.False, Section 15 5. True 6. True

## SESSION 2: BASIC KNOWLEDGE ABOUT TAXABILITY OF ALLOWANCES

Allowance is defined as a fixed quantity of money or other substance given regularly in addition to salary for meeting specific requirements of the employees.

As a general rule, all allowances are to be included in the total income unless specifically exempted. Specific exemptions in respect of allowances are provided under the following sections:

- 1) House Rent Allowance - section 10(13A)
- 2) Prescribed special allowances - section 10(14)

The above allowances shall be exempt either in full or up to a certain limit and the balance, if any, shall be taxable and thus included in gross salary.

### **HOUSE RENT ALLOWANCE (HRA) [Section 10(13A) & Rule 2]**

Employees generally receive house rent allowance (HRA) from their employers. This is a part of the salary package, in accordance with the terms and conditions of employment. HRA is given to meet the cost of the accommodation which the employee might have to take.

HRA is taxable under the head 'Salary' to the extent it is not exempt under section 10(13A). HRA is exempt to the extent of the minimum of the following three amounts -

1. Actual HRA received by the employee in respect of the relevant period.
2. Excess of rent paid over 10% of the salary of the relevant period.
3. 40% of the salary (50% of salary in case of Mumbai, Kolkata, Delhi or Chennai)

Salary for this purpose = Basic + D. A. (forming part of salary for retirement benefits)

#### **Illustration 1**

Mr. Viplav is entitled to a salary of Rs. 30,000 per month and Dearness Allowance of Rs. 8,000, 60% of which forms part of retirement benefits. He is also entitled to a House Rent Allowance of Rs. 12,000 per month. He actually pays Rs.15,000 for a house in Chennai. Compute his Gross Salary.

#### **Solution**

Basic salary	(30,000 X 12)	Rs. 3,60,000
Dearness Allowance	(8,000 X 12)	Rs. 96,000
House Rent Allowance	(12,000 X 12)	Rs. 1,44,000
<i>Less: exemption</i>		Rs.(1,38,240)

GROSS SALARY

Rs. 4,61,760

**Working Notes**

1. DA is fully taxable.
2. Salary (for calculation of HRA) = 3,60,000 + 57,600 (basic + DA forming part of retirement)  
= Rs. 4,17,600
3. HRA is exempt minimum of the following three amounts:
  - i. Rs. 1,44,000 (actual HRA received)
  - ii. Rs. 1,80,000 - Rs. 41,760 = Rs. 1,38,240 (rent paid – 10% of salary)
  - iii. Rs. 2,08,800 (50% of salary because he lives in Chennai)
4. Gross Salary is the total of all after allowing exemptions.

**Illustration 2**

Mr. Pawan is employed with XYZ Ltd. on a basic salary of Rs. 40,000 per month. He is also entitled to a Dearness Allowance of 35% of basic salary. 50% of the dearness allowance is included in salary for retirement benefits. The company gives him HRA of Rs. 20,000 per month. With effect from 01-10-2014, he receives an increment of Rs. 8,000 in his basic salary. During the previous year 2014-15, he has received arrears of salary pertaining to earlier years amounting to Rs. 50,000. He was staying with his parents till 31-10-2014 and from 01-11-2014 he takes an accommodation on rent in Mumbai and pays Rs. 18,000 per month as rent.

Compute his Gross salary for the assessment year 2015-16.

**Solution**

Basic salary	(2,40,000 + 2,88,000)	Rs. 5,28,000
Dearness Allowance	(5, 28,000 X 35%)	Rs. 1,84,800
Arrears of salary		Rs. 50,000
House Rent Allowance	(20,000 X 12)	Rs. 2,40,000
<i>Less: exemption</i>	(13,300 + 61,800)	Rs. (75,100)
<b>GROSS SALARY</b>		<b>Rs. 9,27,700</b>

## Working Notes

1. Calculation of Basic Salary:

$$40,000 \times 6 = \text{Rs. } 2,40,000$$

$$48,000 \times 6 = \text{Rs. } 2,88,000$$

2. DA is fully taxable and 35% of basic (given).
3. HRA for the period for which he stays with his parents and has not rented a house is not exempted, i.e. fully taxable.
4. Salary (for calculation of HRA) = 40,000 + 7,000 (basic + DA forming part of retirement) = Rs. 47,000
5. HRA is exempt minimum of the following three amounts for the period of one month when the rent is paid and basic salary is Rs. 40,000 i.e. for October:
  - i. Rs. 20,000 (actual HRA received)
  - ii. Rs. 18,000 - Rs. 4,700 = Rs. 13,300 (rent paid – 10% of salary)
  - iii. Rs. 23,500 (50% of salary because he lives in Mumbai).
6. Salary (for calculation of HRA) = 2,40,000 + 42,000 (basic + DA forming part of retirement) = Rs. 2,82,000
7. HRA is exempt minimum of the following three amounts for the period of five months when the rent is paid and basic salary is Rs. 48,000 i.e. from 1<sup>st</sup> November to 31<sup>st</sup> March:
  - i. Rs. 1,00,000 (actual HRA received)
  - ii. Rs. 90,000 - Rs. 28,200 = Rs. 61,800 (rent paid – 10% of salary)
  - iii. Rs. 1,41,000 (50% of salary because he lives in Mumbai)
8. Gross Salary is the total of all after allowing exemptions.

## PRESCRIBED ALLOWANCES [Section 10(14)]

### A. SPECIAL ALLOWANCES

- Travelling allowance
- Daily allowance
- Conveyance allowance
- Helper allowance
- Academic allowance
- Uniform allowance

These allowances are exempt of the minimum of the following two amounts:

- i. Actual allowance received
- ii. Actual amount spent for the purposes of duties of office or employment.

## **B. PERSONAL ALLOWANCES**

These allowances are granted to meet personal expenses and are of two types:

1. These are exempt to the extent of amount received or the limit specified whichever is less.

<b>ALLOWANCE</b>	<b>LIMIT</b>
1. Children education allowance	Rs.100 per month, per child, up to a maximum of two children or actual amount received; whichever is less.
2. Hostel expenditure allowance	Rs.300 per month, per child, up to a maximum of two children or actual amount received; whichever is less.
3. Tribal area, scheduled area and agency area allowance	Rs.200 per month or actual amount received; whichever is less.
4. Special compensatory hilly area allowance or high altitude allowance, etc.	Varies from Rs.300 to Rs.7,000 per month.
5. Border area, remote area allowance, disturbed area allowance, etc.	Varies from Rs.200 to Rs.1,300 per month.
6. Compensatory field area allowance	Exempt to the extent of Rs.2,600 per month.
7. Compensatory, modified field area allowance	Exempt to the extent of Rs.1,000 per month.
8. Counter insurgency allowance granted to members of armed forces	Exempt to the extent of Rs.3,900 per month.
9. Transport allowance	Exempt to the extent of Rs.800 per month (Rs.1,600 instead of Rs.800 if the employee is blind or orthopedically handicapped with disabilities of lower extremities).
10. Underground allowance	Granted to an employee who is working in uncongenial, unnatural climate in underground mines shall be exempt to the extent of Rs.800 per month.
11. High altitude	Given to the members of armed forces for altitude





DA	Rs.17,000 per month (100% forms part of salary)
House Rent Allowance	Rs.3,000 per month
Children education allowance	Rs.500 per month
Hostel allowance	Rs.800 per month
Transport allowance	Rs.1,200 per month
Entertainment allowance	Rs.500 per month

He lives in Delhi and has a single child staying in hostel for studies. He pays a monthly rent of Rs. 15,000 for his stay.

### **Solution**

Basic salary	(28,000 X 12)	Rs. 3,36,000
Dearness Allowance	(17,000 X 12)	Rs. 2,04,000
House Rent Allowance	(3,000 X 12)	Rs. 36,000
<i>Less: exemption</i>		Rs. (36,000)
Education Allowance	(500 X 12)	Rs. 6,000
<i>Less: exemption</i>	(100 X 12)	Rs. (1,200)
Hostel Allowance	(800 X 12)	Rs. 9,600
<i>Less: exemption</i>	(300 X 12)	Rs. (3,600)
Transport Allowance	(1,200 X 12)	Rs. 14,400
<i>Less: exemption</i>	(800 X 12)	Rs. (9,600)
Entertainment Allowance	(500 X 12)	Rs. 6,000
<b>GROSS SALARY</b>		<b>Rs. 5,48,640</b>
<i>Less: deduction on account of entertainment allowance</i>		<b>NIL</b>
<b><i>Income under the head Salary</i></b>		<b>Rs. 5,48,640</b>

### **Working Notes**

1. DA is fully taxable.

2. HRA is exempt minimum of the following three amounts:
  - i. Rs. 36,000 (actual HRA received)
  - ii. Rs. 1,80,000 - Rs. 54,000 = Rs. 1,26,000 (rent paid – 10% of salary)
  - iii. Rs. 2,70,000 (50% of salary because he lives in Delhi)
3. Children education allowance is exempt Rs.100 per month, per child, up to a maximum of two children or actual amount received; whichever is less. Since Rs.500 is received only Rs.100 is exempt.
4. Hostel Allowance is exempt Rs.300 per month, per child, up to a maximum of two children or actual amount received; whichever is less. Since Rs.800 is received only Rs.300 is exempt.
5. Transport Allowance is exempt to the extent of Rs.800 per month.
6. Gross Salary is the total of all after allowing exemptions.
7. Deduction on account of entertainment allowance is not allowed to Mr. X since he is not a government employee.
8. Income under the head salary is gross salary after deducting deduction on account of entertainment allowance.

#### **ALLOWANCES WHICH ARE FULLY TAXABLE**

- Dearness Allowance (DA)
- City Compensatory Allowance (CCA)
- Medical Allowance
- Lunch Allowance / Tiffin Allowance
- Non-practicing Allowance
- Overtime Allowance
- Warden Allowance
- Servant Allowance

#### **Illustration 4**

Mr. Ravi furnishes you the following information for the year ending 31.03.2015:

Basic salary	Rs.20,000 per month
Dearness Allowance	Rs.5,000 per month (60% forms part of salary)
Bonus	One month of basic salary
Entertainment allowance	Rs.500 per month

Education allowance for 2 children	Rs.200 per month per child
Transport allowance	Rs.1,000 per month
Medical allowance	Rs.1,200 per month
House Rent Allowance	Rs.5,000 per month
Lunch allowance	Rs.300 per month

He spends Rs. 8,000 per month as rent for staying in Delhi, Rs. 800 per month as transport expense for commuting from residence to office and back, Rs. 5,000 for his medical treatment in the previous year, and Rs. 1,500 for his lunch in the office. Compute his income under the head salary for the assessment year 2015-16 if he is a government employee.

### **Solution**

Basic salary	(20,000 X 12)	Rs. 2,40,000
Dearness Allowance	(5,000 X 12)	Rs. 60,000
Bonus	(20,000 X 1)	Rs. 20,000
Entertainment Allowance	(500 X 12)	Rs. 6,000
Education Allowance	(200 X 12 X 2)	Rs. 4,800
<i>Less: exemption</i>	(100 X 2 X 12)	Rs. (2,400)
Transport Allowance	(1,000 X 12)	Rs. 12,000
<i>Less: exemption</i>	(800 X 12)	Rs. (9,600)
Medical Allowance	(1,200 X 12)	Rs. 14,400
Lunch Allowance	(300 X 12)	Rs. 3,600
House Rent Allowance	(5,000 X 12)	Rs. 60,000
<i>Less: exemption</i>		Rs. (58,400)
<b>GROSS SALARY</b>		<b>Rs. 3,50,400</b>
<i>Less: deduction on account of entertainment allowance</i>		Rs. (5,000)
<b><i>Income under the head Salary</i></b>		<b>Rs. 3,45,400</b>

### **Working Notes**

1. Bonus, Dearness allowance, Medical allowance, and Lunch allowance are fully taxable.
2. Education allowance of Rs.100 per month per child is exempt.
3. Transport allowance of Rs.800 per month is exempt.
4. HRA is exempt minimum of the following three amounts:
  - i. Rs. 60,000 (actual HRA received)
  - ii. Rs. 96,000 - Rs. 37,600 = Rs. 58,400 (rent paid – 10% of salary)
  - iii. Rs. 1, 88,000 (50% of salary because he lives in Delhi).
5. Gross Salary is the total of all after allowing exemptions.
6. Deduction on account of entertainment allowance is allowed to Mr. Ravi since he is a government employee. The exemption is minimum of the following three amounts –
  - i. Rs. 6,000 (actual entertainment allowance received)
  - ii. Rs. 48,000 (20% of salary)
  - iii. Rs. 5,000
7. Income under the head salary is gross salary after deducting deduction on account of entertainment allowance.

### Illustration 5

Mr. Satish is employed as a pilot in Air India. He is in receipt of the following during the previous year 2014-15:

Basic salary	Rs.50,000 per month
Bonus	One month of basic salary
Entertainment allowance	Rs.1,500 per month
Uniform allowance	Rs.1,200 per month

He has spent Rs. 8,000 for purchase and maintenance of uniform for official purposes. He has been given Rs. 6,000 per month as allowance to meet personal expenses during the performance of his duties in the transport system. Compute his income under the head salary for the assessment year 2015-16.

### Solution

Basic salary	(50,000 X 12)	Rs. 6,00,000
Bonus	(50,000 X 1)	Rs. 50,000

Entertainment Allowance	(1,500 X 12)	Rs. 18,000
Uniform Allowance	(1,200 X 12)	Rs. 14,400
<i>Less:</i> amount spent for purchase and maintenance of uniform		Rs. (8,000)
Transport Allowance	(6,000 X 12)	Rs. 72,000
<i>Less:</i> exemption		Rs. (50,400)
<b>GROSS SALARY</b>		<b>Rs. 7,46,000</b>
<i>Less:</i> deduction on account of entertainment allowance		NIL
<b><i>Income under the head Salary</i></b>		<b>Rs. 7,46,000</b>

### **Working Notes**

1. Bonus is fully taxable.
2. Uniform allowance is exempted of the minimum of the following two amounts –
  - i. Rs.14,400 (Actual allowance received)
  - ii. Rs. 8,000 (Actual amount spent for the purposes of duties of office or employment).
3. Since transport allowance is given to meet personal expenses during the performance of his duties in the transport system, the minimum of the following two amounts is exempted –
  - i. Rs. 50,400 (70% of the allowance received)
  - ii. Rs. 10,000 per month i.e. Rs. 1,20,000
4. Gross Salary is the total of all after allowing exemptions.
5. Deduction on account of entertainment allowance is not allowed to Mr. Satish since he is not a government employee.
6. Income under the head salary is gross salary after deducting deduction on account of entertainment allowance.

### **ALLOWANCES EXEMPT IN CASE OF CERTAIN PERSONS**

- Allowance to citizen of India, who is a Government employee, rendering services outside India.
- Allowances to High Court Judges

- Sumptuary Allowance given to High Court and Supreme Court Judges

***Knowledge Assessment – II***

(A) Match the exemption in the following case:

- |                                      |  |
|--------------------------------------|--|
| 1. Children Education Allowance      | (A) <input type="checkbox"/> 300 per month per child for maximum of two children |
| 2. Hostel Expenditure Allowance      | (B) <input type="checkbox"/> 100 per month per child for maximum of two children |
| 3. Tribal Area Allowance             | (C) <input type="checkbox"/> 2,600 per month                                     |
| 4. Transport Allowance               | (D) <input type="checkbox"/> 200 per month                                       |
| 5. Compensatory Field Area Allowance | (E) <input type="checkbox"/> 800 per month                                       |
| 6. Allowance to transport employee   | (F) <input type="checkbox"/> 3,900 per month                                     |
| 7. Counter insurgency allowance      | (G) 70% of allowance, maximum <input type="checkbox"/> 10,000 p.m.               |

**Answers**

1. (B); 2. (A); 3. (D); 4. (E); 5. (C); 6. (G) 7. (F)

### SESSION 3: TAXABILITY OF PERQUISITES

- Perquisite is defined in the Oxford Dictionary as any casual emolument or benefit attached to an office or position in addition to salary or wages. It is a facility provided by employer in kind to the employee for official use or for personal benefit or partly for official purpose and partly for private purpose. Section 17(2) defines perquisite in income tax act. Examples of perquisites are:
  1. House accommodation with or without furniture
  2. Furniture
  3. Servants
  4. Gas or electricity or water service
  5. Telephone or mobile or fax service
  6. Use of computers, laptops, i-Pad, tablets and other electronic devices
  7. Sale of assets to employees
  8. Loans to employees without interest or at lower interest
  9. Club membership
  10. Car facility or other vehicles
  11. LTC- Leave travel concession
  12. Medical facility
  13. Education facility
  14. Health club or recreational facility
  15. Food or snacks provided by employer
  16. Contribution to provident fund or pension fund or other welfare fund for the purpose of employee.
  17. Monetary obligations of employee paid or reimbursed by the employer
  18. Income tax paid on behalf of employee (not TDS)
  19. Professional tax paid for employee
  20. Reimbursements of any of the above expenses by the employer which is used by the employee or his family members.
  
- An employee is referred to as a specified employee [**Section 17(2)(iii)**] if,
  - Employee is Director in the employer company
  - Employee has substantial interest in the employer business – 20% or more share in the ownership or profit of the employer company
  - Employee has cash taxable salary more than Rs.50,000 during the year.
  
- Perquisites which are taxable in the hands of all categories of employees are:
  1. House accommodation with or without furniture
  2. Furniture
  3. Servant hired by employee
  4. Gas or electricity or water service connection in the name of the employee
  5. Sale of assets to employees

6. Loans to employees without interest or at lower interest.
  7. Club membership for personal use
  8. Car facility or other vehicles hired or owned by employee
  9. LTC – Leave Travel Concession above limit
  10. Medical facility beyond permissible limits
  11. Education facility beyond permissible limits
  12. Food or snacks provided by employer beyond limits
  13. Contribution to provident fund or pension fund or other welfare fund for the benefit of employee above prescribed limits
  14. Monetary obligations of employee paid or reimbursed by the employer
  15. Income tax paid on behalf of employee (not TDS)
  16. Professional tax paid for employee
- Perquisites taxable for specified employees only :
    1. Furniture provided without house for personal use
    2. Servant provided for personal use
    3. Gas or electricity or water services provided from one source or from outside agency where connection is in the name of the employer
    4. Car facility or other vehicle facility where it is owned or hired by the employer
    5. Education facility from own source or outside agency
  - Perquisites exempted for all employees:
    1. Any facility received only for official use
    2. Telephone or mobile or fax service at house or for personal use including bills.
    3. Use of computers, laptops, iPad, tablet, and other electronic devices for official purpose
    4. LTC – Leave Travel Concession within limits
    5. Medical facility in hospital maintained by Government or Government approved or maintained by the employer
    6. Education facility for employee
    7. Health club or recreational facility for employee
    8. Food or snacks provided by employer within limits
    9. Contribution to provident fund or pension fund or other welfare fund for the benefit of employee within limits
    10. Gift or Vouchers up to Rs.5000
    11. Training expenses incurred on employee
    12. Premium on health and life insurance policy of employee

### **VALUE OF HOUSING ACCOMMODATION [New Rule 3(1)]**

Housing accommodation provided by the employer to the employee may be –

- Furnished or unfurnished
- Rent free or at a concessional rate
- Owned by employer or hired by employer
- Provided by government or not
- Whether provided in a hotel



Computation of taxable value of house assuming unfurnished and rent free –

- i. If house accommodation is owned by government and provided to its employees
- The taxable value shall be the License fee determined by Union or State Government in respect of accommodation in accordance with the rules framed by that government for allotment of houses to its officers.
  - Rent free official residence provided to a judge of a High Court or to a judge of the Supreme Court is exempt from tax.
  - Rent free accommodation given to an official of Parliament, a Union Minister and a Leader of Opposition in Parliament is exempt from tax.

- ii. If house accommodation is owned by any other employer and provided to employees:

<b>(Population of city as per 2001 census)</b>	<b>Taxable value</b>
Up to 10 lakhs	7.5% of salary
Above 10 lakhs and up to 25 lakhs	10% of salary
Above 25 lakhs	15% of salary

- iii. If house accommodation is hired by employer on rent and provided to employee, taxable value is minimum of the two –
- Actual rent paid by employer;
  - 15% of salary
- iv. If the accommodation is provided by the government at a concessional rate, the value of concession shall be the license fee reduced by the rent actually paid by the employee.
- v. If the accommodation is furnished, calculate assuming that the accommodation is unfurnished and increase the calculated value by 10% of the cost of furniture or by the actual hire charges paid or payable for such furniture (if the furniture is hired from outside).
- vi. If the accommodation is provided by the employer (government or other employer) in a hotel, the value of the accommodation shall be minimum of the following two amounts –
- 24% of salary paid or payable for the previous year
  - The actual charges paid or payable to such hotel.
  - No perquisite value even if accommodation provided in a hotel, if the following two conditions are fulfilled –
    - Such accommodation is provided for a period not exceeding 15 days; and
    - It has been provided on the transfer of the employee from one place to another.
- Salary for this purpose = basic + DA (forming part of salary) + all other taxable allowances + bonus and commission + monetary obligation of employee paid by employer.

- Salary for this purpose excludes the taxable value of perquisites, all retirement benefits, and advances or arrears of salary.

## VALUE OF FURNITURE

Furniture provided by the employer to employee for personal use with or without house accommodation may be owned by the employer or hired by the employer. Computation of taxable value of furniture –

- If the furniture is owned by the employer – taxable value is 10% of original cost of the furniture to employer per annum.
- If the furniture is hired by the employer – taxable value is actual hire charges paid by the employer.

### Illustration 6

Mr. Yash furnishes the following particulars of his remuneration for the year ending 31.03.2015:

Basic salary	Rs.35,000 per month
Dearness Allowance	Rs.12,000 per month (40% forms part of salary)
City Compensation Allowance	Rs. 8,000 per annum
Lunch allowance	Rs.500 per month
Children Education Allowance	Rs.250 per month each for 2 children
Medical allowance	Rs.500 per month

He is provided with a rent-free accommodation in Delhi. The cost of the furniture provided is Rs. 1, 00,000 and two air-conditioners, which have been taken on hire by the company, have also been provided in the accommodation. The hire charge of each air-conditioner is Rs. 2,000 per annum. Compute the value of the rent-free accommodation is provided by the Reserve Bank of India and the accommodation has been taken on rent by the RBI at Rs. 5,000 per month.

### Solution

In this case, the perquisite value shall be 15% of the salary or rent paid by RBI, whichever is less. Salary for this purpose shall include the following:

Basic salary	(35,000 X 12)	Rs. 4,20,000
Dearness Allowance	(12,000 X 12 X 40%)	Rs. 57,600

CCA		Rs. 8,000
Medical Allowance	(500 X 12)	Rs. 6,000
Education Allowance	(250 X 2 X 12)	Rs. 6,000
<i>Less: exemption</i>	(100 X 2 X 12)	Rs. (2,400)
Lunch Allowance	(500 X 12)	Rs. 6,000
Salary for calculating value of Rent Free Accommodation		Rs. 5,01,200

If house accommodation is hired by employer on rent and provided to employee, taxable value is minimum of the two:

- Rs. 60,000 (Actual rent paid by employer);
- Rs. 75,180 (15% of salary)

Thus the value of perquisite shall be Rs.60,000 + Rs.14,000 (10% of 1, 00,000 + 4,000) = Rs. 74,000

### **Illustration 7**

‘R’ furnishes the following particulars regarding his salary income for the year 2014-15:

Basic salary	Rs.15,000 per month
Dearness Allowance	40% of basic salary (100% forms part of salary)
Children Education Allowance	Rs. 200 per month each for two children
Transport Allowance	Rs.1,000 per month

He is provided with a rent free unfurnished accommodation which is owned by the employer. The fair rental value of the house is Rs. 24,000 per annum.

Compute the gross salary assuming accommodation is provided in a city having population:

- Not exceeding 10 lakhs
- Exceeding 10 lakhs but not exceeding 25 lakhs
- Exceeding 25 lakhs

### **Solution**

	<b>Situation (i)</b>	<b>Situation (ii)</b>	<b>Situation (iii)</b>
Basic salary	Rs. 1,80,000	Rs. 1,80,000	Rs. 1,80,000
DA	Rs. 72,000	Rs. 72,000	Rs. 72,000
CCA	Rs. 3,600	Rs. 3,600	Rs. 3,600
Education Allowance (4,800 – 2,400)	Rs. 2,400	Rs. 2,400	Rs. 2,400
Transport Allowance (12,000 – 9,600)	Rs. 2,400	Rs. 2,400	Rs. 2,400
Value of rent free unfurnished accommodation	Rs. 19,530	Rs. 26,040	Rs. 39,060
<b>Gross Salary</b>	<b>Rs. 2,79,930</b>	<b>Rs. 2,86,440</b>	<b>Rs. 2,99,460</b>

### Working Notes

1. Dearness allowance and City Compensatory Allowance are fully taxable.
2. Education Allowance in excess of Rs. 100 per month per child is taxable.
3. Transport Allowance in excess of Rs. 800 per month is taxable.
4. Salary for calculating rent free unfurnished accommodation = Rs. 2,60,400 (1,80,000 + 72,000 + 3,600 + 2,400 + 2,400)
5. Calculation of rent free unfurnished accommodation –

<i>Situations</i>	<i>Taxability</i>	<i>Amount</i> (Rs.)
1) Not exceeding 10 lakhs	7.5% of salary	19,530
2) Exceeding 10 lakhs but not exceeding 25 lakhs	10% of salary	26,040
3) Exceeding 25 lakhs	15% of salary	39,060

### VALUE OF SERVANT [Rule 3 (3)]

Cook, watchman, cleaner, sweeper, gardener or security guard provided by the employer to employee for personal use is taxable only in the hands of specified employees if servant is

hired by the employer and is taxable for all categories of employees if servant is hired by the employee and expenses are paid or reimbursed by the employer. Taxable value of servant is actual expenses incurred on servant by the employer.

- Actual expenses for this purpose include salary, allowances and perquisites paid to servant by the employer.

#### **VALUE OF GAS/ELECTRICITY/WATER SERVICE [Rule 3 (4)]**

Computation of taxable value of gas/electricity/water service when –

- Connection is in the name of employer and is from an outside agency – taxable for specified employees and perquisite value=expenses incurred by employer.
- Connection is in the name of employer and is from own source or business of employer – taxable for specified employees and perquisite value=units consumed\*manufacturing cost per unit.
- Connection is in the name of employee – taxable for all employees.

#### **VALUE OF TELEPHONE OR MOBILES**

Telephone or mobile expenses are fully exempted in the hands of employees even if telephone is installed at the home of employee. Similarly mobile expenses are also exempt from tax.

#### **USE OF MOVABLE ASSETS [Rule 3 (7) (vii)]**

Value for use of computers and laptops for personal purpose is fully exempted in the hands of the employees even if computer is installed at the home of employee.

Value for use of movable assets other than computers and laptops, is 10% p.a. of the actual cost of such asset, or the amount of rent or charge paid, or payable by the employer, as the case may be. This value shall be reduced by the amount, if any, paid or recovered from the employee for such use.

#### **VALUE OF LOAN TO EMPLOYEES [Rule 3 (7) (i)]**

Loan is provided by employer to employees at a concessional rate or at interest free rate. This loan is exempted from tax if –

- Loan amount is up to Rs.20,000 or
- Loan is given for meeting out expenses on medical treatment of specified diseases.

In other cases, Taxable Amount = interest calculated on that loan at the rate of interest charged per annum by the State Bank of India, as on 1<sup>st</sup> day of the relevant previous year in respect of loans for the same purpose advanced by it, in excess of the rate of interest paid by the employee to the employer for such loan for the previous year.

## VALUE OF GIFT VOUCHERS [Rule 3 (7) (iv)]

Receipt of gift or voucher from employer in excess of Rs.5,000 is taxable.

### Illustration 8

X is employed with ABC Ltd. on a monthly salary of Rs. 25,000 per month. The company provides him with the following benefits:

1. A company owned accommodation is provided to him in Delhi.
2. The company has given him a housing loan of Rs. 5, 00,000 on 01-04-2014 on which interest is charged @ 6% per annum. The entire loan is still outstanding. (Assume the interest charged by SBI is 10% p.a.)
3. The company gave him a gift worth Rs.15,900 on his anniversary on 21-10-2014.
4. He is allowed to use the video camera belonging to the company. The company had purchased this camera for Rs. 60,000 on being used by X.
5. The company pays the telephone bills of Rs. 22,000 for the telephone installed at the residence of X.
6. Domestic servant was provided at the residence of X. Salary of domestic servant is Rs. 1,200 per month. The servant was engaged by him and the salary is reimbursed by the company.

Compute the Gross Income from salary of X for the assessment year 2015-16.

### Solution

Basic Salary (25,000 X 12)	Rs. 3,00,000
Value of accommodation (15% of salary)	Rs. 45,000
Value of housing loan (4% of 5,00,000)	Rs. 20,000
Gift in kind (15,900 – 5,000)	Rs. 10,900
Value of use of video camera for 4 months (60,000 X 10% X 4/12)	Rs. 2,000
Benefit of sale of camera (60,000 – 18,000 – 30,000)	Rs. 12,000
Benefit on sale of car (1,60,000 – 80,000)	Rs. 80,000
Telephone facility	NIL
Servant facility	Rs. 14,400

Gross salary

Rs. 4,84,300

### Working Notes

1. Valuation of housing loan is (10% - 6%) of the loan amount.
2. Gift in kind is excess of Rs. 5,000 is taxable.
3. Depreciation on camera as per straight line method for 3 complete years = 10% of 60,000 for 3 years = Rs. 18,000
4. Benefit of sale of camera is purchase amount after deducting depreciation of 3 years and the amount recovered.
5. Telephone expenses are fully exempt.
6. The expenses of servant are fully taxable.
7. The car has been used from 16.07.2011 to 14.07.2014 and the completed years in this case are 2. Thus, the WDV of car shall be –

Original cost	2, 50,000
<i>Less:</i> depreciation for first year @20%	<u>50,000</u>
WDV	2, 00,000
<i>Less:</i> depreciation for 2 <sup>nd</sup> year	<u>40,000</u>
WDV	1, 60,000

8. Benefit of sale of car is purchase amount after deducting depreciation of 2 years and the amount recovered.

### VALUE OF CLUB MEMBERSHIP [Rule 3 (7) (vi)]

If the club membership is for official use, it is not taxable but if it is for personal use, the amount of expenses paid or reimbursed by the employer is fully taxable.

### VALUE OF CAR [Rule 3 (2)]

Computation of taxable value of car when –

1. Car is owned or hired by employer and is used by employee
  - Only for official use – not taxable
  - Only for personal use by him and his family – taxable for specified employees and Taxable Value = all running and maintenance expenses on car paid or reimbursed by the employer + depreciation @ 15% (if car is owned by the employer)

- Partly for personal use by him and his family, and partly for official use – taxable for specified employees and taxable value shall be determined separately, if the employer maintains proper separate record of expenses for official use and private use. If the employer does not maintain proper separate record for official use and private use, then taxable value shall be computed as follows –
  - If running and maintenance expenses are incurred by employer

SPECIFICATIONS OF CAR	TAXABLE VALUE
Up to 1600CC or 1.6 litres	Rs. 1800 per month + Rs. 900 for driver
More than 1600CC of 1.6 litres	Rs. 2400 per month + Rs. 900 for driver

- If running and maintenance expenses are incurred by employee

SPECIFICATIONS OF CAR	TAXABLE VALUE
Up to 1600CC or 1.6 litres	Rs. 600 per month + Rs. 900 for driver
More than 1600CC or 1.6 litres	Rs. 900 per month + Rs. 900 for driver

- If car is owned or hired by the employee and running and maintenance expenses are incurred by the employer and car is used by employee
  - Only for official use – not taxable
  - Only for personal use by him and his family – taxable for all employees and Taxable value = all running and maintenance expenses on car paid and reimbursed by the employer.
  - Partly for official use and partly for personal use by him and his family - taxable for all employees and taxable value shall be determined separately, if the employer maintains proper separate record of expenses for official use and private use. If the employer does not maintain proper separate record for official use and private use, then taxable value shall be computed as follows :

SPECIFICATIONS OF CAR	TAXABLE VALUE
Up to 1600CC or 1.6l	Actual running and maintenance expenses incurred by the employer – (Rs. 1800 per month + Rs. 900 for driver)
More than 1600CC or 1.6l	Actual running and maintenance expenses incurred by the employer – (Rs. 2400 per



	month + Rs. 900 for driver)
--	-----------------------------

### Illustration 9

During the previous year 2014-15, Mr. Nitin enjoyed the following allowance/perquisites in addition to a basic salary of Rs. 30,000 per month:

1. Car facilities (1.6 l) for private and official purposes. All expenses which are Rs. 1, 50,000 (including salary of the driver) borne by the employer. Mr. Nitin was made to pay a token amount of Rs. 500 per month for the same.
2. Loan of Rs. 5, 00,000 (for personal purposes) @10% p.a. received on 01-06-2014. It was receivable in 5 half yearly installments of equal amount starting from 31-12-2014. SBI charges 16% p.a. for similar loans.

Compute Gross Salary of Mr. Nitin for assessment year 2015-16.

### Solution

Basic salary	(30,000 X 12)	Rs. 3,60,000
Car Facility	((1,800 + 900) X 12)	Rs. 32,400
<i>Less:</i> amount recovered from employee	(500 X 12)	Rs. (6,000)
Concessional interest on loan	(17,500 + 7,500)	Rs. 25,000
<b>GROSS SALARY</b>		<b>Rs. 4,11,400</b>

### Working Notes

1. Car facility when expenses are paid by the employer and car is used by employee both for official and personal purposes, the taxable amount is Rs. 1,800 per month and Rs. 900 per month, if driver is also provided.
2. Interest on loan is taxable as per the rate fixed by SBI in excess of the concessional rate at which the employee gets the loan. Therefore, in this case the interest will be calculated at 6% (16-10).
3. Calculation of interest on loan (01-06-2014 to 31-03-2015):
 

7 months interest = 5, 00,000 @ 6% X 7/12 = Rs. 17,500

3 months interest = 5, 00,000 @ 6% X 3/12 = Rs. 7,500

### **VALUE OF LEAVE TRAVEL CONCESSION (LTC) [Section 10(5)]**

Leave travel concession is exempt for one year in a block of four years and concession is only travel tickets by the shortest route to and fro, for the employee and his family members (spouse, children of employee and parents, brothers and sisters who are wholly or mainly dependent on employee). For this purpose, block shall consist of year from 2010 to 2013 and from 2014 to 2017. Also, the exemption shall not be available to more than two surviving children of an individual after 1.10.1998. However, this rule does not apply to those born before 1.10.1998 and also in case of multiple births after one child.

### **VALUE OF EDUCATION FACILITY [Rule 3 (5)]**

TYPE OF EDUCATIONAL FACILITY	TAX TREATMENT
Children education allowance	Exempt up to Rs.100 per month per child for maximum two children.
Children hostel expenditure allowance	Exempt up to Rs.300 per month per child for maximum two children.
Education or research or academic allowance for self	Exempt to the extent spent on such purpose. Balance unspent amount is taxable.
Education facility to children of employee in the school or college maintained by employer	Cost of education in similar institution in or near the locality. Up to Rs.1,000 per month per child is exempt.
Education facility for such members of employees' household in any other educational institution by reason of his being in employment of that employer	Cost of education in similar institution in or near the locality. Up to Rs.1,000 per month per child is exempt.

- If any amount is paid or recovered from the employee, the value of benefit shall be reduced by the amount paid or recovered.
- If cost of education exceeds Rs.1,000 p.m. per child, the whole amount shall be taxable in the hands of employee and no deduction of Rs.1,000 p.m. shall be allowed.
- Payment made directly by employer to educational institution is taxable in the hands of employee.

### **VALUE OF HEALTH CLUB OR RECREATIONAL FACILITY**

Value of health club or recreational facility is exempt, if it is provided uniformly to all employees.

### **VALUE OF FOOD AND SNACKS**

TYPE OF MEAL	TAX TREATMENT
Refreshment (tea, coffee) during working hours	Exempted
Lunch during working hours	Taxable above Rs.50 per meal
Lunch or dinner beyond normal working hours for official work	Exempted
Lunch or dinner at official sites or at places which is not normal place of duty	Exempted

### **VALUE OF CONTRIBUTION TO PROVIDENT FUND OR PENSION FUND OR OTHER WELFARE FUNDS**

- Contribution made by employer to recognized provident fund above 12% of salary is taxable.
- Interest credited to RPF in excess of 9.5% per annum is taxable.
- Contribution made to approved superannuation fund in excess of Rs.1, 00,000 is taxable.
- Contribution made to notified pension funds or schemes in excess of 10% of salary is taxable.
- Salary for this purpose = Basic + D.A

### **VALUE OF OTHER MONETARY OBLIGATIONS OF EMPLOYEE [Rule 3 (7) (ix)]**

Any monetary obligation of employee, which is directly paid or reimbursed by the employer, is taxable in the hands of all employees.

### **VALUE OF MEDICAL FACILITY [Provisions to 17 (2)]**

- If fixed medical allowance per month is received by an employee, it is fully taxable.
- If medical treatment expenses of employee or his family member is reimbursed or directly paid by the employer and treatment is in a –
  - Government or government approved hospital – fully exempt from tax
  - Hospital maintained by employer – fully exempt from tax
  - Private hospital or nursing home – exempt up to Rs.15,000 per annum
- If medical treatment expenses of employee or his family member is reimbursed or directly paid by the employer and treatment is outside India –
  - Cost of treatment – exempt up to amount permitted by the RBI
  - Lodging and boarding expenses of patient and one attendant – exempt up to amount permitted by the RBI
  - Cost of travel to and fro, of patient and one attendant – if GTI of employee is up to Rs.2 lakhs, it is fully exempt and if it is more than Rs.2 lakhs, it is fully taxable.

### **Illustration 10**

Mr. Raghav employed in XYZ Co. Ltd. As Finance Manager, gives the list of perquisites provided by the company to him for entire financial year 2014-15:

1. Medical facility given to his family in a hospital maintained by the employer company. The estimated value of benefit derived from such facility is Rs. 30,000.
2. Domestic servant was provided at the residence of Mr. Raghav. Salary of domestic servant is Rs. 1,200 per month. The servant was engaged by him and the salary is reimbursed by the company.
3. Free education was provided to his two children in a school maintained and recovered by the company for such education facility from Raghav. (Rs. 1,200 p. m. of one child and Rs. 800 of the other)
4. The employer has provided movable assets such as television, refrigerator and air conditioner at the residence of Raghav. The actual cost of such assets provided to the employee is Rs. 1, 50,000.
5. A gift voucher worth Rs. 10,000 was given on the occasion of his marriage anniversary. It is given by the company to all employees above certain grade.

Compute the total value of taxable perquisites of Mr. Raghav for the assessment year 2015-16.

### Solution

Computation of total value of taxable perquisites:-

Medical facility	Fully exempt
Servant facility (1,200 X 12)	Rs. 14,400
Education facility (200 X 12)	Rs. 2,400
Movable assets (10% of 1,50,000)	Rs. 15,000
Gift ( 10,000 – 5,000)	Rs. 5,000
<b>Total</b>	<b>Rs. 36,800</b>

### Working Notes

1. Medical facility is fully exempt from tax if expenses are reimbursed by the employer and the treatment is taken in a hospital maintained by the employer itself.
2. The salary of the servant which is paid or reimbursed by the employer is fully taxable.

3. Education facility of children in excess of Rs. 1,000 p.m. per child is taxable and since the education expenses of one child is less than Rs. 1,000 it is exempted and the excess i.e. Rs. 200 p.m. of other child is taxable.
4. Taxable value of movable assets is 10% of the cost.
5. Gift in excess of Rs. 5,000 is taxable.

### Illustration 11

Compute the taxable value of the perquisite in respect of medical facilities availed of by X from his employer in the following situation:

- i. The employer maintains a hospital for the employees where they and their family members are provided free treatment. The expenses on treatment of X and his family members during the previous year 2014-15 were as under –
 

a. Treatment of X	Rs. 8,000
b. Treatment of X's widowed sister (Dependent upon him)	Rs. 3,500
c. Treatment of X's uncle	Rs. 5,000
d. Treatment of X's major son (Dependent upon him)	Rs. 4,200
e. Treatment of Mrs. X	Rs. 4,800
f. Treatment of X's handicapped nephew	Rs. 1,300
- ii. The following expenses on treatment of X's major son outside India were paid by the employer.
 

	Actual Expenses	Expenses permitted by RBI
a. Actual medical expenses	Rs. 64,000	Rs. 58,000
b. Travelling expenses of X's son and X's brother	Rs. 1,40,000	-
c. Expenses on staying abroad of X's son and brother who accompanied the patient	Rs. 65,000	Rs. 45,000
- iii. The employer pays an insurance premium of Rs. 3,000 under a health insurance scheme on the health of X.
- iv. Expenses on cancer treatment of married daughter of X at R.M.L Hospital (an approved hospital for this purpose) paid by the employer Rs. 50,000 and reimbursement of expenses for medical treatment of himself amounting to Rs. 20,000.
- v. The employer reimburses the following medical expenses –
  - a. Treatment of X's mother (dependent upon him) Rs. 1,500 by a private doctor
  - b. Treatment of X's grandfather (dependent upon him) Rs. 2,400
  - c. Treatment of X by his family physician Rs. 3,100
  - d. Treatment of X's brother (not dependent on him) Rs. 1,000

e. Treatment of Mrs. X in a private nursing home Rs. 4,200

### Solution

i. The expenses of medical treatment of the employee and his family members in a hospital maintained by the employer are tax-free. Therefore, an expense on treatment of X, X's widowed sister, Mrs. X and X's major son is not taxable. Only the following expenses are taxable –

- |                                       |           |
|---------------------------------------|-----------|
| • Treatment of X's uncle              | Rs. 5,000 |
| • Treatment of X's handicapped nephew | Rs. 1,300 |

Thus, taxable perquisite = Rs. 6,300 (5,000 + 1,300)

ii. In respect of medical treatment outside India, the expenses on actual treatment and on staying abroad (of the patient and one attendant) are exempt from tax to the extent permitted by R.B.I. i.e., up to Rs. 58,000 and Rs. 45,000 respectively. Therefore, balance Rs. 6,000 and Rs. 20,000 shall be taxable perquisite. Expenses of travel are exempt only if the gross total income of the employee is up to Rs. 2,00,000. In case (a), the gross total income shall be Rs. 1,76,000 (1,50,000 + 6,000 + 20,000), hence the entire expenditure on travel is tax free. In case (b), the gross total income shall be Rs. 2,06,000 (1,80,000 + 6,000 + 20,000), hence the entire expenditure on travel amounting to Rs. 1,40,000 shall be a taxable perquisite.

iii. Payment of insurance premium on the health of the employee is a tax-free perquisite.

iv. Expenses on medical treatment of the employee/family members in respect of prescribed diseases, in any hospital approved by the Chief Commissioner of Income-tax, are tax free.

v. Any sum paid by employer in respect of any amount actually incurred by the employee for obtaining his or his family member's medical treatment either in any hospital, nursing home, clinic or otherwise up to a maximum of Rs. 15,000 in the previous year.

	Expenses exempt up to Rs. 15,000	Taxable expenses
a. Treatment of X's mother (dependent upon him) by a private doctor	Rs. 1,500	
b. Treatment of X's grandfather (dependent upon him)		Rs. 2,400
c. Treatment of X by his family physician	Rs. 3,100	
d. Treatment of X's brother (not dependent on him)		Rs. 1,000
e. Treatment of Mrs. X in a private nursing home	Rs. 4,200	

### Illustration 12

Ms. Nitu, a software engineer in WIPRO, submits the following particulars of her income and contribution, etc., for the year ending 31.03.2015. Compute her total income under the head salary for the assessment year 2015-16:

1. Basic salary of Rs. 40,000 per month.
2. Dearness Allowance of 30% of salary (60% forming part of retirement benefits).
3. Children education allowance of Rs. 200 per month per child, for two children.
4. Free lunch for 300 days in office during office hours; @Rs.60 per meal.
5. Gift of washing machine of Rs. 20,000 (purchased price).
6. Rent free unfurnished accommodation provided at New Delhi. Its leased rent is Rs. 25,000 per month.
7. Motor car of 1800 CC with driver was provided both for official and private use throughout the year. It costs the company Rs. 2, 00,000 annually.
8. Telephone facility provided at her residence which cost the employer Rs. 24000 annually.
9. Cost of medical facility provided to Ms. Nitu and her family at a private nursing home amounted to Rs. 40,000 were borne by the employer.
10. Her employer provided her with interest free loan of Rs.18,000 for personal use.

### Solution

Basic salary	(40,000 X 12)	Rs. 4,80,000
Dearness Allowance	(30% of 4,80,000)	Rs. 1,44,000
Education allowance	(200 X 2 X 12)	Rs. 4,800
<i>Less: exemption</i>	(100 X 2 X 12)	Rs. (2,400)
Free lunch	(60 X 300)	Rs. 18,000
<i>Less: exemption</i>	(50 X 300)	Rs. (15,000)
Value of gift in kind	(20,000 – 5,000)	Rs. 15,000
Motor car	((2,400 + 900) X 12)	Rs. 39,600
Telephone facility		NIL
Rent free unfurnished accommodation		Rs. 85,320

Medical facility	(40,000 – 15,000)	Rs. 25,000
Interest free loan		NIL
<b>GROSS SALARY</b>		<b>Rs. 7,94,320</b>
<i>Less:</i> deduction		NIL
<b><i>Income under the head Salary</i></b>		<b>Rs. 7,94,320</b>

### **Working Notes**

1. Dearness allowance is fully taxable.
2. Education allowance of Rs.100 per month per child is exempted.
3. Lunch of Rs.50 per meal is exempted.
4. Gifts above Rs. 5,000 are taxable.
5. Telephone facility is a tax free perquisite.
6. Reimbursement of medical treatment in a private nursing home is taxable in excess of Rs. 15,000.
7. Loan provided to employee is exempt from tax since the amount of loan is less than Rs. 20,000.
8. Salary (for calculation of RFA) = 4,80,000 + 86,400 + 2,400 (basic + DA forming part of retirement benefits + education allowance) = Rs. 5,68,800
9. Rent free unfurnished accommodation is taxable value minimum of the two limits –
  - i. Rs. 3,00,000 (Actual rent paid by employer)
  - ii. Rs. 85,320 (15% of salary, where salary is basic + DA forming part + allowance)
10. Gross Salary is the total of all after allowing exemptions.

### **Illustration 13**

Compute the total income under the head Salary of Sohan for the assessment year 2015-16 from the following information:

1. Basic salary of Rs. 38,000 per month.
2. Dearness Allowance of Rs.12000 per month (60% of which is part of retirement benefits).
3. Children Education Allowance Rs.300 per month each for two children.



4. Free lunch for 300 days in the office during office hours of Rs.75 per meal.
5. Reimbursement of expenses incurred on credit card provided by the employer of Rs. 10,000.
6. Gift of Rolex watch of Rs. 20,000.
7. Rent free unfurnished accommodation at Pune, the fair rent value of which is Rs. 2, 40,000 per annum.
8. Motor car of 1.8l with driver both for official and private purposes.
9. Servant facility by the employer. Wages of servant paid by employer is Rs. 2,500 per month.
10. Telephone facility at his residence. The employer has incurred expenses of Rs. 24,000 for the same.

### **Solution**

Basic salary	(38,000 X 12)	Rs. 4,56,000
Dearness Allowance	(12,000 X 12)	Rs. 1,44,000
Education allowance	(300 X 2 X 12)	Rs. 7,200
<i>Less: exemption</i>	(100 X 2 X 12)	Rs. (2,400)
Free lunch	(75 X 300)	Rs. 22,500
<i>Less: exemption</i>	(50 X 300)	Rs. 15,000
Credit card expenses reimbursed		Rs. 10,000
Value of gift in kind	(20,000 – 5,000)	Rs. 15,000
Motor car	((2,400 + 900) X 12)	Rs. 39,600
Servant facility	(2,500 X 12)	Rs. 30,000
Telephone facility		NIL
Rent free unfurnished accommodation		Rs. 82,080
<b>GROSS SALARY</b>		<b>Rs. 8,18,980</b>
<i>Less: deduction</i>		NIL
<b><i>Income under the head Salary</i></b>		<b>Rs. 8,18,980</b>

## Working Notes

1. Dearness allowance is fully taxable.
2. Education allowance of Rs.100 per month per child is exempted.
3. Lunch of Rs.50 per meal is exempted.
4. Credit card expenses reimbursed are taxable.
5. Gifts above Rs. 5,000 are taxable.
6. Expenses incurred for servant facility by employer is taxable.
7. Telephone facility is a tax free perquisite.
8. Rent free unfurnished accommodation is taxable value minimum of the two limits –
  - i. Rs. 2,40,000 (Actual rent paid by employer)
  - ii. Rs.82,080 (15% of salary, where salary is basic + DA forming part + allowance)

### ***Knowledge Assessment – III***

(A) Choose the correct answer:

1. R Ltd. provides the facility of cook to its employee for which it paid ₹ 1,000 per month as salary to the cook. The valuation of this perquisite shall be –
  - a) ₹ 120 per month
  - b) ₹ 1,000 per month
  - c) ₹ 60 per month
2. The employer has provided a motor car of 1.5 litre capacity to his employee that the employee is allowed to use for official purpose and for travelling from office to residence and back. The expenses of running and maintenance of motor car are met by the employer. The value of this perquisite shall be –
  - a) ₹ 1,800 per month
  - b) NIL
  - c) ₹ 2,400 per month
3. The employer provides free facility of Watchman, Sweeper and Gardener to his employees. It will be a perquisite for –
  - a) Specified employee only
  - b) Employees other than specified employees
  - c) Specified as well as other employees
4. Salary of an employee is ₹ 2, 00,000. Rent paid by the employer for the unfurnished house provided to employee at Moradabad is ₹ 3,000 per month. The employer charges ₹ 2,000 per month as rent from the employee. The valuation of this perquisite shall be –
  - a) ₹ 16,000
  - b) ₹ 6,000
  - c) ₹ 12,000
  - d) NIL

(B) Fill the correct answer:

1. The gardener, sweeper and the watchman are employed by the employee but their salary of  500 per month per person is paid by the employer. The valuation of this perquisite shall be  \_\_\_\_\_.
2. Where gas or electricity is provided by the employer to the employee free of cost, the value of such perquisite shall be \_\_\_\_\_.
3. Leave travel concession is exempt to the maximum of \_\_\_\_\_ journeys in a block of \_\_\_\_\_ years.
4. Meal provided to employee in the office by the employer shall be exempt up to a maximum of \_\_\_\_\_ per meal.
5. Shares given to the employee free of cost or at a concessional rate under Employees Stock Option Plan are a \_\_\_\_\_.

**Answers**

- 1) 18,000 2) Manufacturing cost per unit 3) Two & Four 4)  50 5) Taxable perquisite

**SESSION 4: BENEFITS RECEIVED AFTER RETIREMENT FROM EMPLOYER**

To ensure that employee and his family live a reasonable standard of life, employer makes several provisions and pay benefits to the employee after retirement. Such benefits are:

- Salary in lieu of leave/Leave encashment
- Gratuity
- Pension
- Provident fund
- VRS compensation
- Retrenchment compensation

**Important Points:**

- Leave salary means salary received for leave not availed by the employee.
- Gratuity means a lump sum amount paid by employer to employee on retirement or resignation or retrenchment or death, as a reward for sincerity and continuous service rendered by him. Payment of gratuity is compulsory for certain class of establishments under the Payment of Gratuity Act, 1972.
- Pension is received by employee after retirement. It is a regular payment made by the

employer. It may be payable monthly or quarterly or annually.

- Provident fund is an account where employee and employer contribute every month a specific percentage of salary for the benefit of employee. This amount is invested monthly in the designated securities which earn interest. Every month this amount accumulates and increases and at the time of retirement, this amount is paid to the employee. It is also called as superannuation fund. This has four components –
  - Employer’s contribution
  - Employee’s contribution
  - Interest on employer’s contribution
  - Interest on employee’s contribution
- Superannuation funds are usually established under trusts by an undertaking, for the purpose of providing amenities to the employees of the undertaking on their retirement at or after a specified age, or on their becoming incapacitated prior to such retirement, or for the widows, children or dependents of the employee in case of any employee’s earlier death. The trust invests the money contributed to the fund in the form and mode prescribed

### **LEAVE SALARY OR SALARY IN LIEU OF LEAVE [Sec 10(10AA)]**

Leave salary received during the service or employment is fully taxable as part of salary income. If leave is accumulated and salary in lieu of leave is received at the time of retirement and the employee is a –

- Government employee [Sec 10(10AA) (i)] (Employee of Central and state government employees) – fully exempt from tax
- Non-government employee [Sec 10(10AA) (ii)] – minimum of the four amounts is exempted –
  - Actual amount received of salary in lieu of leave on retirement
  - Amount fixed by the government after deducting Rs.3,00,000 from it
  - 10 months\*average salary of last 10 month immediately preceding date of retirement.
  - 30 days or one month salary for each completed year less leave availed during service [(number of completed years-leave availed in months)\*average salary]
- Salary for this purpose shall include Basic + DA (forming part of salary) + commission (as percentage of turnover achieved by the employee).
- 10 months period should end on date of retirement for salary amount
- Last incomplete year of service for the fourth amount, for counting completed years is ignored.

### **GRATUITY [Sec 10(10)]**

Government employees [Sec 10(10) (i)]	Employees covered under Gratuity Act, 1972 [Sec 10(10) (ii)]	Other non-government employees, not covered in Gratuity Act [Sec 10(10) (iii)]
Fully exempt	Minimum of the following three amounts will be	Minimum of the following three amounts will be

	exempt – 1) Gratuity received 2) Rs.10,00,000 (amount fixed by the government) 3) Salary last drawn * Number of completed years * 15/26	exempt – 1) Gratuity received 2) Rs.10,00,000 (amount fixed by the government) 3) Average salary * number of completed years * 1/2
For this purpose, salary shall include	Basic + DA	Basic + DA (forming part of salary) + commission in percentage turnover

- For non-government employees covered by Gratuity act, incomplete year of service is considered as full year only if more than six months is completed. For example: If a person retires after serving for 16 years and 7 months, then completed years of service will be taken as 17 years.
- For non-government employees not covered by Gratuity act, incomplete year of service is not considered even if more than six months is completed. For example: If a person retires after serving for 16 years and 9 months, then completed years of service will be taken as 16 only.
- For non-government employees covered by Gratuity act, average salary means average salary for the ten months immediately preceding the month in which the employee has retired.

#### Illustration 14

Mr. Ram Bahadur retires on 04-01-2015 after serving ABC Ltd. for a period of 16 years and 11 months. At the time of retirement his basic salary was Rs. 44,000 per month and he was also entitled to Dearness Allowance of Rs. 8,000 per month. On his retirement, he received Rs. 6, 00,000 as gratuity. Compute the amount of gratuity exempt from tax and the amount to be included in gross salary. He is covered under the Payment of Gratuity Act.

#### Solution

The exemption shall be to the extent of the minimum of the following three amounts –

- Rs. 6,00,000 (amount of gratuity received)
- Rs. 5,10,000 (15 days' salary for every year of service i.e.,  $52000/26 \times 15 \times 17$ )
- Rs. 10,00,000

Therefore, Rs. 5, 10,000 shall be exempt from tax and the balance Rs. 90,000 shall be included in the gross salary.

#### Illustration 15

X has been working with two companies: ABC Ltd. and PQR Ltd. The following particulars are given to you:

ABC Ltd.		PQR Ltd.	
Date of retirement	During previous year	Date of retirement	Prior to the previous year.
Service	30 years	Gratuity received	Rs. 50,000
Gratuity received	Rs. 3,00,000	He received Rs. 50,000 as death-cum-retirement gratuity from the concern out of which Rs. 45,000 were exempt as per Income Tax Rules.	
Salary	Total salary during 10 months prior to the month of retirement has been Rs. 1,50,000		

X is not covered under the Payment of Gratuity Act, 1972 and the act is not applicable in this case. Compute exempt gratuity for the current assessment year 2015-16.

### Solution

Exempt gratuity is least of the following:

Half month's average salary for each year's completed service, i.e. $(15,000/2 \times 30)$	Rs. 2,25,000
The maximum limit of Rs. 3,50,000 as reduced by Rs. 45,000 being the amount exempt earlier	Rs. 3,05,000
Actual gratuity received	Rs. 3,00,000

Hence, Rs. 2, 25,000 (least of the three) is exempt and Rs. 75,000 (3, 00,000 – 2, 25,000) is chargeable to tax during the assessment year.

### Working notes:

- Total of taxable gratuity from both the companies = 75,000 + 5,000 (50,000 – 45,000)  
= Rs. 80,000
- Salary = average salary of 10 months immediately preceding the month of retirement  
= total salary received during 10 months / 10  
= 1, 50,000 / 10

= Rs. 15,000

### **PENSION [Sec 17(1) (ii)]**

Sometimes employer agrees to pay commute pension. Commutation means payment of one time lump sum amount in place of regular payment. Full or part of pension may be commuted.

- Uncommuted pension is fully taxable in the hands of all employees.
- Commuted pension [Sec 10(10A) (i)] is fully exempt in the hands of government employees.
- Taxability of commuted pension, in case of non-government employees [Sec 10(10A) (ii)], depends upon whether employee has received gratuity at the time of retirement –
  - If employee has received gratuity at the time of retirement, commuted pension is exempted to the limit of  $\frac{1}{3}$ <sup>rd</sup> of commuted value of full pension.
  - If employee has not received gratuity at the time of retirement, commuted pension is exempted to the limit of  $\frac{1}{2}$  of commuted value of full pension.

### **Illustration 16**

Mr. Manoj is getting a pension of Rs. 3,000 per month from a company. During the previous year he got his two-third pension commuted and received Rs. 1, 40,000. He is not a government employee. Compute the exempted amount, if (a) he also received gratuity (b) he did not received gratuity, for the assessment year 2015-16.

### **Solution**

a. When Mr. Manoj received gratuity:

Commutated value of  $\frac{2}{3}$  pension = Rs. 1, 40,000

Commutated value of full pension = Rs. 2, 10,000

(1, 40,000 X  $\frac{3}{2}$ )

Commutated value of  $\frac{1}{3}$  pension = Rs. 70,000

Hence, exempt value will be Rs. 70,000 and the balance of Rs. 70,000 (1, 40,000 – 70,000) is taxable.

b. When Mr. Manoj does not receive gratuity:

Computed value of  $\frac{2}{3}$  pension = Rs. 1, 40,000

Computed value of  $\frac{1}{2}$  pension = Rs. 1, 05,000

Hence, Rs. 1, 05,000 is exempt and the balance (1, 40,000 – 1, 05,000) Rs. 35,000 is taxable.

## **PROVIDENT FUND**

Provident Fund is a fund which is created to help an individual in future i.e. after retirement or death. The employee contributes certain amount every month out of his salary and an equal amount is contributed by the employer. The contributions of both are invested in gilt-edged securities. Interest earned is also credited to the provident fund account of employee. There are four types of provident fund accounts –

- 1) Statutory Provident Fund (SPF)
- 2) Recognized Provident Fund (RPF)
- 3) Unrecognized Provident Fund (URPF)
- 4) Public Provident Fund (PPF)

### **Statutory Provident Fund (SPF)**

This fund is mainly for Government/University/Educational Institutes (affiliated to university) employees.

### **Recognized Provident Fund (RPF)**

This scheme is applicable to an organization which employs 20 or more employees. An organization can also voluntarily opt for this scheme. All RPF schemes must be approved by The Commissioner of Income Tax.

### **Unrecognized Provident Fund (URPF)**

Such schemes are those that are started by employer and employees in an establishment, but are not approved by The Commissioner of Income Tax. Since they are not recognized, URPF schemes have a different tax treatment as compared to RPFs.

### **Public Provident Fund (PPF)**

This is a scheme under Public Provident Fund Act, 1968. In this scheme even self-employed persons can make a contribution. This fund is made by the Government of India for the purpose of promoting savings among the general public. It has no relation with any employee or employer or salary. Every person opens an account for himself. The individual gets every year deduction u/s 80C on the amount deposited in this fund account. Interest is credited to the account every year on rates fixed by the government. This amount is repayable along with interest after minimum specified period (15 years). The whole amount received at the time of withdrawal is fully exempt from tax.

<b>Type of PF</b>	<b>Employer's contribution</b>	<b>Employee's contribution</b>	<b>Interest on employer's contribution</b>	<b>Interest on employee's contribution</b>	<b>At the time of withdrawal of amount, at the time of retirement</b>
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					<b>or resignation</b>
<b>SPF</b>	Exempt from tax in the hands of employee. Not to be included in his gross salary. No limit in income tax since amount is presumed to be contributed as per government rules.	It is part of taxable gross salary. Employee gets deduction u/s 80C on its contribution within the limits of section of Rs.1,50,000	It is exempted at the time of credit into account and not included in taxable salary of employee.	It is also exempted at the time of credit into account and not included in taxable salary of employee.	Entire amount is exempt from tax in the hands of government employees.
<b>RPF</b>	Up to 12% of salary is exempt from tax in the hands of the employee. Not to be included in his salary (basic + DA forming part of salary + commission in percentage). Excess of employer's contribution is taxable as salary income.	It is a part of taxable gross salary. Employee gets deduction u/s 80C on its contribution within the limits of section of Rs.1,50,000	It is exempted up to 9.5% per annum at the time of credit into account and not included in taxable salary of employee. Excess credit is taxable as salary income. This interest is calculated as percentage of amount invested.	Same as interest on employer's contribution	Entire amount is exempt from tax in the hands of government employees.
<b>URPF</b>	It is totally exempt at the time of deposit into the account	It is part of taxable gross salary. Employee does not get deduction u/s 80C on his	It is totally exempted at the time of credit into account and not included in taxable salary	Same as interest on employer's contribution	<b>Employer's contribution:</b> this amount is fully taxable at the time of withdrawal from fund as salary income.

		contribution, since it unrecognized by the income tax department.	of employee.		<p><b>Employee's contribution:</b> since this amount is already part of taxable income, it is exempted at the time of withdrawal from fund.</p> <p><b>Interest on employer's contribution:</b> this amount is fully taxable at the time of withdrawal from fund as salary income.</p> <p><b>Interest on employee's contribution:</b> this amount is fully taxable at the time of withdrawal from fund as interest income under the head "income from other sources".</p>
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### Illustration 17

Mr. Jagan is a manager of a company in Delhi. He retires from service on 31<sup>st</sup> December, 2014 after 28 years and 9 months of service. Other details are as follows for the previous year 2014-15:

1. Basic salary of Rs. 25,000 per month.
2. House Rent Allowance of Rs. 8,000 per month. Rent paid by him Rs. 10,000 per month.
3. Lunch allowance Rs. 100 per day for 100 days.
4. Reimbursement by the company of salary of a cook and a watchman Rs. 3,000 per month each who are provided to Mr. Jagan

5. He receives Rs.20, 00,000 as gratuity. He was drawing a salary of Rs.25,000 since 1<sup>st</sup> January, 2004.
6. After retirement he is in receipt of pension @Rs. 10,000 per month. On 1<sup>st</sup> March, 2015 he gets one half pension commuted for Rs.12, 00,000.
7. During the previous year he deposited Rs. 80,000 in PPF. He paid the life insurance premium Rs. 5,000 (sum assured Rs. 1, 00,000) on the policy taken on the life of his married son.

Compute his gross total income for the assessment year 2015-16.

### Solution

Basic salary	(25,000 X 9)	Rs. 2,25,000
Free Lunch	((100 – 50) X 100)	Rs. 5,000
House Rent Allowance	(8,000 X 12)	Rs. 96,000
<i>Less: exemption</i>		Rs. (90,000)
Servants facility	((3,000 + 3,000) X 12)	Rs. 72,000
Gratuity	(20,00,000 – 3,50,000)	Rs. 16,50,000
Commuted pension	(12,00,000 – 8,00,000)	Rs. 4,00,000
Uncommuted pension	(10,000 X 2 + 5000 X 1)	Rs. 25,000
Gross total income		Rs. 23,83,000

### Working notes

1. Free lunch in office is exempt up to Rs.50 per meal.
2. Salary (for calculation of HRA) = Rs. 3,00,000 (basic)
3. HRA is exempt up to the minimum of the following three limits –
  - (a) Rs. 96,000 (actual HRA received)
  - (b) Rs. 90,000 (1,20,000 – 30,000) rent paid – 10% of salary
  - (c) Rs. 1,50,000 (50% of salary)
4. Servants' salary is fully taxable if reimbursed or paid by the employer.
5. Gratuity is exempt up to the minimum of the following three limits –
  - (a) Rs. 20,00,000 (actual gratuity received)
  - (b) Rs. 3,50,000 (half month's salary X 28)
  - (c) Rs. 10,00,000 (maximum limit)
6. Commuted pension is exempt up to the minimum of the following two limits –
  - (a) Rs. 12,00,000 (actual pension received)

- (b) Rs. 8,00,000 ( $\frac{1}{3}^{\text{rd}}$  of full pension, since gratuity is received)
7. Since pension received of Rs. 12,00,000 is  $\frac{1}{2}$  of full pension, total pension is (12,00,000 X 2) = Rs. 24,00,000

### **TAXABILITY OF RETRENCHMENT COMPENSATION [Sec 10(10B)]**

Retrenchment compensation will be exempted from tax subject to minimum of the following:

- $\frac{15}{26}$  \* average salary of last 3 months \* number of completed years of service and part thereof in excess of six months [this amount is calculated in accordance with the provisions of section 25F of the Industrial Disputes Act, 1947]
- Rs.5, 00,000 or such sum as may be notified by the Central Government.

### **TAXABILITY OF VOLUNTARY RETIREMENT SCHEME (VRS) COMPENSATION [SECTION 10(10C)]**

This compensation is based on the remaining part of service and exemption is minimum of the following four amounts –

- Actual amount received as VRS compensation
- 3 months' salary \* No. of completed years of service \* last drawn salary
- No. of months left unserved \* monthly salary
- Rs.5,00,000

For this purpose, salary = basic + DA (if it forms part of salary for retirement benefits) + commission (on turnover)

### ***Knowledge Assessment – IV***

Choose the correct answer:

1. The maximum exception in case of leave encashment shall be –
  - a)  2,40,000
  - b)  3,50,000
  - c)  3,00,000
2. Gratuity shall be fully exempt in the case of –
  - a) Central and State Government employee
  - b) Central and State Government employee and employees in case of local authorities
  - c) Central and State Government employee, employees of local authorities and employee of Statutory Corporation.
3. Commuted pension received shall be fully exempt in case of –
  - a) Government employee
  - b) Government employee and employees in case of local authorities
  - c) Government employee, employees of local authorities and employee of Statutory Corporation.
4. For the purpose of calculating exemption of gratuity, salary shall include –
  - a) Fixed commission
  - b) Commission if it is a fixed percentage on turnover
  - c) None of these two
5. Encashment of leave salary at the time of retirement is fully exempt in the case of –
  - a) Central government employee
  - b) State government employee
  - c) Both central and state government employees

## KEYWORDS

1. **Salary:** A salary is a form of periodic payment from an employer to an employee, which may be specified in an employment contract.
1. **Salary:** A salary is a form of periodic payment from an employer to an employee, which may be specified in an employment contract. Salary is basically a fixed amount of money agreed every year as pay for an employee, usually paid directly into his or her bank account every month.
2. **Allowance:** Allowance is defined as a fixed quantity of money or other substance given regularly in addition to salary for meeting specific requirements of the employees.
3. **Gratuity:** Gratuity means a lump sum amount paid by employer to employee on retirement or resignation or retrenchment or death, as a reward for sincerity and continuous service rendered by him.
4. **Pension:** Pension is received by employee after retirement. It is a regular payment made by the employer. It may be payable monthly or quarterly or annually.
5. **Leave encashment:** Leave encashment means salary received for leave not availed by the employee.
6. **Specified employee:** An employee is referred to as a specified employee if,
  - Employee is Director in the employer company
  - Employee has substantial interest in the employer business – 20% or more share in the ownership or profit of the employer company
  - Employee has cash taxable salary more than Rs.50,000 during the year.
7. **Perquisites:** Perquisite is defined in the Oxford Dictionary as any casual emolument or benefit attached to an office or position in addition to salary or wages. It is a facility provided by employer in kind to the employee for official use or for personal benefit or partly for official purpose and partly for private purpose.
8. **SPF:** Provident fund is an account where employee and employer contribute every month a specific percentage of salary for the benefit of employee. SPF is a provident fund which is mainly for Government/University/Educational Institutes (affiliated to university) employees.
9. **RPF:** This scheme is applicable to an organization which employs 20 or more employees. An organization can also voluntarily opt for this scheme. All RPF schemes must be approved by The Commissioner of Income Tax.
10. **URPF:** Such schemes are those that are started by employer and employees in an establishment, but are not approved by The Commissioner of Income Tax. Since they are not recognized.

**11. PPF:** This is a scheme under Public Provident Fund Act, 1968. In this scheme even self-employed persons can make a contribution. This fund is made by the Government of India for the purpose of promoting savings among the general public. It has no relation with any employee or employer or salary. Every person opens an account for himself

### SUMMARY

- Section 17(1) of the Income-tax Act defines salary.
- The two main components of salary are allowances and perquisites.
- Allowance is a fixed quantity of money or other substance given regularly in addition to salary for meeting specific requirements of the employees.
- Specific exemptions in respect of allowances are provided under the following sections:
  - i. House Rent Allowance - section 10(13A)
  - ii. Prescribed special allowances - section 10(14)
- HRA is exempt to the extent of the minimum of the following three amounts -
  - i. Actual HRA received by the employee in respect of the relevant period.
  - ii. Excess of rent paid over 10% of the salary of the relevant period.
  - iii. 40% of the salary (50% of salary in case of Mumbai, Kolkata, Delhi or Chennai)  
Salary for this purpose = Basic + D. A. (forming part of salary for retirement benefits)
- Special allowances include:
  - i. Travelling allowance
  - ii. Daily allowance
  - iii. Conveyance allowance
  - iv. Helper allowance
  - v. Academic allowance
  - vi. Uniform allowance
- These special allowances are exempt of the minimum of the following two amounts:
  - i. Actual allowance received
  - ii. Actual amount spent for the purposes of duties of office or employment.
- The assessee is not entitled to any exemption in case of entertainment allowance, but he is entitled to a deduction under section 16(ii) from gross salary, to the extent of minimum of the following three limits –
  - i. Actual entertainment allowance received during the previous year.
  - ii. 20% of his salary exclusive of any allowance, benefit or other perquisite.
  - iii. Rs.5,000
- Allowances which are fully taxable are –
  - i. Dearness Allowance (DA)
  - ii. City Compensatory Allowance (CCA)
  - iii. Medical Allowance
  - iv. Lunch Allowance / Tiffin Allowance
  - v. Non-practicing Allowance

- vi. Overtime Allowance
- vii. Warden Allowance
- viii. Servant Allowance
- Perquisite is any casual emolument or benefit attached to an office or position in addition to salary or wages. It is a facility provided by employer in kind to the employee for official use or for personal benefit or partly for official purpose and partly for private purpose.
- Taxable value of housing accommodation is based on several factors –
  - i. Whether the house is furnished or unfurnished
  - ii. Whether the house is provided rent free or at a concessional rate
  - iii. Whether the house is owned by employer or hired by employer from outside
  - iv. Whether the house is provided by government or not
  - v. If the accommodation is provided in a hotel
- Taxable value of furniture is calculated in the following manner –
  - i. If the furniture is owned by the employer – taxable value is 10% of original cost of the furniture to employer per annum.
  - ii. If the furniture is hired by the employer – taxable value is actual hire charges paid by the employer.
- Taxable value of motor car facility to employee depends on several factors –
  - i. Use of the car (official, private or both)
  - ii. Cubic capacity of the car
  - iii. Whether running and maintenance expenses are incurred by employer or employee.
  - iv. Whether the car is owned by employee or is hired from outside
- Leave travel concession is exempt for one year in a block of four years and concession is only travel tickets by the shortest route to and fro, for the employee and his family members
- Education facility to children of employee in the school or college maintained by employer, cost of education in similar institution in or near the locality. Up to Rs.1,000 per month per child is exempt.
- Contribution made by employer to recognized provident fund above 12% of salary is taxable.
- Interest credited to RPF in excess of 9.5% per annum is taxable.
- Contribution made to Approved Superannuation Fund in excess of Rs.1, 00,000 is taxable.
- Contribution made to notified pension funds or schemes in excess of 10% of salary is taxable.
- Any monetary obligation of employee, which is directly paid or reimbursed by the employer, is taxable in the hands of all employees.
- If medical treatment expenses of employee or his family member is reimbursed or directly paid by the employer and treatment is in a –
  - i. Government or government approved hospital – fully exempt from tax
  - ii. Hospital maintained by employer – fully exempt from tax
  - iii. Private hospital or nursing home – exempt up to Rs.15,000 per annum

- If medical treatment expenses of employee or his family member is reimbursed or directly paid by the employer and treatment is outside India –
  - i. Cost of treatment – exempt up to amount permitted by the RBI
  - ii. Lodging and boarding expenses of patient and one attendant – exempt up to amount permitted by the RBI
  - iii. Cost of travel to and fro, of patient and one attendant – if GTI of employee is up to Rs.2 lakhs, it is fully exempt and if it is more than Rs.2 lakhs, it is fully taxable.
- Leave salary received during the service or employment is fully taxable as part of salary income. If leave is accumulated and salary in lieu of leave is received at the time of retirement and the employee is a –
  - a. Government employee – fully exempt from tax
  - b. Non-government employee – minimum of the four amounts is exempted –
    - i. Actual amount received of salary in lieu of leave on retirement
    - ii. Amount fixed by the government after deducting Rs.3,00,000 from it
    - iii. 10 months\*average salary of last 10 month immediately preceding date of retirement.
    - iv. 30 days or one month salary for each completed year less leave availed during service [(number of completed years-leave availed in months)\*average salary]
- Taxability of gratuity depends on several factors –
  - i. Whether employees are government employees or not
  - ii. Whether employees are covered under the Gratuity Act, 1972 or not.
- Commuted pension is fully exempt in the hands of government employees.
- Taxability of commuted pension, in case of non-government employees, depends upon whether employee has received gratuity at the time of retirement –
  - i. If employee has received gratuity at the time of retirement, commuted pension is exempted to the limit of 1/3rd of commuted value of full pension.
  - ii. If employee has not received gratuity at the time of retirement, commuted pension is exempted to the limit of ½ of commuted value of full pension.
- There are four types of provident fund accounts –
  - i. Statutory Provident Fund (SPF)
  - ii. Recognized Provident Fund (RPF)
  - iii. Unrecognized Provident Fund (URPF)
  - iv. Public Provident Fund (PPF)
- Income under the head salary is gross salary after deducting deduction on account of entertainment allowance and employment tax.

## **EXERCISE QUESTIONS**

### **Short Answer Questions**

1. Define the term ‘salary’ as per Income Tax Act.
2. Salary is taxable either on due basis or on receipt basis. Discuss
3. Define perquisites
4. Name five perquisites which are tax free



5. Explain the meaning of sweat equity shares.
6. What do you mean by 'profit in lieu of salary'?
7. Name five deductions eligible under section 80C
8. Briefly explain the retirement benefits available to an employee
9. Mention any five allowances which are fully taxable in the hands of specified employees.

### Long Answer Questions

1. State different types of Provident Funds of which a salaried person may be a member and related provisions of each.
2. Write short notes on:
  - (a) Provisions regarding gratuity
  - (b) House Rent Allowance
  - (c) Perquisites taxable only in case of specified employee
3. Discuss the mode of computation of taxable value of rent free accommodation.
4. Discuss the provisions regarding taxability of:
  - i. Pension
  - ii. Leave salary
5. Discuss the provision regarding valuation of motor car and other vehicle, taxable in the hands of specified employees.

### Numerical Questions

1. Mr. Raman receives the following incomes from A Ltd. during the year ending 31<sup>st</sup> March 2013:

Salary (@ Rs. 30,000 per month)	Rs. 3,60,000
Leave travel concession (actual expenditure on rail fare: Rs. 14,100)	Rs. 13,800
Tiffin Allowance (actual expenditure: Rs. 1,700)	Rs. 2,000
Dearness Allowance	Rs.12,000 per month (40% forms part of salary)
City Compensation Allowance	Rs. 8,000 per annum
Medical allowance	Rs.500 per month
Children Education Allowance	Rs.250 per month each for 2 children

Besides, Raman enjoys the following perquisites:

Rent free unfurnished house at Luck now (population: 24 lakhs). House is owned by the employer.

The employer provides two watchmen (salary Rs. 1,000 per month each)  
Interest free loan for purchasing home appliances (amount: Rs. 1, 20,000; date of taking loan: 1<sup>st</sup> march, 2011. Amount outstanding between 1<sup>st</sup> April, 2014 and 30<sup>th</sup> November, 2014: Rs. 76,000 and after 30<sup>th</sup> November, 2014: Rs. 50,000). The SBI lending rate for similar loan on 1<sup>st</sup> April, 2012 is 16.75%.

Find out net income of Raman for the assessment year 2015-16.

**(Answer: Rs. 6, 24,458)**

2. Mr. Suyash is Assistant Manager of a Textile Company of Jaipur, since 1990. He has submitted the following particulars of his income for the financial year 2014-15:

- (i) Basic salary: Rs. 3,60,000
- (ii) DA: Rs. 2,000 per month : 50% forms part of salary
- (iii) Education Allowance: Rs. 250 per month each for two children.
- (iv) Entertainment Allowance: Rs. 700 per month
- (v) Travelling Allowance for his official tours Rs. 30,000. The entire amount is spent on the official tour.
- (vi) Gift in kind: Rs. 2,500
- (vii) He resides in the flat of the company. Its market rent is Rs. 15,000 per month. A watchman and a cook have been provided by the company at the bungalow who are paid Rs. 1,000 per month each.
- (viii) He has been provided with a motor car of 1.8l engine capacity for his official as well as personal use. The running and maintenance costs are borne by the Company.
- (ix) Employer's contribution to RPF is Rs. 40,000 and the interest credited to this fund at 13% rate amounted to Rs. 16,250.
- (x) Contribution by Suyash to RPF is Rs. 40,000
- (xi) Rent of house recovered from Suyash: Rs. 1,500

Compute income from salaries for the assessment year 2015-16. Assume the population of Jaipur is 26 lakhs.

**(Answer: Rs.4, 87,505)**

3. Ms. Suman is an employee of a private college in Allahabad (whose population is 20 lakhs) which is not registered as a charitable trust with the Income-tax Department. She is in the grade of Rs. 14,500-400-16,500-600-19,500 since 01-01-2013. She gets Rs. 5,000 per month as DA (100% forms part of salary) and Rs. 500 per month as CCA. She has been provided with a furnished accommodation by the college. The college is not the owner of this house. The rental value of the house is Rs. 5,000 per month and the furniture costing Rs. 3,000 has been provided by the college. She has been given car of engine capacity of 1.8l which in addition to college work is used by her for private purposes. The driver's remuneration and all the expenses relating to the use of the car are borne by the college.

She has been provided with the facility of a watchman and a servant who are paid by the college Rs. 500 per month each. She contributes 10% of her pay to the SPF to which the college also contributes 10%. She paid employment tax of Rs. 500 during the financial year 2014-15. Determine net income taxable for the assessment year 2015-16.

**(Answer: Rs. 3, 34,300)**

4. Ujjwal, furnishes the following details of his salary income for his salary income for the financial year 2014-2015

- |  |                      |
|--|----------------------|
| (i) Salary   | Rs. 20,000 per month |
| (ii) DA (50% forms of salary)  | Rs. 2,000 per month  |
| (iii)Entertainment Allowance   | Rs. 2,000 per month  |
| (iv)Employer's and his own contribution to the RPF   | 10% of basic salary  |
| (v) Interest on accumulated balance of RPF @13% p.a.   | Rs. 52,000           |
| (vi)City Compensatory Allowance  | Rs. 200 per month    |
| (vii) Medical Allowance  | Rs.10,000 per annum  |
| (viii) He is provided with a car of 1.8l engine cubic capacity. Its expenses excluding driver's salary are met by him. The car is used for official as well as private purposes                          |                      |
| (ix)He is also provided with an unfurnished accommodation in Delhi for which the employer charges Rs. 500 per month. The fair rent of house is Rs. 24,000 per annum. The house is owned by the employer. |                      |
| (x) The employer has also engaged for him a sweeper and a gardener @ Rs. 1,200 per month each.   |                      |
| (xi)He has also been given a loan of Rs. 1, 00,000 @ 7% p.a. on 01-05-2014 for construction of his house. SBI rate for such loan as on 01-04-2014 is 12% p.a.  |                      |

Compute his taxable income from salary for the assessment year 2015-16.

**(Answer: Rs. 5,14,743 )**

5. Mr. Rocky has been drawing salary @ Rs. 10,000 per month since 01.01.2014. Dearness allowance, forming part of pay for superannuation benefits, is paid @ 10% of his salary and gets HRA of Rs. 2500 p.m. and pays a rent of Rs. 2,000 p.m.. He contributed to the fund 10 % to the URPF and the employer contributes @ 20%. The employer also reimburses his personal club bills amounting to Rs. 10,000. Besides, he is paid Rs. 1,000 per month as transport allowance. He retires on 01.01.2013 after 27 years and 9 months of service. He gets Rs. 75,000 as accumulated balance from the unrecognized provident fund. It consists of Rs. 14,000 as his contribution and Rs. 12,000 interests thereon. The employer's contribution is Rs. 27,000 and interest thereon is Rs. 22,000. He also gets a gratuity of Rs. 2, 00,000. After retirement, he gets pension @ 15,000 per month. On 01.03.2015, he surrenders one half pension for a consolidated amount of Rs. 1, 20,000.

From above information you are required to compute his total income under the head Salary for the assessment year 2015-16.

**(Answer: Rs. 3,03,200 )**



**UNIT: 3 (ii) - INCOME FROM HOUSE PROPERTY**

<b>Unit Code:</b>	<b>UNIT TITLE: INCOME FROM HOUSE PROPERTY</b>			
	Duration:			
<b>Location:</b>	<b>SESSION 1: INTRODUCTION TO HOUSE PROPERTY AND COMPUTATION OF NET ANNUAL VALUE</b>			
Classroom or internet	<b>Learning Outcome</b>	<b>Knowledge Evaluation</b>	<b>Performance Evaluation</b>	<b>Teaching and Training Method</b>
	1. Meaning of House Property	1. Explain the meaning of House Property 2. Explain the meaning of appurtenant lands 3. Explain the chargeability of rent received under different heads. 4. State the conditions under Sec. 22, to be satisfied for the income of a property to be charged under the head 'Income from House Property'	1. Analyse the meaning of House Property 2. Differentiate between rent received for a property charged under different heads 3. Analyse the conditions to be satisfied for the income of a property to be charged under the head 'Income from House Property'	<b>Interactive Lecture:</b> Introduction of House Property
	2. Deemed Ownership	1. State the various cases under mentioned in Sec. 27, under which a person who is not the legal owner of a house property is deemed to be the owner of property	1. Explain the meaning of deemed ownership 2. Explain the various cases of deemed ownership	<b>Interactive Lecture:</b> Discussion of the various cases of deemed ownership <b>Activity:</b> Collection and analysis of the statement of tax paid in respect of Income from House Property by different assesses.
	3. Computation of Net Annual Value of House Property	1. Explain the various terms to be used for calculating the Net Annual Value of House Property 2. State and explain the procedure to calculate NAV of the House Property	1. Identify the category of House Property so as to calculate its NAV 2. Calculate the NAV in different categories	<b>Interactive Lecture:</b> Acquaint the students with the various terms and the procedure used in calculating NAV

		3. State the categories of House Properties for the purpose computation of net annual value		
<b>SESSION 2: DEDUCTIONS FROM INCOME UNDER THE HEAD HOUSE PROPERTY [SEC 24] AND OTHER PROVISIONS</b>				
	1. Deductions under Sec. 24	1. State the deductions available for a House Property under Sec. 24	Calculate the standard deduction  Calculate the amount of interest allowed to be deducted from NAV  Calculate the income from House Property	<b>Interactive Lecture:</b> Acquaint the students with the deductions available under Sec. 24
	2. Other provisions	1. Explain the meaning of unrealized rent 2. Explain the meaning of co- ownership 3. Explain the tax treatment of losses under the head 'Income from House Property'	1. Explain the provisions regarding recovery of unrealized rent and treatment of arrears of rent 2. Calculate NAV in case of unrealized rent arrears of rent 3. Explain the provisions related to co-ownership 4. Calculate Income from House property in case of co- ownership 5. Explain the set- off and carry forward of losses under the head 'Income from House Property' through numerical questions	<b>Interactive Lecture:</b> Discussion of the provisions of unrealized

*(Note: The location would depend upon the topic under discussion. Major portion of the unit will be covered in classroom. The students can contact different assesses to collect and analyze the statement of tax paid in respect of Income from House Property. The students may also visit the website [www.incometaxindia.gov.in](http://www.incometaxindia.gov.in) to collect more information regarding the provisions for charging any income under the head 'Income from House Property'.)*

## UNIT: INCOME UNDER THE HEAD HOUSE PROPERTY

### ***Learning Objectives:***

After reading this unit, the students will be able to:

1. explain the meaning of house property
2. state the cases of deemed ownership
3. calculate the NAV of house properties under different categories
4. calculate the deductions under Sec. 24 and income from house property
5. explain the provisions of unrealized rent and arrears of unrealized
6. explain the provisions of co- ownership
7. explain the meaning of certain keywords.

### **SESSION 1: INTRODUCTION TO HOUSE PROPERTY AND COMPUTATION OF NET ANNUAL VALUE**

House property consists of any building or land appurtenant thereto of which the assessee is the owner. The buildings include residential buildings (whether self occupied or let out *for any purpose*), office building, factory building, godowns, flats, etc. as long as they are not used for business or profession by owner.

The appurtenant lands may be in the form of approach roads to and from the public streets, motor garage, courtyard or compound forming part of the building. But such land is to be distinguished from a separate open plot of land, which is not charged under this head but under the head 'Income from Other sources' or 'Income from Business and Profession', as the case may be.

If a tenant sub- lets the house property, the rent received by him from the sub- tenant in respect of such house property shall be charged under the head 'Income from Other sources' or 'Income from Business and Profession'.

The situation of property is immaterial. It may be situated in India or abroad.

**Example:** Mr. A has a house. It includes vast open area within its boundaries. This house has been let out at a rent of Rs. 1,00,000 p.m., out of which rent of Rs. 25,000 p.m. is attributable to the open land. In this case, entire rental income is taxable under the head house property.

## **BASIS OF CHARGE**

Section 22 of the Act provides as follows:

*“The annual value of a property consisting of any buildings or lands appurtenant thereto of which the assessee is owner, other than such portions of such property as he may occupy for the purposes of business or profession carried on by him the profits of which are chargeable to income tax, shall be chargeable to income tax under the head Income from House Property”.*

Thus, the annual value of a property is taxable under this head if *all* the following conditions are satisfied:

1. The property should consist of any building or land appurtenant thereto.
2. The assessee should be the owner of the property.
3. The property should not be used by the owner for the purpose of any business or profession carried on by him, the profits of which are chargeable to income tax.

Unless all the aforesaid conditions are satisfied, the property income cannot be charged to tax under the head ‘Income from House Property’.

## **DEEMED OWNERSHIP**

As per section 27, the following persons are deemed to be the owners of the property, although they are not the legal owners:

### ***1. Transfer to a spouse or a minor child (a child below 18 years of age)***

If an individual *transfers* any house property to his or her spouse/ minor child without adequate consideration, the transferor in that case is deemed to be the owner of the house property so transferred. However, this would not cover cases where property is transferred to a spouse (or minor married daughter) in connection with an agreement to live apart.

### ***2. Holder of an impartible estate***



The holder of an impartible estate shall be deemed to be the individual owner of all properties comprised in the estate. The impartible estate, as the word itself suggests, is a property which is not legally divisible.

3. ***Member of a Co-operative Society, etc.***

A member of a co-operative society, company or other association of person to whom a building is allotted or leased under a House Building Scheme, shall be deemed to be the owner of that building which is allotted to him, although the co-operative society/company/association is the legal owner of that building. For e.g., a flat is allotted by a cooperative society to its members who enjoy the flat. Technically the co-operative society may be the owner. However, in such situations the allottees are deemed to be owners and it is the allottees who will be taxed under this head.

4. ***Person in possession of a property***

The person who acquire a house without registration in part performance of a contract under section 53A of Transfer of Property Act, 1882 is deemed as owner of this house although it is not registered in his name.

5. ***Person having right in a property for a period not less than 12 years***

The lessee of a building is deemed as owner if the building is leased out to him for 12 years or more.

## **COMPUTATION OF NET ANNUAL VALUE OF HOUSE PROPERTY**

The measure of charging income-tax under this head is the annual value of the property, i.e., the inherent capacity of a building to yield income. The expression 'annual value' has been defined in Section 23 of the Income-tax Act.

To determine the Annual Value or Net Annual Value, the following points must be understood:

**Expected Rent-** this is the sum for which the property might be reasonably expected to be let out from year to year. It can be said to be the most likely rent for a house property.

**Municipal Value** - it is the value determined by the municipal authorities for the purpose of levying municipal taxes on house property.

**Fair Rent**- it is the amount which a similar property can fetch in the same or similar locality, if it is let out for a year.

**Standard Rent**- it is the sum fixed under Rent control Act. Where the property is subject to Rent Control Act, the expected rent cannot be higher than the standard rent fixed under this Act.

**Actual Rent**- it is the rent received/receivable for the let out period.

**Municipal Taxes**- these include service taxes (fire tax, water tax, etc.) levied by any municipality or local authority. Deduction in respect of municipal taxes in determining the annual value of house property will be allowed only if the following conditions are satisfied:

- The property is *let out* during the whole or any part of the previous year (The taxes are not deductible in respect of a self-occupied house property).
- These taxes must be *borne by the landlord*. (There is no such deduction if the municipal taxes are borne by the tenant).
- The municipal taxes must be *paid during the year*. (Where the municipal taxes have become due but have not been actually paid, these will not be deductible. The municipal taxes may be claimed on payment basis i.e., only in the year they were paid even if the taxes belonged to a different year).

**Composite Rent**- When the owner of the building gets along with the rent of the building, rent or hire of other assets (like furniture) or charges for different services provided in the building (e.g. charges for security, lift, air-conditioning, electricity, water, etc.), the total amount so received is called 'composite rent'. The tax treatment of composite rent is as follows:

- When composite rent is *inseparable*, i.e. the other party will not accept the letting of one without the other, then such income is taxable as 'Income from profits and gains of business or profession' or 'Income from other sources'.
- When composite rent is *separable*, the rent of building is taxable as 'Income from house property' and rent or hire of other assets and charges for different services is taxable under

the head 'Income from Profits and gains of business or profession' or 'Income from other sources'.

Net Annual Value shall be computed in the following manner:

Step-1 Determine the Gross Annual Value of the property.

Step-2 Deduct the municipal taxes actually paid by the owner during the previous year from the Gross Annual Value to arrive at Net Annual Value.

For the purpose computation of net annual value, properties can be classified into 3 categories:

- A. Properties let out.
- B. Properties occupied by the owner for residential purposes or properties not self occupied owing to employment at some other place.
- C. Partly let out and partly self occupied.

#### **A. PROPERTIES LET OUT [SECTION 23(1)]**

When the property is let out, the following situations may arise:

- i. The property is let out for the whole of the previous year
- ii. The property is let out for a part of the previous year and remains vacant for the other part.

#### **Case 1. *Property is let out for the whole year:***

The Gross Annual Value shall be the higher of

- a) Expected Rent
- b) Actual rent received or receivable

Expected rent is the higher of Municipal value and Fair Rental value but subject to Standard rent because expected rent cannot be higher than the standard rent fixed under the Rent Control Act.

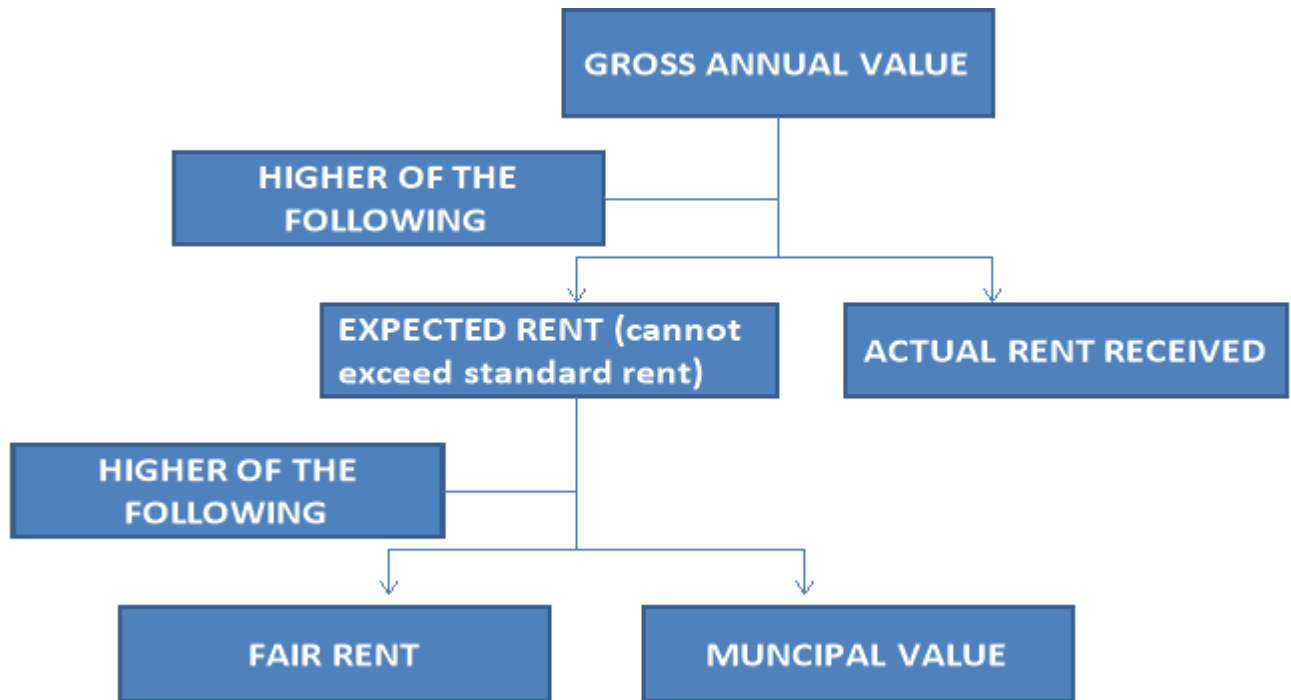


CHART SHOWING DETERMINATION OF GROSS ANNUAL VALUE

**Illustration 1:** Mr. A is the owner of three houses, which are all let out and not governed by Rent Control Act. Find out the GAV of each house from the given information:

Particulars	I	II	III
	Rs.	Rs.	Rs.
Municipal Value	15,000	40,000	35,000
Fair Rent	18,000	48,000	32,000
Actual Rent	16,000	56,000	30,000

**Solution:**

**Expected Rent:** Higher of Municipal Valuation or Fair Rent

House I: Rs. 18,000

House II: Rs. 48,000

House III: Rs. 35,000

**Gross Annual Value (GAV):** Higher of Expected or Actual Rent

House I: Rs. 18,000

House II: Rs. 56,000

House III: Rs. 35,000

**Illustration 2:** Mr. A is the owner of following four houses, all let out and covered under Rent Control Act. From the information given below, find the NAV in each case:

<b>Particulars</b>	<b>I</b>	<b>II</b>	<b>III</b>	<b>IV</b>
	<b>Rs.</b>	<b>Rs.</b>	<b>Rs.</b>	<b>Rs.</b>
Municipal Value	52,000	70,000	29,000	15,000
Actual Rent	60,000	64,000	24,000	16,000
Fair Rent	56,000	60,000	36,000	18,000
Standard Rent	70,000	72,000	30,000	20,000
Municipal Taxes	10,000	15,000	10,000	5,000

(including Rs. 2,000

for an earlier year)

**Solution:**

All the houses are covered under Rent Control Act. Thus, the Expected Rent will be higher of Municipal Value or Fair Rent but subject to Standard Rent.

<b>Particulars</b>	<b>I</b>	<b>II</b>	<b>III</b>	<b>IV</b>
	<b>Rs.</b>	<b>Rs.</b>	<b>Rs.</b>	<b>Rs.</b>
Expected Rent	56,000	70,000	30,000	18,000

Actual Rent	60,000	64,000	24,000	16,000
<b>GAV</b>	<b>60,000</b>	<b>70,000</b>	<b>30,000</b>	<b>18,000</b>
<i>Less:</i> Municipal Taxes	<u>10,000</u>	<u>15,000</u>	<u>10,000</u>	<u>5,000</u>
<b>NAV</b>	<b>50,000</b>	<b>55,000</b>	<b>20,000</b>	<b>13,000</b>

**Case 2. *Let out and vacant property***

When the property is let out for a part of the previous year and remains vacant for the other part and the annual value declines due to such vacancy then such decline in value shall be considered.

**Illustration 3:** Find the gross annual value of the following house property:

Expected Rent	Rs. 85,000
Rent per month	Rs. 8,000
Let out period	9 months

**Solution:**

Expected Rent	Rs. 85,000
Annual Rent	Rs. 96,000
Loss due to vacancy	Rs. 24,000
Actual Rent	Rs. <u>72,000</u>
Gross Annual Value	Rs. 72,000

In this case, the annual rent is more than the expected rent. But because of the vacancy of three months, the actual rent has fallen below the expected rent. Thus, GVA will be taken as actual rent according to section 23(1) (c).

**B. PROPERTY OCCUPIED BY THE OWNER [SECTION 23 (2)]**

In the following two cases, the Net Annual Value shall be considered to be *NIL*:

- i. The property is occupied by the owner for his own residence throughout the previous year.
- ii. The property cannot actually be occupied by the owner because due to his employment, business or profession, he has to reside at some other place in a building not belonging to him.

But, the NAV shall be considered to be nil only if,

- The property is not actually let out during any part of previous year, or
- No other benefit is derived from such property by the owner.

In respect of such house, the only deduction permissible against this nil income is interest on borrowed capital which can be upto Rs. 30,000 or Rs. 2,00,000 as the case may be. This point is explained later in the chapter under the heading : Deductions from Income under the head house property. No other deduction (municipal taxes or standard deduction) is permissible for self occupied property.

#### **DEEMED LET OUT PROPERTIES**

If there are more than one self occupied houses, then the assessee may exercise an option to treat any one of the houses to be self-occupied. The other house(s) will be deemed to be let out and annual value of such house(s) will be determined as in the case of let out property. The assessee in this case, should exercise his option in such a manner that his taxable income is the minimum.

**Illustration 4:** Y has two houses, both of which are self-occupied. The particulars of the houses are as under:

<b>Particulars</b>	<b>Ist House</b>	<b>IInd House</b>
	<b>Rs.</b>	<b>Rs.</b>
Municipal Value	Rs.70,000	Rs.1,00,000
Fair Rental Value	Rs.82,000	Rs.1,30,000
Standard Rent	-	Rs.1,10,000

Municipal taxes	Rs.7,000	Rs.10,000
	paid during the year	paid during the year

Suggest which house should be opted by Y to be assessed as self-occupied.

**Solution:**

Assume both houses to be let out

<b>Particulars</b>	<b>Deemed let out house I</b>	<b>Deemed let out house II</b>
Gross Annual Value	Rs. 82,000	Rs. 1,10,000
Less: Municipal Taxes	Rs. 7,000	Rs. 10,000
Net Annual Value	Rs. 75,000	Rs. 1,00,000
Less: Statutory Deduction @30%	Rs. 22,500	Rs. 30,000
Net Annual Value	Rs. 52,500	Rs. 70,000

As the income from 2<sup>nd</sup> house is more, it should be considered to be self occupied so that the taxable income is minimum.

**C.) LET OUT AND SELF OCCUPIED PROPERTY**

**a) Partly let out and partly self occupied property :**

When a portion of the property is self occupied for residence for the whole year and the other portion is let out for the whole year, the annual value of such property shall be determined as follows:

- i. From the full annual value of the house the proportionate annual value for self occupied portion for the whole year shall be deducted.
- ii. The balance under (i) shall be the annual value for let out portion.



**b) Property let out for any part of the previous year and self occupied for the remaining part of the year:**

The valuation of such property shall be done as if let out throughout the previous year.

Note: Actual Rent is taken only for the period it is actually let out while expected rent is always taken for the entire previous year and the gross annual value shall be higher of these two.

**Illustration 5:** Mr. X let out his house for 8 months for Rs. 2,000 p.m. For the remaining months it was self occupied. Find the GAV of the house if the Expected rent of the house is Rs. 1,500 p.m.

**Solution:**

Actual rent (8 X 2,000)	Rs.16,000
Expected rent (12 X 1500)	<u>Rs. 18,000</u>
GAV	Rs. 18,000

**Knowledge Assessment – I**

*Fill in the blanks:*

1. Rent received by original tenant from sub-tenant is taxable under the head \_\_\_\_\_.
2. If an individual transfers any house property to his or her spouse/ minor child without adequate consideration, the \_\_\_\_\_ in that case is deemed to be the owner of the house property so transferred.
3. Rent from house property let-out by an assessee to his employees when such letting is incidental to his main business, will be chargeable to tax under the head \_\_\_\_\_.
4. When annual value of one-self occupied house is nil, the assessee will be entitled to the standard deduction @ \_\_\_\_\_
5. In case of multiple self occupied houses, the number of houses that can be treated as self occupied houses is (are) \_\_\_\_\_.

**Answers**

1. Other sources, 2. Transferor, 3. 'Profit and Gains from Business or Profession, 4. Nil, 5. One

## SESSION 2: DEDUCTIONS FROM INCOME UNDER THE HEAD HOUSE PROPERTY [SEC 24] AND OTHER PROVISIONS

W.e.f. Assessment year 2002-03, income chargeable under the head “Income from house property” shall be computed after making the following deductions from the Net Annual Value:

**a) Standard deduction**

A sum equal to 30% of NAV shall be deducted for repairs, maintenance, collection charges, etc. This sum is deducted irrespective of the actual amount paid for repairs, collection, etc. The deduction is allowed even if the actual amount paid is nil.

**b) Interest on borrowed capital**

Where the property is acquired, constructed, repaired, renewed or reconstructed with borrowed capital, the amount of any interest payable on such borrowed capital shall be allowed as deduction from NAV to compute the income from house property.

However, the following points must be considered in respect of interest on borrowed capital:

- i. The interest is deductible on *accrual basis*. Hence it should be claimed on yearly basis even if no payment has been made during the year.
- ii. *Deduction of interest for self occupied properties and properties not self occupied owing to employment at some other place*- the amount of deduction for interest in such cases shall not exceed Rs. 30,000. However, interest upto Rs.1,50,000 is deductible if the following conditions are satisfied:
  - capital is borrowed *on or after April 1, 1999* for acquiring or constructing a property;
  - the capital is borrowed only for **acquisition or construction** of the house;
  - the acquisition or construction should be completed *within 3 years* from the end of the financial year in which capital was borrowed; and
  - the assessee furnishes a *certificate* from the person to whom interest is payable specifying the amount of interest

Note: The amount of Rs. 1,50,000 has been increased to Rs. 2,00,000 w.e.f. 1-04-2015.

iii. *Interest for pre-construction period:* Sometimes it happens that money is borrowed earlier and acquisition or completion of construction takes place in any subsequent year. Meanwhile interest becomes payable. In such a case interest paid/payable for the period prior to previous year in which the property is acquired/ constructed will be aggregated and allowed in five successive financial years, starting from the year in which the acquisition/construction was completed. Interest will be aggregated from the date of borrowing till the end of the previous year prior to previous year in which the house is completed and not till the date of completion of construction.

**Illustration 6:** The assessee took a loan of Rs 600,000 on 01/04/2012 from a bank for construction of a house. The loan carries an interest @10% p.a. The construction is completed on 15/06/2014. The entire loan is outstanding. The amount of interest for pre- construction period is Rs. 1,20,000. The entire loan is outstanding. Compute the interest allowable for the assessment year 2015-16.

**Solution:**

- **Interest for the previous year** ( in which the construction was completed, i.e. 01/04/ 14- 31/05/15 on Rs 6,00,000 @ 10% Rs 60,000
  - **Interest for the pre construction period** (period from the date of borrowing till the end of the previous year prior to previous year in which the house is completed) i.e. from 1/04/2012 to 31/03/2014 (for 2 years) Rs 120,000
- 1/5th is allowed for the year Rs 24,000
- Total interest allowable Rs 84,000

**INTEREST WHEN NOT DEDUCTIBLE FROM ‘INCOME FROM HOUSE PROPERTY [SECTION 25]**

Interest on borrowed money which is payable outside India shall not be allowed as deduction *u/s 24(b)*, unless the tax on the same has been paid or deducted at source and in respect of which there is no person in India, who may be treated as an agent of the recipient for such purpose.

## TREATMENT OF UNREALISED RENT IN DETERMINING ANNUAL VALUE

### [Explanation to Section 23(1)]

Unrealised rent (which was payable but not paid by the tenant) shall be excluded from rent received/receivable .

#### *Rules for unrealised rent:*

The unrealized rent shall be excluded from the rent received or receivable only if the following conditions are satisfied:

- a. the tenancy is bona fide;
- b. the defaulting tenant has vacated, or steps have been taken to compel him to vacate the property;
- c. the defaulting tenant is not in occupation of any other property of the assessee;
- d. the assessee has taken all reasonable steps to institute legal proceedings for the recovery of the unpaid rent or satisfies the Assessing Officer that legal proceedings would be useless.

#### **Illustration 7:**

Expected Rent	Rs. 1,000 P.M.
Actual Rent	Rs.1,500 P.M.
Unrealized Rent	For 2 months

Find GAV for the above particulars.

#### **Solution:**

Expected Rent (1000 X 12)	Rs.12,000
Actual Rent (1500 X 10)	<u>Rs.15,000</u>
GAV	Rs.15,000

## **UNREALISED RENT ALLOWED AS DEDUCTION REALISED SUBSEQUENTLY (SECTION 25AA)**

Unrealised rent subsequently recovered will be deemed as income under the head “Income from house property” and would be taxable in the year of receipt. It has been mentioned earlier that basic requirement for assessment of property income is the ownership of the property. However, in the cases where unrealised rent is subsequently realised, it is not necessary that the assessee continues to be the owner of the property in the year of receipt also. (Section 25AA)

## **TAX TREATMENT OF ARREARS OF RENT (SECTION 25B)**

The amount received on account of arrears of rent (not charged to tax earlier) will be charged to tax after deducting a sum equal to 30% of such arrears. It is charged to tax in the year in which it is received. Such amount is charged to tax whether or not the taxpayer owns the property in the year of receipt.

**Illustration 8:** During the financial year 2016-17, Mr. X received a sum of Rs. 1,50,000 (Rs. 50,000 p.a.) by way of arrears for the last 3 years as the Government Department (the tenant) increased the rate of rent with retrospective effect. Will this sum be taxable in the Assessment Year 2017-18? Can it be spread over the last 3 years?

### **Solution:**

As per Sec.25B, the arrears of rent shall be taxable in the previous year in which such arrears are received. Therefore, the sum of Rs. 1,50,000 shall be taxable in the Assessment Year 2017-18. The assessee shall be allowed the deduction @ 30% of such arrears. Thus, the net amount of Rs. 1,05,000 (i.e., Rs. 1,50,000 – Rs. 45,000) shall be taxable under the head ‘Income from House Property’. It is not necessary that the taxpayer owns the property in the year of receipt.

## **CO- OWNERSHIP [SECTION 26]**

Sometimes the property consisting of buildings or the buildings and land appurtenant thereto is owned by two or more persons, who are known as co-owners. In such cases, if their representative shares are definite and ascertainable, such persons shall not be assessed as an AOP in respect of such property, but the share of each such person in the income from the property, as

computed in accordance with *Sec. 22-25*, shall be included in his total income. In such cases, the relief admissible under section 23(2) (for self occupied properties) shall also be separately allowable to each such person.

## **LOSS FROM HOUSE PROPERTY**

When the aggregate amount of permissible deduction exceeds the net annual value of the property, there will be a loss from that property. This loss shall be treated in the following manner:

1. As per **Sec. 70** if any person has loss from any house property, such loss can be set off from income of any other house property. It is called inter-source adjustment or intra-head adjustment.

For e.g., Mr. Kumar has two houses; there is loss of Rs. 43,000 from one house and income of Rs. 90,000 from other house, in this case, loss from one source (house) can be set off from income of the other source (house).

2. As per **Sec. 71**, if even after the set-off, there is an unabsorbed balance of the loss, unadjusted loss can be set off from incomes of other heads but as per **Sec.58 (4)**, such loss can be set off from casual income. It is called inter-head adjustment.

For e.g., Mr. Naqvi has loss from house property, Rs. 6,00,000 and income from business/profession Rs. 8,00,000, in this case, loss is allowed to be set off but if he has any casual income, loss cannot be set off from casual income.

3. As per **Sec.71B**, the further unadjusted loss is allowed to be carried forward to the subsequent years but for a maximum period of 8 years starting from the subsequent to the year in which the loss was incurred and in the subsequent years, loss can be set off only from income under the head house property.

For e.g., Mr. X has loss under the head house property of the previous year 2004-05 of Rs. 5,00,000 and income under the head house property of Rs. 5,00,000 in previous year 2012-13. In this case, loss shall be allowed to be set off because it will be allowed to be carried forward upto a period of 8 years starting from previous year 2005-06.

## ***Knowledge Assessment – II***

1. Sunil purchased a house for his *residential purpose* after taking a loan on 21<sup>st</sup> January, 2013. During the previous year 2015-16, he paid interest on loan Rs. 2,07,000. While computing income from house property, the deduction is allowable to the extent of —
  - a. Rs.30,000
  - b. Rs. 1,00,000
  - c. Rs. 2,07,000
  - d. Rs. 2,00,000
2. Mr. A had one self occupied house property in Mumbai for residence. Fair rent of that property is Rs. 56,000 per annum. Municipal valuation is Rs. 28,000. Municipal taxes paid are Rs. 5,000 including Rs. 1,000 for an earlier year. The house was constructed in December, 2004 with a loan of Rs. 12,00,000 from a bank taken in November, 2003. During the previous year 2015-16, the assessee refunded Rs. 3,30,000 which includes Rs. 2,58,000 as current year interest. Compute the income from house property for assessment year 2015-16?
  - a. Loss of Rs. 30,000
  - b. Loss of Rs. 1,68,000
  - c. Nil
  - d. Loss of Rs. 2,00,000
3. Which out of the following is not a case of deemed ownership of house property?
  - a. Transfer to a spouse for inadequate consideration
  - b. Co-owner of a property
  - c. Holder of an impartible estate
  - d. Transfer to a minor child for inadequate consideration
4. Standard deduction is allowed at the rate of
  - a. 10%
  - b. 20%
  - c. 30%
  - d. 25%
5. Deduction under section 24(b) is available on account of \_\_\_\_\_
  - a. Municipal taxes paid by the owner
  - b. Capital expenditure incurred by the owner
  - c. Revenue expenditure incurred by the owner
  - d. Interest on capital borrowed for the purpose of purchase, construction, repair, renewal or reconstruction of the property
6. For how many subsequent years, the unadjusted loss is allowed to be carried forward:
  - a. 9 years
  - b. 8 years
  - c. 10years
  - d. 12 years

### **Answers**

1. d, 2. d, 3. b, 4. c, 5. d, 6. b

**CHART SHOWING COMPUTATION OF TAXABLE INCOME FROM HOUSE PROPERTY**

<b>Gross Annual Value of the house property</b>		<b>XXX</b>
Less: Municipal Taxes paid by the owner during the previous year		<u>XXX</u>
<b>Annual Value/ Net Annual Value</b>		<b>XXX</b>
Less: Deductions under Sec. 24		
i. Standard Deduction (for repair and collection charges) @ 30% of Annual Value		XXX
ii. (a) Interest on loan taken for purchase, construction or repair of the house, relating to previous year		XXX
(b) Interest on loan for the period prior to the previous year in which the house is completed is also allowable in five equal annual installments		<u>XXX</u> <u>XXX</u>
<b>Taxable Income from House Property</b>		<b>XXX</b>

**Illustration 9:** M took a loan on 01/04/11 of Rs. 1,00,000 @ 12% p.a. for construction of a house. She repaid the entire loan on 31/03/13. Construction of the house completed on 01/01/15. Compute the deduction of interest for the assessment year ending 31/03/16.

**Solution:**

Deduction of interest will start from the P/Y 01/04/14 – 31/03/15

Interest for the pre construction period (period from the date of borrowing till the date of repayment) i.e. from 1/04/11 to

31/03/13 (for 2 years) Rs 24,000

1/5th is allowed for the P/Y 01/04/14 – 31/03/15 Rs 4,800



**Illustration 10:** Mr. A owns two houses. The expected rent of the house one is Rs. 65,000. This house was let out for Rs. 7,500 p.m. But the rent for the months of Feb. and March 2014 could not be realized. The expected rent of another house is Rs. 1,50,000. This house was let out for Rs. 12,000 p.m. But the rent for the last three months could not be realized. In the both cases, Mr. A fulfills the conditions of Rule 4. You are required to compute the Gross Annual Value of both the houses.

**Solution:**

	<b>House I</b>	<b>House II</b>
	<b>Rs.</b>	<b>Rs.</b>
Expected Rent	65,000	1,50,000
Annual Rent	90,000	1,44,000
Unrealized Rent	15,000	36,000
Actual Rent (After deducting unrealized rent)	<u>75,000</u>	N.A
Gross Annual Value	75,000	1,50,000

Note: In respect of House II, the Expected Rent is already higher than the Actual Rent for the whole year before deducting unrealized rent. So, Expected Rent will be taken.

**Illustration 11:** Mr. A is the owner of the following four houses. The following particulars are available:

<b>Particulars</b>	<b>I</b>	<b>II</b>	<b>III</b>	<b>IV</b>
	<b>Rs.</b>	<b>Rs.</b>	<b>Rs.</b>	<b>Rs.</b>
Standard Rent	10,00,000	5,00,000	16,00,000	20,00,000
Municipal Valuation	16,00,000	5,60,000	20,00,000	24,00,000
Rent (actual)	--	6,80,000	14,00,000	20,00,000

Municipal taxes	40,000	30,000	1,00,000	1,20,000
Annual Charges	--	--	--	36,000
Interest on borrowed capital	80,000	1,00,00	--	--
Repairs and collection charges	20,000	46,000	30,000	50,000
Fire Premium	14,000	--	--	20000
Ground Rent		6,000	20,000	--

House I is self occupied,

House II is let out for residential purpose for the whole year,

House III is let out for business for the whole year,

House IV is  $\frac{3}{4}$  used for own business and  $\frac{1}{4}$  let out to manager of the business.

Find the income of Mr. A from house property for the assessment year 2015-16.

**Solution:**

***House I***

Since the house is self occupied throughout the previous year, its annual value is deemed to be *nil*.

NAV	Nil
Less: Interest on borrowed capital	<u>Rs. 80,000</u>
<i>Loss</i> from house property	Rs. 80,000

***House II***

Expected Rent (higher of MV or FRV subject to SR)	Rs. 5,00,000
GAV (higher of expected rent or actual rent)	Rs. 6,80,000

Less: Municipal Taxes	<u>Rs. 30,000</u>
Net Annual Value	Rs.6,50,000
Less: 30% of Annual Value as Standard Deduction	Rs.1,95,000
Less: Interest on borrowed capital	Rs. <u>1,00,000</u>
Income from house property	Rs. 3,55,000

### ***House III***

GAV (higher of municipal valuation or actual rent)	Rs. 20,00,000
Less: Municipal Taxes	<u>Rs. 1,00,000</u>
Net Annual Value	Rs.19,00,000
Less: 30% of Annual Value as Standard Deduction	<u>Rs. 5,70,000</u>
Income from house property	Rs. 13,30,000

### ***House IV***

Since, house is used for own business, the income from this house is not taxable under the head 'Income from house property' but under 'Profits and gains of business or profession'. Also, the ¼ portion of the house which is let out to the manager is assumed to be incidental to the business and hence not assessable under the head 'Income from house property'.

Thus, total income from house property of Mr. A :  $\text{nil} + 3,55,000 + 13,30,000 = \text{Rs.}16,85,000$

**Illustration 12:** Mr. Lal is the owner of a house property. Its municipal valuation is Rs. 80,000. It has been let out for Rs. 1,20,000 p.a. The local taxes payable by the owner amount to Rs.16,000 but as per agreement between the tenant and the landlord, the tenant has paid the amount direct to the municipality. The landlord, however, bears the following expenses on tenant's amenities:

	Rs.
Extension of water connection	3,000
Water charges	1,500
Lift maintenance	1,500
Salary of gardener	1,800
Lighting of stairs	1,200
Maintenance of swimming pool	750

The landlord claims the following deductions:

Repairs paid by tenant	7,500
Land revenue paid by tenant	1,500
Insurance premium paid by owner	6,000
Interest on borrowed capital for payment of municipal tax of house property	1,000

Compute the taxable income from the house property for the assessment year 2014-15.

**Solution:**

**Computation of income from house property for the assessment year 2014-15**

Gross annual value: to be higher of the following:

(a) Municipal valuation 80,000

or

(b) De facto rent (Rs. 1,20,000 less value of amenities)

Rent Received: 1,20,000

*Less:* Value of the amenities provided by the assessee:

(i) Water charges	1,500	
(ii) Lift maintenance	1,500	
(iii) Salary of gardener	1,800	
(iv) Lighting of stairs	1,200	
(v) Maintenance of swimming pool	<u>750</u>	<u>(6,750)</u>
Gross annual value		1,13,250
<i>Less: Local tax Rs. 16,000:</i>		
No deduction is permissible as the taxes have been		
paid by the tenant		<u>—</u>
Net annual value		1,13,250
<i>Less: Standard deduction from net annual value:</i>		
30% of Net Annual Value		<u>33,975</u>
Income from house property		<u>79,275</u>

**NOTES:**

- 1. Interest on borrowed capital for payment of municipal tax is not allowed as deduction under Section 24 of the Act.***
- 2. The landlord also cannot claim the other deductions as only a standard deduction @ 30% of NAV is allowed irrespective of actual amount paid.***
- 3. The composite rent is separable. Therefore, the rent for amenities is deducted as it will be taken under 'Income from other sources'.***
- 4. Extension of water connection not deductible as it is capital expenditure.***

## KEY WORDS

1. **House property:** House property consists of any building or land appurtenant thereto of which the assessee is the owner. The buildings include residential buildings (whether self occupied or let out *for any purpose*), office building, factory building, godowns, flats, etc. as long as they are not used for business or profession by owner.
2. **Appurtenant lands:** The appurtenant lands may be in the form of approach roads to and from the public streets, motor garage, courtyard or compound forming part of the building.
3. **Deemed owner:** As per Sec. 27, some persons are treated as the owners of a house property even if they are not the legal owners of the property. The cases are:
  - a. Transfer to a spouse or a minor child (a child below 18 years of age)
  - b. Holder of an impartible estate
  - c. Member of a Co-operative Society, etc.
  - d. Person in possession of a property
  - e. Person having right in a property for a period not less than 12 years
4. **Composite Rent:** When the owner of the building gets along with the rent of the building, rent or hire of other assets (like furniture) or charges for different services provided in the building (e.g. charges for security, lift, air-conditioning, electricity, water, etc.), the total amount so received is called 'composite rent'.
5. **Unrealized Rent:** Unrealised rent is the rent which was payable but not paid by the tenant. The amount of unrealized rent shall be excluded from rent received/receivable.
6. **Co- ownership:** When the property consisting of buildings or the buildings and land appurtenant thereto is owned by two or more persons, the owners are known as co-owners.

## SUMMARY

- **Charging Section:** Section 22 of the Act provides that the annual value of a property is taxable under the head "Income from House Property" if *all* the following conditions are satisfied:
  1. The property should consist of any building or land appurtenant thereto.
  2. The assessee should be the owner of the property.

3. The property should not be used by the owner for the purpose of any business or profession carried on by him, the profits of which are chargeable to income tax.
- **Deemed Owner:** As per section 27, the following persons though not the legal owners of a property are deemed to be the owners for the purposes of sections 22 to 26:
    - (a) Transfer to a spouse or minor child
    - (b) Holder of an impartible estate
    - (c) Member of a co-operative society
    - (d) Person in possession of a property
    - (e) Person having right in a property for a period not less than 12 years
  - **Gross annual value** shall be higher of
    - (a) Expected Rent
    - (b) Actual rent received or receivable.

The higher of Municipal value and fair rental value shall be **Expected rent**. However, expected rent shall not exceed the Standard rent.
  - **Net annual value** shall be computed in the following manner:
    - i. Determine the Gross Annual Value
    - ii. Deduct municipal tax actually paid by the owner during the previous year from the Gross Annual Value.
  - **Deduction from Annual Value (Section 24):** W.e.f. Assessment Year 2002-03, income chargeable under the head “Income from house property” shall be computed after making the following deductions, namely:
    - i. Standard deduction,
    - ii. Interest on borrowed capital.

## **EXERCISE QUESTIONS**

### **SHORT ANSWER QUESTIONS**

1. What do you mean by House Property? What are appurtenant lands?
2. What are the conditions to be satisfied by a house property so that its income can be charged under the head ‘Income from House Property’?
3. Explain the provisions of unrealized rent.

4. State the conditions to be satisfied for claiming the deduction in respect of municipal taxes while calculating NAV.
5. Distinguish between standard rent and actual rent.
6. Write short notes:
  - a. Standard rent
  - b. Co-ownership
  - c. Deemed ownership
  - d. Composite rent
  - e. Deemed let out properties

### **LONG ANSWER QUESTIONS**

1. What is the meaning of 'Owner of House Property' under Section 27 of the Income-tax Act, 1961?
2. What is 'annual value' of house property? How is it computed?
3. In computing the income from house property what deductions are allowed from the net annual value?
4. What is the basis of computation of income from House property? How would you arrive at

### **NUMERICAL QUESTIONS**

1. Mr. X owns a house property. Following are the details about the property:  
Fair rent of house : Rs.33,000 per annum. Municipal value of house: Rs.36,000 per annum.  
Standard rent of house: Rs.30,000 per annum. The house was let out at Rs.3,000 per month but was sold on 1st January, 2014. Find out income from house property for the assessment year 2014-15.

*(Answer: Rs. 18,900)*

2. Mr. A owns a house at Indore. Its municipal valuation is Rs.24,000. He incurred the following expenses in respect of the house property: Municipal tax @ 20%, fire insurance premium Rs.2,000 and land revenue Rs.2,400. He took a loan of Rs.25,000 @16% per annum on 1st April, 2010. The whole amount is still unpaid. The house was completed on 1st



April 2013. Find out the income from house property for the assessment year 2014- 15 if the house is used by the assessee throughout the previous year for his residential purpose.

*(Answer: Loss of Rs.6400)*

3. Mr. X owns three houses, the particulars of which are given below:

	<i>House-A</i>	<i>House-B</i>
	Rs.	Rs.
Municipal value	1,20,000	1,00,000
Fair rent	1,00,000	1,10,000
Monthly rent	9,000	12,000
Rent collection charges	10,000	6,000
Repair expenses	6,000	4,000
Interest on loan:		
– For construction	—	—
– For marriage of son	30,000	—
– For repairs	—	8,000
Commencement of construction	04.01.2008	04.07.2009
Completion of construction	30.06.2010	31.12.2011
Use by tenant	Office	Residential

Municipal tax is charged @ 10%. Mr. X did not pay municipal tax of House-A. The tenant paid the municipal tax of House-B which remained vacant for 3 months. Compute income from house property of Mr. for the assessment year 2014-15.

*(Answer: Rs. 84,000, Rs. 67,600)*

4. Rohan has two houses. Both of the houses are self occupied. Particulars of the houses for the previous year 2016-17 are as follows:

Particulars	House I	House II
Municipal valuation p.a.	8,00,000	12,00,000
Fair rent p.a.	6,00,000	14,00,000
Standard rent p.a.	7,20,000	14,80,000
Date of completion	31.03.2009	31.03.2012
Municipal taxes paid during the year	10%	9%
Interest on money borrowed for construction of house	1,00,000	1,50,000

Compute Rohan's income from house property for the Assessment Year 2017-18. Suggest which house should be chosen as self occupied so that the tax liability is minimum.

*(Answer: House II should be chosen as self occupied)*

5. Vikas owns a house in Delhi. The particulars of the house were as follows:

Fair rent- Rs. 4,40,000, Municipal Value- Rs. 4,00,000, Standard Rent- Rs. 4,60,000. Municipal Taxes were paid at the reate of 10%. A loan of Rs. 30,00,000 was taken during the year 2010 for acquiring the house. Interest on this loan paid during the previous year 2016-17 was Rs. 1,48,000.

During the previous year 2016- 17, 1/4<sup>th</sup> part of the house was let out at Rs. 12,000 per month. The other 3/4<sup>th</sup> part of the house was self occupied. The tenant vacated the house on 28<sup>th</sup> February, 2017 and rent for the months of January and February 2017 could not be realized. The house was vacant for the month of March, 2017. Compute the income from house property for Vikas for their Assessment Year 2017-18.

*(Answer: Loss under the head 'Income from House Property is' Rs. 79,600)*

**UNIT:3 ( iii) INCOME FROM BUSINESS PROFESSION**

<b>Unit Code:</b>	<b>UNIT TITLE: INCOME FROM BUSINESS PROFESSION</b>			
	Duration:			
<b>Location:</b>  Classroom or the place of practice by any professional or place of business of any entrepreneur	<b>SESSION 1: CONCEPT OF BUSINESS AND PROFESSION AND COMPUTATION OF NET INCOME TAXABLE IN CASE OF BUSINESS/PROFESSION</b>			
	<b>Learning Outcome</b>	<b>Knowledge Evaluation</b>	<b>Performance Evaluation</b>	<b>Teaching and Training Method</b>
	<b>SESSION 1:</b>			
	1. Meaning of Business and Profession	1. Explain the meaning of Business and Profession 2. Explain the chargeability of income under the head ‘Income from Business and Profession’	1. Differentiate between Business and Profession 1. List out various incomes which are chargeable to tax under the head ‘Income from Business and Profession’	<b>Interactive Lecture:</b> Introduction to the head ‘Income from Business and Profession’
	1. Computation of net income taxable	1. Understand the process of calculating the net income taxable in case of business/ profession	1. Learn the process of calculating the net income taxable in case of business/ profession 2. Identify the expenses expressly allowed/ disallowed while calculating the net income 3. Identify the losses allowed while calculating the net income 4. Understand the conditions to be satisfied for an expense other than Sec. 30 to 36 to be allowed as deduction	<b>Interactive Lecture:</b> 1. Discussion of the process of calculating the net income taxable in case of business/ profession 2. Contact any professional or entrepreneur to get details of his income from his business or profession

*(Note: The location would depend upon the topic under discussion, wherein it will be the classroom for the theoretical interactions; the student will be required to contact any professional or entrepreneur and also the websites like [www.incometax.gov.in](http://www.incometax.gov.in))*

## **UNIT: PROFIT AND GAINS FROM BUSINESS AND PROFESSION**

### ***Learning Objectives:***

After studying this unit, the students will be able to:

1. Understand the meaning of business and profession
2. Identify the incomes chargeable under the head Business and Profession
3. Learn the process of calculating the net income taxable in case of business/profession
4. Identify the expenses expressly allowed while calculating the net income
5. Identify the expenses expressly disallowed
6. Identify the expenses and losses allowed while calculating the net income
7. Explain the meaning of certain keywords.

### **SESSION 1: CONCEPT OF BUSINESS AND PROFESSION AND COMPUTATION OF NET INCOME TAXABLE IN CASE OF BUSINESS/PROFESSION**

#### **Introduction:**

As we know that a person's income can be divided under five heads like Salary, House property, Capital gains, income from other sources and Profits and gains of Business or Profession. Out of these heads 'Profits and gains of Business or Profession' are most important and largest head. The income from business to which a person is chargeable under this head represents not the gross receipts from the business but the profits and gains derived from there. For instance, in the case of a businessman, the gross sale proceeds would not be the basis for levying tax but it is net profit or the profit or gain as determined in accordance with sections 28 to 44DB.

The chargeability to tax under Section 28 is based primarily upon the condition that the assessee must have carried on a business or profession at any time during the accounting year, though not necessarily throughout the accounting year. There are two parts of this head one is business and second is profession. These two are explained below:

**Meaning of Business:** The meaning of the 'Business' has been defined in Section 2(13) of the Income-tax Act. According to this definition, business includes any trade, commerce or manufacture or any adventure or concern in the nature of trade, commerce or manufacture. The concept of business presupposes the carrying on of any activity for profit, the definition of business given in the Act does not make it essential for any taxpayer to carry on his activities constituting business for a considerable length of time. **Example:** If a person purchases a piece of land, gets it surveyed, lays down a scheme of development, divides it into a number of building plots and sells some of the plots from time to time, he would be chargeable to tax not only on the notional profits made on individual sale of plots but also on the surplus, if any, remaining after the sale of all plots and after the venture had come to an end.

**Meaning of Profession:** The term 'Profession' has been defined in Section 2(36) of the Act to include any vocation. In the case of a profession, the definition given in the Act is very much inadequate since it does not clearly specify what activities constitute profession and what activities do not. 'Profession' involves the concept of an occupation requiring either intellectual skill or manual skill controlled and directed by the intellectual skill of the operator. For example an auditor carrying on his practice, the lawyer or a doctor, a painter, an actor, an architect or sculptor, would be persons carrying on a profession and not a business. The common feature in the case of both profession as well as business is that the object of carrying them out is to derive income or to make profit. The process of making the profit would be the main area of difference between the two while the ultimate object is common to both.

### **Chargeability of income under this head**

Section 28 explains that following incomes shall be chargeable to tax under the head "Profit & Gains from Business or Profession":

- 1) Profit and gains of any business or profession carried on by the assessee during the previous year.
- 2) Income of any trade or professional association from specific services performed to its members.
- 3) Profit on sale of import entitlements license or EXIM scrip.
- 4) Cash assistance [CCS]

- 5) Duty drawback
- 6) The value of any benefit or perquisite arising from any business or profession.
- 7) Any interest, salary, bonus, commission or remuneration received/due to a partner from partnership firm.
- 8) Any sum received under an agreement for:
  - (a) not carrying out any activity in relation to any business or
  - (b) not sharing any Know-how, patent, copyright, trade-mark, license, franchise or any other business or commercial right of similar nature or information or technique likely to assist in the manufacture or processing of goods or provision for services.

Where above receipts are chargeable to tax under the head “Capital Gain” would not be taxable as profits and gains of business or profession. In other words if one income is taxable under one head cannot be taxed twice.

- 9) Any sum receives under Key man insurance policy.
- 10) Profits and gains derived from any Speculation business are also chargeable to tax under the head “PGBP”. The speculation business shall be deemed to be transaction in which the following conditions are satisfied:-

- (a) The Transaction should be a contract for the purchase or sale of stocks, shares or commodities.
- (b) This contract is periodically or ultimately settled.
- (c) The settlement would not be by actual delivery or transaction or commodities or script, generally, it is settled through exchanging the difference in prices on the date of delivery.

11) any sum, whether received or receivable, in cash or kind, on account of any capital asset (other than land or goodwill or financial instrument) being demolished, destroyed, discarded or transferred, if the whole of the expenditure on such capital asset has been allowed as a deduction under section 35AD;

- 12) Prizes received by the professional players
- 13) Amount received as compensation
- 14) profits from sale and purchase of investment
- 15) profit from business of speculation

### **Ownership of Business is not necessary for Taxability**

In order to be taxable in respect of the income of a business it is not essential that the business must be carried on by the same person who is the owner thereof. Even if the owner authorises some other person to carry on the business on his behalf or the owner is deprived by the court under certain circumstances of the right to carry on his own business, the owner will still be taxable under this head.

### **Business may be legal or illegal**

While profit motive is indicative of the fact that the adventure of an assessee is in the nature of trade and consequently constitutes a business, it is immaterial whether the business is legal or illegal. The taxability of the income from business does not in any way depend upon or is affected by the taint of illegality in the income or the sources. Income derived from illegal activities is as much chargeable to tax as income from other operations. The fact that the person who carried on the illegal activities is punishable under the appropriate law, does not exclude him from the liability to income-tax. However, the loss arising directly in the course of an illegal business is deductible as business expenditure in computing the profits from that business. According to Income Tax Act if total sales or gross receipts in case of businessman in previous year is more than Rs. 1 crore then it is mandatory to get the accounts audited by the Chartered Accountant. In case of profession if the total receipts are more than Rs. 25 lacks then it is mandatory to get the accounts audited by the Chartered Accountant. Such audit must be carried out before filing income tax returns (before 30th September or prescribed date) Auditor report must be attached with the income tax returns.

### **Process of calculating taxable profit in case of business**

The profit and loss account or income and expenditure account as prepared by an assessee is adjusted as per previous of the Income-tax Act, Profits or losses as shown by any of these accounts are adjusted according to Section 29 of the Act for preparing a statement of profit or loss or income-expenditure adjustment:-

### **Calculation**

**Balance as per profit and loss or Income - expenditure account**

xxx

***Add:***

(i) Expenses expressly disallowed but debited to P& L A/c	xxx	
(ii) Expenses not allowed but debited to P&L A/c	xxx	
(iii) Incomes or receipts taxable under this head but not credited to P& L A/c	xxx	
(iv) Capital expenses debited to P & L A/c	xxx	
(v) Personal expenses debited to P & L A/c	xxx	
(vi) Expenses in excess of the allowed amount, debited to P & L A/c	xxx	
(vii) Losses not allowed but debited to P & L A/c	xxx	
(viii) Expenses not relating to the previous year but debited to P & L A./c	xxx	
(ix) Under-valuation of closing stock or over-valuation of opening stock	xxx	xxx

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**Total Income** **x xxx**

***Less:***

(i) Expenses expressly allowed but not debited to P & L A/c	xxx	
(ii) Expenses relating to the previous year but not debited to P & L A/c	xxx	
(iii) Losses allowed but not debited to P & L A/c	xxx	
(iv) Incomes or receipts not taxable under this head but credited to P & L A/c	xxx	
(v) Capital receipts credited to P & L A/c	xxx	
(vi) Incomes or receipts taxable under other head but credited to P & L A/c	xxx	
(vii) Over-valuation of closing stock or under-valuation of opening stock	xxx	
(viii) Profits taxable under the head incomes from business or profession.	Xxx	xxx

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**Net Income** **xxxx**

**Computation of taxable income if Receipt and Payment Account or Cash Book is given**

Generally this system is followed by professionals under this system, only taxable receipts and payments are taken. Let us discuss the performa for computation of income for professionals.

**Gross Professional Earnings**

**(a) In case of a Doctor**



(i) Sale of Medicine	xxx	
(ii) Consultation fee/Visiting fee	xxx	
(iii) Examining fee	xxx	
(iv) Operation fee	xxx	
(v) Nursing home charges	xxx	
(vi) Gift from Patients	xxx	xxx

**(b) In case of an Advocate or a Chartered Accountant**

(i) Fee from clients	xxx	
(ii) Consultation fee	xxx	
(iii) Audit fee	xxx	
(iv) Income from accounting work	xxx	
(v) Gift from clients	xxx	
(vi) Fee from training institute	xxx	xxx

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***Less: Admissible Expenses***

(i) Rent of Dispensary	xxx	
(ii) Salaries to compounder's	xxx	
(iii) Cost of Medicines	xxx	
(iv) General expenses	xxx	
(v) Telephone expenses	xxx	
(vi) Motor car expenses (if used for profession)	xxx	
(vii) Depreciation on Motor car/Surgical equipments	xxx	
(viii) Laboratory expenses	xxx	
(ix) Interest on Loan	xxx	
(x) Expenses on professional Magazines/ Journals	xxx	xxx

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**Net Income from profession: Gross professional earnings- Admissible expenses**

**(A)Expenses expressly allowed**

### **(i) Rent, Rates, Taxes, Repairs and insurance for building**

According to section 30 of the Act, In respect of rent, rates, taxes, repairs and insurance for premises, used for the purposes of the business or profession, the following deductions shall be allowed

(a) Where the premises are occupied by the assessee—

(i) as a tenant, the rent paid for such premises ; and further if he has undertaken to bear the cost of revenue repairs to the premises, the amount paid on account of such repairs ;

(ii) otherwise than as a tenant, the amount paid by him on account of current repairs to the premises;

(b) any sums paid on account of land revenue, local rates or municipal taxes;

(c) the amount of any premium paid in respect of insurance against risk of damage or destruction of the premises.

In respect of repairs and insurance of machinery, plant or furniture used for the purposes of the business or profession, the following deductions shall be allowed—

(i) the amount paid on account of current repairs thereto;

(ii) the amount of any premium paid in respect of insurance against risk of damage or destruction thereof.

### **(ii) Depreciation**

In computing income from business, one of the most important items of allowances is the allowance for depreciation provided by Section 32 of the Income-tax Act. The deduction towards depreciation is very essential to arrive at the income of the assessee and also to amortise the capital cost of the amount invested in buildings, machinery, plant and furniture. The purpose of allowing depreciation is to provide in course of time for the replacement of asset with the help of the capital cost of the asset which is allowed to be amortised over a period of time. Section 32(1)(ii) provides that depreciation shall be charged under Written Down Value method .

**(iii)Expenditure on Scientific Research** The term “scientific research” means any activity for the extension of knowledge in the fields of natural or applied sciences including agriculture, animal husbandry or fisheries. With a view to accelerating scientific research, Section 35 of the Act provides tax incentives.

**(a) If assessee himself busy in-house research activities:**

- (i) All revenue expenses of previous year related to trade are allowed.
- (ii) Revenue expenses incurred in three years prior to previous year: Out of these expenses salary to employees busy in scientific research and cost of material used in scientific research are allowed in the year in which trade was started.
- (iii) Capital expenses incurred in previous year stated to trade on scientific research are allowed.
- (iv) Capital expenses on scientific research relating to assessee own trade incurred in three years just prior to the previous year are allowed in that year in which trade was started.
- (v) Capital expenses in connection with land will not be allowed.
- (vi) Unabsorbed capital expenses on scientific research due to lack of profit will be carried forward for indefinite period and can be set-off in any year out of any head of income.
- (vii) Depreciation on capital expenses: if any deduction on capital expenses for scientific research has been availed, then no depreciation on such asset will be allowed and if asset used in scientific research is sold out then such value will be taxable.

**(b) Some paid to approved Scientific, Social and Statistical Institutions:** If assessee himself is not indulged in Scientific Research (S/R) but pays or donates any amount to such institutions related to his trade on S/R activities then he shall be eligible for deduction equal to 175% of donated amount.

**(c) Payment to National Laboratory:** if assessee makes payment to national laboratory, university, IIT, for scientific research purpose, then a deduction of 200% of amount paid shall be given.

**(d) Expenses on approved in- house research and Development Facilities:** This section applies on company assessee engaged in producing medicine, electricity equipment, computer, chemical, telecommunication equipment approved by CBDT then a deduction of 200% of amount spent shall be eligible for deduction.

**(iv)Expenditure incurred on Patent and Copyright:** if acquisition of Patent or copyright are incurred on or after 1.4.1998 will not be qualified for deduction but before 1.4.1998 1/14 th of

total expenses is allowed every year. If assessee has acquired patent rights first and payment is made afterwards then so much of period shall be deducted out of 14 years which are prior to get such rights. The deduction in the left period shall be allowed equally.

**(v) Expenditure incurred on Technical Know-how:** Any industrial information and technique which is helpful in production, processing, mines, oil wells and mining stores is known as technical know-how.

If such expenses have been incurred on or after 1.4.1998 then no deduction shall be allowed but before 1.4.1998 deduction equal to 1/6th will be allowed and the first instalment shall be allowed in the year in which the amount has been paid. If such thing has been developed in any university or in any such laboratory which is in the ownership of Government or company of a public sector, then such deduction shall be allowed in three equal instalments rather than 6 equal instalments.

**(vi) Deduction for Preliminary Expenditure** Expenses incurred prior to commencement of trade is called preliminary expenses. These expenses are allowed in case of an Indian company or resident individuals business. Such expenses are allowed in to 5 equal annual instalments. Total deduction of such expenses can not be more than 5% of the project or 5% of the total capital of the business.

**(vii) Deduction in respect of Expenditure on Prospecting etc. for certain Minerals** Section 35E of the Income-tax Act provides allowance to amortise the capital expenditure incurred by an assessee towards prospecting for certain minerals. The benefit of amortisation under this section is available to Indian companies and other non-corporate entities resident in India. The expenditure qualifying for amortisation would cover expenses incurred by the assessee after 31-3-1970 in relation to the operations towards prospecting for, or extraction or production of any of the 27 minerals or 16 groups of associated minerals specified in the Seventh Schedule to the Income-tax Act. The expenditure incurred by the assessee would qualify for amortisation only if the expenditure in question is incurred by the assessee during the year of commercial production and/or in one or more of the four years immediately preceding that year; in any case the expenditure must have been incurred after 31-3-1970 wholly and exclusively on any of the operations relating to the prospecting for any mineral or group of associated minerals or on the development of a mine or other natural deposit of any such mineral or group of associated

minerals. However, any portion of the expenditure which is met directly or indirectly by any other person or authority and sale, salvage, compensation or insurance moneys realised by the assessee in respect of any property or right brought into existence as a result of the expenditure should be excluded from the amount of expenses qualifying for amortisation under this section. The assessee would not be entitled for amortisation under this section in respect of the following three items of expenses namely,-

- Expenditure incurred on the acquisition of the site of the source of any mineral or group of associated minerals or of any right in or over such site.
- Expenditure on the acquisition of the deposits of such minerals or group of associated minerals or of any right in or over such deposits; or
- Expenditure of a capital nature in respect of any building, machinery, plant or furniture for which depreciation allowance is available under Section 32 of the Income-tax Act.

**(viii) Capital expenditure of Telecommunication Services:** Actual expenses incurred are divided by total number of years (from the year of receiving licence to the year of expiry of licence) and the resultant amount is the amount of deduction for each year. If the amount received on sale of licence is less than its cost then deduction will be allowed for the difference amount in the year of sale of licence and if the amount received on sale of licence is more than its cost then the excess amount will be considered as income. If the licence is transferred as a result of merger then the resulting company can claim deduction for the balance period.

**(ix) Coffee, Tea and Rubber Development Account:** This deduction is available to the assessee involved in production and manufacturing of these items in India. To avail the deduction following conditions should be fulfilled.

- (a) Coffee, rubber or tea should be produced in India
- (b) Assessee has deposited required amt. In a special account under an approved scheme of the concerned board in NABARD
- (c) Assessee has deposited required amt. In the deposit account with prior approval of central Govt.
- (d) It is mandatory for the assessee to get his accounts audited by CA and submit the auditor's report along with income tax returns.

### **Deduction in respect of expenses on specified business:**

If an assessee runs one of the following business than he will be entitled for deduction

- (i) If the specified business is of laying and operating a cross country Natural Gas or Crude or petroleum oil pipeline network for distribution storage facility. The business is commenced on or after 1.4.2007
- (ii) If the specified business commenced on or after 1.4.2009 is for establishing cold storage and conducting them.
- (iii) If the specified business is for operating a new hotel or a new hospital of at least 100 beds or a housing project under a scheme of central Govt. Or State Govt.. The business should be commenced on or after 1.4.2010.

100% deduction of capital expenditure will be allowed.

With effect from 2013-14 specified business shall also include the following business provided it must be commenced on or after 1.4.2012

If the following businesses commence its operation on or after 1.4.2012 the deduction shall be 150% of the capital expenditure instead of 100%

- (i) Setting up and operating a warehouse for storing agricultural products
- (ii) Building and operating a hospital with atleast 100 beds for patients in India
- (iii) Setting up and operating a cold chain facility
- (iv) Production of fertilizer in India
- (v) Developing and building a house project

**Maintenance of Accounts:** It is mandatory to maintain certain accounts to run a business or profession. For this purpose profession is divided in to following two groups.

(A) **Specific Profession-** This includes like doctors, engineers, Lawyers, Accountants, Technical Advisors, Tax Advisors, Company Secretaries, Film Artist etc.

Professional whose total income of the three years before current previous year is less than Rs. 60,000 lakh and for newly established professionals it is not mandatory to keep specific books of accountants.

For professionals having total income more than Rs. 1.5 lakh and for newly established professionals it is mandatory to keep specific books of account like Cash Book, Journal, Ledger, Copies of bills having invoice exceeding Rs. 25 and Cash memo of expenses for having expenses above Rs. 50.

**(B) Non-Specific Profession (Business):** These are divided in to two categories

- (i) Businessman whose total income of three years prior to current previous year is not more than Rs. 1.2 lakh and the total sale for the period is not more than Rs. 10 lakh
- (ii) Businessman whose total income of three years prior to previous year is more than Rs. 1.2 lakh and total sale for the period is more than Rs. 10 lakh. Such businessman shall keep and maintain such books of account and other documents as may enable the Assessing officer to compute their total income in accordance with the provision of the Act.

**Other Deduction** The following deductions shall be allowed u/s 36:

- (i) Fire insurance premium against the risk of damage of stocks;
- (ii) Any insurance premium paid by paid by any mode of payment other than cash by an employer on the health of employees;
  - Insurance paid on the life of partners is not allowed. It is a personal expenditure.
  - Insurance premium paid under the KEYMAN INSURANCE POLICY will be allowed u/s 37(1).
- (iii) Any sum paid to an employee as bonus or commission;
  - There is no restriction on the amount of bonus. It may exceed the payment under bonus Act.
- (iv) The amount of interest paid in respect of capital borrowed for the purposes of business or profession;
- (v) Discount on “ZERO COUPON BOND” will be deductible on pro rata basis.
- (vi) Employer’s contribution to RPF or approved superannuation fund
- (vii) Employer’s contribution to approved gratuity fund.
- (viii) Any sum received by the assessee u/s 2(24)(x) will be allowed as deduction only if such amount is credited to the employee account in relevant fund on or before the date prescribed under such fund.
- (ix) In respect of animals, which are used for the purpose of business or profession and have died, the actual cost less amount realised on the sale of animal is allowable as deduction.

- (x) The amount of any bad debt which is written off as irrecoverable in the accounts of the assessee for the previous year provided Particular debtor should be write off; and Amount of debts has been treated as income in the year of written off or earlier year. It is not applicable for Banking Co. or Financial institution. Further provisions for bad debts are not allowed.
- (xi) Securities Transaction Tax in respect of the taxable securities transactions entered into in the course of his business will be allowed
- (xii) Expenses incurred by the company for promotion of family planning shall be allowed in 5 equall instalments from the year in which such expenses have been paid. It shall be allowed only for company assessee.

**General Deduction:** Any expenditure other than specifically mentioned in Sec. 30 to 36 shall allowed as deduction, if the following conditions are satisfied.

- a. It is not in the nature of capital expenditure;
- b. It is not in the nature of personal expenses of the assessee, and
- c. It is laid out wholly and exclusively for the purpose of the business or profession of the assessee;
- d. It should not have been incurred for any purposes, which is an offence or is prohibited or expressly not allowed under any law.
- e. According to section 37 (2B), any expenditure incurred by an assessee on advertisement in any souvenir, broacher, tract, pamphlet or the like, published by a political party is not allowed. Donation to political party is not allowed as deduction.
- f. Expenditure incurred on raising loans or issuing debentures but not on issuing share capital.
- g. Legal expenses incurred:
  - to avoid a business liability, e.g. for alleged breach of a trading contract;
  - to defend the assessee's title to his assets, e.g. land, building, etc.;
  - to secure the termination of a disadvantageous trading relationship, e.g. removal of an undesirable employee;



- by a director of a company in defending a suit brought to challenge the validity of his election to the directorship;
- to protect the capital asset of the business which has already been acquired;
- by a company in resisting a winding up petition by some shareholders;
- for defending monopoly rights;
- incurred in restraining another company from using assessee's trade mark.

However, the expenses incurred in criminal proceedings are not allowable. Legal expenses relating to acquisition of capital asset for a business are capital expenses and as such, not allowable.

### ***Knowledge Assessment – I***

*State whether the following statements are true or false:*

- (i) Objective of business is to earn profit only
- (ii) Household expense are allowable expenses
- (iii) Preliminary expenses are written off in 5 equal annual instalments.
- (iv) Expenses incurred on technical know-how on or after 1.4.1998 shall be allowed in 6 equal instalments.
- (v) Gift taken by a doctor from his patient is an income of profession.
- (vi) Interest payable on the owner's capital is disallowed expenses.
- (vii) Expenses incurred on Patent and Copyrights before 1.4.1998 shall be allowed in 14 equal annual instalments.

### **Answers**

1. False, 2. False, 3. True, 4. False, 5. True, 6. True, 7. True

**(B) Expenses Expressly Disallowed: Section 40(a) provide that** following amounts shall not be deducted in computing the income chargeable under the head Profits and gains of business or profession:

- in the case of any assessee, any interest, royalty, fees for technical services or other sum chargeable under this Act, which is payable,
- outside India; or in India to a non-resident, on which TDS is deductible and such TDS has not been deducted or, after deduction, has not been paid within time allowed.
- It provided that where in respect of any such sum, TDS has been deducted in any subsequent year or, has been deducted in the previous year but paid in any subsequent year after the expiry of the time prescribed, such sum shall be allowed as a deduction in computing the income of the previous year in which such tax has been paid.
- any interest, commission or brokerage, rent, royalty, fees for professional services or fees for technical services payable to a resident, or amounts payable to a contractor or subcontractor, being resident, for carrying out any work (including supply of labour for carrying out any work), on which TDS is deductible and such TDS has not been deducted or, after deduction, has not been paid on or before the due date of ITR; or Provided that where in respect of any such sum, tax has been deducted in any subsequent year, or has been deducted during the previous year but paid after the due date specified in sub section (1) of section 139, such sum shall be allowed as a deduction in computing the income of the previous year in which such tax has been paid Income tax paid or Provision thereof is not allowable; Wealth tax paid is not allowable;
- Valuation fees paid for getting the valuation of assets for the purpose of Wealth tax/Income tax is allowable as revenue expenses u/s 37(1).
- Litigation exp. in relation to income tax cases and tax audit fees is allowable expenditure u/s 37(1).
- Any payment which is chargeable under the head Salaries, if it is payable outside India; or to a nonresident, and if the TDS has not been paid thereon nor deducted therefrom.
- Any tax paid by an employer referred to in section 10 (10CC) will not be allowed.
- **Securities Transaction Tax:** An amount equal to the securities transaction tax paid by the assessee in respect of the taxable securities transactions entered into in the course of his business during the previous year, if the income arising from such

taxable securities transactions is included in the income computed under the head “Profits and gains of business or profession is allowed as deduction.

- **Commodities Transaction Tax:** An amount equal to the Commodities Transaction Tax paid by the assessee in respect of the taxable commodities transactions entered into in the course of his business during the previous year, if the income arising from such taxable commodities transactions is included in the income computed under the head “Profits and gains of business or profession” is allowed as deduction.
- **Expenditure for obtaining license to Operate Telecommunication Services:** In respect of any capital expenditure incurred for acquiring any right to operate telecommunication services and for which payment has actually been made to obtain a license, shall be allowed as deduction in equal installments during the number of years for which the license is in force. If the payment is made before the commencement of business, the deduction shall be allowed commencing from the year of commencement of business; and in any other case, the deduction shall be allowed commencing from the year of payment.
- **Expenditure on Amalgamation / Demerger:** Where an Indian company, incurs any expenditure for the purpose of amalgamation or demerger of an undertaking, the assessee shall be allowed a deduction of an amount equal to 1/5th of such expenditure for five years.
- **Cash Payment:** If the assessee makes cash payment and not by crossed cheque or draft to any person once in a day or several times in a day and the total amount paid is Rs. 20,000 or more than such expenses is disallowed.
- Excessive Payments to Relatives to purchase any asset for the business will be disallowed.
- Amount paid outside India and TDS has not been made under the head salary will be disallowed
- Expenses of illegal business are not allowed.
- Contribution to a trust or Unrecognised PF will not be allowed.
- Expenses on advertisement published in souvenir, Brochure by any political party will not be allowed.

- **Expenditure incurred on compensation under VRS:** Where an assessee incurs any expenditure in any previous year by way of payment of any sum to an employee in connection with his voluntary retirement, in accordance with any scheme or schemes of voluntary retirement, one fifth of the amount so paid shall be deducted in computing the profits and gains of the business for that previous year, and the balance shall be deducted in equal installments for each of the four immediately succeeding previous years.

**(C) Allowed Business Expenses and Losses:**

- Daily operational expenses of business
- Gratuity and pension paid to employees
- Labour welfare expenses
- Expenses related to sales tax and sales tax appeal
- Reasonable expenses on festivals like deepawali and holi etc.
- Commission paid to obtain order
- Expenses incurred on taking loans
- Fines paid to save goods from seizure
- Market research expenses
- Payment made to a director for removing him
- Loss of cash due to theft
- Travelling expenses related to business
- Expenses related to overdraft facility
- Loss of stock due to fire
- Interest on delayed payments
- Compensation paid for breaking contract
- Expenses on foreign tour for the betterment of the business
- Expenses related to guest house
- Compensation to a customer in case of defect in goods
- Premium paid on insurance policy of loss of profit
- Expenses incurred on Article of Association and Memorandum of Association
- Expenses related to trademark
- Compensation paid for contract left incomplete

- Payment made to employee on retrenchment

### ***Knowledge Assessment – II***

*Fill in the blanks:*

- (i) Expenses of ..... business are not allowed as deduction
- (ii) Payment in cash or through bearer cheque in excess of Rs.....is disallowed.
- (iii) Work of a Chartered Accountant comes under.....
- (iv) Loss of stock due to fire will be .treated as .....expenses
- (v) Prizes won by a professional player will be treated as.....
- (vi) It is mandatory to get the accounts audited if gross receipts or total sales are more than Rs..... in the previous year in case of business and Rs..... in case of profession
- (vii) If total income of three years immediately preceding the current previous year is more than Rs. .... then it is essential to maintain the specified books of accounts

### **Answers**

1. Illegal, 2. 20,000 3. Profession, 4. Allowed, 5. Income from Profession, 6. 1 Crore, 25 lakh, 7. 1.5 lakh

### Example 1

Sri Ram Gopal is the owner of a business. His Profit & Loss Account for the year ended on 31<sup>st</sup> March, 2016 is given below:

		₹		₹
To	Establishment Charges	5,110	By Gross Profit	80,870
To	Salaries	10,000	By Interest on Govt. Securities (Net)	5,352
To	Rent, Rates & Taxes	2,900	By Rent from House Property	5,400
To	Sundry Expenses	7,050		
To	Household Expenses	1,380		
To	Provision for Bad Debts	1,200		
To	Loss on Sale of Motor-car (used for private purpose)	1,800		
To	Insurance Premium (including life insurance Rs 1,790)	2,880		
To	Interest on Bank Loan	1,380		
To	Provision for Depreciation	6,400		
To	Advertisement in a Magazine of Political Party	500		
To	Net Profit	51,022		
		₹ 91,622		₹ 91,622

Following additional informations are given:

- (i) Bad debts written-off during the year ₹ 650.
- (ii) Admissible depreciation as per I.T. rules ₹ 1,600.
- (iii) Sri Ram Gopal is running his business in rented property, half of which is used by him for his own residence. Rent of ₹ 2,400 in respect of this house is included in Rent, Rates and Taxes.
- (iv) Salary of ₹ 2,000 was paid to Shri Ram Gopal. It has been recorded in the item salaries.

Compute Sri Ram Gopal's taxable income from business or profession for the assessment year 2016-17.

### Solution

#### COMPUTATION OF BUSINESS INCOME OF SRI RAM GOPAL (for the Assessment Year 2016-17)

Net Profit as per Profit & Loss Account		₹ 51,022
Add: <b>Expenses disallowed but debited to P. &amp; L. A/c:</b>	₹	

Salary to Proprietor	2,000	
Rent (for half portion)	1,200	
Household Expenses	1,380	
Provision for Bad Debts	1,200	
Loss on Sale of Car	1,800	
Life Insurance Premium	1,790	
Provision for Depreciation	6,400	
Advertisement in a Magazine	500	16,270
		67,292
<b>Less: Expenses allowed but not debited to P. &amp; L. A/c</b>		
Bad Debts	5,352	
Depreciation	5,400	10,752
	Income from Business	₹ 54,290

Note: Advertise in a magazine of political party though it is for the benefit of business, is disallowed.

### Example 2

From the following Profit & Loss Account of Mr. Raj Kumar for the year ended 31<sup>st</sup> March, 2016, compute income from business or profession:

	₹		₹
General Expenses	4,000	Gross Profit	1,10,000
Bad Debts	2,500	Commission	10,000
Bad Debts Provision	1,500	Brokerage	15,000
Fire Insurance	750	Winning from Crossword Puzzles	10,000
Staff Salary	20,000	Interest on 7% National Plan Certificates	1,000
Discount to Dealers	2,500		
Salary of Raj Kumar	5,000		
Interest on Overdraft	5,000		
Interest on Loan of Smt. Raj Kumar	2,500		
Interest on Capital of Mr. Raj Kumar	3,500		
Depreciation on Machinery	8,000		
Advertisement Expenses	7,500		
Contribution of Employees' Provident Fund	5,000		
Theft by Cashier	1,000		
Net Profit	77,250		
	₹ 1,46,000		₹ 1,46,000

Other informations are as follows:

- (a) Depreciation allowed on machinery is ₹ 6,500
- (b) Advertisement expenses include ₹ 4,000 spent on a neon-sign board affixed on the office premises. It also includes ₹ 1,000 in respect of an advertisement for the lost papers of Mr. Raj Kumar's building.
- (c) Income of ₹ 750 accrued during the previous year is not recorded in Profit & Loss Account.
- (d) General expenses include an amount of ₹ 1,100 spent on the party of a friend.

**Solution**

**INCOME OF MR. RAJ KUMAR FROM BUSINESS OR PROFESSION**  
(for the Assessment Year 2016-17)

Net Profit as per Profit & Loss Account		₹ 77,250
<b>Add: Expenses disallowed but debited to P. &amp; L. A/c:</b>	₹	
(1) Expenses of Party	1,100	
(2) Provision for Bad Debts	1,500	
(3) Exp. On Neon-sign Board	4,000	
(4) Advertisement for private purpose	1,000	
(5) Salary of Raj Kumar	5,000	
(6) Interest on Capital	3,500	
(7) Excess Depreciation (₹ 8,000-6,500)	1,500	17,600
<b>Add: Incomes accrued but not credited to P. &amp; L. A/c</b>		750
		95,600
<b>Less: Incomes or receipt not taxable under this head but credited to P. &amp; L. A/c:</b>		
(1) Winning from Crossword Puzzles	10,000	
(2) Interest on 7% National Plan Certificates	1,000	11,000
		84,600
<b>Less: Depreciation @ 10% on Neon –sign Board</b>		400
<b>Income from Business ₹</b>		<b>84,200</b>

Notes: (1) Capital expenditure on advertisement is not admissible w.e.f. A.Y. 1998-99, hence expenditure on neon-sign board is not deductible. This expenditure is subject to depreciation @ 10% taking it in the Block of Furniture.

(2) Winning from crossword puzzles is taxable under head 'Income from Other Sources'.

(3) Interest on 7% NPC is not taxable under this head. However it is also exempt u/s 10.

(4) Theft by cashier is allowed.



### Example 3

Dr. Suresh is a medical practitioner. Besides his own practice, he works as a part-time physician in a private hospital for which he receives monthly remuneration. He is a consulting physician of XYZ Co. Ltd. on a monthly retainer fee. The doctor maintains a record of his receipts and payments and for the year ended 31<sup>st</sup> March, 2016, 2016 the following information is abstracted therefrom:

<b>Receipts</b>	<b>₹</b>
Consultation fee received	80,000
Gross Remuneration from Nursing Home	60,000
Retainer Fee received from XYZ Co. Ltd.	6,000
Interest on Bank Deposit (Nationalized Bank)	20,000
<b>Payments:</b>	
Rent and Electricity Charges for the Clinic	14,000
Telephone Charges	3,000
Printing and Stationery	1,500
Car Maintenance Expenses	12,000
Wages for Clinic Assistant	3,600
Life Insurance Premium	2,400
Car Insurance Premium	2,000

The written down value of the car and the furniture of the Clinic as on 1-4-2015 were ₹ 40,000 and ₹ 3,000 respectively. 20% of the use of the car and the telephone is attributable to personal and private purpose. Prepare a statement showing the Gross Total Income of Dr. Suresh for the assessment year 2016-17.

### Solution

#### **COMPUTATION OF GROSS TOTAL INCOME** (for the Assessment Year 2016-17)

1. Salaries :			<b>₹</b>
Gross Remuneration from the Private Hospital			60,000
Less: Deduction under section 16			Nil
		Income from Salary	60,000
2. Profits and Gains of Profession:			<b>₹</b>
Consultation Fee			80,000
Retainer Fee from XYZ Co. Ltd.			6,000
		Gross Fee Received	86,000
Less: Admissible Expenses:	<b>₹</b>	<b>₹</b>	
Rent & Electricity		14,000	
Telephone Charges	3,000		
Less: Attributable to Personal Use (20%)	600	2,400	
Printing and Stationery		1,500	
Car Maintenance	12,000		
Less: Personal Use (20%)	2,400	9,600	

Wages of Clinic Assistant		3,600	
Depreciation on Car			
@ 15% on ₹ 40,000	6,000		
Less: 20% Attributable to Personal Use	1,200	4,800	
Car Insurance (80% of ₹ 2,000)		1,600	
Depreciation on Furniture (10%)		300	37,800
		Income from Profession	48,200
3. Income from other Sources:			
Interest on Bank Deposit			20,000
		Gross Total Income ₹	1,28,200

#### Example 4

Smt. Rambha is a registered Gynecologist. She has prepared the following Income and Expenditure Account for the year ending 31<sup>st</sup> March, 2016. You are required to prepare a statement showing her income from profession:

	₹		₹
Household Expenses	20,000	Consultation Fee	40,000
Car Purchased	30,000	Visiting Fee	20,000
Travelling Expenses (Personal)	4,000	Gain on Race (Gross)	10,000
Charity and Donation	1,000	Sale Proceeds of an Ancestral House	34,000
Income-tax	2,000	Profit on Sale of securities	6,000
Salaries	8,000	Dividend on Shares (Gross)	5,000
Gift to Daughter	7,000	Interest from P.O. Saving Bank	600
Establishment Expenses	1,000	Gift from Father –in-law	2,000
Surgical Equipments	4,000	Interest on Fixed Deposits (Gross)	1,300
Books	1,200	Bad Debts recovered (Not allowed in earlier years)	2,000
Life Insurance Premium	2,000		
Wealth-tax	1,000		
Interest on Capital	1,000		
Net Surplus	38,000		
	₹ 1,20,900		₹ 1,20,900

Rate of depreciation allowable on car is 15% and on surgical equipments and books it is 100%.

#### Solution

#### STATEMENT SHOWING THE INCOME FROM PROFESSION

(For the Assessment Year 2016-17)

Consultation Fee		40,000
Visiting Fee		20,000
	Gross Receipts	60,000

Less: Admissible Expenses:	₹	
Salary	8,000	
Establishment Expenses	1,000	
Depreciation 100% on Surgical Equipments	4,000	
Depreciation on Books 100%	1,200	
Depreciation on Car 15%	4,500	18,700
Income from Profession ₹		41,300

### Example 5

Shri Patni, a leading tax consultant, who maintains books of account on cash basis, furnishes the following particulars of income and expenditure for the assessment year 2016-17:

	₹		₹
Balance b/d	12,400	Purchase of a Typewriter	6,000
Fee from Clients: of 2013-14	1,30,500	Car Expenses	18,000
of 2014-15	11,500	Office Expenses	40,000
of 2015-16	13,000	Salary of Staff: of 2012-13	32,000
Presents from Clients	24,000	of 2013-14	11,000
Loan from a Client	38,000	Repairs	12,000
		Interest on Loan	10,000
		Income-tax Payment	2,000
		Life Insurance Premium	6,000
		Balance c/d	92,000
	₹ 2,29,400		₹ 2,29,400

Depreciation on car is ₹ 6,000. Car is partly used for official purposes (40%) and partly for private purposes (60%). Determine the income from 'Business and Profession' head of Shri Patni for the assessment year 2016.17.

### Solution:

#### COMPUTATION OF INCOME FROM PROFESSION (for the Assessment Year 2016-17)

Receipts		₹	₹
Fee from Clients (₹ 1,30,500+11,500+13,000)		1,55,000	
Presents from Clients		24,000	
	Gross Receipts		1,79,000

Less: Admissible Expenses:		
Depreciation on Typewriter (15% on ₹ 6,000)	900	
Car Expenses (40% of ₹ 18,000)	7,200	
Office Expenses	40,000	
Salary to Staff (₹ 32,000 + 11,000)	43,000	
Repairs	12,000	
Depreciation on Car (40% of ₹ 6,000)	2,400	
Interest on Loan	10,000	1,15,500
	Income from Profession	₹ 63,500

Note: Accounts are kept on cash basis; hence computation of taxable income is done on cash receipt and cash payment basis.

### KEY WORDS

1. **Business:** It includes business, profession and vocation. Manufacture or sale-purchase of goods with the objective of earning profit is called business.
2. **Vocation:** Any activity undertaken to earn one's livelihood.
3. **Profession:** Activities requiring intellectual skills, application and ability of mind with usually some specialized knowledge.
4. **Capital expenses:** These are the expenses which are non recurring in nature and the benefits of such expenses is derived over a number of years.
5. **Depreciation:**
6. **Resulting Company:** It is that company which has got the undertaking of demerged company under the scheme of demerger.
7. **Allowed expense:** These are the expenses which are related to the business and have to be debited in profit and loss account while calculating the income of business/profession.
8. **Disallowed expenses:** These are the expenses which are not related to the business and can not be debited in profit and loss account while calculating the income of business/profession
9. **Preliminary expenses:** These are the expenses which are incurred prior to the commencement of business.

## SUMMARY

**Meaning of business or profession:** It includes trade, commerce or manufacture. Profession means the activities of earning livelihood which require intellectual skills or manual skills. Profession includes vocation where vocation means activities which are performed in order to earn livelihood e.g. music, dancing etc.

**The profit and gains of business or profession include the following:** (i) Revenue profits, (ii) amount due or received as compensation for termination of management or agency or modification of its terms and conditions, (iii) profit on sale of import licence, (iv) cash assistance received from the government for exports, (v) income from speculative transactions.

**Important Rules:** (i) The assessee carries on the business or profession, (ii) tax is levied on the aggregate income from all businesses or professions, (iii) losses of speculative business can not be set off against profit of any other business, (iv) the business or profession is carried on at any time during the previous year, (v) only legal ownership is necessary and no tax is payable on anticipatory profits, (vi) revenue expenses relating to the business or profession for relevant previous year are allowable as deduction, (vii) sums deducted in an earlier year as loss and recovered during the current previous year is taxable, (viii) if benefit of an expenditure extends beyond the relevant previous year, it will not be spread over several years but will be allowed in the same previous year.

**Computation of Profits:** The taxable profit is determined by deducting admissible expenses from the gross receipts or gross incomes of the business or profession. If certain expenses charged in profit and loss account are disallowed, they are added back in the net profit as per profit and loss account. Similarly there are certain incomes which are not taxable under this head but have been credited to the profit and loss account then such incomes are deducted from the net profit as per profit and loss account. After making these corrections, corrected profit and loss is ascertained for income tax purpose.

**Maintenance and audit of accounts:** If total income of three years immediately preceding the current previous year is more than Rs. 1.5 lakh, then it is essential to maintain the specified books of accounts and if it is less than 1.5 lakh then it is not necessary to maintain such accounts. Specified professions include profession of technical advisors, engineers, Lawyers, doctors, company secretaries etc. Businessman whose total income of three years immediately preceding the current previous year is less than Rs. 1.2 lakh and total sales is not more than Rs. 10 lakh are called non-specified professionals. It is mandatory to get the accounts audited from chartered accountant if gross receipts or total sales is more than Rs 1 crore in the previous year in case of business and Rs. 25 lakh in case of profession.

**Expenses expressly allowed:** Expenditure in respect of business premises its rent, repair, insurance, depreciation or local tax. Deduction in respect of deposit for tea, coffee or rubber development, expenditure on scientific research, expenditure on patent and copyrights, expenditure to obtain licence to operate telecommunication services,

expenses for amalgamation, expenditure on voluntary retirement, amortization of preliminary expenses, expenditure on family planning etc.

**Expenses expressly disallowed:** (i) Payment outside India without TDS, (ii) salary, interest, bonus, commission or remuneration paid to members of an association of persons or body of individuals, (iii) payment in cash over and above Rs. 20000, etc.

## **EXERCISE QUESTIONS**

### **SHORT ANSWER QUESTIONS**

1. Which types of activities are included in Business and profession?
2. Explain the amount of deduction in case of preliminary expenses.
3. When is the audit of accounts of a business assessee compulsory? Explain in brief.
4. Explain the amount of deduction in case of patent and copyrights expenses.
5. Explain the amount of deduction in case of Technical Know-how expenses.

### **LONG ANSWER QUESTIONS**

1. Describe expressly allowed deduction at the time of calculating profit of business or profession.
2. Explain the deductions that are expressly disallowed in computing the income from business or profession.
3. Explain the incomes that are chargeable under the head business or profession.
4. What is the procedure of calculating the profit in case of business/profession? Give a performa of corrected profit and loss account.
5. Write notes on the following:
  - (i) Expenditure on Scientific research
  - (ii) Tea development account
  - (iii) Capital expenditure of Telecommunication services.

## NUMERICAL QUESTIONS

### Questions No. 1

The following is the Profit and Loss Account of Mr. Vivek for the year ended on 31<sup>st</sup> March, 2016. Compute his taxable income from business for that year:

	₹		₹
Opening Stock	15,000	Sales	80,000
Purchases	40,000	Closing Stock	20,000
Wages	20,000	Gift from Father	10,000
Rent	6,000	Sale of Car	17,000
Repairs of Car	3,000	Income-tax Refund	3,000
Wealth-tax paid	2,000		
Medical Expenses	3,000		
General Expenses	10,000		
Depreciation on Car	3,000		
Advance Income-tax paid	1,000		
Profit for the year	27,000		
	₹ 1,30,000		₹ 1,30,000

Following further informations are given:

- (1) Mr. Vivek carries on his business in rented premises, half of which is used as his residence.
- (2) Mr. Vivek bought a car during the year for ₹ 20,000. He charged 15% depreciation on the value of car. The car was sold during the year for ₹ 17,000. The use of the car was 1/4<sup>th</sup> for personal purposes.
- (3) Medical expenses were incurred during sickness of Mr. Vivek for his treatment.
- (4) Wages include ₹ 250 per month on account of Mr. Vivek's driver for 10 months

Ans. Taxable Income from Business ₹ 10,375]

### Example 2

Mr. Suresh is owner of a business. His profit and loss account on 31<sup>st</sup> March, 2016 is as follows:

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Salary	12,000	Gross Profit	
1,05,670			
Establishment Expenses	5,000	Interest on Govt. Securities (Net.)	5,352
Rent	3,000	Income from House Property	5,400

Miscellaneous Expenses	7,100	
Household Expenses	1,900	
Gratuity to Staff		20,000
Provision for Bad Debts	2,000	
Loss on sale of Motor Car	2,000	
(Car used for personal purposes)		
Insurance Premium (Including Life		
Insurance ` 1,800)	3,000	
Interest on Bank Loan	1,500	
Compensation to retrenched		
employee	1,500	
Provision for Depreciation	6,400	
Net Profit	51,022	
		1,16,422
1,16,422		

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Additional Informations:

(i) Actual Bad Debts Written off ` 700.

(ii) Allowed Depreciation ` 1,600.

(iii) Mr. Suresh is running his business in a rented premium half of which he uses as his residence. Rent includes `2,400 of the premises.

(iv) Mr. Suresh has been paid ` 2,000 as salary which has been recorded in salaries.

Compute Mr. Suresh's income from business for the Assessment Year 2015-16.

**Example 3**

Profit and Loss Account of Mr. Govind on 31<sup>st</sup> March, 2016 is given below:

Compute his income from business or profession

	₹		₹
General Expenses	15,000	Gross Profit	2,48,000



Bad Debts	2,000	Commission	8,000
Provision for Bad Debts	2,000	Brokerage	14,000
Fire Insurance	1,000	Winnings from Crossword Puzzles	11,000
Sale Tax	26,000	Interest on 7% National Plan Certificate	1,000
Staff Salary	29,750		
Discount	11,500		
Provision for sale tax	10,000		
Mr. Govind's salary	6,000		
Interest on overdraft	4,000		
Cost of expansion of office premises	50,000		
Interest on loan from Mrs. Govind	3,500		
Interest on Mr. Govind's Capital	3,500		
Depreciation on machinery	8,000		
Securities Transaction Tax	2,000		
Advertisement Expenses	15,500		
Contribution to Recognized Provident Fund	15,000		
Net Profit	77,250		
	<u>2,82,000</u>		<u>2,82,000</u>

(i) Depreciation allowed on machinery ` 6,500.

(ii) General Expenses include expenses ` 1,200 of a party in honour of his friend.

(iii) Accrued income of previous year ` 850 not shown in Profit and Loss Account.

(iv) Advertisement expenses include ` 4,000 of neon sign board.

**Question 4.** Shri Pandey is a reputed lawyer. He has prepared the following Income and Expenditure Account for the year ended 31<sup>st</sup> March, 2016:

	₹		₹
Household Expenses	12,000	Legal Fee	1,26,000
Office Expenses	7,000	Special Commission	1,400
Charity	500	Appointment Fee	
Telephone Expenses	500	Cash Gifts received from clients	2,000
Income-tax	900	House Rent	15,000
Rent	4,000	Interest on Govt. Securities	3,000
Gift to Daughter	2,000	Salary as Part-time Lecturer in Law	6,000
Electricity Charges	1,000		
Donation to National Defense fund	1,000		
Contribution to Public Provident Fund	2,400		
Magazine Subscription	3,000		
Salaries	15,000		

Purchase of Motor-car	60,000		
Purchase of Furniture	2,000		
Life Insurance Premium	5,000		
Motor-car Expenses	6,000		
Purchase of Typewriter	6,000		
Excess of Income over Expenditure	25,100		
	₹ 1,53,400	₹	1,53,400

Following other particulars were received:

- (i) Shri Pandey lives in one-half of the house and the other half is used for office, Rent and electricity charges are in respect of this house.
  - (ii) One-half of car expenses are for personal use.
  - (iii) Depreciate Motor-car @ 15%, Typewriter @ 15% and Furniture @ 10%.
- Compute his taxable income from business and profession for the assessment year 2016-17.

**Ans.:** Income from Profession ₹ 92,800).

### Example 5

Dr. Meena is a Gynecologist. She has prepared following Income and Expenditure Account for the year ending 31<sup>st</sup> March, 2016.

Compute her income from profession for the Assessment Year 2015-16.

	₹		₹
Household Expenses	10,000	Consultation Fee	50,000
Purchase of Car	40,000	Visiting Fee	10,000
Travelling Expenses (Personal)	4,500	Profit from Race (Gross)	10,000
Donation and Subscription	500	Proceeds from sale of ancestral property	30,000
Income Tax	1,000	Profit on sale of securities	10,000
Salaries	9,000	Dividend on shares (Gross)	5,000
Gift to Son	6,000	Interest on Post Office Savings A/c	600
Establishment Expenses	2,000	Gift from Father-in-Law	2,300
Surgical Equipment Purchased	4,000	Recovery of Bad Debts (Not allowed last year)	2,000
Books	1,200	Interest on Fixed Deposit (Gross)	1,000
Life Insurance Premium	2,500		
Wealth Tax	500		
Interest on Capital	1,000		
Net Surplus	38,700		
	<u>1,20,900</u>		<u>1,20,900</u>

Depreciation allowed on motor car is 15% and on books and surgical equipments 100%.

**Example 6**

Dr. Malhotra is registered Doctor. He keeps his books on cash basis. His cash a/c for the year 2015-16 is as under:

To Balance b/d	1,22,000	By Cost of medicine	10,000
To Private Loan from bank	3,000	By Surgical Equipments	8,000
To Sales of medicines	25,250	By Motor Car	1,20,000
To Consultation Fees	1,55,000	By Car expenses	6,000
To Visiting fees	24,000	By Salaries	4,6000
To Interest on Govt. Securities	4,500	By rent of Dispensary	1,600
To Rent from Property	3,600	By General Expenses	300
		By Personal Expenses	1,11,800
		By Life Insurance Premium	3,000
		By Interest on Loan from Bank	300
		By Insurance of Property	200
		By Balance c/d	71,550
	3,37,350		3,37,350

Compute his income from profession for P.Y. 2015-16 considering the following informations:

- (i) 1/3<sup>rd</sup> of motor car are used for personal purpose.
- (ii) Depreciation on surgical equipment @ 15%.

**UNIT:3 (IV) - INCOME FROM OTHER SOURCES**

<b>Unit Code:</b>	<b>UNIT TITLE: INCOME FROM OTHER SOURCES</b>			
	Duration:			
<b>Location:</b>	<b>SESSION 1: INTRODUCTION TO INCOME FROM OTHER SOURCES AND TAX TREATMENT OF CERTAIN ITEMS</b>			
Classroom or visiting different assesseees	<b>Learning Outcome</b>	<b>Knowledge Evaluation</b>	<b>Performance Evaluation</b>	<b>Teaching and Training Method</b>
	1.Basis of charge	1. Explain the basis of charging an income under the head of 'income from other sources'	1. Differentiate the basis of charging an income under the head of 'income from other sources' from basis of charging an income under other heads	<b>Interactive Lecture:</b> Introduction of the residuary head of charging the incomes under income tax Act, 1961, i.e., 'income from other sources'
	2.Income chargeable under the head 'income from other sources'	1. Describe the various incomes which are chargeable under 'income from other sources'	1. Identify the incomes which are specifically chargeable under 'other sources' and which are chargeable under other sources if not chargeable under 'profits from business and profession' 2. Identify other examples of incomes chargeable under 'other sources'	<b>Interactive Lecture:</b> 2. Discussion of the various incomes which are chargeable under 'income from other sources' <b>Activity:</b> Identify the incomes which charged under 'income from other sources' from the information collected from different assesseees
	3.Tax treatment of certain items	1. Explain the meaning of dividend under sec. 2(22) and various provisions related to the taxation of dividend 2. Explain various provisions related to taxation of different types of gifts 3. Explain the provisions related to	1. Calculate the income from dividend which is chargeable to tax 2. Calculate the total amount of gifts charged to tax. 3. Calculate the taxable amount received from life insurance policy	<b>Interactive Lecture:</b> Acquaint with the taxation of dividends, different kinds of gifts and amount received under life insurance policy

		taxation of amount received from life insurance policy		
<b>SESSION 2: DEDUCTIONS UNDER INCOME FROM OTHER SOURCES AND TAX CONCESSIONS</b>				
1. Deductions under 'income from other sources'	1. List out various deductions available under income from other source 2. List out various items which are not deductible under income from other source.	1. Explain various items which are available for deduction and the conditions to be satisfied to avail the deductions 2. Explain various items which are not available for deduction 3. Calculate the income from other sources after providing for the available deductions	<b>Interactive Lecture:</b> Discussion of the various deductions available and not available under the head of income from other sources	
2. Tax concessions	1. List out various securities the interest from which is exempt from tax 2. List out various persons whose interest income is exempt from tax	1. Identify various tax concessions available in respect of different securities and assesses and then calculate the amount taxable under the head of other sources	<b>Interactive Lecture:</b> Discussion of various tax concessions available	

*(Note: The location would depend upon the topic under discussion. For the theoretical interactions, it will be the classroom and the student will be required to contact different assesses to collect information about their income from other sources.)*

## **UNIT: INCOME FROM OTHER SOURCES**

### ***Learning Objectives:***

After reading this unit, the students will be able to:

1. explain the basis of charging an income under the head income from other sources,
2. list out various incomes which are chargeable under this head,
3. explain the meaning of dividend,
4. explain the tax treatment of dividend received by an assessee,
5. explain the provisions regarding gifts received by an assessee,
6. explain the tax treatment of amount received from life insurance policy,
7. list out the deductions available and not available in computing income from other sources
8. list out the various tax concessions available in respect of specified securities and specified assessees

### **SESSION 1: INTRODUCTION TO INCOME FROM OTHER SOURCES AND TAX TREATMENT OF CERTAIN ITEMS**

#### **BASIS OF CHARGES**

As per section 56, “Income from other sources” is the last and residual head of income and, hence, income chargeable under Income-tax Act, which does not specifically fall for assessment under any other head, must be charged to tax as “income from other sources”. Therefore, an income which is not income from "Salaries", "House property", "Profits and gains of business or profession" or "Capital gains", is to be computed and brought to charge under the head “Income from Other Sources”. In addition to the taxation of income not covered by the other heads, Section 56(2) specifically provides certain items of incomes as being chargeable to tax under the head in every case.

Sections 56 to 59 cover the provisions for computation of income from other sources. While section 56 defines the scope of income chargeable under this head, sections 57 and 58 specify the basis of computation of such income.

#### **INCOME CHARGEABLE UNDER THE HEAD ‘INCOME FROM OTHER SOURCES**

There are certain incomes which are always taxed under this head. These incomes are as follows:

##### ***1. Dividends [Section 56(2)(i)]***

As per section 56(2)(i), dividends are always taxed under this head. However, dividends from domestic company other than those covered by section 2(22)(e) are exempt from tax under section 10(34).

## ***2. Income by way of interest received on compensation or on enhanced compensation***

Income by way of interest received on compensation or on enhanced compensation shall be chargeable to tax under the head “Income from other sources”. Such income shall be deemed to be the income of the year in which it is received, irrespective of the method of accounting followed by the assessee. However, a deduction of a sum equal to 50% of such income shall be allowed from such income. Apart from this, no other deduction shall be allowed from such an income.

## ***3. Winnings from lotteries [Section 56(2)(ib)]***

Winnings from lotteries, crossword puzzles, races including horse races, card game and other game of any sort, gambling or betting of any form whatsoever, are always taxed under this head,. Such income is taxable under this head even if the assessee claims to carry on any trade or adventure in these activities as part of his business.

The entire income of winnings will be taxable without any deductions under Sections 80C to 80U. However, expenses relating to the activity of owning and maintaining race horses are allowable. Further, the rate of income-tax on such income is 30% + surcharge + cess @ 3% [Section 115BB].

## ***4. Gifts***

Gifts received by an individual or HUF (which are chargeable to tax) are also taxed under this head.

In addition to above, following incomes are charged to tax under this head, *if not taxed under the head “Profits and gains of business or profession”*:

1. Any contribution to a fund for welfare of employees received by the assessee from his employees in his capacity as an employer. But if the employer deposits such amount on or before due date of deposit applicable for such contribution, he will be allowed a deduction on account of the same. [Section 56(2)(ic)].
2. Income by way of interest on securities. [Section 56(2)(id)]
3. Income from letting out or hiring of plant, machinery or furniture. [Section 56(2)(ii)].
4. Income from letting out of plant, machinery or furniture along with building; both the lettings are inseparable. [Section 56(2)(iii)].
5. Any sum received under a Keyman Insurance Policy including bonus. [Section 56(2)(iv)].

Besides the above, there are some other incomes which are also chargeable under the head 'Income from Other Sources'. For example:

1. Any fees or commission received by an employee from a person other than his employer.
2. Any annuity received under a Will. It does not include an annuity received by an employee from his employer.
3. All interest other than interest on securities, e.g. interest on bank deposits, interest on loan, etc.
4. Income of a tenant from sub-letting the whole or a part of the house property.
5. Remuneration received by a teacher or a lawyer for doing examination work.
6. Income of Royalty.
7. Director's fees.
8. Rent of land not appurtenant to any building.
9. Agricultural Income from land situated outside India.
10. Income from markets, ferries and fisheries, etc.

## RELEVANCE OF METHOD OF ACCOUNTING

Method of accounting regularly used by an assessee exercises a great impact on computation of income from other sources. If an assessee uses mercantile system of accounting, income and expenditure will be taken on accrual basis. The difference between the income and expenditure in any previous year is treated as income from other sources no matter when income is received or payment is made. If an assessee uses cash method of accounting, income from other sources will be made on cash basis. All payments for expenses made during previous year and all receipts of income during the previous year are taken into consideration no matter to which year they relate. However, if no particular method of accounting is followed regularly, income by way of interest on securities is computed by following the mercantile method. The method of accounting does not affect the basis of charge in case of dividend income and income by way of interest received on compensation or on enhanced compensation.

### Illustration 1

The following incomes are received by Mr. Kumar during financial year 2016-17

i.		D
	Dividend from Indian company	10,000
ii.		I
	Interest on securities (gross)	5,000
iii.		D
	Director's fees	10,000
iv.		I
	Income from agricultural land in Nepal	30,000



v.	Income	R
	Income from Let Out land in Pathankot	40,000
vi.	Interest	I
	Interest on deposit with HDFC Bank	2,000
vii.	Income	R
	Income from subletting a house	56,000
viii.	Other	O
	Other expenses on sublet house	2,000
ix.	Income	R
	Income payable by Mr. Kumar for the sublet house	24,000
x.	Income	W
	Income from horse race (gross)	30,000

You are required to calculate income from other sources of Mr. Kumar for the assessment year 2017-18.

### Solution

i.	Director's fees		D
		10,000	
ii.	Income from agricultural land in Nepal		I
		30,000	
iii.	Income from Let Out of land in Pathankot		R
		40,000	
iv.	Interest on deposit with HDFC Bank		I
		Exempt	
v.	Dividend from Indian company		D
		10,000	
vi.	Income from subletting a house	56,000	R
	Less: Rent payable for the sublet house	24,000	
	Other expenses	<u>2,000</u>	
vii.	Income from horse race (gross)		W
		30,000	
viii.	Income on securities (gross)		Interest
		<u>5,000</u>	
	<b>Income from other sources of Mr. Kumar</b>		<b><u>1,47,000</u></b>

### Illustration 2

ABC Ltd. earned a profit of Rs. 10,00,000 during the previous year 2015-16 after debiting salary to employees Rs. 7,00,000. A contribution of Rs. 80,000 is included in the amount of salary of Rs. 7,00,000 by way of employees' contribution towards provident fund. Out of the amount of

Rs. 80,000, the company transferred Rs. 60,000 before the due date of crediting such payment and Rs. 20,000 after the due date of crediting such payment. Calculate the taxable income of ABC Ltd. for the assessment year 20016-17.

**Solution:**

	Rs.
Net profit as per P&L A/c	10,00,000
<i>Add</i> : Employees' contribution towards provident fund treated as income of the company	1,00,000
<b>Total Income</b>	<b>11,00,000</b>
<i>Less</i> : Amount credited by the company before the due date of crediting such sum	60,000
<b>Taxable income of PQR Ltd.</b>	<b>12,40,000</b>

The company is not allowed the deduction of Rs. 20,000 credited by it after the due date of crediting such sum.

**TAX TREATMENT OF DIVIDENDS**

Income by way of dividend when taxable is always taxable under the head "Income from other sources". Dividend from a foreign company and deemed dividend from an Indian company under section 2 (22) (e) are taxable in the hands of shareholders under this head, regardless of the fact whether shares are held by the assessee as investment or as stock in trade.

**Exemption**

An Indian company has itself to pay tax on dividend declared by it and therefore, under section 10(34), its shareholders are exempt from payment of tax in respect of the amount of dividend. However, as per section 115BBDA (as inserted by Finance Act, 2016), in the case of resident individual/HUF/firm, dividend shall be chargeable to tax at the rate of 10% if aggregate amount of dividend received from a domestic company during the year exceeds Rs. 10,00,000.

Exemption under section 10(34) is granted to dividend received from an Indian company and not to a dividend received from a foreign company.

**Meaning of the term ‘Dividend’ [Section 2(22)]**

The ordinary meaning of the term dividend is the profits distributed by a company to its shareholders. As per section 2(22) which gives inclusive definition of dividend, dividend includes the following:

- a. **Any distribution by a company of accumulated profits, whether capitalised or not**, if such distribution entails the release by the company to its shareholders of all or any part of the assets of the company;
- b. **Any distribution, by a company to its shareholders, of debentures debenture stock or deposit certificates in any form**, whether with or without interest and any distribution to its preference shareholders of shares by way of bonus to the extent to which the company possesses accumulated profits, whether capitalised or not;
- c. **Any distribution made to the shareholders of a company on its liquidation**, except where the shareholder is not entitled to participate in the surplus asset in the event of liquidation and shares were issued to him for full cash consideration, to the extent to which such distribution is attributable to the accumulated profits of the company immediately before its liquidation, whether capitalized or not;
- d. **Any distribution to its shareholders by a company on the reduction of its share capital**, except where the shareholder is not entitled to participate in the surplus asset in the event of liquidation and shares were issued to him for full cash consideration. to the extent to which the company possesses accumulated profits, whether capitalised or not;
- e. **Any payment made by a company, in which the public are not substantially interested of any sum** whether representing a part of the assets of the company or otherwise, by way of advance or loan to a shareholder, being a person who is the beneficial owner of shares (not being shares entitled to a fixed rate of dividend whether with or without right to participate in profits), holding not less than ten per cent of the voting power, or to any concern in which such shareholder is a member or a partner and in which he has a substantial interest, or any payment by any such company on behalf of or for the benefit of the shareholder having substantial interest in the company to the extent to which the company possesses accumulated profits.

It may be noted that as per section 2(22), "dividend" includes the above payments or distribution to the extent of accumulated profits of the company, i.e. whether capitalised profit or not for section 2(22)(a) to (d)excluding capitalized profit in case of section 2(22)(e).

However, with effect from assessment year 2000-01, "dividend" does not include:

- a. any payment made by a company on purchase of its own shares from a shareholder in accordance with the provisions of Section 68 of the Companies Act, 2013 ;
- b. any distribution of shares made in accordance with the scheme of demerger by the resulting company to the shareholders of the demerged company whether or not there is a reduction of capital in the demerged company.
- c. any dividend paid by a company which is set off by the company against the whole or any part of any sum previously paid by it and treated as a dividend within the meaning of sub-clause (e), to the extent to which it is so set off.

### **Relief from double taxation**

Dividend received from a foreign company is charged to double taxation, i.e., tax in India as well as in the home country of the foreign company. If the foreign dividend has suffered double taxation, then the taxpayer can claim double taxation relief either under Double Taxation Avoidance Agreement (if any) entered into with that country (if any) by the Government of India or can claim relief as per section 91 (if no such agreement exists).

If an assessee is earning dividend from a foreign company, he/ she should go through the provisions of Income-tax Law as well as the provisions of Double Taxation Avoidance Agreement (DTAA) (if any) entered into with that country (if any).

### **Concessional rate of tax to dividends received from foreign specified company**

Dividend received from a foreign company is taxable in the hands of a resident assessee at the normal rates which are applicable to his income. Normal tax rate applicable to an Indian company is 30% (plus surcharge and cess as applicable). Therefore, dividend received by an Indian company from a foreign company is charged to tax at 30%. However, section 115BBD provides a concessional rate of tax for certain specified companies.

By virtue of section 115BBD, dividends [as defined in section 2(22) except dividend as defined in section 2(22)(e)] received by an Indian company from a foreign company in which the Indian company holds 26% or more in nominal value of the equity share capital is charged to tax at a flat rate of 15% (plus surcharge and cess as applicable).

It should however be noted that, in the above case no deduction for any expenditure or allowance will be allowed from the amount of the dividend covered under section 115BBD. In other words, the gross amount of dividend (without deducting any expenditure/allowance) will be taxed at the rate of 15% (plus surcharge and cess as applicable).

### **TAX TREATMENT OF GIFTS [SECTION 56(2) (vii)]**

The provisions related to taxation of gifts are follows:

Where an individual or a Hindu undivided family receives, in any previous year, from any person or persons on or after the 1st day of October, 2009 [Section 56(2) (vii)]

- a. any sum of money, without consideration, the aggregate value of which exceeds fifty thousand rupees, the whole of the aggregate value of such sum shall be chargeable to tax under this head.
- b. any immovable property
  - i. without consideration, the stamp duty value of which exceeds fifty thousand rupees, the stamp duty value of such property shall be taxable under income from other sources.
  - ii. any immovable property received for a consideration which is less than the stamp duty value of the property by an amount exceeding fifty thousand rupees, the stamp duty value of such property as exceeds such consideration shall be chargeable to tax under income from other sources.
- c. any property, other than immovable property
  - i. without consideration, the aggregate fair market value of which exceeds fifty thousand rupees, the whole of the aggregate fair market value of such property;
  - ii. for a consideration which is less than the aggregate fair market value of the property by an amount exceeding fifty thousand rupees, the aggregate fair market value of such property as exceeds such consideration shall be chargeable to tax under income from other sources.

Provided further that this clause shall not apply to any sum of money or any property received:

- a. from any relative; or
- b. by an HUF from its members; or
- c. on the occasion of the marriage of the individual; or
- d. under a will or by way of inheritance; or
- e. in contemplation of death of the payer or donor, as the case may be; or
- f. from any local authority as defined in the Explanation to clause (20) of section 10; or
- g. from any fund or foundation or university or other educational institution or hospital or other medical institution or any trust or institution referred to in clause (23C) of section 10; or
- h. from any trust or institution registered under section 12AA.

*Explanation:*

- a. *“fair market value” of a property, other than an immovable property, means the value determined in accordance with the method as may be prescribed;*
- b. *“property” means the following capital asset of the assessee, namely:*
  - i. *immovable property being land or building or both;*
  - ii. *shares and securities;*
  - iii. *jewellery;*

- iv. *archaeological collections;*
- v. *drawings;*
- vi. *paintings;*
- vii. *sculptures; or*
- viii. *any work of art or*
- ix. *bullion*
- c. *“stamp duty value” means the value adopted or assessed or assessable by any authority of the Central Government or a State Government for the purpose of payment of stamp duty in respect of an immovable property;*
- d. *“relative” means, –*
  - 1. *in case of an individual*
    - i. *spouse of the individual;*
    - ii. *brother or sister of the individual;*
    - iii. *brother or sister of the spouse of the individual;*
    - iv. *brother or sister of either of the parents of the individual;*
    - v. *any lineal ascendant or descendant of the individual;*
    - vi. *any lineal ascendant or descendant of the spouse of the individual;*
    - vii. *spouse of the person referred to in items (ii) to (vi); and*
  - 2. *in case of a Hindu undivided family, any member thereof*

### **Shares as gift:**

Where a firm or a company not being a company in which the public are substantially interested, receives from any person or persons, on or after the 1st day of June, 2010, any property, being shares of a company not being a company in which the public are substantially interested, [Section 56(2)(viia)]

- i. without consideration, the aggregate fair market value of which exceeds fifty thousand rupees, the whole of the aggregate fair market value of such property;
  - ii. for a consideration which is less than the aggregate fair market value of the property by an amount exceeding fifty thousand rupees, the aggregate fair market value of such property as exceeds such consideration;
- shall be chargeable to tax under the head Income from other sources.

### **Share premiums in excess of the fair market value to be treated as income [Section 56(2)(viib)]**

Where a company, not being a company in which the public are substantially interested, receives from any resident assessee, any consideration for issue of shares that exceeds the face value of such shares, the aggregate consideration received for such shares as exceeds the fair market value of the shares shall be taxable under Income from other sources.

However, that this clause shall not apply where the consideration for issue of shares is received:

- i. by a venture capital undertaking from a venture capital company or a venture capital fund; or
- ii. by a company from a class or classes of persons as may be notified by the Central Government in this behalf.

### **Illustration 3**

During the year 2012-13, Mr. Kumar received following gifts. Ascertain the total amount of gift charged to tax.

1. Rs. 10,82,000 received on account of will of his grandfather.
2. Gift of Rs. 15,100 received from his friend on his birthday.
3. Rs. 10,000 received from his friends on the occasion of marriage anniversary.
4. Gift of Rs. 1,14,000 from his father.

### **Solution**

The tax treatment of various items in the hands of Mr. Kumar will be as follows:

1. Money received on account of Will is exempted from tax and, hence, nothing will be charged to tax on account of Rs. 10,82,000 received on account of Will of his grandfather.
2. Gift received from the friends is not covered in any of the exemptions and, hence, Rs. 15,100 received from his friend on his birthday will be charged to tax.
3. Money received on account of marriage of an individual is exempted from taxation. However, the benefit is not available in respect of money received on marriage anniversary. Hence, Rs. 10,000 received from his friends on account of marriage anniversary will be charged to tax.
4. Gift received from father will not be charged to tax (since father is covered in the definition of relative), hence, Rs. 1,14,000 will not be charged to tax.

Therefore, the total amount of gift not covered in any of the specified exemptions will come to Rs. 25,100 (i.e., Rs. 15,100 + Rs. 10,000). If the gift not covered in specified exemptions does not exceed Rs. 50,000 then nothing is charged to tax. In this case, the amount of gift not covered in the exemptions comes to Rs. 25,100 (which is less than Rs. 50,000), hence, nothing will be charged to tax.

### **Illustration 4**

From the following information provided by Mrs. Verma, ascertain the tax treatment of various items.

1. Gold jewellery worth Rs. 2,84,000 received from her mother.
2. Shares valuing Rs. 20,000 received by way of gift from her brother.
3. A painting worth Rs. 2,50,000 received from a friend on the occasion of her marriage.

4. A diamond necklace amounting to Rs. 60,000 received from a friend on the occasion of her friend's marriage.
5. Gold bangles purchased for Rs. 64,000; the fair market value of gold jewellery is Rs. 1,34,000.
6. Bullion purchased for Rs. 5,70,000; the fair market value of the bullion is Rs. 5,40,000.
7. A refrigerator purchased for Rs. 38,000, the fair market value of refrigerator is Rs. 90,000.

**Solution:**

The tax treatment of various items in the hands of Mrs. Verma will be as follows:

1. Gift received from mother will not be charged to tax (since mother is covered in the definition of relatives). Hence, gift of gold amounting to Rs. 2,84,000 received from her mother will not be charged to tax.
2. Gift received from brother will not be charged to tax (since brother is covered in the definition of relatives). Hence, gift of shares amounting to Rs. 20,000 received from her brother will not be charged to tax.
3. Gift received on account of marriage of an individual is covered in exemptions. Hence gift of painting amounting to Rs. 2,50,000 received from a friend on the occasion of her marriage will not be charged to tax.
4. Gift received on account of marriage of an individual is not charged to tax. But, in this case the gift is received on the occasion of marriage of a friend of Mrs. Verma. Hence, gift of diamond necklace amounting to Rs. 60,000 received from friend on the occasion of her friend's marriage will not be covered in the exemptions prescribed above.
5. The gold bangles are purchased at Rs. 64,000 while the fair market value is Rs. 1,34,000. The excess of fair market value over the purchase price will amount to Rs. 70,000 (i.e., Rs. 1,34,000 – Rs. 64,000). Hence, Rs. 70,000 will be charged to tax in respect of purchase of gold jewellery.
6. The fair market value of bullion is Rs. 5,40,000. However, the same is purchased for Rs. 5,70,000 which is more than the fair market value. In other words, in this case the purchase price is more than the fair market value and, hence, nothing will be charged to tax.
7. Refrigerator does not come under the definition of specified movable property, hence, nothing will be taxed in respect of purchase of refrigerator.

Considering above discussion, the total amount of gift not covered in any of the specified exemptions will come to Rs. 1,30,000 (60,000 + 70,000). If the gift not covered in specified exemptions exceeds Rs. 50,000 then the entire amount of such gift is charged to tax. Hence, taxable amount of gift will come to Rs. 1,30,000.

**Illustration 5**

On 25-2-2016, Mr. Kumar sold his personal house to his friend Mr. Sharma for Rs. 1,00,000. The market value of the building was Rs. 20,60,000 and the value of the building adopted by the



Stamp Valuation Authority for charging stamp duty was Rs. 22,00,000. What will be the tax implications of the above items in the hands of Mr. Kumar?

**Solution:**

The house has been gifted by Mr. Kumar to his friend Mr. Sharma. So, there is no question of taxing the value of building in the hands of Mr. Kumar because the question of tax implications of gift arises when gift is received by an individual/HUF and not when the gift is given by the individual/HUF. Thus, in this case the taxability will arise in the hands of Mr. Sharma who is the receiver who has received the building without adequate consideration. The stamp duty value of the property exceeds the purchase price by an amount exceeding Rs. 50,000 i.e. by Rs. 21,00,000 (the value adopted to charge stamp duty less consideration paid). Thus, Rs. 21,00,000 will be taxed in the hands of Mr. Sharma and not in the hands of Mr. Kumar.

***Knowledge Assessment - I***

1. Mr. Rizvi received a rent of Rs. 2,00,000 in respect of letting out of residential building and rent of Rs. 50,000 in respect of providing other amenities like lift services, power back up and society parks during the previous year 2015-16. Hence, rent of Rs. 2,00,000 is taxable under the
2. Mr. Raja received a sum of Rs. 1,68,000 during the previous year 2012-13 from the Government as interest on compensation for compulsory acquisition of industrial land. In this case, what will be the amount chargeable to tax under the head “Income from other sources”?
  - a. Nil
  - b. Rs. 1,68,000
  - c. Rs. 84,000
  - d. Any amount as per the choice of Mr. Raja
3. Mr. Raja won from lotteries a sum of Rs. 1,84,000 (after deducting the tax @ 30%) during the previous year 2012-13. What is the amount chargeable to tax under the head “Income from other sources”?
  - a. Rs. 1,84,000
  - b. Rs. 1,28,800
  - c. Rs. 2,62,857
  - d. Nothing will be taxable as “Income from other sources”

4. On April, 2012, Mr. Soham held 8% debentures (non-listed) of SM Ltd. of Rs. 52,000. He received interest of Rs. 3,744 (net of tax deducted at source @ 10%). What will be the amount chargeable to tax in the hands of Mr. Soham while computing income chargeable to tax under the head "Income from other sources"?
- Rs. 3,744
  - Rs. 4,160
  - Rs. 52,000
  - Nil
5. Dividend received from an Indian company which has suffered dividend distribution tax is exempt from tax under section\_\_\_\_\_.
- 10(32)
  - 10(33)
  - 10(34)
  - 10(38)
6. Money/property received in contemplation of death of the payer is charged to tax under which of the following head?
- Profits and Gains of business or profession
  - Income from other sources
  - Capital gains
  - It is not charged to tax at all (*i.e.*, exempt income)
7. "Property" means which of the following capital assets of the assessee?
- Shares and securities
  - Jewellery
  - Drawings
  - All of the above
8. As per section 2(22), dividend does not include\_\_\_\_\_.
- Any payment made by a company on purchase of its own shares from a shareholder in accordance with the provisions of section 77 A of the Companies Act, 1956
  - Any distribution if such distribution entails the release of all or any part of the asset of the company to the extent of accumulated profits of the company
  - Any distribution made on liquidation of a company to the extent of accumulated profits of the company
  - Any distribution on the reduction of capital of a company to the extent of accumulated profits of the company
9. During the year 2012-13, Mr. Naqvi received painting of Rs. 52,000 from cousin of his father. What will be the amount chargeable to tax under the head "Income from other sources"?
- Rs. 52,252
  - Rs. 52,000
  - Rs. 50,000
  - Nil

#### Answers

1. d; 2. d; 3. c; 4. c; 5. b; 6. c; 7. d; 8. d; 9. a; 10. b

**SESSION 2: DEDUCTIONS UNDER INCOME FROM OTHER SOURCES AND TAX CONCESSIONS**

**DEDUCTIONS ALLOWABLE IN COMPUTING INCOME FROM OTHER SOURCES [SECTION 57]**

Following deductions are available while calculating the income chargeable under the head “Income from other sources”:

***1. From interest on securities [Section 57(i) and (iii)]***

Any reasonable sum paid by way of commission or remuneration to a banker or any other person for the purpose of realising such interest on behalf of the assessee shall be allowed as deduction. Interest on money borrowed for investment in securities can also be claimed as a deduction.

***2. From the contributions received by employer from employees towards P.F./ Superannuation/other funds: [Section 57(ia)]***

Any sum received by an employer from employees as contribution towards any welfare fund of such employees is first included as income of the employee, and if the employer credits such sum to the employee’s account under the relevant fund on or before the due date (of such fund), then such amount (*i.e.*, employee’s contribution) is deductible from the income of the employer.

***3. from income derived from letting [Section 57(ii)]***

Where buildings are let out along with machinery, plant or furniture on hire and the rental income of building is inseparable from the rental income of such machinery, plant or furniture and the income from such letting is not chargeable to Income-tax under the head “Profits and Gains of Business or profession”, the following expenses incurred in respect of those assets:

- a. Current (not capital) repairs of buildings.
- b. Insurance premium against risk of damage or destruction of the premises.
- c. Repairs and insurance of machinery, plant or furniture.
- d. Depreciation.

Where the expenses referred to at (a) to (d) hereinabove are incurred on property used partly for the business of the assessee, a proportionate deduction shall be allowed.

***4. from income in the nature of family pension [Section 57(ia)]***

In case of family pension, *i.e.*, where a regular monthly amount is payable by an employer to a person belonging to the family of an employee in the event of his death, a sum equal to 33-1/3% of the income or Rs. 15,000, whichever is less, is allowable as a deduction.

### **5. From interest on compensation or enhanced compensation [Section 56(2)(viii)]**

A deduction of a sum equal to 50% of such income shall be allowed as deduction. No other deduction shall be allowed under any other clause of this section.

### **6. Other deductions [Section 57(iii)]**

Any other expenditure (not being in the nature of capital expenditure) laid out or expended wholly and exclusively for the purpose of making or earning such income during the relevant previous year.

#### **Conditions to be satisfied for claiming deductions**

Deductions under this clause will be allowed only if the following conditions are satisfied:

- i. The expenditure is laid out wholly and exclusively for the purpose of earning such income. If the purpose of earning income is coupled with some other extraneous purpose, it will not be possible to say that the deduction under Section 57 (iii) is earned by the assessee.
- ii. It is not in the nature of capital expenditure.
- iii. It is not a personal expenditure.
- iv. It is incurred in the accounting year itself and not in any prior or subsequent year.

Note that this section does not restrict deduction of expenditure to income made or earned. Interest on moneys borrowed for investment in shares which had not yielded any income was admissible as a deduction under the section. [*C.I.T. v. Gopal* (1978) 111 ITR 86].

In computing the income by way of dividends of a foreign company, no deduction will be allowed under Section 57.

#### **AMOUNTS NOT DEDUCTIBLE [SECTION 58]**

Under section 58, following expenditures are not deductible while computing income chargeable to tax under the head “Income from other sources” :

1. Any personal expenses of the assessee [*Section 58(1)(a)(i)*].
2. Any interest chargeable under the Act which is payable outside India on which tax has not been paid or deducted at source [*Section 58(1)(a)(ii)*].
3. Any amount paid which is taxable under the head “Salaries” and payable outside India on which tax has not been paid or deducted at source [*Section 58(1)(a)(iii)*].
4. Sum paid on account of wealth-tax is not deductible under section 58(1A).
5. Amount specified under section 40A is not deductible [*Section 58(2)*].

## **TAX CONCESSIONS**

### **A. Exempted Interest [Section 10(15)]**

Clause 15 of Section 10 of the Income-tax Act specifically enumerates certain securities, the interest from which is exempted. Hence, the interest thereon shall not be included in the income of the assessee. Some of the specified securities are:

1. Notified bonds, securities or certificates issued by the Govt. and notified deposits,
2. Notified Relief Bonds in the case of individuals and HUF.
3. Securities held by the Issue Department of the Central Bank of Ceylon.
4. Deposits made by a foreign bank performing central banking functions outside India with any scheduled bank in India with the approval of the Reserve Bank of India.
5. Loan advanced by Nordic Investment Bank to a project approved by the Central Govt.
6. Loan granted by European investment Bank in pursuance of the framework agreement for financial co-operation entered by the Central Govt. with this bank.
7. Debt or money borrowed by Govt. or a local authority from foreign sources before June 1, 2001.
8. Money borrowed by an industrial undertaking, before June 1, 2001, engaged in the manufacture or processing of goods or in the business of generation or distribution of electricity or any other form of power or in mining or in construction or in the operation of ships or aircrafts or construction of rail system or provisions of telecommunication services or the manufacture of computer software, from the notified foreign financial institutions.
9. Money borrowed or debt incurred by an industrial undertaking, as stated in (8) above, in a foreign country in respect of purchase outside India of raw-material, capital plant and machinery component.
10. Money borrowed from abroad by IFCI, IDBI, ICICI, Export Import Bank of India, NHB, or SIDBI before June 1, 2001 from sources outside India.
11. Money borrowed from abroad by any other financial institution (other than the ones stated under (10) above) established in India or a banking company before June 1, 2001 from sources outside India, under a loan agreement approved by the Central Govt.
12. Money borrowed by an industrial undertaking, stated under (10) above, in a foreign currency from sources outside India under a loan agreement approved by the Central Govt.

### **B. Assesseees outside the scope of tax liability in respect of Interest on Securities**

As per sections 10, 11 and 13A, interest on securities held by the following persons is exempt from tax, interest thereon shall not be included in their income for income-tax purposes:

1. Local authority.
2. Approved scientific research association.
3. Any regimental fund or non-public fund.
4. An institution existing solely for the development of khadi and village industries.

5. Authority established for the development of khadi and village industries.
6. Any body or authority constituted for the administration of public religious trusts or endowments.
7. The Prime Minister's National Relief Fund, the Prime Minister's Fund for the Promotion of Folk Art, the Prime Minister's Aid to Students Fund.
8. any university or other educational institution existing solely for educational purposes and not for purposes of profits, which is wholly or substantially financed by the government; or
9. any hospital or other institution meant only for philanthropic purposes and not for the purposes of profits and which is wholly or substantially financed by the government; or
10. any university or other educational institution meant only for educational purposes and not for purposes of profit if the aggregate annual receipts of such university or educational institution do not exceed the amount of annual receipts as may be prescribed.
11. Registered trade union.
12. Statutory provident fund, recognized provident fund, approved superannuation fund and approved gratuity fund.
13. Member of a scheduled tribe.
14. Corporation or other body or institution established for promoting the interest of the members of scheduled castes/scheduled tribes.
15. Public charitable and religious trust or institution.
16. Political Party registered with the Election Commission of India.

### ***Knowledge Assessment – II***

State whether the following statements are true or false:

1. Capital expenditure can be allowed as a deduction from the income chargeable under the head 'income from other sources'.
2. Only current repairs are allowed as deduction from the income from letting of plant, machinery, etc. chargeable under other sources.
3. Family pension is taxable as income from other sources.
4. In respect of income chargeable to tax under the head "Income from other sources", no deduction will be available on account of any sum paid on account of wealth-tax.
5. A deduction of lower of Rs. 15,000 or 33 1/3% of the income is available in case of income in the nature of family pension.
6. In respect of rental income from plant, machinery, furniture and building chargeable to tax under the head "Income from other sources", deduction is available on account of premium paid on life insurance of the owner of the property.
7. Commission or remuneration paid to earn interest income which is chargeable to tax under the head "Income from other sources", deduction is allowed as deduction from the income.
8. A deduction of a sum equal to 30% of interest on compensation or enhanced compensation and no other deduction shall be allowed under any other clause of this section.

### **Answers**

1. False, 2. True, 3. True, 4. True, 5. True, 6. False, 7. True, 8. False

## KEYWORDS

1. **Dividend:** Dividend has been defined in section 2(22) which gives an inclusive but not exhaustive definition of dividend.
2. **Gift:** From the taxation angle, a gift is a sum of money or property received by an individual or HUF without consideration or without adequate consideration.
3. **Property:** “Property” means the following capital asset of the assessee, namely: immovable property being land or building or both; shares and securities; jewellery; archaeological collections; drawings; paintings; sculptures; or any work of art or bullion.
4. **Relative:** “Relative” means, in case of an individual, spouse of the individual; brother or sister of the individual; brother or sister of the spouse of the individual; brother or sister of either of the parents of the individual; any lineal ascendant or descendant of the individual; any lineal ascendant or descendant of the spouse of the individual; spouse of the person referred to in items (ii) to (vi); and in case of a Hindu undivided family, any member thereof.
5. **Stamp duty value:** It means the value adopted or assessed or assessable by any authority of the Central Government or a State Government for the purpose of payment of stamp duty in respect of an immovable property
6. **Family pension:** It is a regular monthly amount payable by an employer to a person belonging to the family of an employee in the event of his death.

## SUMMARY

- Income chargeable under Income-tax Act, which does not specifically fall for assessment under any of the heads discussed earlier, must be charged to tax as “income from other sources”.
- Section 56(2) specifically provides for the certain items of incomes as being chargeable to tax under the head such as Dividend, , Winnings from lotteries, Interest received from compensation or enhanced compensation, and Gifts. Some income are taxable under this head if not charged un Profits from Business and Profession like Contribution to Provident fund, Income by way of interest on securities, Income from hiring machinery etc, Hiring out of building with machinery, Money Gifts, Keyman Insurance policy.
- The basis of charge on income by way of interest on securities is on “receipt” basis if books of account are maintained on cash basis. If the assessee does not maintain books of account or, when he maintains books of account on the basis of “mercantile system”, it is taxable on “due” basis.
- Dividend from a foreign company and deemed dividend from an Indian company under section 2 (22) (e) are taxable in the hands of shareholders under this head. An Indian company which has suffered dividend distribution tax is exempt from tax under section 10(34).
- Section 2(22) gives an inclusive definition of dividend.

- The provisions related to taxation of gifts are given in Section 56(2)(vii). From the taxation angle, gifts received by an individual or can be classified into 5 categories:-
  - Sum of money received without consideration (commonly known as monetary gift).
  - Specified movable property received without consideration (commonly known as non-monetary gift).
  - Specified movable property received without adequate consideration.
  - Immovable property received without consideration.
  - Immovable property received without adequate consideration.
  
- Admissible Deductions : The income chargeable under the head “Income from other sources” is the income after making the deductions such as
  - sum paid by way of commission or remuneration to a banker or any other person for the purpose of realising such interest;
  - deduction shall be allowable in accordance with the provisions of Section 36(1)(va), i.e., if the employer has credited the employee’s accounts in the respective funds;
  - Current (not capital) repairs, insurance premium and depreciation in respect of plant, machinery, furniture and buildings are deductible from rent income
  - a sum equal to 33-1/3% of the income or ` 15,000, whichever is less, is allowable as a deduction from family pension;
  - a deduction of a sum equal to 50% of from Interest on compensation or enhanced compensation, and
  - any other expenditure (not being in the nature of capital expenditure) laid out or expended wholly and exclusively for the purpose of making or earning such income.
  
- Inadmissible deductions: The following amounts shall not be deducted in computing income chargeable under the head ‘Income from other sources’:
  - Any personal expenses of the assessee.
  - Any interest chargeable under the Income-tax Act which is payable outside India and from which income-tax has not been paid or deducted at source.
  - Any payment which is chargeable under the head “Salaries” if it is payable outside India unless tax has been paid thereon or deducted there from at source.
  - Sum paid on account of wealth-tax is
  - Any expenditure referred to in Section 40A of Income-tax Act.

## **EXERCISE QUESTIONS**

### **Short Answer Questions**

1. Which incomes are charged to tax under the head Income from Other Sources if not charged under the head Profits from Business and Profession?
2. Which items are excluded from the definition of dividend under section 2(22)?



3. What expenses are not allowed to be deducted under the head “Income from other sources”?
4. Whether the method of accounting followed by the assessee has any relevance while computing income chargeable to tax under the head “Income from other sources”?
5. List any 5 securities from Clause 15 of Section 10 of the Income-tax Act, 1961, the interest from which is exempted from tax?

### Long Answer Questions

1. Explain the tax treatment of maturity amount received from life insurance policy.
2. What expenses are allowed to be deducted under the head “Income from other sources”?
3. What are the incomes chargeable under the head “Income from other sources”?
4. Explain the taxation of gifts under section 56(2) (vii).
5. Explain the term ‘dividend’ under section 2(22).
6. Which persons are exempt from tax in respect of interest on securities held by them?

### Numerical Questions

1. Ascertain the head of taxability of the incomes given below:
  - a. Dividend of Rs. 64,000 received by Mr. Kumar from an Indian company.
  - b. Rental income of open plot of land of Rs. 56,200 received by Mr. Kumar.
  - c. Rs. 4,600 won by Mr. Kumar from a crossword puzzle.
  - d. Rs. 1,64,000 received by Mr. Kumar from the friends of his wife on his wedding anniversary.
  - e. Rent of Rs. 2,67,000 for building let out (Rs. 1,50,000 relates to building and Rs. 1,17,000 to other amenities) received by Mr. Kumar.
  - f. Compensation amounting to Rs. 1,53,200 received by Mr. Kumar from the Government for compulsory acquisition of Industrial land.
  - g. Interest of Rs. 8,462 received by Mr. Kumar on a bank deposit.

*(Answer: a- exempt; b, c, d, g- income from other sources; e- income from house property and other sources; f- capital gains )*

2. On 25-2-2014, Mr. Kaushal purchased a building from his friend for Rs. 8,40,000. The value of the building adopted by the Stamp Valuation Authority for charging stamp duty is Rs. 18,40,000. What will be the tax implications of the above transition in the hands of Mr. Kaushal?

*(Answer: Rs. 10,00,000 will be charged to tax as income from other sources)*

3. Mr. Ashok who draws a salary of Rs. 35,000 p.m. received the following gifts during the previous year 2015-16. What shall be the taxable income for the assessment year 2016-17?
  - a. Gift of Rs. 5,000 on July 23, 2015 from his friend.

- b. Jewellery worth Rs. 15,000 on Oct. 3, 2015 from his fiancée.
- c. An antique item of Rs. 21,000 each from his two friends on March 29, 2016 on his marriage.
- d. Gift of Rs. 18,000 on Oct. 2, 2008 from the brother of his father.
- e. Gift of Rs. 35,000 on March 21, 2016 from friend of his wife on the occasion of his marriage.
- f. Gift of Rs. 16,000 on Jan. 27, 2009 from father in law of his brother.
- g. Gift of Rs. 11,000 on September 9, 2008 from his friend.
- h. Gift of Rs. 30,000 from her employer.

*(Answer: income from salary- Rs. 4,20,000; income from gifts- nil)*

4. During the year 2012-13, Miss Shikha received following gifts:
- a. Painting received from her friend without consideration. Fair market value of the painting is Rs. 64,000.
  - b. Archaeological collection received from her mother. Fair market value of such archaeological collection is Rs. 1,25,000.
  - c. Jewellery received from her relatives on her birthday. Fair market value of the jewellery is Rs. 2,82,000.
  - d. Shares purchased for Rs. 3,84,000, the fair market value of the shares is Rs. 4,35,000.
  - e. Sculptures purchased for Rs. 3,85,000; the fair market value of the sculptures is Rs. 4,00,000.
  - f. A bike purchased for Rs. 84,000; the fair market value of motor-car is Rs. 30,000. Advise her regarding the tax treatment of above items.

*(Answer: taxable income- Rs. 3, 97,000)*

5. During the year 2012-13, Miss Nikita purchased the following assets:
- a. A plot of land for Rs. 9,00,000. The Stamp Value is Rs. 17,52,000.
  - b. A residential building from her friend, Miss Shikha for Rs. 10,00,000. The value adopted by the Stamp Valuation Authority for charging stamp duty is Rs. 5,00,000.
  - c. A plot of land (being a rural agricultural land) for Rs. 8,40,000; the fair market value of the land is Rs. 12,52,000.

Apart from above, she also received rural agricultural land (fair market value of the land is Rs. 25,52,000) by way of gift from her mother. Advise her regarding the tax treatment of above assets.

*(Answer: Rs. 13,52,000)*

6. On 4-8-2014, Mr. Sharma takes a life insurance policy. Sum assured is Rs. 30,00,000 and annual premium is Rs. 84,000. The policy will mature in 2028. Maturity value will be Rs.

18,00,000. Advise him regarding the tax treatment of amount to be received from above policy.

*(Answer: Nothing will be charged to tax in respect of amount received on death of Mr. Sharma; the annual premium of the policy is less than 10% of the capital sum assured. Hence, nothing will be taxed on account of amount received otherwise than on death)*

7. Mr. Kumar submits the following particulars of income for the previous year ending March 31, 2016 :

Dividend from Satyam Finance Ltd. Rs. 3,700; interest paid on capital borrowed for investment in shares of Satyam Finance Ltd. Rs. 1,200; charges for collection of dividend Rs. 370. Winnings from lottery net amount Rs.1,38,200. TDS was Rs. 61,800. Winnings from card games were Rs. 13,500. Interest on bonds issued by the Government of Singapore was Rs. 20,570.

What will be the income of Mr. X under the head 'Income from other sources' for the assessment year 2016-17?

*(Answer: Rs. 2, 34,070)*