

**UNIVERSITY OF CALICUT**



**SCHOOL OF DISTANCE EDUCATION**

**Study Material**

**III Semester**

**M Com (Finance)**

**INCOME TAX LAW AND PRACTICE**

**2015 Admission Onwards**

**2032**

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**INCOME TAX LAW AND PRACTICE**

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## MODULE 1:

### COMPUTATION OF TAXABLE INCOME

#### 1.1: INTRODUCTION TO INCOME TAX

##### **Tax:an overview.**

Tax is a fee charged by a Government on a Product, Activity or Income. There are two types of Taxes- Direct taxes and Indirect taxes. If the tax is directly levied on the income or wealth of a person then it's called direct taxes, Eg. Income Tax. If tax is levied on the price of a product, good or service then it's called indirect tax, Eg. Sales tax.

Taxes are the basic source of income for governments for meeting expenses of like education, defence, health care, infrastructure etc.

##### **Income tax.**

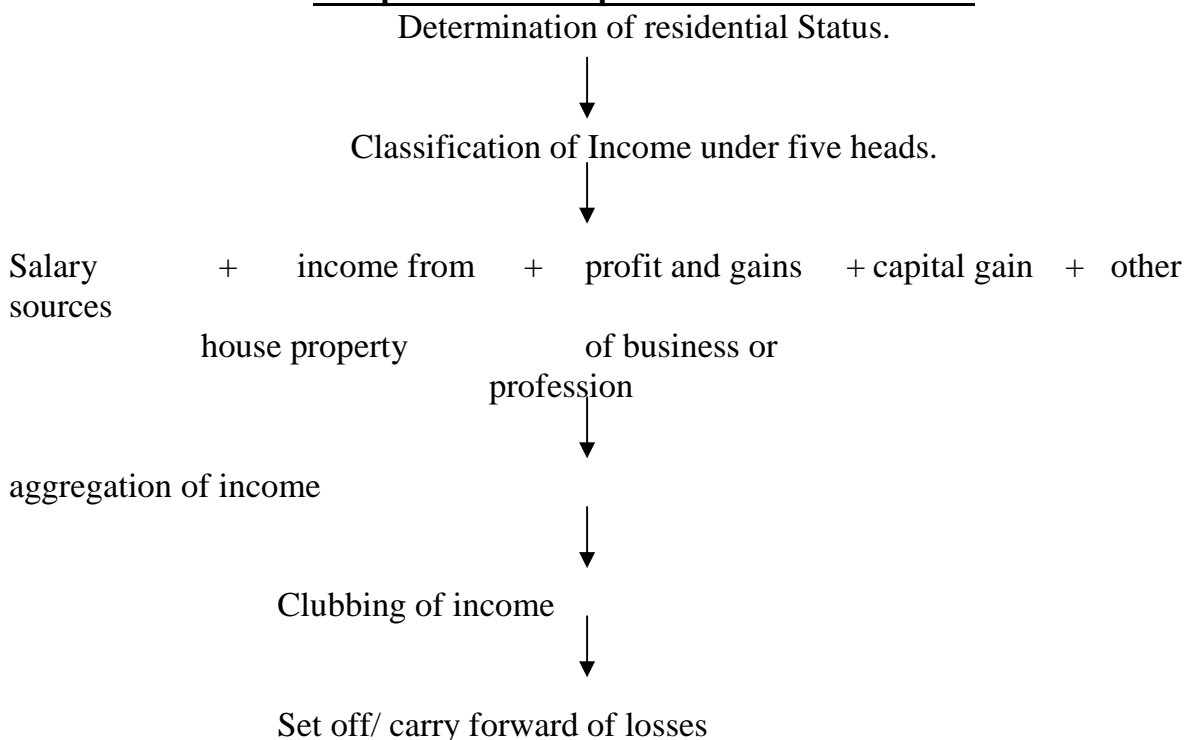
Income tax is a form of direct tax, i.e, it is levied directly from the tax payer on his 'income'. Every person, whose taxable income for the assessment year exceeds the minimum taxable limit, is liable to pay the income tax at rates in force during the current financial year.

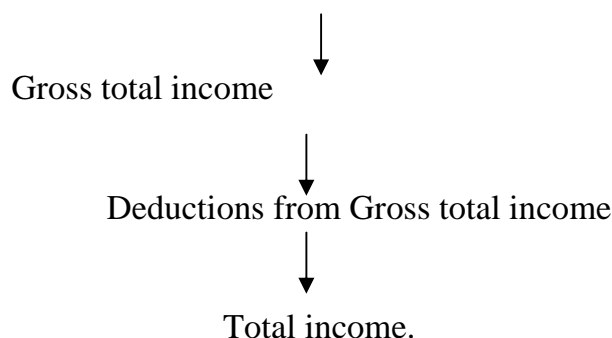
The Income Tax Act ,1961, which came into force on 1<sup>st</sup> April 1962 is the base act regarding income tax in India. Since 1962 it has been amended and re-amended drastically. Union finance budgets of every year propose new amendments and tax reforms and these changes get added to the income tax rules when the parliament approves it.

##### **Total income and tax payable.**

Income tax is levied on the total income of the assessee. Total income is computed as per the provisions of the income tax Act, it is the amount arrived after deductions from gross total income are made. The procedure of computation of total income is given below-

##### **The process of computation of Total Income.**





### **Basis of charge and general rules of income tax**

- Income tax is an annual tax on income.
- Income of previous year is taxable in the next following assessment year at the rates applicable to the assessment year.
- Income tax rates are fixed by the annual union budget(Finance act).
- Tax is charged on every 'person' defined in sec2(31).
- The tax is charged on the total income of every person computed in accordance with the provisions of Income Tax Act.
- Income tax is to be deducted at source or paid in advance as provided under the provisions of the act.

### **Important amendments for the Annual Year 2016-17**

- ❖ Rate of surcharge increased to 12% from 10% for all non-corporate assesseees if income exceeds ₹ 1 Crore.
- ❖ Wealth tax abolished from annual year 2016-17.
- ❖ Yoga will be included under the definition of 'charitable purpose' and such organisations will be considered as charitable institutes.
- ❖ 100% deduction under section 80G for contributions made to Swatch BharathKosh and Clean Ganga Fund.
- ❖ Investment made under newly introduced SukanyaSamridhi account will be eligible for deduction u/s 80C.
- ❖ The existing limits of ₹ 15,000 and ₹ 20,000 u/s 80D with respect of mediclaim paid by individuals and senior citizen raised to ₹ 25,000 and ₹ 30,000 respectively.
- ❖ The 80DDB deduction for Super senior citizen regarding expenditure of medical treatment of specified diseases increased to ₹ 80,000 from ₹ 60,000.
- ❖ Exemption u/s 80DD with regard to maintenance of disabled dependant raised to ₹ 75,000 or ₹ 1,25,000 (disability or severe disability) from ₹ 50,000 and ₹ 1,00,000.
- ❖ Limit u/s 80U is proposed to be increased from ₹ 50,000 to ₹ 75,000 in case of disability and from ₹ 1,00,000 to ₹ 1,25,000 in case of severe disability.
- ❖ Deduction u/s 80CCC is proposed to increase from ₹ 1,00,000 to ₹ 1,50,000 in case of contribution made to pension fund.
- ❖ Deduction u/s 80CCD will be ₹ 1,50,000 in place of ₹ 1,00,000 to contribution made to national pension scheme.
- ❖ TDS will be introduced to immovable property transactions.
- ❖ 100% deduction will be allowed u/s 80G in respect of donations made to National Fund for Control of Drug Abuse (NFCDA).

## **1.2:INCOME UNDER THE HEAD SALARY**

Any remuneration paid by an employer to his employee in consideration of his service is called salary. It includes both monetary payments (e.g basic salary, bonus, commission etc.) as well as non - monetary facilities (e.g rent free house, medical facility, educational facilities for children etc.).

Under section 15, the following incomes are taxable under the head salary

### **Definition of salary**

Salary under section 17(1), includes the following:

- i) Wages,
- ii) Any annuity or pension,
- iii) Any gratuity,
- iv) Any fees, commission, perquisites or profit in lieu of or in addition to any salary or wages,
- v) Any advance of salary,
- vi) Any payment received in respect of any period of leaves not availed by him i.e. leave salary or leave encashment.
- vii) The annual accretion to the balance at the credit of an employee participating in a recognized provident fund,
- viii) Transferred balance in recognised provident fund to the extent it is taxable,
- ix) The contribution made by the Government or other employer, in the previous year, to the account of an employee, under the pension scheme notified by the central Government.

### **Important points regarding salary-**

- 1) **Employer- employee relationship:** the relationship between the payer and payee must be the relationship between employer and employee type. Consider the following cases,
  - a) Commission received by a Director from a company is not taxable under the head salary if he is not an employee of the company. It will be taxable under the head business or profession or other sources depending upon the facts.
  - b) Any salary, commission, bonus received by a partner of a firm shall not be regarded as salary income and should be charged under the head business or profession.
- 2) Only receipt from employer is taxable under this head. Receipts from persons other than employer is taxable under the head other sources, these are-
  - a) University remuneration.
  - b) Examiner ship fee,
  - c) Family pension received by member of the family of deceased employee,
  - d) Salary received by M.P, M.L.A,
- 3) Salary from more than one employer shall be taxable under this head.
- 4) Any amount received after cessation of employment is also taxable under this head,
- 5) Forgoing salary is also taxable under this head if forgone voluntarily.

- 6) Salary or pension received by the employees of UNO is fully exempted.
- 7) Salary from present, past or prospective employer is also taxable under this head.

### Computation of salary income

Salary income = Gross salary – Deductions U/s 16

Gross salary = Basic salary U/s 17(1) + Allowances U/s 17(3)(b) + Perquisites U/s 17(2) + Profit in lieu of salary U/s 17(3)  
**Less**

Deductions u/s 16 = Entertainment allowance u/s 16(ii) + Employment tax u/s 16(iii)  
**= Income from the head salary.**

### Provident fund.

Provident fund scheme is a scheme intended to give substantial benefits to an employee at the time of his retirement. Under this, a specified sum is deducted from his salary as contribution and employer also contributes certain sum to this scheme. The contribution of the employer and employee are invested in approved securities. Interest earned from this is also credited to this provident fund account. Thus the balance of the provident fund account consists of the following:

- i) Employee's contribution
- ii) Employer's contribution
- iii) Interest on employee's contribution
- iv) Interest on employer's contribution

The accumulated balance is paid to the employee at the time of retirement or resignation. In the case of death of the employee, the same is paid to the legal heirs.

There are four types of provident funds:

- i) **Statutory Provident Fund (SPF)** : The SPF is governed by Provident Fund Act, 1925. It applies to employees of government, semi-government, local bodies etc
- ii) **Recognised Provident Fund (RPF)** : RPF means a provident fund recognized by the Commissioner of income tax for the purpose of tax. It is governed by the Provident fund act 1952.
- iii) **Unrecognised Provident Fund (URPF)** : it is a provident fund not recognized by the Commissioner of income tax
- iv) **Public Provident Fund (PPF)** : PPF is operated under the Public Provident Fund Act 1968. It is open to general public. Salaried employees may also contribute to PPF in addition to the fund operated by the employer.



**Tax Treatment of the Provident Fund:-**

<b>Particulars</b>	<b>SPF</b>	<b>RPF</b>	<b>URPF</b>	<b>PPF</b>
Employees contribution	Eligible for deduction U/S 80C	Eligible for deduction U/S 80C	Not eligible for deduction U/S 80C	Eligible for deduction U/S 80C
Employer's contribution	Fully exempt	amount in excess of 12% of salary is taxable	Not taxable yearly	N.A( there is only one contribution)
Interest credited	Fully exempt	Amount in excess of 9.5% p.a is taxable	Not taxable yearly	Fully exempt
Lump sum amount received at retirement	Fully exempt	Fully exempt(at least five year service)	a)employer's contribution and interest taxable under the head salary b)interest of employee contribution taxable under the head 'other sources' c)employees contribution is exempted	Fully exempt

**ALLOWANCES**

An allowance is defined as a fixed amount of money given periodically in addition to the salary for the purpose of meeting some specific requirements connected with the service rendered by the employee or by way of compensation for some unusual conditions of employment. It is taxable on due/accrued basis whether it is paid in addition to the salary. These allowances are generally taxable and are to be included in the gross salary unless a specific exemption has been provided in respect of them.

**Fully Exempted Allowances.**

- (1) Foreign allowance given by Government to its employees posted abroad is fully exempted
- (2) House rent allowance given to Judges of High Court and Supreme Court is fully exempted.
- (3) Sumptuary Allowances given to Judges of High Court and Supreme Court is fully exempted.
- (4) Allowances from U.N.O.
- (5) Allowances to Teacher/Professor from SAARC member states
- (6) Allowances to member of Union Public Service Commission.

**Fully Taxable Allowances**

(1) **Dearness Allowance(DA) and Dearness Pay(DP):** This is a very common allowance these days on account of high prices. Sometimes Additional Dearness Allowance is also given. It is included in the income from salary and is taxable in full. Sometimes it is given under the terms of employment and sometimes without it. When it is given under the terms of employment it is included in salary for purposes of determining the exemption limits of house rent allowance, recognised provident fund, gratuity and value of rent free house and is also taken into account for the purposes of retirement benefits. Sometimes dearness allowance is given as 'Dearness Pay'. It means that it is being given under the terms of employment.

(2) **Fixed Medical Allowance:** It is fully taxable.

(3) **Tiffin Allowance:** It is given for lunch and refreshments to the employees. It is taxable.

(4) **Servant Allowance:** It is fully taxable even if it is given to a low paid employee, not being an officer, i.e., it is taxable for all categories of employees.

(5) **Non-practicing Allowance:** It is generally given to those medical doctors who are in government service and they are banned from doing private practice. It is to compensate them for this ban. It is fully taxable.

(6) **Hill Allowance:** It is given to employees working in hilly areas on account of high cost of living in hilly areas as compared to plains. It is fully taxable, if the place is located at less than 1,000 meters height from sea level.

(7) **Warden Allowance and Proctor Allowance:** These allowances are given in educational institutions for working as Warden of the hostel and/or working as Proctor in the institution. These allowances are fully taxable.

(8) **Deputation Allowance:** When an employee is sent from his permanent place of service to some other place or institution or organisation on deputation for a temporary period, he is given this allowance. It is fully taxable.

(9) **Overtime Allowance:** When an employee works for extra hours over and above his normal hours of duty he is given overtime allowance as extra wages. It is fully taxable.

(10) **Other Allowances** like Family allowance, Project allowance, Marriage allowance, City Compensatory allowance, Dinner allowance, Telephone allowance etc. These are fully taxable.

**Partly Taxable Allowances.**

(a) **Special allowances for performance of official duty:** These allowances are specifically granted to meet expenses wholly and exclusively incurred in the performance of official duty. These are exempt to the extent such expenses are actually incurred or the amount received whichever is less. These allowances are **travelling allowance, Daily allowance, Helper allowance, Academic Allowance, Uniform Allowance** etc.

(b) **Allowance to meet personal expenses :** Allowances which are granted to meet personal expenses are exempt to the extent of amount received or the limits specified whichever is less. It includes HRA, transport allowance, children education allowance, children hostel allowance etc. a brief description of which are given below.

## House Rent Allowance (HRA)

Any special allowance specifically granted to an employee by his employer to meet expenditure actually incurred on payment of rent in respect of residential accommodation occupied by the assessee, is exempt to the extent of least of the following:

1. Actual amount of such allowance received or
2. Rent paid over 10% of salary [Rent paid – 10% of salary]
3. an amount equal to:
  - a) where such accommodation is situated at Mumbai, Kolkatta, Delhi or Chennai, then 50% of the amount of salary due to the assessee,
  - b) where such accommodation is situated at any other place, then 40% of the amount of salary due to the assessee.

(Salary = Basic Pay + D.A. (If form part of retirement benefit) + Commission (If it is based on specific % of turnover).

### Problem: 1

Resident of Rampur Sri Vimal gets ₹ 72,000 as salary, ₹ 6,000 as dearness pay, ₹ 6,000 as dearness allowance and ₹ 10,000 per annum as fixed commission during the previous year. During previous year he received ₹ 30,000 as house rent allowance though he paid ₹ 36,000 as rent. Compute house rent allowance exempt from tax.

### Solution: 1

#### Computation of Exempted Amount of H. R. A.

Salary ₹ 72,000 + D.P. ₹ 6,000 = ₹ 78,000

Amount exempt least of the following:

	₹
i. H. R. A. received	30,000
ii. Rent paid - 10% of salary ( ₹ 36,000 - ₹ 7,800)	28,200
iii. 40% of salary	31,200

**H. R. A. exempt ₹ 28,200**

### Other allowances and their exemption limits:-

S.I No	Allowance	Extend of exemption.
1	Any special compensatory allowance/hill compensatory allowance/high altitude allowance	₹800 per month or ₹7,000 per month or ₹300 per month depending upon the locations
2	Any Special Compensatory Allowance in the Nature of Border Area Allowance, Remote Locality Allowance or Difficult Area Allowance / Disturbed Area Allowance	₹1,300 per month or Rs1,100 per month or Rs1,050 per month or ₹750 per month or ₹ 200 per month depending upon the specified locations

3	Tribal area allowance	₹ 200 per month
4	Any allowance granted to an employee working in any transport system to meet his personal expenditure during his duty performed in the course of running of such transport from one place to another place, provided that such employee is not in receipt of daily allowance	70 per cent of such allowance up-to a maximum of ₹ 10,000 per month
5	Children education allowance	₹100 per month per child up to a maximum of two children
6	Children hostel allowance	₹ 300 per month per child up to a maximum of two children
7	Compensatory field area allowance	₹2,600 per month
8	Compensatory modified field area allowance	₹1,000 per month
9	Any special allowance in the nature of counter insurgency allowance granted to the member of armed forces operating in areas away from their permanent locations for a period of more than 30 days.	₹3,900 per month
10	Transport allowance granted to an employee to meet his expenditure for the purpose of commuting between the place of his residence and the place of his duty	₹1600 per month
11	Transport allowance granted to an employee, who is ` blind or orthopedically handicapped with disability of lower extremities, to meet his expenditure for the purpose of commuting between the place of his residence and the place of his duty	₹3200 p.m.
12	Underground allowance	₹800 p.m.

### Treatment of Entertainment Allowance

In case of Entertainment allowance an assessee will not get any exemption but would be eligible for deduction under section 16(ii) from gross salary. The deduction is allowed to government employees only; Non- Government employees will not be eligible for this deduction. The entire amount of entertainment allowance will be added to gross salary.

The minimum of the following shall be available as deduction in case of Government employees:

- (i) Actual amount of entertainment allowance received during the year
- (ii) 20% of his salary exclusive of any allowance, benefit or other perquisites.
- (iii) ₹5,000.

**Problem: 2**

Sri Vinay is a government employee. He draws a monthly salary of ₹ 20,000 besides a dearness allowance @ ₹ 5,000 p. m. He gets ₹ 500 p. m. as entertainment allowance. He spent during the previous year, ₹ 2,000 out of entertainment allowance. Find out the amount of deduction regarding entertainment allowance.

**Solution: 2****Computation of Deduction Regarding Entertainment Allowance**

The amount of deduction allowable will be the least of the following:

	₹
i. 1/5 of basic salary	48,000
ii. 5,000	5,000
iii. Amount received	6,000

**Exempted Amount ₹ 5,000.**

**PERQUISITES**

The term “perquisites” includes all benefits and amenities provided by the employer to the employee in addition to salary and wages either in cash or in kind which are convertible into money. These benefits or amenities may be provided either voluntarily or under service contract. For income-tax purposes, the perquisites are of three types:

- (A) Tax-free perquisites
- (B) Taxable perquisites
- (C) Perquisites taxable under specified cases.

**(A) Tax-free perquisites (in all cases)**

The value of the following perquisites is not to be included in the salary income of an employee :

**i. Medical Facilities:**

(a) The value of any Medical facility provided to an employee or his family member in any hospitals, clinics, etc. maintained by the employer.

(b) Reimbursement of expenditure actually incurred by the employee on medical treatment for self or for his family members in any hospitals, dispensaries etc. maintained by the Government or local authority or in a hospital approved by the chief commissioner.

(c) Group medical insurance obtained by the employer for his employees (including family members of the employees) or all medical insurance payments made directly or reimbursement of insurance premium to such employees who take such insurance.

(d) Reimbursement of medical expenses actually incurred by the employee up-to a maximum of ₹ 15,000 in the aggregate in a year, in a private hospital for his and his family.

(e) Any expenditure incurred or paid by the employer on the medical treatment of the employee or any family member of the employee outside India, the travel and stay abroad of such employee or any family member of such employee or any travel

or stay abroad of one attendant who accompanies the patient in connection with such treatment will not be included in perquisites of the employee.

**ii. Refreshment :**

The value of refreshment provided by the employer during office hours and in office premises is fully exempt. Free Meals provided by the employer during working hours is exempt if its value either case does not exceed ₹50. However, free meals provided by the employer during working hours in a remote area shall be fully exempt.

**iii. Subsidized lunch or dinner provided by employer:**

**iv. Recreational facilities:**

**v. Telephone facility:** to the extent of the amount of telephone bills paid by the employer.

**vi. The value of transport** provided by the employer to the employees from their place of residence to the place of work and back in the case of an employer engaged in the business of carriage of goods or passengers, to his employees either free of charge or at a concessional rate.

**vii. Personal accident insurance.**

**viii. Refresher Course.**

**ix. Free rations.**

**x. Sale of an asset** gifted to an employee by the employer after using the same for 10 years or more is a perquisite in the hands of employee.

**xi.** Perquisites to Government employees being citizens of India, posted abroad.

**xii. Rent-free house** to High Court Judges

**xiii. Rent-free house** to Supreme Court Judges

**xiv. Conveyance facility** to High Court and Supreme Court judges.

**xv. Privilege passes and privilege ticket** orders granted by Railways to its employees.

**xvi.** Sum payable by an employer through a Recognised Provident Fund or an Approved Superannuation Fund or Deposit-linked Insurance Fund established under the Coal Mines Provident Fund or the Employees' Provident Fund.

**xvii.** Sum payable by an employer to pension or deferred annuity scheme.

**xviii.** Employer's contribution to staff group insurance scheme.

**xix. Actual travelling expenses** paid/reimbursed by the employer for journeys undertaken by employees for business purposes.

**xx. Leave travel concession**

**xxi. Free holiday trips** to non-specified employees.

**xxii. Rent-free furnished residence** (including maintenance thereof) provided to an Officer of Parliament, a Union Ministry and a leader of opposition in Parliament.

**xxiii. Goods sold to employees**, by their employer, at concessional rates.

**xxiv. The value of any benefit** provided by a company free of cost or at a concessional rate to its employees by way of allotment of shares, debentures or warrants directly or indirectly under the Employees' Stock Option Plan or Scheme of the said company.



- xxv. Free educational facility** to the children of the employee in an educational institute owned/maintained by the employer if cost of such education or value of such benefit does not exceed ₹1,000/- per month per child.
- xxvi. Interest free loan** to an employee if the amount of loan does not exceed ₹ 20,000/- or if loan is provided for specified diseases.
- xxvii. Computer/laptops** (provided only for use, ownership is retained by the employer).

**(B) Taxable perquisites (in all cases)**

The value of the following perquisites is added to the salary income of the employee:

- i) Value of rent-free residential accommodation provided to the assessee (RFA or RFH)
- ii) Value of any concession in the matter of rent in respect of residential accommodation provided to the assessee.
- iii) Sum paid by the employer for affecting an assurance on the life of the employee or for providing an annuity. If the amount is paid to a recognised provident fund or an approved superannuation fund, or to a deposit linked insurance fund established under Employees' Provident Fund Act, the sum so paid is not to be included in the salary income.
- iv) Sum paid by the employer in respect of any obligation of the assessee, which would otherwise have been payable by the assessee. Some of the examples of such expenses are as follows:
  - a) Income-tax paid by the employer due from the employee.
  - b) Payment of club bills, club subscription or hotel bills of the employee.
  - c) Fees paid by the employer directly to the school or reimbursement of tuition fees of the children of the employee.
  - d) Payment of any loan due to the employee.
- v) The value of any specified security or sweat equity shares allotted or transferred, directly or indirectly, by the employer, or former employer, free of cost or at concessional rate to the assessee.
- vi) The amount of any contribution to an approved superannuation fund by the employer in respect of the assessee, to the extent it exceeds one lakh rupees;
- vii) The value of any other fringe benefit or amenity as may be prescribed.

**(C) Perquisites taxable only in the cases of Specified Employees**

The value of certain benefit or amenity granted or provided free of cost or at a concessional rate shall be included in the salary income of 'specified employees', a specified employee is one,

1. who is director [full time or part time director];
2. who has a substantial interest in the company concern, i.e., employee is the beneficial owner of at least 20 per cent of the equity shares of that company or is entitled to at least 20 per cent share in profit of the concern;
3. Whose income chargeable under head salaries (exclusive of the value of all benefits or amenities not provided by way of monetary payments) exceeds ₹ 50,000,.

Some of the examples of such perquisite which are included in the salary income of a specified employee are;

- i) Free boarding facility provided by employer.
- ii) Free conveyance for private use.
- iii) Free education facility to the family members of employee.
- iv) Holiday trips at employer's cost.
- v) Gas, electricity or water supplied free for household consumption.
- vi) Wages of domestic servants paid by employer.
- vii) Free lunches or dinners.

### Valuation of Perquisites.

The valuation of various perquisites is done as follows:-

#### 1) Valuation of Residential Accommodation.

S.I No	Circumstance	Unfurnished (A)	Furnished (B)
1	Accommodation is provided by union or state government.	License fee determined by the government as reduced by the rent paid by the employee	Add 10% of the cost of furnishing to the value determined under (A)
2	a) Where accommodation is provided by the employer and owned by the employer.  or  b) where accommodation is taken on lease or rental by the employer	i) 15% of salary in cities having population of 25 lakh or more ii) 10 % of salary in cities having population in between 10 to 25 lakhs. iii) 7.5% of salary in cities having population less than 10 lakh.  or Actual amount of lease rental paid or payable by the employer or 15% of salary whichever is lower as reduced by the rent paid by the employee.	Add 10% of the cost of furnishing to the value determined under (A)
3	Accommodation is provided by the employer in hotel	Not applicable	24% of the salary or actual amount paid in hotel whichever is lower.

Here "salary" includes the pay, allowances, bonus or commission payable monthly or otherwise or any monetary payment, by whatever name called.

#### Problem:3

Mr. Nishanth is employed in a town (population 13 lakh). His particulars of income for the A. Y. 2015 – 16 are:

Basic salary ₹8,000 p.m. DA ₹ 2,000 p. m. (40% enters into retirement benefits), Bonus ₹ 8,000 p. a., Commission ₹ 4,500 p.a., EA ₹ 500 p.m. Fair rental



value of rent-free house provided by the employer ₹ 40,000 p.a., Value of furniture provided ₹ 20,000. Compute income from salary.

**Solution: 3**

Computation of income from salary	₹
Salary	96,000
D. A.	24,000
Bonus	8,000
Commission	4,500
Entertainment Allowance	6,000
Value of furnished house	14,410
	<u>1,52,910.</u>
Less: Deduction	Nil
<b>Income from salary</b>	<b><u>1,52,910.</u></b>

**Note:** Computation of value of rent- free house:

$$\text{Salary ₹ 96,000} + 40\% \text{ D.A. } 9,600 + 8,000 + 4,500 + 6,000 = 1,24,100$$

10% of salary	₹	12,410
Add: 10% cost of furniture	2,000	<u>          </u>
<b>Value of rent - free house =</b>	<b>14,410</b>	

**2).Valuation of Motor Car.**

Owner	Expenses met by	Purpose	Value of car
1(a) Employer	Employer	Only official	Not a perquisite
1(b) Employer	Employer	Only Private	Total of: i. Actual expenditure on car ii. Remuneration to chauffeur. iii. 10% of the above cost of car Less: amount charged by the employee
1(c)(i) Employer	employer	Partly official and partly personal	Cubic capacity of engine upto 1.6 ltr: ₹ 1,800 p.m + ₹ 900 p.m (chauffeur) Cubic capacity of engine above 1.6 ltr: ₹ 2,400 p.m + ₹ 900 p.m (chauffeur)
1(c)(ii) Employer	employee	Partly official and partly personal	Cubic capacity of engine upto 1.6 ltr: ₹ 600 p.m + ₹ 900 p.m (chauffeur) Cubic capacity of engine above 1.6 ltr: ₹ 900 p.m + ₹ 900 p.m (chauffeur)
2(i) Employee	Employer	Only official use	Not a perquisite
2(ii) Employee	Employer	Partly personal and partly official	Actual expenditure incurred Less: Value of Car cubic capacity upto 1.6 litres or Value of Car cubic capacity above 1.6 litres

**Problem: 4**

Sri.Chowdhry is Purchase Officer in a Company in Kota. He furnished the following particulars regarding his income for previous year 2014-15:

- i. Net basic salary ₹ 1,49,000 which is after deducting ₹ 7,400 for income tax, ₹ 20,000 as contribution to recognized provident fund and rent for bungalow ₹ 3,600.
  - ii. Bonus ₹ 60,000
  - iii. Travelling Allowance for Tour ₹ 25,000.
  - iv. Reimbursement of medical bills ₹ 7,500.
  - v. He lives in a bungalow belonging to the company in a town (population 15 lakh), its fair rent is ₹ 6,000 per month. The company has provided on this bungalow the facility of a gardener and a cook each of whom is being paid a salary of ₹ 250 per month and ₹ 900 p. m. respectively. The company paid in respect of this bungalow ₹ 6,000 for electric bill and ₹ 1,200 for water bill.
  - vi. He has been provided with a large car for official and personal use. The maintenance and running expenses of the car including car driver are borne by the company.
  - vii. The following amounts were deposited in his provident fund account:
    - (1) Own contribution ₹ 20,000
    - (2) Company's contribution ₹ 20,000 and
    - (3) Interest 9.5% p. a. ₹ 23,000
  - viii. Deposit in P. P. F. ₹ 16,000
- Compute his taxable income from salary for the A.Y. 2016 – 17

**Solution: 4**

**Computation of taxable salary**  
(For the Assessment Year 2016-17)

₹	₹
1. Salary	1,49,000
Income – tax deducted	7,400
Contribution to P.F.	20,000
Rent deducted	3,600
2. Bonus	60,000
3. Employer's contribution to R. P. F. in excess of 12% salary	Nil
4. Perquisites:	
Gardener	3,000
Cook	10,800
Concession in rent	20,400
Electric bill paid by the employer	
6,000	
Water bill paid by the employer	1,200
Car – ( ₹ 2,400 + 900 ) × 12	
39,600	
<b>Gross salary</b>	<b>3,21,000</b>

Less: Deduction

Nil

**Taxable salary ₹ 3, 21,000****Notes:** 1. Concession in rent has been determined as under:

$$\text{Salary} = ₹ 1,80,000 + 60,000 = ₹ 2,40,000$$

$$10\% \text{ of } 2,40,000 \quad 24,000$$

Less: Rent paid

3,600

Concession in rent

₹ 20,400

2. Reimbursement of medical bills is exempt upto ₹ 15,000.

3. Travelling allowance for tour is exempt u/s 10(14) (i)

**Receipts which are Includible under the head salaries under section 17**

There are several receipts which are taxable under the head salary. Some of them are retirement benefits and some are receivable during service. Important receipts are discussed below:

**Death cum Retirement Gratuity:-**

i. Fully Exempted- Union government/ state government/local body etc employees.

**ii. Where the employees are covered under the Payment of Gratuity Act, 1972:**

The amount of any gratuity received under The Payment of Gratuity Act, 1972, it shall be exempt from tax to the extent of least of the following:-

1. fifteen days' wages (seven days' wages in case of seasonal establishments) for each completed year of service or part thereof in excess of six months on the basis of salary last drawn for every completed year of service or part thereof in excess of six months; or
2. the gratuity actually received; or
3. ₹ 10,00,000

**iii. Where the employees are not covered under the Payment of Gratuity Act, 1972:**

The amount of any other gratuity received by the employee from a private employer (not covered under the Payment of Gravity Act, 1972) on his retirement or at the termination of his employment, least of the following is exempted:-

1. 1/2 month's salary for each year of completed service, calculated on the basis of the average salary for the ten months immediately preceding to his retirement, or
2. ₹ 10,00,000 or
3. gratuity actually received.

**Problem: 5**

Mr. A has retired from a private company on 30<sup>th</sup> November, 2014. He was working since 1<sup>st</sup> March, 1988. He received ₹ 2,00,000 as gratuity. His salary grade was 5,000-110-8,000-200-15,000, since 1<sup>st</sup> March, 2003. He was also getting D. A. @ 25% Basic Salary. Calculate his exempted gratuity

- (A) if he comes under Gratuity Act,  
(B) if he doesn't come under Gratuity Act.

### Solution: 5

Computation of Exempted Gratuity

#### A. Under Gratuity Act

$$\text{Salary } ₹ 6,100 + 1,525 = 7,625 \times 15 \div 26 = ₹ 4,399$$

Least of the following is exempt

- i. ₹ 4,399 × 27 yrs = ₹ 1,18,773
- ii. ₹ 10,00,000
- iii. Amount Received ₹ 2,00,000

**Exempted Gratuity ₹ 1,18,773**

#### B. Not covered under Gratuity Act

Salary 1 month ₹ 6,000

Salary 9 months ₹ 54,900

₹ 60,900

Average salary ₹ 6,090

Half month salary ₹ 3,045

Least of the following is exempt:

- i. ₹ 3,045 × 26 yrs = ₹ 79,170
- ii. ₹ 10,00,000
- iii. Amount received ₹ 2,00,000

**Exempted Gratuity ₹ 79,170**

### Commutation of Pension

- i) Any payment in commutation of pension received to Government employees is wholly exempt from tax.
- ii) Any lump sum received on commutation of pension by a Government servant absorbed in a public sector undertakings also exempt from tax.
- iii) Further, any payment in commutation of pension received by a person, from any other employer, would be exempt to the extent of the following:-
  - a) in cases where the employee receives any gratuity; the commuted value of 1/3rd of pension
  - b) in any other case, the commuted value of 1/2 of such pension.
- iv) Any payment in commutation of pension received from a pension fund set up by the Life Insurance Corporation of India is fully exempt from tax.

### Encashment of earned leave

IT act grants the following exemptions on this account:

- 1) if received at the time of retirement by a government employee- fully exempt

- 2) if received at the time of service – fully taxable for all employees
- 3) For non-government employees least of the following:
  - i) average salary x no. of leaves due at retirement
  - ii) 10 month's "average salary", i.e. salary drawn during the period of 10 months immediately preceding the retirement/superannuation,
  - iii) The amount specified by the Government ₹3,00,000.
  - iv) The amount of leave encashment actually received at the time of retirement.

**Retrenchment compensation received by workers covered under Industrial Dispute act.**

Least of the following is exempted:

- i) Notified limit ₹5,00,000.
- ii) Actual amount received.
- iii) Amount payable under Industrial Dispute Act.

**Deductions u/s 16 out of gross salary.**

- 1) Entertainment Allowance (Discussed under Allowances)
- 2) Tax on Employment/ Professional tax- fully deductible from gross salary.

### 1.3:INCOME FROM HOUSE PROPERTY.

According to Section 22 of the income tax act, “The annual value of property consisting of any buildings or lands appurtenant thereto of which the assessee is the owner, other than such portions of such property as he may occupy for the purposes of any 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”.

The following points emerge from the above charging section:

**(a) Tax is charged on income from the buildings or lands appurtenant thereto:**

The buildings include residential buildings, buildings let out for business or profession or auditoriums for entertainment programmes. The location of the building is immaterial. It may be situated in India or abroad.

**(b) Tax is charged on income from lands appurtenant to buildings:**

Where the land is not appurtenant to a building the income from land can be charged as business income or “income from other sources”, as the case may be. The lands appurtenant to buildings include approach roads to and from public streets, courtyards, motor garage, compound, play-ground and kitchen garden. In case of non-residential buildings, car-parking spaces, drying grounds or play-grounds shall be the lands appurtenant to buildings.

**(c) Tax is charged from the owner of the buildings and land appurtenant thereto:**

Where the recipient of the income from house property is not the owner of the building, the income is not chargeable under this head but under the head ‘Income from Business or Other Sources’. For example, the income to a lessee from sub-letting a house is not chargeable under the head ‘Income from House Property’. The owners may be of several types like:

- a) Real owner
- b) Legal owner
- c) Mortgagor in case of mortgaged property
- d) Lessee in case of leasehold property

**Deemed owners:** Sometimes there will be deemed owners as per the rule of income tax, like:

- i) Property transferred to spouse without adequate consideration- transferor will be the deemed owner
- ii) Self-acquired property converted into common pool of HUF- transferor will be the deemed owner
- iii) Impartible estate of HUF, the holder is its deemed owner.
- iv) Property acquired under power of attorney, its holder is the deemed owner.

**(d) Utilised by the assessee for his own business or profession purpose**

The annual value of such property or the portion thereof as is utilised by the assessee for the purposes of his own business, profession or vocation, the profits of which are assessable to tax, is not taxable under Section 22. The assessee is also not allowed to claim any deduction in respect of notional rent while computing income from any such business, profession or vocation. However, the assessee can claim depreciation under Section 32 of the Income-tax Act and also, he can claim other

expenses e.g. repairs, insurance, municipal taxes, interest on borrowed capital etc. for such business income.

**(e) Taxability of rental income from a owned house property**

Rents or income arising from ownership of any house property cannot be taxed under any other head since Section 22 provides a specific head for charge of such income to tax.

**Similarly, the following income from buildings is not assessable under this head:**

- a. **Buildings or staff quarters let out to employees and others:** Where the assessee lets out the building or staff quarters to the employees of business whose residence there is necessary for the efficient conduct of business, the rent collected from such employees is assessable as income from business and taxable under the head business or profession and not under this head.
- b. **If building is let out to authorities for locating bank, post office, police station, central excise office, etc.:**
- c. **Composite letting of building with other assets:** Where the assessee lets on hire machinery, plant or furniture belonging to him and also buildings and the letting of the buildings is inseparable from the letting of the said machinery, plant or furniture, the income from such letting is chargeable to tax under the head “Income from other Sources” if it is not chargeable to income-tax under the head “Profits and gains of business or profession” However, if rent is separable between rent of building and rent for other facilities viz. rent of machinery, plant or furniture or other facilities etc, then rent of building would be taxable as Income from house property and rent for machinery, plant or furniture or other facilities would be taxable as either Income from Other Sources or Profits and gains of business or profession, depending upon the facts of each case.
- d. **Income of State Industrial Development Corporation for letting out of sheds, etc.**
- e. **Services rendered in providing electricity, use of lifts, supply of water, maintenance etc**

**ANNUAL VALUE.**

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(1) of the Income-tax Act as:

- a) the sum for which the property might reasonably be expected to let from year to year; or
- b) where the property or any part of the property is let and the actual rent received or receivable by the owner in respect thereof is in excess of the sum referred to in clause (a), the amount so received or receivable; or
- c) where the property or any part of the property is let and was vacant during the whole or any part of the previous year and owing to such vacancy the actual rent received or receivable by the owner in respect thereof is less than the sum referred to in clause (a), the amount so received or receivable. Provided that the taxes levied by any local authority in respect of the property shall be deducted

in determining the annual value of the property of that previous year in which such taxes are actually paid by him, i.e., municipal taxes will be allowed only in the year in which it was paid.

### Computation of Annual Value/Net Annual Value(NAV)

Net annual value shall be computed in the following manner:

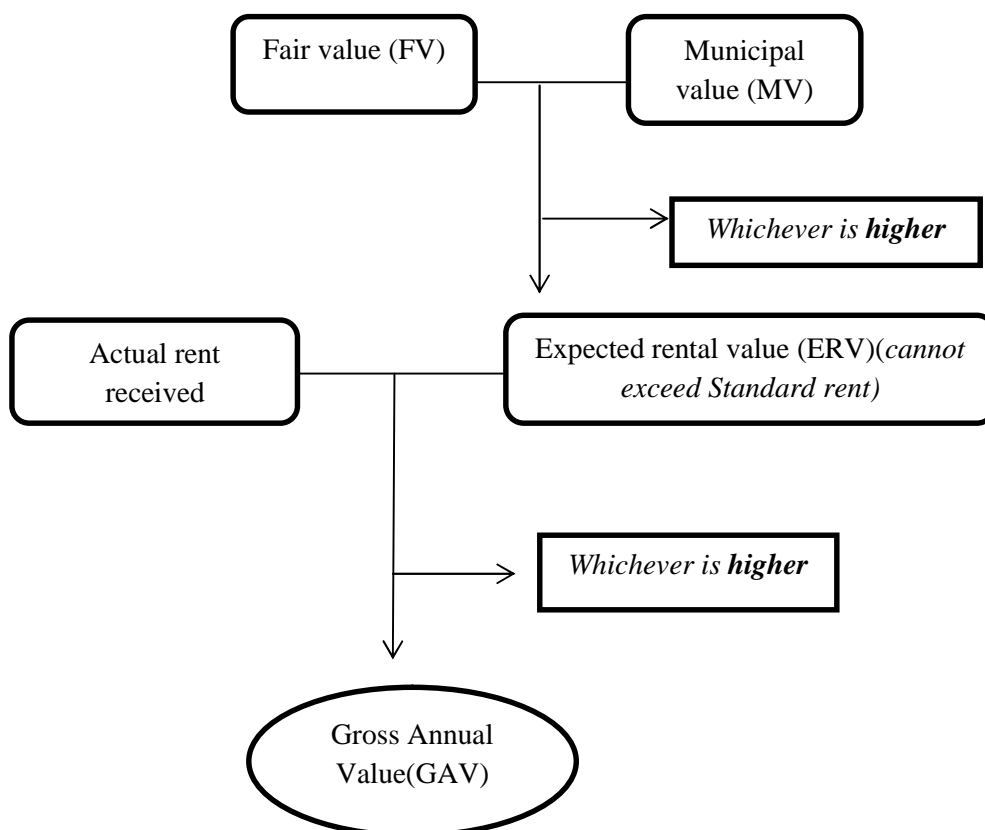
Step1. Determine the Gross Annual Value(GAV)

Step2. Deduct municipal tax actually paid by the owner during the previous year from the Gross Annual Value.

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

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

#### A) Let out house property.



**Municipal Value:** Municipal value is the value determined by the municipal authorities for levying municipal taxes on house property.

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



**Standard Rent:** The standard rent is fixed under Rent Control Act. In such a case, the property cannot be let for an amount which is higher than the standard rent fixed under the Rent Control Act.

**Actual rent received or receivable:** Actual rent is rent for let out period. It is the de facto rent (i.e. what should have been the actual rent).

### **Deductions from Gross Annual Value (GAV)**

While computing the net annual value the following deductions are made from the gross annual value:

- 1) **Municipal Taxes:** The taxes including service taxes (fire tax, conservancy tax, education, water tax, etc.) levied by any municipality or local authority in respect of any house property paid by the owner.
- 2) **Unrealised Rent:** If rent for the period cannot be recovered fully from the tenant it can be deductible.

The sum remaining after these deductions are made is called the annual value of house property.

### **Deductions from Annual Value (AV)**

The income chargeable under the head “Income from house property” shall be computed after making the following deductions, namely:

#### **(a) Standard deduction**

A sum equal to 30% of the annual value;

#### **(b) Interest on borrowed capital**

(i) Where the property has been acquired, constructed, repaired, renewed or reconstructed with borrowed capital, the amount of any interest payable on such capital and such acquisition or construction is completed within three years from the end of the financial year in which capital was borrowed is deductible

(ii) Interest on loan for the period prior to the previous year in which the house is completed is also allowable in five equal annual instalments.

### **B. Property occupied by the owner [Section 23(2)]**

Where the property consists of one house or part of a house in the occupation of the owner for his own residence, and is not actually let during any part of the previous year and no other benefit is derived therefrom by the owner, the annual value of such a house or part of the house shall be taken to be nil. The only deduction available in respect of such house is towards interest on borrowed capital but subject to a ceiling of ₹ 30,000 or ₹ 2,00,000 as the case may be. In other words, to this extent there could be a loss from such house.

#### **Concession for one House only:**

Where the assessee has occupied more than one house for the purposes of residence for himself and family members, he has to make a choice of one house only in respect of which he would like to claim exemption. Other self-occupied houses will be treated as if they were let out (Deemed Let out) and their annual value will be determined in the same manner as we have discussed in the case of let out property.

**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 can be set-off against the income from any other house property. If even after the set-off, there is an unabsorbed balance of the loss, the same can be set-off against income under any other head in the same year and the balance unabsorbed part of the loss can be carried for set off within the subsequent eight assessment years against income from house property.

**C. House which is partly Self-occupied and Partly Let Out:**

When a portion of the house is self-occupied for the full year and a portion is self-occupied for whole year, the annual value of the house shall be determined as under:

- 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 for a part of the year.

**Problem: 1**

Mr. Harish owns two houses. The particulars of the two houses for the previous year 2015 – 16 are given below:

<b>Particulars</b>	<b>House 1</b>	<b>House 2</b>
Date of completion of the house	31 <sup>st</sup> March 2011	31 <sup>st</sup> December 2012
Use of house	Self occupied	Let out
Municipal value	30,000    60,000	
Fair rent	35,000	90,000
Rent received	-	1,20,000
Standard rent	25,000	65,000
Municipal taxes paid	4,000	8,000
Interest on loan for construction of house	30,000	40,000
Compute income from house property for the assessment year 2016 – 17		

**Solution: 1**

**Computation of income from house property**  
(for the annual year 2016-17)

<b>a) Self – occupied house:</b>	₹	
Annual value		Nil
Less – Interest		<u>30,000</u>
<b>Loss</b>	<b>(a) (-) 30,000</b>	
 <b>b) Let out:</b>		
i. Municipal value		60,000
ii. Fair rent		90,000
iii. Standard rent		65,000

(a) Expected rent (i) or (ii), whichever is greater but not more than (iii)	65,000	
(b) Actual rent	1,20,000	
G. A.V. (a) or (b), whichever is greater	1,20,000	
Less: municipal tax paid	8,000	
Annual value	1,12,000	
Less: 30% of A.V	33,600	
Interest	40,000	73,600
<b>Income from let out</b>	<b>(b)</b>	<b>38,400.</b>

**Income from house property**

Income from let out house =	₹ 38,400
Less: Loss from self-occupied house =	₹ 30,000

**Income from house property = ₹ 8,400.**

## 1.4 :INCOME FROM BUSINESS OR PROFESSION

The meaning of the expression '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.

According to the generally accepted principles, the meaning of the term 'profession' involves the concept of an occupation requiring either intellectual skill or manual skill controlled and directed by the intellectual skill of the operator.

### **Income chargeable to the head 'business or profession'.**

The scope of income chargeable under the head 'Profits and Gains from business or Profession' is covered by Section 28 of the Act which lays down that the following items of income must be charged to tax under this head:

- 1) **Income from business or profession:** The profits and gains of any business or profession which was carried on by the assessee at any time during the previous year.
- 2) **Compensations:**
  - a) Received on termination of a managing agency of Indian company.
  - b) Received on termination of a managing agency of foreign company
  - c) Received on termination of any agency or on modification of terms of agency,
  - d) Received from government or a corporation on taking over of management of property or business.
- 3) **Income from Trade associations:** Any income derived by a trade or professional or other similar association from the specific services performed by it for its members.
- 4) **Export Incentives:**
  - Profits on sale of a license granted under the Imports
  - Cash assistance (by whatever name called) received or receivable by any person against exports under any scheme of the Government of India;
  - Any duty of customs or excise re-paid or re-payable as drawback to any person against exports.
- 5) **The value of any benefit or perquisite,** whether convertible into money or not, which arises from the carrying on of a business or the exercise of a profession.
- 6) **Any interest, salary, bonus, commission or remuneration,** by whatever name called, due to or received by a partner of a firm from such firm.
- 7) Any sum, whether received or receivable in cash or kind, 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 of services:

- 8) **keyman Insurance Policy:** Any sum received under a keyman Insurance Policy including the sum allocated by way of bonus on such policy.
- 9) 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.

### Computation of income from Business or Profession.

#### Format for Computation of Business or Profession Income :

#### Computation of Income from Business

Net Profit as per Profit & Loss Account	-----
<i>Add :</i> Expenses disallowed/Inadmissible Expenses [i.e. items already debited in P & L A/c but not eligible for deduction]	-----
<i>Less :</i> Incomes Credited in P & L A/c to be treated separately under different heads of income	(-----)
<i>Less :</i> Expenses (not debited to P & L A/c) allowed as per Provisions	(-----)
<b>Income from business</b>	<b>-----</b>

#### Computation of Income from Profession

Receipts relating to Profession (on Cash Basis)	-----
<i>Less :</i> Payment relating to profession (both cash and accrual basis)	(-----)
<b>Income from Profession</b>	<b>-----</b>

#### Deductions allowable u/s: 30 to 36

- 1) **Rent, Rates, Taxes, Repairs and Insurance for Buildings** (Section 30)
- 2) **Repairs and Insurance of Machinery, Plant and Furniture** (Section 31)
- 3) **Depreciation (Section 32)**

Depreciation is the diminution in the value of an asset due to normal wear and tear or due to obsolescence. In order to allow depreciation the following conditions are to be fulfilled;

- i. There must be an asset.
  - a) Tangible- building, machinery, plant.etc
  - b) Intangible- patent, copyright, trademark etc
- ii. Such asset should be owned, wholly or partly, by the assessee
- iii. Such asset should be used for purposes of Business or Profession.
- iv. It should be used during the relevant Previous Years.

Depreciation will be charged on the 'Written Down Value'(WDV) of the 'Block of assets'.

**Block of Assets:** It means a group of assets falling within a class of assets

**Written down value of block of asset:****Calculation of WDV**

	₹
Written Down Value of the block of assets at the beginning of the current Previous Year.	_____
Add: Actual cost of assets falling within that block, acquired during the Previous Year.	_____
Less: Moneys Payable and scrap value if any, in respect of asset sold/discarded/ demolished/destroyed during the Previous Year	_____
Written Down Value	

**Rate of depreciation for block of assets-**

Number	Nature of Asset	Rate of depreciation
Block 1	Residential building other than hotels and boarding houses	5%
Block 2	Building- Office, factory, godowns or buildings which are not used for residential purpose	10%
Block 3	Buildings temporary erection such as wooden structures	100%
Block 4	Any furniture/ fitting including electrical fittings	10%
Block 5	Any plant & machinery and motor cars	15%
Block 6	Ships, vessels, speed boat etc	20%
Block 7	Buses, lorries and taxis used in the business of running them on hire.	30%
Block 8	Aero planes	40%
Block 9	Containers made of glass or plastic used as refills and plant and machinery.	50%
Block 10	Computers including software	60%
Block 11	Energy saving device	80%
Block 12	Air pollution control equipment; water pollution control equipment; solid water control equipment; recycling and resource recovery systems etc	100%
Block 13	Intangible assets- Know-how, patents, copyrights, trademarks, Licences, Franchises etc	25%

**Rates of Depreciation:**

- a) First year of Acquisition.
  - a) If put to use for more than 180 days- full rate of depreciation
  - b) If put to use for less than 180 days- half rate of depreciation.
- b) Subsequent years- full rate of depreciation.
- c) Additional depreciation of 20% of actual cost for new plant and machinery if installed after 31.03.2005, if put to use less than 180 days, then the additional depreciation will be 10%.

**4) Tea/Coffee/Rubber Development Account (Section 33AB)**

On the basis of amount deposited to Tea/Coffee/Rubber Development Account in nationalized banks by businesses engaged in manufacture of tea/coffee/rubber subject to conditions specified u/s 33AB.

**5) Expenditure on Scientific Research (Section 35)**

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.

<b>Particulars</b>		<b>Deduction</b>
Revenue Expenditure related to the business- Incurred for own business	– Current year	100%
	– Prior Period	100% upto 3 years prior to commencement
Any sum paid to approved Scientific Research Association or University or College or Institution	For undertaking Scientific research	175% of amount paid
Any sum paid for scientific research, to a company, registered in India, having an object to carry out scientific research and development activities	For undertaking Scientific research	125% of amount paid
Any sum paid to an approved University, College or other Institution	For research in Social Science or Statistical research	125% of amount paid
Capital expenditure incurred for own Business (excluding cost of land)	related to Current year	100% reduction
	Prior Period	100% upto 3 year prior to commencement
Any sum paid to National Laboratory or University or IIT or a specified person	For undertaking a program approved by the prescribed Authority	200% of amount paid
In house research and development of Bio-technology in the business of manufacture or production of any article or thing, not being an article or thing specified in list of Eleventh Schedule	Bio-technology or in-house research	200% of expense incurred allowed upto 31.3.2017

**Other deductions**

- Insurance Premium
- Bonus
- Interest on Borrowings
- Discount on zero coupon bond
- Contributions to Recognised Provident Fund, Approved Superannuation Fund
- Contribution towards pension scheme
- Approved Gratuity Fund
- Deposit of the Employee's contribution by the Employer in relevant funds or or before date
- Bad Debts
- Expenditure on Family Planning
- Securities Transaction Tax
- Commodities Transaction Tax

**Expenses Disallowed (Section 40)**

The following amounts shall not be deducted in computing the income chargeable under the head "profits and gains of business or profession:

- i. Interest, royalty, fees for technical services payable outside India
- ii. TDS not deducted on certain payments:
- iii. Rate or Tax Paid on Profits:
- iv. Wealth Tax [Section 40a(ia)]:
- v. Amount paid by way royalty, licence fee, service fee, privilege fee, service charge by State Government undertaking to State Government.
- vi. Salaries [Section 40a(iii)]: Any payment which is chargeable under the head "salaries" if it is payable –
  - a) outside India; or
  - b) to a non-resident
- vii. Payment to Provident Funds etc: Any payment to a Provident Fund or other fund established for the benefit of employees of the assessee would be disallowed in cases where the assessee (employer) has not made effective arrangements to secure deduction of tax at source from any payment made from the fund which are chargeable to tax under the head 'salaries' in the hands of the employees.
- viii. Payment of tax on non-monetary perquisites [Section 40a(v)]:
- ix. Payment to Partners by a firm (Discussed under the chapter Assessment of firms).
- x. Payment by AOPs / BOIs (Discussed under the chapter assessment of AOP/BOI).

**Problem: 1**

From the following P&L. A/c of a merchant for the year ended 31<sup>st</sup> March, 2016 ascertain his taxable profit from business and house property:



**Profit & Loss Account**

	₹		₹
Office salary	4,800	Gross Profit	1,35,532
General expenses	2,550	Commission	1,205
Bad Debts written – off	2,100	Discount	751
Reserve for Bad Debts	3,000	Sundry Receipts	202
Fire Insurance Premium	450	Rent of Building	52,640
Advertisement	2,500	Capital gain	3,000
Interest on Capital	1,000		
Interest on Bank Loan	1,550		
Donations	3,875		
Depreciation	1,200		
Net profit	1,70,305		
	₹ 1,93,330		₹ 1,93,330

The amount of depreciation available is ₹1,000

**Solution: 1**

Taxable Profit from Business (For the assessment year 2016 - 17)	₹	
Net Profit as per Profit & Loss Account	1,70,305	
Less: Items not taxable under the head of Business	₹	
Rent of building	52,640	
Capital gain	3,000	55,640
1,14,665		
Add: Items not allowed:		
Reserve for Bad Debts	3,000	
Interest on Capital	1,000	
Donations	3,875	
Excess Depreciation not allowed	200	8,075
<b>Taxable Profits from Business</b>	<b>1,22,740</b>	
Income from <b>House Property</b> :		
Rent Received (A. V.)	52,640	
Less: 30% of A. V.	15,792	<b>36,488</b>

Note: Donations are eligible for deduction under section 80G.

**Problem: 2**

Mr. Ram purchased an old car on 10<sup>th</sup> July, 2013 for ₹ 60,000. The car is used for business as well as for personal purposes of the assessee. Compute the amount of depreciation for the previous year 2015 – 16. The rate of depreciation from A. Y. 2013 – 14 15%.

**Solution:**

	Assessment year 2014 – 15	
	₹	₹
Cost of car		60,000

Less: Depreciation @ 15%	9,000	
Less: 1/3 for personal use	<u>3,000</u>	<u>6,000</u>
W. D. V.		₹ <u>54,000</u>

## Assessment year 2015 -16

W. D. V.		54,000
Less: Depreciation @ 15%	8,100	
Less: 1/3 for personal use	<u>2,700</u>	<u>5,400</u>
W. D. V.		₹ <u>48,600</u>

## Assessment year 2016 -17

W. D. V.		48,600
Less: Depreciation @ 15%	7,290	
Less: 1/3 for personal use	<u>2,430</u>	<u>4,860</u>
		₹ 43,740

Depreciation for the previous year 2015 – 16 would be ₹ 4,860

Note: when the ratio of the use of the car for business and private purposes is not known, usually 1/3 is taken as for personal use.

## 1.5: INCOME FROM CAPITAL GAIN.

Any profit or gains arising from the transfer of a capital asset will be chargeable to income tax under the head capital gain. The terms '**Capital Asset**' and '**Transfer**' is discussed below;

**'Capital assets'** may be:-

- 1) Any stock in trade, raw material or consumable stores held for the purpose of business or profession.
- 2) Personal effects, ie. Movable properties held by the assessee, excluding the following-
  - a) jewellery,
  - b) archaeological collections,
  - c) drawings,
  - d) paintings
  - e) sculptures, or
  - f) any art work
- 3) Rural agricultural land in India.
- 4) National defense gold bonds, 7% gold bonds issued by central government.
- 5) Special bearer bond 1991, issued by central government.
- 6) Gold deposit bonds issued under gold deposit scheme.

**'Transfer' means;**

The term transfer includes the following types of transactions:-

- i) The sale, exchange of asset,
- ii) The extinguishment of any right therein,
- iii) The compulsory acquisition under any law ,
- iv) Conversion of capital asset to stock in trade,
- v) The maturity or redemption of zero coupon bond,
- vi) Part performance of the contract,
- vii) Transactions having the effect of transferring of an immovable property, eg. power of attorney transactions

### **Transactions which do not constitute transfer [Sections 46 and 47]**

1. any distribution of capital assets on the total or partial partition of a Hindu Undivided Family;
2. any transfer of a capital asset under a gift or will or an irrevocable trust
3. any transfer of a capital asset by a company to its subsidiary company, if–
  - a) the parent company or its nominees hold the whole of the share capital of the subsidiary company, and
  - b) the subsidiary company is an Indian company.
4. any transfer of a capital asset by a subsidiary company to the holding company, if –
  - a) the whole of the share capital of the subsidiary company is held by the holding company, and
  - b) the holding company is an Indian company;

5. any transfer, in a scheme of amalgamation, of a capital asset by the amalgamating company to the amalgamated company if the amalgamated company is an Indian company;
6. any transfer in a scheme of amalgamation of a capital asset being share or shares held in an Indian Company, by the amalgamating foreign company to the amalgamated foreign company, if –
  - a) at least twenty-five per cent of the shareholders of the amalgamating foreign company continue to remain shareholders of the amalgamated foreign company; and
  - b) such transfer does not attract tax on capital gains in the country, in which the amalgamating company is incorporated.
7. any transfer by a shareholder, in a scheme of amalgamation, of a capital asset being a share or shares held by him in the amalgamating company, if –
  - a) the transfer is made in consideration of the allotment to him of any share or shares in the amalgamated company except where the shareholders itself is the amalgamated company, and
  - b) the amalgamated company is an Indian company;
8. any transfer of agricultural land in India effected before the first day of March, 1970;
9. any transfer of a capital asset being any work of art, archaeological, scientific or art collection, book, manuscript, drawing, painting or photograph.
10. any transfer by way of conversion of bonds or debentures, debenture stock or deposit certificates in any form, of a company, into shares or debentures of that company.
11. any transfer of land by a sick industrial company
12. where a firm is succeeded by a company in the business carried on by it as a result of which the firm sells or otherwise transfers any capital asset or intangible asset to the company:

### **Short Term Capital Gain (STCG) and Long Term Capital Gain (LTCG)**

Any capital gain arising as a result of transfer of a short-term capital asset is known as short-term capital gain. According to Section 2(42A) of the Income-tax Act: “**Short term” capital asset** means a capital asset held by an assessee for not more than thirty-six months immediately preceding the date of its transfer. In the case of capital assets (being equity or preference share in a company) held by an assessee for not more than 12 months immediately prior to its transfer. However, an unlisted security and a unit of a mutual fund (other than an equity oriented mutual fund) shall be a short-term capital asset if it is held for not more than thirty six months.

#### **It is calculated as follows-**

Full value of consideration	-----
Less: expenses on transfer	-----
Net consideration	-----
Less: i) cost of acquisition	-----
ii) Cost of improvements	-----
<b>Short term capital gain</b>	-----

**Long Term Capital Gain** is the gain arising from long term capital assets. And assets other than short-term capital assets are known as '**long-term capital assets**'. In the case of other long- term capital assets, the period of holding is determinable subject to any rules made by CBDT.

**It is calculated as follows-**

Full value of consideration	-----
Less: expenses on transfer	-----
Net consideration	-----
Less: i) Indexed cost of acquisition	-----
ii) Indexed Cost of improvements	-----

**Long term capital gain** -----

**Cost of acquisition.**

- i) In the case of acquisition of a capital asset by the assessee by purchase from a previous owner, cost of acquisition means the amount of the purchase price; and
- ii) In any other case cost of acquisition shall be Nil.
- iii) Capital assets acquired before 1.04.1981. the fair market value as on 1.04.1981 will be the cost of acquisition.

**Cost of Improvement.**

- i) Incurred before 1.04.1981 is to be ignored.
- ii) Incurred after 1.04.1981 is given as deduction.

**Process of Indexing:**

**Indexed cost of acquisition** = Actual cost X  $\frac{\text{C.I.I of the year of Sale}}{\text{C.I.I of the year of purchase}}$

**Indexed cost of improvement** = Actual cost X  $\frac{\text{C.I.I of the year of Sale}}{\text{C.I.I of the year of improvement}}$

**Cost of inflation index (C.I.I)** – for financial year 2015-16 = 1081  
for financial year 2016-17 = 1125  
for financial year 1981-82 = 100

**Treatment of capital losses:-**

- i) Short term capital loss can be set off first out of short term capital gain and then from long term capital gain. The remaining loss can be carried forward for 8 succeeding previous years to be set off in the same manner.
- ii) Long term capital loss can only be set off out of long term capital gain. Remaining loss can be carried forward for 8 succeeding previous years to be set off only from long term capital gain.

**Capital gains exempt from Tax.**

Under Sections 54, 54B, 54D, 54EC, 54F, 54G and 54H of the Act, capital gains arising from the transfer of certain capital assets are exempt from tax under certain circumstances. These provisions are dealt with section wise below.

**1. Capital Gain on sale of residential house (sec 54)**

**Eligible assessee:** individual and HUF.

**Conditions to be fulfilled,**

- There should be transfer of residential house
- It must be long term capital asset
- Income of such house should be taxable under the head income from house property.
- A new residential house should be-
  - Purchased within 1 year before or 2 years after the date of transfer (or)
  - Constructed within a period of 3 years after the date of transfer.

**Limit of exemption.**

- If the cost new house is greater than the capital gain, it's fully exempted.
- If the cost of new house is less than the capital gain, to the extent of the cost of new house is exempted.

**2. Capital gain on transfer of agricultural land (sec 54B)**

**Eligible assessee:** Individual and HUF.

**Conditions to be fulfilled,**

- There should be a transfer of urban agricultural land.
- Such land must have been used for agricultural purposes by the assessee, being an individual or his parent in the two immediately preceding years.
- He should purchase another agricultural land within two years from the date of transfer.

**Quantum of exemption,**

- If cost of new agricultural land is greater than the capital gains, entire amount is exempted.
- If cost of new agricultural land is less than the capital gains, to the extent of cost of new agricultural land is exempted.

**3. Capital gains on compulsory acquisition of land and building(Sec 54D)**

**Eligible assessee-** any assessee

**Conditions to be fulfilled**

- There must be compulsory acquisition of land or building.
- The land and building should have been used by the assessee for the purpose of business in the two years immediately preceding to the date of acquisition.
- The assessee must purchase any other land or building within three years from the date of transfer

**Limit of exemption.**

- If the cost new land or building is greater than the capital gain, it's fully exempted.

- If the cost of new land or building is less than the capital gain, to the extent of the cost of new house is exempted.

#### 4. Capital gains through investment in certain bonds of NHAI and RECL (Sec 54EC)

**Eligible assessee-** Any assessee

**Conditions to be fulfilled.**

- There should be transfer of long term capital asset.
- Capital gains arising from such transfer should be invested in long term specified asset within 6 months from date of transfer.
- Long term specified bonds means, redeemable after three years, issued by National Highway Authority of India (NHAI) or the Rural Electrification Corporation limited (RECL).

**Quantum of exemption:** capital gains or amount invested in specified bonds, whichever is lower.

#### 5. Capital gain in cases of investment in residential house (sec 54F)

**Eligible Assessee:** individual and HUFs

**Conditions to be fulfilled**

- There must be transfer of capital asset. Not being a residential house.
- A new residential house should be-
  - Purchased within 1 year after the date of transfer (or)
  - Constructed within a period of 3 years after the date of transfer.
- The assessee should not own more than one residential house at time of transfer.

**Quantum of exemption**

- If cost of new residential house is greater than net sale, entire capital gain is exempt.
- If cost of new residential house is less than net sale consideration, only proportionate capital gains is exempt,

$$\text{LTCG} \times \frac{\text{Amount invested in new residential house}}{\text{Net sale consideration}}$$

#### ‘Capital gain account scheme (CGAS)’

Under sections 54, 54B, 54D, 54F and 54G capital gains is exempt to the extent of investment of such gains in specified assets within specified time. If such investment is not made before the date of filing of return of income, then the capital gain has to be deposited under CGAS.

**Time limit:** such deposit in CGAS should be made before filing the return of income or on or the before the due date of filing the return.

#### 6. Long-term capital gain on transfer of securities covered under Transaction Tax (Sec 10(38))

Any income arising from the transfer of a long term capital asset being securities, and the transaction of sale securities is entered into in a recognised stock exchange in India is exempted from capital gain tax.

**Problem: 1**

Sri.Bhagwan Das had an income of ₹ 2, 25,000 from the head 'Income from Business or Profession' for the previous year ending on 31<sup>st</sup> March, 2016. During the previous year he sold the following assets:

- (i) Residential house which was sold on August 15, 2015 for ₹ 12,00,000 was purchased by him on Jan. 1, 1984 for ₹ 58,000.
- (ii) Silver purchased in June, 1987 for ₹ 60,000 was sold on 1<sup>st</sup> June, 2015 for ₹ 3,50,000.
- (iii) Shares in a private company purchased in June, 2014 for ₹ 50,000 were sold on 25 April, 2015 for ₹ 75,000.
- (iv) Land purchased in Jan. 2013 for ₹ 1,00,000 was sold on 15<sup>th</sup> April, 2015 for ₹ 2,50,000. He purchased a residential house in May, 2014 for ₹ 6,50,000.

Compute the taxable income of Sri. BhagwanDas for the assessment year 2016 – 17. Cost inflation indexes for 1983 – 84 is 116; for 1987 – 88 is 150 and for 2015 – 16 is 1,081.

**Solution: 1**

**Computation of Total Income**  
(for the assessment year 2016 – 17)

Business income	₹ (a) 2, 25,000
Capital Gains:	
Selling price of residential house	12,00,000
Less: Indexed cost ( ₹ 58,000 × 1,081 ÷ 116)	5,40,500
LTCG	6,59,500
Less: Cost of new house purchased within one year before transfer	6,50,000
LTCG	(b) <u>9,500</u>
Selling price of silver	3,50,000
Less: Indexed cost ( ₹ 60,000 × 1,081 ÷ 150)	4,32,400
LTCL	(c) <u>(-)82,400</u>
LTCL c/f (c-b) = ₹ 72,900	
Selling price of shares	75,000
Less: Cost	50,000
STCG	(d) <u>25,000</u>
Selling price of land	2,50,000
Less: Cost	1,00,000
STCG	(e) <u>1,50,000</u>
STCG (d + e)	(f) <u>1,75,000</u>
<b>Total Income (a + f)</b>	<b><u>4,00,000</u></b>

Note: LTCL can be set-off only against LTCG.



## 1.6: INCOME FROM OTHER SOURCES.

The incomes which are neither covered under the head salary, house property, business income or capital gains shall be taxable under head Income from other sources. This head of income is a residual head because it covers all other incomes which are uncovered and which are not exempt from tax. 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”. 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.

The following shall be chargeable to Income Tax under the head Income from other sources:

### 1. Dividends [Section 56(2)(i)]

Dividend income other than dividend referred under section 10(34) shall be included under income from other sources.

### 2. Keyman Insurance policy

Amount received under a Keyman insurance Policy, including bonus on each Policy, if it is not taxable under any other head of income shall be chargeable under Income from other sources.

### 3. Winnings from lotteries [Section 56(2)(ib)]

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 shall be chargeable to tax under Income from other sources.

The entire income of winnings, without any expenditure or allowance or deductions under Sections 80C to 80U, will be taxable. However, expenses relating to the activity of owning and maintaining race horses are allowable. Further, such income is taxable at a special rate of income-tax i.e., **30% + surcharge + cess @ 3%** [Section 115BB]

### 4. Contribution to Provident fund

Income of the nature referred to in Section 2(24)(x) (relating to certain contributions to any provident fund or superannuation fund or any fund set up under the provisions) will be chargeable to income-tax under the head “income from other sources” if such income is not chargeable to income-tax under the head “profits and gains of business or profession”. 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.

### 5. Income by way of interest on securities

If the income by way of interest on securities is not chargeable to income-tax under the head ‘Profits and gains of business or profession’ then such income shall be taxable under Income from other sources.

### 6. Income from hiring of machinery etc.

Income from machinery, plant or furniture belonging to the assessee and let on hire if the income is not chargeable to income-tax under the head “profits and gains of business or profession” shall be taxable under Income from other sources.

**7. Hiring out of building with machinery (composite letting) etc.**

Where an assessee lets on hire machinery, plant or furniture belonging to him and also building and the letting of the building is inseparable from the letting of the said machinery, plant or furniture, the income from such letting, if it is not chargeable to income-tax under the head “Profits and gains of business or profession” shall be taxable under Income from other sources.

**8. Money Gifts:**

Where any sum of money, the aggregate value of which exceeds ₹50,000, is received without consideration the whole of the aggregate value of such sum shall be taxable under the head Income from other sources.

Provided that this clause shall not apply to any sum of money received

- a) from any relative; or
- b) on the occasion of the marriage of the individual; or
- c) under a will or by way of inheritance; or
- d) in contemplation of death of the payer; or
- e) from any local authority
- f) from any fund or foundation or university or other educational institution or hospital or other medical institution or any trust.
- g) from any trust or institution registered under section 12AA.

Explanation: For the purposes of this clause, **relative** means

- 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 clauses (ii) to (vi).]

9. Gifts aggregating to more than ₹50,000 in a year on or after 1st Day of April, 2006.

10. **Shares as gift to its members.**

11. **Share premiums in excess of the fair market value to be treated as income**

12. **Income by way of interest received on compensation or on enhanced compensation.**

13. **Advance money received-** any sum of money, received as an advance or otherwise in the course of negotiations for transfer of a capital asset.

Besides the above, there are some other incomes which are also chargeable under the head ‘Income from Other Sources’. For example:

- a. Any fees or commission received by an employee from a person other than his employer.
- b. Any annuity received under a Will. It does not include an annuity received by an employee from his employer.
- c. All interest other than interest on securities, e.g. interest on bank deposits, interest on loan, etc.
- d. Income of a tenant from sub-letting the whole or a part of the house property.
- e. Remuneration received by a teacher or a lawyer for doing examination work.

- f. Income of Royalty.
- g. Director's fees.
- h. Rent of land not appurtenant to any building.
- i. Agricultural Income from land situated outside India.
- j. Income from markets, ferries and fisheries, etc.
- k. Income from leasehold property.
- l. Remuneration received for writing articles in Journals.
- m. Income from undisclosed sources.
- n. Interest received by an employee on his own contributions to an unrecognised provident fund.
- o. Casual income in excess of 5,000, or
- p. Salary of a Member of Parliament, Member of Legislative Assembly or Council.
- q. Interest received on securities of co-operative society.
- r. Family pension received by the widow of an employee of the U.N.O. is exempt. Similarly the family pension of gallantry awardee is exempt.
- s. Amount withdrawn from deposit in National Savings Scheme, 1987 on which deduction under Section 80CCA has been allowed including interest thereon.
- t. Gratuity received by a director who is not an employee of the company.
- u. Director's commission for giving guarantee to bank.
- v. Director's commission for underwriting shares of a new company.

Further, under the provisions of Section 60 to 65 an assessee may be chargeable to tax in respect of income arising to other persons, e.g. spouse or minor children. In such cases, the income in question will be first computed under the appropriate head after allowing various deductions and includible in the total income of the assessee under the head "income from other sources". In other words, wherever the assessee is taxable in respect of income of somebody else, the income must be charged to tax in the hands of the assessee only under this head even if the income is of a character which would otherwise fall for assessment under any other head of income.

### **Casual income and its taxability.**

Casual income includes income by way of winnings from lotteries; crossword puzzles; races including horse races; gambling and betting of any nature or form; card games, game show or entertainment program on television or electronic mode and any other game of any sort. All these incomes are chargeable to tax under the head income from other sources

**Deduction from Casual Income:** No deduction or exemption is provided in respect of the casual income. No deduction can be claimed from such income even if such expenditure is incurred exclusively and wholly for earning such income. Further, deduction under section 80C to 80U is also not available from such income.

**Taxation of Casual Income:** Casual income is liable to TDS. The casual income is taxed at a flat rate of 30% plus surcharge (if any, plus education cess plus secondary and higher education cess). When the TDS has already been deducted from the income, then in order to calculate the tax liability on such income, the income is to be grossed up.

However, the following incomes are not liable to TDS:

- i. Winning from lottery upto amount ₹.10,000
- ii. Winning from racing other than horse race
- iii. Winning from horse race upto ₹. 5,000

### **Dividend and its taxability.**

Dividend means the sum paid to or received by a shareholder proportionate to his shareholding in a company out of the total sum distributed. The definition of “Dividends” under Section 2(22) is an inclusive definition and it means dividend as normally understood and include in its connotation several other receipts set out in the definition (e.g. loan by a closely held company to its shareholder).

#### **Taxation of dividend:**

- i. Dividend declared/distributed/paid by domestic company including deemed dividend is exempt in the hands of shareholder.
- ii. Dividend from units of mutual fund is exempted.
- iii. Dividend from foreign company is taxable under the head other sources.

### **Interest on securities**

Interest on securities is chargeable as Income from Other Sources if it is not chargeable as Profits and Gains of Business or Profession, i.e. when the securities are held as investment.

#### **Taxability of interest:**

- i. Interest is taxable under the head other sources and liable to TDS at 10%.
- ii. **Interest on Securities Exempt** – The interest on securities of the following cases is exempt from tax –
  - a. Interest on notified securities, bonds or certificates issued by the Central Govt. Interest on Post Office Savings Bank Account will be exempted only to the extent of ₹ 3,500 in case of an individual and ₹7,000 in case of joint account w.e.f. AY 2012-13
  - b. Interest to an individual or a HUF on 7% Capital Investment Bond or on notified Relief Bonds.
  - c. Interest to non-resident Indians on notified bonds.

### **Problem:1**

Following are the particulars of income of Mrs. Seetha for the previous year 2015 – 16:

- i. Dividend received from an Indian company ₹ 8,950 (Net).
- ii. Winnings from lottery – amount received ₹ 70,000 and tax deducted at source ₹ 30,000.
- iii. Winning from card games ₹ 20,000.
- iv. Interest received on Govt. securities ₹ 10,000.
- v. Family pension received ₹ 48,000.

She incurred the following expenses:

- a) Interest paid on amount borrowed for purchasing shares ₹ 3,000.
- b) Collection charges in respect of interest on Government securities at 2% on amount collected.
- c) Purchased lottery tickets of ₹ 100.

Compute her income from Other Sources for the A. Y. 2016 – 17.

**Solution:**

Computation of Income from Other Sources		₹
1. Dividend – Exempt u/s 10(34)		
Interest on loan to purchase shares – Not deductible		-
2. Winnings from lottery		1,00,000
Cost of lottery tickets – Not deductible		
3. Winnings from card game		20,000
4. Family pension	48,000	
Less: 1/3 or ₹ 15,000 whichever is less	15,000	33,000
5. Interest on Govt. securities	10,000	
Less: Collection charges	200	9,800
(No TDS from interest on Govt. securities)		
Income from Other Sources		<u>₹ 1,62,800</u>

**Problem:2**

Mr. Rama Reddy furnishes the following particulars of his income during P. Y. 2015 – 16.

	₹
a) Dividend (gross) from Tata Tea Company	3,000
b) Dividend from a foreign company in Germany	4,000
c) Interest on term deposits with bank (net)	21,600
d) Director's fees	20,000
e) Income from letting out machinery, plant etc. after cessation of business	60,000
f) Royalties from mining	20,000
g) Monthly rent received by subletting a house (The house was hired at a rent of ₹ 500 p.m.)	1,000
h) Winning from lotteries (net)	1,40,000
i) Winning from card games (net)	14,000
j) On 1-12-2015 he purchased worth ₹ 55,000, 7% Capital Investment Bonds notified before 1-06-2002	

He claims the following deductions:

- Collection charges of dividend from foreign company ₹ 500.
- Interest on money borrowed to purchase 7% capital investment bonds ₹ 3,000.
- Purchase of lottery tickets ₹ 5,000.
- Loss on card games ₹ 10,000.

Compute Mr. Rama Reddy's income under the head 'Income from Other Sources' for assessment year 2016 – 17.

**Solution:**

**Computation of Income from Other Sources**

	₹
a) Dividend from Tata Tea Company	Exempt
b) Dividend from a foreign company	4,000
c) Interest on term deposit ( ₹ 21,600 × 100 ÷ 90)	24,000
d) Director's fees	20,000
e) Letting machineries etc.	60,000
f) Royalty	20,000
g) Rent from subletting ( ₹ 12,000 – 6000)	6,000
h) Winning from lotteries ( ₹ 1,40,000 × 100 ÷ 70)	2,00,000
i) Winning from card games ( ₹ 14,000 × 100 ÷ 70)	20,000
j) 7% Capital Investment Bonds	Exempt
	<u>₹3,54,000</u>

**Expenses:**

a) Dividend collection charges from foreign company	500
b) Interest on borrowing to purchase Capital Investment Bonds (Interest exempt, hence interest not deductible)	-
c) Cost of lottery tickets (Not deductible)	-
d) Loss on card games (Not deductible)	-
	(a) <u>500</u>

**Income from Other Sources (a - b)****₹ 3, 53,500****Problem: 3**

Dr. Varma is a teacher. Following information relate for assessment year 2016 – 17:

- Basic Salary @ ₹ 12,000 p.m.
- D. A. 45% of Salary.
- Wardenship Allowance @ ₹ 400 p. m.
- Examinership remuneration ₹ 3,000.
- Royalty from books for schools (computed) ₹ 22,500.
- Gross interest on Govt. Securities ₹ 5,000.
- Interest on Tax- free Debentures (gross) ₹ 3,000. Debentures are issued by a public sector company and are notified.
- Dividend on shares of a Foreign Company ₹ 2,500.
- Income from house property ₹ 10,000 (computed).
- Contribution to Statutory P. F. ₹ 5,000.
- Contribution to P. P. F. ₹ 12,000.
- Premium paid by cheque on medical insurance policy on health of a dependent father ₹ 3,000.
- Donation to an approved charitable institution ₹ 10,000.

Compute his total income.

**Solution:****Computation of Total Income of Dr.Verma**

Salaries:	₹	₹
Salary	1,44,000	
D. A.	64,800	
Wardenship Allowance	<u>4,800</u>	
	2,13,600	
Less: Deduction	<u>Nil</u>	2,13,600
House Property:		
Income from House Property		10,000
Income from Other Sources:		
Examinership remuneration	3,000	
Royalty on books	22,500	
Interest on Govt. Securities	5,000	
Interest on Debentures – Notified	3,000	
Dividend on shares of a Foreign Company	<u>2,500</u>	<u>36,000</u>
Gross Total Income		2,59,600
Less: Deductions:		
u/s 80D – Premium	3,000	
u/s 80G – Donation	5,000	
u/s 80C – P.F. & P.P.F	<u>17,000</u>	<u>25,000</u>
<b>Total Income</b>		<b>2,34,600</b>

Notes: 1. Deduction u/s 80G has been computed as under:

$$₹ 2,59,600 - 3,000 - 17,000 = ₹ 2,39,600$$

Qualifying Amount 10% of ₹ 2,39,600 or ₹ 10,000 whichever is less.

Deduction @ 50% of ₹ 10,000 ₹ 5,000

2. Entitled to deduction u/s 80C

- i) Contribution to Statutory P.F. ₹ 5,000
- ii) Contribution to P.P.F. ₹ 12,000



## 1.7: AGGREGATION OF INCOME SET OFF AND CARRY FORWARD OF LOSSES

### AGGREGATION OF INCOME – CLUBBING.

Every person pays income tax on his own income, but in some cases income of spouse, minor child, son's wife or a third person is included in the income of individual, these cases are-

- 1) Where a person transfers to any other person income (whether revocable or not) from an asset without transferring that asset, the income shall be included in the total income of the transferor.
- 2) Revocable transfer of assets (section 61)-Where a person transfers any asset to any other person with a right to revoke the transfer, all income accruing to the transferee from the asset shall be included in the total income of the transferor.
- 3) Income of spouse-The following incomes of husband and wife are clubbed:

(a) Income to spouse from a concern in which such individual has substantial interest. All such income as arises directly or indirectly, to the spouse of an individual by way of salary, commission, fees

or any other remuneration, whether in cash or kind from a concern in which such individual has a substantial interest, shall be included in the income of the individual. However, where the spouse possesses technical or professional qualifications and the income is solely attributable to the application of his/her technical or professional knowledge and experience, the income shall not be included in the income of (other spouse) the assessee.

(b) Income to spouse from the assets transferred- Where any individual transfers directly or indirectly any asset (other than a house property) to the spouse, the income from such asset shall be included in the income of the transferor. In order to attract the provisions of this section, it is not necessary that the asset must have been transferred by the assessee to his spouse in the same form in which it stands at the time the income arises. Conversion of assets from one form to another would be totally immaterial and it is also not essential that the transfer must have taken place directly between the spouses

- 4) Income to son's wife-Where any individual transfers, directly or indirectly, any asset to his/her son's wife without adequate consideration the income from such asset shall be included in the income of the transferor.
- 5) Transfer of assets to other person or association of person for the benefit of spouse.
- 6) Income from assets transferred to a person or association of person for the benefit of his son's wife.
- 7) Income of a minor child.- the income of a minor child shall be include in the income of his or her parent. The provisions regarding this clubbing are-
  - i) The income should be added to that parent whose total income is greater.
  - ii) If his/her parents are divorced, income should be added to the income of parent who maintains the minor child.
  - iii) Income from manual work done by minor should not be clubbed.



- iv) Income from activity involving application of his skill, talent, or specialized knowledge and experience should not be added to the parent's income.
- 8) Transfer of separate individual property or self-acquired property to HUF in which he is a member or conversion of property.
- 9) Benami transactions.

### DEEMED INCOMES.

In certain cases some amounts are deemed as income in the hands of the assessee, though they are actually not in the nature of income.

- 1) Cash credit- if any sum found credited in the books of assessee maintained, and the assessee offers no explanation about the nature and source or the explanation offered by him is not satisfactory, the sum credited may be charged to income tax as the income of the assessee.
- 2) Unrecorded and unexplained investments.
- 3) Unrecorded and unexplained money.
- 4) Amount of investments not fully disclosed in books of accounts.
- 5) Unexplained expenditure.
- 6) Hundiborrowals and repayments.

### Taxation of deemed incomes-

On deemed incomes tax shall be charged @ 30% plus surcharge and education cess. Further no deduction in respect of any expenditure shall be allowed to the assessee regarding those incomes.

### Problem:1

The income of a family is as under:

	₹
1. Mr. Ram from business	5,50,000
2. Mrs. Ram from employment	2,80,000
3. Minor son of Mr. Ram (Interest from a company)	
The amount for investment received from his grand – father	10,000
4. Minor son of Mr. Ram, Mr. Krishna (From acting in film)	1,60,000
5. Minor daughter of Mr. Ram, Miss Anjali	6,000

Discuss in whose hands the incomes are assessable and to what extent?

### Solution:

Computation of Income of Mr. Ram

	₹	₹
1. Income from business		5,50,000
2. Interest of minor son: Interest	10,000	
Less: Amount exempt u/s 10(32)	<u>1,500</u>	8,500
3. Income of minor daughter	6,000	
Less: Amount exempt u/s 10(32)	<u>1,500</u>	<u>4,500</u>
		₹ 5,63,000

Income of Mrs. Ram:

Salary	<u>2,80,000</u>
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Income of minor son – Krishna:

Income from acting – Not includible in the income of parent	<u>1,60,000</u>
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Note: Income of Mr. Ram is more than the income of Mrs. Ram. Hence the income of minor son and daughter has been included in his income.

## SET OFF AND CARRY FORWARD OF LOSSES.

### Set off of losses within the same head [Section 70]

Where the net result for any Assessment Year in respect of any source falling under any head of income is a loss, the assessee shall be entitled to have the amount of such loss set off against his income from any other source under the same head of income for the Assessment Year.

1. Long Term Capital Loss (LTCL) can only be set off against Long Term Capital Gain (LTCG) and cannot be set off against Short term Capital Gain (STCG) however STCL can be set off against LTCG)
2. Loss from speculation business cannot be set off against profit from a non-speculation business however loss from non-speculative business can be set-off against speculation income)
3. Loss from business specified under section 35AD cannot be set off against any other income except income from specified business (section 35AD is applicable in respect of certain specified businesses like setting up a cold chain facility, setting up and operating warehousing facility for storage of agricultural produce, developing and building a housing projects, etc.).
4. Loss from the business of owning and maintaining race horses cannot be set off against any income other than income from the business of owning and maintaining race horses.
5. No loss can be set-off against casual income i.e. Income from **lotteries, crossword puzzles, race including horse race, card game**, and any other game of any sort or from gambling or betting of any form or nature.
6. Loss from an exempted source cannot be set off against taxable Income- If income from a particular source is exempt from tax, then loss from such source cannot be set off against any other income which is chargeable to tax. E.g., Agricultural income is exempt from tax, hence, if the taxpayer incurs loss from agricultural activity, then such loss cannot be adjusted against any other taxable income.

### Set off of losses among different head of income [Section 71]

Where the net result of the computation under any head of income in respect of any Assessment Year is a loss, the assessee shall be entitled to have such amount of loss set off against his income assessable for that Assessment Year under any other head of income.

#### Exceptions to provisions of Sections 70 and 71 are as follows:

- a) **Loss from Speculation Business:** “Speculation transaction” means a transaction in which a contract for the purchase or sale of any commodity including stocks and shares is periodically or ultimately settled otherwise than by actual delivery or transfer of the commodity or scripts. Loss from speculative transaction, if it is in the nature of business, can be set off only against income of another speculative business.
- b) **Loss under the head Long Term Capital Gains:** Long Term Capital Loss arising from transfer of long term capital assets will be allowed to be set off only against Long Term Capital Gains.
- c) **Loss from owning and maintaining race horses:** Loss from owning and maintaining race horses can be set off only against income of that activity.

- d) **Loss from lottery, card games, races, etc:** No expenditure or allowance is allowed from winning from lotteries, crossword puzzles, card games etc. similarly, no loss from any lottery, card games, races, etc. is allowed to be set off from the income of such sources.
- e) **Loss from exempt Income:** Loss incurred by an assessee from a source, income from which is exempt cannot be set off against income from a taxable source.
- f) **Loss from business specified in Section 35AD:** Any loss arising from specified business u/s 35AD, cannot be set off against any other income.
- g) **Loss from business:** Loss from business and profession including unabsorbed depreciation cannot be set off against Income from Salary.

### **CARRY FORWARD OF LOSSES.**

Many times it may happen that after making intra-head and inter-head adjustments, still the loss remains unadjusted and if it is not possible to set-off the losses during the same assessment year in which these occurred, so much of the loss as has not been so set-off, can be carried forward to the following assessment year and so on.

The following losses could be carried forward:

1. Loss in non-speculation business or profession.
2. Loss in speculation business.
3. Loss in transfer of capital assets [whether short-term or long-term].
4. Loss from activity of owning and maintaining of race horses.
5. Loss under the head 'Income from House Property' so far as it relates to interest on borrowed capital.

#### **(A) Loss in non-speculation business.**

It shall be set-off against the profits and gains, if any, of any business or profession carried on by him and assessable for that assessment year. From this it follows that the loss from non-speculation business or profession can be set-off against the income of the business including speculation business income or from any other head. The loss can be carried forward to a maximum of eight consecutive assessment years immediately succeeding the assessment year for which the loss was first computed.

In case where profits are insufficient to absorb brought forward losses, current depreciation and current business losses, the same should be deducted in the following order:

- (a) Current scientific research expenditure [under Section 35(1)].
- (b) Current Depreciation [under Section 32(1)].
- (c) Brought forward business losses [under Section 72(1)].
- (d) Unabsorbed family planning promotion capital
- (e) Unabsorbed Depreciation [under Section 32(2)].
- (f) Unabsorbed scientific research expenditure [under Section 35(4)].

#### **(B) Loss in speculation business.**

Where, for any assessment year, any loss computed in respect of a speculation business has not been wholly set-off against the profits of another speculation business, it shall be carried forward to the following assessment year and shall be set-off against the profits of any speculation business carried on by him and assessable for the assessment year.

This loss can be carried forward to a maximum of four consecutive assessment years immediately succeeding the assessment year for which the loss was first computed.

**C) Carry forward and set off of losses by specified business (section 73A)**

(1) Any loss of any specified business in section 35AD shall not be set off except against profits and gains of any other specified business.

(2) Where for any assessment year any loss computed of the specified business has not been wholly set off, the loss not set off shall be carried forward to the following assessment year, and

- i. it shall be set off against the profits and gains of any specified business carried on by him and
- ii. if the loss cannot be wholly set off, the amount of loss not set off shall be carried forward to the following assessment year and so on..

**(D) Set-off and carry forward of capital losses [section 74]**

- i. Loss under the head ‘capital gain’ can be carried forward to the following assessment year. The short-term and long-term losses shall be separately carried forward. In case of short-term capital loss it can be set off against any income under the head “Capital gains” (whether short-term or long-term) but in case of long-term capital loss, it can be set off only against long-term capital gain.
- ii. Losses under ‘capital gain’ cannot be set off against any other income of the assessee under any other heads of income. It can be carried forward to be set off against capital gains if any during the next eight assessment years.

**(E) Loss on maintenance of race horses [section 74A]**

Where an assessee sustains a loss in the activity of owning and maintaining race horses, he can carry-forward and set-off such loss against his income (Prize money received on a race horse or race horses) from the activity of owning and maintaining race horses in subsequent years. This loss can be carried forward to a maximum of four assessment years immediately succeeding the assessment year for which the loss was first computed.

**Set-off of losses (Sec. 70, 71)**

<b>Loss</b>	<b>Set-Off</b>
1. Loss from house property	(a) Income from any other house property (b) Any other head of income
2. Loss from business or profession	(a) Income from any other business or Profession. (b) Any other head of income except under the head “Salaries”
3. Loss from speculation	(a) Income from speculation
4. Short-term capital loss	(a) Short-term capital gain (b) Long-term capital gain
5. Long-term capital loss	(a) Long-term capital gain
6. Loss from activity of owning and maintaining race horses.	(a) Income from activity of owing and maintaining race horses.

**Carry forward and set-off of losses (Sec. 72)**

<b>Loss</b>	<b>Set-Off</b>
1. Loss from house property	In following eight years, income from house property.
2. Loss from business or profession	In following eight years, income from business or Profession.
3. Loss from speculation	In following four years income from speculation.
4. Short-term capital loss	In following eight years : (a) Short-term capital gain (b) Long-term capital gain
5. Long-term capital loss	In following eight years, Long-term capital gain
6. Loss from activity of owning and maintaining race horses	In following four years, Income from activity of owing and maintaining race horses

**Problem: 2**

Mr. Kewel Krishna Kridutta's particulars of income were as under during the previous year 2015 – 16:

a) Taxable income from salary	₹ 1,38,000
b) Taxable income from House Property:	
i. Income from House 'A'	38,000
ii. Loss from House 'B'	16,000
iii. Loss from House 'C'	14,500
c) Business Income:	
i. Profit from Business	1,97,000
ii. Current year Depreciation	16,500
iii. Previous trade losses	4,500
iv. Speculation profit	4,000
d) Capital Gains:	
i. Short - term capital profit	16,000
ii. Long - term capital profit	5,200
iii. Long - term capital loss	12,500

Compute Gross Total Income after set – off of losses. Loss from House property brought forward for the assessment year 2015 – 16 ₹ 9,000.

**Solution:****Computation of Gross Total Income**

	₹	
1. Income from salary (Taxable)		1,38,000
2. Income from House Property:	₹	
Income from House 'A'	38,000	
Loss from House 'B'	16,000	
Loss from House 'C'	14,500	-30,500
		<u>7,500</u>
Less: B/f loss		<u>9,000</u>
Loss C/f		<u>1,500</u>
3. Income from Business:		
Profit from Business		1,97,000

Less: Current Depreciation	16,500	
	<u>1,80,500</u>	
Speculation profit		4,000
	<u>1,84,500</u>	
Less: Non – Speculation Loss b/fd	<u>4,500</u>	1,80,000
4. Income from Capital Gains:		
S.T.C.G.		16,000
L.T.C.G.	5,200	
Less: L.T.C.L.	<u>12,500</u>	
L.T.C.L. to be Carried forward	<u><u>7,300</u></u>	
	<b>G.T.I. ₹ 3,34,000</b>	<u><u>          </u></u>

Note: House Property Loss of A.Y. 2015 – 16 can be brought forward and set – off against income from House Property.

L.T.C.L. can be set – off against L.T.C.G. only.

### Problem:3

From the following particulars of income and losses calculate the gross income of an individual after set – off losses for the current A. Y.

	₹
Income from House Property A	50,000
Loss from House Property B	80,000
Income from interest on securities	2,00,000
Loss from a cycle business	2,00,000
Profit from speculation business	2,00,000
Gain from short – term capital asset	2,50,000
Long - term capital loss	60,000
Long - term capital gains	2,10,000

### Solution:

#### Computation of Gross total Income

	₹	₹
Income from House Property A	50,000	
Less: Loss from House Property B	<u>80,000</u>	(-) 30,000
Profit of Speculation Business	2,00,000	
Less: Loss from a cycle business	<u>2,00,000</u>	-
Capital Gains:		
LTCL	2,10,000	
Less: LTCL	<u>60,000</u>	1,50,000
STCG		2,50,000
Income from other Sources:		
Interest on Securities		<u>2,00,000</u>
<b>Gross Income</b>		<b><u><u>₹ 5,70,000</u></u></b>

## 1.8: DEDUCTIONS FROM GROSS TOTAL INCOME, REBATE AND RELIEF OF TAX

Gross Total Income (GTI) means the aggregate of income computed under each head as per provisions of the Act. GTI is computed after giving effect to the provisions for clubbing of incomes and set off of losses, but before making any deductions under section 80C to 80U. In order to compute 'Total Income', deductions under 80C to 80U are considered and adjusted from GTI.

Following are the general provisions regarding the deductions from GTI.

- 1) The aggregate amount of the deductions shall not exceed the gross total income of the assessee.
- 2) These deductions are allowed from gross total income after reducing the following incomes from gross total income:
  - long-term capital gains
  - short-term capital gains under section 111A
  - income from lotteries
  - Income under sections 115A, 115AB, 115AC, 115ACA, 115AD, 115BBA, 115D.

Deductions from GTI are of three types-

1. In respect of expenditure or investments made by assessee [Sec 80C to Sec 80 GGA]
2. In respect of certain income [Section 80HH to 80 RRB]
3. Other Deductions [Section 80U]

**The deductions from GTI are as follows,**

### 1) Section 80C: life insurance premia, contribution to PF, etc

- Available for individual or a Hindu undivided family
- The total limit under this section is ₹ 1.50 lakh from Financial Year (FY) 2014-15
- Before FY 2014-15 the limit was ₹. 1 Lakh
- Deduction is available if made investments or utilized money for below mentioned purpose:
  - a) Life Insurance Premium -Policy must be in the assessee's or spouse's or any child's name (child may be dependent/independent, minor/major, or married/unmarried). For a HUF, it may be on life of any member of HUF
    - Deduction: actual amount of premium deposited or 20% of sum assured (10% if policy issued on or after 1.04.2012)
    - Deduction in case of disabled persons, policy issued after 1.04.2013, actual premium or 15% of sum assured.
  - b) Sum paid under non commutable deferred annuity for an individual on the life of the assessee, spouse or any child
  - c) Sum deducted from salary payable to Government Servant for securing deferred annuity for self-spouse or child. Payment limited to 20% of salary
  - d) Contribution made under Employee's Provident Fund Scheme or Recognized Provident Fund
  - e) Contribution to a 15 year Public Provident Fund (PPF). Under the PPF scheme, maximum contribution is Rs 1,50,000 from Assessment Year 2015-16.



- f) Contribution to PPF for individual can be in the name of the assessee, the spouse or any child. For a HUF, it can be in the name of any member of the family
  - g) Sum deposited in Five Year Deposit Scheme in Post Office
  - h) Amount deposited under Senior Citizens Saving Scheme
  - i) Subscription to any notified securities/notified deposits scheme.
    - Tax benefits under section 80C for the girl child under the **SukanyaSamriddhi Account Scheme**[Section 80C] [W.e.f. A.Y. 2015-16]
      - a) Subscription made to SukanyaSamriddhi Account scheme by the individual in the name of any of the following persons shall be eligible for deduction under section 80C:
        - i. individual, or
        - ii. any girl child of that individual, or
        - iii. any girl child for whom such person is the legal guardian
      - b) Withdrawal from the SukanyaSamriddhi Account shall be exempt.
      - c) The interest accruing on deposits in such account will be exempt from income tax.
  - j) Subscription to any National Savings Certificate e.g. NSC VIII issue and IX issue. Accrued Interest (which is considered reinvested) also qualifies for deduction for any year (except the last year)
  - k) Contribution to Unit Linked Insurance Plan of LIC Mutual Fund e.g. Dhanraksha1989 and contribution to Unit Linked Insurance Plan of UTI
  - l) Contribution to notified Pension Fund set up by Mutual Fund or UTI
  - m) Sum paid as subscription to Home Loan Account Scheme of the National Housing Bank or contribution to any notified deposit scheme/pension fund set up by National Housing Bank
  - n) Subscription to deposit scheme of a public sector, company engaged in providing housing finance (public deposit scheme of HUDCO)
  - o) Payments of instalments or part payments or repayment of loan taken for buying or constructing residential house property. Also allowed for stamp duty, registration fees and other expenses for purpose of transfer of such property to the assessee. However, if the property is transferred before the expiry of 5 years from the end of the financial year in which possession of such property is obtained by him, the aggregate amount of deduction of income so allowed for various years shall be liable to tax in that year
  - p) Contribution to notified annuity Plan of LIC (e.g. JeevanDhara and JeevanAkshay) or Units of UTI / notified Mutual Funds
  - q) Subscription to equity shares/ debentures forming part of any approved eligible issue of capital made by a public company or public financial institutions
  - r) Tuition fees paid to any school, college, university or other educational institution situated within India for the purpose of full time education of any two children (including payments for play school, pre nursery and nursery)
  - s) Subscription to any notified bonds of NABARD (National Bank for Agriculture and Rural Development)
- 2) Section 80CCC: deposit in pension funds.**
- The deduction u/s 80CCC is available to an individual assessee



- Also available to a non-resident individual
- Another condition for claiming deduction u/s 80CCC is that the amount of contribution paid in respect of which deduction has to be claimed, must have been paid out of the income chargeable to tax of the concerned individual assessee
- Contributions made towards pension plans of LIC or other insurers are eligible for deduction u/s 80CCC
- The amount of deduction u/s 80CCC together with deduction available u/s 80C is maximum ₹ 1.5 Lacs
- Where deduction has been allowed u/s 80CCC, deduction u/s 80C will not be available in respect of the payment towards such annuity plan.

### 3) **Section 80CCD: Contribution to pension scheme of central government**

- Eligible Assessee: Individual
- Maximum Deduction Up to 10% of his salary or gross total Income subject to maximum of ₹ 1,50,000 u/s 80CCD(i)

**Note:** The aggregate amount of deductions under Sec. 80C, Sec. 80CCC and Sec. 80CCD shall not, in any case, exceed ₹ 1,50,000.

### 4) **Section 80CCF: Subscription to long-term infrastructure bonds**

- Eligible Assessee: Individual and HUF
- Maximum Deduction ₹ 20,000.

### 5) **Section 80CCG: Equity saving scheme.**

- It is a onetime deduction to a new retail investor who acquires listed equity shares in a previous year in accordance with a scheme notified by the Central Government
- The deduction was 50 % of amount invested in such equity shares or ₹ 25,000, whichever is lower
- Gross total income of the assessee for the relevant assessment year should be less than or equal to ₹ 12 lakh
- Minimum lock in period in respect of such investment is three years from the date of acquisition in accordance with the notified scheme

### 6) **Section 80D: medical insurance premium**

- This deduction is allowed only to an individual (resident / non-resident/ Indian citizen/ foreign citizen) or a Hindu undivided family (resident/ non-resident)
- Payment has to be made by a mode other than cash (e.g. credit card, cheque, net banking etc.)
- Deduction under Section 80D is not allowed for payment through cash, However, payment on account of preventive health check-up can be made by any mode (including cash)
- **Deduction:**
  - i) the whole of the amount paid on account of medical expenditure incurred on the health of the assessee or any member of his family as does not exceed in the aggregate of ₹ 25,000 or ₹ 30,000 (senior citizen) **and**
  - ii) the whole of the amount paid on account of medical expenditure incurred on the health of any parent of the assessee, as does not exceed the aggregate ₹ 25,000 or ₹ 30,000 (senior citizen).

where the amounts referred to in clauses (i) and (ii) above are paid on account of preventive health check-up, the deduction for such amount shall be allowed to the extent it does not exceed in the aggregate ₹ 5,000 keeping the overall limits at ₹ 25,000 or ₹ 30,000 as the case may be.

**7) Section 80DD: Medical treatment of handicapped dependent**

- To be claimed by Resident Individual/HUF
- Incurs any expenditure for the medical treatment, training and rehabilitation of a disabled dependent or
- Deposits any amount in schemes like Life Insurance Corporation for the maintenance of a disabled dependent
- Deduction of ₹ 75,000 for disabled person, ₹ 1,25,000 in case of severe disability.

**8) Section 80DDB: Medical treatment etc**

- Eligible Assessee: Individual and HUF
- Deduction in respect of expenditure incurred for the medical treatment of specified disease for himself or a dependent relative or a member of an HUF.
- Amount of deduction: Actual expenditure or ₹ 40,000 whichever is less, ₹ 60,000 in case of senior citizen (aged 60 years or more) and ₹ 80,000 in case of super senior citizen.

Note: Specified diseases are Neurological diseases, AIDS, Cancer, Chronic Renal Failure Haemophilia, and Thalassaemia.

**9) Section 80E: interest on loan taken for higher education.**

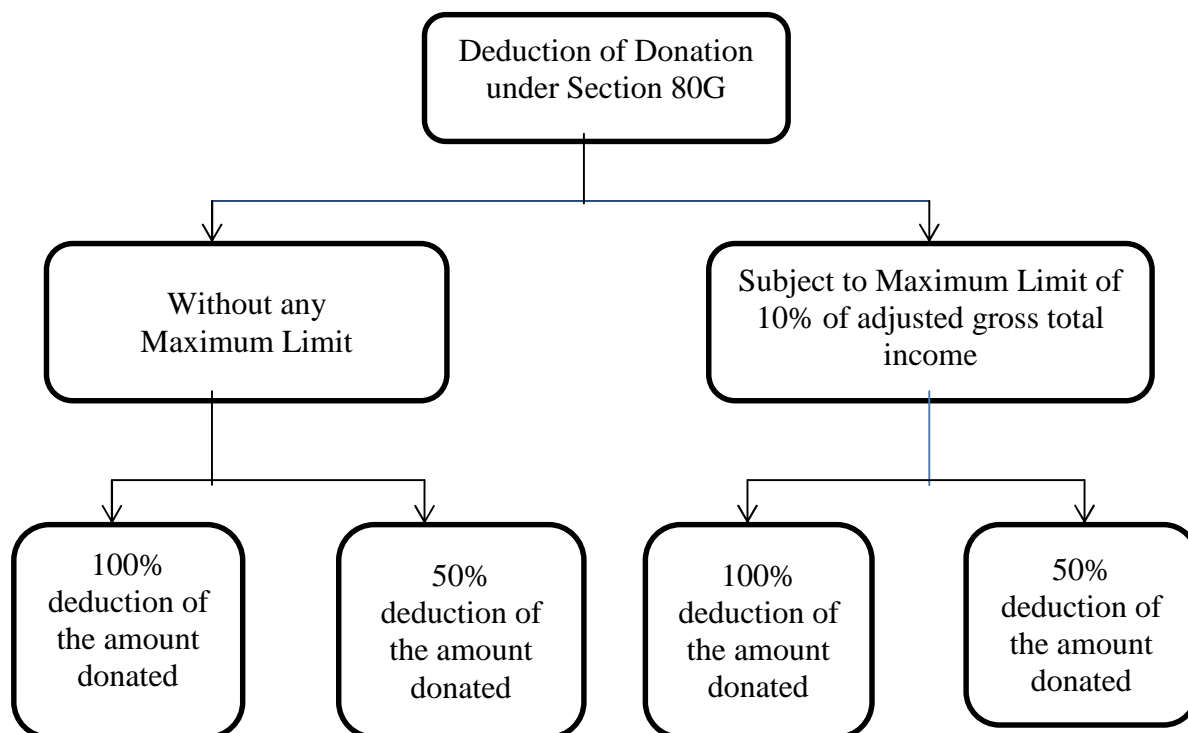
- Available to an individual, not to HUF or other type of Assessee for the repayment of interest on loan taken for higher education without any ceiling limit.
- Loan from any financial institution or any approved charitable institution for pursuing his higher education
- Parents are also eligible to claim deduction of interest paid by them on loan taken for their children's education
- Deduction shall be allowed in computing the total income in respect of the initial assessment year and seven assessment years immediately succeeding the initial assessment year or until the interest is paid by the assessee in full, whichever is earlier

**10) Section 80EE: Interest on loan for residential house property.**

- Available to individual assessee who has taken a loan from a financial institution during Financial Year 2013-14, for acquiring residential house property.
- Amount of loan does not exceed ₹ 25 lakhs and Value of house property does not exceed ₹ 40 lakhs.
- Assessee does not own any residential house property on the date of sanction of loan.
- Interest payable for the previous year shall be deductible for the Assessment Year 2014-15 subject to a maximum of ₹ 1 lakh

- If interest payable during the previous year 2013-14 is less than ₹ 1 lakh, the balance amount shall be allowed as deduction in the Assessment Year 2015-16, and still exist any balance it can be carried forward to AY 2016-17.

### 11) Section 80G: donations given to charitable institutions, funds, etc



#### A. Donations with 100% deduction without any qualifying limit

- Prime Minister's National Relief Fund National
- Defense Fund Prime Minister's Armenia Earthquake Relief Fund
- The Africa (Public Contribution –India) Fund
- The National Foundation for Communal Harmony
- Approved university or educational institution of national eminence
- The Chief Minister's Earthquake Relief Fund, Maharashtra
- Donations made to Zila Saksharta Samitis
- The National Blood Transfusion Council or a State Blood Transfusion Council
- The Army Central Welfare Fund or the Indian Naval Benevolent Fund or The Air Force Central Welfare Fund
- Army Central Welfare Fund, Indian Naval Ben. Fund, Air Force Central Welfare Fund
- National Illness Assistance Fund
- Chief Minister's or Lt. Governor's Relief Fund
- National Sports Fund National Cultural Fund
- Government or local authority or institution or association towards promoting family planning
- Central Government's Fund for Technology Development & Application

- National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation & Multiple Disabilities
- Indian Olympic Association or other such notified association
- Andhra Pradesh Chief Minister's Cyclone Relief Fund.
- National Children's Fund.
- Swatch Bharat Kosh (w.e.f AY 2015-16)
- Clean Ganga project (w.e.f AY 2015-16)
- National Fund for Control of Drug Abuse (w.e.f AY 2016-17)

**B. Donations with 50% deduction without any qualifying limit**

- Jawaharlal Nehru Memorial Fund
- Prime Minister's Drought Relief Fund
- Indira Gandhi Memorial Trust
- The Rajiv Gandhi Foundation.

**With Maximum / Qualifying Limit of 10% of Adjusted Gross Income**

**Qualifying Limit:** The qualifying limits is 10% of the adjusted gross total income

The '**adjusted gross total income**' for this purpose is the gross total income reduced by the following:

- i. Amount deductible under Sections 80CCC to 80U (but not Section 80G)
- ii. Exempt income
- iii. Long-term capital gains
- iv. Income referred to in Sections 115A, 115AB, 115AC, 115AD and 115D, relating to non-residents and foreign companies.

**C. Donations with 100% deduction with qualifying limit**

- Donations to the Government or a local authority for the purpose of promoting family planning
- Sums paid by a company to Indian Olympic Association.

**D. Donations with 50% deduction with qualifying limit**

- Any other fund or institution which satisfies the conditions mentioned in sec 80G (5).
- Donation to the Government or any local authority to be utilized by them for any charitable purposes other than the purpose of promoting family planning.
- Any corporation for promoting interest of minority community.
- Repairs or renewal of any notified temple, mosque, church, gurudwara, or other place.
- Any authority constituted for satisfying the need of housing, development and improvements of cities, towns, villages etc

**12) 80GG: Rents paid.**

- The assessee is not being in receipt of any house rent allowance and does not own any accommodation at the place where he ordinarily resides or performs duties of his office or employment eligible for this deduction.
- Deduction : Least of the following :-
  - i. Rent paid minus 10% of Adjusted Total Income
  - ii. 25% of Adjusted Total Income
  - iii. ₹2,000 p.m.

**13)80GGA: donations for scientific research or rural development**

Eligible to an assessee whose Gross Total Income does not include income from “Profits and Gains of Business or Profession”, deduction shall be allowed of an amount paid by him to—

- i. An approved scientific research association or University or College or other institution to be used for scientific research, research in social science or statistical research.
- ii. an approved association or institution to be used for carrying out any approved programme or rural development,
- iii. An approved institution or association which has the object of training of persons for implementing programmes of rural development.
- iv. Public sector company or local authority or an approved association or institution for carrying out any eligible project or scheme u/s 35AC.
- v. association/institution/fund which has the object of carrying out any programme of conservation of natural resources or afforestation [Sec. 35CCB]
- vi. National Urban Poverty Eradication Fund (NUPEF).

**14)80 GGB: Deductions by companies to political parties.**

- 100% of sum contributed during a Previous Year to any political party, registered u/s 29A of Representation of the People Act, 1951 by an Indian Company.

**15)80GGC: Donations to political parties.**

- 100% of sum contributed during a Previous Year to any political party, registered u/s 29A of Representation of the People Act, 1951 by a person other than local authority and artificial juridical person.

**16)Section 80TTA: interest on deposit in saving account.**

- Available if total income of an assessee includes any income by way of interest on deposits in a savings account with Bank, Co-operative society engaged in carrying on business of banking or Post Office
- Maximum Deduction –Rs 10,000

**17)Section 80U: blind, handicapped etc.**

- Deduction available in case of a person with disability
- Deduction-
  - Severe Disability ₹ 1,25,000
  - Others ₹75,000.

**18)80QQB: Deduction in relation to copyright, etc.**

- Maximum Deduction in case of lump sum consideration –100% of the royalty income etc. subject to a maximum of Rs.3,00,000
- Maximum Deduction in other cases–In case of royalty or copyright fees, not in lump sum consideration, maximum deduction is 15% of the value of books sold during the Previous Year

**19)80RRB: Deduction in relation to Royalty.**

- Eligibility–Deduction in respect of royalty on patents
- Maximum Deduction –100% of such income subject to a maximum Rs.3,00,000

**Problem: 1**

Shri.Jagdish Prasad's gross total income for the previous year ending on 31<sup>st</sup> March, 2016 is ₹ 40,15,000. He donated the following amounts by cheques:

- i) Prime Minister's National Relief Fund ₹ 1 lakh.
- ii) National Children's Fund ₹ 2 lakh.
- iii) ₹ 2,00,000 for repairs of a temple of public worship so notified.
- iv) ₹ 1,00,000 to a local college for construction of class rooms.
- v) ₹ 20,000 given as aid to a poor student.
- vi) ₹ 1 lakh to a Municipality.
- vii) ₹ 50,000 to U.P. Government for family planning.

He deposited ₹ 15,000 in PPF. Determine his total income for the assessment year 2016 – 17.

**Solution:**

Qualifying Donations u/s 80G(2):

	₹
i) Donations for repairs of a notified temple	2,00,000
ii) Donation to a local college	1,00,000
iii) Donation to Municipality	1,00,000
iv) Donation to U.P. Government for family planning	<u>50,000</u>
	₹ 4,50,000

The amount qualifying for deduction in respect of above donations shall be the amount of donations or 10% of gross total income (after deductions u/s 80C to 80U except u/s 80G). Hence 10% of ₹ 40,15,000 – 15,000 u/s 80C = ₹ 4,00,000.

Amount qualifying for deduction in respect of donations:

	₹
i) Donations qualifying as aforesaid	4,00,000
ii) Donation to P.M.'s National Relief Fund	1,00,000
iii) Donation to N.C.F	<u>2,00,000</u>
	₹ 7,00,000

Qualifying Amount

**Determination of Total Income:**

	₹	₹
Gross Total Income		40,15,000
Less: Deduction u/s 80C		
PPF	15,000	
Deductions u/s 80G:		
100% of the qualifying amount of donation for family planning, National Relief Fund and National Children's Fund	3,50,000	
50% of the balance of qualifying donations of ₹ 3,50,000	<u>1,75,000</u>	<u>5,40,000</u>
<b>Total Income</b>	<b>₹ 34,75,000</b>	

Note: Donation to poor student does not qualify for deduction.

**Problem: 2**

Mr.Santosh is a teacher. Calculate his total income for the current assessment year on the basis of following particulars:

	₹
i) Salary @ ₹ 13,500 per month	1,62,000
ii) Wardenship allowance @ ₹ 200 p.m.	2,400

iii)	Examinership Remuneration	5,400
iv)	Royalty from books for colleges	18,000
v)	Income from card games	6,400
vi)	Amount received from lottery (Net)	28,000
vii)	Expenses on lottery tickets	10,000

**Solution:**

Computation of Total Income  
(for the current assessment year)

	₹
Income from salaries:	
Salary	1,62,000
Wardenship allowance	2,400
	<u>1,64,400</u>
Less: Deduction:	Nil
	(a) <u>1,64,400</u>
Income from Other Sources:	
Examinership Remuneration	5,400
Royalty from books	18,000
Income from card games	6,400
Lottery ( ₹ 28,000 × 100 ÷ 70)	40,000
Expenses on Lottery Tickets – Not deductible	-
	(b) <u>69,800</u>
<b>Gross Total Income (a + b)</b>	<b><u>2,34,200</u></b>
Less: Deduction u/s 80QQB (Royalty)	<u>18,000</u>
<b>Total Income</b>	<b><u>₹ 2,16,200</u></b>



## REBATE AND RELIEF OF TAX.

### Rebate of Tax u/s 87A

Individuals who are not earning income exceeding ₹ 5,00,000, will get rebate on his tax u/s 87A. The conditions for availing the rebate are-

- i) Assessee is an individual who may be resident or not ordinary resident of India during the previous year.
- ii) His total income during the year doesn't exceed ₹.5,00,000.

### Computation of Rebate.

Amount rebate shall be allowed as under-

- i) ₹. 2,000 ( Rs.5,000 from AY 2017-18) ; or
- ii) Tax calculated on the total income of the individual as per the rates,  
Whichever is less.

### Rebate u/s 86 on share of profit from a Firm.

If share of profit from AOP is included in the total income of a person, then rebate u/s 86 is available.

Procedure of computation of Rebate.

- i) Compute total income of AOP.
- ii) If the individual income of any member of AOP exceeds the basic exemption limit ( ₹ 2,50,000, Rs.3,00,000 for senior citizen, or Rs.5,00,000 for super senior citizen), the AOP shall pay tax at the rates applicable to an individual.
- iii) Share from such AOP is fully added to the individual income of each partner and is fully taxable along with their individual income.
- iv) Out of the tax so calculated a rebate of tax on share from AOP is allowed at average rate, which is-  

$$\frac{\text{Total tax}}{\text{Total income}} \times 100$$
- v) No rebate available if total income of AOP is below ₹.2,50,000.

### Problem: 1

A, B and C are members of an AOP. They share the profit or loss in the ratio of 1:2:3. During the previous year the income of AOP is Rs.6,00,000 and incomes of A, B and C are Rs.45,000, Rs.90,000 and Rs.1,35,000 respectively. Compute tax liability of AOP and A, B and C for the assessment year 2016-17.

### Solution:

The incomes of A, B and C are less than the income minimum liable to tax. Hence AOP will pay tax at the rates applicable to individual.

#### Tax liability of AOP. (for the AY 2016-17)

Income ₹ 6,00,000

Tax on ₹ 2,50,000	Nil
Tax on ₹ 2,50,000 @ 10%	25,000
Tax on ₹ 1,00,000 @ 20%	<u>20,000</u>

Add : education cess @ 3% 1,350

**Tax liability:** 46,350.



**Tax liability of A, B and C.  
( For the AY 2016-17)**

	<b>A</b>	<b>B</b>	<b>C</b>
	₹	₹	₹
Personal income	45,000	90,000	1,35,000
Share in AOP	1,00,000	2,00,000	3,00,000
Total income:	<u>1,45,000</u>	<u>2,90,000</u>	<u>4,35,000</u>
<b>Tax on total Income:</b>	nil	4,000	18,500.
Less rebate u/s 87A upto ₹ 2,000 (total income doesn't exceed ₹ 5,00,000)	<u>nil</u>	<u>2,000</u>	<u>2,000</u>
	Nil	2,000	16,500
Rebate at average rate of tax on share of AOP	nil	1,379	11,379
Add: education cess @3%	<u>nil</u>	<u>19</u>	<u>154</u>
<b>Tax liability</b>	<u><b>nil</b></u>	<u><b>640</b></u>	<u><b>5,275</b></u>

**Note: calculation of rebate**

Tax on total income

————— X share in AOP

Total income

**Relief u/s 89(1)**

If an individual receives any portion of his salary in arrears or in advance or receives profit in lieu of salary, he can claim relief in terms of section 89 read with rule 21A as under:

**Computation of relief when salary has been received in arrears or in advance [Rule 21A(2)]**

The relief on salary received in arrears or in advance is computed as follows-

1. Calculate the tax payable on the total income, including the additional salary, of the relevant Previous Year in which the same is received.
2. Calculate the tax payable on the total income, excluding the additional salary, of the relevant Previous Year in which the additional salary is received.
3. Find out the difference between the tax at (1) and (2).
4. Compute the tax on the total income after including the additional salary in the Previous Year to which such salary relates.
5. Compute the tax on the total income after excluding the additional salary in the Previous Year to which such salary relates.
6. Find out the difference between the tax at (3) and (4).
7. The excess of tax computed at (3) over tax computed at (6) is the amount of relief admissible under section 89. No relief is, however, admissible if tax computed at (3) is less than tax computed at (6). In such a case, the assessee-employee need not apply for relief.

**Arrears of family pension:** if arrears of family pension received are received the assessee can apply for relief u/s 89 in the same manner as in case of arrears of salary.

## MODULE 2

### ASSESSMENT OF VARIOUS ENTITIES

#### 2.1:ASSESSMENT OF AGRICULTURAL INCOME [SECTION 10(1)]

Agricultural income is an Income exempted from income-tax in the case of all assesses.

#### **Definition of Agricultural Income**

As per section 2(1A) of the Act, agricultural income is defined as follows:

Agricultural income 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 –
  - i. Agriculture; or
  - ii. The performance by a cultivator or receiver of rent-in-kind of any process ordinarily employed by a cultivator or receiver of rent-in-kind to render the produce raised or received by him fit to be taken to market; or
  - iii. the sale by a cultivator or receiver of rent-in-kind of the produce raised or received by him, in respect of which no process has been performed other than a process of the nature described in paragraph (ii) of this sub-clause ;
- C. Any income derived from any building owned and occupied by the receiver of the rent or revenue of any such land, or occupied by the cultivator or the receiver of rent-in-kind, of any land with respect to which, or the produce of which, any process mentioned in paragraphs (ii) and (iii) of sub-clause (b) is carried on: Provided that –
  - i. the building is on or in the immediate vicinity of the land, and is a building which the receiver of the rent or revenue or the cultivator, or the receiver of rent-in-kind, by reason of his connection with the land, requires as a dwelling house, or as a store-house, or other out-building, and
  - ii. the land is either assessed to land revenue in India or is subject to a local rate assessed and collected by officers of the Government as such or where the land is not so assessed to land revenue or subject to a local rate, it is not situated –
    - in any area which is comprised within the jurisdiction of a municipality (or by any other name)
    - in any area within the distance,
      - a) not being more than two kilometres, from the local limits of any municipality or local authority and which has a population of more than ten thousand but not exceeding one lakh; or
      - b) not being more than six kilometres, from the local limits of any municipality or local authority and which has a population of more than one lakh but not exceeding ten lakh; or
      - c) not being more than eight kilometres, from the local limits of any municipality or local authority and which has a population of more than ten lakh.

### Conditions to be satisfied for Agricultural Income

According to the definition of Agricultural Income as per Section 2(1A) of the Act, the income which satisfies following conditions is treated as agricultural income.

#### (a) Rent or revenue derived from land:

- The word rent denotes the payment of money either in cash or in kind by one person to another (owner of the land) in respect of grant of right to use land.
- The recipient of rent or revenue should be the owner of the land.
- The expression revenue is used in the broader sense of return, yield or income, and not in the sense of land revenue.
- Income is said to be derived from land only if the land is the immediate and effective source of the income and not the secondary and indirect source. Thus interest on arrears of rent payable in respect of agricultural land is not agricultural income because interest is not from land but it is from rent which is a secondary source of income and is taxable under the head Income from other sources.

#### (b) Land must be situated in India:

#### (c) Land must be used for agricultural purpose:

The land must be used for agricultural purposes. There must be some measure of cultivation on the land, some expenditure of skill and labour upon it, to have been used for agricultural purposes within the meaning of the Act. Here agriculture means all the products like fruits, commercial crops, flowers, medicines, bamboo, timber, fuel material.etc but it does not include the products like dairy farming, butter and cheese making, poultry farming, breeding of livestock etc.

### Concept of Agricultural Income

Agricultural Income means and includes

#### I. Rent received from the land used for agricultural purposes

When a person (landlord or tenant) lets out a piece of land, which is situated in India, for agricultural purposes, the rent received either in cash or kind from the tenant is considered as agricultural income.

#### II. Revenue income derived from agriculture

When the landlord or tenant cultivates the farm, raises the product and sells it or appropriates it for his individual needs, the difference between the cost and selling price is the income derived from agriculture.

#### III. Income from making the produce fit to be taken to market

The crop as harvested might not find a market. If, in order to make the product a saleable commodity, the cultivator or receiver of rent-in-kind performs some operation (manual or mechanical) and enhances the value of the produce, the enhancement of value of the produce is also agriculture income. Such income to be regarded as agricultural income, the following conditions must be satisfied:

- (i) The operation must be one which is ordinarily employed by the cultivator to make the produce fit for market, i.e., threshing, winnowing, cleaning, drying, etc.
- (ii) There is no market for the produce as received from the farm.
- (iii) The process to make it marketable has been performed either by the cultivator or receiver of rent in kind.

- (iv) The produce must not change its original character.

#### **IV. Income from sale of produce:**

When the cultivator or receiver of rent-in-kind sells the produce either after performing certain activities to make it fit for market or without doing any such activity, the income is agricultural income.

#### **V. Income from Building:**

In the following cases the income from building or house property is treated as agricultural income:

- a) (i) If the land-lord receives rent in cash, it is owned and occupied by him; or  
(ii) If the land-lord receives rent-in-kind, it is occupied by him -whether owned or not;
  - or
  - (iii) if it is occupied by the cultivator - whether owned by him or not;
  - b) If it is on or in the immediate vicinity of the agricultural land;
  - c) If it is required as a dwelling-house or as a store house or as an out-house by the land-lord or cultivator;
  - d) If it is required by reason of the land-lords or cultivators connection with the land, i.e., either the building is required to make the produce fit to be taken to the market or there is a sufficient quantity of produce which requires a store house or there are numerous tenants and it is necessary to stay there to collect the rent or it is necessary for the cultivator to be there to look after the farm.
  - e) (i) The land is assessed to land revenue in India; or  
(ii) The land is subject to land revenue or local rate assessed and collected by the officers of the Government - either Central or State for the benefit of local bodies.
- Where the land is not so assessed, the building should not be situated:
- in an area of municipality (whether known as Municipal Corporation, Notified Area Committee, Town Area Committee, or by any other name or Cantonment Board whose population according to the latest census figures published is 10,000 or more; or
  - in a notified area within such limits of a Municipality, etc., as may be notified by Government. However, the distance of notified area cannot exceed 8 kilometres from the local limits. The department has issued various circulars from time to time specifying the notified areas.

#### **Income Connected with Land but not Agricultural Income**

There are certain incomes which are derived from land but they are not agricultural incomes because the conditions of agricultural income are not satisfied in such cases. Some of the examples of such incomes are as follows:

- (a) Income from spontaneous growth of grass, trees or bamboos;
- (b) Dividend from a company engaged in agriculture;
- (c) Salary of a farm manager;
- (d) Income from mines;
- (e) Income from stone quarries;
- (f) Income from fisheries;
- (g) Income from brick making;
- (h) Income from supply of water for irrigation purposes;

- (i) Profit accruing from the purchase of a standing crop and resale thereof after harvest;
- (j) Income from poultry, dairy farming, butter and cheese making;
- (k) Income from production of salt from sea water;
- (l) Income from preservation, storage and sale of potatoes and other vegetables.

### **Partly Agricultural Income**

In the case of income which is partially agricultural income and partially income chargeable to income-tax under the head “Profits and gains of business”, in determining that part which is chargeable to income-tax the market value of any agricultural produce raised by the assessee or received by him as rent-in-kind and which has been utilized as a raw material in such business shall be deducted, and no further deduction shall be made in respect of any expenditure incurred by the assessee as a cultivator or receiver of rent-in-kind.

For this purpose “market value” shall be deemed to be: –

- (a) where agricultural produce is ordinarily sold in the market in its raw state, or after application to it of any process ordinarily employed by a cultivator or receiver of rent-in-kind to render it fit to be taken to market, the value calculated according to the average price at which it has been so sold during the relevant previous year;
- (b) where agricultural produce is not ordinarily sold in the market in its raw state or after application to it of any process aforesaid, the aggregate of –
  - (i) the expenses of cultivation;
  - (ii) the land revenue or rent paid for the area in which it was grown; and
  - (iii) such amount as the Assessing Officer finds, having regard to all the circumstances in each case, to represent a reasonable profit.

For example, if a sugar mill has its own farm and the sugarcane grown on the farm has been utilized in the factory, the average market price of the sugarcane shall be deducted from the sale proceeds of sugar while computing the taxable income from business.

Other important partly agriculture incomes and their division as agriculture income and business income are as follows-

<b>Nature of Income</b>	<b>Amount of Agricultural Income</b>	<b>Amount of Non-Agricultural income</b>
Income from sale of tea manufactured or grown in India	60% of such income	40% of such income
Income from growing and manufacturing of rubber	65% of such income	35% of such income
Income derived from sale of coffee grown and manufactured in India	75% of such income	25% of such income
Income derived from sale of coffee grown, cured, roasted and grounded in India	60% of such income	40% of such income

## Treatment of Agricultural Income and Non-Agricultural Income

### Agriculture Income and Income-tax [Section 10(1)]: Partial integration.

Agricultural Income –

- i. Section 10(1) provides that agricultural income is not to be included in the total income of the assessee. The reason for totally exempting agricultural income from the scope of central income tax is that under the Constitution, the Parliament has no power to levy a tax on agricultural income.
- ii. Indirect way of taxing agricultural income or partial integration is a method to levy tax on agricultural income in an indirect way. This concept is known as partial integration of taxes. It is applicable to individuals, HUF, unregistered firms, AOP, BOI and artificial persons.

Two conditions which need to be satisfied for partial integration are:

1. The net agricultural income should exceed ₹ 5,000 for the year and
2. Non-agricultural income should exceed the maximum amount not chargeable to tax. ( ₹. 2,50,000, ₹.3,00,000 or ₹. 5,00,000 as the case may be)

It may be noted that aggregation provisions do not apply to company, firm, co-operative society and local authority. The object of aggregating the net agricultural income with non-agricultural income is to tax the non-agricultural income at higher rates.

Tax calculation in such cases is as follows:

**Step 1:** Add non-agricultural income with net agricultural income. Compute tax on the aggregate amount.

**Step 2:** Add net agricultural income and the maximum exemption limit available to the assessee (e.g. ₹ 2,50,000/ ₹ 3,00,000 / ₹ 5,00,000, etc. as applicable). Compute tax on the aggregate amount.

**Step 3:** Deduct the amount of income tax calculated in step 2 from the income tax calculated in step 1 i.e. Step 1 – Step 2.

**Step 4:** Deduct any applicable rebate from the amount of tax obtained in step 3.

**Step 5:** Add surcharge, if applicable, to the amount obtained in step 4 above.

**Step 6:** The sum so arrived at shall be increased by education and higher secondary cess.

These steps are applicable whenever tax liability is to be worked out e.g. self-assessment tax, advance tax, tax on regular assessment.

#### Problem: 1

‘X’ a resident in India, aged 63 years, earned agricultural income of ₹ 3,00,000 during the previous year 2015 – 16. Compute his tax liability assuming that he has non – agricultural income of ₹ 6,90,000 and he contributes ₹ 60,000 towards public provident fund.

#### Solution:

#### Computation of Tax Liability of Senior Citizen

( for the assessment year 2016 – 17)

Gross Total Income	₹ 6,90,000
Less: Deduction u/s 80C PPF	— 60,000

	<b>Total Income</b>	<b>6,30,000</b>
Add: Agricultural Income		<u>3,00,000</u>
	<b>Aggregate Income</b>	<b>9,30,000</b>
Tax on aggregate income: ₹ 9,30,000:		
On ₹ 3,00,000	Nil	
Next ₹ 2,00,000, 10%	20,000	
Next ₹ 4,30,000, 20%	<u>86,000</u>	
	<b>1,06,000</b>	
Less: Tax on agricultural income ₹ 3,00,000 + 3,00,000		
On ₹ 3,00,000	Nil	
Next ₹ 2,00,000, 10%	20,000	
Next ₹ 1,00,000, 20%	<u>20,000</u>	
	<b>40,000.</b>	
Tax liability= Tax on aggregate income – tax on agricultural income.		
₹ 1,06,000 - ₹ 40,000 = ₹ 66,000		
	66,000	
Add: Education cess 3%	<u>1,980</u>	
Tax Payable	<b><u>67,980</u></b>	



## 2.2: ASSESSMENT OF INDIVIDUAL

An individual may have incomes under any/all of the five heads of income,

i) Income from salary, ii) income from house property, iii) income under the head business or profession, iv) income under the head capital gain, v) income under the head other sources.

In addition to these some incomes received by him in some other capacity and some incomes although received by other persons are to be included in his total income. Such incomes are discussed below-

### **Treatment of incomes received from various institutions.**

1. **Share of Profit from Hindu Undivided Family-** It is exempt under section 10(2). Sum received as a member of H.U.F should not be included in the total income of individual since it is exempted in the hand of individual; the family may or may not have paid the tax on that income.

2. **Share of Profit from a firm assessed as firm (u/s 184)-** Share received from a firm assessed u/s 184, shall not be included in the total of the individual irrespective of the fact, whether the firm paid tax or not, it is exempted from tax.

**Salary and interest** received from such a firm will be taxable under the head **profit and gains of business or profession**.

3. **Share of Profit from a firm assessed firm (u/s 185)-** Share received from a firm assessed u/s 185, shall not be included in the total of the individual irrespective of the fact, whether the firm paid tax or not.

**Salary and interest** received from such a firm will also be **exempted** since these items were not allowed to charge as expense u/s 185.

4. **Share of profit from an Association of Persons/Body of individual-**

- i) If the association/body is taxable at the maximum marginal rate @ 30% (when any member of AOP/BOI has individual income chargeable to tax), then share of profit is not taxable in hands of recipient.
- ii) If the association/body is taxable at normal slab basis rates (when any member of AOP/BOI has individual income chargeable to tax), the share of profit should be included in the total income of individual and taxed.

But out of the tax paid a **rebate** should be given in relation to the tax that has already paid by him.

5. **As a shareholder of a company-**

- i) Dividend received from an Indian company is exempted.
- ii) Dividend received from Foreign Company is fully taxable as income from other sources.

### **Incomes of other persons to be included in the total income of an individual.**

- i) Transfer of income without transfer of asset.
- ii) Revocable transfer of asset.
- iii) Income of a minor child.
- iv) Income of assets transferred to the spouse, daughter in law by an individual.
- v) Income of assets transferred by an individual to a third party for the benefit of spouse, daughter in law or minor child.



- vi) Share of income arising to spouse for being a member of a trust or to minor child who is beneficiary under a trust.

**Taxable income shall be computed as follows:**

**Step 1** -Income under the different heads of income -First find out income under the five heads of income

**Step 2** -Adjustment of losses of the current year and earlier years- Losses should be set off according to the provisions of sections 70 to 78. The income after adjustment of losses is the gross total income.

**Step 3** - Deduction from gross total income- Deductions specified under Chapter VI A should be considered while calculating the gross total income.

**Step 4** -Rounding off- The balance should be rounded off to the nearest 10. It is called as net income or taxable income or total income.

**Normal Rates of Income Tax**

- 1-** In the case of every Individual (including Non Resident) or Hindu Undivided Family or AOP/BOI (other than a co-operative society) whether incorporated or not, or every Artificial Judicial Person.

Upto ₹.2,50,000	Nil
₹2,50,001 to ₹ 5,00,000	10%
₹5,00,001 to ₹ 10,00,000	20%
Above ₹ 10,00,000	30%

- 2-** In the case of every individual, being a resident in India, who is of the age of 60 years or more at any time during the Previous Year. [Senior Citizen]

Upto ₹. 3,00,000	Nil
₹3,00,001 to ₹ 5,00,000	10%
₹5,00,001 to ₹ 10,00,000	20%
Above ₹ 10,00,000	30%

- 3-** In the case of every individual, being a resident in India, who is of the age of 80 years or more at any time during the Previous Year. [Super Senior Citizen]

Upto ₹ 5,00,000	Nil
₹5,00,001 to ₹ 10,00,000	20%
Above ₹ 10,00,000	30%

**Note :** The amount of income tax computed shall be increased by a surcharge at the rate of 12% of such income tax in case the total income exceeds ₹ 1 crore. Education Cess @ 2%, and 'Secondary and Higher Education Cess (SHEC)' @ 1% on income tax shall also be chargeable.

**Calculation of Tax Liability:**

**Step 1** – Determine Net Income and tax payable thereon at the slab rate.

**Step 2** – Less rebate u/s 87A.

**Step 3** – Add surcharge @ 12% if the total income exceeds ₹ 1 crore.

**Step 4** – Add education cess and secondary and higher secondary education cess.

**Step 5** – Deduct rebate u/s 86, 89, 90, 90A and 91

**Step 6** – Add interest payable (if any)

**Step 7** – Deduct amount of prepaid taxes paid (Advance Tax, Tax Deducted at Source, etc.). The balance so arrived is the amount of tax to be paid.

## ALTERNATE MINIMUM TAX (AMT)

Where the regular Income Tax payable for a Previous Year by a person (other than a company) is less than the Alternate Minimum Tax payable for such Previous Year, the Adjusted Total Income shall be deemed to be the total income of such person and he shall be liable to pay Income-tax on such Total Income at the rate of 18.5% [Section 115JC (1)]

### To whom Alternate Minimum Tax shall be applicable [Section 115JEE (1)]

The provisions of Alternate Minimum Tax shall apply to a non-corporate assessee who has claimed any deduction under:

- (a) Sections 80-IA to 80RRB other than section 80P; or
- (b) Section 10AA; Or
- (c) Section 35AD

### To whom Alternate Minimum Tax shall not be applicable [Section 115JEE (2)]

The provisions of Alternate Minimum Tax under Chapter XII-BA shall not apply to-

- (a) an Individual; or
- (b) a Hindu Undivided Family; or
- (c) an Association of Persons or a Body of Individuals (whether incorporated or not) or
- (d) an Artificial Juridical Person referred to in section 2(31) (vii),

If the Adjusted Total Income of such person does not exceed ₹. 20,00,000

### Steps involving calculation of Tax where Alternate Minimum Tax provisions applies:

**Step 1:** Calculate the regular Income-tax liability of the non-corporate assessee ignoring the provisions of Sections 115JC to 115JF.

**Step 2:** Calculate Adjusted Total Income of the non-corporate assessee.

**Step 3:** Calculate Alternate Minimum Tax by applying 19.055 % (18.5 % + 2% EC + 1% SHEC) or 20.9605 % (18.5% + 10% Surcharge + 2% EC + 1% SHEC) in case Adjusted Total Income exceeds ₹1 crore, on Adjusted Total Income computed under Step 2.

**Step 4:** Compare tax liability computed under Step 1 and Alternate Minimum Tax computed under Step 3. If amount computed under Step 1 is equal to or more than amount computed under Step 3, then the provisions of Alternate Minimum Tax will not apply.

**Step 5:** If amount computed under Step 1 is less than amount computed under Step 3, then amount computed under Step 3 will be deemed as tax liability of the non-corporate assessee for such Previous Years. In this case, the excess amount computed under Step 3 over the amount computed under Step 1 will be available as credit and can be carried forward and set off against regular tax liability of the non-corporate assessee of the next year or subsequent years.

**Tax credit for AMT:** Section 115JD provides the credit for tax (tax credit) paid by a non-corporate on account of AMT under Chapter XII-BA shall be allowed to the extent of the excess of the AMT paid over the regular Income-tax. This tax credit shall be allowed to be carried forward up to the tenth Assessment Year immediately

succeeding the Assessment Year for which such credit becomes allowable. It shall be allowed to be set off for an Assessment Year in which the regular income-tax exceeds the AMT to the extent of the excess of the regular Income-tax over the AMT. No interest shall be payable on tax credit allowed under section 115JD.

**Adjusted Total Income:** means the Total Income or Net Income of the non-corporate assessee as increased by –

- (a) Amount claimed as deduction by the non-corporate assessee under sections 80H to 80RRB other than section 80P; and
- (b) Amount claimed as deduction by the non-corporate assessee under section 10AA: and
- (c) Deduction claimed, if any, under section 35AD as reduced by the amount of depreciation allowable in accordance with the provisions of section 32 as if no deduction under section 35AD was allowed in respect of the assets on which the deduction under that section is claimed.

### Problem: 1

You are required to compute the net tax liability or tax refundable, if any, from the following particulars of income of an assessee for the assessment year 2016 – 17:

Salary	₹ 5,00,000
D. A.	₹ 72,000
Rent of Property	₹ 50,000
Interest received on time deposit with PNB	₹ 27,000
He contributed to Recognized Provident Fund @ 10% of his salary and paid ₹ 9,000 as premium on his insurance policy.	

### Solution:

Statement of Total Income		
(for the assessment year 2016 – 17)		
<b>Income from Salary:</b>	₹	₹
Salary	5,00,000	
D. A.	<u>72,000</u>	
Gross Salary	5,72,000	
Less: Deduction	<u>Nil</u>	5,72,000
<b>Income from House Property:</b>		
Rent being Annual Value	50,000	
Less: 30% of A.V.	<u>15,000</u>	35,000
Income from Other Sources:		
Interest $27,000 \times 100 \div 90$		<u>30,000</u>
<b>Gross Total Income</b>		<b>6,37,000</b>
Less: Deduction in respect of savings u/s 80C		<u>59,000</u>
<b>Total Income</b>		<b>₹ 5,78,000</b>
<b>Qualifying Amount for deduction u/s 80C:</b>		
Contribution to R.P.F.		50,000
Add: L.I.P		<u>9,000</u>

		<u>₹ 59,000</u>
<b>Computation of Tax</b>		
Income – tax on ₹ 5,78,000		
On ₹ 2,50,000		Nil
On ₹ 2,50,000 @ 10%		25,000
On ₹ 78,000 @ 20%		15,600
		<u>40,600</u>
Add: Surcharge		Nil
		<u>40,600</u>
Add: Education cess @ 3%		1,218
		<u>41,818</u>
Deduction of tax at source on		
i) Interest ₹ 30,000 @ 10%	3,000	
ii) Salaries	<u>28,428</u>	<u>31,428</u>
Net Tax Liability		<u><u>₹ 10,390</u></u>

Notes: 1. Tax on salaries has been computed as under:

Net Salary ( ₹ 5,72,000 – 59,000)	<u>₹ 5,13,000</u>
Tax on ₹ 2,50,000	Nil
Tax on ₹ 2,50,000 @ 10%	25,000
Tax on ₹ 13,000 @ 20%	2,600
	<u>27,600</u>
Add: Surcharge	Nil
	<u>27,600</u>
Add: Education cess @ 3%	828
	<u><u>₹ 28,428</u></u>

2. Education cess is not deductible at source on income tax except tax deductible at source on salaries.

### Problem: 2

Mr.Sundaram is a businessman. The particulars of his income are as follows for the assessment year 2016 – 17:

	₹
1) Business Income	4,82,000
2) Income for House Property (Computed)	24,000
3) Interest on Govt. Securities	20,000
4) Long – term Capital Gains	12,000
5) Winnings from horse race	7,000

He has paid life insurance premium amounting to ₹ 5,000.

You are requested to compute his net tax liability.

### Solution:

	₹
<b>Statement of Total Income</b>	
1. Income from House Property	24,000

2. Income from Business		4,82,000
3. Income from Capital Gains:		
Long – term Capital Gains		12,000
4. Income from Other Sources:	₹	
Horse race	7,000	
Interest on Securities:		
Govt. Securities	<u>20,000</u>	<u>27,000</u>
Gross Total Income		5,45,000
Less: Deduction:		
u/s 80C in respect of LIP		<u>5,000</u>
Total Income		5,40,000
Qualifying Amount for Deduction u/s 80C:		
L.I.P.		5,000

### Computation of Tax

1. Income – Tax on winnings from horse race		
₹ 7,000 @ 30%		2,100
2. Income – Tax on Long Term Capital Gains		
₹ 12,000 @ 20%		2,400
3. Income - tax on the balance of income		
of ₹ 5,21,000		
on ₹ 5,00,000	25,000	
on ₹ 21,000 @ 20%	4,200	<u>29,200</u>
		33,700
Add: Surcharge		<u>Nil</u>
		33,700
Add: Education cess @ 3%	1,011	
		34,711
Less: Deduction of Tax at source		
(a) Horse race winnings		
₹ 7,000 @ 30%	2,100	
(b) Govt. Securities (No T.D.S)	<u>Nil</u>	<u>2,100</u>
Tax Payable		<u>32,611</u>

Note: Deduction of tax at source on horse race winnings will be made on gross amount of ₹ 7,000.

### Problem: 3

Mr. X, who is totally blind, submits the following information.

Compute his Total Income:	₹
i) Salary received (per month)	15,000
ii) Rent received (per month)	4,000
iii) Dividend from Co-operative Society	2,000
iv) Interest from a firm (Gross)	8,000

v)	Interest on Government Securities	1,000
vi)	Winning from Lotteries	1,15,000
vii)	NSC VIII issue purchased during the year	10,000
viii)	Deposit under Public Provident Fund	31,000
ix)	Long-term Capital Gain (Building)	35,000
x)	Short-term Capital Loss	20,000
xi)	Donation to State Government for promoting Family Planning by cheque	22,000

**Solution:****Computation of Total Income**

	₹	₹
Salary	1,80,000	
Less: Deduction	<u>Nil</u>	1,80,000
House Property:		
Rent (A. V.)	48,000	
Less: 30% of A.V.	<u>14,400</u>	33,600
Capital Gains:		
LTCG	35,000	
Less: STCL	<u>20,000</u>	15,000
Income from Other Sources:		
Dividend from Co-operative Society	2,000	
Interest from firm	8,000	
Interest on Government Securities	1,000	
Winnings from Lotteries	<u>1,15,000</u>	1,26,000
Gross Total Income		<u>3,54,600</u>
Less: Deduction u/s 80C	41,000	
Deduction u/s 80U (Severe disability)	1,00,000	
Deduction u/s 80G	<u>19,860</u>	1,60,860
<b>Total Income</b>		<b>₹1,93,740</b>

Notes: 1. Deduction u/s 80G has been computed as under:

$$10\% \text{ of } [ ₹ 3,54,600 - (\text{LTCG } ₹15,000 + 41,000 + 1,00,000)] = ₹ 19,860$$

Deduction @ 100% of ₹19,860.

2. He is entitled to deduction u/s 80C ₹ 10,000 + 31,000 = ₹ 41,000.

### 2.3: ASSESSMENT OF HINDU UNDIVIDED FAMILY.

The term 'Hindu undivided family' has not been defined in the Income-tax Act. However, in general parlance it means an undivided family of Hindus. It is not at all necessary that every HUF must have joint property or family income. However, to become an assessee under the Income-tax Act, there must be 'income-yielding' joint property of the family.

Under Hindu Law, a Joint Hindu Family consists of all persons lineally descended from a common ancestor (except those who have separated from the joint family by partitioning of assets) and includes their wives and unmarried daughters, and also a stranger who has been adopted by the family.

Jain and Sikh undivided families are also treated as Hindu undivided families unless, under special circumstances, the assessee claims not to be treated as such. If such claim is made, the assessee shall have to prove that there is some such custom in his family on account of which it cannot be treated as a Hindu undivided family.

#### **A Hindu Undivided Family consists of two types of members:**

- (i) **Coparceners:** The lineal male descendants of a person up-to the third generation of such person are known as coparceners. The coparceners acquire, on birth, ownership in the ancestral properties of such ascendant and have a right to claim partition of such property at any time. However, w.e.f. 9.9.2005 due to amendment of Hindu Succession Act, the daughter of a coparcener shall by birth become a coparcener in her own right in the same manner as the son. Hence, the daughter can also ask for partition.
- (ii) **Other members:** Such members include wives of male members of the family and other male members. Thus, a Hindu Joint Family may consist of:
  - (a) All persons lineally descended from a common ancestor and includes their wives and daughters.
  - (b) A male and widow or widows of deceased male member or members.

However, an unmarried coparcener who receives share on the partition of joint family properties cannot form a Hindu undivided family unless he marries. After his marriage, he can hold the property received from family as joint family property consisting of himself and his wife.

Some important concepts related to HUF-

**Karta:** Property of the family is ordinarily managed by the father or other senior member for the time being of the family. He is called Karta. However, the senior member may give up his right of management and a junior member may be appointed as Karta with the consent of all other members. In the absence of a male member in the family or when all male members are minors, a woman member can be treated as manager of the family for income-tax purposes. Since daughter is also a coparcener it may be presumed that daughter can also be karta of her father's HUF.

#### **Joint Property of the family:**

It consists of:

- (i) ancestral property;
- (ii) accretion thereto;
- (iii) acquisition with joint funds; and



- (iv) Self-acquired property of any member thrown by him into the common stock to be treated as family property.

**School of Hindu Law:** According to Hindu Law, HUFs are governed by two schools viz.

- i) **Mitakshara School** applies to whole of India except the states of West Bengal and Assam.
- ii) **Dayabhaga school** applies to the States of West Bengal and Assam.

### **Computation of Income of the H.U.F.**

The gross total income of the family for the relevant previous year shall be computed under the relevant heads (as per the provisions of the Income-tax Act) as it is computed for other assesseees. However, in this connection the following points are worth noting:

The important points regarding the computation of income of H.U.F are as follows-

- i. Where a member of HUF converts his self-acquired property into joint family, income from such property shall not be treated as income of HUF u/s. 64(2). It shall continue to be taxed in the hands of the transferor who is the member of the HUF.
- ii. Income from an impartible estate is taxable in the hands of the holder of the estate and not in the hands of HUF.
- iii. Income from Stridhan of a woman is not taxable in the hands of HUF.
- iv. Personal income of members cannot be treated as income of HUF.
- v. Where the funds of HUF are invested in a company or a firm, fees or remuneration received by the member as a director or a partner in the company or a firm may be treated as income of HUF in case the fees and remuneration is earned essentially as a result of investment funds.
- vi. Where remuneration is paid by HUF to Karta or any other member for services rendered by him in conducting family's business, the remuneration is deductible provided the remuneration is paid :
  - (a) Under a valid bonafide agreement;
  - (b) In the interest of, and expedient for the family business, and
  - (c) genuine and not unreasonable.

### **Taxable income shall be computed as follows :**

**Step 1** -Income under the different heads of income - First find out income under the five heads of income.

**Step 2**-Adjustment of losses of the current year and earlier years - Losses should be set off according to the provisions of sections 70 to 78. The income after adjustment of losses is the gross total income.

**Step 3** -Deduction from gross total income - Deductions specified under Chapter VI A should be considered while calculating the gross total income.

**Step 4** -Rounding off - The balance should be rounded off to the nearest ₹. 10. It is called as net income or taxable income or total income.

### **Calculation of Tax Liability:**

**Step 1** – Determine Net Income and tax payable thereon at the slab rate.

**Step 2** – Add surcharge @ 12% if the total income exceeds ₹ 1 crore

**Step 3** – Add education cess and secondary and higher secondary education cess

**Step 4** – Deduct rebate u/s 86, 90, 90A and 91



Step 5 – Add interest payable (if any)

Step 6 – Deduct amount of prepaid taxes paid (Advance Tax, Tax Deducted at Source, etc.)

The Balance so arrived is the amount of tax to be paid.

**Note:**

- (i) From the Assessment Year 2013-14, tax payable (i.e. amount arrived at Step 3) cannot be less than 18.5 % of “Adjusted Total Income” in some Specified Cases.

**Partition of a Hindu undivided family (Section 171)**

‘Partition’ signifies division of property. In the cases of property capable of physical division, share of each member is determined by making physical division thereof. It must be noted that a division of income without physical division of property does not amount to partition. Where, however, the property is not capable of physical division, partition implies such division as the property may admit.

**Who is entitled to share on partition**

Though only coparceners can demand partition, once the partition takes effect, the following persons are entitled to a share:

- a) all coparceners;
- b) a son in the womb of his mother at the time of partition;
- c) mother, who gets an equal share if the partition takes place among her sons after the death of her husband; and
- d) wife, who gets a share equal to that of a son at the time of a partition between father and sons.

**Taxability after partition**-W.e.f. 31st December, 1978 partial partition is not recognised for tax purposes and as such the joint family shall continue to be liable to be assessed as if no such partial partition had taken place. Each member of such family, immediately before such partial partition and the family shall be jointly and severally liable for any sum payable under the Act. [Sec. 171(9)]

**Problem: 1**

The following details of income for financial year 2015 – 16 have been supplied by Shri Rohit who is Karta of Hindu undivided family:

	₹
(i) Profit from family business (Net)	3,04,000
(ii) Salary received by a member of family for looking after the family business	1,20,000
(iii) Remuneration received by Karta for working as Secretary in a company	5,30,000
(iv) Municipal value of ancestral house let out	34,000
(v) Local taxes of house paid	4,000
(vi) Dividend from an Indian Company (Gross)	8,000
(vii) Long – term Capital Gain	39,000
(viii) Profit from a firm	28,000
(ix) Donation to a recognized education institution in cash	10,000
(x) Life Insurance Premium paid	6,000

Compute the gross total income and total income of the family for the assessment year 2016 – 17.

**Solution: 1****Computation of total income of the family**

<b>Income from House Property:</b>	₹	₹
G.A.V.	34,000	
Less: House tax	<u>4,000</u>	
Annual Value	30,000	
Less: 30% of A.V.	<u>9,000</u>	21,000
<b>Business Income:</b>		
Family business	3,04,000	
Share from a firm – Exempt u/s 10 (2A)	<u>-</u>	3,04,000
<b>Capital Gains:</b>		
L.T.C.G.		39,000
<b>Income from Other Sources:</b>		
Dividend		<u>Exempt</u>
Gross Total Income		3,64,000
Less: (i) Deduction u/s 80C : LIP	6,000	
(ii) Deduction u/s 80G : 50% of ₹ 10,000	<u>5,000</u>	<u>11,000</u>
<b>Total Income</b>		<b><u>₹ 3,53,000</u></b>

Notes: (1) Salary of a member of family and Karta is their personal income.

(2) Amount of donation u/s 80G does not exceed ₹ 10,000, hence deductible.

**Problem:2**

The following details have been supplied by the Karta of a H.U.F. Compute the total income for the A.Y. 2016 – 17:

	₹
(a) Profit from business	2,90,000
(b) Salary received by a member of HUF	10,000
(c) Director's fees received by Karta	8,000
(d) Rent from let out property	20,000
Municipal taxes paid	1,000
(e) Annual municipal value of the joint family house	18,000
Municipal taxes paid	1,000
Interest on loan for construction of house	20,000
(f) Interest	5,000
(g) Long – term capital gains from transfer of buildings	10,000
(h) Profit from an AOP (1/4 <sup>th</sup> share)	10,000
(i) Dividend from companies (Gross)	10,000
(j) Donation to N.D.F.	5,000
(k) Medical Insurance Premium on the health of the members of the family	6,000
(l) Premium paid on LIC policies	19,000

**Solution:**

**Computation of Total Income**  
(for the Assessment Year 2016 – 17)

	₹	₹
<b>1. Income from House Property:</b>		
Let – out: G.A.V.	20,000	
Less: Municipal tax paid	<u>1,000</u>	
Annual Value	19,000	
Less: 30% of A.V.	<u>5,700</u>	
	(a) <u>13,300</u>	
Self – occupied:		
Annual Value	Nil	
Less: Interest	(b) <u>20,000</u>	
Loss from house property (b-a)	(-) 6,700	
<b>2. Income from business:</b>		
Profit	2,90,000	
Profit from AOP (Exempt)	<u>-</u>	2,90,000
<b>3. Capital Gains:</b>		
LTCG		10,000
<b>4. Income from Other Sources:</b>		
Interest	5,000	
Dividend – Exempt	<u>-</u>	<u>5,000</u>
<b>Gross Total Income</b>		2,98,300
Less: Deduction u/s 80G: Donation		5,000
Deduction u/s 80D: MTP (Assumed not paid in cash)		6,000
Deduction u/s 80C: LIP	19,000	<u>30,000</u>
<b>Total Income</b>		<u><u>2,68,300</u></u>

Note: Salary and director's fees are personal incomes of members.

**Problem: 3**

The following details of income have been supplied by Karta of H.U.F. You are required to compute the total income:

	₹
(a) Profit from Business	2,32,000
(b) Salary received by a member of H.U.F	8,000
(c) Director's fee received by Karta	6,000
(d) Rental value of property let	12,000
(e) Municipal taxes paid	600
(f) Bank interest on Savings A/c	450
(g) Long – term capital gains from transfer of building	9,500
(h) Profit from a firm (1/4 share)	10,000
	<u>                    </u>

**Solution:****Computation of Total Income**

	₹	₹
Income from House Property:		
G.A.V.	12,000	
Less: Municipal tax paid	<u>600</u>	
Annual Value	11,400	
Less: 30% of A.V.	<u>3,420</u>	
Profit from business	2,32,000	
Profit from Firm (Exempt)	<u>-</u>	2,32,000
Capital Gains – Long – term		9,500
Income from Other Sources:		
Bank Interest		<u>450</u>
Gross Total Income		2,49,930
Less: Deduction u/s 80TTA - Interest		<u>450</u>
<b>Total Income</b>		<b>₹ <u><u>2,49,480</u></u></b>

Note: Salary and director's fees are personal incomes of members of H.U.F.

## MODULE 3

### ASSESSMENT OF FIRMS

#### 3.1: COMPUTATION OF FIRMS

#### What is a partnership?

- A partnership is an association of two or more persons.
- There must be agreement entered into by all persons.
- The agreement is to carry on some business
- The business is to be carried on by all or by any one of them acting on behalf of all and for benefit of all.
- The agreement is to share profits and losses of business.

From the Assessment Year 1993-94 partnership firm has been classified for the purpose of computation of income and its assessment as under:

**(1) Partnership Firm assessed as such (PFAS)** - a firm which fulfills the conditions of section 184.

**(2) Partnership Firm assessed as an Association of Person (PFAOP)** - a firm which fails to fulfill the section 184 (u/s 185)

Provisions relating to assessment of firms and partners are analyzed as under:

#### **1) Assessment of firms and conditions to be fulfilled to avail the status of PFAS [Sec. 184]**

Where a firm wants to avail the status of PFAS, it has to satisfy the following conditions:-

- i. The firm shall be evidenced by an instrument and the individual shares of the partner shall be specified therein. [Sec. 184(1)]
- ii. A certified copy of the instrument of partnership shall accompany the return of income of the Previous Year relevant to the Assessment [Sec.184(2)]
- iii. Wherever during a Previous Year a change takes place in the constitution of the firm or in the sharing ratio of partners, a certified copy of the revised instrument of partnership must be submitted along with the return of income of the concerned year of assessment. [Sec. 184(4)]
- iv. There should not be any failure on the part of the firm as is specified in Sec. 144 [Sec.184(5)]

It may be mentioned that once a firm is assessed as PFAS after fulfillment of the above conditions, it will be assessed as PFAS, for every subsequent year provided there is no change in either firm's constitution or partner's profit sharing ratio. However, there should not be any failure mentioned in Sec. 144. [Sec. 184(3)]

A partnership deed shall be certified in writing by all the major partners. Where, however, the firm is dissolved and the return is filed after its dissolution, then the copy of deed may be certified by all the major partners in the firm immediately before its dissolution. Where a partner is dead, then it will have to be certified by his legal representative.

#### **Computation of Income**

The following provisions should be given due consideration while computing income of a firm-

- (i) Provision relating to deductibility of **remuneration** paid to partners by firm.
- (ii) Provision relating to deductibility of **interest** paid to partners by firm.

Rules regarding the interest and remuneration are as follows-

- Any payment of salary, remuneration or commission paid to a partner who is not a working partner is disallowed,
- Any remuneration paid to a working partner not in accordance with the partnership deed is not allowed,
- Any interest paid to a partner in excess of 12% of the capital contributed is disallowed,
- Any interest paid to a partner not in accordance with the partnership deed is disallowed,

### **Remuneration to working partners.**

The limits of remuneration payable to working partners under the act are as follows-

1. On First ₹. 3,00,000 of book profit or in case of loss- ₹.1,50,000 or 90% of book profit whichever is more,
2. On balance of the book profit- up to 60% of the book profit.

### **Notes.**

- **Book profit** means the net profit as shown in the profit & loss account for the previous year computed in accordance with the income tax rules after adding back the full amount of remuneration given to partners.
- In case of loss or book profit is less than ₹.1,50,000- the maximum amount of remuneration payable will be ₹ 1,50,000.

### **Taxable income shall be computed as follows:**

Step 1: Income under the different heads of income - First find out income under the four heads of income (firms cannot have salary income).

Step 2: Adjustment of losses of the current year and earlier years - Losses should be set off according to the provisions of sections 70 to 78. The income after adjustment of losses is the gross total income.

Step 3: Deduction from gross total income – a firm can claim the following deductions

- i. 80G : donations
- ii. 80GGA : contributions to certain funds
- iii. 80GGC: donations to political parties.
- iv. 80IA : infrastructure projects.
- v. 80IAB : setting up SEZ
- vi. 80IB : new industrial undertaking
- vii. 80IC : setting up industry in backward areas.
- viii. 80ID : setting up hotel and convention center.
- ix. 80IE : undertaking in north eastern states.
- x. 80JJA : use of bio waste

Step 4 -Rounding off - The balance should be rounded off to the nearest 10. It is called as net income or taxable income or total income.

### **Calculation of Tax Liability:**

Step 1 – Determine Net Income and tax payable

- i. At a normal rate of 30%.
- ii. On long term capital gain @ 20%
- iii. On short term capital gain subject to STT @ 15%
- iv. On casual incomes @ 30%

Step 2 – Add surcharge @ 12% if the total income exceeds ₹ 1 Crore.

Step 3 – Add education cess (2%) and secondary and higher secondary education cess(1%)

Step 4 – Deduct rebate u/s 86, 90, 90A and 91

Step 5 – Add interest payable (if any)

Step 6 – Deduct amount of prepaid taxes paid (Advance Tax, Tax Deducted at Source, etc.)

The Balance so arrived is the amount of tax to be paid.

**Treatment of share of income from firm assessed u/s 184-**

- It's fully exempted from tax u/s 10(2A) and as such is not added in individual income of partners.

**Treatment of remuneration and interest received from firm-**

**a) Interest.**

- i) If interest was disallowed in firm, it should not be added to back to individual income since it is already taxed.
- ii) If interest was fully allowed by the firm, it should be added to individual income fully, since it is not yet taxed.
- iii) If interest was allowed by the firm @ 12%, disallowing excess, the 12% amount should be added to individual income.

**b) Remuneration.**

- i) If it was fully allowed, it shall be fully added.
- ii) If it was allowed up to certain limit, then

$$\text{Restricted remuneration} \times \frac{\text{Actual remuneration of a partner.}}{\text{Total remuneration of all partners.}}$$

**Problem: 1**

A, B and C are partners in a firm, sharing profits and losses in the proportions of  $\frac{2}{5}^{\text{th}}$ ,  $\frac{2}{5}^{\text{th}}$  and  $\frac{1}{5}^{\text{th}}$  respectively. The Profit and Loss Account for the year ended 31<sup>st</sup> March, 2016 is as follows:

	₹		₹
To Sundry Trade Expenses	1,02,000	By Gross Profit b/d	4,78,200
To Interest on Capital @ 13%:		By Interest on Securities	
A           13,000		Gross	10,000
B           6,500			
C           6,500	26,000		
	30,000		
To Rent to B			
To Salary to B	72,000		
To Commission to C	36,000		
To Net Profit	2,22,200		
	<u>₹ 4,88,200</u>		<u>₹ 4,88,200</u>

Compute the total income of the firm and taxable income of the three partners in the firm. B and C are working partners.

**Solution:**

For the Assessment Year 2016 – 17

Income from business: ₹

Net Profit as per P. & L. A/c  
2,22,200

Add: Items not allowed:

Int. on Capital in excess of

12%:

A

₹ 1,000

B

500

C

500

₹

2,000

Salary to B

72,000

Commission to C

36,000

1,10,000

3,32,200

Less: Income not chargeable under this head:

Interest on Securities

10,000

**Book Profit**

**3,22,200**

Less: Remuneration to working  
partners B and C:

On ₹ 3,00,000 @ 90%

2,70,000

On ₹ 22,200 @ 60%

13,320

2,83,320

or

₹ 1,08,000 as per deed, whichever is less

1,08,000

**Business Income**

**2,14,200**

### Statement of Total Income

1. Income from Business

2,14,200

2. Income from Other Sources

10,000

Total Income

2,24,200

Taxable Income of Partners from firm under the head Business:

	A	B	C
	₹	₹	₹
Interest on Capital	12,000	6,000	6,000
Salary to B	-	72,000	-
Commission to C	-	-	36,000
	<b>₹ 12,000</b>	<b>78,000</b>	<b>42,000</b>

**Note:** (1) Share of partners (A, B and C) in total income ₹ 2,24,200 is exempt u/s 10(2A).

(2) In case of B rental income from the firm not included.

### Problem: 2

The Profit and Loss Account of M/s XY Glass Works for the year ending on 31<sup>st</sup> March, 2016 is:



	₹		₹
Stock	1,30,000	Sales	4,50,000
Purchases	1,50,000	Stock	25,000
Penalties and Fines	59,000	Rent from House Property	12,000
Office Expenses	6,000		
Selling Expenses	8,000		
Interest to Partners	6,000		
Net Profit	1,28,000		
	<u>₹ 4,87,000</u>		<u>₹ 4,87,000</u>

- i. Interest of ₹ 6,000 @ 8% has been paid to X on capital.
  - ii. Penalties and fines have been levied because of illegal sale and purchase of glass.
  - iii. Remuneration payable to partners: X ₹ 2,00,000 and Y ₹ 1,00,000 has not been debited to Profit & Loss Account.
  - iv. Shri X and Y are equal partners in the firm.
- Compute the tax payable by the firm and the total income of the partners.

**Solution:**

**Computation of Tax payable by the firm**

<b>Income from business</b>	₹	
Net Profit	1,28,000	
Less: Rent from House	12,000	
	<u>1,16,000</u>	
Add: Disallowed Expenses:		
Penalties and Fines	59,000	
	<u>1,75,000</u>	
<b>Book Profit</b>	<b>1,75,000</b>	
Less: Remuneration to Partners:		
90% of ₹ 1,75,000; or ₹ 3,00,000, whichever is less	1,57,500	
<b>Business Income</b>	<b>(a) 17,500</b>	
	<u><u>          </u></u>	
<b>Income from House Property</b>		
Rent (A.V.)	12,000	
Less: 30% of A.V.	3,600	
	<u>Income house property</u>	
	<u>(b) 8,400</u>	
<b>G.T.I. being T.I. (a + b)</b>	<u>25,900</u>	
	<u><u>          </u></u>	
Tax on ₹ 25,900 @ 30%	7,770	
Add: Education cess @ 3%	233	
<b>Tax Payable</b>	<u>₹ 8,003</u>	
Rounded off ₹ 8,000.		

**Computation of total income of Partners**

	<b>X</b>	<b>Y</b>
	₹	₹
Interest	6,000	—

Remuneration 2:1	1,05,000	52,500
Share in Profit (Exempt)	-	-
<b>Total Income</b>	<b><u>₹ 1,11,000</u></b>	<b><u>52,500</u></b>

## 2) Partnership Firm assessed as an Association of Person (PFAOP)- u/s 185

When a partnership firm hasn't submitted a copy of its partnership deed duly signed by all partners, it will be assessed as a PFAOP u/s 185 in the following manner.

- Any payment to a partner under whatever name called (salary, remuneration, commission etc.) is disallowed.
- Partnership deed expenses are disallowed.
- Interest on capital paid to partners is disallowed.
- Rent paid to partner for the premises used by firm are allowed.

### Taxable income shall be computed as follows:

Step 1 – Income under the different heads of income - First find out income under the four heads of income (firms cannot have salary income)

Step 2- Adjustment of losses of the current year and earlier years - Losses should be set off according to the provisions of sections 70 to 78. The income after adjustment of losses is the gross total income.

Step 3- Deduction from gross total income – a firm can claim the following deductions

- i. 80G : donations
- ii. 80GGA : contributions to certain funds
- iii. 80GGC : donations to political parties.
- iv. 80IA : infrastructure projects.
- v. 80IAB : setting up SEZ
- vi. 80IB : new industrial undertaking
- vii. 80IC : setting up industry in backward areas.
- viii. 80ID : setting up hotel and convention center.
- ix. 80IE : undertaking in north eastern states.
- x. 80JJA : use of bio waste

Step 4 - Rounding off - The balance should be rounded off to the nearest 10. It is called as net

income or taxable income or total income.

### Calculation of Tax Liability:

Step 1 – Determine Net Income and tax payable

- i. at a normal rate of 30%.
- ii. On long term capital gain @ 20%
- iii. On short term capital gain subject to STT @ 15%
- iv. On casual incomes @ 30%

Step 2 – Add surcharge @ 12% if the total income exceeds ₹ 1 crore.

- Step 3 – Add education cess (2%) and secondary and higher secondary education cess(1%)  
 Step 4 – Deduct rebate u/s 86, 90, 90A and 91  
 Step 5 – Add interest payable (if any)  
 Step 6 – Deduct amount of prepaid taxes paid (Advance Tax, Tax Deducted at Source, etc.)  
 The Balance so arrived is the amount of tax to be paid.

**Treatment of share of income from firm assessed u/s 185-**

- It's fully exempted from tax u/s 10(2A) and as such is not added in individual income of partners.

**Treatment of remuneration and interest received from firm-**

- It is not added in individual income of partners since it's already taxed.

**Problem: 3**

The Profit and Loss Account of the firm of M/s A and B, sharing profits and losses in the ratio of 3:2 for the previous year ending on 31<sup>st</sup> March, 2016 is as follows:

	₹		₹
Cost of Goods sold	5,45,000	Sales	
	9,50,000		
Remuneration of Partners	3,00,000	Dividends	
20,000			
Remuneration to Employees	1,70,000	Long – term Capital	
		Gains	1,90,000
Interest to Partners	15,000		
Other Expenses	1,00,000		
Sales – tax outstanding	10,000		
Net Profit	20,000		
	<u>₹ 11,60,000</u>		<u>₹ 11,60,000</u>

Additional information is given below:

(1) Other expenses include the following:

- i. Entertainment expenses ₹ 20,000.
- ii. V.I.P. bags, costing of ₹ 1,500 each given to ten dealers who exceeded the sales target fixed under Sales Promotion Scheme.
- iii. ₹ 32,500 paid in cash to an advertising agency.

(2) Outstanding sales – tax was paid on 14<sup>th</sup> July, 2016.

(3) The firm is not evidenced by instrument.

(4) Other incomes of A ₹ 95,000 and B ₹ 86,000.

You are required to compute for the assessment year 2016 – 17:

- i. Total income of the firm; and
- ii. Tax liability of the firm on its total income.

**Solution:**

(a) Computation of Income from Business:

	₹
Net Profit as per Profit and Loss Account	20,000
Add: Inadmissible Payments:	

Interest to Partners		15,000
Entertainment: Fully allowed		—
Sales Promotion Expenses: Fully allowed		—
100% of ₹ 32,500 cash payment		32,500
Remuneration to Partners		<u>3,00,000</u>
	₹	3,67,500
Less: (i) Dividend	20,000	
(ii) Long – term Capital Gain	<u>1,90,000</u>	<u>2,10,000</u>
Income from Business		<u>₹ 1,57,500</u>
(b) Computation of Total Income of the Firm: ₹		
Profits and Gains of Business		1,57,500
Long – term capital gain		1,90,000
Income from Other Sources: Dividend		<u>Exempt</u>
<b>Total Income</b>		<u><b>₹ 3,47,500</b></u>
(c) Computation of Tax Liability of the Firm:		
i. Long – term Capital Gain: ₹ 1,90,000 @ 20%		38,000
ii. Other Incomes: ₹ 1,57,500 @ 30%		<u>47,250</u>
		85,250
Add: Education cess @ 3%		<u>2,558</u>
<b>Tax Liability</b>		<u><b>₹ 87,808</b></u>
Rounded off ₹ 87,810.		

**Note:** The firm will be assessed as a firm that does not fulfill the conditions of sec. 184, hence, interest and remuneration to partners will not be allowed as a deduction in computing the income of the firm and such payment shall not be included in the income of the partners under the head Profits and Gains of Business or Profession.

### Assessment of Limited Liability Partnership (LLP).

A Limited Liability Partnership (LLP) is a body corporate formed or incorporated under the Limited Liability Partnership Act, 2008. It is a legally separate entity from its partners. It has perpetual succession i.e. any change in its partners will not have any impact on its existence, rights and liabilities. It is a corporate business form which gives benefits of limited liability of a company and the flexibility of a partnership. It contains elements of both a company as well as a partnership firm and thus it is called a hybrid between a partnership and a company.

The Income-tax Act provides for the same taxation regime for a Limited Liability Partnership as is applicable to a partnership firm. It also provides tax neutrality (subject to fulfillment of certain conditions) to conversion of a Private Limited Company or an Unlisted Public Company into an LLP. However, Presumptive Tax Scheme u/s 44AD is not applicable to LLP.

An LLP being treated as a firm for taxation,

### Calculation of Total income:

Step 1 - Income under the different heads of income - First find out income under the four heads of income(it will not have salary income)

Step 2 - Adjustment of losses of the current year and earlier years - Losses should be set off according to the provisions of sections 70 to 78. The income after adjustment of losses is the gross total income.

Step 3 - Deduction from gross total income - Deductions specified under Chapter VI A should be considered while calculating the gross total income (same as Firm)

Step 4 - Rounding off - The balance should be rounded off to the nearest ` 10. It is called as net income or taxable income or total income.

### **Remuneration and interest.**

Remuneration and interest to partners are deductible if condition of section 40(b) and 184 are satisfied (same as a firm)

### **Taxability:**

Step 1 – Determine Net Income and tax payable thereon at a normal rate of 30%, LTCG 20%,

Casual income 30% as the case may be-

Step 2 – Add surcharge @ 12% if the total income exceeds ₹ 1 crore.

Step 3 – Add education cess (2%) and secondary and higher secondary education cess (1%)

Step 4 – Deduct rebate u/s 86, 90, 90A and 91

Step 5 – Add interest payable (if any)

Step 6 – Deduct amount of prepaid taxes paid (Advance Tax, Tax Deducted at Source, etc.)

### **Applicability of AMT( Alternate Minimum Tax) (Sec 115JC)- on FIRM/LLP**

Where the regular income tax payable by LLP/Firm for a particular previous year is less than the 'Alternate Minimum Tax' payable for such previous year, the 'adjusted total income shall deemed to be the total income and it shall be liable to pay income tax on such total income @ 18.5%

### **Adjusted total income-**

Total income as per normal provisions of I.T Act.	-----
-	
Add: deductions in respect of certain incomes ( Sec 80IA to LA)	-----
-	
Add: deductions under section 35AD	-----
-	
Add: deductions allowable u/s 35AD	-----
Less : depreciation allowable u/s 32	-----
-	
=	
<b>Adjusted total income</b>	<b>-----</b>

### **Ultimate tax liability of Firm/LLP.**

- i) Regular income tax payable as per normal provisions of IT act.
  - ii) Tax @ 18.5% on adjusted total income
- Whichever is higher

Note: surcharge and education cess are applicable in both cases at their normal rates.

### 3.2: ASSESSMENT OF ASSOCIATION OF PERSONS (A.O.P) AND BODY OF INDIVIDUAL (B.O.I)

#### Association of Persons (AOP) :

Where two or more persons voluntarily joint together in a common purpose or action with the object of producing income, Profits and Gains, they are said to have formed an Association of Persons.

#### Body of Individuals:

It is a conglomerate of individuals who happen to have come together to carry on sum activity with a view to earn income i.e. co-heirs inheriting shares or securities.

#### Distinction between AOP &BOI :

- (i) AOP may consist of non-individuals but BOI has to consist of individuals only
- (ii) An AOP is a voluntary combination of persons in a joint enterprise or common action to produce income whereas in case of BOI will only consist of two or more persons, may or may not have any common object.
- (iii) A BOI may become an AOP, but not vice versa.

#### Rules of Income tax regarding AOP/BOI

- i. Share of members of AOP/BOI shall be deemed to be unknown, if such shares (in relation to the whole or any part of the income) are indeterminate or unknown on the date of formation of such AOP/BOI or any time thereafter.
- ii. Any payment of interest, salary, bonus, commission or remuneration by the AOP/BOI to a member is not allowable as deduction.

#### Tax Rates:

Tax rates of AOP/BOI are different in following two situations-

- i) Where shares of members are determinate and known
- ii) Where shares of members are indeterminate or unknown.

Nature.	Where shares of members are determinate and known	Where shares of members are indeterminate or unknown
1. None of the members having taxable income as individual.	At the rates applicable to individual	At the maximum taxable marginal rate (30%)
2. Any member having income chargeable to tax	At the maximum taxable marginal rate (30%)	At the maximum taxable marginal rate (30%)

The amount of tax calculated shall be increased by a surcharge at the rate of 12% of such income tax in case the total income exceeds .1 crore.

#### Ascertainment of member's share in AOP/BOI where shares are determinate and its taxability [Sec. 67A, 86 & 110]

##### (i)Ascertainment of share in AOP/BOI [Sec. 67A]

Total income of the AOP/BOI

-----

<b>Less:</b> Interest, salary, commission or other remuneration paid to any member	-----
Balance apportionable to the members in proportion to their shares	-----
Share of income allotted to a member	-----
<b>Add:</b> Salary, interest, commission or other remuneration received by the member of the AOP or BOI	-----
<b>Total share</b>	-----
<b>Less:</b> Interest paid on capital borrowed for the purpose of investment in the AOP/BOI	-----
<b>Net assessable share income</b>	----

**(ii) Tax treatment of share income of members [Sec. 86 and Sec. 110]**

In computing total income of an assessee, the chargeability of the share income of a member of an AOP or BOI depends on whether the AOP or BOI is chargeable to tax at the maximum marginal rate or at slab rate or is not chargeable to tax at all.

Tax-treatment in the three cases is discussed below:

1. Where AOP or BOI is chargeable to tax at a maximum marginal rate or any higher rate, the share of profit of a member is exempt from tax. Thus, it is not to be included in the total income of the member [Sec. 86(a)]
2. Where AOP or BOI is not taxed at the maximum marginal rate but it is taxed at slab rates, the share of profit of a member from AOP or BOI is to be included in the total income of the member only for rate purposes. The member is entitled to a rebate of tax on the entire share of profit at the average rate of tax applicable to total income. [Sec. 86(b)].
3. Where AOP or BOI is not chargeable to tax at all, the share of profit of a member from AOP or BOI is included in his total income and he will pay tax on it. He is not entitled to any rebate of tax on such profits [Proviso to Sec. 86(b)].

<b>Taxation of AOP/BOI [Sec 167B ]</b>	<b>Tax treatment of share income in the hands of members of AOP/BOI [Sec. 86 &amp; 110]</b>
1. AOP or BOI is taxed at maximum marginal rate or at a higher rate.	Share income of the member is not taxable.
2. AOP or BOI is taxed at normal rates applicable	Share income computed u/s 67A is included into an Individual. The total income of the member but rebate u/s 110 at the average of tax in respect of such share income has to be allowed
3. AOP or BOI is not taxed at all.	Share income will be included in the total income of the member and taxed at the rates applicable to him.

**Rebate of Tax u/s 86.**

- i) If total income of AOP/BOI is taxable at MMR, then share of income from AOP/BOI should not be included in the individual income of members.
- ii) If total income of AOP/BOI is not taxable at all (when there no partner having taxable individual income), the share of income from AOP/BOI should be added to the individual incomes of partners and it is fully taxable. No rebate in this case.
- iii) If the AOP/BOI is taxable at rates applicable to individual, the share from the income of AOP/BOI should be added to the partner's total income and shall be eligible for rebate of tax at average rate on such share.  
Average rate =  $\frac{\text{Total Tax}}{\text{Total income}} \times 100$



**Problem: 1**

A, B and C are members of an AOP sharing profit and loss in the ratio 2:2:1 respectively. Profit and loss Account for the year is as following:

	₹		₹
Salaries and wages	16,000	Gross profit	50,700
Marketing charges	175	Profit on sale of motor car	800
Advertising	325	Profit on sale of Investment	400
General charges	11,700		
Legal expenses	2,500		
Travelling expenses	1,400		
Interest on bank loan	150		
Discount	70		
Reserve for bad debt	130		
Bad debts written off	80		
Protection money paid to tapories	1,000		
Interest on capital:			
A. 300			
B. 400			
C. 800	1,500		
Net profit	16,870		
	<u>51,900</u>		<u>51,900</u>

Compute the taxable income of the AOP and allocate it amongst the members considering the following:

- Salaries and wages include salary of ₹ 500 per month to B.
- General charges include a sum of ₹ 3,000 paid to save business reputation.
- Motor car was used wholly for business purposes. The WDV of the car was ₹ 25,000 while it was sold for ₹ 25,800.

**Solution.****Computation of total income of AOP**

Net profit	₹	16,870
Add: Disallowed items:		
Salary to B		6,000
Bad debt reserve		130
Protection money		1,000
Interest to members		<u>1,500</u>
		25,500
Less: income not taxable under this head:		
Profit on sale of car	₹ 800	
Profit on sale of investment	₹ 400	<u>1,200</u>
		24,300
<b>Business Income</b>		
Capital gain		
Profit on sale of car (STCG)		800
Profit on sale of investment		<u>400</u>
<b>Total income</b>		25,400.



### 3.3: ASSESSMENT OF CO-OPERATIVE SOCIETY

Cooperative society is a society registered under the Cooperative Societies Act, 1912, or under any other law for the time being in force in any State for registration of cooperative societies.

#### Steps in computing tax liability of Cooperative Societies

The steps are-

STEP 1: Compute gross total income, ignoring income exempt from tax u/s. 10 to 13A

STEP 2: Deduct permissible deductions u/ss. 80G, 80GGA, 80I, 80I-A 80IB, 80JJA, etc. and 80P as applicable.

STEP 3: Apply the tax rates for the relevant Assessment Year to arrive at the tax incidence.

A cooperative society is entitled, to some deduction u/s. 80P of the Income-tax Act.

#### Deduction in respect of income of co-operative societies (Section 80P)

- i. **Income from banking business:** In case of a cooperative society providing credit facilities to its members, the whole amount of profit and gains from such business are deductible.
- ii. **Income from cottage industry:** Any cooperative society engaged in the business of cottage industry, the whole amount of profit or gain earned is eligible for deduction.
- iii. **Income from marketing and processing of agricultural produce:** Any cooperative society engaged in the business of marketing and processing of agricultural produce, whole amount of profit or gain is deductible.
- iv. **Income from fishing and allied activities:** any income from fishing and allied activities is deductible.
- v. **Income from supply of milk, oil seed, fruits etc. :** whole amount of profit of such activities is deductible.
- vi. **Income from other activities-**
  - a) **Consumer cooperative society-** ₹ 1,00,000.
  - b) **In any other case-** ₹ 50,000.
- vii. Income from interest and dividend from investment in other cooperative society is exempted.
- viii. Income from letting of godowns for storage, processing or facilitating of marketing of commodities is exempted.

**The tax rates applicable are as follows :-**

Income Range	Rates of tax
1. Where the total income does not exceed ₹. 10,000	10% of the total income
2. Where the total income exceeds ₹. 10,000 but which the does not exceed ₹ .20,000	₹ 1,000 plus 20% of the amount by total income exceeds ₹10,000

3. Where the total income exceeds ₹.20,000	₹.3,000 plus 30%, of the amount by which the total income exceeds ₹. 20,000
--	---

However, the tax payable by every cooperative society shall be increased by surcharge @ 12% if the total income exceeds ₹ 1 crore, education cess @ 2% and secondary and higher education cess @ 1%.

The total amount payable as income-tax and surcharge on total income exceeding ₹ 1 crore shall not exceed the total amount payable as income-tax on a total income of ₹ 1 crore by more than the amount of income that exceeds ₹ 1 crore.

However, from the Assessment Year 2013-14, tax payable cannot be less than 18.5% of “Adjusted Total Income” in some specified cases (AMT)

### Problem: 1

From the following information related the cooperative society for the year 2015-16, you are required to compute its total income and tax payable for the assessment year 2016-17.

The society is primarily engaged in the manufacturing of fruit products (cottage industry).

	₹
1) Income from manufacturing and marketing of fruit products.	80,000
2) Interest on deposits with central co-operative society.	16,000
3) Income from other business.	48,000
4) Income from collective disposal of labour of members.	16,000
5) Interest received from listed securities.	9,000
6) Long term capital gain	25,000
7) Rent received from house property.	10,000
8) Income from lottery.	12,000
9) Society donated by cheque to chief ministers relief fund (M.P)	17,000
10) Dividend from Indian companies (Gross)	8,000

### Solution:

#### Computation of the total income of the Co-operative Society.

	₹	₹
I. Income from House Property:		
Rent (A.V)	10,000	
Less: 30% of A.V	<u>3,000</u>	7,000
II. Income from Business:		
i. Fruit business	80,000	
ii. Other business	48,000	
iii. Collective disposal of labour.	<u>16,000</u>	1,44,000
III. Long term capital gain		<u>25,000</u>

**IV. Income from other sources**

i. Interest from Central Co-operative Society	16,000
ii. Interest on listed securities:	
$9,000 \times 100/90 =$	10,000
iii. Income from lottery	12,000
iv. Dividend from Indian Company	<u>Exempt 38,000</u>
Gross Total Income	2,14,000
Less: i) Deductions u/s 80G	17,000
ii) Deductions u/s 80P	
Fruit products	80,000
Other business ( Max. ₹ 50,000)	48,000
Collective disposal of labour	16,000
Interest from central co-operative society	<u>16,000</u>
<b>Total income</b>	<b>37,000</b>

**Computation of tax.**

	₹
Tax on lottery income ₹ 12,000 @ 30%	3,600
Tax on LTCG ₹ 25,000 @ 20%	5,000
Tax on other income	<u>Nil</u>
	8,600
Add: Surcharge	<u>Nil</u>
	8,600
Add: Education cess @ 3%	<u>258</u>
	8,858.
Less: tax deducted at source:	
On lottery income @ 30%	3,600
On interest on listed securities @ 10%	<u>1,000</u>
	4,600
<b>Tax payable</b>	<b><u>₹ 4,258</u></b>

**Problem: 2**

The income of a cooperative society for the previous year ending on 31<sup>st</sup> march 2016 is as under:

- Income from house property (computed)- ₹ 4,000.
- Income from fishing and allied activities- ₹ 7,000.
- Income from processing the agricultural produce grown by its members (without aid of power)- ₹ 2,000.
- Income from interest of government securities- ₹ 3,000.
- Income from business- ₹ 68,000.
- Income from small industry established on 1<sup>st</sup> January 2005, in backward state ₹ 60,000.

The society has given a donation of ₹ 6,000 to the state government for family planning programme in the previous year.

Compute total income and tax payable by the society for the AY 2016-17.

**Solution:**

<b>Computation of total income of the society</b>		₹	₹
House property income computed			4,000
Business income			
Income from fishing	7,000		
Income from processing agricultural produce	2,000		
Other business income	68,000		
Income from small industry in backward state	<u>60,000</u>		1,37,000
Other sources			
Interest on government securities			<u>3,000</u>
	<b>Gross total income</b>		<b>1,44,000</b>
<b>Less: deductions</b>			
i) Donations u/s 80G	6,000		
ii) Small industry u/s 80IB : 25% of ₹ 60,000		15,000	
iii) u/s 80P:			
a. income from fishing	7,000		
b. processing of goods	2,000		
c. business income	<u>50,000</u>		80,000
	<b>Total income</b>	₹	<b><u>64,000</u></b>

<b>Computation of tax</b>		₹
Tax on ₹ 10,000 @ 10%		1,000
Tax on next ₹ 10,000 @ 20%		2,000
Tax on balance ₹ 44,000 @ 30%		<u>13,200</u>
		16,200
Add: surcharge		<u>Nil</u>
		16,200
Add: education cess @ 3%		<u>486</u>
<b>Tax payable</b>		<b><u>16,686</u></b>

### 3.4: ASSESSMENT OF TRUSTS

“A “Trust” is an obligation annexed to the ownership of property, and arising out of a confidence reposed in and accepted by the owner, or declared and accepted by him, for the benefit of another, or of another and the owner.”

- **Author of Trust:** The person who reposes or declares the confidence is called the “author of the trust”.
- **Trustee:** The person who accepts the confidence is called the “trustee”.
- **Beneficiaries:** The person for whose benefits the confidence is accepted is called the “beneficiary”.

In order to ascertain the incidence of tax it is essential to know the nature and character of trusts and also the mode of computation of its income and conditions for exemptions. For the purpose of levy of income-tax, trusts may be of the following types,

1. Charitable Trust
2. Private Discretionary Trust
3. Oral Trust.

#### Charitable Trusts

A charitable trust is a trust established in accordance with law for charitable purpose. Charitable purpose includes relief of the poor, education, medical relief and the advancement of any other object of general public utility. [Sec. 2(15)]. Promotion of sports and games is considered to be a charitable purpose. Charitable trusts can claim exemption u/s. 11 and rules relating to the exemptions are given below.

#### Conditions for exemption

The following essential conditions are to be fulfilled for claiming exemption u/s. 11 :-

- i. The property from which income of the trust is derived should be held for charitable or religious purposes.
- ii. The exemption is confined to such portion of the trust's income as is applied to charitable or religious purposes in India.
- iii. If the trust property comprises of a business undertaking, the income shown in the books of account should not be less than the income determined by the assessing officer according to provisions of the Income tax Act. Trusts can carry out business activities if such business activities are incidental to the attainment of its objectives and separate books of accounts are maintained.
- iv. The trust should make an application in Form No. 10A to the Commissioner of Income Tax within one year of creation of trust or the institution and such trust or institution get registered u/s. 12AA.
- v. Limit for audit of charitable institutions rationalized. Trusts and institutions covered under sections 11 and 12 to get their accounts audited only when their total income, before giving effect to the provisions of sections 11 and 12, exceeds Rs.1,00,000.
- vi. The funds of the trust should be invested or deposited in any one or more of the modes or forms [Sec. 11(5)] such as —
  - Investment in Government Savings Certificate;
  - Deposits in any Post Office Savings Bank Account;
  - Deposit in any account with any Scheduled or Cooperative Bank;

- Investment in any Central Government or State Government securities or in the units of the Unit Trust of India;
  - Investment in debentures of any corporate body, guaranteed by the Central Government or a State Government ;
  - Investments in immovable property or deposit in any public sector company ;
  - Deposit or investments in any Bond issued by a public company having main object of carrying on business of providing long term finance for urban infrastructure in India;
  - Any other form or mode of investment/deposit as may be prescribed in this behalf.
- vii. Where any income is required to be applied or accumulated or set apart for application, then, for such purposes the income shall be determined without any deduction or allowance by way of depreciation or otherwise in respect of any asset, acquisition of which has been claimed as an application of income under this section in the same or any other previous year.

In order to claim exemption, a charitable trust or institution will have to apply at least 85% of, the income to charitable and religious purposes. Where 85% of the income is not applied to charitable or religious purposes the trust or institution may accumulate or set apart either the whole or part of its income for future application for such purposes in India.

### **Special rates of tax on Certain Income of Charitable Institutions.**

#### **1) Taxation of certain anonymous donations under section 115BBC**

Income of wholly or partly charitable or religious trust etc. is exempt subject to certain conditions.

Unaccounted contribution to those institutions by way of anonymous donation a new section 115BBC has been inserted so as to provide that any income by way of anonymous donation shall be included in the total income and taxable @ 30%.

**Note :** Anonymous donation means any voluntary contribution referred to Sec 2(24)(iia).

#### **Anonymous donations to be taxed in certain cases**

(1) Where the total income of an assessee, being a person in receipt of income on behalf of any university or other educational institution or any hospital or other institution or any fund or institution or any trust or institution or any trust or institution referred to in section 11, includes any income by way of any anonymous donation, the income-tax payable shall be the aggregate of —

(i) The amount of income-tax calculated at the rate of 30% on the aggregate of anonymous donation received in excess of the higher of the following, namely:-

(A) 5% of the total donations received by the assessee; or

(B) Rs.1,00,000, and

(ii) the amount of income-tax with which the assessee would have been chargeable had his total income been reduced by the aggregate of anonymous donations received in excess of the amount referred to in sub-clause (A) or sub-clause (B) of clause (i), as the case maybe.

(2) The provisions of sub-section (1) shall not apply to any anonymous donation received by—

- (a) any trust or institution created or established wholly for religious purposes;
- (b) any trust or institution created or established wholly for religious and charitable purposes other than any anonymous donation made with a specific direction that such donation is for any university or other educational institution or any hospital or other medical institution run by such trust or institution.

(3) Anonymous Donation” means any voluntary contribution, where a person receiving such contribution does not maintain a record of the identity indicating the name and address of the person making such contribution and such other particulars as may be prescribed.

### **Forfeiture of Exemption [Sec. 13]**

The following incomes of charitable or religious trusts and institutions will not qualify for exemption u/s. 13 :-

- (i) Income from property held under a trust for private religious purpose which does not ensure for the benefit of the public. [Sec. 13(1)(a)]
- (ii) Income of a charitable trust/institution established on or after 1.4.1962 for the benefit of any particular religious community or caste. [Sec. 13(1)(b)]
- (iii) Income of religious/charitable trust/institutions established after 31.3.1962 for the benefit of any person specified in Sec. 13(3) viz. author, founder or substantial contributor of the trust or any relative of them. Where the income is used or applied during the relevant year for the direct or indirect benefit of the above mentioned persons.
- (iv) Income of a trust/institution, if its funds are invested/deposited otherwise than as specified u/s. 11(5).

### **Changes Relating To Income of Charitable Institutions.**

#### **Anonymous donations to form part of income of trust [Section 13 ]**

As per the new section 115BBC, anonymous donation shall now be taxable at the maximum marginal rate of 30%. Consequently, a new sub-section (7) has been inserted in section 13 to provide that nothing contained in section 11 or section 12 shall operate so as to exclude from the total income of the Previous Year of the person in receipt thereof, any anonymous donation referred to in the new section 115BBC on which tax is payable in accordance with the provisions of that section. In other words anonymous donation shall not be excluded from the total income of the assessee.

### **Taxation of Trust**

#### **A. Public Trust u/s. 164(2) —**

- (i) If income is not exempt u/s. 11 or 12, income of Trust is taxable at the rates applicable to an Association of Person.
- (ii) If the exemption is forfeited due to contravention of Sec. 13(1)(c) or 13(1)(d), such income of trust is taxable at maximum marginal rate.

#### **B. Private Trust (shares of beneficiaries are determinate or known) —**

- (i) If income does not include business Profits, the trustee is assessable at the rates applicable to each beneficiary. [Sec. 161(1)]
- (ii) If income includes profits from business, the whole income is taxable at maximum marginal rate. [Sec. 161(1A)]

#### **C. Private Trust (share of beneficiaries indeterminate or unknown) [Sec. 164(1)]**

—



- (i) If income does not include business profits, income is taxable at the rates applicable to an AOP if –
    - None of the beneficiaries has taxable income or is a beneficiary in any other trust. the trust is non-testamentary trust created before 1.3.1970
    - Exclusively for the relative dependents of the settlor; or
    - It is the only trust declared by a WILL exclusively for the benefit of any dependent relative. In any other case, income is taxable at maximum marginal rate.
  - (ii) If income includes business profits, the whole income is taxable at maximum marginal rate.
- D. Oral Trust [Sec. 160(1)(v), Sec. 164A] :** “Oral Trust” means a trust which is not declared by a duly executed instrument in writing including any wakf deed which is valid under the Mussalmanwakfvalidating Act, 1913 and which is not deemed to be trust by virtue of Explanation 1 to Sec. 160.
- (i) Income of Oral trust is taxable at maximum marginal rate.
  - (ii) If Oral trust is declared to be a trust by furnishing a statement in writing containing purposes, particulars and details of trust, beneficiaries and property to the assessing officer within 3 months from the date of declaration of the trust, indicating the share of beneficiaries, the income of the trust is assessable in the hands of trustee at the rates applicable to beneficiaries.
- E. Income from property held under Trust partly for religious purposes and partly for other purposes[Sec. 164(3)]**
- Where property is held under trust partly for religious purposes and partly for other purposes and the individual share of the beneficiaries in the income applicable to purposes other than charitable purposes, is not known, the Income-tax liability will be aggregated as follows :
- (i) the tax which would be chargeable on the part of the relevant income which is applicable to charitable or religious purposes (as reduced by the income which is exempt u/s. 11 as if such part were the total income of an Association of Persons); and
  - (ii) the tax on that part of income attributable to purposes other than charitable or religious and in respect of which shares of beneficiaries are indeterminate or unknown, at the maximum marginal rate.
- F. Securitisation Trust [Sections 115TA to 115TC]:** Securitisation Trust means a trust set up to undertake securitisation activities.
- (i) If income of the trust consists of business income or the participants have taxable income, then trust is subject to maximum marginal rate of tax.
  - (ii) The income from the activity of securitisation of such trust will be exempt from tax u/s 10(23DA) with effect from the Assessment Year 2014-15.
  - (iii) Such trust will be liable to pay additional income tax on income distributed to its investors @ 25% if the income is distributed to investors being Individual or HUF or 30% for other case. Such amount



of tax will be subject to increase by surcharge @12%, Education Cess @2% and Secondary and Higher Secondary Education Cess @1%.

- (iv) The additional income tax shall not be payable if the income so distributed by such trust is received by a person who is exempt from tax under the Act.
- (v) Amount of tax on distributed income shall be remitted within 14 days from the date of payment or distribution of income.

Where any part of income is not exempt u/s. 11 or 12 by virtue of sec. 13(1)(c) or (d), tax is charged on the relevant income at the maximum marginal rate. The amount of tax will be increased by surcharge @ 12% if total income exceeds ₹.1 crore, Education Cess @ 2% and Secondary and Higher Education Cess @ 1%.

### Problem: 1

Sri. Vinayaka charitable trust (Regd) submits the particulars of its income / outgoing for the previous year 2015-2016 as below:

- ₹
- i. Income from property held under trust for charitable purposes:  
10,00,000  
( ₹ 2,20,000 out of ₹ 10,00,000 is received in PY 2016-17 )
  - ii. Voluntary contributions (Out of which ₹ 50,000 will form part of the  
2,00,000  
Corpus). The trust spends ₹ 1,77,500 during the PY 2015-16 for charitable purposes.  
In respect of ₹ 2,20,000, it has exercised its option to spend it within the permissible time-limit in the year of receipt or in the immediately following the year of receipt.

The trust spends ₹ 2,00,000 during the previous year 2014-15 and ₹ 1,00,000 during the previous year 2015-16. Compute the chargeability of the trust.

### Solution:

#### Computation of taxable income of charitable trust ( for the PY 2015-16 )

	₹
i. Income from property held for charitable purposes	10,00,000
ii. Voluntary contributions ( ₹ 2,00,000 - ₹ 50,000 )	<u>1,50,000</u>
	11,50,000
Less: 15% set aside for future	<u>1,72,500</u>
	9,77,500
Less: amount spent during the PY for charitable purposes	<u>1,77,500</u>
	8,00,000
Less: income not received during the PY 2015-16	<u>2,20,000</u>
<b>Taxable income:</b>	<b><u>5,80,000</u></b>

**Tax payable.**

a. For ₹ 2,50,000	nil	
b. Next ₹ 2,50,000 @ 10%	₹ 25,000	
c. For balance ₹ 80,000 @ 20%	₹ 16,000	41,000
		<hr/>
Add: education cess @ 2%-		820
SHEC@1%-		₹ 410
Tax payable :		<hr/> <b>₹ 42,230</b>

**Problem: 2**

Krishnadas charitable trust submits the particulars of its receipts and outgoing during the Previous Year 2015-16 as below-

	₹	
i. Income from property held under trust for charitable purposes	20,00,000	
ii. Voluntary contribution ( ₹ 5,00,000 will form part of the corpus)	15,00,000	
iii. Donations paid to blind charitable school	6,00,000	
iv. Scholarships paid to poor students	4,00,000	
v. Amount spent on holding free eye camps in urban slums	3,00,000	
vi. Amount set apart for setting up an old age home by march 2018	10,00,000	

Compute the total income of the trust for the PY 2015-16 and 2018-19 if it Spends ₹ 3,00,000 during the PY 2017-18 and ₹ 5,00,000 during the previous year 2018-19 in setting up the old age home.

**Solution:**

**Computation of taxable income of trust.**

( for the PY 2015-16 )

	₹	₹
i. Income from property held under charitable trust.	20,00,000	
ii. Income from voluntary contribution ( ₹ 15,00,000- ₹5,00,000)	10,00,000	
	<hr/>	30,00,000
<b>Less:</b> 15% set apart for future application		4,50,000
Balance:		<hr/> <b>25,50,000</b>

**Less:** income applied for charitable purposes:

a. Donation to blind charitable school	6,00,000	
b. Scholarships to poor students	4,00,000	
c. Free eye camps in urban slums	3,00,000	
<b>Total</b>	<hr/> <b>13,00,000</b>	
Amount set apart for old age home	10,00,000	23,00,000
<b>Taxable income</b>		<hr/> <b>2,50,000</b>

**Computation of taxable income of trust.**

( for the PY 2018-19 )

Amount set apart for old age home	10,00,000	
<b>Less:</b> i. Amount spent during 2017-18	3,00,000	
ii. Amount spent during 2018-19	5,00,000	
<b>Taxable Income:</b>	<hr/> <b>2,00,000</b>	

## **MODULE 4**

### **INCOME TAX AUTHORITIES**

The Income-tax Act contains provisions specifying the procedure relating to the appointment of the various income-tax authorities, their powers, functions, jurisdiction and control. In addition to these the Income-tax Department follows the system of functional allocation and distribution of work with a view to specialising and concentrating in the various areas of income tax assessment, procedure, collection, recovery, refund, appeals, etc.

#### **Appointment of Income-tax Authorities (Section 117)**

The Central Government may appoint such persons as it thinks fit to be income-tax authorities. Where an income-tax authority is authorised by the Board, it may appoint such executive or ministerial staff as may be necessary to assist it in the execution of its function.

#### **Control of Income-tax Authorities (Section 118)**

The Board(CBDT) is empowered to control the income-tax authorities. It may notify that any income-tax authority will be sub-ordinate to such other income-tax authority or authorities as may be specified in the notification.

#### **Jurisdiction of Income-tax Authorities (Section 120)**

Income-tax authorities are required to exercise or perform such powers or functions as are assigned to them by the Board. Any income-tax authority, being an authority higher in rank, may, if so directed by the Board exercise the powers and performs the functions of the income-tax authority lower in rank and any such direction issued by the Board. The Board may authorise any other income-tax authority to issue orders in writing for the exercise of the powers and performance of the functions by all or any of the income-tax authority who are subordinate to it. While issuing such directions, the Board or any other income-tax authority authorised by it may take into account (i) territorial area, (ii) persons or classes of persons, (iii) incomes or classes of income, and (iv) cases or classes of cases.

The following are the income-tax authorities who are statutorily empowered to administer the law of Income-tax:

- (i) The Central Board of Direct Taxes [C.B.D.T]
- (ii) Directors-General of Income-tax/Chief Commissioners of Income-tax/ Principal Commissioners of Income-tax
- (iii) Directors of Income-tax / Commissioners of Income-tax / Commissioners of Income-tax (Appeals).
- (iv) Additional Directors of Income-tax/Additional Commissioners of Income-tax /Additional Commissioners of Income-tax (Appeals)
- (v) Joint Directors of Income tax or Joint Commissioners of Income-tax.
- (vi) Deputy Directors of Income-tax or Deputy Commissioners of Income-tax or Deputy Commissioners of Income-tax (Appeals).
- (vii) Assistant Directors of Income-tax or Assistant Commissioners of Income-tax.
- (viii) Income-tax (Assessing) Officers.
- (ix) Tax Recovery Officers.

- (x) Inspectors of Income-tax.

### **The Central Board Of Direct Taxes (CBDT)**

- 1) **Appointment and Working of the Board:** The Central Board of Direct Taxes was created under the Central Boards of Revenue Act, 1963. The Board in its working is closely associated with the Ministry of Finance.
- 2) **Jurisdiction:** It is the topmost executive authority in the sphere of direct taxes. Its powers of administration supervision and control extend over the whole department.
- 3) **Powers:**
  - i. **Power to make Rules:** It has the power to make rules for carrying out the purposes of this Act. The Rules may be made for whole or any part of India. (Under Section 295)
  - ii. **To issue instructions:** It may issue orders, instructions and directions to all officers and persons employed in the execution of the Act (Under Section 119).
  - iii. **Power to relax mandatory provisions:** The Board is empowered to relax the provision relating to the charge of mandatory interest for defaults in deduction of tax at source, or payment of such tax or payment of advance tax or interest for defaults in furnishing return or interest for defaults in payment of advance tax or assessment and recovery of tax. The Board is also empowered to relax the provisions relating to the computation of total income and deductions to be made in computing total income in cases of genuine hardship. It can be done by a general or special order and for reasons to be specified therein.
  - iv. **Power to admit belated refund application:** To avoid genuine hardship in any case or class of cases, the Board may authorise any income-tax authority, not being Commissioner (Appeals) to admit belated application or claim for any exemption, deduction, refund or any other relief (Section 119)
  - v. **Power to decide jurisdiction:** The Board is empowered to decide jurisdictional matters of any income tax authority and assign to them such functions as are to be performed by them (Section 120).
  - vi. **Power to disclose information:** The Board may disclose information relating to any assessee, to any officer, authority, or body performing any functions under any tax law relating to the imposition of any tax, duty or cess or dealing in foreign exchange if it considers such disclosure in public interest. The Board may also authorise any other income-tax authority to disclose such information. The provision is intended to facilitate exchange of information about tax evaders. (Section 138).

### **Director-General /Principal Director-General /Chief Commissioner of Income-Tax**

- 1) **Appointment** : Central Government.
- 2) **Jurisdiction** : determined by CBDT, keeping in view the area, persons, incomes and cases.
- 3) **Powers** :
  - i. **To appoint an income-tax authority below the rank of an Assistant Commissioner (Section 117):** If so authorised by the Central Government a

- Director-General or Director may appoint an income- tax authority below the rank of Assistant Commissioner.
- ii. **To delegate the powers of Assessing Officer to Joint Commissioner (Section 120):** Where Director-General or Director is so authorised by the Board, he may delegate the powers and functions of the Assessing Officer to Joint Commissioner.
  - iii. **To transfer cases (Section 127):** The Director-General may transfer any case from one or more Assessing Officers subordinate to him to any other Assessing Officer also subordinate to him.
  - iv. **Enquiry into concealment (Section 131)** If the Director-General or Director or Deputy Director or Assistant Director has reason to suspect that any income has been concealed, or is likely to be concealed, by any person or class of persons, within his jurisdiction, he is empowered to make any enquiry or investigation relating thereto notwithstanding that no proceedings with respect to such person or class of persons are pending before him/
  - v. **Search and seizure (Section 132):** Where the Director- General/ Director/Chief Commissioner/ Commissioner in consequence of information in his possession is empowered to authorise any Deputy Director, Deputy Commissioner, Assistant Director or Assessing Officer to enter and search any building, place, vessel, vehicle or aircraft, where he has reason to suspect about their availability and seize any such books of accounts, other documents, money, bullion, jewellery or other valuable article or thing where any involvement in tax frauds are present.
  - vi. **To requisition books of account/Assets etc. (Section 132A):** Where any books of account or documents have been taken into custody by any officer or authority under any other law and the Director General or Director or the Chief Commissioner or Commissioner, in consequence of information in his possession he may authorise any Deputy Director, Deputy Commissioner, Assistant Director, Assistant Commissioner or Income-tax Officer to require such officer or authority under any other law to deliver such books of account or documents or such assets to the requisitioning officer under income-tax law. On a requisition being made, such officer or authority under any other law is required to deliver such books of accounts or documents or assets to the requisitioning officer either forthwith or after such time when it is no longer necessary to retain them in his custody.
  - vii. **To make any enquiry (Section 135):** The Director-General or Director is competent to make any enquiry under this Act.

#### **Commissioner/Director/Additional Commissioner of Income-Tax**

- i. **Appointment** : Central Government
- ii. **Jurisdiction** : Determined by CBDT, keeping in view the area, persons, incomes and cases.
- iii. **Powers** :
  - a. **To appoint an income-tax authority below the rank of Assistant Commissioner (Section 117):** If so authorised by the Central Government, a Chief Commissioner or Commissioner may appoint an income-tax authority below the rank of Assistant Commissioner.

- b. To delegate the powers of Assessing Officer to Deputy Commissioner (Sec 120):** Where Chief Commissioner or Commissioner is so authorised by the Board, he may delegate the powers and functions of the Assessing Officer to Joint Director or Joint Commissioner.
- c. To transfer case (Section 127):** The Chief Commissioner or Commissioner is empowered to transfer any case from any Assessing Officers to any other Assessing Officer or Assessing Officers.
- d. Power regarding discovery, production of evidence etc. (Section 131):** The Chief Commissioner/ Commissioner has the powers in respect of discovery and inspection, compelling production of books of accounts and other documents before him for such time as he thinks fit.
- e. Search and seizure (Section 132):** Like Director-General or Director, the Chief Commissioner or Commissioner of Income-tax has also got the powers of search and seizure.
- f. To requisition books of accounts etc. (Section 132A):** Like Director-General or Director of Income tax, the Chief Commissioner or Commissioner is also vested with the power to requisition books of accounts.
- g. Power of survey (Section 133A):** An income-tax authority may enter any office, or any other place for the purpose of verifying whether tax has been deducted or collected at source in accordance with the relevant provisions. Provided that such place is within the limits of the area assigned to him.
- h. To make any enquiry (Section 135):** The Chief Commissioner or Commissioner is competent to make any enquiry under this Act.
- i. Disclosure of information respecting assesses (Section 138):** Where a person makes an application to the Chief Commissioner or Commissioner in the prescribed form for any information relating to any assessee in respect of any assessment, he may furnish the information asked for in respect of that assessment if he satisfied that such disclosure is in public interest.
- j. To sanction reopening of the assessment after the expiry of four years (Sec 151):** The assessment of an income which has escaped assessment can be reopened after the expiry of four years from the end of the relevant assessment year only if the Chief Commissioner or Commissioner has sanctioned such reopening.
- k. To approve withholding of refund in certain cases (Section 241):** Where any proceeding is pending against the assessee and the Assessing Officer is of the opinion that the grant of the refund may adversely affect the revenue, the Chief Commissioner or Commissioner may authorise the Assessing Officer to withhold the refund till such time as the Chief Commissioner or Commissioner may determine.
- l. Set-off of refund against arrears of tax (Section 245):** The Chief Commissioner or Commissioner is empowered to set off the amount of refund or any part thereof due to any person against the arrears of the tax due from such person. Any intimation in writing to this effect should be given to such person.
- m. To direct the Assessing Officer to prefer appeal to the Tribunal against A.A.C.'s order (Section 253):** The Commissioner may, if he objects to any



order passed by a Commissioner (Appeals), direct the Assessing Officer to appeal to the Appellate Tribunal against the order.

- n. **To revise any order passed by the Assessing Officer which is prejudicial to revenue (Section 263):** The Commissioner may revise any order passed by the Assessing Officer which is prejudicial to the interest or revenue.
- o. **Revision of any order passed by a subordinate authority on application by the assessee or suo motu (Section 264):** The Commissioner may revise either on his own motion or on an application made by the assessee within the prescribed time for such revision, any order passed by an authority subordinate to him.

### **Commissioner/Director/Additional Commissioner of Income-Tax**

- i. **Appointment** : Central Government.
- ii. **Jurisdiction** : Determined by CBDT, keeping in view the area, persons, incomes and cases.
- iii. **Powers** :
  - a. **Power regarding discovery, production of evidence (Section 131):** Like Chief Commissioner or Commissioner, the power regarding discovery, production of evidence etc., can also be exercised by the Commissioner (Appeals).
  - b. **Power to call for information (Section 133):** The Commissioner of Income-tax may ask person to furnish information regarding the details submitted by the assessee.
  - c. **Power to inspect register of companies (Section 134):** The Commissioner (Appeals) may inspect and, if necessary, take copies of any register of members, debenture holders or mortgagees of any company or of any entry in such register.
  - d. **Set-off of refund against arrears of tax (Section 245):** The Commissioner (Appeals) is empowered to set off the amount of refund or any part thereof due to any person against the arrears of tax due from such person. Intimation in writing to this effect should be given to such person.
  - e. **Disposal of appeal (Section 251):** In disposing of an appeal, the Commissioner (Appeals) has several powers regarding the decisions taken by assessing officer to correct and make changes if required.
  - f. **Imposition of penalty (Section 271):** The Commissioner (Appeals) may impose penalty for not producing the books of accounts or other documents or for concealment of income.

### **Joint Commissioner or Joint Directors of Income Tax.**

- i. **Appointment** : Central Government
- ii. **Jurisdiction** : Determined by CBDT or any other authority so authorised.
- iii. **Powers** :
  - a. He is empowered to accord sanction to levy additional income tax on companies in which public are not substantially interested.
  - b. He may be authorised by the board or Chief Commissioner to exercise the powers of assessing officers.
  - c. He has the power to cancel the registration of a firm which is not genuine.



- d. He has the power to issue instructions to assessing officer to revise an order issued by income tax officer, if he has received an application from assessee regarding a pending case.

### **Assessing Officer or Income Tax Officer.**

The assessing officer is the most important authority of income tax department since he is the primary authority to initiate assessment proceeding. He is the only to collect tax and primary coming in contact with the public.

**Jurisdiction :** The jurisdiction of assessing officer is determined by CBDT, considering the territorial area, income, persons and cases. The assessing officer shall perform his function in his jurisdiction as the above mentioned authorities may instruct.

Powers :

- 1) **Power of Civil Court.** Assessing officer will have the power of civil court when trying to suit in respect of the following,
  - a) Discovery and Inspection.
  - b) Enforcing the attendance of any person and examining him under oath.
  - c) Compelling a person to produce books of accounts and other documents.
  - d) Issuing commissions.
- 2) **Power of Search and Seizure.** The assessing officer have the right to search any building, place, vessel, vehicle or aircraft and seize books of account, other documents, money, bullion, jewellery or other valuable articles or things.
- 3) **Power of assessment.** The assessing officer have the following powers relating to assessment
  - a) Power regarding self-assessment.
  - b) Power of making regular assessment and best judgement assessment.
  - c) Power to reopen assessment.
  - d) Power to reopen an assessment in case income has escaped assessment.
  - e) Power to treat a person as agent.
  - f) Power to assess a person leaving India.
- 4) **Power to call for information.** Assessing officer has the power to call for necessary information from firm and H.U.F.
- 5) **Power of Survey.** An assessing officer may enter any place where business or profession is carried on, if such place is within the limits of his jurisdiction.
- 6) **Power to inspect Registers of Companies.** Assessing officer can inspect and take copies of any register of members, debenture holders, and mortgagees of company.

### **Income tax Inspector.**

They are appointed by Chief Commissioner or commissioner of income tax and are subordinate to Assessing Officers. They assist assessing officers in performing their duties. They have the power to inspect books of account and other documents, place marks of identification and to take statements at any function, ceremony or event.

### Advance payment of tax. (Sec 207-219)

Advance payment of tax is the process of paying income tax in a financial year on estimated income which is to be assessed in the subsequent assessment year. It follows the doctrine known as pay as you earn scheme.

#### Who is liable to pay?

It is obligatory for an assessee to pay advance tax where the advance tax payable is .10,000 or more (Section 208) . In order to reduce the burden on senior citizens( above age 60) exemption from payment of advance tax is given if he is not having any income chargeable under the head “Profits and gains of business or profession”

The computation of advance tax liability, under different situations, is to be done as follows:

#### Due Dates for Payment of Advance Tax (sec 4)

Particulars	In case of corporate assessees	In case of non-corporate assessees
On or before June 15 of the Previous year	Upto 15% of the Advance Tax due	-----
On or before September 15 of the previous year	Upto 45% of the Advance Tax due as reduced by amount paid in earlier instalments	Upto 30% of the advance tax payable
On or before December 15 of the previous year	Upto 75% of the Advance Tax due as reduced by amount paid in earlier instalments	Upto 60% of the advance tax as reduced by amount paid payable in earlier instalments
On or before March 15 of the previous year.	Upto 100% of the Advance Tax due as reduced by amount paid in earlier instalments.	Upto 100% of the advance tax payable as reduced by amount paid in earlier instalments.

Any payment of advance tax payable made before March 31 shall be treated as advance tax paid during the financial year. In case of public holiday or bank holiday, date of payment automatically falls in the next working day and for that delay. Tax to be computed at the prevailing rate on the current income of the assessee, in a financial year.

#### Procedure of Collection of Advance Tax under Notice.

- i. Due date for payment of Tax (sec 220): Any amount of tax other than advance tax specified as payable in a notice of demand shall be paid within 30 days.
- ii. Reduction of time limit: if the assessing officer has any reason to believe that it would be detrimental to revenue if the full 30 days period is allowed, he may reduce the period to less than 30 days.
- iii. Extension of time limit: the assessing officer may extend the time limit on the basis of application received by the assessee to pay the tax demanded.

## Role of Assessing Officer in relation to Advance Payment of Tax

An Assessing Officer can order payment of advance tax if the following conditions are satisfied:

- i. The assessee has already been assessed by way of regular assessment in respect of total income of any previous year.
- ii. Failure to pay advance tax by such assessee, in spite of legal obligation.
- iii. The Assessing officer is of the opinion that such person is liable to pay advance tax on current year's income.
- iv. The order must specify the amount of advance tax and instalments in which advance tax has to be paid.
- v. Such order may be passed during the previous year but not later than last day of February.
- vi. The order must be made in writing.

The assessee can pay advance tax at a rate lower than assessment made by the Assessing Officer and the department cannot object to such assessment, but the assessee has to furnish his own estimate of lower current income.

The Assessing Officer will find out the current income on the following basis:

- (i) Total income of the latest previous year in respect of which the assessee has been assessed by way of regular assessment;
- (ii) The total income returned by the assessee for any previous year subsequent to the previous year for which regular assessment is made. Whichever is higher,

On receipt of the order from assessing officer the assessee have to pay the advance tax accordingly.

**Assessee in default:** The assessee shall be deemed to be in default if the amount specified in the notice is not paid within the time allowed. The amount of default will be the amount outstanding.

### Consequences of Non-Payment ( Assessee in Default);

- i. **Interest for belated payment of tax:** The assessee shall be liable to pay a **simple interest @ 1% per month.**
- ii. **Penalty:** The assessing officer may direct the assessee to pay a penalty not exceeding the amount of tax in arrears. In case the assessee proves to the satisfaction of assessing officer that the default was for good and sufficient reasons, no penalty shall be levied.

### Recovery of Tax:

- i. **Certificate of recovery:** when an assessee makes default, the recovery officer may draw up a statement under his signature in Form no. 57 specifying the amount of arrears due from the assessee, such a statement is called certificate of recovery.
- ii. **Modes of recovery of tax (sec 222):** The amount specified in the certificate may be recovered by any one or more of the following modes.
  - a. Attachment and sale of assessee's movable property.
  - b. Attachment and sale of assessee's immovable property.
  - c. Arrest of the assessee and his detention in prison.
  - d. Appointing a receiver for the management of assessee's movable and immovable properties.
- iii. **Other modes of recovery**
  - a. Recovery through state government.
  - b. Recovery of tax in pursuance of agreements with foreign countries.
  - c. Recovery from the future salary payable to the defaulting assessee.

### Deduction of tax at source (TDS).

Any person responsible for making payment of certain category of incomes is liable to deduct tax at source at an appropriate occasion. The IT law prescribes time

when the TDS is to be made, rate at which it should be made, and when TDS should be paid to the government.

Following chart shows the TDS rates and it's applicability in important cases-

<b>Nature of income</b>	<b>Threshold limit</b>	<b>Person responsible to make TDS</b>	<b>Nature of payee</b>	<b>Rate of TDS</b>
Salary	Maximum amount not liable to tax for employee	Employer	Employee having taxable salary	Income tax computed on the estimated salary of the financial year
Interest on securities	₹ 10,000	Person issuing security	Any person	@10% if PAN provided @20% if PAN is not provided
dividend	Nil	Company	Any person	@10% if PAN provided @20% if PAN is not provided
Any interest other than interest on securities	Exceeding ₹ 5,000 in a year or 10,000 in case payer is banking company, co-operative society or post office.	Any person other than individual or HUF	Any resident in India.	@10% if PAN provided @20% if PAN is not provided.
Winnings from lottery, crossword puzzle etc	₹ 10,000	Any person	Any person	30%
Winning from horse race	₹ 5,000	Any person	Any person	30%
Any payment in pursuance of any contract	If a contract exceeds ₹ 30,000 or Total contract with same contractor exceeds ₹ 75,000	Central or state government/local authority/company cooperative society etc	Any resident contractor	If the recipient is an individual/ HUF= 1% Any other person= 2% If PAN is not provided 20%.
Insurance commission	₹ 20,000	Any person	Any resident	10% if PAN provided, 20% if PAN is not provided
Any sum out of	₹ 2,500	Any person	Any person	20%

National saving scheme u/s 80CCA				
Amount of repurchase of relevant units covered u/s 80CCB	Nil	Any person	Any person	20%
Commission on lottery prize	Exceeding ₹1,000	Any person	Any person purchasing or selling lottery tickets	10%
Commission or brokerage	Exceeding ₹ 5,000 p.a	Other than individual or HUF	Any person	10% if PAN provide, 20% if PAN is not provided
Rent	₹ 1,80,000	Other than individual and HUF	Any person	2% on plant and machinery. 10% on land or building
Immovable property acquisition	₹ 2,00,000 p.a	Any person	Any resident person	10% if PAN provided, 20% if PAN not provided.

### Tax Collected at Source (TCS).

Every seller at the time of debiting the buyer with the amount payable or receiving payments from buyers engaged in business of alcoholic liquor, forest produce, timber, mines and quarries, bullion and jewellery etc shall collect tax at the following rates-

- Alcoholic liquor for human consumption @ 1%.
- Timber @ 2.5%.
- Scrap @ 1%
- Minerals being coal, iron ore etc @ 1%.
- Bullion if sale price exceeds ₹ 2 lac @ 1%.
- Jewellery if sale price exceeds ₹ 5 lac @ 1%.
- Person who grants a lease or a license or enters into a contract for the purpose of parking lot, toll plaza, mining and quarrying TCS @ 2% should be collected.

### Filing of TDS and TCS statements.

Any person deducting or collecting tax in accordance with the provisions of the act has to furnish , within the prescribed time, quarterly statements for the period ending on the 30<sup>th</sup> June, 30<sup>th</sup> September, 31<sup>st</sup> December and 31<sup>st</sup> March in each financial year.

## **MODULE 5**

### **ASSESSMENT PROCEDURE- FILING OF RETURN.**

#### **Return of income.**

The procedure under the Income-tax Act for making an assessment of income begins with the filing of a return of income. Section 139 of the Act contains the relevant provisions relating to the furnishing of a return of income. According to the section, it is statutorily obligatory for every person to furnish a return of his total income or the total income of any other person in respect of which he is assessable under the Income-tax Act (deemed assessee). If his total income exceeds the maximum amount which is not chargeable to income-tax, in any relevant accounting year. The return of income must be furnished by the assessee in the prescribed manner by the Board from time to time. It should be obligatory for the firm to file return of income in every case. Further, in respect of individual, HUF, AOP, BOI, Artificial juridical Person, filing of return of income shall be compulsory if their total income before allowing deductions under Sections 10A, 10B, 10BA or chapter VI-A exceeds the maximum amount which is not chargeable to income tax.

#### **Exemption from filing of Return of Income**

CBDT has clarified that under what conditions exemption from filing of return is available. Exemption is available to salaried employees from the requirement of filing the returns for A.Y. 2012-13. The exemption is applicable only if all the following conditions are fulfilled: -

- Employee has earned only salary income and income from savings bank account and the annual interest earned from savings bank account is less than ₹10 thousand.
- The total Income of the employee does not exceed ₹ 5 Lakh (Total Income means Gross Total Income Less deductions under Chapter VIA).
- The Employee has reported his PAN to the employer.
- Employee has reported his income from interest on savings bank account to employer.
- Employee has received Form 16 from his employer.
- Total Tax Liability of employee has been paid off by employer by way of TDS and employer has deposited TDS with central government.
- Employee has no refund claim.
- Employee has received salary only from one employer.
- Employee has not received any Notice from Income Tax Department for filing of Income Tax return.

#### **Due date for filing return of income**

The assessee is obliged to voluntarily file the return of income without waiting for the notice of the Assessing Officer calling for the filing of the return. The time limit for filing of the return by an assessee if his total income of any other person in respect of which he is assessable exceeds the maximum amount not chargeable to tax, shall be as follows:

(a) where the assessee is –

- (i) a company,
- (ii) a person, other than a company whose accounts are required to be audited under the Income-tax Act or any other law, for the time being in force,



(iii) a working partner of a firm whose accounts are required to be audited under this Act or under any law for the time being in force, the **30th day of September** of the Assessment Year.

(b) In the case of an assessee being a **company**, which is required to furnish a report referred to in section 92E, the **30th day of November** of the assessment year.

(c) in the case of **any other assessee**, the **31st day of July** of the Assessment Year.

### **E-filing of Return**

Filing of Income Tax Returns is a legal obligation of every person who total for the previous year exceeds the exemption limit provided under the Income Tax Act, 1961. The Income Tax Department has introduced on line facility in addition to conventional method to file return of income. The process of electronically filing of Income Tax return through the mode of internet access is called e-filing of return. E-filing offers convenience of the tax payers. The only obligation for the user of this facility is to have a PAN number. There are eight forms from ITRI to ITR-8 for e-filing of returns. There is a provision e-filing for digital signature by the assessee.

### **Revised return**

An assessee who is required to file a return of income is entitled to revise the return of income originally filed by him to make such amendments, additions or changes as may be found necessary by him. Such a revised return may be filed by the assessee at any time

- before the expiry of one year from the end of the relevant assessment year
  - before the completion of assessment
- whichever is earlier.

### **Defective return.**

If the Assessing Officer considers that the return of income furnished by the assessee is defective, he may intimate the defect to the assessee and give him an opportunity to rectify the defect within 15 days from the date of such intimation or within such further period as may be allowed by the Assessing Officer on the request of the assessee. If the assessee fails to rectify the defect within the aforesaid period, the return shall be deemed to be invalid and further it shall be deemed that the assessee had failed to furnish the return. However, where the assessee rectifies the defect after the expiry of the aforesaid period but before the assessment is made, the Assessing Officer may condone the delay and treat the return as a valid return.

### **Return of loss.**

The requirements of Income-tax Act making it obligatory for the assessee to file a return of his total income even in cases where the assessee has incurred a loss. These losses may be under the head 'profits and gains from business or profession' or loss from maintenance of race horses or under the head 'Capital gains'. Unless the assessee files a return of loss in the manner and within the same time limits as required for a return of income, the assessee would not be entitled to carry forward the loss for being set off against income in the subsequent year.

### **Belated return.**

Any person who has not filed the return within the time allowed under section 139(1) or within the time allowed under a notice issued by the Assessing Officer under section 142(1) may file a belated return



- at any time before the expiry of one year from the end of the relevant assessment year or
- before the completion of the assessment
- whichever is earlier.

### **PAN (Permanent Account Number).**

Every person, who has not been allotted any permanent account number, is obliged to obtain permanent account number, if;

- if his total income assessable during the previous year exceeds the maximum amount which is not chargeable to tax or
- any person carrying on business or profession whose total sales turnover or gross receipts are or is likely to exceed ₹ 5,00,000 in any previous year or
- is required to furnish a return of income under Section 139(4A)

Besides above cases, the Assessing Officer may also allot a permanent account number to any other person by whom tax is payable. Any other person may also apply for a permanent account number. However, Section 139 has been amended w.e.f. August 1, 1998 and provides the alternative of quoting GIR (General Index Register) number till such time the permanent account number is allotted.

It shall be the duty of every person who has been allotted permanent account number to quote such number in all his returns or correspondence with Income tax authorities, quote such numbers in all challans for the payment of any sum, quote such number in all documents pertaining to such transactions as may be prescribed by the Board in the interest of revenue.

Now quoting PAN is compulsory in the following transactions:

- a. Sale/purchase of any immovable property valued at ₹ 5 lakhs or more.
- b. Sale/Purchase of Motor vehicle or a vehicle (excluding two wheeled vehicle, inclusive of any detachable side-car having an extra wheel) which requires registration under Motor Vehicles Act, 1988.
- c. Time deposit exceeding ₹ 50,000 with a Bank/Banking Company/Banking Institution.
- d. Deposit exceeding ₹ 50,000 in Post Office Savings Bank.
- e. Contract for sale/purchase of securities exceeding ₹ 1 lakh.
- f. Opening an account [not being time deposit mentioned in (c)] with a Bank/Banking Company/Banking Institution.
- g. Application for installation of a telephone connection including mobile phone.
- h. Payments to hotels of bills exceeding ₹ 25,000/- at any one time.
- i. Payment in cash for purchase of bank drafts or pay orders or banker's cheque for an amount of ₹ 50,000 or more during any one day.
- j. Deposit in cash aggregating ₹ 50,000 during any one day.
- k. Payment in cash in connection with travel to any foreign country of an amount exceeding ₹ 25,000 at any one time.
- l. Making an application to any banking company or to any other company or institution for issue of a credit or debit card.
- m. Payment of an amount of ₹ 50,000 or more to a Mutual Fund for purchase of its units.

- n. Payment of ₹ 50,000 or more to a company for acquiring shares or debentures or bonds issued by it.
- o. Payment of ₹ 50,000 or more to RBI for acquiring bonds issued by it.
- p. Payment of an amount of ₹ 50,000 or more as life insurance premium to an insurer.
- q. Payment to a dealer
  - (i) of an amount of ₹ 5 lakh or more at any one time, or
  - (ii) against a bill for an amount of ₹5 lakh or more for purchase of bullion or jewellery.

Every person, receiving any document relating to the prescribed transactions, shall ensure that the permanent account number has been duly quoted in the document. The Board has been empowered to make rules in relation to the form and the manner in which the application for the allotment of a permanent account number and the particulars which such application will contain, prescribing the categories of transactions and the categories of documents pertaining to business or profession in which the permanent account numbers shall have to be quoted by every person. The “permanent account number under the new series” has been defined to mean a number which will have ten alphanumeric characters to be issued on a laminated card.

### **Types of assessments.**

- (a) Self assessment (Section 140A)
- (b) Regular assessment (Section 143)
- (c) Best judgement assessment (Section 144)
- (d) Income escaping assessment or re-assessment (Section 147)
- (e) Precautionary assessment.
- (f) Assessment in case of search or requisition (Section 153A)

#### **(A) Self-Assessment (Section 140A)**

Self-assessment is the first step in the process of assessments. Self-Assessment is simply a process where a person himself assesses his tax liability on the income earned during the particular previous year and submits Income Tax Return to the department. Every person, before furnishing return under sections 139(return of income), 142(1), 148 (issue of notice where income has escaped assessment) and 153A (Assessment in case of search or requisition) shall make self-assessment of his income and pay the tax, if due on the basis of such assessment. The total tax payable is calculated on the total income of the assessee after considering the following amount:

- i. the amount of tax already paid under any provision of this Act;
- ii. any tax deducted or collected at source;
- iii. any relief of tax or deduction of tax claimed under section 90 or section 91 on account of tax paid in a country outside India;
- iv. any relief of tax claimed under section 90A on account of tax paid in any specified territory outside India referred to in that section; and
- v. any tax credit claimed to be set off in accordance with the provisions of section 115JAA or section 115JD.

Such determined value of tax along with the interest payable under any provision of this Act for any delay in furnishing the return or any default or delay in payment of

advance tax is paid before furnishing the return and the proof of payment of such tax is attached with the return. The work of income tax department became easy due to the system of Self-Assessment

### **(B) Scrutiny (Regular) Assessment [Section 143(2) & (3)]**

Where a return has been made under Section 139, or in response to a notice under Sub-section (1) of Section 142, the Assessing Officer shall, if he considers necessary or expedient to ensure that the assessee has not understated the income or has not computed excessive loss or has not underpaid the tax in any manner, serve on the assessee a notice requiring him, on a date to be specified therein, either to attend his office or to produce, or cause to be produced there, any evidence on which the assessee may rely in support of the return: Provided that no notice under this sub-section shall be served on the assessee after the expiry of six months from the end of the Financial year in which the return is furnished. On the day specified in the notice issued under Sub-section (2), or as soon afterwards as may be, after hearing such evidence as the assessee may produce and such other evidence as the Assessing Officer may require on specified points, and after taking into account all relevant material which he has gathered, the Assessing Officer shall, by an order in writing, make an assessment of the total income or loss of the assessee, and determine the sum payable by him or refund of any amount due to him on the basis of such assessment.

### **(C) Best Judgement Assessment U/S 144**

The Assessing Officer, after taking into account all relevant material which he has gathered, and after giving the assessee an opportunity of being heard, makes the assessment of the total income or loss to the best of his judgment and determine the sum payable by the assessee on the basis of such assessment in the following cases:

- i. If any person fails to make the return required under section 139(1) and has not made a return or arevised return under section 139(4) or 139(5), or
- ii. When a person fails to comply with all the terms of a notice issued under section 142(1) or fails to comply with a direction issued under section 142(2A) for getting the accounts audited, or
- iii. If any person having made a return, fails to comply with all the terms of a notice issued under section 143(2).

Prior to the proceedings the assessing officer should issue a show cause notice to the assessee. However if the assessee has already issued notice under section 142(1)(i) and the assessee has not complied with the terms then assessing officer can proceed further without issuing a show cause notice. Further assessing officer cannot assess the income below returned income and cannot assess losses higher than the returned losses. A refund cannot be granted under section 144. The assessing officer can also reject the accounts book under section 145 and can make best judgment assessment under section 144 if:

- a. The accounts books are incorrect, false or incomplete.
- b. If the accounting method employed is such that the profit cannot be derived from it correctly.
- c. Where the method of accounting adopted by the assessee is not followed by him regularly or income has not been computed in accordance with notified standards.

- d. If the assessee has not followed the income computation and disclosure standards notified by the government.

There are two types of best judgement assessments-

- i. **Compulsory best judgement asset:** It is made by the assessing officer in case of non-cooperation on the part of the assessee or when the assessee is in default as regards supplying information.
- ii. **Discretionary best judgement assessment:** it is done in cases where assessing officer is not satisfied in the correctness or the completeness of the accounts of the assessee.

#### **(D) Income Escaping Assessment or Re-Assessment (Section 147)**

If the Assessing Officer has reason to believe that any income chargeable to tax has escaped assessment for any assessment year, he may, subject to the provisions of sections 148 to 153,

- assess or reassess income which has escaped assessment or
- recompute the loss or the depreciation allowance or any other allowance, as the case may be for the relevant assessment year.

According to Section 147, the Assessing Officer shall serve on the assessee a notice requiring him to furnish, within such period, as may be specified in the notice, a return of his income or the income of any other person in respect of which he is assessable under this Act during the previous year corresponding to the relevant assessment year, in the prescribed form.

**The following shall also be deemed to be cases where income chargeable to tax has escaped assessment, namely :**

- i. where no return of income has been furnished by the assessee although his total income or the total income of any other person in respect of which he is assessable under this Act during the previous year exceeded the maximum amount which is not chargeable to income-tax.
- ii. where a return of income has been furnished by the assessee but no assessment has been made and it is noticed by the Assessing Officer that the assessee has understated the income or has claimed excessive loss, deduction, allowance or relief in the return.
- iii. where the assessee has failed to furnish a report in respect of any international transaction which he was so required under section 92E.
- iv. where an assessment has been made, but
  - a. income chargeable to tax has been under assessed ; or
  - b. such income has been assessed at too low a rate ; or
  - c. such income has been made the subject of excessive relief under this Act ; or
  - d. excessive loss or depreciation allowance or any other allowance under this Act has been computed;
  - e. where a person is found to have any asset (including financial interest in any entity) located outside India.

The assessing officer before making the assessment under this section will have to issue notice u/s 148 to the assessee requiring him to file the return even if he has already filed the return under section 139 or 142(1). The Assessing officer is duty bound to provide the assessee the reasons recorded by him, if the assessee request for

it. If on request the reasons are not supplied then Assessing officer cannot proceed the assessment.

**(E) Precautionary Assessment.**

Where it is not clear that as to who has received the income, the assessing officer can commence proceedings against the persons to determine the question as to who is responsible for the payment of tax.

**(F) Assessment in case of search or requisition (Section 153A)**

This assessment is initiated when search is initiated under section 132 or books of accounts are requisitioned under section 132A. The assessment procedure is as follows-

- i. Assessing officer issues notice to the assessee, and such person has to furnish a return as may be specified in the notice.
- ii. Such return shall be filed in respect of six assessment years immediately preceding to the assessment year in which the search was conducted.
- iii. The assessing officer shall assess or reassesses the total income of each year.
- iv. If any discrepancies found in the assessment or reassessment the assessing officer can take necessary actions prescribed by the law.
- v. The central government is empowered to notify classes of cases in which the assessing officer shall not be required to issue notice for initiation of assessment for six assessment years immediately preceding to the relevant assessment year.

The assessing officer is not required to issue notice for assessing in the following cases- Where a person is found to be in possession of any money, bullion, jewellery, or other valuables etc in search or reacquisition of accounts.

- vi. The tax shall be chargeable to the rate or rates applicable to such assessment year.