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CMA – INTER PAPER 7 – DIRECT TAXATION

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## Contents

BASIC CONCEPTS.....	4
RESIDENCE STATUS .....	12
AGRICULTURAL INCOME .....	24
INCOMES WHICH DO NOT FORM PART OF TOTAL INCOME.....	29
INCOME FROM SALARIES .....	36
INCOME FROM HOUSE PROPERTY .....	62
PROFITS OR GAINS OF BUSINESS OR PROFESSION .....	69
CAPITAL GAINS .....	107
INCOME FROM OTHER SOURCES.....	132
SET OFF AND CARRY FORWARD OF LOSSES.....	144
DEDUCTIONS FROM GROSS TOTAL INCOME.....	149
TAX DEDUCTED AT SOURCES (TDS).....	174
ADVANCE TAX .....	190
TAX COLLECTION AT SOURCE (TCS).....	196
RETURN & PAN .....	198
ASSESSMENT PROCEDURE.....	208

## Basic Concepts

### 1.1 Introduction

<u>Taxes</u>	
Meaning	For the payer - Contribution to his own nation For the payee - Source of revenue
Why levied	Meeting the expenses of Government like defence, provision of education, health care, infrastructure facilities like roads, dams etc.

### 1.2 Direct & Indirect Taxes

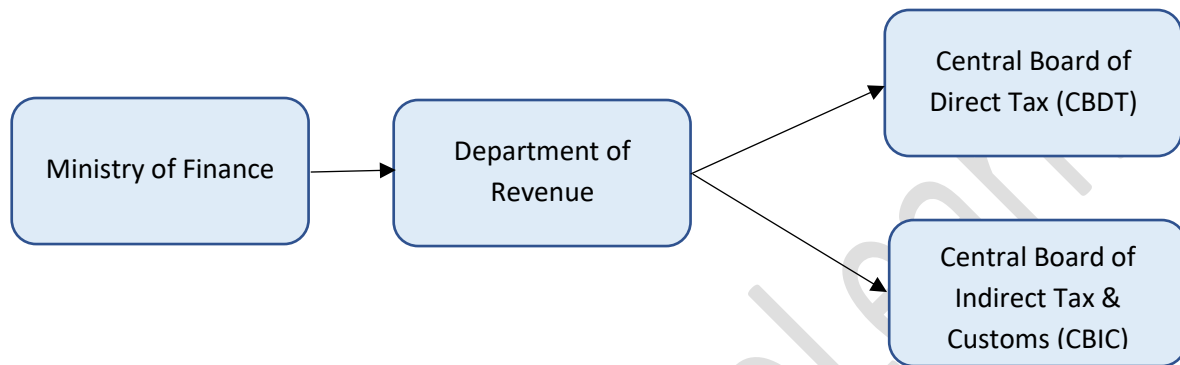
Types of taxes and differentiation between them	Direct taxes	Indirect taxes
	Tax on income	Tax on Goods and services
	Borne by the person who earns the income	Borne by the ultimate consumer of goods & services.
	Burden of tax is felt by the person paying it	Burden is not felt as it is inbuilt in the price.
	Administration is difficult for the government	Comparatively easy
	Progressive nature i.e. The one who earns more pays more	Regressive nature - Same amount is payable irrespective of the financial status of the person.
	E.g. Income tax	E.g. GST and Customs act

### 1.3 Constitutional Validity of Taxes

Power to levy taxes	<ul style="list-style-type: none"> <li>★ Constitution of India gives the power to levy and collect taxes, whether direct or indirect, to the Central and State Government.</li> <li>★ Seventh Schedule to Article 246 contains three lists               <ul style="list-style-type: none"> <li>➤ Union List: Parliament has the exclusive power to make laws on the matters contained in Union List</li> <li>➤ State List: The Legislatures of any State has the exclusive power to make laws on the matters contained in the State List</li> <li>➤ Concurrent List: Both Parliament and State Legislatures have the power to make laws on the matters contained in the Concurrent list.</li> </ul> </li> </ul>
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	★ Entry 82 of the Union List i.e., List I in the Seventh Schedule to Article 246 of the Constitution of India has given the power to the Parliament to make laws on taxes on income other than agricultural income.
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### 1.4 Administration of Tax laws



### 1.5 Sources of Income Tax Law in India

<u>Components of Income tax law</u>	
Income-tax Act, 1961	<ul style="list-style-type: none"> <li>★ It came into force on 1<sup>st</sup> April 1962.</li> <li>★ It contains 298 sections and XIV schedules.</li> <li>★ The Income-tax Act, 1961 undergoes change every year with additions and deletions brought out by the Annual Finance Act passed by Parliament.</li> </ul>
Income-tax Rules, 1962	<ul style="list-style-type: none"> <li>★ The administration of direct taxes is looked after by the Central Board of Direct Taxes (CBDT)</li> <li>★ For the proper administration of the Income-tax Act, 1961, the CBDT frames rules from time to time. These rules are collectively called Income-tax Rules, 1962.</li> </ul>
The Finance Act	<ul style="list-style-type: none"> <li>★ Every year, the Finance Minister of the Government of India introduces the Finance Bill in the Parliament's Budget Session.</li> <li>★ It is laid in both the houses of the Parliament and gets the assent of the President, it becomes the Finance Act.</li> </ul>

Circulars and Notifications	<ul style="list-style-type: none"> <li>★ Circulars are issued by the CBDT from time to time to deal with certain specific problems and to clarify doubts regarding the scope and meaning of certain provisions of the Act.</li> <li>★ Circulars are issued for the guidance of the officers and/or assesses. The department is bound by the circulars. While such circulars are not binding on the assesseees, they can take advantage of beneficial circulars.</li> <li>★ Notifications are issued by the Central Government to give effect to the provisions of the Act. The CBDT is also empowered to make and amend rules for the purposes of the Act by issue of notifications.</li> </ul>
Judicial decisions	<ul style="list-style-type: none"> <li>★ The judiciary will hear the disputes between the assesseees and the department and give decisions on various issues.</li> <li>★ The Supreme Court is the Apex Court of the Country and the law laid down by the Supreme Court is the law of the land.</li> <li>★ The decisions given by various High Courts will apply in the respective states in which such High Courts have jurisdiction.</li> </ul>

### 1.6 Basic Principles for charging Income Tax Act (Sec. 4)

Section 4 of the Income-tax Act, 1961 is the charging section which provides that:

- ★ Tax shall be charged at the **rates prescribed** for the year by the **Annual Finance Act**.
- ★ The charge is on every **person** specified under section **2(31)**
- ★ Tax is chargeable on the **total income earned** during **the previous year** and not the assessment year.
- ★ Tax shall be levied in accordance with and subject to the various **provisions contained in the Act**.

### 1.7 Person [Sec. 2(31)]

<b>Sec. 2 (31) - Person</b>	
<b>Category</b>	<b>Particulars</b>
Individual	<ul style="list-style-type: none"> <li>➤ Natural person, i.e., a human being</li> <li>➤ Including minor and lunatics. (In such case the legal representative is assessed.)</li> </ul>
HUF	<ul style="list-style-type: none"> <li>➤ Defined under the Hindu Law as a family, which consists of all males lineally descended from a common ancestor and includes their wives and daughters.</li> <li>➤ Head of the family is called Karta and other male members and daughters are called co-parceners who have right to demand partition.</li> <li>➤ Jain undivided families and Sikh undivided families are included.</li> </ul>
Company	<ul style="list-style-type: none"> <li>➤ Any Indian company</li> </ul>



	<ul style="list-style-type: none"> <li>➤ Any foreign company</li> <li>➤ Any institution, association or body which is assessable or was assessed as a company for any assessment year</li> <li>➤ Any institution, association or body, whether incorporated or not and whether Indian or non-Indian, which is declared by a general or special order of the CBDT to be a company</li> </ul>
Firm	<ul style="list-style-type: none"> <li>➤ As defined under the Partnership Act, 1932</li> <li>➤ As defined under the Limited Liability Partnership Act, 2008</li> </ul>
Association of Persons (AOP)	<ul style="list-style-type: none"> <li>➤ When persons combine together for promotion of joint enterprise, they are assessable as an AOP, when they do not in law constitute a partnership. Common purpose and common income are necessary.</li> <li>➤ Co-heirs, co-legatees or co-donees are included.</li> </ul>
Body of Individuals (BOI)	<ul style="list-style-type: none"> <li>➤ It denotes the status of persons like executors or trustees who merely receive the income jointly and who may be assessable as such</li> <li>➤ co-executors or co-trustees are assessable as a BOI</li> </ul>
Local Authority	<ul style="list-style-type: none"> <li>➤ Means a municipal committee, district board, body of port commissioners or other authority legally entitled to or entrusted by the Government with the control or management of a municipal or local fund.</li> </ul>
Artificial Juridical Persons	Residuary category. Temples, churches, mosques and charitable institutions come under this category.

### 1.8 Assessee [Sec. 2(7)]

<b><u>Sec 2(7) - Assessee</u></b>
<ul style="list-style-type: none"> <li>➤ Assessee” means a person by whom any tax or any other sum of money is payable under this Act</li> <li>➤ Every person in respect of whom any proceeding under this Act has been taken for the assessment of <ul style="list-style-type: none"> <li>• his income; or</li> <li>• assessment of fringe benefits; or</li> <li>• the income of any other person in respect of which he is assessable; or</li> <li>• the loss sustained by him or by such other person; or</li> <li>• the amount of refund due to him or to such other person.</li> </ul> </li> <li>➤ Every person who is deemed to be an assessee under any provision of this Act.</li> <li>➤ Every person who is deemed to be an assessee-in-default under any provision of this Act.</li> </ul>

<b><u>Section 2(8) - Assessment</u></b>
This is the procedure by which the income of an assessee is determined by the

Assessing Officer. It may be by way of a normal assessment or by way of reassessment of an income previously assessed.

### 1.10 Assessment Year (A.Y.) [Sec. 2(9)]

#### Section 2(9) - Assessment year

- A period of 12 months commencing on 1st April every year.

### 1.9 Previous Year or Uniform Previous Year [Sec. 3]

#### Section 3 - Previous year

- The financial year immediately preceding the assessment year.
- The year in which income is earned is the previous year and such income is taxable in the immediately following year which is the assessment year.
- Business or profession newly set up during the financial year - previous year shall be the period beginning on the date of setting up of the business or profession and ending with 31st March of the said financial year.
- If a source of income comes into existence in the said financial year, then the previous year will commence from the date on which the source of income newly comes into existence and will end with 31st March of the financial year.

#### ★ PY in case of undisclosed income

1. Cash Credits [Section 68] - PY is year in which such amount is credited
2. Unexplained Investments [Section 69] - PY is year in which investments are made.
3. Unexplained money etc. [Section 69A] - PY is the financial year in which the assessee is found to be the owner of any money, bullion, jewellery or other valuable article and the same is not recorded in the books
4. Amount of investments etc., not fully disclosed in the books of account [Section 69B] - PY is the financial year in which the assessee has made investments or is found to be the owner of any bullion, jewellery or other valuable article and the Assessing Officer finds that the amount spent on making such investments or in acquiring such articles exceeds the amount recorded in the books of account.
5. Unexplained expenditure [Section 69C] -PY is the financial year in which the assessee has incurred any expenditure.
6. Amount borrowed or repaid on hundi [Section 69D] - PY in which the amount was borrowed or repaid, as the case may be.

where any amount borrowed on a hundi has been deemed to be the income of any person, he will not be again liable to be assessed in respect of such amount on repayment of such amount.

#### ★ Other consequences of such income -

- Section 115BBE - tax@60% plus surcharge @25% of tax. Thus, the effective rate of tax (including surcharge@25% of tax and cess@4% of tax and surcharge) is 78%.



- No basic exemption or allowance or expenditure shall be allowed to the assessee under any provision of the Income-tax Act, 1961 in computing such deemed income.
- Further, no set off of any loss shall be allowable against income brought to tax under sections 68 or section 69 or section 69A or section 69B or section 69C or section 69D.
- ★ **Exceptions to PY rule** - cases when income of a previous year will be assessed in the previous year itself
  1. Shipping business of non-resident [Section 172] (provided he does not have any agent in India, and he does not make any arrangement to pay tax @7.5%)
  2. Persons leaving India [Section 174] (without an intention to come back)
  3. AOP/BOI/Artificial Juridical Person formed for a particular event or purpose [Section 174A] (The purpose is accomplished and the AOP/BOI is dissolved)
  4. Persons likely to transfer property to avoid tax [Section 175]
  5. Discontinued business [Section 176] - (The AO has a discretionary power in this case).

### 1.11 Income [Sec. 2(24)]

#### Sec.2(24) - Income

- ★ **Definition of Income**- It is an inclusive definition and not an exhaustive one. The components are given under each head of income
- ★ **Concept of Income under the Income-tax Act, 1961**
  - It includes not only a regular receipt but also a casual receipt
  - Normally refers to revenue receipts but certain provisions are including capital receipts also
  - Normally refers to net receipt i.e. Excess of income over expenditure. Income from certain eligible businesses/professions is also determined on presumptive basis i.e., as a certain percentage of gross receipts
  - Includes both earned in cash also in kind
  - Income from both legal source and illegal source is subject to tax
  - It can be received as a lumpsum payment or in instalments.
- ★ **Concept of revenue and capital receipts**
  - Fixed capital or Circulating capital: A receipt referable to fixed capital would be a capital receipt whereas a receipt referable to circulating capital would be a revenue receipt. The former is not taxable while the latter is taxable.
  - Income from transfer of capital asset or trading asset: Profits arising from the sale of a capital asset are chargeable to tax as capital gains under section 45 whereas profits arising from the sale of a trading asset being of revenue nature are taxable as income from business under section 28
  - Profits arising from transactions which are entered into in the course of the business regularly carried on by the assessee, or are incidental to, or associated with the business of the assessee would be revenue receipts

- In the case of profit arising from the sale of shares and securities the nature of the profit has to be ascertained from the motive, intention or purpose with which they were bought
- Even a single transaction may constitute a business or an adventure in the nature of trade even if it is outside the normal course of the assessee's business depending on the case.
- Liquidated damages pertaining to capital assets is a capital receipt.
- Compensation on termination of agency is a capital receipt however it is taxable u/s 28. In case of employee it is taxable u/s 17(3)

### 1.12 Heads of Income [Sec. 14]

According to Sec.14 of the Act, all income of a person shall be classified under the following five heads:

1. Salaries
2. Income from house property
3. Profits and gains of business or profession
4. Capital gains
5. Income from other sources.

For computation of income, all taxable income should fall under any of the five heads of income as mentioned above. If any type of income does not become part of any one of the above mentioned first four heads, it should be part of the fifth head, i.e. Income from other sources, which may be termed as the residual head.

### 1.13 Gross Total Income (GTI) [Sec. 80B (5)]

Gross total income is the aggregate of income under all the five heads of income after adjusting the set-off & carry forward of losses. Deductions under chapter VIA is provided from GTI, to arrive at Total income or taxable income.

Computation of Total Income for the A.Y. \_\_\_\_

Particulars	Amount
1. Salaries	XXX
2. Income from house property	XXX
3. Profits and gains of business or profession	XXX
4. Capital gains	XXX
5. Income from other sources	XXX
Gross Total Income	XXXX
Less: Deduction u/s 80C to 80U	XXX
Total Income	XXXX

### 1.14 Rounding-Off of Total Income [Sec. 288A]

The total income so computed will have to be rounded off to the nearest multiple of Rs.10, i.e., if the last figure in the 'rupee element' is Rs.5 or more, it should be rounded off to the next higher amount, which is a multiple of Rs.10. The 'paise' element should be ignored.

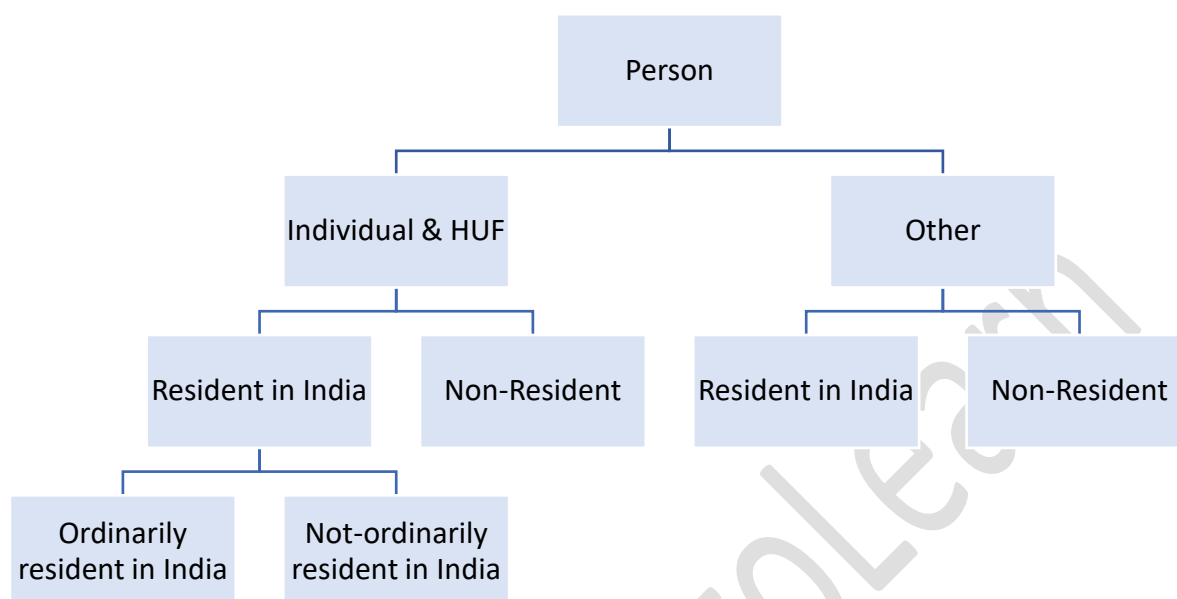
Thus, if the total income works out to Rs.41,645, it should be rounded off to Rs.41,650, but if it works out to Rs.41,644.98, it should be rounded off to Rs.41,640.

### 1.15 Rounding-Off of Tax [Sec. 288B]

The tax calculated on the total income should be rounded off to the nearest Rs.10. Amount of tax (including TDS or advance tax), interest, penalty, etc. and refund shall be rounded off to the nearest Rs.10.

## Residence status

### 2.1 Introduction

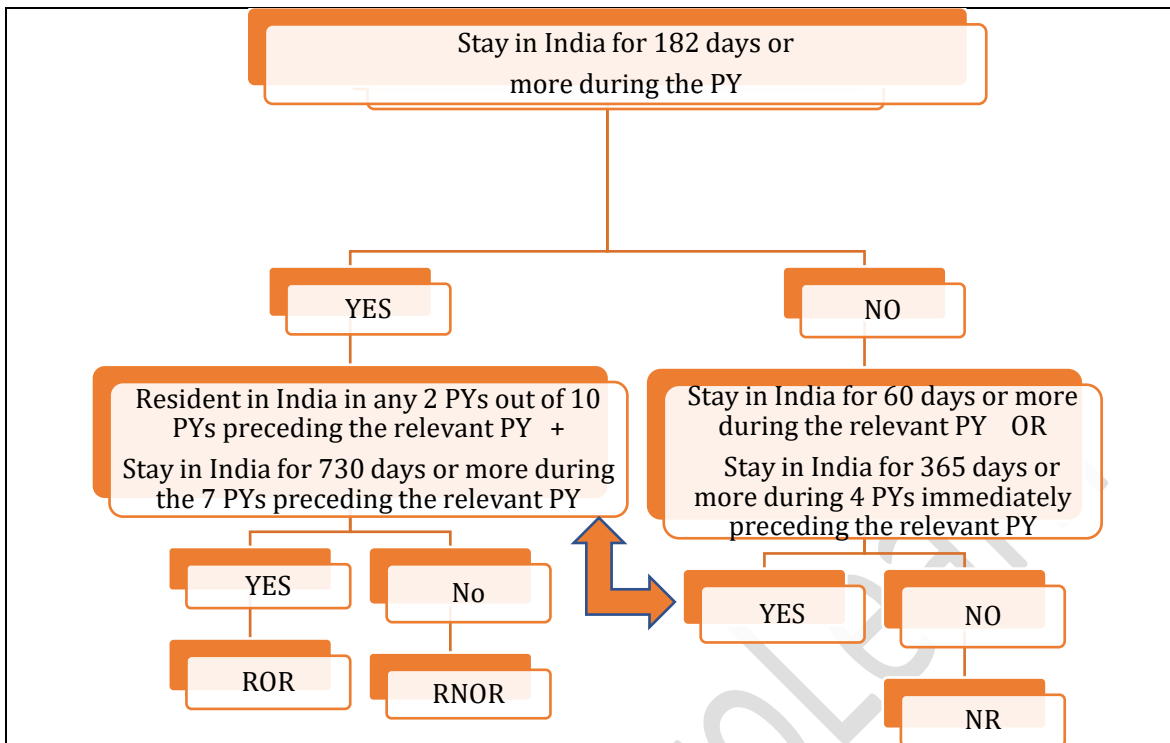


### 2.2 General Points to be kept in mind regarding Residential Status of a Person

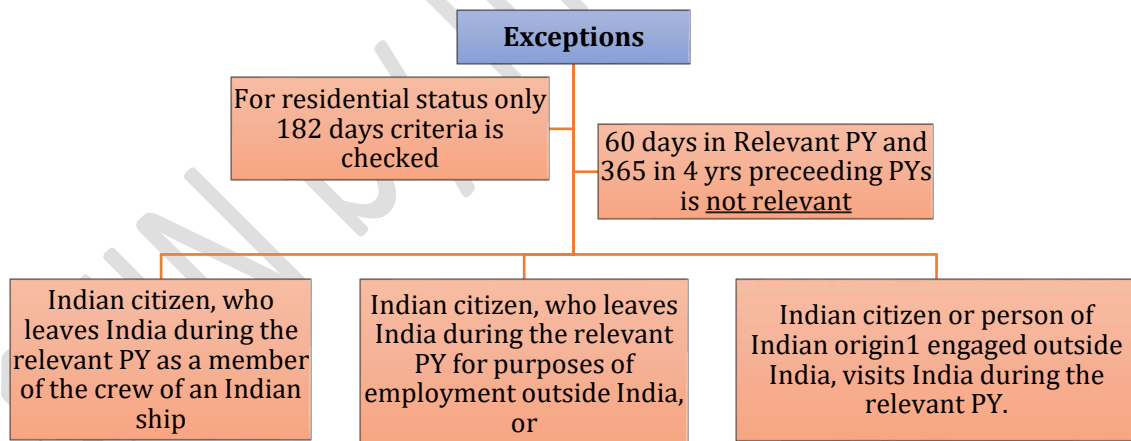
Different for each previous year	Residential status is determined in respect of each previous year. In other words, residential status of a person may vary from one previous year to another previous year.
Single Status for each source of income	A person can have only one residential status for a previous year i.e. he cannot be a resident for one source of income and non-resident for another source.
Impact of citizenship	Citizenship and residential status are two different concepts. A citizen of India may not be a resident in India for the purpose of income-tax.
Country Specific	A person can have same residential status in more than one country.

### 2.3 Determination of Residential Status

<b>Sec 6 - Determination of Residential status</b>			
<b>Sec 6(1) and 6(6)</b>	<b>Sec 6(2)</b>	<b>Sec 6(3)</b>	<b>Sec 6(4)</b>
Individuals 6(1) - Basic conditions 6(6) - Additional conditions	HUF	Company	Firm, AOP, BOI and others



- Residential status has nothing to do with citizenship, domicile, or place of birth.
- Stay in India includes stay in territorial waters of India.
- Period of stay need not be continuous.
- Date of arrival and date of departure is considered as stay days.



The period or periods of stay in India shall, in respect of an eligible voyage, shall not include the following period:

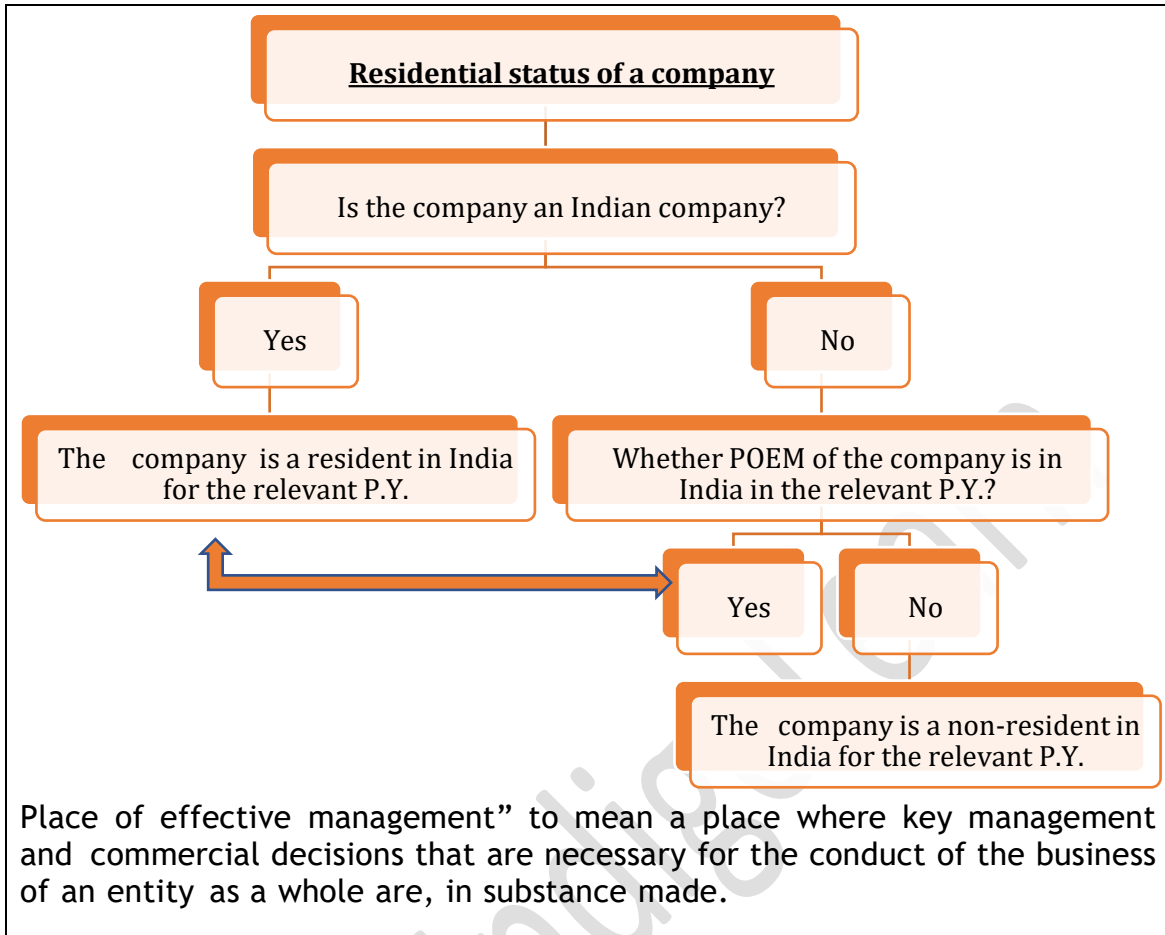
**Period commencing from**  
 the date entered into the Continuous Discharge Certificate in respect of joining the ship by the said individual for the eligible voyage

**and**

**Period ending on**  
 the date entered into the Continuous Discharge Certificate in respect of signing off by that individual from the ship in respect of such voyage.







## 2.4 Incidence of Tax

Scope of total Income	Resident and Ordinarily Resident	Resident but not Ordinarily Resident	Non-Resident	
Income received or deemed to be received in India during the previous year	Yes	Yes	Yes	
Income accruing or arising or deeming to accrue or arise in India during the previous year	Yes	Yes	Yes	
Income accruing or arising outside India during the previous year	Yes Even if such income is not received or brought into India during the previous year	Yes But only if such income is derived from a business controlled in or profession set up in India; Otherwise, No.	No	

\*

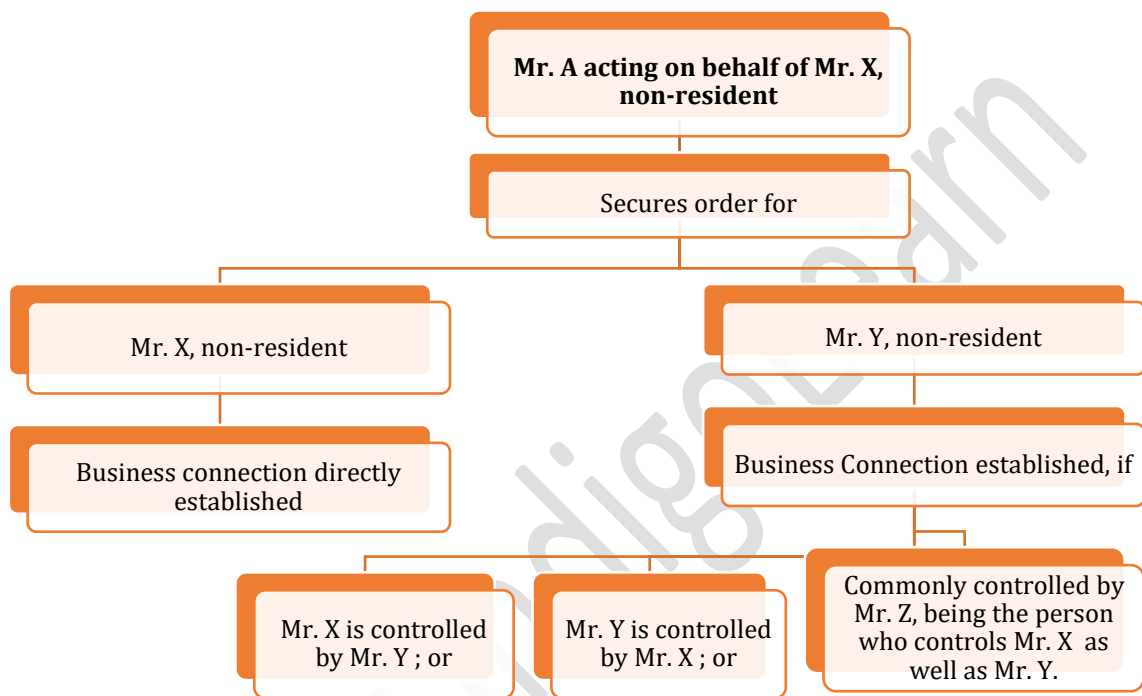
- \* All assesseees are liable to tax in respect of the income received or deemed to be received by them in India during the previous year irrespective of -
  - their residential status, and
  - the place of its accrual
- \* Income is to be included in the total income of the assessee immediately on its actual or deemed receipt.

<b>Sec.9 - Income deemed to accrue or arise in India</b>							
Sec. 9(1)(i)	Sec. 9(1)(ii)	Sec. 9(1)(iii)	Sec. 9(1)(iv)	Sec. 9(1)(v)	Sec. 9(1)(vi)	Sec. 9(1)(vii)	Sec 9(1)(viii)
Income from connection in India	Salary earned in India	Salary from Govt. by an Indian citizen for services rendered outside India	Income from dividend paid by an Indian company	Income from interest payable by specified person	Income from royalty	Income from technical services	Specified income arising outside India

<b>Income from connection in India [Sec. 9(1)(i)]</b>
<p>All income accruing or arising, whether directly or indirectly,</p> <p>a) through or from any business connection in India; or</p> <p>b) through or from any property/asset or source of income in India; or</p> <p>c) through the transfer of a capital asset situated in India.</p>
<p>* Income, which arises outside India because of business connection (or Professional connection) in India is deemed to accrue or arise in India and shall be taxable in hands of all assessee irrespective of his residential status.</p> <p>* Business connections may be in several forms, e.g. a branch office in India or an agent/ organization of a non-resident in India.</p> <p>* Business connection shall include any business activity carried out through a person who, acting on behalf of the non-resident:</p> <ul style="list-style-type: none"> <li>➤ has and habitually exercises in India, an authority to conclude contracts on behalf of the non-resident or habitually concludes contracts or habitually plays the principal role leading to conclusion of contracts by that non-resident and the contracts are—           <ul style="list-style-type: none"> <li>• in the name of the non-resident; or</li> <li>• for the transfer of the ownership of, or for the granting of the right to use, property owned by that non-resident or that non-resident has the right to use; or</li> <li>• for the provision of services by the non-resident; or</li> </ul> </li> </ul>

- has no such authority, but he maintains in India habitually a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the non-resident; or
- habitually secures orders in India mainly for the non-resident.

Further, there may be situations when the person acting on behalf of the non-resident secure order for other non-residents. In such situation, business connection for other non-residents is established as follows:



**Significant economic presence of a non-resident in India shall also constitute business connection in India.**

Significant economic presence means

Nature of transaction	Condition
in respect of any goods, services or property carried out by a non-resident in India including provision of download of data or software in India,	Aggregate of payments arising from such transaction or transactions during the previous year exceeds such amount as may be prescribed
systematic and continuous soliciting of business activities or engaging in interaction with users in India through digital means.	The users should be of such number as may be prescribed.

The threshold of “revenue” and “users” in India would be prescribed. Further, the above transactions or activities shall constitute significant economic presence in India, whether or not—

- the agreement for such transactions or activities is entered in India
- the non-resident has a residence or place of business in India; or

(iii) the non-resident renders services in India:

However, where a business connection is established by reason of significant economic presence in India, only so much of income as is attributable to the transactions or activities referred to in (a) or (b) above shall be deemed to accrue or arise in India.

#### Exceptions to business connection

- **Business activity through a broker:** Business connection shall not include any business activity carried out through a broker, general commission agent or any other agent having an independent status and acting in the ordinary course of his business.
- **Business activity confined to purchase of goods:** In the case of a non-resident, no income shall be deemed to accrue or arise in India to him from operations, which are confined to the purchase of goods in India for the purpose of export
- **Business activity of a news agency confined to collection of news, etc.:** In the case of a non-resident, being a person engaged in the business of running a news agency or of publishing newspaper, magazines or journals, no income shall be deemed to accrue or arise in India to him through or from activities, which are confined to the collection of news and views in India for transmission out of India.
- **Business of mining of diamonds:** In the case of a foreign company engaged in the business of mining of diamonds, no income shall be deemed to accrue or arise in India to it through or from the activities which are confined to the display of uncut and unasserted diamond in any special zone notified by the Central Government
- **Business activity confined to shooting:** In the case of a non-resident, being -
  - An individual who is not a citizen of India; or
  - A firm which does not have any partner, who is a citizen of India or who is resident in India; or
  - A company, which does not have any shareholder who is a citizen of or resident in India.no income shall be deemed to accrue or arise in India through or from operations, which are confined to the shooting of any cinematography film in India.

#### Salaries earned in India [Sec. 9(1)(ii)]

Salary payable for -

- a) Services rendered in India; and
- b) The rest period or leave period which is preceded and succeeded by the period during which services were rendered in India and forms part of the service contract of employment,

- shall be deemed to accrue or arise in India.

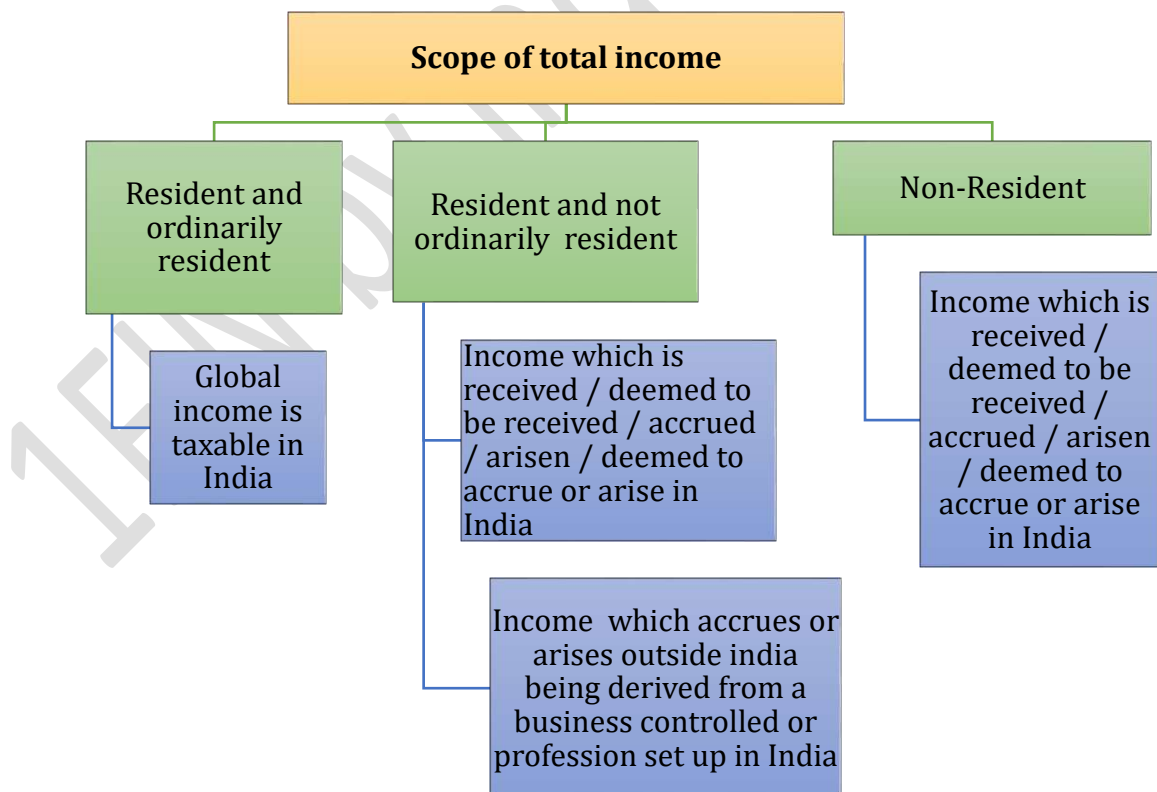
#### Salary payable by the Government [Sec. 9(1)(iii)]

\* Any salary -

- payable by the Government of India.
- to a citizen of India.
- for services rendered outside India.

<p>- shall be deemed to accrue or arise in India.</p> <p>* Any allowances or perquisites paid by the Government to a citizen of India for services rendered outside India shall be exempted [Sec. 10(7)]</p>			
<b><u>Income from dividend [Sec. 9(1)(iv)]</u></b>			
Any dividend paid by an Indian company outside India is deemed to accrue or arise in India.			
<b><u>Income from Interest, royalty, technical services [Sec. 9(1)(v), (vi), (vii)]</u></b>			
Amount payable by	The Government	A resident person	A non-resident person
Income from Interest, [Sec. 9(1)(v)]	No condition	<p>Money borrowed is <b>not used</b> for the purpose of -</p> <ul style="list-style-type: none"> <li>➤ Busi. or Profes. carried on by such person outside India;</li> <li>or</li> <li>➤ Earning any income from any source outside India.</li> </ul>	<ul style="list-style-type: none"> <li>➤ Money borrowed is used for the purpose of busi. Or profes. carried on by such person in India.</li> <li>➤ In case money borrowed and used for the purpose of earning an income from <b>any other source</b> in India, interest <b>shall not be treated as deemed</b> to accrue or arise in India.</li> </ul>
Income from royalty, Sec. 9(1)(vi)	No condition	<p>The right, property, information or services are not utilized for the purpose of -</p> <ul style="list-style-type: none"> <li>➤ Busin. or Profes. carried on by such person outside India;</li> <li>or</li> <li>➤ Earning any income from any source outside India.</li> </ul>	<p>The right, property, information or services must be utilised for the purpose of -</p> <ul style="list-style-type: none"> <li>➤ Busin. or Profes. carried on by such person in India; or</li> <li>➤ Earning any income from any source in India.</li> </ul>

Income from technical services [Sec.9(1)(vii)]	No condition	Such services are not utilized for the purpose of - <ul style="list-style-type: none"> <li>➤ Busin. or Profes carried on by such person outside India; or</li> <li>➤ Earning any income from any source outside India.</li> </ul>	Such services must be utilised for the purpose of - <ul style="list-style-type: none"> <li>➤ Busin. or Profes. carried on by such person in India; or</li> <li>➤ Earning any income from any source in India.</li> </ul>
Income arising outside India related to any sum of money or value of property referred to in clause (x) of sub-section (2) of section 56 [Income from other sources]		<ul style="list-style-type: none"> <li>➤ Paid on or after 5<sup>th</sup> July 2019</li> <li>➤ By a resident</li> <li>➤ To a non-resident, not being a company</li> <li>➤ To a foreign company</li> </ul>	



## 2.5 Steps for computing Total Income and tax liability



<b><u>Steps for computing total income and tax liability</u></b>	
Step 1	<p>Determination of residential status</p> <p>The residential status of a person has to be determined to ascertain which income is to be included in computing the total income.</p>
Step 2	<p>Classification of income under different heads</p> <div style="text-align: center; margin: 10px 0;"> <pre> graph TD     A[Heads of Income as per Act] --&gt; B[Salaries]     A --&gt; C[House property]     A --&gt; D[Profits &amp; gains of Business or profession]     A --&gt; E[Capital gains]     A --&gt; F[Other sources] </pre> </div>
Step 3	<p>Computation of income under each head</p> <p>Compute in accordance with the provisions governing a particular head of income.</p> <p>Exempt income is not considered.</p>
Step 4	<p>Clubbing of income of spouse, minor child etc.</p> <p>Under which income arising to certain persons (like spouse, minor child etc.) have to be included in the income of the person who has diverted his income for the purpose of computing tax liability.</p>
Step 5	<p>Set-off or carry forward and set-off of losses</p> <p>Loss from one head of income is set off with the income under another head subject to conditions</p>
Step 6	<p>Computation of Gross Total Income</p> <p>Aggregate of the all the above steps will lead to this</p>
Step 7	<p>Deductions from Gross Total Income</p>
Step 8	<p>Application of the rates of tax on the total income.</p> <p>After reducing deductions from gross total income, we arrive at total taxable income</p>
Step 9	<p>Application of Surcharge / Rebate under section 87A</p>
Step 10	<p>Health and education cess on income-tax</p> <p>The income-tax, as increased by the surcharge or as reduced by the rebate under section 87A , if applicable, is to be further increased by an additional surcharge called health and education cess on income-tax @ 4% of income-tax plus surcharge, if applicable.</p>
Step 11	<p>Advance tax and tax deducted at source</p> <p>Any tax paid in advance or deducted at source and remitted to government on behalf of the assessee, during the previous year should be deducted from the tax liability.</p>

Step 12	<p><b>Tax Payable/Tax Refundable</b></p> <p>After adjusting the advance tax and tax deducted at source, the assessee would arrive at the amount of net tax payable or refundable. Such amount should be rounded off to the nearest multiple of Rs.10.</p> <p>The assessee has to pay the amount of tax payable (called self-assessment tax) on or before the due date of filing of the return. Similarly, if any refund is due, assessee will get the same after filing the return of income.</p>
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## 2.6 Tax Rates

<b>Tax rates (Per Finance Act, 2019)</b>					
<b>Individual/ HUF/ AOP/ BOI/ Artificial Juridical Person</b>		<b>Resident individuals of the age of 60 years or more but less than 80 years</b>		<b>Resident individuals of the age of 80 years or more at any time during the previous year</b>	
<b>Total income (Rs.)</b>	<b>Tax rate</b>	<b>Total income (Rs.)</b>	<b>Tax rate</b>	<b>Total income (Rs.)</b>	<b>Tax rate</b>
0-2,50,000	Nil	0-3,00,00	Nil	0-5,00,000	Nil
2,50,001 - 5,00,000	5% On excess over 2,50,000	2,50,001 - 5,00,000	5% On excess over 3,00,000	5,00,001 - 10,00,000	20% On excess over 5,00,000
5,00,001 - 10,00,000	20% On excess over 5,00,000 + Rs. 12,500	5,00,001 - 10,00,000	20% On excess over 5,00,000 + Rs. 10,000	> 10,00,000	30% On excess over 10,00,000 lacs + Rs. 1,00,000
> 10,00,000	30% On excess over 10,00,000 lacs + Rs. 1,12,500	> 10,00,000	30% On excess over 10,00,000 lacs + Rs. 1,10,000		
<p>CBDT clarification - A resident individual whose 60<sup>th</sup> birthday falls on 1<sup>st</sup> April, 2019, would be treated as having attained the age of 60 years (or 80 years) in the P.Y.2018-19, and would be eligible for higher basic exemption limit of Rs.3 lacs (or 5 lacs ) in computing his tax liability for A.Y.2019-20.</p>					
Firms & LLP = Flat rate of 30%					
Local authority = Flat rate of 30%					
Co-operative society		Total income (Rs)		Tax rate	

	Up to 10,000	10%
	10,001 - 20,000	20% On excess over 10,000 + Rs. 1,000
	> 20,000	30% On excess over 20,000 + Rs. 3,000

## 2.7 Tax Rates applicable for Companies

Category	Tax Rate
Other than Domestic Companies	40%
Domestic Companies	
➤ General	30%
➤ Turnover <= Rs. 400 Crores in FY 2017-18	25%
➤ Subject to 115BAA	22%
➤ Subject to 115BAB	15%

### Surcharge applicable on various categories

Individual/HUF/BOI/AOP/AJP (Total Income- Rs.)	Surcharge
> 50 lakhs up to 1 Crore	10%
> 1 crore up to 2 crores	15%
> 2 Crore up to 5 crores	25%
> 5 crores	37%

The surcharge on total income to the extent of income under 111A and 112A will not exceed 15%.

Companies (Total Income)	Surcharge
<b>General</b>	
> 1 Crore	7%
> 10 Crore	12%
115BAA and 115BAB (> 1 Crore)	10%

Firm/LLP/Co-Op Societies/Local Authority	Surcharge
> 1 Crore	12%

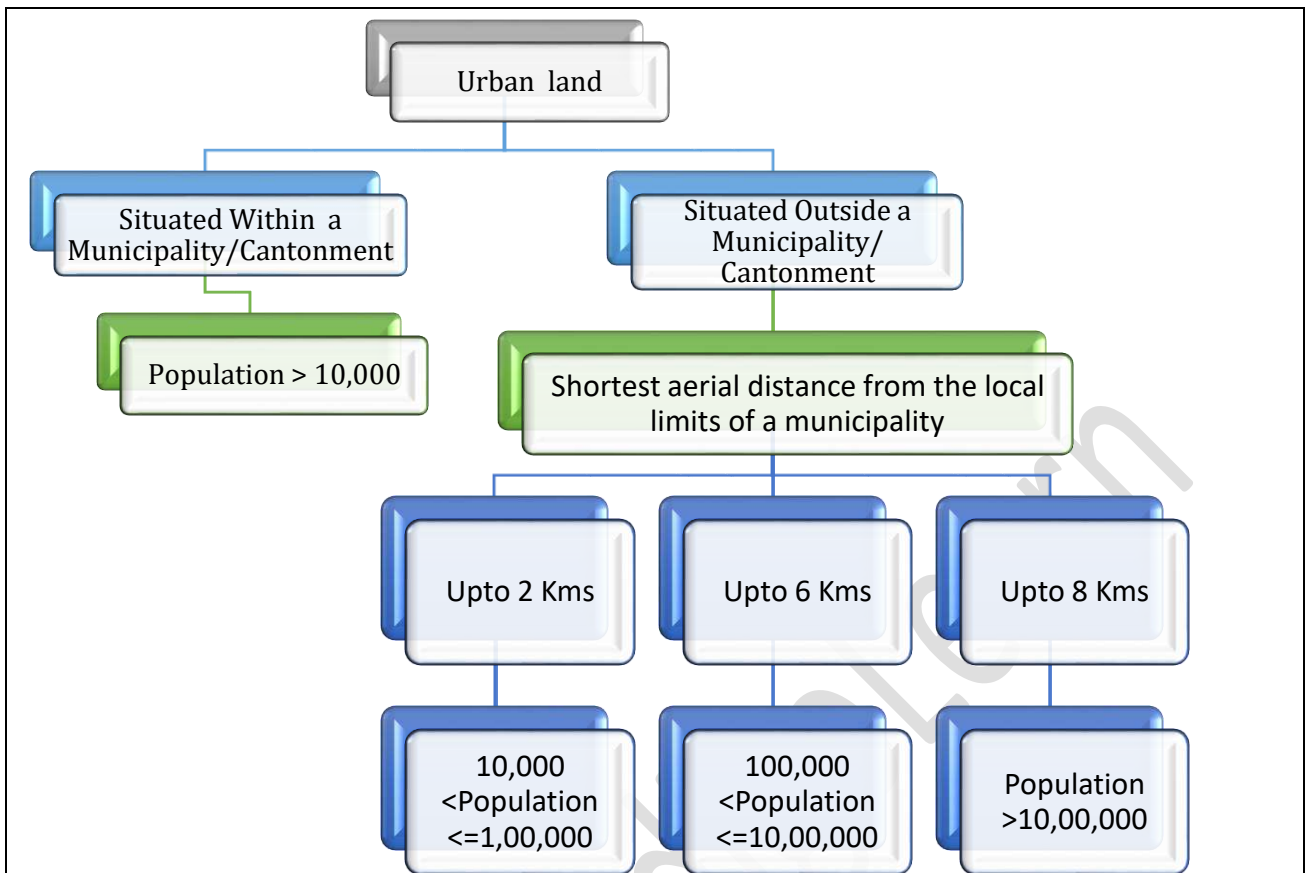
Marginal relief is available to all the above categories if the tax payable including surcharge is greater than the excess of income over the threshold limit.

### 3.1 Meaning

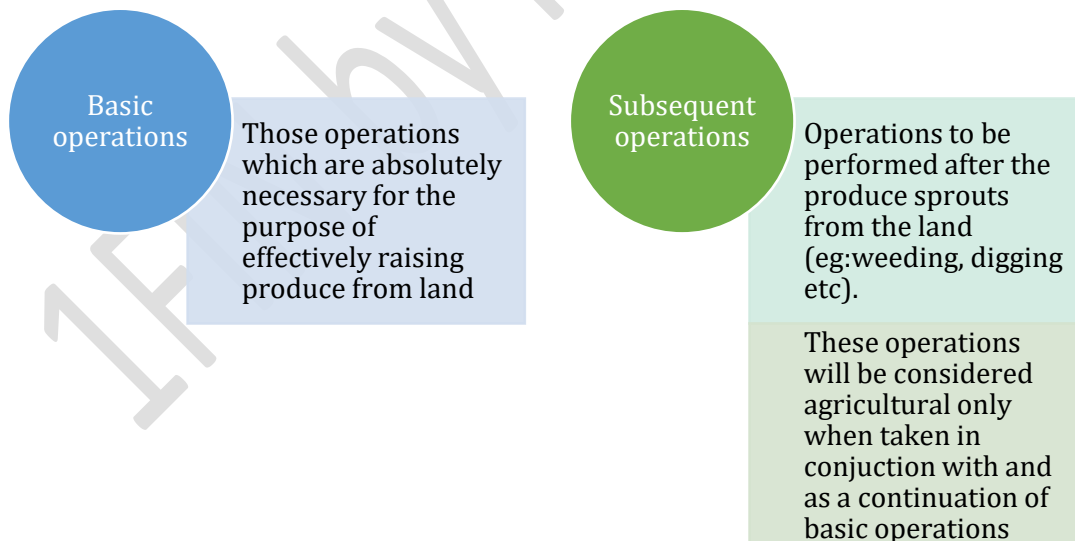
#### Sec 10(1) - Agricultural income

##### ★ Meaning

- By virtue of sec. 2(1A), agricultural income means  
“Any rent or revenue derived from a land, which is situated in India & is used for agricultural purposes”
1. Rent may be in cash or in kind.
  2. Assessee may be the owner or tenant of such land.
  3. Any income derived from such land by
    - Agriculture or
    - Any process ordinarily employed by a cultivator or receiver of rent to render the produce fit to be taken to market or
    - Sale of such agriculture produce in the market.
  4. The process must be employed only to convert ‘the produce or rent in kind’ in marketable form. If marketing process is performed on the ‘produce or rent in kind’, which can be sold in its raw form in market, then income derived from such product is partly agricultural & partly non-agricultural income.
  5. The land must be situated in India.
  6. Any income derived from a farm building is exempt subject to fulfilment of the following conditions
    - a) The building should be occupied by the cultivator or receiver of rent in kind.
    - b) The building should be on or in the immediate vicinity of the land, being situated in India and used for agricultural purposes.
    - c) The building should be used as dwelling house or store-house or other outbuilding.
    - d) The land is either situated in -
      - Rural area; or
      - Urban area and assessed to land revenue or local rates.
  7. Income derived from land being let out for storing crop shall not be agricultural income.
  8. Building should be owned and occupied by the landholder if he receives rent or revenue from the land. On the other hand, in case of cultivator or receiver of rent in kind, it is enough that the building is occupied by him.
  9. **Profit on transfer of agricultural land:** Profit on transfer of agricultural land shall not be treated as agricultural income.



10. **Agriculture** - Cultivation of a field involving human skill and labour on the land can be broadly termed as agriculture. It primarily involves basic operations and subsequent operations.



### 3.2 Instances of Agricultural (Agro) Income

#### Instances of agricultural (agro) income

- Income from growing trade or commercial products like jute, cotton, etc.

- Income from growing flowers and creepers.
- Plants sold in pots are an agro income provided basic operations are performed.
- **Remuneration and interest to partner:** Any remuneration (salary, commission, etc.) received by a partner from a firm engaged in agricultural operation)
- Interest on capital received by a partner from a firm, engaged in agricultural operation.
- Any fee derived from land used for grazing of cattle, being used for agricultural operation,
- Any income derived from saplings or seedlings grown in a nursery.

### 3.3 Instances of Non-Agricultural (Non-Agro) income

#### Instances of non-agricultural (non-agro) income

- Salary received by an employee from any business (having agricultural income)
- Dividend received from a company engaged in agricultural operation.
- Income from fisheries, poultry farming, dairy farming, butter & cheese making, etc.
- Breeding & rearing of livestock is non-agro income.
- Royalty income from mines.
- Remuneration to a Director or Managing Director from a company engaged in agricultural business.
- Interest on arrears of rent receivable in respect of agricultural land is non-agro income.
- Income from a land situated outside India.
- Annuity received by a person in consideration of transfer of agricultural land.
- Income from sale of trees and grasses grown spontaneously (without any human effort)

### 3.4 Treatment of Partly Agricultural & Partly Non-Agricultural Income [Rule 7]

#### Treatment of partly agricultural & partly non-agricultural income [Rule 7]

In case assessee is engaged in an integrated activity, comprising of agricultural activity as well as non- agricultural activity, then profit of such integrated activity shall be segregated into agricultural income and non-agricultural income in the following manner

Rule	Case	Agriculture income	Non-agro income
8	Business of <b>growing and manufacturing</b> tea in India	60%	40%
7A	Business of growing and manufacturing rubber in India	65%	35%
7B	Coffee grown and cured by the seller in India	75%	25%
7B	Coffee grown, cured, roasted and grounded by the seller in India, with or without mixing chicory or other	60%	40%



**Salary and interest received by a partner from a firm growing and manufacturing tea, coffee or rubber:** Such remuneration or interest shall be treated as partly agricultural income and partly business income as stated above.

For computing agricultural income from a business having both agricultural as well as non-agricultural income,

1. Assessee is required to prepare two Profit or Loss statements, one for agro-business & another for non-agro business

2. Agro expenses debited to Agro Profit or Loss and non-agro expenses shall be debited to Non agro-business Profit or Loss

**Note:** Non-apportionable expenditure, related to composite business of agriculture and non-agriculture, is fully charged to non-agricultural business.

3. Market value of any agricultural produce, which is utilised as raw material in such business, is to be treated as income for agro-business and expenditure for non agro-business.

**Determination of market value** - There are two possibilities here:

- (I) The agricultural produce is capable of being sold in the market either in its raw stage or after application of any ordinary process to make it fit to be taken to the market. In such a case, the value calculated at the average price at which it has been so sold during the relevant previous year will be the market value.
- (II) It is possible that the agricultural produce is not capable of being ordinarily sold in the market in its raw form or after application of any ordinary process. In such case the market value will be the total of the following–
  - The expenses of cultivation
  - The land revenue or rent paid for the area in which it was grown; and
  - Such amount as the Assessing Officer finds having regard to the circumstances in each case to represent at reasonable profit

**Partial integration of agricultural income with non-agricultural income**

- Sec. 10(1) of the Act exempts agricultural income from tax as our Constitution does not provide power to the Parliament to levy tax on agro-income.
- However, agriculture income is considered to apply higher rate of tax-slab on non-agricultural income. This method is called partial integration.

### 3.5 Impact of agricultural income on tax computation

**Conditions for including agricultural income in the total income of the assessee**

1. The assessee is an individual, a Hindu-undivided family, a BOI, an AOP or an AJP. (These provisions do to apply to company, LLP, firm, co-operative society and local authority)
2. The assessee has non-agricultural income exceeding the maximum amount of exemption (i.e. in case of Senior citizen Rs. 3,00,000, Super Senior citizen Rs.

5,00,000 and in case of other individual/ HUF/AOP / BOI /artificial juridical person Rs. 2,50,000)

3. The agricultural income of the assessee exceeds Rs. 5,000.

**Method of computation**

**Step 1:** Compute income tax on total income of assessee including Agro-income.

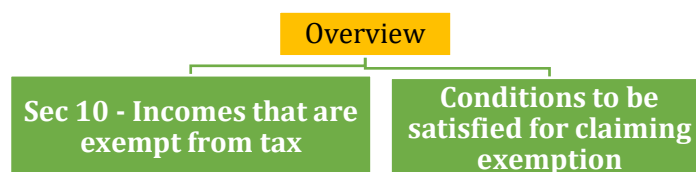
**Step 2:** Compute income tax on (Agro-income + Maximum exempted limit)

**Step 3:** Tax liability before cess = (Tax as per step 1) - (Tax as per step 2)

**Step 4:** Provide rebate u/s 87A (if applicable) and add H&E cess@4%

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## Incomes which do not form part of total income



### Sec. 10(2) - Member's Share in Income of HUF

- Any sum received by an individual as a member of a Hindu undivided family is exempt where such sum is received -
  - out of the income of the family; or
  - out of the income of an impartible estate belonging to the family.

### Sec. 10(2A) - Share of Profit from a Firm

- Share in the total income of the firm is exempt in the hands of partner.

### Sec. 10(4)/(4B) - Interest Income of Non-resident

- **Sec. 10(4)(i)** - Interest on specified securities or bonds, including premium on redemption of such bonds is exempted in the hands of a non-resident.
- This exemption will no more be available in respect of any further issue of bonds or securities on or after 1.6.2002
- **Sec. 10(4)(ii)** - Interest on Non-Resident (External) Account in any bank in India to a person who is a resident outside India as defined in sec. 2(w) of the FEMA, 1999 or is a person who has been permitted by the Reserve Bank of India to maintain the aforesaid Account.
- The joint holders of the NRE Account do not constitute an AOP by merely having these accounts in joint names.
- The benefit of exemption under section 10(4)(ii) will be available to such joint account holders, subject to fulfilment of other conditions contained in that section by each of the individual joint account holders.
- **Sec. 10(4B)** - Interest on notified savings certificates issued before 1-6-2002 by the Central Government to a non-resident, being a citizen of India or a person of Indian origin is exempt provided it is subscribed in convertible foreign exchange remitted from a country outside India in accordance with the provisions of the FEMA, 1999.
- **Sec. 10 (4C)** - Interest payable to a non-resident, not being a company, or to a foreign company, by any Indian company or business trust in respect of monies borrowed from a source outside India by way of issue of rupee denominated bond, as referred to in section 194LC (2)(ia), during the period beginning from the 17/9/18 to 31/3/19;
- **Sec. 10(4D)** Income from transfer of capital asset referred to in section 47(viiab), on a recognised stock exchange located in any International Financial Services Centre

and where the consideration for such transaction is paid or payable in convertible foreign exchange, related to units held by a non-resident

#### **Sec. 10(6)- Remuneration to Person who is not a Citizen of India in certain cases**

- ★ Following remuneration to an individual who is not a citizen of India shall be exempt -
- **Sec. 10(6)(ii)** - Remuneration received by him as an official of an embassy, high commission, legation, commission, consulate, or the trade representation of a foreign state or as a staff of any of these officials provided corresponding Indian officials in that foreign country enjoy similar exemptions in their country.
- The above-mentioned officials should be the subjects of the respective countries represented and should not be engaged in any other business or profession or employment in India.
- **Sec. 10(6)(vi)** - Remuneration received as an employee of a foreign enterprise for services rendered by him during his stay in India provided -
  - The foreign enterprise is not engaged in any business or profession in India
  - His stay in India does not exceed 90 days in aggregate and
  - Such remuneration is not liable to be deducted from the income of the employer
- **Sec. 10(6)(viii)** - Remuneration for services rendered in connection with his employment on a foreign ship provided his total stay in India does not exceed 90 days in the previous year
- **Sec. 10(6)(xi)** - Remuneration received as an employee of the Government of a foreign State during his stay in India in connection with his training in any undertaking owned by Government, Government company, subsidiary of a Government company, corporation established by any Central, State or Provincial Act and any society wholly financed by the Central or State Government .

#### **Sec. 10(6D) - Income from service provided to National Technical Research Organisation**

- Any income arising to a non-resident or to a foreign company, by way of royalty from, or fees for technical services rendered in or outside India to, the National Technical Research Organisation is exempt.

#### **Sec. 10(10BB) - Compensation under Bhopal Gas Leak Disaster Act, 1985**

- Any payment made to a person under Bhopal Gas Leak Disaster (Processing of Claims) Act, 1985 and any scheme framed thereunder will be fully exempt.
- However, payments made to any assessee in connection with Bhopal Gas Leak Disaster to the extent he has been allowed a deduction under the Act on account of any loss or damage caused to him by such disaster will not be exempted.

#### **Sec. 10(10BC) - Compensation for any Disaster**

- Any amount received or receivable from the Central Government or a State Government or a local authority by an individual or his legal heir by way of compensation on account of any disaster is exempt.

- However, exemption would not be available in respect of compensation for alleviating any damage or loss, which has already been allowed as deduction under the Act

**Sec. 10(11A) - Payment from Sukanya Samriddhi Account**

- Any payment from an account, opened in accordance with the Sukanya Samriddhi Account Rules, 2014 made under the Government Savings Bank Act, 1873 is exempt.
- The interest accruing on deposits in, and withdrawals from any account under the said scheme would be exempt.

**Sec. 10(16) - Scholarship**

- Scholarships granted to meet the cost of education is exempt.
- Cost of education also includes incidental expenses incurred for education.
- The exemption is irrespective of actual expenditure.

**Sec. 10(17) - Daily Allowance, etc. to MP and MLA**

- The following incomes of Members of Parliament or State Legislatures will be exempt:
- Daily Allowance of MPs and MLAs
  - Constituency Allowance of MPs and MLAs

**Sec. 10(17A) - Awards and Rewards**

- Any payment made, whether in cash or in kind
- a. in pursuance of any award instituted in the public interest or for approved purpose
  - b. by the Central Government or any State Government or by any other approved body; is exempt

**Sec. 10(18) - Pension to receiver of Gallantry Awards**

- Any income by way of Pension received by an individual
- who has been in the service of the Central or State Government and?
  - has been awarded "Param Vir Chakra" or "Maha Vir Chakra" or "Vir Chakra" or such other notified gallantry award; or
  - family pension received by any member of the family of such individual.
- Family means - spouse, children, parents or siblings (if wholly or mainly dependent on the assessee)

**Sec. 10(26) - Income of Scheduled Tribe**

- Following income of member of a Scheduled Tribe is exempt -
- from any source in specified areas or States; or
  - by way of dividend or interest on any securities. provided he resides in specified area or States.
- **Specified area** -

- The North Cachar Hills District, The Karbi Anglong District, The Bodoland Territorial Areas District, Khasi Hills District, Jaintia Hills District or The Garo Hills District
- States of Manipur, Tripura, Arunachal Pradesh, Mizoram and Nagaland, or
- Ladakh region of the state of Jammu and Kashmir

**Sec. 10(26AAA) - Income of Sikkimese**

- Following income of an individual, being a Sikkimese, is exempt:
  - from any source in the State of Sikkim; or
  - by way of dividend or interest on securities:
- The exemption is not available to a Sikkimese woman who, on or after 1/4/2008, marries an individual who is not a Sikkimese.

**Sec. 10(30) - Subsidy received from Tea Board**

- Any subsidy received from or through the Tea Board under any scheme for replantation or replacement of tea bushes or for rejuvenation or consolidation of areas used for cultivation of tea as the Central Government may specify, is exempt.
- The assessee should furnish a certificate from the Board to the AO along with his return.

**Sec. 10(31) - Subsidy received from other Board**

- Any subsidy received from or through the concerned Board (like Coffee Boards, Rubber Board, etc.) is exempt.
- The subsidy is received under any such scheme for replantation or replacement of rubber plants, coffee plants, cardamom plants or plants for the growing of such other commodity or for rejuvenation or consolidation of areas used for cultivation of rubber, coffee, cardamom or such other specified commodity.
- The assessee should furnish a certificate from the Board to the AO along with his return.

**Section 10(35)- Income from units from the Administrator of specified undertaking/ specified company/ Mutual Fund**

- Any income received in respect of units from the Administrator of the specified undertaking/specified company/ Mutual Fund shall be exempt.
- Exemption shall not apply to any income arising from transfer of such units.

**Sec. 10AA - Holiday for units established in special economic zones**

**Applicable to:** All assessee

**Conditions to be satisfied**

1. The assessee is an entrepreneur as defined in Sec.2(j) of SEZ Act, 2005.
2. Assessee has been granted a letter of approval from development commissioner.
3. The undertaking has begun or begins to manufacture or produce articles or things or provide services on or after 01/04/2005 but before 31/03/2020 in any SEZ.
4. Business should not be formed by splitting up or reconstruction of an existing business.

**Exception to the above condition:**



However, this condition is not applicable when conditions given u/s 33B are satisfied, which are as follows -

- a. The business of an industrial undertaking carried on in India is discontinued in any previous year by reason of extensive damage to, or destruction of, any building, P&M or furniture owned by the assessee being used for business purpose.
  - b. Such damage was caused due to -
    - i. flood, typhoon, hurricane, cyclone, earthquake or other convulsion of nature; or
    - ii. riot or civil disturbance; or
    - iii. accidental fire or explosion; or
    - iv. action by an enemy or action taken in combating an enemy (whether with or without a declaration of war),
  - c. Such business is re-established, reconstructed or revived by the assessee at any time before the expiry of 3 years from the end of previous year in which such damage was caused.
5. Such undertaking should not be formed by transfer of P&M previously used for any purpose.

**Exception to the above condition:**

- a. A P&M is deemed as a new asset if the following conditions are satisfied
    - i. Such P&M is imported into India.
    - ii. Depreciation on such asset has not been allowed under this Act to any person; and
    - iii. The assessee was the first user of such asset in India.
  - b. Where the total value of old plant and machinery transferred to the new business does not exceed 20% of total value of plant and machinery used in such business, then this condition is deemed to be satisfied.
6. A report of a chartered accountant in Form 56F must be filed with the return of income certifying that the deduction has been correctly claimed.

**Quantum of deduction:**

Period	Deduction
For first 5 years from the commencement of operation	$\frac{\text{Profits of the business of the undertaking} \times \text{Export turnover}}{\text{Total turnover of the business carried on by the undertaking}}$
For next 5 years	$\frac{50\% \text{ of } [\text{Profits of the business of the undertaking} \times \text{Export turnover}]}{\text{Total turnover of the business carried on by the undertaking}}$
For next 5 years	$\frac{50\% \text{ of } [\text{Profits of the business of the undertaking} \times \text{Export turnover}]}{\text{Total turnover of the business carried on by the undertaking}}$

- ★ **Conditions:** Such profit must be credited in reserve account called “SEZ Re-investment Allowance Reserve A/c”.
- ★ **Utilisation of such Reserve:**
  - Such reserve shall be utilised for the purposes of acquiring new P&M which is first put to use before the expiry of a period of next 3 years following the PY in which the reserve was created.
  - Until the acquisition of new P&M, such reserve can be utilised for any purpose of the business of the undertaking other than for
    - distribution by way of dividends or profits or
    - remittance outside India as profits or
    - creation of any asset outside India
  - The prescribed particulars in Form 56FF have been furnished by the assessee in respect of new P&M along with the return of income for the AY relevant to the PY in which such plant or machinery was first put to use.
- ★ **Misutilisation of Reserve:**
  - Where any amount credited to such reserve
    - a) Has been misutilised; or
    - b) Has not been utilised before the expiry of the specified period,
      - then such amount shall be deemed to be the taxable profits of the PY in which the amount was so misutilised or after the expiry of 3 years, as the case may be.

★ **Points to remember:**

- **Meaning of Export turnover:** It means the consideration received in India or brought into India by the assessee in respect of export by the undertaking being the unit of articles or things or services.  
However, it does not include freight, telecommunication charges, insurance attributable to the delivery of the articles or things outside India or expenses incurred in foreign exchange in rendering of services (including computer software) outside India.
- **Profits and gains derived from on-site development of computer software** (including services for development of software) outside India shall be deemed to be profits and gains derived from the export of computer software outside India.
- **Business loss or loss under the head ‘Capital Gains’** relates to such unit shall be allowed to be carried forward.
- **Conversion of FTZ into SEZ** - Where an undertaking initially located in any FTZ or EPZ is subsequently located in a SEZ by reason of conversion, the period of 10 consecutive assessment years shall be reckoned from the AY relevant to the PY

in which the undertaking begins to manufacture or produce such articles or things or computer software in such FTZ or EPZ.

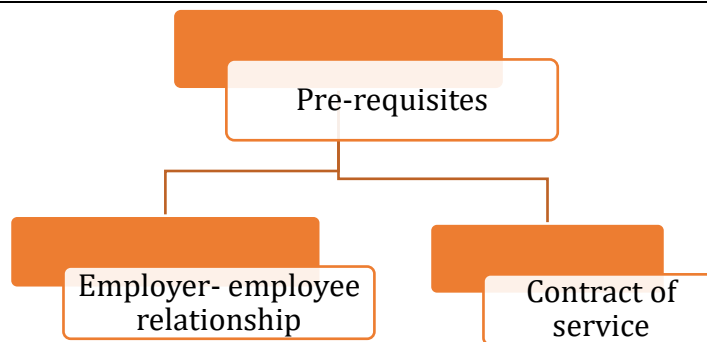
- However, where a unit initially located in any FTZ or EPZ has already completed the period of 10 consecutive assessment years, it shall not be eligible for further deduction from income w.e.f. A.Y.2006-07.
- **No deduction under section 80-IA and 80-IB** shall be allowed in relation to the profits and gains of the undertaking
- The assessee can claim deduction either under this section **or under sec 35AD**
- **Consequences of Amalgamation or Demerger** - Where any undertaking is transferred by an Indian company to another Indian company in a scheme of amalgamation or demerger -
  - Amalgamating or the demerged company shall not be eligible for deduction under this section from the PY in which the amalgamation or the demerger takes place; and
  - Amalgamated or the resulting company shall be entitled to deduction under this section from the PY in which the amalgamation or the demerger takes place in the same manner if the amalgamation or demerger had not taken place.
- **Inter unit transfer** - Where the assessee carries on 2 businesses and one of them is eligible for deduction under this section then any inter unit transfer between the 2 businesses is allowed only when it is at fair market value.

#### **Sec. 14A - Expenditure related to Exempted Income**

- For the purposes of computing the total income, no deduction shall be allowed in respect of expenditure incurred in relation to exempt income.
- The AO can determine the disallowable expenditure in accordance with the method prescribed by the CBDT in the following cases:
  - Where he is not satisfied with the correctness of the claim of such expenditure by assessee,
  - Where an assessee claims that no expenditure has been incurred by him in relation to exempt income.
- Rule 8D lays down the method for determining the amount of such expenditure
- Expenditure in relation to income =
  - Amount of expenditure directly relating to exempt income +
  - Amount equal to 1% of the annual average of the monthly averages of the opening and closing balances of the value of investment whose income is exempt.
- However, any disallowance computed under this Rule cannot exceed total expenditure claimed by assessee.
- Sec. 14A read along with Rule 8D provides for disallowance of expenditure even where the taxpayer has not earned any exempt income in a particular year.

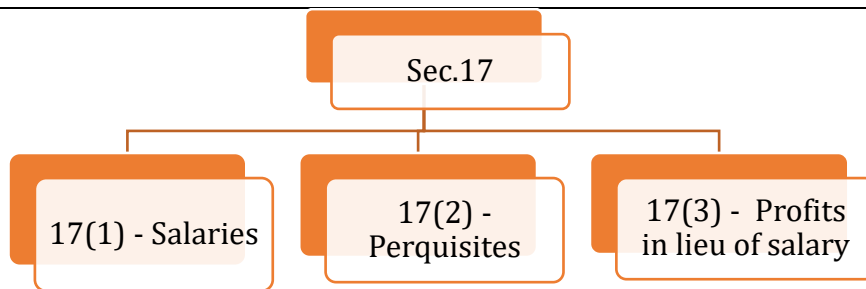
## Income from salaries

### 5.1 Basic Elements of Salary



- A payment can be construed as salary only if the payer is the employer and payee is the employee.
- The payment is in pursuance of a contract of service and not contract for service.
- Cases where income is taxed under other heads
  - (i) **Salary received by a partner** - Taxed under PGBP
  - (ii) **Remuneration of agent** - taxed under PGBP
  - (iii) **Salary received by sole proprietor** - is not an income.
  - (iv) **Payment to a non-executive director** - Taxed under other sources
  - (v) **Pension received by the widow or legal heir of deceased employee** - Taxed under other sources
  - (vi) **Remuneration of an official liquidator** - Taxed under salaries
  - (vii) **Salaries of MPs and MLAs** - Taxed under other sources
- Once salary has been earned by an employee, its **subsequent waiver does not make it exempt** from tax liability.
- Salary from **former, present or prospective employer** is chargeable to tax under the head “Salaries”.
- Salary **surrendered to central government** under the provisions of voluntary surrender of salaries (exempt from taxation act 1961, is exempt from taxation
- **Place of accrual** - Where services are rendered.
  - Exceptions to the above rule is Sec 9(1)(iii) - Salaries paid by Government of India to a citizen of India for services rendered outside India is deemed to accrue or arise in India.
  - However, any perquisites or allowances paid to such a person is exempt u/s 10(7)
- **Salary paid tax-free:** the employer bears the burden of the tax on the salary of the employee. In such a case, the income from salaries in the hands of the employee will consist of his salary income and also the tax on this salary paid by the employer.
  - The income-tax paid by the employer on non- monetary perquisites on behalf of the employee would be exempt in the hands of the employee - Sec(10(10CC).

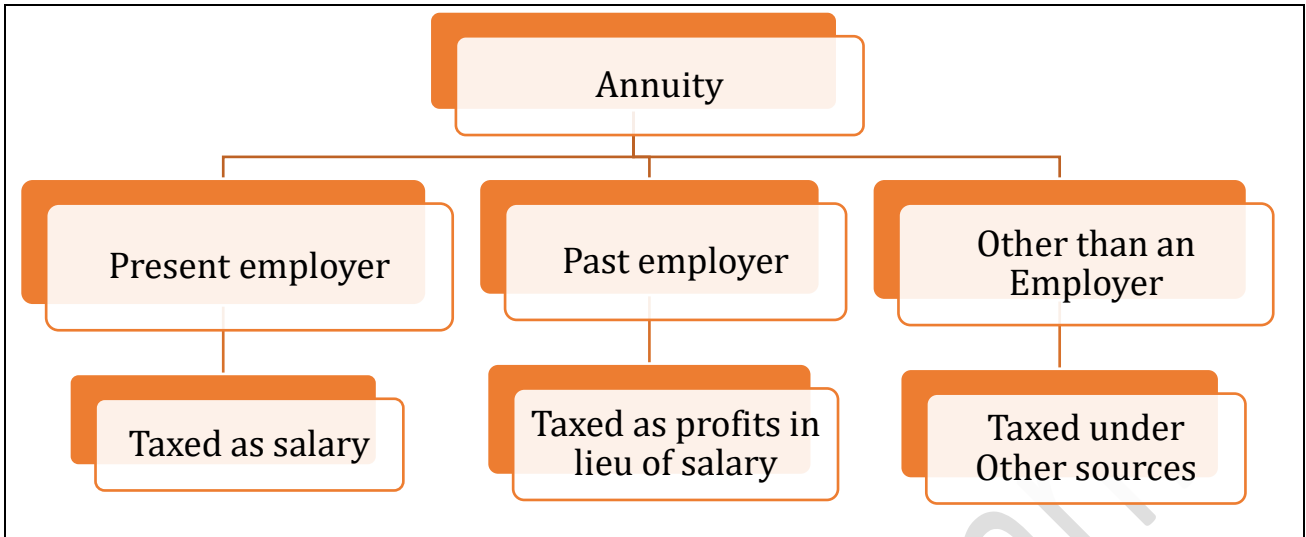
## 5.2 Definitions & General Notes



Salaries -

- a) Wages
- b) Any annuity or pension.
- c) Any gratuity.
- d) Any fees, commission, perquisite or profits in lieu of or in addition to any salary or wages.
- e) Any advance of salary.
- f) Any payment received in respect of any period of leave not availed of by the assessee.
- g) The portion of the annual accretion in any previous year to the balance at the credit of an employee, participating in recognised provident fund, to the extent it is taxable.
- h) Transferred balance in a Recognised Provident Fund to the extent it is taxable.
- i) Contribution made by the employer in the previous year, to the account of an employee under a pension scheme referred to in sec. 80CCD [National Pension Scheme and Atal Pension Yojana].

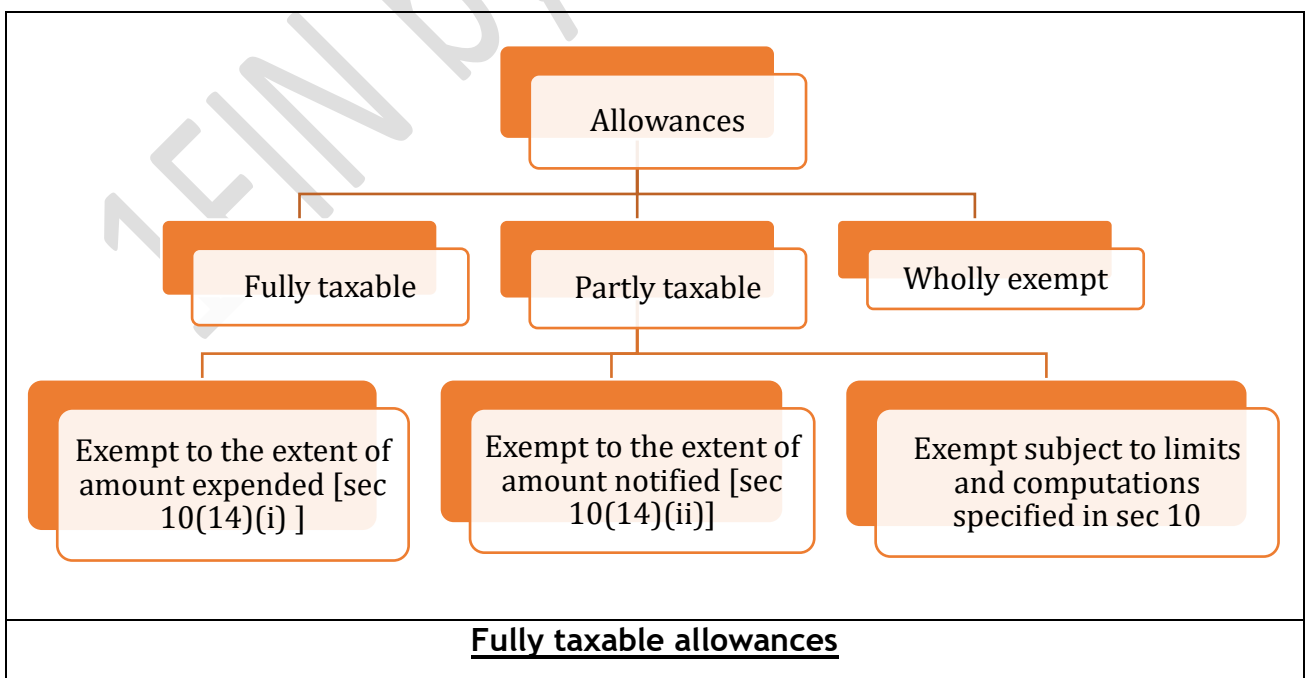
**Note:** National Pension scheme is a scheme approved by the Government for Indian citizen aged between 18-60 years. When an employee, is a subscriber of the NPS account, employer may also contribute into the employee's account. However, while computing total income of the employee-assessee, a deduction under section 80CCD is allowed to the assessee in respect of the employer's as well as employee's contribution under a pension scheme referred therein. The deduction u/s 80CCD is subject to a maximum of 10% of salary.



### 5.3 Basis of Charge

<u>Sec 15- Basis of Charge</u>
<p>Salary is chargeable to tax either on 'due' basis or on 'receipt' basis, whichever is earlier.</p> <p>Advance salary - Taxed on Receipt basis            ('Advance salary' is different from 'Advance against salary' which is treated as loan)</p> <p>Advance against salary - Treated as loan.</p> <p>Outstanding salary - Taxed on due basis.</p> <p>Arrear salary - Taxed on Receipt basis</p>

### 5.4 Allowances



1. Entertainment Allowance - Given to meet the expenses towards hospitality in receiving customers etc. Government employees a deduction u/s 16(ii)
2. Dearness Allowance
3. Overtime Allowance
4. Fixed Medical Allowance
5. City Compensatory Allowance (to meet increased cost of living in cities)
6. Interim Allowance
7. Servant Allowance
8. Project Allowance
9. Tiffin/Lunch/Dinner Allowance
10. Any other cash allowance
11. Warden Allowance
12. Non-practicing Allowance - given to a professional to refrain from practicing his profession
13. Transport allowance to employee other than blind/ deaf and dumb/ orthopedically handicapped employee. - (paid for the purpose of commuting between the place of his residence and the place of his duty)
<b><u>Wholly exempt allowances</u></b>
i) Allowances to High Court Judges
ii) Allowance paid by the United Nations Organization Note - Section 2 of the United Nations (Privileges and Immunities) Act, 1947 grants exemption from income-tax to salaries and emoluments paid by the United Nations to its officials.
iii) Compensatory Allowance received by a judge
iv) Sumptuary allowance granted to High Court or Supreme Court Judges
v) Allowance granted to Government employees outside India.
vi) Compensatory allowance under Article 222(2) of the Constitution
vii) Allowance or Perquisite to member of Union Public Service Commission [Sec. 10(45)]
viii) Tax exemption is also available in respect of certain specified perquisites enjoyed by Chief Election Commissioner/ Election Commissioner and judges of Supreme Court on account of the enabling provisions in the respective Acts which govern their service conditions.

**Partly exempt allowances**

**Exempt to the extent of amount expended [sec 10(14)(i)]**

- These are paid to meet expenses incurred exclusively in the performance of the duties.
- For the allowances under this category, there is no limit on the amount which the employee can receive from the employer.
- Whatever amount is received should be fully utilized for the purpose for which it was given to him.

i) **Travelling Allowance** - allowance granted to meet the cost of travel on transfer

ii) **Tour allowance** - allowance granted to meet the cost of travel on transfer

iii) **Conveyance Allowance** - allowance granted to meet the cost of commuting from one place to another within the city

iv) **Helper Allowance** - granted to meet the expenditure incurred on a helper

v) **Research allowance/ Academic allowance** - any allowance granted for encouraging the academic, research and training pursuits in educational and research institutions

vi) **Uniform allowance** - any allowance granted to meet the expenditure on the purchase or maintenance of uniform

vii) **Daily allowance** - allowance granted to meet the cost of living in a place which is not the usual place of business for the employee ie while he is travelling.

**Partly exempt allowances**

**Exempt to the extent of amount notified in Rule 2BB [sec 10(14)(ii)] -**

- Allowances granted either to meet his personal expenses at the place where the duties of his office are ordinarily performed by him or at the place where he ordinarily resides or to compensate him for the increased cost of living
- There is a limit on the amount which the employee can receive from the employer. Any amount received by the employee in excess of these specified limits will be taxable in his hands.
- It does not matter whether the amount which is received is actually spent or not by the employee for the purpose for which it was given to him.

1.	Special allowance - Hill/ High altitude allowance/ uncongenial climate allowance/snow bound area allowance or avalanche allowance.	Rs.800 per month or Rs.300 per month depending upon the specified locations. 7000 per month in Siachen area of Jammu and Kashmir
2.	Any Special Compensatory Allowance in the nature of border area allowance or remote	1,300 or 1,100 or 1,050 or 750 or 300 or 200 per month depending upon the specified locations



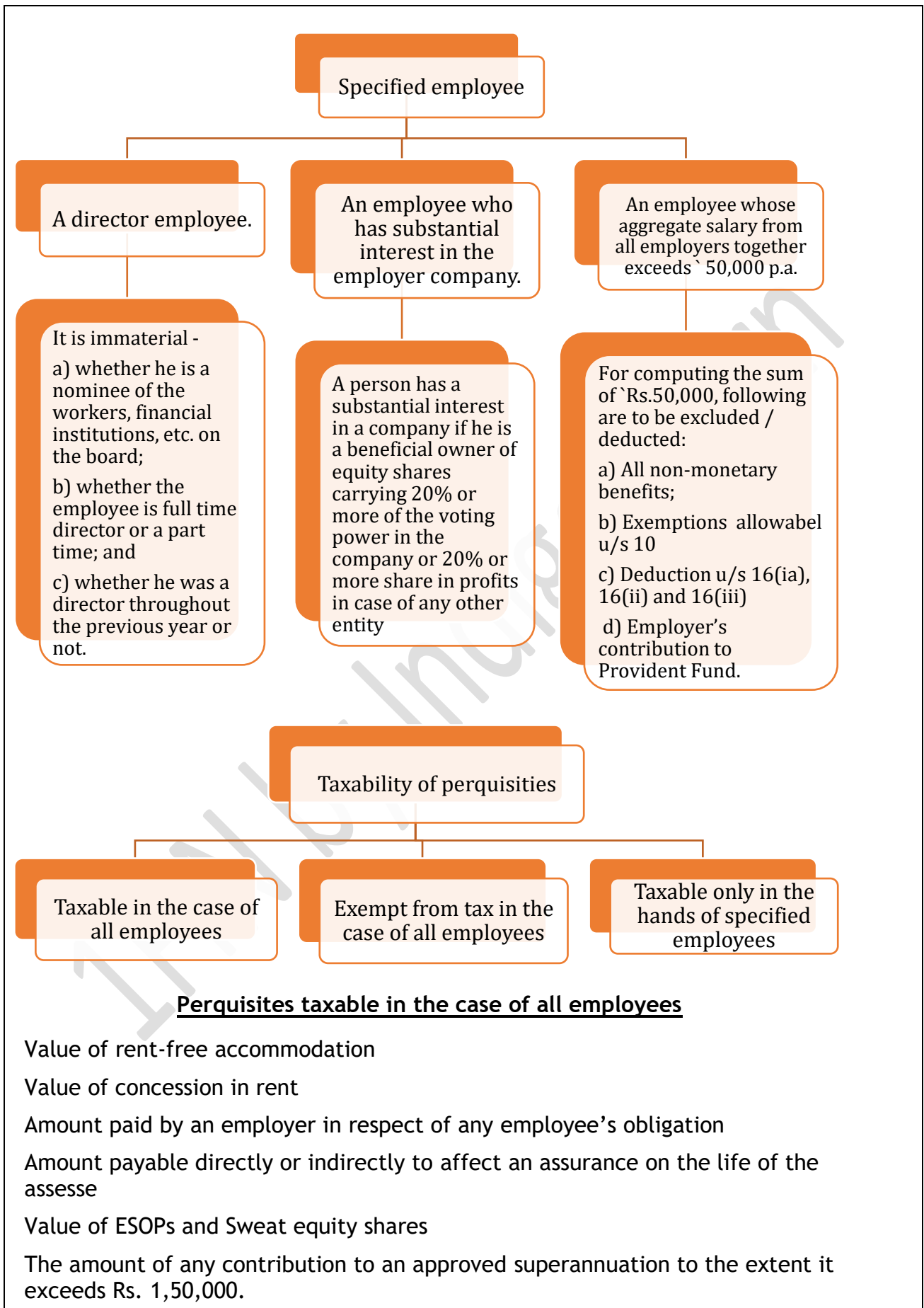
	locality allowance or difficult area allowance or disturbed area allowance	
3.	Tribal area allowance	Rs.200 per month for specified location
4	Transport allowance granted to an employee working in Transport system provided that such employee is not in receipt of daily allowance	70 % of such allowance up to a maximum of Rs. 10,000 per month
5	Children education allowance	Rs.100 per month, per child up to a maximum of two children
6	Hostel expenditure for employee's children	Rs.300 Per month, per child up to a maximum of two children
7	Compensatory field area allowance	Rs.2,600 per month for specified location
8	Compensatory Modified field area allowance	Rs.1,000 per month for specified location
9	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.	Rs.3,900 per month whole of India
10	Special compensatory highly active field area allowance granted for armed forces	Rs.4200 per month
11	High altitude allowance granted to members of armed forces operating in high altitude areas	Rs.1060 per month for 9k to 15k feet Rs.1600 per month for above 15K feet
12	Island duty allowance granted to armed forces in Andaman, Nicobar and Lakshadweep islands	Rs.3,250 per month.
13	Underground allowance	Rs. 800 p.m.
14	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.	Rs. 3200 per month in case of blind or orthopedically handicapped employees

Any assessee claiming exemption in respect of allowances mentioned at serial numbers 7, 8 and 9 shall not be entitled to exemption in respect of the allowance referred at serial number 2.

<u>Partly exempt allowances</u>	
<u>Exempt to the extent of limits specified under various clauses of sec 10</u>	
House rent allowance [sec 10(13A)] - Least of the following is exempt	
In Mumbai, Delhi, Chennai and Kolkata	In other cities
1. Actual HRA received	Actual HRA received
2. 50% of Salary	40% of Salary
3. Rent paid (Less) 10% of salary	Rent paid (Less) 10% of salary
<ul style="list-style-type: none"> <li>➤ Salary = Basic + DA (if forms part of retirement benefit) + Turnover based Commission</li> <li>➤ Fully taxable, if HRA is received by an employee who is living in his own house or if he does not pay any rent</li> <li>➤ It is mandatory for employee to report PAN of the landlord to the employer if rent paid is more than Rs. 1,00,000</li> </ul>	

### 5.5 Perquisite [Sec. 17(2)]

<u>Perquisites - Sec 17(2)</u>
<ul style="list-style-type: none"> <li>➤ <b>General meaning</b> - any casual emoluments or benefits attached to an office or position, in addition to salary or wages, which is availed by an employee</li> <li>➤ It may be provided in cash or in kind.</li> <li>➤ Reimbursement of expenses incurred in the official discharge of duties is not a perquisite.</li> <li>➤ Perquisite will become taxable only if it has a legal origin. An unauthorised advantage taken by an employee without his employer's sanction cannot be considered as a perquisite under the Act.</li> </ul> <p><b>Definition as per sec 17(2)</b></p> <p>Value of rent-free accommodation</p> <p>Value of concession in rent in respect of accommodation.</p> <p>The value of any benefit or amenity granted or provided free of cost or at concessional rate to 'specified employees.</p> <p>Amount paid by an employer in respect of any employee's obligation</p> <p>Life insurance/annuity contract payments</p> <p>Any contribution in excess of Rs. 1,50,000 to an approved superannuation fund by the employer in respect of the assessee.</p> <p>Value of ESOPs /Sweat equity shares provided free of cost or at concessional rate</p> <p>Value of any other fringe benefit or amenity</p>



The value of any other fringe benefit or amenity as may be prescribed by the CBDT - Interest free or concessional loan, Travelling, touring and accommodation, Gift, voucher or token in lieu of such gift, Credit card expense, club expenditure, use of movable assets, Transfer of movable assets are some of the benefits covered under Rule 3(7).

**Perquisites exempt from tax in the case of all employees**

Rent-free official residence provided to a Judge of a High Court or to a Judge of the Supreme Court. Similarly, rent-free furnished house provided to an Officer of Parliament.

Telephone provided by an employer to an employee at his residence

Transport facility provided by an employer engaged in the business of carrying of passengers or goods to his employees either free of charge or at concessional rate

Privilege passes and privilege ticket orders granted by Indian Railways to its employees;

Perquisites allowed outside India by the Government to a citizen of India for rendering services outside India.

Employer's contribution to staff group insurance scheme.

Refreshment provided to all employees during working hours in office premises

Subsidized lunch or dinner provided

Recreational facilities, including club facilities, extended to employees in general i.e., not restricted to a few select employees;

Amount spent on training of employees

Sum payable by employer to an RPF or an approved superannuation fund

Rent-free official residence provided to a Judge of a High Court or the Supreme Court

Rent-free furnished residence including maintenance provided to an Officer of Parliament, Union Minister and a Leader of Opposition in Parliament;

Conveyance facility provided to High Court Judges

Leave travel concession, subject to the conditions specified under section 10.

**Perquisites taxable in the hands of specified employees only**

Any monetary obligation of the employee which is discharged by the employer is perquisite in the hands of all employees as per section 17(2)(iv). However, sometimes instead of discharging employee's obligation, employer provides perquisites in the form

of facility to the employee. Such perquisites are taxable in the hands of specified employees only.

For example:

Nature of perquisite	Specified Employee	Non-Specified Employee
Motor car and other conveyance owned by Employee and expenses met by Employer	Taxable	Taxable
Motor car owned by the employer	Taxable	Not taxable
Watchman, Gardener, Sweeper, Personal attendant engaged by employee and expenses met by employer	Taxable	Taxable
Above servants engaged by the employer	Taxable	Not taxable
Gas, Electricity, water, etc for household consumption in the name of employee and expenses met by employer	Taxable	Taxable
The above facilities in the name of the employer	Taxable	Not taxable

## 5.6 Leave Travel concession

### Leave travel concession - Sec 10(5)

- This clause exempts the leave travel concession (LTC) received by employees from their employers for proceeding to any place in India,
  - either on leave or
  - after retirement from service or
  - after termination of his service
- Family includes spouse and children of the individual and parents, brothers and sisters of the individual or any of them wholly or mainly dependent on the individual.
- The exemption referred to shall not be available to more than two surviving children of an individual after 1.10.1998. This restrictive sub-rule shall not apply in respect of children born before 1.10.1998 and also in case of multiple births after one child.
- The exemption in all cases will be limited to the amount actually spent
- Under Rule 2B, exemption will be available in respect of 2 journeys performed in a block of 4 calendar years commencing from the calendar year 1986. The current block is 2018-2021
- Where such travel concession or assistance is not availed by the individual during any block of 4 calendar years, one such unavailed LTC will be carried forward to the immediately succeeding block of 4 calendar years and will be eligible for exemption.
- The cap limit for exemption is

Journey by air

Economy fare of national carrier by shortest route.

Journey by rail	1st class AC rail fare by shortest route.
Journey by any other mode where rail service exists	1st class AC fare, through recognised public transport by shortest route.
	a recognised public transport system exists - 1st class deluxe fare by shortest route.
	A recognised public transport system does not exist - amount equivalent to 1st class AC fare by rail through shortest route.

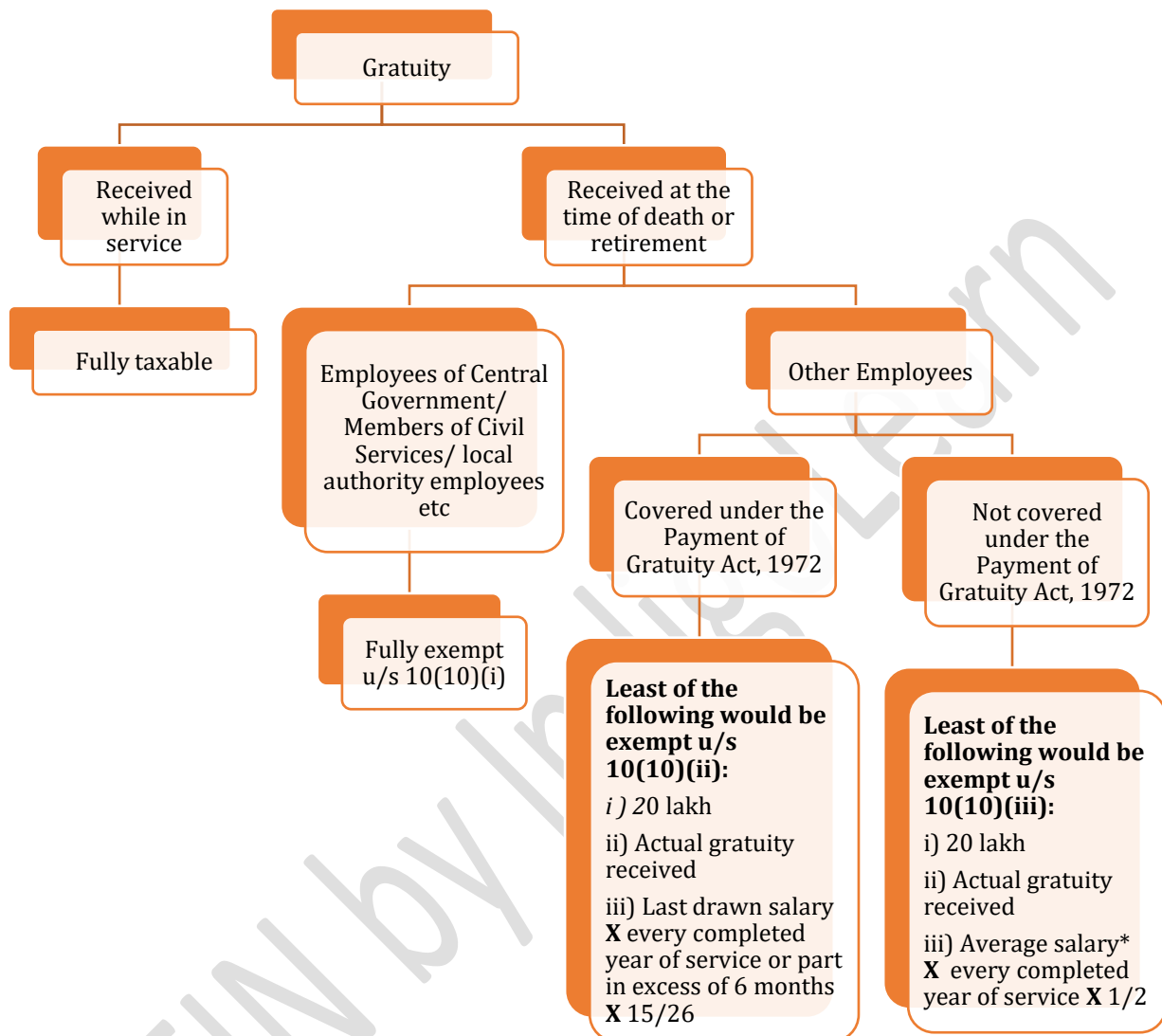
### 5.7 Profits in lieu of salary [Sec. 17(3)]

<b>Profits in lieu of salary [Section 17(3)]</b>
The amount of any compensation due to or received by an assessee from his employer or former employer at or in connection with the (a) termination of his employment, (b) modification of the terms and conditions of employment.
Any payment due to or received by an assessee from his employer or former employer except the following: <ul style="list-style-type: none"> <li>● Gratuity exempted u/s 10(10).</li> <li>● House rent allowance exempted u/s 10(13A).</li> <li>● Commuted pension exempted u/s 10(10A).</li> <li>● Retrenchment compensation exempted u/s 10(10B).</li> <li>● Payment from an approved Superannuation Fund u/s 10(13).</li> <li>● Payment from statutory provident fund or public provident fund.</li> <li>● Payment from recognised provident fund to the extent it is exempt u/s 10(12).</li> </ul>
Any payment from unrecognised provident fund or such other fund to the extent to which it does not consist of contributions by the assessee or interest on such contributions.
Any sum received by the employee under the Keyman Insurance Policy including the sum allocated by way of bonus on such policy.
Any amount due to or received by the employee (in lump sum or otherwise) prior to employment or after cessation of employment.

### 5.8 Gratuity

<b>Gratuity [Sec 17(1) and Sec 10(10)]</b>
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- Gratuity is a voluntary payment made by an employer in appreciation of services rendered by the employee.
- Retirement gratuity received under the Pension Code or Regulations applicable to members of the Defence Service is fully exempt.



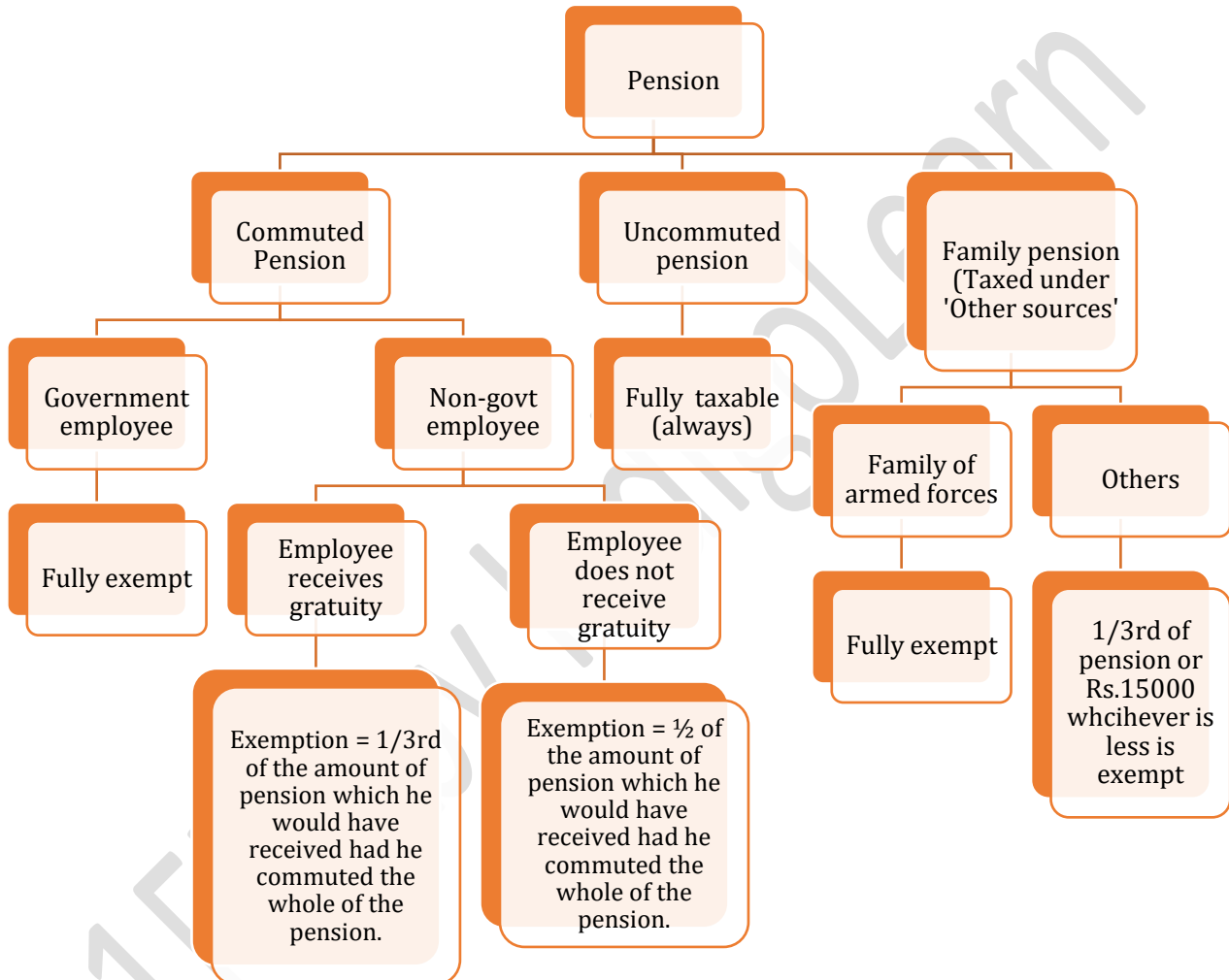
\* Average salary - 10 months average salary.

- Where gratuity is received from 2 or more employers in the same year then aggregate amount of gratuity exempt from tax cannot exceed Rs. 20,00,000/Rs. 10,00,000, as the case may be.
- Where gratuity is received in any earlier year from former employer and again received from another employer in a later year, the limit of Rs. 20,00,000/Rs. 10,00,000, as the case may be, will be reduced by the amount of gratuity exempt earlier.
- The exemption in respect of gratuities would be available even if the gratuity is received by the widow, children or dependents of a deceased employee.

## 5.9 Pension [Sec. 17(1)(ii)]

### Pension - sec 17(1)(ii), Commuted pension [sec 10(10A) and Family Pension (Sec 56)

- Pension is a periodic payment made to the employee in consideration of past service payable after his retirement.
- Uncommuted pension refers to pension received periodically.
- Commutation means inter-change. Commuted pension means lump sum amount taken by commuting the whole or part of the pension.



- Judges of the Supreme Court and High Court will be entitled to exemption of the commuted portion.
- Any commuted pension received by an individual out of annuity plan of the Life Insurance Corporation of India (LIC) from a fund set up by that Corporation will be exempted.

## 5.10 Retrenchment Compensation

### Retrenchment compensation [Section 10(10B)]



- Compensation paid under Industrial Disputes Act, 1947 or under any Act, Rule, Order or Notification issued under any law.
- Amount exempted u/s 10(10B) - Least of the following -
  - Actual amount received
  - Rs. 5 lacs
  - 15 days average pay x every completed year of service or part thereof in excess of 6 months. (Sec 25 of Industrial disputes act)
- where the compensation is paid under any scheme approved by the Central Government for giving special protection to workmen under certain circumstances- nothing is taxable.

Average pay means average of the wages payable to a workman

in the case of monthly paid workman,

In 3 complete calendar months

in the case of weekly paid workman

In the 4 calendar weeks

in the case of daily paid workman,

In the 12 full working weeks

If he has not worked for the above period, then

Average of the wages payable during the period he actually worked.

Wages includes -

- all remuneration capable of being expressed in terms of money,
- any value of non-monetary benefits like - the value of any house accommodation, or of supply of light, water, medical attendance or other amenity etc.

Wages excludes -

- any bonus.
- contribution to a retirement benefit scheme.
- any gratuity payable on the termination of his service

- Notice pay is fully taxable.

### 5.11 Compensation received at the time of voluntary retirement [Sec. 10(10C)]

#### Voluntary retirement compensation [sec 10(10C)]

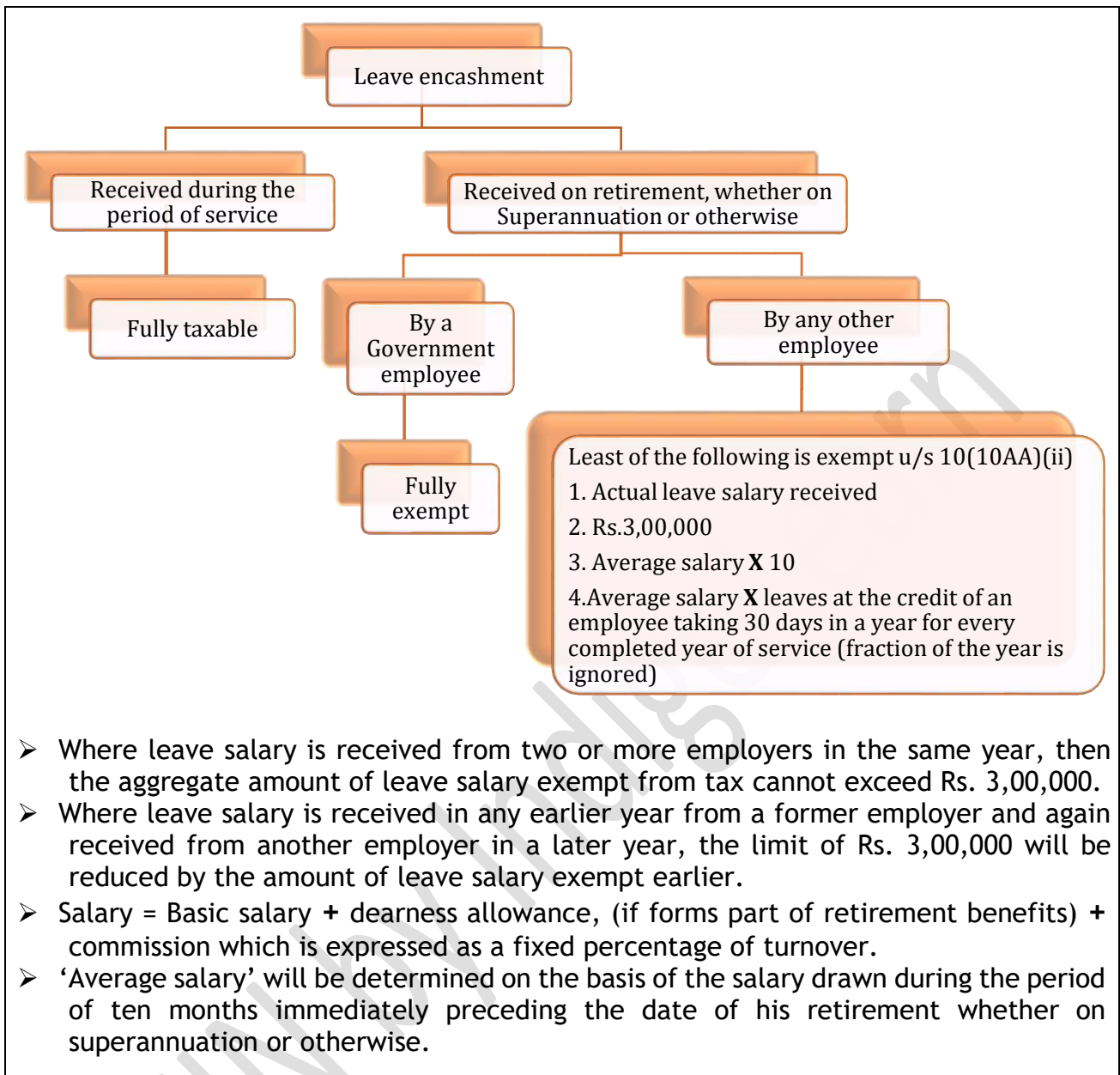
- **Eligible Undertakings** - Central government, State government, Local authority, PSUs, any other company, Co-operative society etc.,
- **Amount exempted** - Least of the following:
  1. Actual amount received
  2. Rs. 5 lacs
  3. 3 months x salary last drawn x completed year of service
  4. Salary last drawn x Balance of months left for retirement/superannuation
- Salary = Basic salary + dearness allowance, (if forms part of retirement benefits) + commission which is expressed as a fixed percentage of turnover.
- **Conditions to satisfy**

- Such compensation should be at the time of his voluntary retirement or termination of his service, in accordance with any scheme of voluntary retirement
  - Rule 2BA prescribes the following guidelines for the purposes of the scheme
    1. It applies to an employee who has completed 10 years of service or completed 40 years of age.  
However, this requirement is not applicable in case of an employee of a public sector company under the scheme of voluntary separation framed by the company.
    2. It applies to all employees by whatever name called, except directors of a company or a cooperative society.
    3. The scheme of voluntary retirement or separation must have been drawn to result in overall reduction in the existing strength of the employees.
    4. The vacancy caused by the voluntary retirement or separation must not be filled up.
    5. The retiring employee of a company shall not be employed in another company or concern belonging to the same management.
- No exemption u/s 10(10C) if the employee has already taken relief u/s 89
  - Exemption u/s is allowed only once in lifetime.
  - Exemption will be available even if such compensation is received in instalments.

## 5.12 Leave salary encashment

### Leave salary encashment [sec 10(10AA)]

The payment received on account of encashment of unavailed leave would form part of salary. However, section 10(10AA) provides exemption in respect of amount received by way of encashment of unutilised earned leave by an employee at the time of his retirement, whether on superannuation or otherwise.



### 5.13 Provident fund

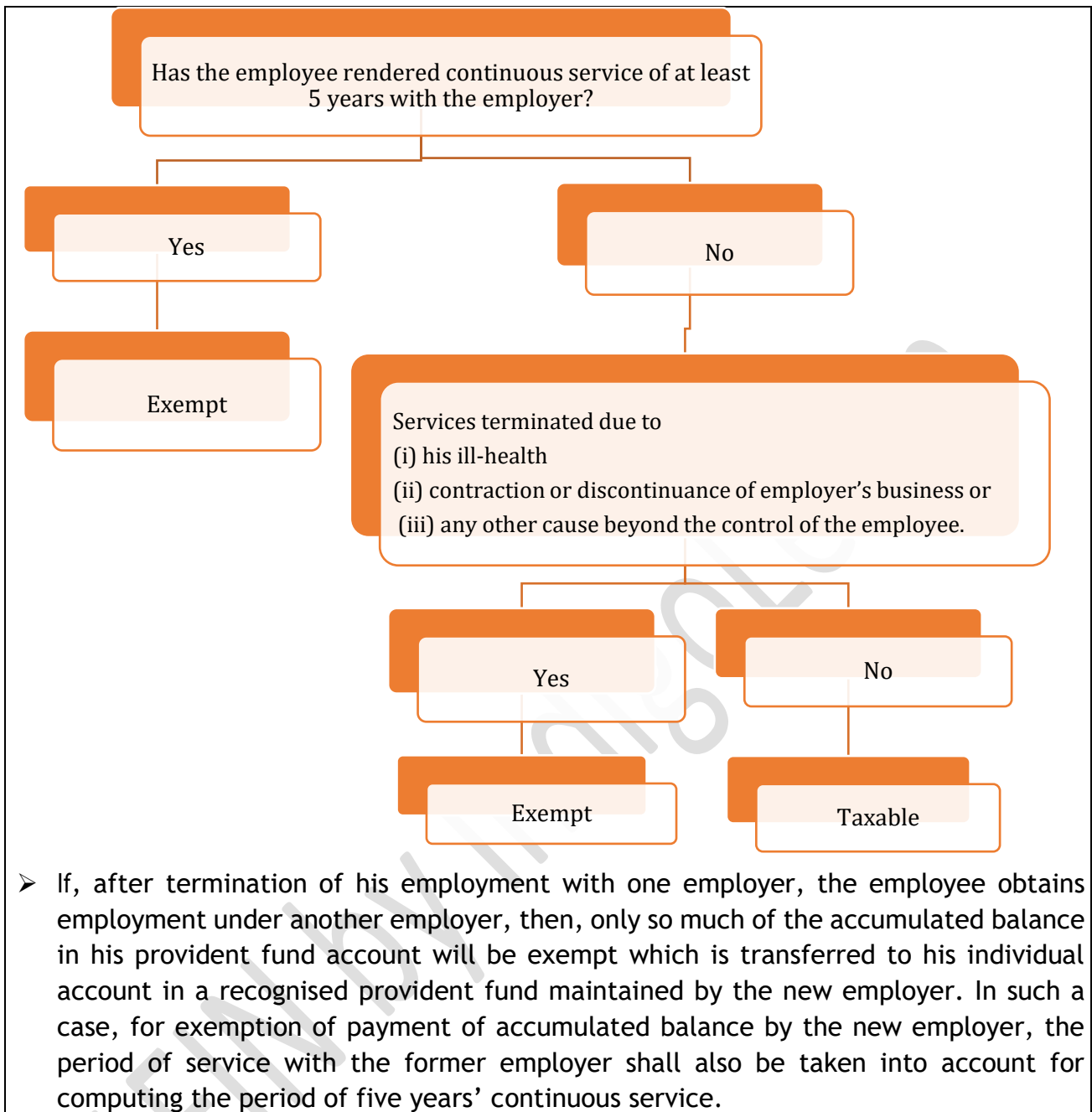
Provident fund scheme is a scheme intended to give substantial benefits to an employee at the time of his retirement.

	Statutory PF	Public PF	Recognised PF	Unrecognised PF
	Governed by Provident fund Act 1925	Governed by Provident fund Act 1968	Governed by Provident fund Act 1952	Governed by Provident fund Act 1952
	Applies to employees of government, railways,	Membership of the fund is open to every individual	PF recognised by CIT	PF not recognised by CIT

	semi-government institutions,	though it is ideally suited to self-employed people		
Employee contribution	Deduction u/s 80C	Deduction u/s 80C	Deduction u/s 80C	No deduction u/s 80C
Employer contribution	Exempt u/s 10	N.A. (as there is only assessee's contribution)	Exempt up to 12% of salary Excess is taxable	Not taxable yearly
Interest on Employee contribution	Exempt u/s 10	Exempt u/s 10	Exempt up to 9.5% p.an Excess is taxable	Taxable under "other sources" at the end of the term
Interest on Employer contribution	Exempt u/s 10	N. A	Exempt up to 9.5% p.an Excess is taxable	Not taxable yearly
Lumpsum @ retirement	Exempt u/s 10	Exempt u/s 10	Exempt u/s 10	Employer contribution + interest thereon is taxed under "Salaries"

- Salary = Basic salary + dearness allowance, (if forms part of retirement benefits) + commission which is expressed as a fixed percentage of turnover.
- Any transfer from an unrecognised PF to Recognised PF is also taxable in the year of transfer.

**Exemption of Accumulated balance of RPF, payable to an employee**



#### 5.14 Medical Facility [Proviso to Sec. 17(2)]

##### Medical facilities

- The following medical facilities will not amount to a perquisite
1. Value of medical treatment in any hospital maintained by the employer
  2. Reimbursement of expenditure actually incurred on medical treatment in
    - any hospital maintained by the Government and
    - in respect of the prescribed disease or ailments in any hospital approved by the Principal Chief Commissioner
- The employee shall attach with his return of income a certificate from the hospital specifying the disease

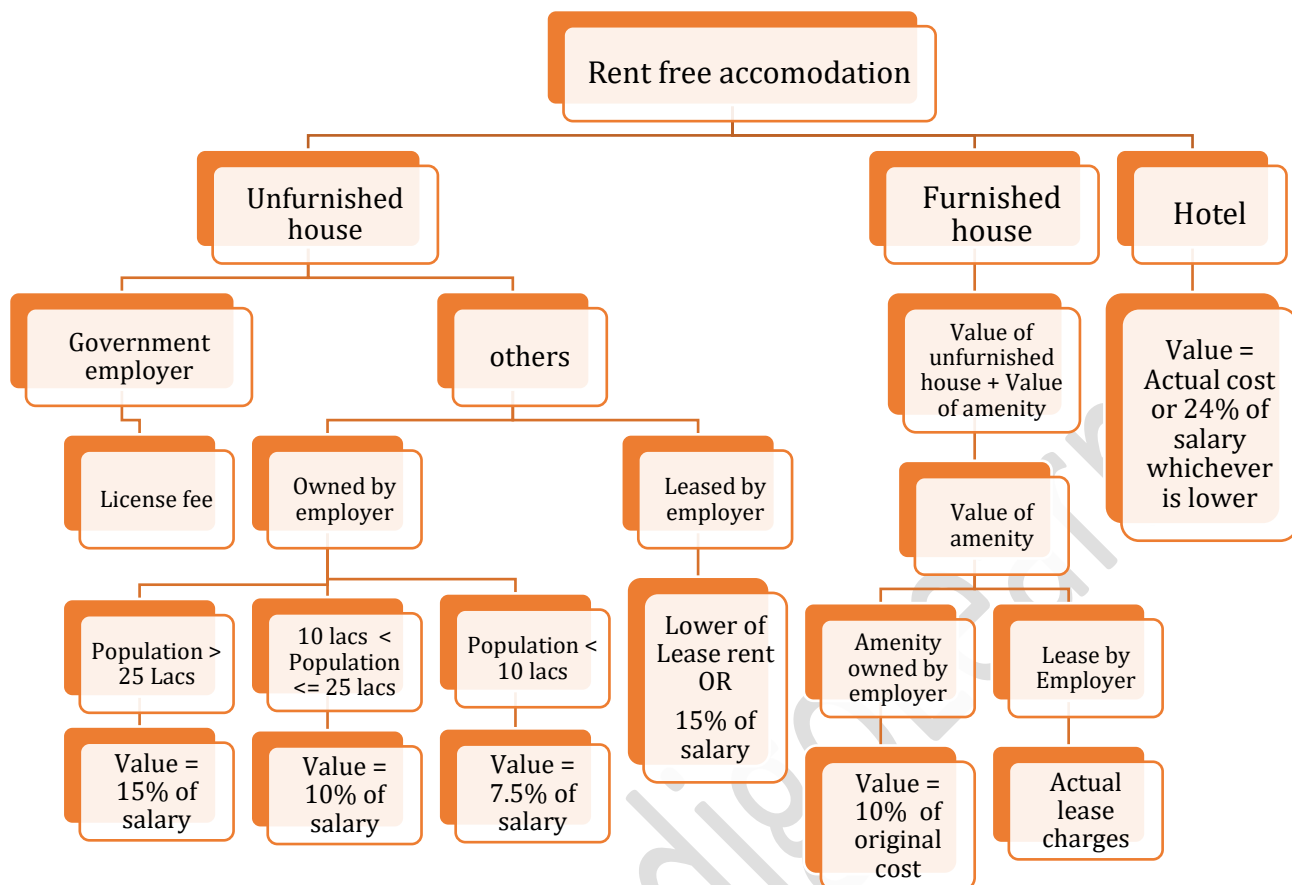
3. Premium paid to affect an insurance on the health of employee under a scheme approved by the Central Government or IRDA for the purposes of section 36(1)
4. Payment of premium on personal accident insurance policies - because it is taken in their business interest only
5. Reimbursement of premium paid to affect an insurance on the health of employee or for the family of an employee under a scheme approved by the Central Government or the IRDA for the purposes of section 80D
6. Amount paid towards expenditure incurred outside India on medical treatment

medical treatment of the employee or any member of the family	exempt only to the extent permitted by the RBI
travel and stay abroad for such treatment	exempt only to the extent permitted by the RBI
travel and stay abroad of one attendant who accompanies the patient	exempt if the employee's gross total income as computed before including the said expenditure does not exceed Rs. 2 lakhs

Family = Spouse + children + Parents & siblings if wholly dependent on the assessee

### 5.15 Valuation of Perquisites

#### Value of rent-free accommodation



- For computing the value of a furnished accommodation, first find the value of the unfurnished accommodation and then find the value of amenities. The aggregate is the value of furnished accommodation.
- All the above values will be reduced with the amount actually collected by the employer from the employee.
- In case of **hotel accommodation**, where the employee is provided such accommodation for a period not exceeding in aggregate **15 days on his transfer** from one place to another, there would be no perquisite.
- Where an employee is transferred from one place to another and he is provided with an accommodation at new place also, the value of perquisite shall be taken for only one such house having lower value for a **period not exceeding 90 days**. Thereafter, the values of both such houses are taxable.
- Where the accommodation is provided by the Central Government or any State Government to an employee who is serving on deputation with anybody or undertaking under the control of such Government, then the value is computed based on the population assuming such body or undertaking to be the employer
- Any accommodation provided to an employee working at a mining site; or an on-shore oil exploration site; or a project execution site; or a dam site; or a power generation site; or an off-shore site, which
  - i. being of a temporary nature and having plinth area not exceeding 800 sq. Ft. is located not less than 8 kms away from the local limits of any municipality or a cantonment board; or

ii. is located in a remote area. (Remote area here means an area located at least 40 K.M. away from a town having population not exceeding 20,000 as per latest published census.)

➤ **Definition of salary -**

Includes all allowances, bonus and commission and Excludes

- (a) Dearness allowance if it does not form part of retirement benefit (only DA\* is included)
- (b) Employer's contribution to the provident fund account of the employee;
- (c) Allowances which are exempted u/s 10
- (d) The value of perquisites u/s 17(2)
- (e) Any payment or expenditure specifically excluded under proviso 17(2)
- (f) Lump-sum payments received at the time of termination of service or superannuation or voluntary retirement, like gratuity, severance pay, leave encashment, voluntary retrenchment benefits, commutation of pension and similar payments.

**Value of any concession in the matter of rent respecting any accommodation provided to the assessee by the employer**

- The difference between the specified rate in respect of the period during which said accommodation was occupied computed as per the above flowchart and the amount of rent recoverable/recovered from the employee would be deemed to be the concession in the matter of rent.
- All the above points with regard to hotel accommodation and 2 accommodations will remain the same
- Definition of salary is also the same as mentioned above.

**Value of perquisite per calendar month -motor car / car / another vehicle**

Owner/hirer of the car	Expenses met / reimbursed by	Purpose	Taxable value
Employer	Employer	Fully official	Not a perk
Employer	Employer	Fully personal	Actual expense on running and maintenance + Driver's salary +10% Dep on cost - Amount charged from EE
Employer	Employer	Partly official and partly personal	CC < 1.6 Lts - 1800 pm + 900 pm CC > 1.6 Lts - 2400 pm + 900pm CC = Cubic capacity of the engine 900 Pm for chauffer is considered only if driver is employed.
Employer	Employee	Partly official and partly personal	CC < 1.6 Lts - 600 pm + 900 pm CC > 1.6 Lts - 900 pm + 900pm



			CC = Cubic capacity of the engine 900 Pm for chauffeur is considered only if driver is employed.
Employee	Employer	Fully official	Not a perk
Employee	Employer	Partly official and partly personal	Actual exp - (1800+900) (if CC < 1.6 Lts) OR Act exp - (2400+900) (if CC > 1.6 lts) as the case may be
Any other automotive conveyance			
Employee	Employer	Fully official	Not a perk
Employee	Employer	Partly official and partly personal	Actual exp - 900 pm
<ul style="list-style-type: none"> <li>➤ If the employee uses more than 1 car owned or hired by ER, then 1 will be assumed to be used partly for personal use and the other will be assumed to be used fully for personal purposes.</li> <li>➤ The employer has to maintain a complete record of all details like journey undertaken for official purpose which may include date of journey, destination, mileage, and the amount of expenditure incurred thereon in case it is used fully for official purpose.</li> <li>➤ The use of any vehicle provided by an employer for journey by the assessee from his residence to his office or other place of work, and back home shall not be regarded as a benefit given or provided to him free of cost or at concessional rate.</li> </ul>			

### 5.16 Valuation of Fringe benefits

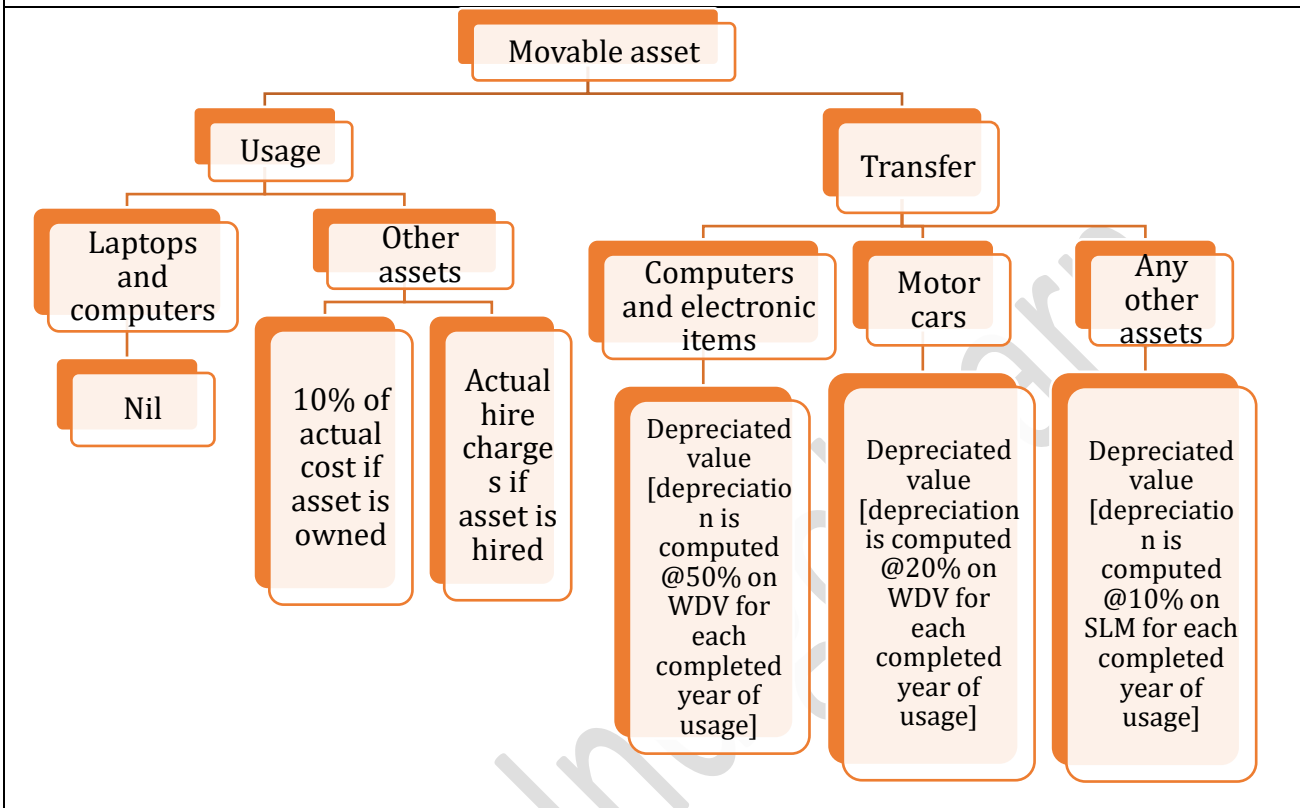
<u>Valuation of fringe benefits</u>					
<u>Benefit</u>	<u>Valuation</u>				
Provision of domestic servants like sweeper, a gardener, a watchman or a personal attendant	Actual cost to the employer i.e. total amount of salary paid or payable by the employer.				
	<table border="1" style="width: 100%;"> <tr> <td style="width: 50%;">If servants are engaged by the employee and employer pays or reimburses the cost</td> <td style="width: 50%;">Taxable in the hands of all employees</td> </tr> <tr> <td>If the domestic servants are engaged by the employer.</td> <td>Taxable in the hands of specified employees only.</td> </tr> </table>	If servants are engaged by the employee and employer pays or reimburses the cost	Taxable in the hands of all employees	If the domestic servants are engaged by the employer.	Taxable in the hands of specified employees only.
	If servants are engaged by the employee and employer pays or reimburses the cost	Taxable in the hands of all employees			
If the domestic servants are engaged by the employer.	Taxable in the hands of specified employees only.				
<u>Circumstances</u>	<u>Value of benefit</u>				
Gas, Electricity or water supplied by employer					

	If payment is made to agency supplying of gas, electricity etc.	Sum equal to the amount paid on that account by the employer to the agency supplying the gas, electric energy or water
	If supply is made from resources owned by the employer	Manufacturing cost per unit incurred by the employer
Free or concessional educational facilities	If the fees is paid or reimbursed by the employer	Value = sum equal to the amount of expenditure incurred by the employer
	If the educational institution is maintained and owned by the employer or If free educational facilities are allowed in any other educational institution by reason of his being in employment of that employer	Then it is taxed only in the hands of specified employees Value = cost of such education in a similar institution in or near the locality There would be no perquisite if the cost of such education per child does not exceed Rs. 1,000 p.m.
	Note: The exemption of Rs.1,000 p.m. is allowed only in case of education facility provided to the children of the employee not to other household members	
Fee or concessional tickets by the employer who is engaged in the carriage of passengers or goods	Value at which such benefit or amenity is offered by such employer to the public (-) amount recovered. Value = Nil in case of employees of an airline or the railways.	
Interest-free or concessional loan (for all employees or any member of his household)	Maximum outstanding monthly balance $\times$ SBI rate of interest on loans for same purpose on 1st day of PY (-) interest recovered. Value = Nil if 1) Loan $\leq$ 20,000 and 2) Loan for medical treatment for prescribed disease. (but no exemption if medical exp reimbursed by insurance)	
Travelling, touring and accommodation	For any holiday availed of by the employee or any member of his household	Value = Actual expenses paid for or borne or reimbursed by the employer

	If such facilities are maintained by employer to particular employees only	Value = value at which such facilities are offered by other agencies to the public.
	Expenses on any member of household accompanying such employee on office tour	Value = the amount of expenditure so incurred for that member
	If official tour is extended as vacation	Value = Actual exp during vacation period.
Free or concessional food and non-alcoholic beverages	<p>Amount of expenditure incurred by such employer.</p> <p>The following would not be treated as a perquisite:</p> <ol style="list-style-type: none"> <li>1. Provided during working hours at office or business premises</li> <li>2. Provided through paid vouchers which are not transferable and usable only at eating joints, (not exceeding Rs. 50 per meal)</li> <li>3. Provided in a remote area or an offshore installation</li> </ol>	
Gift, voucher or token in lieu of such gift - given to employee or by member of his household on ceremonial occasions or otherwise	<p>Actual value of such gift.</p> <p>Taxable Value = nil if value of gift is less than Rs. 5000</p>	
Credit card expenses (incurred by the employee or any member of his household)	<p>Actual Amount of expenditure including membership fees and annual fees</p> <p>If it is for official purpose then, it is not taxable if complete details in respect of such expenditure are maintained by the employer and the employer gives a certificate to that effect.</p>	
Club expenditure (incurred by the employee or any member of his household)	<p>Actual expenditure (met by the employer) + annual periodical fees - amount recovered from the employee.</p> <p>If Employer has taken corporate membership, then the initial fees is not considered as perk.</p> <p>If it is for official purpose then, it is not taxable if complete details in respect of such expenditure are maintained by the employer and the employer gives a certificate to that effect.</p> <p>No perquisite for use of health club, sports and similar facilities provided uniformly to all employees by the employer</p>	
Other benefit or amenity	Value = cost to the employer under an arms' length transaction as reduced by the employee's contribution, if any.	

If an employer pays or reimburses telephone bills or mobile phone charges of employee, there will be no taxable perquisite.

**Valuation with regard to usage or transfer of Moveable property**



**Valuation of specified security or sweat equity share**

The FMV of any specified security or sweat equity share, being an equity share on the date on which the option is exercised is determined in the following manner -

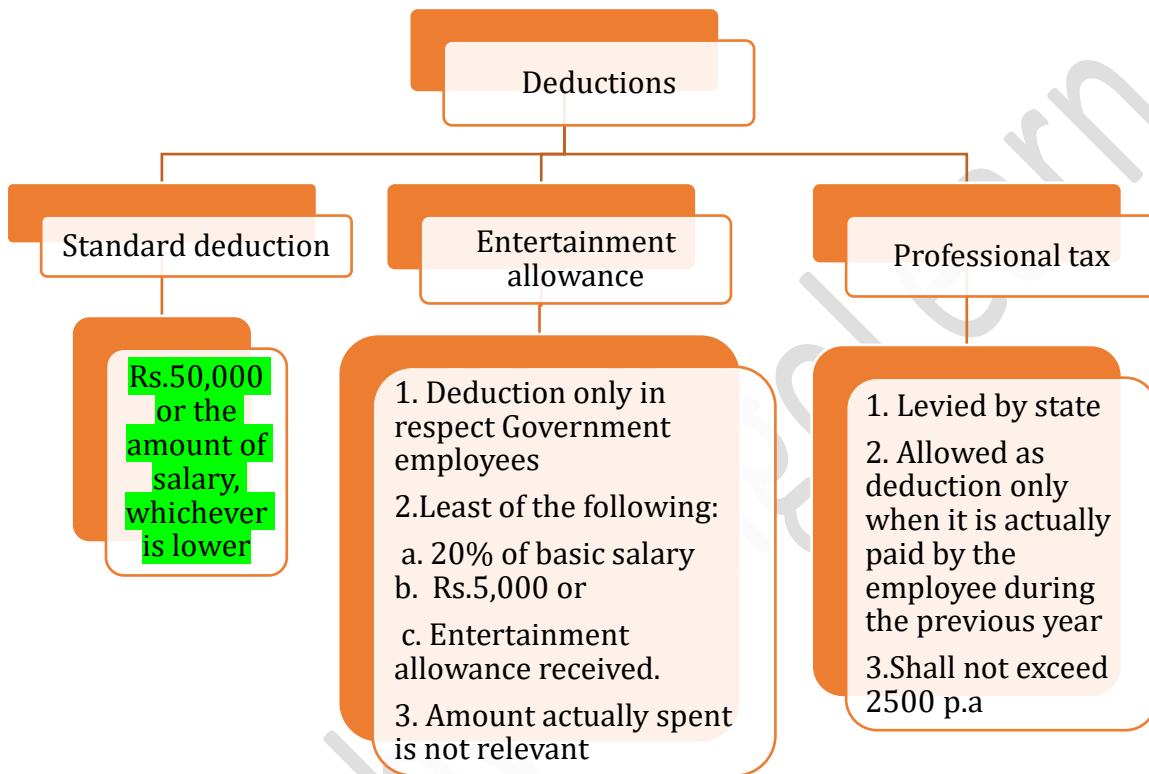
If shares are listed on RSE	If shares are listed on more than one RSE	If no trading in share on RSE	If shares are not listed	In case of securities other than equity shares
FMV = average of the opening price and closing price of the share on that date.	FMV = average of the opening price and closing price of the share on that date in the RSE which records the highest volume of trading in the share	FMV = closing price on the date closest to the date of exercising of the option immediately preceding such date OR closing price on the date closest to the date of exercising in the RSE records the highest volume of	FMV determined by a merchant banker on the specified date.	FMV determined by a merchant banker on the specified date.

		trading in the share as the case may be.		
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RSE - Recognised stock exchange

Specified Date - date of exercising of option or any date not exceeding 180 days prior to that date

### 5.17 Deductions from salary



Standard deduction has been increased from Rs. 40,000 to Rs. 50,000 w.e.f AY2020-21.

#### Definition of Member of household for the purpose of valuation of Perquisites:

include-

- (a) spouse(s),
- (b) children and their spouses,
- (c) parents, and
- (d) servants and dependants

## Income from House Property

<u>Chargeability [Section 22]</u>		
The annual value of any property ( <i>computation given in sec 23</i> ) comprising of <b>building or land appurtenant thereto</b> , of which the <b>assessee is the owner</b> , is chargeable to tax under the head “Income from house property”.		
<u>Conditions for Chargeability</u>		
<u>HP</u>	<u>OS/PGBP</u>	<u>Not taxable</u>
Residential and commercial building	Vacant land - OS	Used by the assess for his business or profession
Land connected to building like garden, garage etc.	Subletting - OS	Let out to firm by the partner
Held as stock in trade	Letting out is incidental to main business - PGBP	One palace of ex-ruler
Letting - owner (including deemed owner)	Display of advertisement hoarding	Income from farm building used for agriculture purposes
Building on freehold / leasehold land	Letting with other facilities - like cotton mill with machinery. (if 2 lettings are inseparable)	Property held on charitable trust
	Assesse engaged in the business of letting out of properties - PGBP	House property owned by local authority or registered trade union

❖ Assessee must be the **owner** of the property

(a) **who is entitled to receive income** (beneficial owner)

(b) **Registration** of the sale deed is **not warranted**.

(c) The person who owns the building need not also be the owner of the land upon which it stands.

(d) Owner - **during the previous year**. It is not material whether he is the owner in the assessment year.

In case of recovery of **unrealised rent and arrears of rent**, ownership is not relevant.

(e) **Title** of the ownership of the property is under **dispute** in a court of law, the decision as to who will be the owner chargeable to income-tax under section 22 will be of the **Income-tax Department** till the court gives its decision to the suit filed in respect of such property.

**Deemed owner - u/s 27**

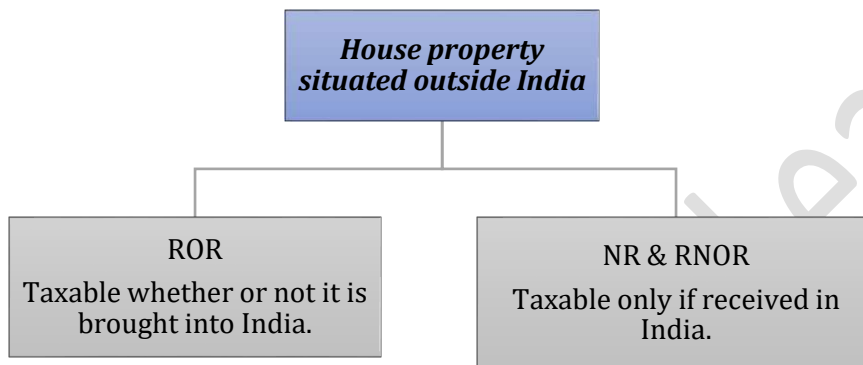
In the following cases the **Transferor is deemed to be the owner** of assessed property.

<b><u>Sr.No.</u></b>	<b><u>Case</u></b>	<b><u>Condition</u></b>
1.	Transfer to spouse	1. Without adequate consideration or 2. Not in connection with an agreement to live apart
2.	Transfer to minor child	1. Without adequate consideration Not being minor married daughter.  Where cash is transferred to spouse or minor child and the transferee acquires property out of that money, then transferor will not be treated as deemed owner, but clubbing provision will be attracted.
3.	Holder of an impartible estate	Impartible estate - property which is not legally divisible.  Holder of an impartible estate is deemed to be the individual owner of all properties comprised in the estate.
4.	A member of co-operative society, company or any other AOP	The building is allotted on house building scheme
5.	Person in possession of a property	Sec 53A of Transfer of property act -  1. <b>Possession</b> handed over 2. <b>Consideration</b> paid 3. <b>Power of attorney or agreement to sell executed.</b>
6.	Leased for at least 12 years	where any person acquires any right by way of sale / exchange/ lease for at least 12 years  <b>Exception</b> - In case the person acquiring any rights by way of lease from <b>month to month</b> or for a period <b>not exceeding one year</b> , such person will not be deemed to be the owner.

**Composite Rent**

Income from building + Other services like, Lifts, Security, Power backup. Etc.

If the building and amenities are separable	If they are not separable
Income from Building - Taxed u/s 22 and Income from facilities - Taxed u/s 56 or 28 as the case may be	If letting of building is not acceptable without the letting of other assets - then OS / PGBP as the case may be.
Applicable even if composite rent is received by the assessee from his tenant for two lettings.	Even if income is fixed separately



<u>Determination of Annual value - Sec 23</u>		
Particulars	Amount	Amount
Gross Annual Value (GAV)		XXX
(Less) Municipal taxes (paid by owner)		(xx)
Net Annual Value (NAV)		XXX
(Less) - Deduction u/s 24		
Standard deduction (30% of NAV- flat)	xxx	
Interest on borrowed capital	xxx	(XXX)
Income under the head House property		XXX

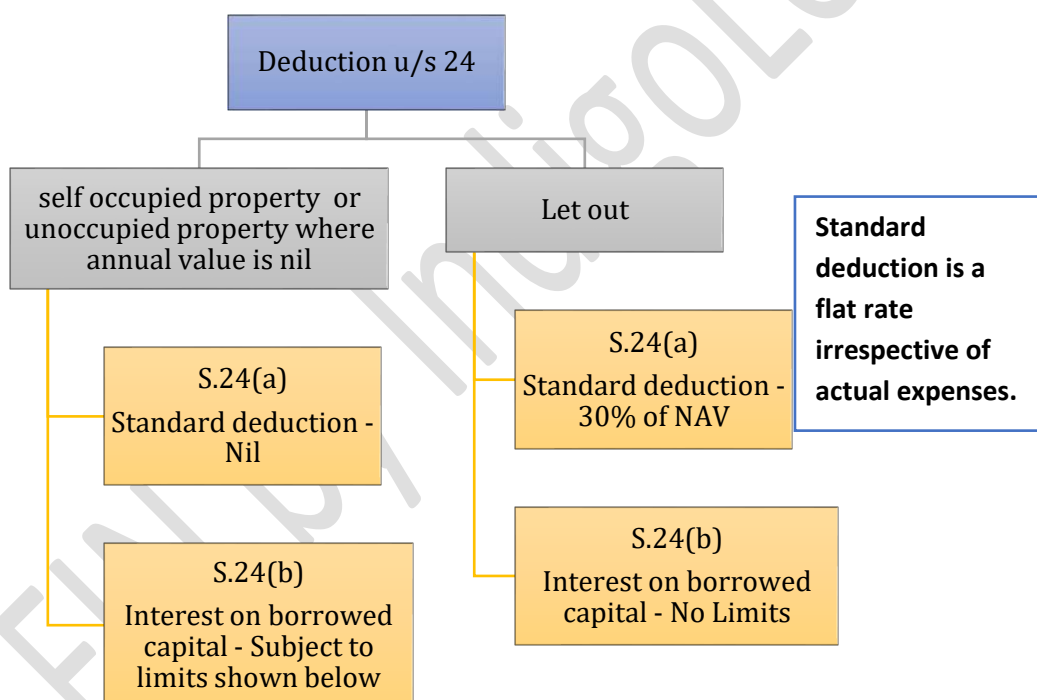
<u>Computation of GAV</u>		
1	Let out property throughout the year	<b>GAV = ER or AR (actual rent received/ receivable) whichever is higher.</b> ER (Expected Rent) Step 1- Compare FR (fair rent) or MV (municipal value) whichever is higher



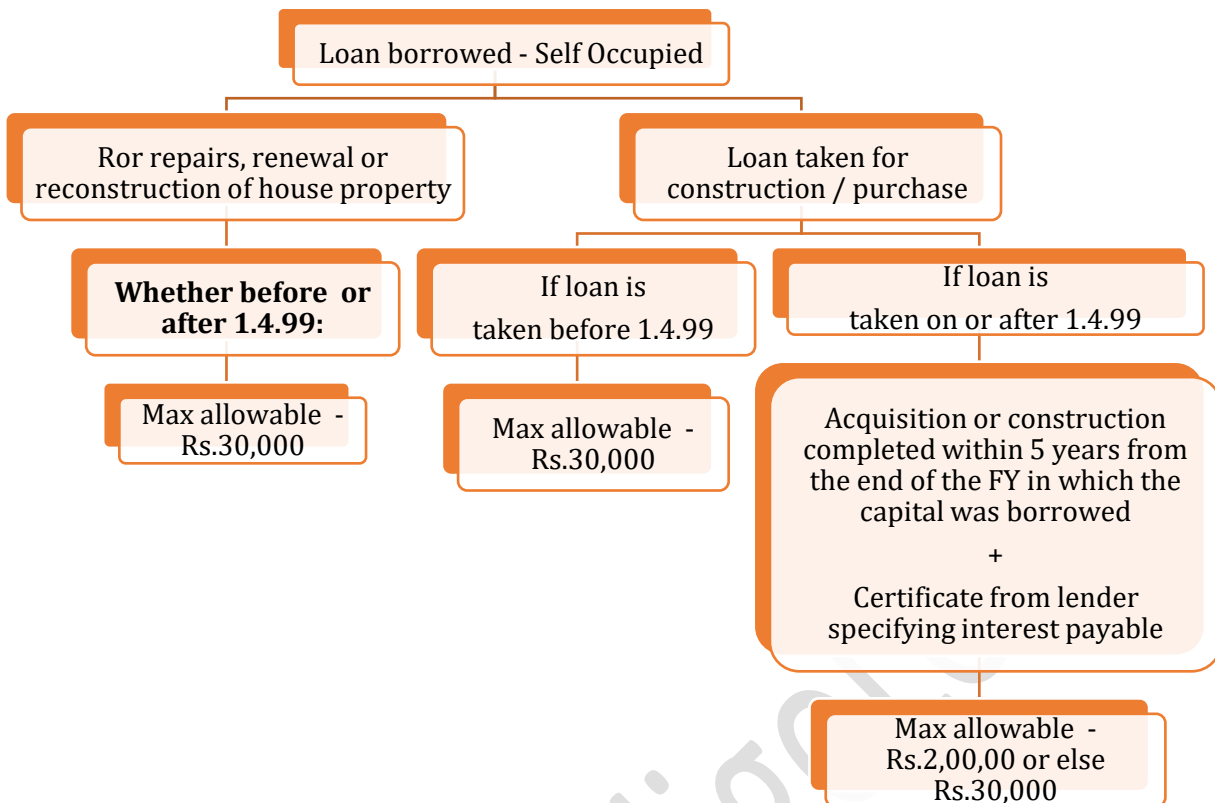
		<p>Step 2- Compare step 1 and SR (standard rent) whichever is lower</p> <p>Step 3 -Compare step 2 (ER) and Actual rent received/receivable - Whichever is higher</p> <p>Step 2 gives ER and step 3 gives GAV</p> <p>If property is vacant for part of year and Actual Rent is less because of vacancy, then AR shall be GAV.</p>
2	Self-occupied	<p>GAV = Nil.</p> <p>No deduction of Municipal taxes. (This is available only to Individual &amp; HUF) (provided no other benefit is derived from such property)</p>
3	Unoccupied for whole year	<p>GAV = Nil</p> <p>No deduction of Municipal taxes. Unoccupied only because assessee is working in different Place. (This is available only to Individual &amp; HUF) (provided no other benefit is derived from such property)</p>
4	Self-occupied for part of year and let out for other part	<p>ER for whole year compared with AR for let out period &amp; whichever is higher is taken as GAV. Municipal taxes for whole year allowed.</p>
5	Deemed to be let out (in case of more than 2 properties are self-occupied)	<p>GAV = ER, NAV = GAV - Municipal Taxes</p> <p>Deemed at the option of assessee. Option can be changed year after year.</p>
6	Portion let out and portion self-occupied	<p>Treated as separate building and computed separately. Taxes split based on area (sft).</p>
7	property being held as stock in trade	<p>GAV would be treated as NIL for a period of 2 years from the end of the financial year in which certificate of completion of construction of the property is obtained from the competent authority, if such property is not let-out during such period.</p> <p>GAV = ER after 2 year from the end of financial year in which certificate of completion of construction of the property is obtained from the competent authority.</p>

### Treatment of unrealised rent [Explanation below section 23(1)]

- (1) The Actual rent received/receivable should not include any amount of rent which is **not capable of being realised**.
- (2) However the conditions prescribed in Rule 4 should be satisfied. They are -
  - (a) the tenancy is **bona fide**.
  - (b) the defaulting tenant has **vacated**, or steps have been taken to compel him to vacate the property;
  - (c) the defaulting tenant is **not in occupation** of any other property of the assessee;
  - (d) the assessee has taken **all reasonable steps** to institute legal proceedings for the recovery of the unpaid rent or satisfies the Assessing Officer that legal proceedings would be useless.



Interest on loan taken to repay the existing loan is also allowed as deduction.  
Interest on interest is not allowed.  
Interest to pay municipal taxes not allowed.



The above limit is including the pre-construction period interest

<u>Pre-Construction period interest</u>	
Pre-construction period interest	Post construction period interest
Allowed in <b>5 equal instalments</b> from the PY in which building comes into existence.	Deduction allowed in the year of <b>accrual</b>
Pre-construction period: <b>Starts from</b> - 1 <sup>st</sup> year when loan is borrowed <b>Ends on</b> - 31 <sup>st</sup> March immediately prior to date of completion of construction or acquisition of property <b>OR</b> date of repayment of loan <b>whichever is earlier.</b>	

<b>Inadmissible deductions [Section 25]</b>
<b>Interest</b> chargeable under this Act which is <b>payable outside India</b> shall not be deducted if - (a) No TDS - tax has not been paid or deducted from such interest and

(b) No agent - there is no person in India who may be treated as an agent under section 163.

**Arrears of rent and Unrealised [Section 25A]**

Rent payable increased retrospectively- such arrears are **taxed in the year of receipt.**

Standard deduction of **30% is allowed.**

Taxed - whether the assessee is **the owner of that property or not**

**Treatment of income from co-owned property [Section 26]**

If shares are definite, and ascertainable	If shares are not ascertainable,
income of each co-owner should be determined in individual assessment	Assessed as AOP.
If it is self-occupied - then each is entitled to an <b>aggregate</b> deduction of 30,000 / 2,00,000, as the case may be	
If it is let out, the income from such property shall be computed as if the property is owned by one owner and thereafter the income so computed shall be apportioned amongst each co-owner as per their specific share.	

## Profits or gains of business or profession

### 7.1 Meaning of Business & Profession

<b>General provisions</b>	
★ <b><u>Business [Sec. 2(13)]</u></b>	<ul style="list-style-type: none"> <li>➤ Business includes -                             <ul style="list-style-type: none"> <li>● any trade, commerce or manufacture; or</li> <li>● any adventure or concern in the nature of trade, commerce or manufacture.</li> </ul> </li> </ul>
★ <b><u>Profession</u></b>	<ul style="list-style-type: none"> <li>➤ Profession includes vocation. Profession requires purely intellectual skill or manual skill on the basis of some special learning and qualification gathered through past training or experience e.g. CA, doctor, lawyer etc</li> <li>➤ Vocation implies natural ability of a person to do some particular work e.g. singing, dancing, etc.</li> </ul>
★ <b><u>Following elements shall be considered to judge a transaction as business transaction:</u></b>	<ul style="list-style-type: none"> <li>● Nature of commodity ● Intention of the party ● Efforts applied in transaction</li> <li>● Periodicity of transaction ● Nature of transaction (whether incidental to a business or not)</li> </ul>
★ <b><u>Meaning of profits:</u></b>	<ul style="list-style-type: none"> <li>➤ Profits may be realised in cash or in kind</li> <li>➤ Capital receipts are generally not considered as income.</li> <li>➤ Voluntary receipts are also considered as income.</li> <li>➤ Income from illegal business is also subject to tax</li> <li>➤ The profits of each distinct business should be computed separately</li> <li>➤ The charge is not on gross receipts but on income/gain.</li> </ul>

### 7.2 Income chargeable under the head Profits & gains of business or profession [Sec. 28]

<b><u>Sec 28 - Income chargeable under the head profits &amp; gains of business or profession</u></b>	
<ul style="list-style-type: none"> <li>➤ Profits &amp; gains of any business or profession</li> <li>➤ Income of trade or professional association's - from rendering specific services to its members shall be taxable under this head.</li> <li>➤ An export incentive in form of profit on sale of import license or duty entitlement pass book, cash assistance, duty drawback etc.</li> <li>➤ Perquisite from business or profession - the value of which is whether convertible into money or not.</li> <li>➤ Compensation to Management agency : Any compensation/other payment due to or received -</li> </ul>	
<b><u>By</u></b>	<b><u>In connection with</u></b>
Any person managing the affairs of an Indian Company	Termination or modification of terms and conditions of his appointment.

Any person managing the affairs of any company in India	
Any person holding an agency in India for any part of the activities relating to the business of any other person.	Termination of agency or the modification of terms and conditions in relation thereto
Any person	<ol style="list-style-type: none"> <li>1. The vesting in the Government or in any corporation owned/controlled by the Government, of the management of any property or business.</li> <li>2. The termination or the modification of the terms and conditions, of any contract relating to his business</li> </ol>

- Remuneration to partner - Includes any interest salary, bonus, commission etc.
- Non-compete fees - Fees for
  - not carrying out any activity in relation to any business or profession; or
  - not sharing any know-how, patent, copyright, trade mark, licence, franchise or any other business or commercial right.
- Keyman Insurance Policy [Sec. 28(vi)]: - including bonus on such policy.
- Conversion of stock into capital asset - The fair market value of inventory as on the date on which it is converted into, or treated as, a capital asset.
- Recovery against certain capital assets covered u/s 35AD
- Speculation business

### 7.3 Rent, rates, taxes, repairs & insurance for building [Sec. 30]

#### **Sec 30 - Rent, Rates, Taxes, Repairs & Insurance for Building**

- If the building is partly used for the purpose of business or profession and partly for other purpose, then deduction shall be restricted to a fair proportion of the expenditure which is attributable to the use for the purpose of business.
- Rent paid to proprietor is disallowed but rent paid by firm to its partner for using his premises is an allowed expenditure.
- The income from sub-letting is netted off with the expenditure.
- Only current repairs are allowed as deduction.
- **Municipal taxes: Rates & taxes (for e.g. land revenue, municipal tax, etc) are deductible on cash basis [Sec. 30 read with sec. 43B]**
- Taxes levied by foreign government is also allowed.

### 7.4 Repairs and insurance of machinery, plant & furniture [Sec. 31]

#### **Sec 31 - Repairs & Insurance of machinery, plant & furniture**

- Only current repairs are allowed as deduction.
- Only repairs & insurance is covered under this section. Rent paid for use of such assets is deductible u/s 37(1)

- If the building is partly used for the purpose of business or profession and partly for other purpose, then deduction shall be restricted to a fair proportion of the expenditure which is attributable to the use for the purpose of business.
- Repairs and insurance of discarded asset is not allowed as deduction.
- Repairs excludes replacement and reconstruction.

## 7.5 Depreciation [Sec. 32]

### Sec.32 - Depreciation

★ **Mandatory provision**

- Depreciation is a deduction for diminution in the value of asset.
- It shall be made compulsorily whether or not the assessee has claimed the deduction in computing his total income.

★ **Sec. 32 provides for depreciation on -**

Tangible assets	Building, Machinery, Plant and Furniture.
Intangible assets	Know how, Copyright, Trade Mark, Patent, Licence, Franchise, or any other business or commercial right of the similar nature acquired on or after 1/4/1998

- Plant include ships, vehicles, books, scientific apparatus and surgical equipments & does not include warehouses for storage purposes, tea bushes, Horses, livestock, Cinema theatres, Hotel Building, Human body. P&M is residuary block.
- Buildings' includes within its scope roads, bridges, culverts, wells and tubewells.
- No depreciation on cost of land.

★ **Conditions to claim depreciation**

- Asset must be owned by the assessee.
  - Assessee need not be a registered owner, even a beneficial owner can claim depreciation.
  - In case of joint ownership, depreciation is allowed in proportion to the cost contributed by each owner.
  - Possessor of an immovable property u/s 53A of Transfer of Property Act can claim depreciation even though he is not the owner.
  - In case of hire purchase, the buyer can claim depreciation
  - Where an assessee being a lessee of a property incurs any capital expenditure by way of improvement, extension, super construction, etc. on a building being used for his business or profession, he is entitled to depreciation in respect of such capital expenditure.
- Asset must be used for the purpose of business or profession during the previous year.
  - Both active and passive use are included. Passive use includes 'ready to use'. Thus stand by equipment and fire extinguishers can be capitalized.
  - If the building is partly used for the purpose of business or profession and partly for other purpose, then deduction shall be restricted to a fair proportion of the expenditure which is attributable to the use for the purpose of business.

★ **Method of Depreciation**

- Depreciation shall be allowed on written down value method at the rates prescribed.

★ **Significance of Date of purchase** -

- Where

(a) an asset is acquired by the assessee during the previous year; and

(b) is put to use in the same previous year for less than 180 days,

the depreciation in respect of such asset is restricted to 50% of the normal depreciation.

- This applies only in the year of acquisition and not in subsequent years.

★ **Block of assets**

- Assets are categorised into Block of Assets. Block of assets means a group of assets of same nature, in respect of which same rate of depreciation is charged.

★ **Calculation of depreciation (at a glance)**

Particulars	Amount
W.D.V of the block at the beginning of the previous year 1	Xxx
Add: Assets (falling within the block) acquired during the previous year 2	Xxx
3 = 1-2	Xxx
Less: Sale Proceeds of assets (falling within the block) sold during the PY [subject to max. of 3] 4	Xxx
Written Down Value = 3-4	5 Xxx
Less: Depreciation (as a % on 5) (Rates are provided in Rule 5(1))	6 Xxx
Opening WDV for 1st day of next year = 5-6	7 Xxx

- When Value as per 4 > value as per 3, the excess shall be treated as short term capital gain. (sec 50A)
- When value as per 5 (Value of block before depreciation) is positive but the block does not have any asset. In such case, such positive value shall be treated as short term capital loss.
- Depreciation in case of succession of firm/ sole proprietary concern by a company or business reorganization or amalgamation or demerger of companies depreciation calculated at the prescribed rates as if the succession, business reorganization, amalgamation or demerger had not taken place.
- **Depreciation shall be apportioned between the two entities in the ratio of the number of days for which the assets were used by them.**

★ **Rule 5(2) - Increased rate of depreciation for certain assets**

- The below asset qualifies for depreciation @40%.
- Any new machinery or plant installed to manufacture or produce any article or thing
  - by using any technology or other know-how developed in or
  - is an article or thing invented in a laboratory owned or financed by the Government



- or a laboratory owned by a public sector company or a University or an institution recognized by the Secretary, Department of Scientific and Industrial Research
- **Conditions to satisfy:**
- The right to use such technology or other know-how or to manufacture or produce such article or thing has been acquired from the owner of such laboratory or any person deriving title from such owner.
- The return filed for any previous year in which the said machinery is acquired, should be accompanied by a certificate from the Secretary, Department of Scientific and Industrial Research, Government of India
- The machinery or plant is not used for the purpose of business of manufacture or production of any article or thing specified in the Eleventh schedule.

## 7.6 Depreciation in case of power units - [Sec 32(1)(i)]

### Sec 32(1)(i) - Depreciation in case of power units

- ★ **Applicable to -**
  - An undertaking engaged in the business of generation or generation and distribution of power
- ★ **Condition to satisfy-**
  - Such unit may charge depreciation (in respect of asset acquired after 31/3/1997) at its choice under -
    - Written-down value method as followed by all other assessee (usual); or
    - Straight-line method at the prescribed rate in 'Appendix IA' of the Income Tax Rules on actual cost of asset (not the block value of asset)
  - Such option shall be exercised before the due date of furnishing return of income.
  - Once the option is exercised, it shall be applicable for all subsequent assessment years.
- ★ **Consequence of opting for SLM method-**
  - Additional depreciation is not available to the assessee who claims depreciation as per SLM.
  - Loss on transfer of any asset is treated as terminal depreciation.
  - Terminal depreciation = + ve value of [WDV of assets - (Sale value or Scrap value)]
  - Terminal depreciation is written off in the books of accounts.
  - Profit on transfer of such asset to the maximum of accumulated depreciation shall be treated as balancing charge.
  - The difference between sale price and actual cost shall be treated as capital gain.
  - Balancing Charge = - ve value of [WDV of assets - (Sale value + Scrap value)]
  - As per sec. 41(2), balancing charge is fully taxable as business income

## 7.7 Additional depreciation [Sec. 32(1) (ia)]

### Sec. 32(1)(ia) - Additional depreciation

- ★ **Applicability**

- Additional depreciation is applicable on all assessee engaged in the business of manufacture or production of any article or thing or in the business of generation, transmission or distribution of power And
- Who has acquired and installed after 31st March, 2005, a new plant or machinery.
- Following is not included in P&M -
  1. Ships and Aircrafts
  2. P&M which was used either within or outside India by any other person before such installation; or
  3. P&M which is installed in office premises or any residential accommodation or guest house; or
  4. Any office appliances or road transport vehicle; or
  5. P&M which is allowed for 100% deduction (whether by way of depreciation or otherwise) in the PY.

★ **Rate of additional depreciation**

	Additional rate	If the asset is acquired and put to use for less than 180 days
Normal undertaking	20%	10%
Undertaking set up in the notified backward area of Andhra Pradesh or Bihar or Telangana or West Bengal during the period 1-4-2015 to 31-3-2020	35%	17.5%

- **Note - additional depreciation shall be available only on plant and machinery and not on other asset like furniture, building, etc.**

## 7.8 Unabsorbed depreciation [Sec. 32(2)]

### Sec 32(2) - Unabsorbed depreciation

★ **Meaning**

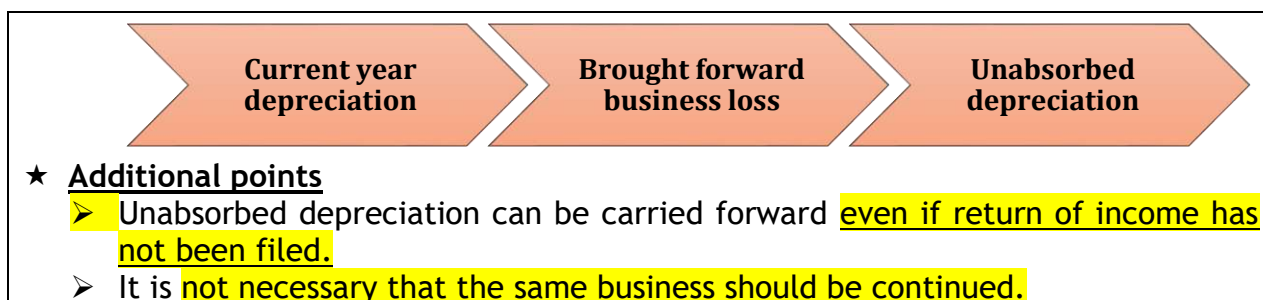
- Depreciation which could not be fully deducted from profits and gains of current year of business or profession (due to insufficient profit), is termed as unabsorbed depreciation.

★ **Treatment:**

- The unabsorbed depreciation can be deducted from income under any other head (except with Casual income and Salaries) of the same assessment year.
- If depreciation still remains unabsorbed, it can be carried forward for **indefinite period** and can be set off against any income (**except with Casual income and Salaries**) of the assessee.

★ **Order of set off**

- For set-off purpose following order is to be followed:



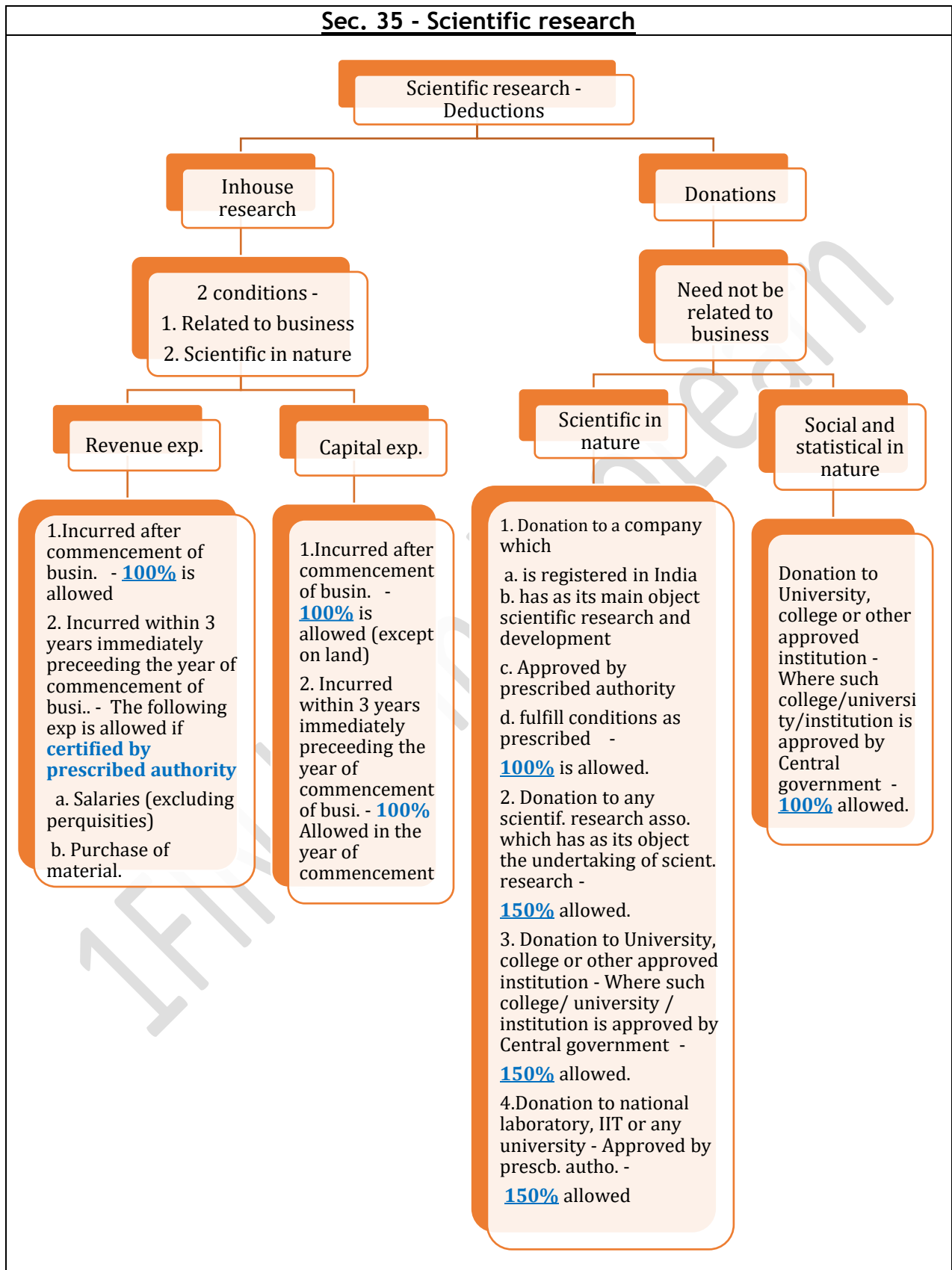
★ **Additional points**

- Unabsorbed depreciation can be carried forward **even if return of income has not been filed.**
- It is **not necessary that the same business should be continued.**

**7.9 Investment in new plant or machinery in notified backward area [Sec. 32AD]**

<b>Sec. 32AD - Investment in new plant or machinery in notified backward area</b>
<p>★ <b><u>Applicable to</u></b></p> <ul style="list-style-type: none"> <li>➤ Any Assessee</li> </ul>
<p>★ <b><u>Conditions to be satisfied</u></b></p> <ul style="list-style-type: none"> <li>➤ Manufacturing unit: The assessee sets up an undertaking or enterprise for manufacture or production of any article or thing on or after 1.4.2015.</li> <li>➤ Location: Such undertaking must be set up in any notified backward area of Andhra Pradesh or Bihar or Telangana or West Bengal.</li> <li>➤ Acquisition of new assets: The assessee should acquire and install new asset for the purpose of such undertaking or enterprise during 01-04-2015 to 31-03-2020; and</li> <li>➤ New P&amp;M does <b>not include</b> - <ul style="list-style-type: none"> <li>• Ships and aircrafts</li> <li>• P&amp;M which was used either within or outside India by any other person before such installation; or</li> <li>• P&amp;M which is installed in office premises or any residential accommodation or guest house; or</li> <li>• Any office appliances or road transport vehicle; or</li> <li>• P&amp;M which is allowed for 100% deduction (whether by way of depreciation or otherwise) in the PY.</li> </ul> </li> </ul>
<p>★ <b><u>Quantum of deduction</u></b></p> <ul style="list-style-type: none"> <li>➤ 15% of the actual cost of such new asset installed during the previous year.</li> </ul>
<p>★ <b><u>Points to remember</u></b></p> <ul style="list-style-type: none"> <li>➤ If any <b>new asset is sold</b> or otherwise transferred, <b>within a period of 5 years</b> from the date of its installation, the <b>amount of deduction</b> allowed shall be deemed to be the income (<b>chargeable under PGBP</b>) of the previous year in which it is sold or otherwise transferred, <b>in addition to taxability of gains</b>, arising on account of transfer of such new asset.</li> <li>➤ <b><u>Exception to the above condition</u></b> - The transfer can be in connection with the amalgamation or demerger or business reorganization (i.e., conversion of firm or proprietorship concern into company or conversion of unlisted company or private company into LLP),</li> </ul>

## 7.10 Scientific Research [Sec. 35]



- Where deduction is allowed in any previous year in respect of any capital expenditure under this section, then no deduction u/s 32 shall be allowed on such asset.
- Withdrawal of approval: Deduction shall not be denied merely on the ground that subsequent to the payment made by the assessee, the approval granted to the association, university, IIT, etc. has been withdrawn.
- Carry forward of unabsorbed scientific research expenditure: Unabsorbed capital expenditure can be carried forward for unlimited years and set off in any subsequent assessment year(s) like unabsorbed depreciation.
- Effect of amalgamation [Sec. 35(5)]: Provisions of sec. 35 shall apply to the amalgamated company, as it would have been applied to the amalgamating company, if the latter had not transferred such asset.
- Sale of asset used for scientific research [Sec. 41(3)]

Without having been used for other purpose	Sale consideration to the extent of cost of such asset shall be taxable as business income in the year of sale. The excess of sale consideration over original cost (or indexed cost of acquisition) is taxable as capital gain u/s 45. This is applicable even if the business is not in existence in that year)
After being used for other purposes	Sale consideration shall be subtracted from relevant block of assets. It is to be noted that at the time of conversion of scientific research asset into normal business asset, the cost of acquisition shall be taken as nil in the relevant block.

### 7.11 In-house research & development expenses incurred by certain companies [Sec. 35(2AB)]

#### Sec. 35(2AB) - In-house research & development expenses incurred by certain companies

##### ★ Applicable to

- Company engaged in the business of bio-technology or any business of manufacture or production of any article or thing (other than those specified in the 11th Schedule)

##### ★ Conditions to be satisfied

- The expenditure shall be incurred on in-house scientific research and development facility including capital expenditure (other than cost of any land or building).
- In-house research and development facility shall be approved by the Secretary, Department of Scientific and Industrial Research.
- The assessee must enter into an agreement with the prescribed authority
  - for co-operation in such research and development facility; and
  - fulfils such conditions with regard to maintenance of accounts and audit thereof and
  - furnishing of reports in such manner as may be prescribed.

##### ★ Quantum of deduction

- 150% of expenditure

Where deduction is allowed in any previous year in respect of any capital expenditure under this section, then no deduction u/s 32 shall be allowed on such asset.

## 7.12 Deduction in respect of expenditure on specified business [Sec. 35AD]

### Sec. 35AD - Deduction in respect of expenditure on specified business

#### ★ Applicable to

➤ Specified assessee engaged in the business of:

1. Setting up and operating a cold chain facility for specified products.
2. Setting up and operating a warehousing facility for storage of agricultural produce; or
3. Laying and operating a cross-country natural gas or crude or petroleum oil pipeline network for distribution, including storage facilities being an integral part of such network.

Note: The project has been approved by the Petroleum and Natural Gas Regulatory Board and being notified by the Central Government.

4. Building and operating, anywhere in India, a hotel of two-star or above category as classified by the Central Government;
5. Building and operating, anywhere in India, a hospital with at least 100 beds for patients;
6. Developing and building a notified housing project under a scheme for slum redevelopment or rehabilitation framed by the Central Government (or a State Government)
7. Developing and building a notified housing project under a scheme for affordable housing framed by the Central Government (or a State Government)
8. Production of fertilizer in India;
9. Setting up and operating an inland container depot or a container freight station notified or approved under the Customs Act, 1962;
10. Bee-keeping and production of honey and beeswax;
11. Setting up and operating a warehousing facility for storage of sugar.
12. Laying and operating a slurry pipeline for the transportation of iron ore
13. Setting up and operating a semi-conductor wafer fabrication manufacturing unit, and which is notified by the Board in accordance with such guidelines as may be prescribed
14. Developing or maintaining and operating or developing, maintaining and operating a new infrastructure facility by an Indian company (or consortium thereof) / authority / board / corporation having agreement with Central Government or State Government or local authority or any statutory body

#### ★ Quantum of deductions

- 100% of capital expenditure incurred during the previous year.
- Pre-commencement expenditure: - Allowed as deduction in the PY in which business commences
- Capital Expenditure shall not include:
  - Acquisition of any land or goodwill or financial instrument
  - Any expenditure in respect of which the payment or aggregate of payments made to a person in a day, in cash exceeds Rs.10,000

#### ★ Conditions to satisfy -

- Splitting of existing business - Such business should not be set up by splitting up, or the reconstruction, of a business already in existence.
- 2<sup>nd</sup> Hand Machinery - Such business should not be set up by the transfer to the specified business of machinery or plant previously used for any purpose.

- However, it is not a violation if the used P&M,
  - Is less than 20% of the total P&M used in such business.
  - Is imported into India from a foreign country.
- Deduction u/s Chapter VI A and sec 10AA - Once the assessee has claimed the benefit of deduction under section 35AD for a particular year, he cannot claim benefit under Chapter VI-A under the heading “C - Deductions in respect of certain incomes” or section 10AA for the same or any other year and vice versa.
- Set off & carry forward of losses - The loss from specified business can be set-off against the profit of another specified business under section 73A, **irrespective of whether the latter is eligible for deduction under section 35AD.**
- Transactions to be in Market value - In case of any transfer of goods or services between specified business and any other business carried on by the assessee, the profits and gains of the specified business shall be computed as if the transfer was made at market value.
- Compulsory audit and furnishing of report with return on income - The accounts of the assessee for the relevant previous year have been audited by a chartered accountant and the assessee furnishes the audit report in the prescribed form, duly signed and verified by such accountant along with his return of income.
- Use of such asset for 8 years - Section 35AD(7A) provides that any asset in respect of which a deduction is claimed and allowed under section 35AD shall be used only for the specified business for a period of eight years beginning with the previous year in which such asset is acquired or constructed.
- Transfer of such asset taxed as PGBP income - If such asset is demolished, destroyed, discarded or transferred, the sum received or receivable for the same is chargeable to tax u/s 28(vii).
- PGBP income is asset is used otherwise - If the asset is used for any purpose other than the specified business during such 8 years, then -

Total deduction claimed u/s 35AD in one or more PYs	xxx
Less - Depreciation allowable u/s 32 (as if no deduction claimed u/s 35AD)	(xx)
Deemed income (Chargeable under PGBP)	xxx

- However, the deeming provision under sub-section (7B) shall not be applicable to a company which has become a sick industrial company under section 17(1) of the Sick Industrial Companies (Special Provisions) Act, 1985, during the intervening period of eight years specified in sub-section (7A)..
- Transfer of operations - The assessee shall be deemed to be carrying on the specified business of building and operating hotel if
  - He builds a hotel of two-star or above category
  - Thereafter, he transfers the operation of the hotel to another person;
  - He, however, continues to own the hotel



### 7.13 Payment to associations and institutions for carrying out rural development programmes [Sec. 35CCA]

#### **Sec. 35CCA -Payment to associations and institutions for carrying out rural development programmes**

★ **Eligibility**

- Contribution made by assessee to –
  - a. Association or institution, which has as its object the undertaking of any programme of rural development, to be used for carrying out any programme of rural development
    - approved by the prescribed authority and
    - the assessee furnishes a certificate from such association or institution ; or
  - b. Association or institution, which has as its object the training of persons for implementing programmes of rural development and
    - the assessee furnishes a certificate from such association or institution; or
  - c. The National fund for rural development; or
  - d. The National Urban Poverty Eradication Fund set up and notified by the Central Government in this behalf,

★ **Quantam of deduction** -  
100% of such contribution

★ **Points to remember**

- **Double deduction is not permissible:** Where a deduction under this section is claimed and allowed for any assessment year in respect of any expenditure, deduction shall not be allowed in respect of such expenditure u/s 80G or any other provision of this Act.
- **Withdrawal of approval:** Deduction shall not be denied merely on the ground that subsequent to the contribution made by the assessee, the approval granted to such programme, etc. has been withdrawn.

### 7.14 Expenditure on agricultural extension project [Sec. 35CCC]

#### **Sec. 35CCC - Expenditure on agricultural extension project**

★ **Eligibility**

- Assessee incurs any expenditure on notified agricultural extension project
- Notified by CBDT

★ **Quantam of deduction** -

- 150% (100% w.e.f. A.Y. 2021-22) of such expenditure shall be allowed.

★ **Conditions to satisfy**

- The project shall be undertaken for training, education and guidance of farmers
- Prior approval of ministry of agriculture is obtained
- Expenditure (other than cost of land & building) exceeds 25 lacs.
- Assessee maintains separate books of accounts
- Such books are audited and an audit report is furnished along with return of income.



★ **Points to remember**

- Double deduction is not permissible: Deduction shall not be allowed in respect of such expenditure under any other provisions of this Act for the same or any other assessment year.

### 7.15 Expenditure on skill development project [Sec. 35CCD]

#### **Sec. 35CCD - Expenditure on skill development project**

★ **Eligibility**

- Where a company incurs any expenditure (not being expenditure in the nature of cost of any land or building) on any skill development project
- Notified by CBDT

★ **Quantam of deduction** -

- 150% (100% w.e.f. A.Y. 2021-22) of such expenditure.

★ **Conditions to satisfy**

- Assessee maintains separate books of accounts
- Such books are audited and an audit report is furnished along with return of income

★ **Points to remember**

- Double deduction is not permissible: Deduction shall not be allowed in respect of such expenditure under any other provisions of this Act for the same or any other assessment year.

### 7.16 Amortisation of preliminary expenses [Sec. 35D & Rule 6AB]

#### **Sec. 35D - Amortisation of preliminary expenses**

★ **Preliminary expenses** -

- Expenses in connection with -
  - Preparation of project report;
  - Preparation of feasibility report;
  - Conducting market survey or any other survey necessary for the business;
  - Engineering services related to the business.

Note: Above work must be carried on by the assessee himself or by a concern, which is approved by the Board.

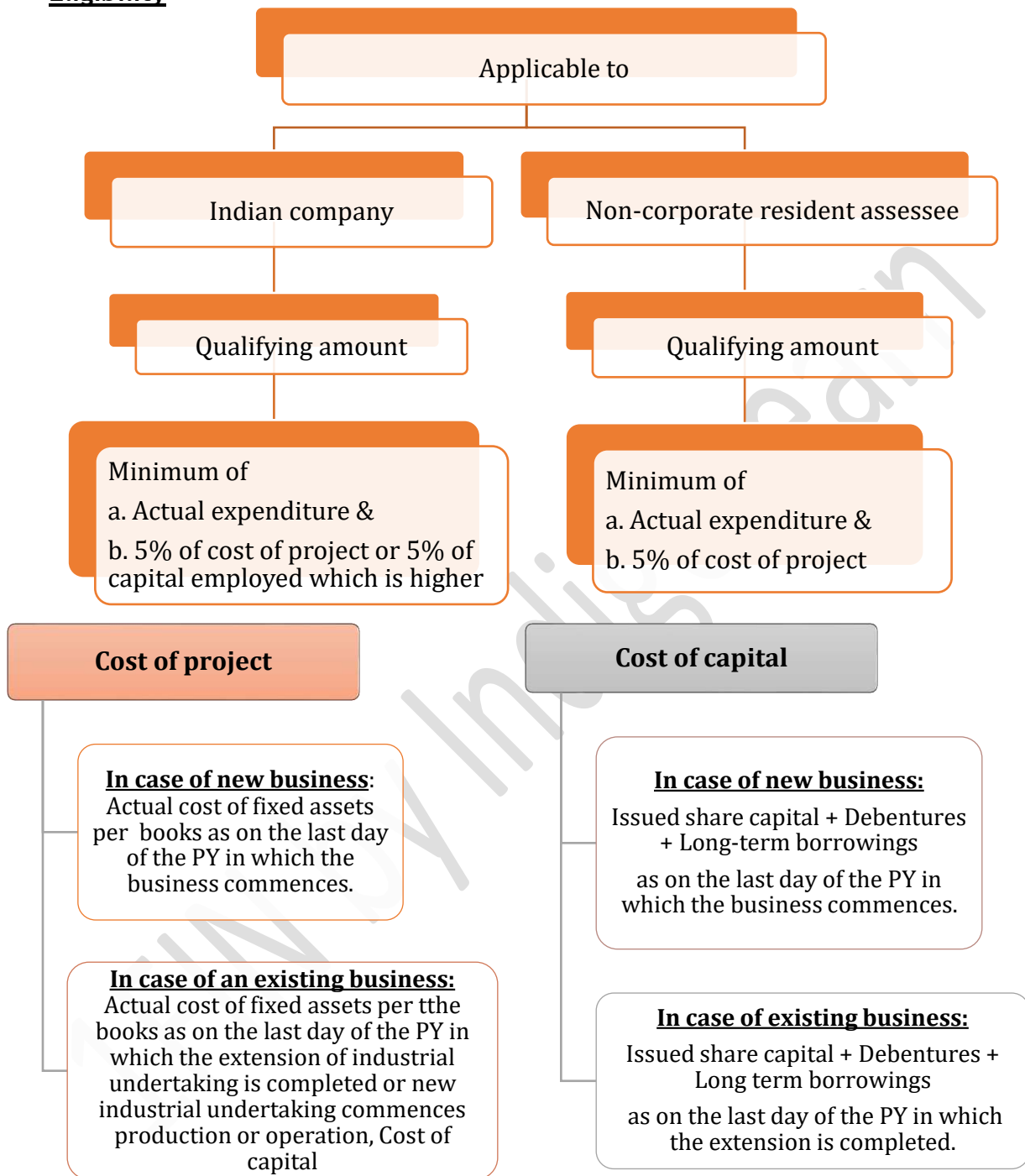
- Legal charges for drafting any agreement between the assessee and any other person for any purpose related to the setting up or conduct of business.
- Legal charges for drafting & printing of Memorandum of Association & Articles of Association (in case of company-assessee only).
- Registration fees under provisions of the Companies Act, 1956 (in case of company-assessee only).
- Expenses in connection with public issue of shares in or debentures of the company being underwriting commission, brokerage & charges for drafting, typing, printing & advertisement of the prospectus (in case of company-assessee only).
- Any other prescribed expenditure.

★ **Applicability**

- In case of New business - Preliminary expense is incurred before commencement of business for setting up a new undertaking or business.

- In case of existing business - Preliminary expense is incurred in connection with extension of any undertaking or in connection with setting up a new unit.

★ **Eligibility**



★ **Quantum of deduction**

- 1/5th of the total eligible preliminary expense is allowed in 5 equal annual installments starting from the year in which the business commences or unit expanded or the new unit commences production or operation. (ie. 20% of expense allowed every year)

★ **Conditions to satisfy**

- Report of a chartered accountant: In the case of a non-corporate assessee, an audit report from a chartered accountant should be submitted along with the return of income.

★ **Points to remember**

- A foreign company, which is resident in India, is not covered under this section.
- Effect of amalgamation or demerger  
In case of transfer of undertaking under the scheme of amalgamation or demerger, the amalgamated company or resulting company (being Indian company) entitled to claim deduction u/s 35D for the residual period  
Note: In the year of amalgamation or demerger, deduction shall be available amalgamated company or resulting company as the case may be.

### 7.17 Deduction of expenses incurred in case of amalgamation or demerger [Sec. 35DD]

#### **Sec. 35DD - Deduction of expenses incurred in case of amalgamation or demerger**

- ★ **Applicable to:**
  - An Indian company
- ★ **Conditions to satisfy**
  - Assessee has incurred certain expenditure wholly & exclusively for the purpose of amalgamation or demerger.
  - No deduction has been claimed for such expenses under any other section.
- ★ **Quantum of deduction:**
  - 1/5 of expenses so incurred for a period of 5 years commencing from the year in which amalgamation or demerger takes places.

### 7.18 Amortisation of expenditure incurred under VRS [Sec. 35DDA]

#### **Sec. 35DDA - Amortisation of expenditure incurred under VRS**

- ★ **Applicable to:**
  - All assessee
- ★ **Conditions to satisfy**
  - Assessee has incurred any expenditure, by way of compensation to employees in connection with their voluntary retirement.
- ★ **Quantum of deduction:**
  - 1/5th of expenditure so paid for a period of 5 years commencing from the year in which such expenditure was paid.
- ★ **Points to remember**
  - **Effect of amalgamation or demerger:** In case of transfer of undertaking under the scheme of amalgamation or demerger, the amalgamated company or resulting company (being Indian company) as the case may be, shall be entitled to claim deduction u/s 35DDA for the residual period.
  - **Effect of succession of business:** Where there has been reorganisation of business,

- whereby a firm or proprietary concern is succeeded by a company fulfilling the conditions laid down in sec. 47 (xiii) & (xiv) or
  - A private company or unlisted public company is succeeded by a limited liability partnership fulfilling the conditions laid down in sec. 47 (xiiib),
- The provisions of this section shall apply to the successor concern, as they would have applied to the predecessor, if reorganisation of business had not taken place.
- No deduction shall be allowed to amalgamating company, demerged company, a firm, proprietary or other concern in the previous year in which amalgamation, demerger or succession, as the case may be, takes place.
  - No deduction shall be allowed in respect of such expenditure under any other provisions of the Act.
  - Sec. 10(10C) {under the head “Salaries”} and Sec. 35DDA {under the head “Profits & gains of business or profession”}
    - Exemption u/s 10(10C) is not available to employee of the partnership firm, HUF, proprietorship firm, etc. Deduction u/s 35DDA can be claimed by all assessee.
    - Exemption u/s 10(10C) is available only if the scheme is approved by the Board. Deduction can be claimed u/s 35DDA even if the scheme is not approved by the Board.

## 7.19 Deductions

Sec	Further deductions allowed in full
<b><u>Sec. 36(1)(i)</u></b>	<b><u>Insurance Premium</u></b> Insurance premium paid against risk of damage or destruction of stocks & stores, used for the purpose of business or profession is allowable as deduction in full.
<b><u>Sec. 36(1)(ia)</u></b>	Any amount paid as <b><u>insurance premium</u></b> by a federal milk co-operative society on the lives of cattle owned by the members of a primary milk co-operative society affiliated to it, is allowed as deduction in full.
<b><u>Sec.36(1)(ib)</u></b>	Any <b><u>premium</u></b> paid (other than by cash) by the assessee as an employer to effect or to keep in force an insurance on the health of his employees under a scheme framed in this behalf by— <ul style="list-style-type: none"> <li>• the General Insurance Corporation of India &amp; approved by the Central Government</li> <li>• any other insurer and approved by the Insurance Regulatory and Development Authority</li> </ul> - shall be allowed as deduction.
<b><u>Sec.. 36(1)(ii)</u></b>	Any <b><u>bonus or commission</u></b> (other than in lieu of profit or dividend) paid to employees shall be allowed as deduction. Such amount must have been actually paid before the due date of furnishing return [Sec. 43B]
<b><u>Sec.36(1)(iii)</u></b>	Amount of <b><u>interest paid in respect of capital borrowed</u></b> for the purposes of business or profession shall be allowed as deduction. <b><u>Other points to remember</u></b> 1. Interest paid to another person: Interest should be paid to another person. Hence, interest on capital to proprietor is

	<p>disallowed expenditure. However, interest on capital to partners is allowed u/s 40(b).</p> <p>2. Interest paid to relative is allowed as deduction subject to sec. 40A(2) i.e. if the interest paid is in excess of market rate then excess portion shall be disallowed.</p> <p>3. If borrowed money is utilised in earning non assessable income, interest on such borrowing shall not be allowed as deduction.</p> <p>4. Interest on money borrowed to pay income tax is not allowed Note: Interest on money borrowed for payment of sales tax is allowed as deduction.</p> <p>5. Interest paid outside India without deducting tax at source is not allowed.</p> <p>6. Amount borrowed may be applied for the purpose of revenue expenditure or capital expenditure.</p> <p>7. Other interest: Interest other than interest on borrowed capital e.g. interest on deferred payment for purchased of asset, interest on delayed payment of electricity charges, interest on purchase price of raw-material, etc. shall not be allowed under this section but can be claimed u/s 37(1)</p> <p>8. Interest on borrowings made for acquiring &amp; installing assets:</p> <table border="1" data-bbox="400 931 1412 1122"> <tr> <td data-bbox="400 931 911 1003">Prior to commencement of business</td> <td data-bbox="911 931 1412 1003">Interest is to be added to actual cost</td> </tr> <tr> <td data-bbox="400 1003 911 1081">After commencement of business but before asset is put to use</td> <td data-bbox="911 1003 1412 1081">of the asset</td> </tr> <tr> <td data-bbox="400 1081 911 1122">After asset is put to use</td> <td data-bbox="911 1081 1412 1122">Interest is allowed u/s 36(1)(iii)</td> </tr> </table>	Prior to commencement of business	Interest is to be added to actual cost	After commencement of business but before asset is put to use	of the asset	After asset is put to use	Interest is allowed u/s 36(1)(iii)
Prior to commencement of business	Interest is to be added to actual cost						
After commencement of business but before asset is put to use	of the asset						
After asset is put to use	Interest is allowed u/s 36(1)(iii)						
<b><u>Sec.36(1)(iia)</u></b>	<p><b><u>Discount on issue of zero coupon bonds</u></b></p> <p>“Zero Coupon Bond” means a bond–</p> <ul style="list-style-type: none"> <li>• issued by any infrastructure capital company or infrastructure capital fund or public sector company or scheduled bank on or after 1/6/2005;</li> <li>• in respect of which no payment and benefit is received or receivable before maturity or redemption from the issuer; and</li> <li>• which the Central Government may, by notification in the Official Gazette, specify in this behalf.</li> </ul> <p><b><u>Treatment:</u></b> Discount on issue of Zero Coupon Bonds shall be allowed on pro rata basis having regard to the period of life of such bond.</p> <p><b><u>Discount</u></b> - Difference between amount received/receivable on issue of the bond and the amount payable on redemption/maturity.</p> <p><b><u>Life of the bond</u></b> - From the date of issue to the date of redemption.</p>						
<b><u>Sec.36(1)(iv)</u></b>	<p><b><u>Contribution towards RPF &amp; Superannuation fund</u></b></p> <p>Any sum paid , by the employer towards recognised provident fund or an approved superannuation fund is allowed as deduction in full.</p> <p><b><u>Points to remember</u></b></p> <p>Contribution towards unrecognised provident fund is not allowed as deduction.</p> <p>Contribution towards statutory provident fund is allowed u/s 37(1).</p>						
<b><u>Sec. 36(1)(iva)</u></b>	<p><b><u>Contribution towards notified pension scheme u/s 80CCD</u></b></p>						

	<p>Any sum paid by the assessee, as an employer, by way of contribution towards a pension scheme, as referred to in section 80CCD, on account of an employee is allowed as deduction.</p> <p><u>Maximum Limit:</u> Such contribution <u>should not exceed 10% of the salary</u> of the employee in the previous year.</p> <p>“Salary” includes dearness allowance, if the terms of employment so provide, but excludes all other allowances and perquisites.</p>
<b><u>Sec. 36(1)(v)</u></b>	<p><b><u>Contribution towards approved gratuity fund</u></b></p> <p>Any sum paid as employer’s contribution towards an approved gratuity fund created by him exclusively for the benefit of his employees under an irrevocable trust is allowed as deduction. Such amount must have been actually paid before the due date of furnishing return [Sec. 43B]</p>
<b><u>Sec.36(1)(va)</u></b>	<p><b><u>Employee’s contribution towards staff welfare scheme</u></b></p> <p>Any sum received by an employer from his employees as contribution towards</p> <ul style="list-style-type: none"> <li>● Provident Fund; or</li> <li>● Superannuation Fund; or</li> <li>● Any other fund set up under the provision of the Employee’s State Insurance Act, 1948; or</li> <li>● Any other fund for the welfare of such employees</li> </ul> <p>- is treated as an income of the employer. Subsequently, when such sum is credited by the employer to the employee’s account in the relevant fund on or before the due date of crediting such contribution prescribed under the relevant Act, then deduction is allowed.</p> <p>Example: As per the provisions Employee State Insurance Act, 1948 (ESI), all the contributions under this Act are to be deposited within 21 days of the following month. Similarly, all contributions under the Employees’ Provident Fund and Miscellaneous Provisions Act, 1952 must be deposited within 15 days of the following month.</p>
<b><u>Sec. 36(1)(vi)</u></b>	<p><b><u>Allowance in respect of dead or useless animals</u></b></p> <p><b><u>Conditions</u></b></p> <ul style="list-style-type: none"> <li>(a) Animals are used for the purpose of business or profession.</li> <li>(b) Such animals are not held as stock-in-trade.</li> <li>(c) Such animals have died or become permanently useless for such purpose.</li> </ul> <p><b><u>Quantum of deduction</u></b></p> <p>Difference between actual cost of the animals to the assessee and the amounts realised, if any, in respect of carcasses or sale of animals is allowed as deduction.</p>
<b><u>Sec.36(1)(vii)</u></b>	<p><b><u>Bad debts</u></b></p> <p>Any debt or part thereof, which becomes bad shall be allowed as deduction.</p> <p><b><u>Conditions</u></b></p> <ol style="list-style-type: none"> <li>1. Debt must be <u>incidental to the business</u> or profession of the assessee. There must be a close nexus between the debt and the business of the assessee.</li> </ol>

	<p>2. The debt has been considered as income of the assessee of that previous year or of earlier previous years. Debt taken into account in the computing the income of the assessee on the <u>basis of notified ICDS</u> to be allowed as deduction in the PY in which such debt or part thereof becomes irrecoverable.</p> <p>3. It must have been written off in the accounts of the assessee. (Provision for bad debt is not allowed as deduction.)</p> <p>4. Business must be carried on during the previous year or any part of the PY. Bad debt of a discontinued business is not allowed as deduction even though the assessee has any other business continued.</p> <p>5. It must be of a revenue nature. Bad debt arising due to insolvency of a debtor for sale of an asset (not goods) is not allowed as deduction.</p> <p>Notes: a. Bad debts are also allowed in the hands of successor of the business.</p> <p><b>Recovery of bad debts [Sec. 41(4)]</b></p> <table border="1" data-bbox="400 891 1409 1010"> <tr> <td>Amount recovered</td> <td>Xxx</td> </tr> <tr> <td>Less: Bad debt claimed - Bad debt allowed as deduction</td> <td>(xx)</td> </tr> <tr> <td>Taxable bad debt recovery</td> <td>xxx</td> </tr> </table> <p>Such recovery shall be taxable irrespective of the fact whether the business is continued or not.</p>	Amount recovered	Xxx	Less: Bad debt claimed - Bad debt allowed as deduction	(xx)	Taxable bad debt recovery	xxx
Amount recovered	Xxx						
Less: Bad debt claimed - Bad debt allowed as deduction	(xx)						
Taxable bad debt recovery	xxx						
<b><u>Sec.36(1)(ix)</u></b>	<p><b><u>Expenditure on promotion of family planning among employees</u></b> <u>Applicable to:</u> Company only <u>Purpose of such expenditure:</u> Such expenditure must have been incurred for promotion of family planning among its employees. <u>Quantum of Deduction</u></p> <ul style="list-style-type: none"> <li>• Revenue expenditure is fully allowed as deduction.</li> <li>• Capital expenditure shall be allowed in 5 equal installments commencing from the previous year in which it is incurred.</li> </ul> <p><u>Note:</u> Where deduction is allowed in respect of any expenditure under this section then no deduction shall be allowed u/s 32 or any other provisions of this Act. <u>Treatment of unabsorbed capital expenditure:</u> As in case of unabsorbed depreciation. <u>Sale of assets acquired for family planning:</u> Treated in the same manner as in case of sale of assets used for scientific research.</p>						
<b><u>Sec.36(1)(xiv)</u></b>	<p><b><u>Credit guarantee fund trust</u></b> Any sum paid by a public financial institution by way of contribution to specified credit guarantee fund trust for small industries shall be allowed as deduction.</p>						
<b><u>Sec.36(1)(xv)</u></b>	<p><b><u>Securities transaction tax</u></b> Any amount of Securities Transaction Tax (STT) is allowed as deduction provided income arising from such transactions is included in the income computed under the head PGBP.</p>						
<b><u>Sec.36(1)(xvi)</u></b>	<p><b><u>Commodities transaction tax</u></b></p>						



	Any amount of Commodities Transaction Tax (CTT) paid in respect of the taxable commodities transactions entered into in the course of his business during the PY shall be allowed as deduction provided income arising from such transactions is included in the income computed under the head PGBP
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## 7.20 General deductions [Sec. 37(1)]

<b><u>Sec. 37(1) - General deductions - Residuary section</u></b>
Any expenditure which is not specifically provided in any provisions (discussed earlier) of the Act is allowed under this section. For eg., theft, embezzlement, destruction of asset etc. However it should <b><u>fulfil following conditions-</u></b>
<ol style="list-style-type: none"> <li>1. It must be real and not notional, fictitious or in lieu of distribution of profit.</li> <li>2. It must be expended wholly &amp; exclusively for the purpose of business or profession carried on by the assessee.</li> <li>3. It must have been incurred in the previous year.</li> <li>4. It must not be a personal expenditure.</li> <li>5. It must not be a capital expenditure.</li> <li>6. It must be lawful and not have been incurred for any purpose, which is an offence or prohibited, under any law.</li> </ol>
However the following expenditure are <b><u>specifically not allowed.</u></b>
<ul style="list-style-type: none"> <li>➤ <b><u>Corporate Social Responsibility:</u></b> Any expenditure incurred on the activities relating to corporate social responsibility referred to in section 135 of the Companies Act, 2013 shall not be deemed to be an expenditure incurred for the purposes of the business or profession.</li> <li>➤ <b><u>Expenditure prohibited under law :</u></b> The claim of any expense incurred in providing any Gift, Travel facility, Hospitality, Cash or monetary grant or similar freebies in violation of the provisions of Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002 shall be inadmissible being an expense prohibited by the law.</li> </ul>

## 7.21 Advertisement in souvenir etc. of a political party [Sec. 37(2B)]

<b><u>Sec. 37(2B) - Advertisement in souvenir etc. of a political party</u></b>
➤ Expenditure incurred by an assessee on advertisement in any souvenir, brochure, tract, pamphlet or like, published by a political party is disallowed.

## 7.22 Section 40A

<b><u>Sec. 40a - Disallowed expenditure</u></b>
<b><u>Sec.40(a)(i) - Interest, royalty, fees for technical services payable to a non-resident or outside India</u></b>
<ul style="list-style-type: none"> <li>➤ Any interest, royalty, fees for technical services or other sum chargeable under this Act, which is payable ,– <ul style="list-style-type: none"> <li>● outside India; or</li> <li>● in India to a non resident (not being a company) or to a foreign company, - on which tax is deductible at source under Chapter XVIIIB; and such tax -</li> <li>● has not been deducted; or</li> </ul> </li> </ul>



- after deduction, has not been paid to the credit of Central government within the due date of submission of return of income u/s 139(1).
- Where, in respect of any such sum,
  - tax has been deducted in any subsequent year, or
  - has been deducted during the previous year but paid after the due date of submission of return of income u/s 139(1),
 such sum shall be allowed as a deduction in computing the income of the previous year in which such tax has been paid.
- Where an assessee fails to deduct the whole or any part of the tax but is not deemed to be an assessee in default under the first proviso to section 201(1), then, it shall be deemed that the assessee has deducted and paid the tax on such sum on the date of furnishing of return of income by the payee.

**Sec. 40(a)(ia) - Any sum payable to a resident on which TDS provision is applicable**

- 30% of any sum payable to a resident on which tax is deductible at source under Chapter XVII-B is disallowed if such tax:
  - has not been deducted; or
  - after deduction, tax has not been paid on or before the due date of furnishing return of income
- The amount disallowed earlier (i.e., 30% portion) shall be allowed as deduction in the following assessment year if
  - such tax has been deducted in any subsequent year, or
  - tax has been paid after the due date of furnishing return of relevant assessment year,
- Where an assessee fails to deduct the whole or any part of the tax but is not deemed to be an assessee in default under the first proviso to section 201(1), then, it shall be deemed that the assessee has deducted and paid the tax on such sum on the date of furnishing of return of income by the payee.
- This relaxation is not available where the payer has deducted tax but fails to deposit such tax to the credit of the Central Government.

**Sec. 40(a)(ib) - Consideration on which Equalisation Levy is applicable**

- Any consideration paid or payable to a non-resident for a specified service on which equalisation levy is deductible and such levy:
  - has not been deducted or
  - after deduction, has not been paid on or before the due date of furnishing return of income.
- Where in respect of any such consideration, the equalisation levy has been deducted in any subsequent year or has been deducted during the previous year but paid after the due date of furnishing return of income, such sum shall be allowed as a deduction in computing the income of the previous year in which such levy has been paid.

**Sec. 40(a)(ii) - Income tax**

Even, income tax paid by the assessee on income of predecessor is not deductible.  
Professional tax is an allowed expenditure

**Sec. 40(a)(iib) - Royalty, licence fees, etc. payable by State Government Undertaking**

- Any amount paid by way of royalty, licence fee, service fee, privilege fee, service charge or any other fee or charge, by whatever name called, which is levied exclusively on; or

➤ which is appropriated, directly or indirectly, from, a State Government undertaking by the State Government.

**Sec. 40(a)(iii) - Salaries for non-resident**

Any payment which is chargeable under the head “Salaries”, if it is payable— (i) outside India; or (ii) to a non-resident, and if the tax has not been paid in India thereon nor deducted therefrom under chapter XVII-B.

**Sec. 40(a)(iv) - Payment from provident fund or any other fund without deducting tax**

Any payment to a provident fund or any other fund established for the benefit of employees of the assessee in respect of whom the assessee has not made effective arrangement to secure that tax shall be deducted at source from any payment made from the fund, which are taxable under the head ‘Salaries’.

**Sec. 40(a)(v) - Tax on non-monetary perquisite paid by employer**

Any tax on non-monetary perquisite [which is exempt in the hands of employee u/s 10(10CC)] actually paid by employer on behalf of employee is disallowed.

**7.23 Deduction u/s 40(b)**

**Sec 40(b) - Deductions disallowed in the hands of firm and LLP**

The following amounts are not deducted while computing business income in case of a firm assessable as such or a LLP.

1. Remuneration (salary, commission or by whatever name called) paid to a non-working partner.
2. Remuneration to a working partner or Interest on capital to any partner which is not authorised by the deed.
3. Remuneration or interest to a partner authorised by deed but relates to an earlier period. i.e. The remuneration or interest pertains to the period prior to the date of current deed.
4. Interest to any partner in excess of 12% simple interest per annum.
5. Remuneration to a working partner in excess of the below mentioned prescribed limits

<b>Book profits</b>	<b>Quantum of deduction</b>
On the first 3 lacs of the book profits or in case of loss	Rs. 1,50,000 or 90% of book profits whichever is higher
On the balance of books profits	60% of book profits

**Computation of book profit**

Step 1	Find out the net profit as per P&L account
Step 2	Make adjustment as per sec 28 to 44DB (including the adjustment of interest on partner’s capital)
Step 3	Add partner’s remuneration (if debited to P&L a/c)
Step 4	Subtract unabsorbed depreciation but do not subtract brought forward losses. Note - Due to subtraction of unabsorbed depreciation the residual profit should not be less than the brought forward losses which are to be set off in the current year
Step 5	The resultant figure is the book profit.

**Sec 40(ba) - Disallowance in case of AOP and BOIs**

Total income of AOP/BOI is computed as per normal provisions of the Act with the following exception -

**Interest or remuneration to member** - Any interest paid to members (either on capital or loan) and any remuneration (by whatever name called) paid is not allowed as deduction.

However,

- Where interest is paid by the AOP/BOI to any member (who is member in a representative capacity) or vice-versa, then such interest shall be allowed.
- Where interest is paid by AOP/BOI to any member or vice-versa on behalf of any other person, then such interest shall be allowed.
- Where interest is paid by AOP/BOI to its members as well as interest is received by AOP/BOI from its members, then only net interest so paid is disallowed. However, no such adjustment shall be made where interest is paid to a member and received from another member.

**7.24 Payment made to relatives in excess of requirement [Sec. 40A (2)]**

**Sec 40A (2) - Payment made to relatives in excess of requirement**

Any payment made by an assessee to a related person or to a person having substantial interest shall be disallowed to the extent it is excess or unreasonable as per the Assessing Officer.

Relative	Spouse, brother, sister or any lineal ascendant or descendant of that individual.
substantial interest	<ul style="list-style-type: none"> <li>● In case of company - beneficial owner of equity share carrying not less than 20% of voting power</li> <li>● In any other case - beneficially entitled to not less than 20% of the profits</li> </ul>
Excessive or unreasonable	Decided after considering - <ul style="list-style-type: none"> <li>● The FMV of the goods, services or facilities for which payment is made.</li> <li>● The legitimate need of the business or profession</li> <li>● The benefit arising to the assessee there from</li> </ul>

<b>Assessee</b>	<b>Related Person means</b>
An Individual	<ul style="list-style-type: none"> <li>● Relative</li> <li>● A person in whose business or profession the individual has substantial interest.</li> </ul>
A Company	<ul style="list-style-type: none"> <li>● Director of the company or any relative of the director</li> <li>● A person in whose business or profession the company or any of its director or relative of such director has substantial interest.</li> <li>● Any other company carrying on business or profession in which the aforesaid company has substantial interest.</li> </ul>
A Firm	<ul style="list-style-type: none"> <li>● Partner of the firm or relative of partner</li> <li>● A person in whose business or profession the firm or any of its partner or relative of such partner has substantial interest.</li> </ul>

An AOP	<ul style="list-style-type: none"> <li>●A member of the Association or a relative of the member.</li> <li>●A person in whose business or profession the AOP or any of its member or relative of such member has substantial interest.</li> </ul>
An HUF	<ul style="list-style-type: none"> <li>●A member of the family or relative of such person</li> <li>●A person in whose business or profession the HUF or any of its member or relative of such member has substantial interest.</li> </ul>

➤ Where an assessee sells his goods at a lower rate, there is no expenditure incurred by him, hence sec. 40A(2) shall not be invoked.

### 7.25 Consequences of payment exceeding Rs.10,000/- otherwise than by account payee cheque or demand draft [Sec. 40A(3)/(3A)]

<u>Sec. 40A(3)/(3A) - Consequences of payment exceeding Rs. 10,000/- otherwise than by account payee cheque or demand draft</u>							
<p>★ <b>Applicability:</b></p> <p>➤ <b>100%</b> of any expenditure in respect of which payment has been made in excess of specified amount in a day otherwise than by an account payee cheque or account payee bank draft or use of electronic clearing system through a bank account <b>is disallowed.</b></p> <table border="1"> <thead> <tr> <th>Case</th> <th>specified amount</th> </tr> </thead> <tbody> <tr> <td>Payment made for plying, hiring or leasing goods carriages</td> <td>Rs. 35,000</td> </tr> <tr> <td>Payment made for other expenses</td> <td>Rs.10,000</td> </tr> </tbody> </table> <p>➤ Cash payment made in excess of above limits shall be deemed to be income of the subsequent year if expense has been allowed as deduction in any PY on due basis.</p>		Case	specified amount	Payment made for plying, hiring or leasing goods carriages	Rs. 35,000	Payment made for other expenses	Rs.10,000
Case	specified amount						
Payment made for plying, hiring or leasing goods carriages	Rs. 35,000						
Payment made for other expenses	Rs.10,000						
<p>★ <b><u>This provision is not applicable in the following cases ;</u></b></p> <p>➤ If an assessee makes payment of two different bills (none of them exceeds Rs 10,000 /Rs. 35,000) at the same time in cash to the same person.</p> <p>➤ If an assessee makes payment of a single bill (exceeding Rs. 10,000 / Rs. 35,000) on different days to the same person in cash, this provision is not attracted, provided any of the payment does not exceed the limit.</p> <p>➤ Where payment is made over Rs. 10,000 (or Rs. 35,000) at a time, partly by account payee cheque &amp; partly in cash but the payment in cash alone at one time does not exceed Rs.10,000 (or Rs. 35,000).</p> <p>➤ Loan transactions - Because advancing of loan and repayment of principal amount is not an expenditure</p> <p>➤ Payment to a commission agent - because cost of goods received on consignment basis is not an expenditure.</p> <p>➤ The provision of sec. 40A(3) is attracted only when such expenditure is claimed as deduction u/s 30 to 37.</p>							
<p>★ <b><u>Exceptions [Rule 6DD]</u></b></p> <p>Under the following circumstances, provision of Sec.40A(3) is not attracted even if the payment is in excess of Rs.10,000 (or Rs.35,000) has been made through cash</p> <p>(a) Where the payment is made to—</p> <ul style="list-style-type: none"> <li>● The RBI or any banking company</li> </ul>							

- The SBI or any subsidiary bank
  - Any co-operative bank or land mortgage bank;
  - Any primary agricultural credit society or any primary credit society
  - The Life Insurance Corporation of India
- (b) Where the payment is made to the Government and, under the rules framed by it, such payment is required to be made in legal tender;
- (c) Where the payment is made by—
- Any letter of credit arrangements through a bank;
  - A mail or telegraphic transfer through a bank;
  - A book adjustment from any account in a bank to any other account in that or any other bank;
  - A bill of exchange made payable only to a bank;
  - The use of electronic clearing system through a bank account;
  - A credit card or A debit card
- (d) Where the payment is made by way of adjustment against the amount of any liability incurred by the payee for any goods supplied or services rendered by the assessee to such payee i.e., Book Adjustment;
- (e) Where the payment is made for the purchase of the following to the cultivator, grower or producer of such articles, produce or products;
- Agricultural or forest produce; or
  - The produce of animal husbandry (including livestock, meat, hides and skins) or dairy or poultry farming; or
  - Fish or fish products; or
  - The products of horticulture or apiculture,
- (f) Where the payment is made for the purchase of the products manufactured or processed without the aid of power in a cottage industry, to the producer of such products;
- (g) Where the payment is made in a village or town, which on the date of such payment is not served by any bank, to any person who ordinarily resides, or is carrying on any business, profession or vocation, in any such village or town;
- (h) Where any payment is made to an employee of the assessee or the heir of any such employee, on or in connection with the retirement, retrenchment, resignation, discharge or death of such employee, on account of gratuity, retrenchment compensation or similar terminal benefit and the aggregate of such sums payable to the employee or his heir does not exceed Rs. 50,000;
- (i) Where the payment is made by an assessee by way of salary to his employee after deducting the income-tax from salary in accordance with the provisions of section 192 of the Act, and when such employee -
- is temporarily posted for a continuous period of 15 days or more in a place other than his normal place of duty or on a ship; and
  - does not maintain any account in any bank at such place or ship;
- (j) Where the payment was required to be made on a day on which the banks were closed either on account of holiday or strike;
- (k) Where the payment is made by any person to his agent who is required to make payment in cash for goods or services on behalf of such person;
- (l) Where the payment is made by an authorised dealer or a money changer against purchase of foreign currency or travellers cheques in the normal course of his business.

## 7.26 Provision for Gratuity [Sec. 40A (7)]

### **Sec. 40A(7)- Provision for gratuity**

No deduction shall be allowed in respect of any provision (by whatever name called) made by the assessee for the payment of gratuity to his employees.

**Exceptions:** Any provision made by the assessee for the purpose of payment of a sum

- by way of any contribution towards an approved gratuity fund; or
  - for the purpose of payment of any gratuity, that has become payable during the previous year;
- shall be allowed as deduction.

## 7.27 Certain contributions not deductible [Sec. 40A (9)]

### **Sec. 40A(9) - Certain contributions not deductible**

No deduction shall be allowed in respect of any sum paid by the assessee as an employer towards setting up or formation of, or as contribution to, any fund, trust, company, AOP, BOI, society or other institution for any purpose.

**Exception:**

- Where such sum is paid by way of contribution towards approved superannuation fund, recognised provident fund, approved gratuity fund, NPS as per the requirements under any law, then such sum is allowed.
- Contribution to unrecognized provident fund is disallowed.

## 7.28 Section 41

### **Sec 41 - Deemed profit chargeable to tax as business income**

The following receipts are chargeable to tax as business income even if the business to which such receipt is related is not in existence during the previous year.

Section	Contents
41(1)	Recovery against any deduction
41(2)	Balancing charge
41(3)	Sale of asset used for scientific research
41(4)	Recovery of Bad debts
41(5)	Brought forward losses of defunct business

**41(1)** - The pre-requisite for the application of this section is that an allowance or deduction must have been made previously while computing the taxable income. Later where such expense is recovered or any benefit is accrued due to the liability, it shall be taxed in such PY.

Where benefit has been obtained by the successor in business, such benefit shall be taxable in hands of successor.

**41(5)** - In cases where a receipt is deemed to be profit of business u/s 41, relating to a business which ceased to exist and there is unabsorbed losses (not being speculation loss) which arose in that business during the PY in which it ceased to exist, it would be set off against income which is chargeable under this section.



## 7.29 Section 43(5)

### Sec 43(5) - Speculation business

- Speculation business - Speculative transaction means a transaction in which contract for purchase and sale of any commodity including stock and shares, is periodically or ultimately settled otherwise than by the actual delivery or transfer of the commodity or scripts. Sec. 43(5)
- As per explanation to sec. 73, where any part of the business of a company consists of purchase and sale of shares of other companies, such company shall be deemed to be carrying on speculation business to the extent of purchase and sale of shares. However, this rule is not applicable in case of companies -
  - a) of which gross total income mainly consists of income which is chargeable under the head “House property”, “Capital gains”, and “Other sources”; or
  - b) of which principal business is the business of trading in shares or banking or granting of loans and advances.
- Notes: Above explanation covers only transactions of purchase and sale of shares. Debentures, units of UTI or of Mutual Funds are not covered by this explanation.
- Following transactions are not deemed to speculative transactions:
  - Hedging contract in respect of raw material and merchandise to safeguard loss through future price fluctuations
  - Hedging contract in respect of stocks and shares
  - Forward contract to guard against loss arising in the ordinary course of business
  - Trading in derivatives
  - Trading in commodities derivatives - on which commodity transaction tax is paid

Note - The requirement of chargeability of commodity transaction tax is not applicable in respect of trading in agriculture commodity derivatives from AY 2019-20.

### Sec 145 - Method of accounting

- Income chargeable under the head “Profits & gains of business or profession” or “Income from other sources”, is to be computed in accordance with the method of accounting (i.e. either on cash or on accrual basis) regularly followed by the assessee.
- However, there are certain expenditures specified u/s 43B, which shall be deductible only on cash basis.

## 7.30 Section 43A

### Sec. 43A- Consequence of changes in rate of exchange of currency

#### ★ Conditions

1. Assessee has imported an asset.
2. In consequence of a change in the rate of exchange during any PY after the acquisition of such asset, there is an increase or reduction in the liability (as compared to the liability existing at the time of acquisition of the asset) at the time of making payment -
  - a. towards the whole or a part of the cost of the asset; or

b. towards repayment of the whole or a part of the moneys borrowed by him from any person, directly or indirectly, in any foreign currency specifically for the purpose of acquiring the asset along with interest.

★ **Tax Treatment**

The amount by which such liability is increased or reduced at the time of making the payment (irrespective of the method of accounting adopted by the assessee) shall be added to or deducted from the actual cost (as reduced by depreciation already claimed) of the asset.

★ **Points to remember**

- If such increase or decrease arises after the depreciable asset is transferred (but block exists), then such increase or decrease shall be adjusted in the WDV. If however, block cease to exist, then such amount shall be treated as capital receipt or expense.
- Where the whole or any part of the liability aforesaid is met, directly or indirectly, by any other person or authority, the liability so met shall not be taken into account for the purposes of this section.

### 7.31 Expenditures allowed on cash basis [Sec. 43B]

#### Sec. 43B - Expenditures allowed on cash basis

★ **Applicability**

Deduction in respect of following expenses are allowed

- only if payment is made
- on or before the due date for furnishing return of income u/s 139(1) of the PY in which such liability is incurred

1. Any **tax, duty, cess, fee**, by whatever name called, under any law for the time being in force.

2. **Bonus or commission** to employees.

3. **Interest on loan** or borrowing from any

- Public financial institutions (i.e., IFCI, LIC, etc.); or
- State financial corporation; or
- State industrial investment corporation.
- deposit taking non-banking financial company or
- systemically important non-deposit taking non-banking financial company

4. **Interest on any loans** and advances from a scheduled bank or a co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank.

5. Salary in lieu of any leave (i.e. **leave encashment**).

6. **Employer's Contribution to any provident fund**, superannuation fund, gratuity fund or any other fund for the welfare of employees.

7. Any sum payable to the Indian Railways for the **use of railway assets**.

★ **Points to remember** :

1. Deduction can, however, be claimed in the year of payment.
2. Where outstanding interest on loan (taken from Banks, PFIs, etc.) is converted into loan then such interest is not deemed as interest paid.
3. As per sec. 36(1)(va), any sum received by an employer from his employees as contribution towards provident fund, superannuation fund, any other fund set up under the provision of the ESI Act, 1948 or any other fund for the welfare of such employees, is treated as an income of the employer. Subsequently, when such sum is



credited by the employer to the employee's account in the relevant fund on or before the due date of crediting such contribution prescribed under the relevant Act, then deduction is allowed. If such contribution is not deposited within time allowed as per the provisions of the relevant Act, the deduction shall never be allowed.

**Sec 43CA - Stamp duty value of land and building to be taken as the full value of consideration in respect of transfer, even if the same are held by the transferor as stock in trade.**

★ **Applicability**

- where in respect of transfer of an asset (other than capital asset), being land or building or both,
- 105% of The consideration < The stamp duty value, then
- Full value of the consideration = the stamp duty value for the purposes of computing income under the head PGBP.

★ **Date of stamp duty value:**

- Where the date of the agreement and the date of registration are not the same
- Full value consideration = Stamp duty value on the date of agreement if following conditions are satisfied :
  - Whole or part of consideration is paid
  - By any mode other than cash
  - On or before the date of agreement.

★ **Reference to Valuation Officer**

- The Assessing Officer can refer the case to the Valuation Officer if following conditions are satisfied:
  - Assessee claims that the value adopted or assessed by Stamp Valuation authority exceeds the FMV of the property as on the date of transfer; &
  - The value so adopted or assessed or has not been disputed in any appeal or revision or no reference has been made before any other authority, court or the High Court.

★ **Consequences where the value is determined by the Valuation Officer**

- sale consideration of the asset shall be taken as minimum of the following -
  - Value adopted or assessed or assessable for the purpose of stamp duty;
  - Value determined by the Valuation Officer.

**7.32 Special Provision in case of Income of Public Financial Institutions, etc. [Sec. 43D]**

**Sec 43D- Income of public financial institutions, public companies, etc**

**Applicability**

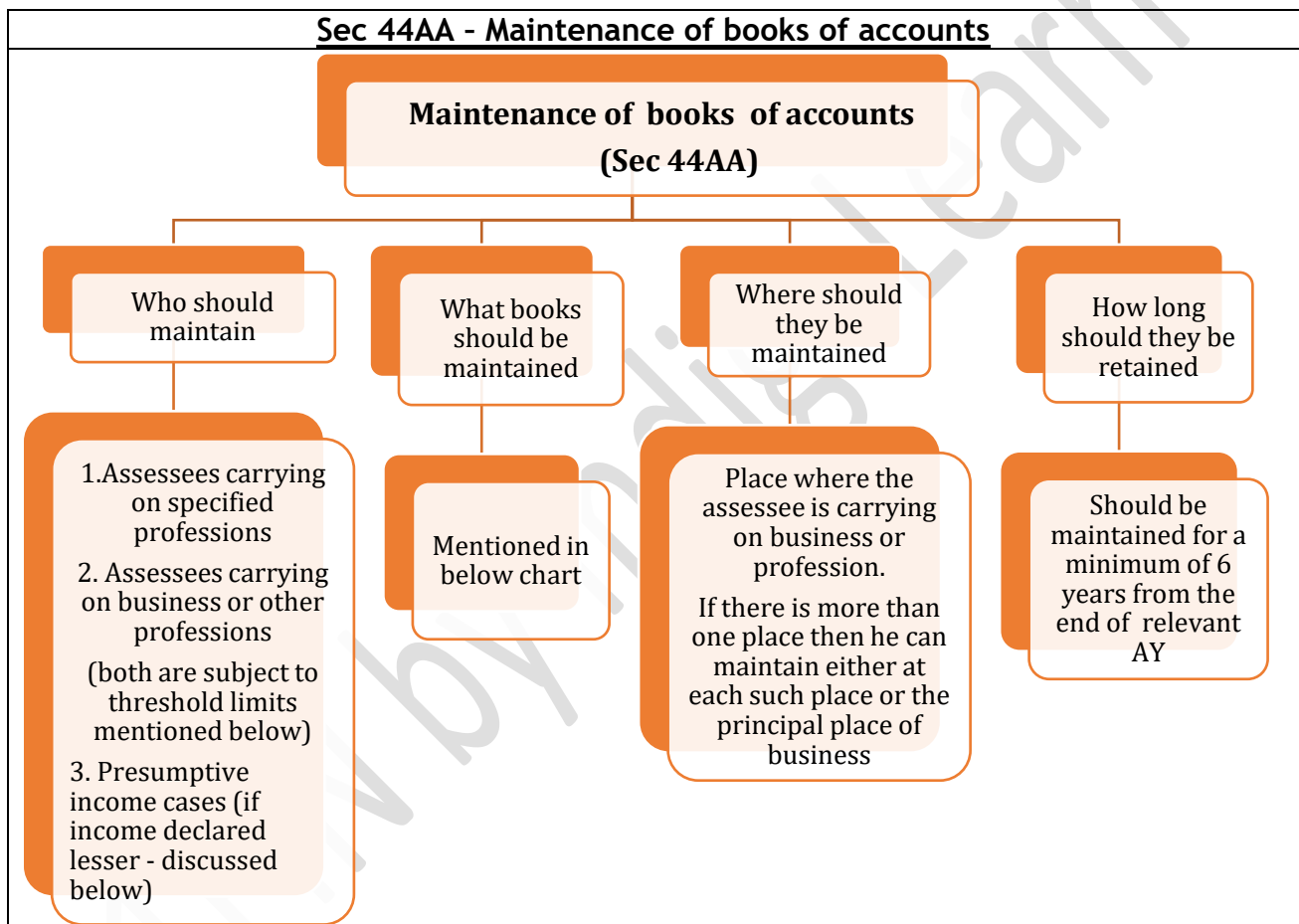
- Public financial institutions (i.e., IFCI, LIC, etc.); or
- Schedule Bank
- Cooperative Bank (related to other than agricultural)
- State financial corporation; or
- State industrial investment corporation.

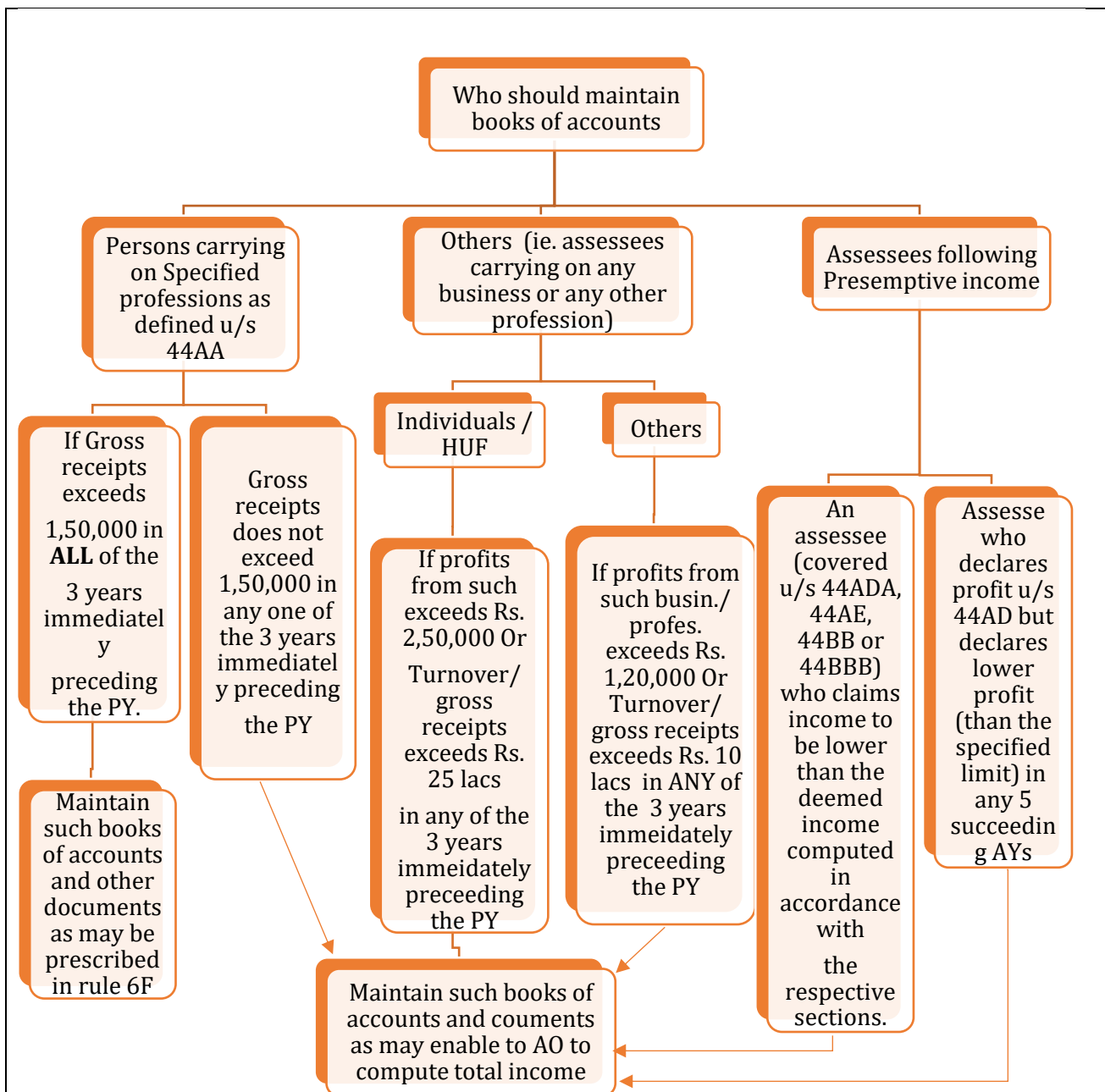
- deposit taking non-banking financial company or
- systemically important non-deposit taking non-banking financial company
- housing finance company

Condition Income by way of interest in relation to NPAs is chargeable to tax

- in the year in which it is credited
  - in the year in which it is actually received,
- whichever is earlier

### 7.33 Maintenance of books of account [Sec. 44AA & Rule 6F]





**Books to be maintained as per Rule 6F**

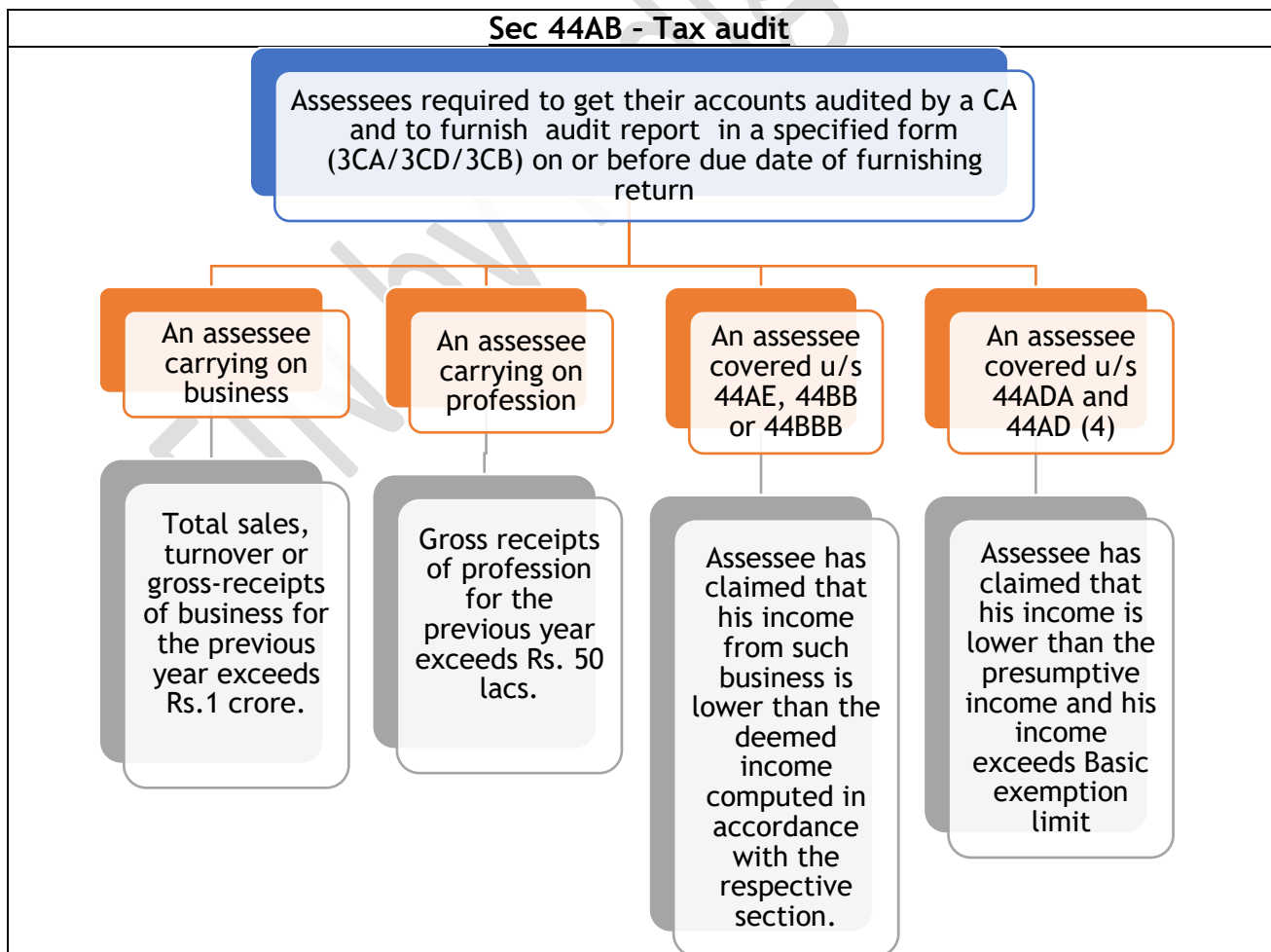
- Cash book, Ledger
  - Journal, if mercantile system of accounting is followed
  - Carbon copies of machine numbered bills, exceeding Rs.25, issued by the person and
  - Original bills wherever issued to the person and receipts in respect of expenditure incurred by the person or, where such bills and receipts are not issued and expenditure incurred does not exceed Rs. 50, payment vouchers prepared and signed by the person.
- Assessee engaged in medical profession are required to maintain two more books
- Daily Case Register in Form 3C.

- Inventory records of drugs, medicines and other consumable accessories used in the profession.

Specified profession -

1. Legal
2. Medical,
3. Engineering,
4. Architectural profession
5. Profession of accountancy,
6. Technical consultancy,
7. Interior decoration,
8. Information technology,
9. Company secretary,
10. Authorised representative,
11. Film artist OR Any other profession as is notified by the Board in the Official Gazette.

**7.34 Tax Audit [Sec. 44AB]**



- Where the accounts are required to be audited under any other law before the specified date, it would be sufficient if such audit is carried on and the said report is furnished within the due date.
- This section does not apply to persons who declare income on presumptive basis u/s 44AD and his total sales or gross receipts does not exceed 2 crores.
- In case of 44AD, books of accounts are required to be maintained if the assessee opts out of the scheme and declares a lower income.
- In case of any violation, provisions of sec 271B applies.

<u>Particulars</u>	<u>Sec 44AD</u>	<u>Sec 44ADA</u>	<u>Sec 44AE</u>
Eligible assessee	<ul style="list-style-type: none"> <li>➤ Resident individual, HUF or Partnership firm engaged in eligible business and who has not claimed deduction under section 10AA or Chapter VIA under “C- Deductions in respect of certain incomes”</li> <li>➤ Non-applicability of section 44AD in respect of the following persons:               <ol style="list-style-type: none"> <li>1. LLP</li> <li>2. A person carrying on profession specified u/s 44AA(1)</li> <li>3. A person earning income in the nature of</li> <li>4. Commission or brokerage</li> <li>5. A person carrying on any agency business.</li> </ol> </li> </ul>	Resident assessee engaged in any profession specified u/s 44AA(1), namely, legal, medical, engineering, architecture or Profession of accountancy or technical consultancy or interior decoration or notified profession (authorized representative, film artist, company secretary, profession of information technology)	An assessee owning not more than 10 goods carriages at any time during the P.Y.
Eligible business/ profession	Any business, other than business referred to in section 44AE, whose total turnover/ gross receipts in the P.Y. ≤ Rs. 200 lakhs	Any profession specified under sec. 44AA(1), whose total gross receipts ≤ Rs. 50 lacs in the relevant P.Y.	Business of plying, hiring or leasing Goods carriage
Presumptive income	<ul style="list-style-type: none"> <li>➤ 8% of total turnover/ sales/ gross receipts or a sum higher than the aforesaid sum claimed to have been earned by the assessee.</li> <li>➤ 6% of total turnover/ gross receipts in respect of the amount of total turnover/ sales/ gross</li> </ul>	50% of total gross receipts of such profession or a sum higher than the aforesaid sum claimed to have been earned by the assessee.	For each heavy goods vehicle Rs. 1,000 per ton of gross vehicle weight or unladen weight, as the case may be, for every month or part

	receipts received by A/c payee cheque/ bank draft/ ECS / prescribed electronic mode during the P.Y. or before due date of filing of return u/s 139(1) in respect of that P.Y.		of a month and For other than heavy goods vehicle, Rs. 7,500 per month or part of a month during which such vehicle is owned by the assessee or an amount claimed to have been actually earned from such vehicle, whichever is higher.
<b>Relief from maintenance of books of accounts and audit</b> : - Assessee opting for presumptive scheme are not required to maintain books of accounts under 44AA and get it audited u/s 44AB. This relieves them from compliance and administrative burden.			
Requirement of maintenance of books u/s 44AA and audit u/s 44AB	After declaring profits on presumptive basis u/s 44AD, say, for A.Y.2019-20, non-declaration of profits on presumptive basis for any of the 5 successive A.Y.s thereafter (i.e., from A.Y.2020-21 to A.Y.2024-25), say, for A.Y. 2021-22, would disentitle the assessee from claiming profits on presumptive basis for 5 successive AYs subsequent to the AY relevant to the PY of such non declaration (ie from AY 2022-23 to 2026-27). In such a case the assessee is subject to both Sec.44AA and 44AB if his total income exceeds basic exemption limit.	If the assessee claims his profits to be lower than profits computed by applying presumptive rate, he has to comply with sec 44AA and 44AB if his total income exceeds basic exemption limit.	If the assessee claims his profits to be lower than profits computed by applying presumptive rate, he has to comply with sec 44AA and 44AB .
Declaration of higher income	The assessee can declare a higher amount than the presumptive income in his return.		
Deduction u/s 30 to 38	Deduction allowed u/s 30 to 38 shall be deemed to have been given full effect to and no further deduction shall be allowed. Even in case		

	of firm, salary and interest paid to partners is not deductible. <b>However in case of sec 40AE, it is subject to limit specified in sec 40(b)</b>
WDV of asset	WDV of any asset of an eligible business/ profession shall be deemed to have been calculated as if the eligible assessee had claimed and had been actually allowed depreciation for each of the relevant assessment years
Advance tax	Such assesses are required to pay advance tax by 15 <sup>th</sup> March of the financial year. (ie only one instalment)

### 7.35 Actual cost of assets [Sec. 43(1)]

<b>Sec 43(1) - Actual cost of assets</b>		
	Cost price (Purchase price) of the asset	xxx
	Add: Expenses directly related to acquisition eg. travelling expenditure	xxx
	Add: Expenses necessary to bring the asset to site, installation, and to make it ready to use, e.g. carriage inward, loading and unloading charges, installation cost, trial run cost, etc.	xxx
	Add: Expenses incurred to increase the capacity of the asset or to make it fit prior to its use.	xxx
	Add: Interest on borrowed capital upto the date the asset is put to use	Xxx
	Less : portion of cost which has has been met directly or indirectly by any other person or authority (eg. Government subsidy)	Xxx
	Less : Taxes & Duties (if Cenvat / Input credit is availed)	xxx
	Less / Add - Forex Gain or loss	xxx
	Actual cost of the asset on which depreciation is computed	xxx
	<p>➤ If any payment as mentioned above, <u>exceeding Rs. 10,000 is paid in cash to any person in a day, then such amount is ignored in computing actual cost.</u></p> <p>➤ Further, actual cost in various situations in mentioned below:</p>	
S.N	Mode acquisition	Actual cost
1	Assets acquired for scientific research subsequently bought into business use	Actual cost (-) deduction availed u/s 35
2	Conversion of inventory into capital asset	FMV on the date of conversion
3	Asset acquired by way of gift or inheritance	Actual cost to the previous owner (-) depreciation allowable to him.
4	Asset acquired from any person using the asset for his business or profession with a view to avoid tax	Actual cost to be determined by the AO with the prior permission of Joint Commissioner
5	Reacquisition of transferred asset	WDV at the time of first transfer or the price paid for reacquisition, whichever is lower
6	Asset acquired by an assessee from another person and given on lease to the same person who had earlier claimed depreciation	WDV of the asset to the transferor



7	Building used for personal purpose subsequently brought into business	Cost of purchase or construction (-)notional depreciation by applying the rate applicable on the date of such conversion
8	Asset, which was acquired outside India, brought by a non-resident assessee to India and used for the purposes of his business or profession	Actual cost to the assessee,(-) depreciation calculated at the rate in force that would have been allowable had the asset been used in India for the said purposes since the date of its acquisition .
9	Any capital asset transferred by a holding company to its 100% subsidiary company or vice versa where transferee company is an Indian company.	Actual cost to the transferee company shall be taken to be the same as it would have been if the transferor company had continued to hold the capital asset for the purpose of its business
10	Any capital asset transferred by the amalgamating company to the amalgamated company where the amalgamated company is an Indian company	Actual cost to the amalgamated company shall be same as it is for the amalgamating company .
11	Any capital asset transferred by the demerged company to the resulting company where the resulting company is an Indian company	Actual cost to the resulting company shall be same as it is for the demerged company
12	Capital asset is acquired by the assessee under a scheme for corporatisation of a recognised stock exchange in India	Actual cost of the asset shall be deemed to be the amount which would have been regarded as actual cost had there been no such corporatisation
13	The actual cost of any capital asset on which deduction is allowable u/s 35AD	Actual cost of the asset shall be taken as NIL.
14	Where an assessee was not required to compute his total income under Income tax Act for any previous year(s) preceding the relevant PY.	Actual cost shall be reduced by the total amount of depreciation on such asset, provided in the books of account (as adjusted by amount attributable to the revaluation of assets) in respect of such PY
15	Composite income *	The total amount of depreciation shall be computed as if the entire composite income is chargeable under the head PGBP. The total depreciation is allowed to arrive at the WDV.

Rule	* Composite income	Business income (taxable)	Agriculture income(exempt)
7A	Income from manufacture of Rubber	35%	65%
7B	Income from manufacture of Coffee		



	Sale of coffee grown and cured	25%	75%
	Sale of coffee grown, cured, roasted and grounded	40%	60%
8	Income from manufacture of Tea	40%	60%

### 7.36 Special deduction for assessee engaged in Tea, Coffee or Rubber growing & manufacturing business [Sec. 33AB and Rule 5AC]

#### Sec. 33AB - Special deduction for assessee engaged in tea, coffee or rubber growing & manufacturing business

★ **Applicable to**

- All assessee carrying on business of growing and manufacturing of the followings in India:

a. Tea; b. Coffee; or c. Rubber

★ **Conditions to be satisfied**

- **Deposit of amount** - Assessee must deposit (hereinafter referred to as special account) an amount in:
  - Account with NABARD - under a scheme approved by Tea, Board, Coffee Board or Rubber Board, as the case may be
  - An account in accordance with, and for the purpose specified in a scheme approved by Tea Board or Coffee Board or Rubber Board, as the case may be, with prior approval of the Central Government.
- **Time of deposit** : The amount must be deposited within 6 months from the end of the previous year or before the due date of furnishing the return of income, whichever is earlier.
- **Audit of accounts**: Accounts of assessee should be audited by a chartered accountant & the report of an auditor in Form 3AC should be filed along with the return of the relevant AY.

★ **Quantum of Deduction**

- Minimum of
  - Amount so deposited
  - 40% of the profit of such business computed under PGBP before allowing any deduction u/s 33AB and before adjusting brought forward business loss.

★ **Calculation of taxable income**

Nature of business	Calculation of income
Tea growing & manufacturing business (Rule 8)	40% of [Income from business - Deduction u/s 33AB]
Similarly for Coffee growing & manufacturing business (Rule 7B) Rubber growing & manufacturing business (Rule 7A)	

★ **Points to remember**

- Any excess deposit made during a previous year is not treated as deposit made for the next year(s).
- No deduction shall be allowed in respect of any amount, utilised for the purpose of purchase of :-
  - Any P&M to be installed in any office premises / residential accommodation / guest house
  - Any office appliances (other than computer)

- Any P&M, the entire cost of which is allowed as deduction
- Any P&M to be installed in an industrial undertaking for constructing, manufacturing or producing any items specified in Schedule XI of the Act
- On closure of business: Apart from the specified purpose(s) of scheme, the amount deposited may be withdrawn in the following circumstances: -

Case	Tax Treatment
• Closure of business	Fully taxable
• Dissolution of firm	Fully taxable
• Death of the tax payer	Not taxable
• Partition of Hindu Undivided Family	Not taxable
• Liquidation of company	Not taxable

- Where the assessee is a firm, AOP or BOI, then deduction under this section shall not be allowed in computation of income of any partner/member.

### 7.37 Site restoration fund [Sec.33ABA]

#### **Sec. 33ABA - Site restoration fund**

- ★ **Applicable to**
  - All assessee engaged in the business of
    - Prospecting for petroleum or natural gas; or
    - Extraction or production of petroleum or natural gas; or
    - Both
      - in India.
- ★ **Conditions to be satisfied -**
  - **Agreement with the Central Government:** The Central Government has entered into an agreement with the assessee for such business.
  - **Deposit of amount:** The assessee must deposit an amount -
    - With the State Bank of India in an account maintained as special account
    - in an account (called Site Restoration Account) opened by the assessee - in accordance with and for the purposes specified in a scheme approved by the Government, Ministry of Petroleum & Natural Gas.
  - **Time of deposit:** Such amount must be deposited before the end of the previous year.
  - **Audit of books of account:** Accounts must be audited & auditor's report should be filed in Form 3AD along with return of income
- ★ **Quantum of Deduction**
  - Minimum of the following:
    - Amount so deposited (as discussed above); or
    - 20% of the profit of such business computed under PGBP before allowing deduction under this section and before adjusting brought forward business loss.
- ★ **Points to remember -**
  - They are same as 33AB

## Capital Gains

### 8.1 Basis of Charge

#### Sec.45 (1) - Chargeability

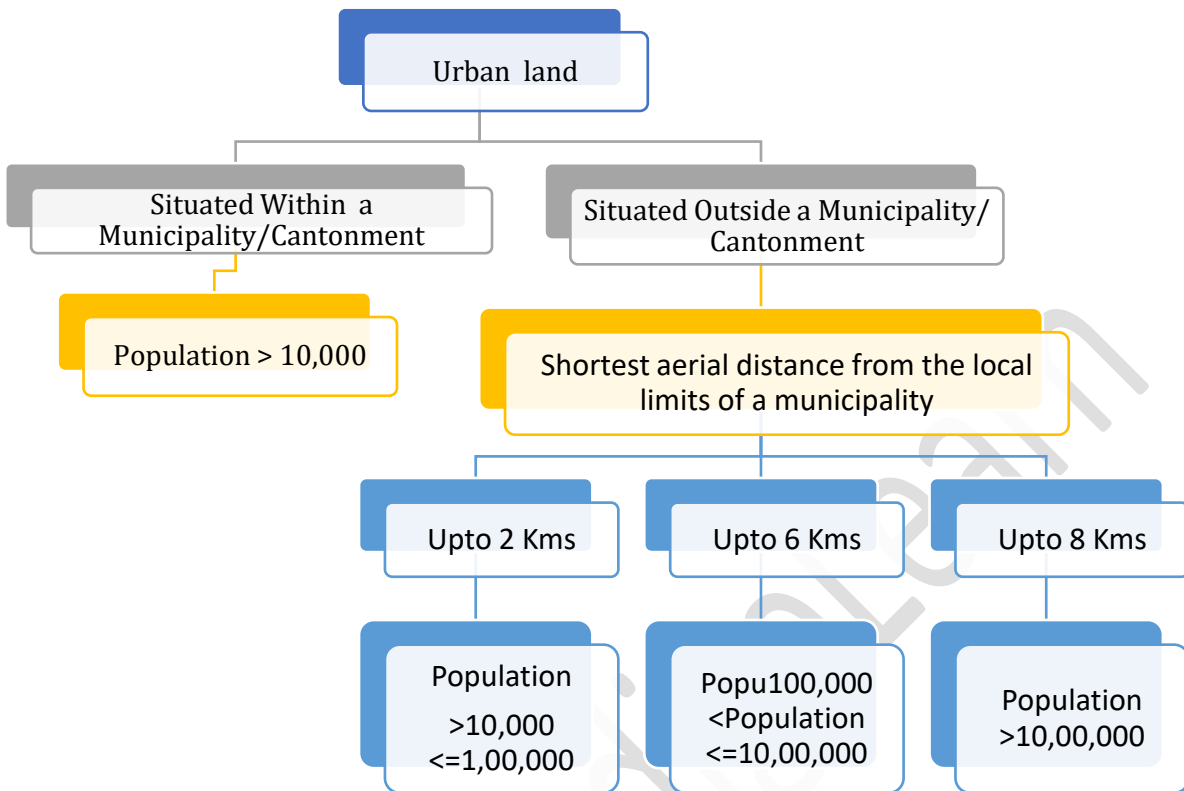
Profits or gains arising on **transfer** of a **capital asset** in the previous year shall be chargeable under the head “Capital Gains”.

### 8.2 Capital Asset [Sec. 2(14)]

#### Sec 2(14) - Capital asset

Includes	Excludes
Any Immovable asset	Stock-in-trade (other than securities held by FII per SEBI regulations)
Movable items - including following personal effects Jewellery -includes utensils and even sewn in wearing apparel, Archaeological collections Drawings and paintings, Sculptures and Any work of art	Personal effects eg. wearing apparel, furniture, vehicles etc.
Securities held by a FII - invested per SEBI Act 1992	
Urban agriculture land [exempt u/s10(37 - in case of compulsory acquisition)]	Agricultural land in Rural area
Financial assets	6½ per cent Gold Bonds, 1977, 7% gold bonds 1980 & national defence gold bonds issued by government
Intangible asset - eg. License, goodwill etc.	Special Bearer Bonds 1991 issued by government
Any rights in or in relation to an Indian company, including rights of management or control or any other rights whatsoever	Gold Deposit Bonds issued under gold deposit scheme.

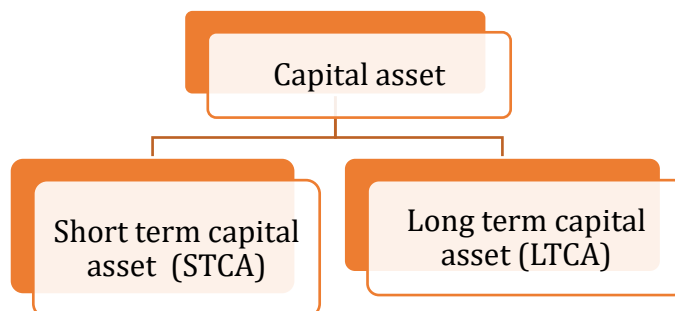
### Urban agriculture land

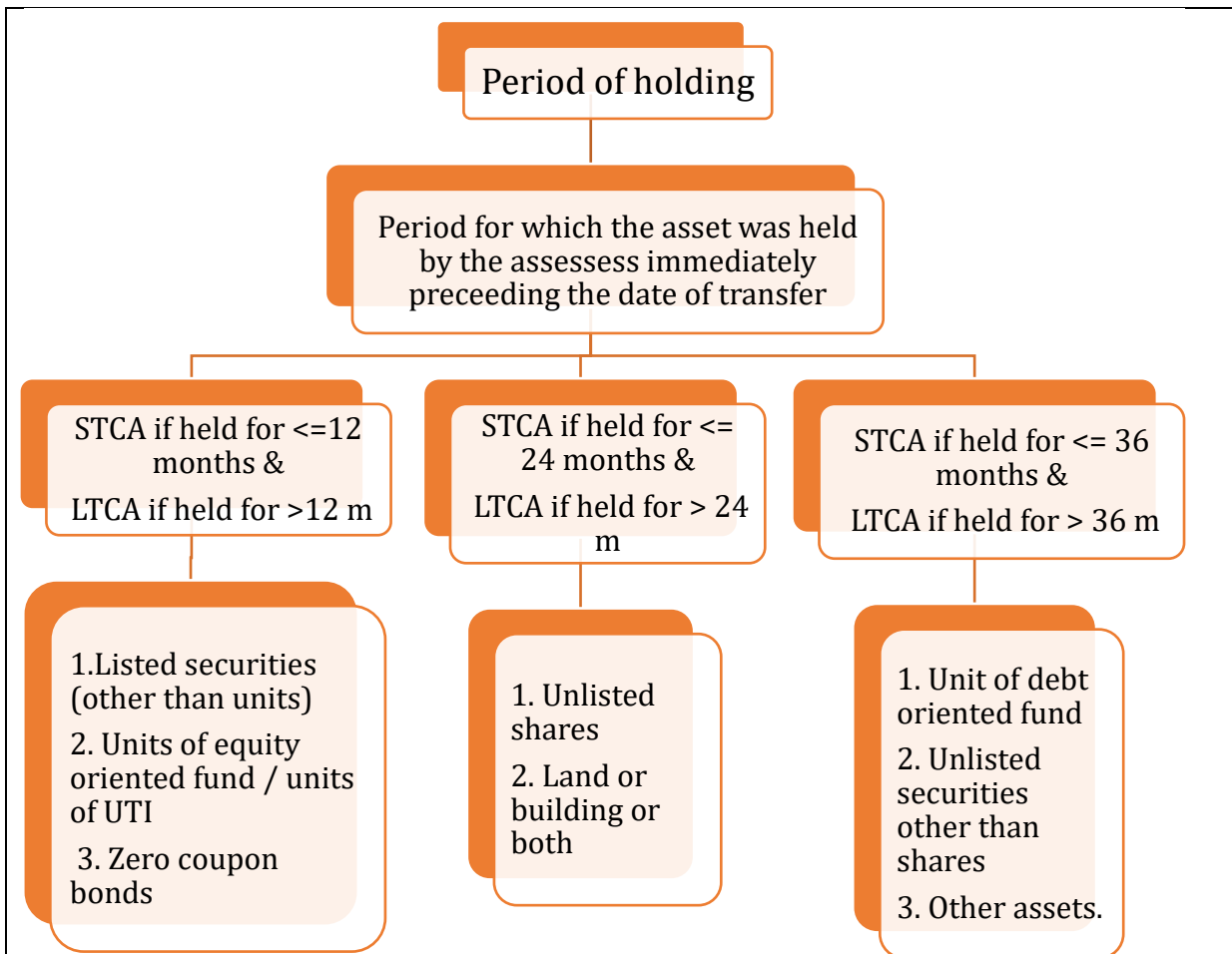


- Population, according to the last preceding census of which the relevant figures have been published before the first day of the previous year, shall be considered.
- If such land is not agricultural land, it will be treated as capital asset irrespective of its location.
- If agricultural land is located outside India, it will be treated as capital asset

### 8.3 Period of holding

#### Sec 2(42A) - Period of holding

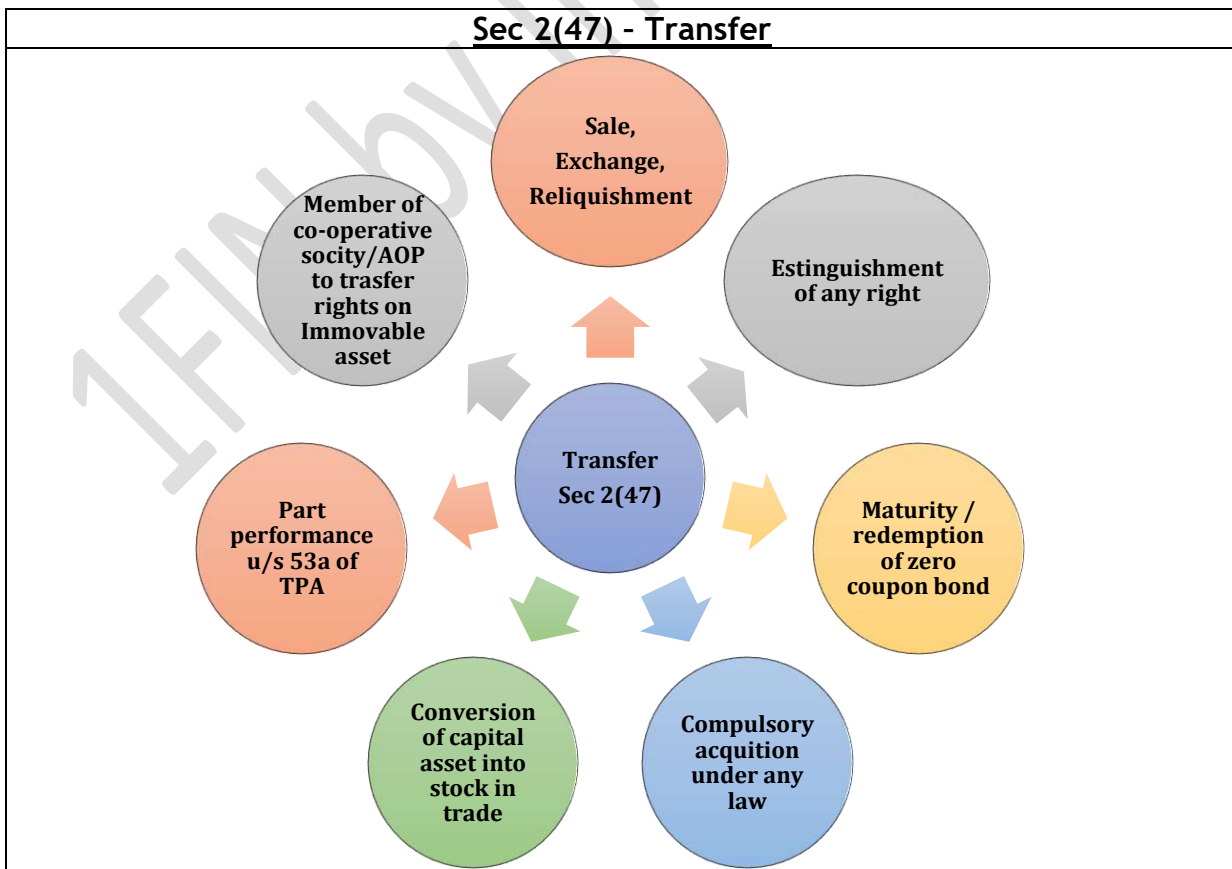




Sn.	Instances	Period of holding
1.	Transfer	The date on which the asset is transferred is to be excluded.
2.	Liquidation	The period after the date of commencement of liquidation is to be excluded.
3.	Right shares, Bonus shares and ESOPs	starts from date of allotment
4.	When right to subscribe any share is renounced in favour of another person	Period from the date of offer of such right by the company or institution is considered.
5.	Conversion of preference shares into equity shares	Includes the period for which the preference shares were held.

6.	In case of amalgamation and demerger	The Period for which shares were held in the amalgamating Co. /demerged company should also be included.
7.	When asset becomes the property of the assessee by virtue of sec 49(1)	Period of holding of previous owner should be included.
8.	When stock in trade is converted into Capital asset	Period from the date of conversion should be taken.
9.	Where a transfer enables the enjoyment of any immovable property whether by way of becoming a member of, or acquiring shares in a co-operative society, company or other AOP	Starts from the date of allotment of shares or date on which such right is obtained

#### 8.4 Transfer [Sec. 2(47)]



- In case of exchange though there is only one transaction the tax liability arises on both the parties. The sale consideration shall be taken as the fair market value of assets received.
- Cancellations of license, forfeiture of shares are examples of extinguishment of right.

## 8.5 Transactions not regarded as transfer [Sec. 47]

### Sec 47- Transactions not regarded as transfer

- 1) Any distribution of capital assets on the total or partial partition of an HUF.
- 2) Any transfer of a capital asset under a gift or will or an irrevocable trust. (Exception: Gift of shares acquired through Employees Stock Option Plan (ESOP) shall be treated as transfer)
- 3) Any transfer of a capital asset by a 100% holding company to its Indian subsidiary company.
- 4) Any transfer of a capital asset by a 100% subsidiary company to its Indian holding 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 of a capital asset by a banking company to a banking institution in a scheme of amalgamation
- 7) Any transfer, in a scheme of demerger, of capital asset by the demerged company to the resulting company, if the resulting company is an Indian company.
- 8) Any transfer in a business re-organisation, of a capital asset by the predecessor co-operative bank to the successor co-operative bank
- 9) Any transfer, in a scheme of amalgamation, of a capital asset being a share or shares held in an Indian company, by the amalgamating foreign company to the amalgamated foreign company, if -
  - a) At least 25% 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
- 10) Any transfer of a capital asset, being
  - a. foreign currency convertible bonds or Global Depository Receipts referred to in sec. 115AC(1),
  - b. rupee denominated bond of an Indian company
  - c. derivative

d. Such other securities as may be notified made by a non-resident on IFSC and where the consideration for such transaction is paid or payable in foreign currency.

- 11) Any transfer, made outside India, of a capital asset being rupee denominated bond of an Indian company issued outside India, by a non-resident to another non-resident.  
(Any gains arising on account of appreciation of rupee against a foreign currency at the time of redemption of rupee denominated bond of an Indian company held by him, shall be ignored for the purposes of computation of full value of consideration)
- 12) Any transfer of Sovereign Gold Bond issued by the RBI under the Sovereign Gold Bond Scheme, 2015, by way of redemption, by an assessee being an individual
- 13) Any transfer of a capital asset being a work of art, archaeological, scientific or art collection, book, manuscript, drawing, painting, photograph or print, to the Government or a University or the National Museum, National Art Gallery,
- 14) 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.
- 15) Any transfer by way of conversion of bonds referred to in sec. 115AC(1)(a) into shares or debentures of any company.
- 16) Any transfer by way of conversion of preference shares of a company into equity shares of that company
- 17) Any transfer of a capital asset in a transaction of reverse mortgage under a scheme made and notified by the Central Government

## 8.6 Mode of computation of capital gains [Sec 48]

<u>Sec 48 - Mode of computation of capital gains</u>			
Short term capital gain/loss		Long term capital gain/loss	
Full value consideration:	xxx	Full value consideration:	xxx
(-) Exp wholly or exclusively	(xx)	(-) Exp wholly or exclusively	(xx)
in connection with such transfer		in connection with such	
Net Sale consideration	xxx	transfer Net Sale	xxx
(-)Cost of Acquisition	(xx)	consideration	(xx)
(-)Cost of Improvements	(xx)	(-)Indexed Cost of Acquisition	(xx)
Capital Gains (STCG)	xxx	(-)Indexed cost of	xxx
Exemption u/s 54B /54D /54G	(xx)	Improvements	(xx)
		Capital Gains (STCG)	



	Exemption u/s 54/ 54B/ 54D/ 54EC/ 54EE /54G	
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★ **Indexed cost of acquisition**

$$= \frac{\text{COA} \times \text{CII for the PY in which the asset was transferred}}{\text{CII for the year in which the asset was first held by the assessee}} \\ \text{Or CII for PY 2001-02, whichever is later}$$

- CII = Cost inflation Index
- CII for PY 2001-02 = 100 and for 2018-19 is 280
- In case asset is acquired by the owner/previous owner on or before 1.4.2001 then  
COA = FMV on 1.4.2001 or actual cost whichever is higher.

★ **Indexed cost of improvement**

$$= \frac{\text{COI} \times \text{CII for the PY in which the asset was transferred}}{\text{CII for the year in which improvement was made}}$$

- Any improvement made before 1.4.2001 is not considered.

★ **No deduction of STT as an expenses.**

★ **No indexation in following cases** -

1. case of Bonds & Debentures except
  - a. Capital indexed bonds issued by GOI &
  - b. Sovereign gold bond issued by RBI
2. Slump Sale
3. Equity shares and equity oriented fund referred to in sec. 112A
4. Transactions by a non-resident - u/s 115AB, 115AC, etc.
5. Transfer of Global Depository Receipt.
6. Depreciable asset

★ **Sec 48 - Special provision for non-residents** -

- In case of transfer of shares & debentures of an Indian company
- which were purchased in foreign currency
- Cost of Acquisition, Expenses wholly or exclusively in connection with such transfer and Full value consideration should be converted into same foreign currency with which shares were acquired.
- Resultant capital gain reconverted into Indian currency.

➤ No indexation benefit in this case.

★ **Special provision in case of Rupee denominated bonds -**

➤ Any gains arising due to appreciation of rupee against a foreign currency at the time of redemption of rupee denominated bond of an Indian company, shall be ignored for the purposes of computation of full value of consideration.

★ **Redemption or maturity or sale of Zero coupon bonds**

➤ Full value consideration = Redemption price, Maturity value or sale proceeds as the case may be.

### 8.7 Deemed or Notional Cost of Acquisition [Sec. 49(1)]

**Sec 49(1) - Circumstances in which the assessee became the owner of the capital asset otherwise than by acquisition.**

- (i) on any distribution of assets on the total or partition of a HUF;
- (ii) under a gift or will;
- (iii) by succession, inheritance or devolution;
- (iv) on any distribution of assets on the liquidation of a company;
- (v) under a transfer to revocable or an irrevocable trust;
- (vi) under any transfer of capital asset by a holding company to its wholly owned subsidiary Indian company or by a subsidiary company to its 100% holding Indian company, referred to in section 47(iv) and 47(v) respectively;
- (vii) under any transfer referred to in section 47(vi) of a capital asset by amalgamating company to the amalgamated Indian company, in a scheme of amalgamation;
- (viii) under any transfer referred to in section 47(vib), of a capital asset by the demerged company to the resulting Indian company, in a scheme of demerger;
- (ix) by conversion by an individual of his separate property into a HUF property, by the mode referred to in section 64(2).

## 8.8 Cost of Acquisition

<b>Cost of acquisition</b>	
<b>Case</b>	<b>COA</b>
Where the capital asset became the property of the assessee through any mode mentioned u/s 49(1)	If ascertainable, Cost of previous owner shall be deemed to be the COA. If not ascertainable, then FMV of the asset on the date on which the previous owner acquired it. Indexation benefit will be available from the year in which it was first held by the assessee.
Shares of amalgamated Indian company received as consideration in a scheme of amalgamation.	Cost of acquisition of the shares in the amalgamating company.
Shares received by way of conversion of bonds or debentures, debenture-stock or deposit certificates	That part of the cost of debentures, debenture stock, bond or deposit certificate in relation to which such asset is acquired by the assessee. Benefit of indexation shall be available from the date of allotment of the new asset ie. converted shares.
Shares acquired through ESOPs or sweat equity shares	FMV taken into account while computing the value of perquisite u/s 17(2)(vi).
Equity Shares received at the time of conversion of preference shares.	Part of cost of preference share in relation to which the shares are converted.
Units acquired under consolidated scheme of mutual fund or under a consolidated plan of mutual fund scheme	Cost of units in the consolidating plan of the scheme of the mutual fund shall be deemed to be the cost of units in a consolidated plan of a mutual fund scheme.
Shares received in a resulting company in a scheme of demerger.	$COA = A \times B/C$ A = Cost of acquisition of shares held in the demerged company B = Net book value of the assets transferred in a demerger C = Net worth of the demerged company
Property subject to tax u/s 56(2)(x)	the value taken into account for the purposes of section 56(2)(x)
Capital asset which was used by the assessee as an inventory	FMV of the inventory as on the date on such conversion determined in the prescribed manner.
Goodwill of business, right to manufacture./ produce, right to carry on business	If self generated, COA = Nil, If purchased, COA = Purchase price. COI = Nil

	Self generated Goodwill of profession is NOT TAXABLE. (SC decision)
Trademark, brand name, tenancy rights, stage carriage permits/loom hours	If self generated, COA = Nil, If purchased, COA = Purchase price. COI = Expense incurred by assessee / previous owner after 1.4.2001
Original shares (which form the basis of entitlement of rights shares)	Amount actually paid for acquiring the original shares.
Rights entitlement (which is renounced by the assessee in favour of a person)	COA = Nil
Rights shares acquired by the assessee	Amount actually paid for acquiring the rights shares
Rights shares which are purchased by the person in whose favour the assessee has renounced the rights entitlement	Purchase price paid to the renouncer + amount paid to the company which has allotted the rights shares.
Bonus shares	If allotted before 1.4.2001, COA = FMV as on 1.4.2001 (at the option of the assessee) If allotted after 1.4.2001 - COA = Nil
Long term capital assets being, <ul style="list-style-type: none"> <li>equity shares in a company on which STT is paid both at the time of purchase and transfer or</li> <li>unit of equity oriented fund or unit of business trust on which STT is paid at the time of transfer, acquired before 1st February, 2018</li> </ul>	Cost of acquisition shall be the higher of <ul style="list-style-type: none"> <li>(i) COA of such asset; and</li> <li>(ii) Lower of <ul style="list-style-type: none"> <li>the fair market value of such asset; and</li> <li>the full value of consideration received or accruing as a result of the transfer of the capital asset.</li> </ul> </li> </ul>
<p>★ <b><u>Meaning of FMV for the above purpose -</u></b></p> <p>➤ <b><u>In a case where the capital asset is listed on any recognized stock exchange as on 31.01.2018</u></b></p>	
<b><u>Case</u></b>	<b><u>Value</u></b>
If there is trading in such asset on such exchange on 31.01.2018	The highest price of the capital asset quoted on such exchange on the said date
If there is no trading in such asset on such exchange on 31.01.2018	The highest price of such asset on such exchange on a date immediately preceding 31.01.2018 when such asset was traded on such exchange.

➤ In a case where the capital asset is a unit which is not listed on any recognized stock exchange as on 31.01.2018

- The net asset value of such unit as on the said date
- In a case where the capital asset is an equity share in a company which is not listed on a recognized stock exchange as on 31.01.2018 but listed on such exchange on the date of transfer
- listed on a recognized stock exchange on the date of transfer and which became the property of the assessee in consideration of share which is not listed on such exchange as on 31.01.2018 by way of transaction not regarded as transfer u/s 47
- An amount which bears to the cost of acquisition the same proportion as CII for the financial year 2017-18 bears to the CII for the first year in which the asset was held by the assessee or on 01.04.2001, whichever is later.

Sale of depreciable asset (sec 50)

Opening WDV		xx
(+) Purchases during the year		xx
(+) Expenses wholly incurred for sale		xx
	A	xx
(-) Full value consideration	B	xx

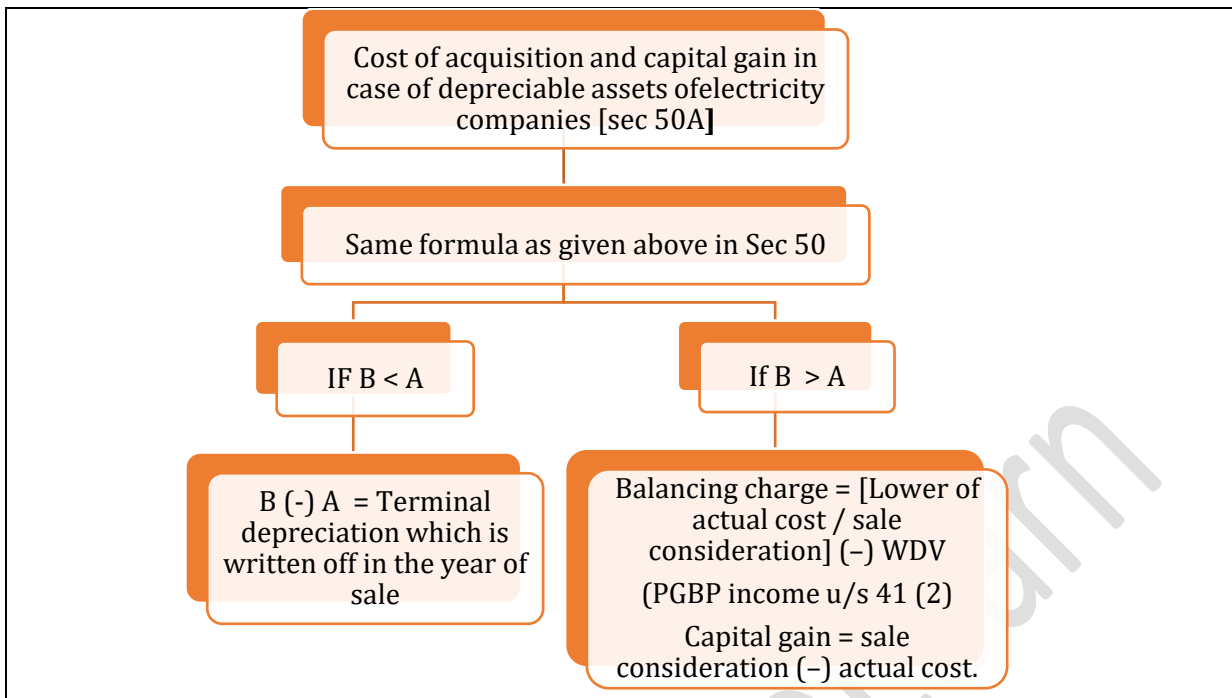
Where  $B > A$

$B (-) A =$  Short term capital gain

Where  $B < A$

Where there are assets in the block  
 $A (-) B =$  Closing WDV on which depreciation will be computed

Where there are no assets in the block i.e. the block ceases to exist  
 $A (-) B =$  Short term capital loss



## 8.9 Capital gains in case of slump sale [Sec. 50B]

### Sec 50B - special provisions in case of slump sale

Sale consideration	xx
Less : Expenses exclusively for sale	(xx)
Less : Net worth of the undertaking	<u>(xx)</u>
Capital gain	xx

- LTCG if the undertaking is held for more than 36 months otherwise STCG
- No indexation benefit

Net worth of the undertaking = Total assets - outside liabilities

Value of total assets =

In case of depreciable assets = WDV as per Sec 43(6)

In case of assets wholly allowed as deduction u/s 35AD = Nil

In case of other assets = Book value

Value of Liabilities = Book value

- 'Slump sale' means the **transfer of one or more undertakings** as a result of the sale for a **lump sum consideration** without values being assigned to the **individual assets and liabilities** in such sales.

## 8.10 Valuation of consideration in case of land or building or both [Sec. 50C]

### **Sec. 50C - Valuation of consideration in case of land or building or both**

#### ★ **Conditions**

- Capital asset being land or building or both is transferred.
- Value adopted or assessed or assessable by the stamp valuation authority exceeds 105% of actual consideration.

#### ★ **Tax treatment**

- Full value of consideration = value adopted or assessed (i.e. Stamp duty Value)

#### ★ **Reference to Valuation Officer**

- The Assessing Officer can refer the case to the Valuation Officer if following conditions are satisfied:
  - Assessee claims that the value adopted or assessed by Stamp Valuation authority exceeds the FMV of the property as on the date of transfer; &
  - The value so adopted or assessed or has not been disputed in any appeal or revision or no reference has been made before any other authority, court or the High Court.

#### ★ **Consequences where the value is determined by the Valuation Officer**

- sale consideration of the asset shall be taken as minimum of the following -
  - Value adopted or assessed or assessable for the purpose of stamp duty;
  - Value determined by the Valuation Officer.

#### ★ **Date of stamp duty value:**

- Where the date of the agreement and the date of registration are not the same -
- Full value consideration = Stamp duty value on the date of agreement if following conditions are satisfied :
  - Whole or part of consideration is paid
  - By any mode other than cash
  - On or before the date of agreement.

#### ★ **Revision of value of such asset:**

If the value adopted for stamp duty purposes is revised in any appeal, revision or

reference, the assessment earlier made shall be amended to re-compute the capital gains by taking the revised value as sale consideration [Sec. 155]

### 8.11 Valuation of consideration in case of unquoted shares [Sec. 50CA]

#### **Sec 50CA - Special provision for full value of consideration for transfer of unlisted shares**

- ★ **Applicable to** - Transfer of unquoted shares (prescribed persons may be exempted from this section if prescribed conditions are satisfied)
- ★ **Condition** - consideration < FMV
- ★ **Tax treatment** - In such case Full Value consideration = FMV
- ★ **How to compute FMV for the purpose of 50CA**
  - Option 1 - Obtain valuation certificate from Merchant banker / CA
  - Option 2 - Compute Net asset value as per Rule 11UA

Net asset value	
Book value of all the assets of the company Asset excludes - Jewellery, artistic work, securities and immovable property. Ignore - Fictitious assets like Income tax refund, miscellaneous expenditure, deferred tax etc	XX
(+) Fair market value of Jewellery and artistic work	XX
(+) Fair value of securities	XX
(+) Stamp duty value of immovable property	XX
Total assets	XX
(-) Book value of outside liabilities	(XX)
Net asset value	XX
$\frac{\text{Net asset value} \times \text{Paid up value of each share}}{\text{Paid up value of the company}}$	

#### **Sec 50D - Fair market value of the capital asset on the date of transfer to be taken as sale consideration, in cases where the consideration is not determinable**

- ★ **Applicable -**
  - Where the consideration received or accruing as a result of the transfer of a capital asset is not ascertainable or cannot be determined,.



★ Consequence -

- Full value of the consideration = FMV of the said asset on the date of transfer

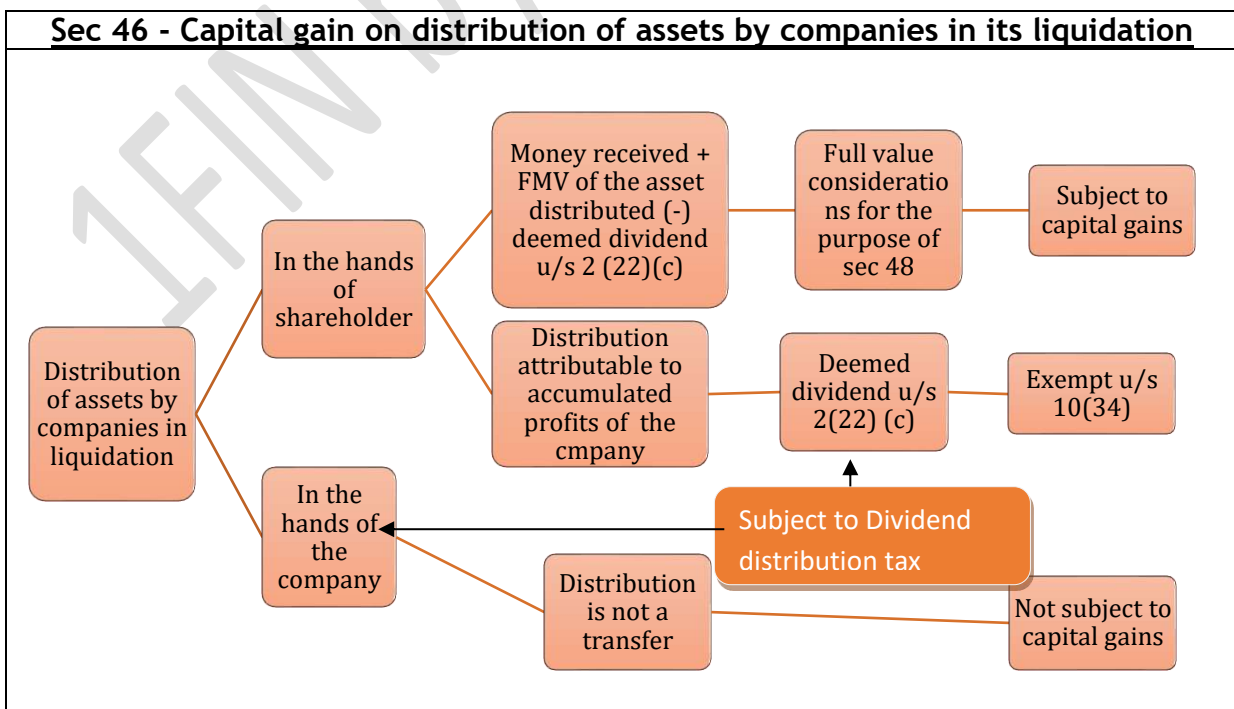
### 8.12 Section 45

<b>Sec 45 - Scope and year of chargeability</b>				
<u>Sec</u>	<u>Transaction</u>	<u>Full value consideration</u>	<u>Year of chargeability</u>	<u>Additional condition</u>
45(1)	Transfer of a capital asset	Agreed consideration	PY in which transfer takes place	
45(1A)	Damage of capital asset due to 1. Natural calamities, 2. civil disturbance/riot 3. Accidental fire 4. Action by an enemy or combating an enemy.	Insurance compensation (money) + FMV (on the date of receipt) of any asset	PY in which money/ asset is received from insurance company	1. Indexation benefit available (if any) till year of destruction 2. Damage due to any other reason is not considered as transfer
45(2)	Conversion of capital asset into stock in trade	FMV as on the date of conversion	PY in which stock in trade is sold	Indexation benefit available (if any) till year of Conversion.
<p>Capital gain = FMV on the date of conversion (-) Cost / Indexed cost of acquisition                      (-) cost of improvement                      PGBP income = Sale price of stock in trade (-) FMV on the date of conversion.</p>				
45(2A)	Transfer of beneficial interest in securities (transfer made through depository)	Agreed consideration	PY in which transfer takes place. Date of contract of sale will be treated as date of transfer.	FMV as on the date of transfer
45(3)	Capital contribution by partner / member to firm/AOP/BOI	Amount at which such asset is recorded in books of the firm/AOP/BOI	PY in which transfer takes place.	

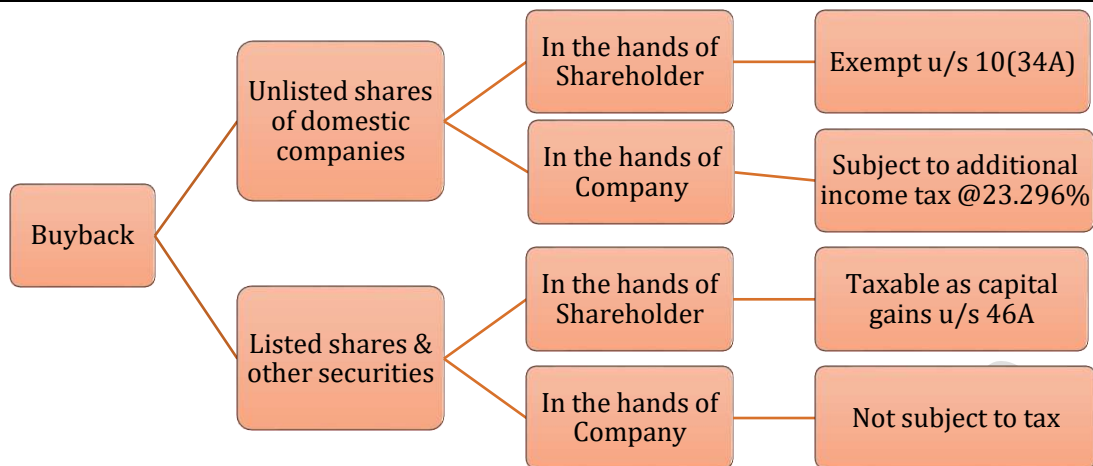
45(4)	Distribution of capital asset on dissolution of firm/AOP/BOI	FMV of the asset as on the date of transfer	PY in which transfer took place	
Where depreciable asset is distributed, there will always be short-term capital gain/loss based upon the particular block of assets. If non-depreciable asset is distributed, it will be LTCG/ STCG depending upon the period of holding by the firm.				
45(5)	Compulsory acquisition or any transfer where consideration is determined by CG/RBI	Compensation awarded	PY in which compensation is first received.	Indexation benefit available till the year of compulsory acquisition.
<p><b><u>Additional points :</u></b></p> <p>In case of compensation is enhanced, the additional amount is taxed. Cost of acquisition &amp; Cost of improvement is taken as nil.</p> <p>In case compensation is reduced capital gain is recomputed.</p> <p>Compensation received by interim order is taxed in the year in which final order is received.</p> <p>If transferor dies before receiving the compensation, it is taxed in the hands of the recipient.</p>				
45(5A)	Joint development agreement with regard to immovable property	Stamp duty value on the date of issue of completion certificate of his share being land/building/ both in the project + cash consideration	In the year in which completion certificate for the whole or part of the project is issued by the competent authority.	Benefit of indexation is available upto the year in which completion certificate is issued.
<p><b><u>Additional points:</u></b></p> <ul style="list-style-type: none"> <li>➤ The assessee is an individual or a HUF.</li> <li>➤ Such assessee transfer capital asset being land or building or both under a specified agreement to another person</li> </ul>				

	<ul style="list-style-type: none"> <li>➤ Specified agreement means a registered agreement in which a person owning land or building or both, agrees to allow another person to develop a real estate project on such land or building or both, in consideration of a share, being land or building or both in such project, whether with or without payment of part of the consideration in cash.</li> <li>➤ Cost of acquisition for the assessee on subsequent transfer of such share - Proportionate cost of the asset transferred ie. the proportion of full value consideration (mentioned above) attributable to the proportionate sale.</li> <li>➤ Where the assessee transfers his share in the project on or before the date of completion certificate, in that case, aforesaid provision is not applicable and the capital gains shall be taxable in the previous year in which such transfer takes place. Further, capital gain shall be computed as per other provisions.</li> </ul>
Sec 48	Full value consideration for shares, debentures or warrants issued under ESOP to an employee which is transferred under a gift or irrevocable trust = FMV on the date of transfer

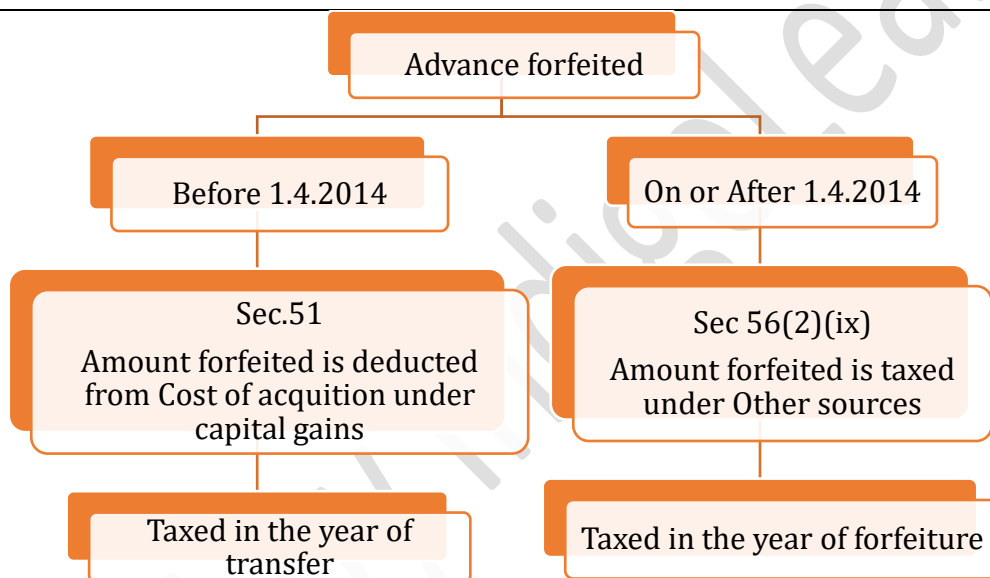
### 8.13 Capital gain on distribution of assets by companies in its liquidation [Sec. 46]



### Sec 46A - Buyback of shares or other securities



### Advance money forfeited



## 8.14 Tax Rates under Capital Gains

### Tax rates under capital gains

#### Sec 111A - Tax on STCG on transfer of certain assets on which Security transaction tax (STT) has been charged

★ Applicable to - All assessee

★ Conditions to be satisfied

- A short-term capital asset, being an equity share in a company or a unit of an equity oriented fund or a unit of a business trust.
- Such transaction is chargeable to STT

- Concessional rate shall be applicable on short term capital gain arises from a transaction undertaken in a foreign currency on a recognised stock exchange located in any International Financial Services Centre even though STT is not applicable on such transaction

★ **Tax rate** - 15% + surcharge (if applicable) + Health and Education Cess.

★ **Sec 112 - Tax on long term capital gains**

Persons	Tax rate	Particulars
Resident individuals and HUF	20%	In case of transfer of listed securities (other than units) and zero coupon bonds  LTCG would be taxable at the lower of 1. 10% without indexation benefit 2. 20% with indexation benefit
Resident AOPs and BOIs	20%	
Resident Firms & LLPs	20%	
Domestic companies	20%	
Non-corporate, non resident and foreign companies	20%	
Non-corporate, non resident and foreign companies - In case of unlisted securities or shares of a private limited company	10%	

★ **Sec 112A - Tax on long term capital gain in certain cases**

- Applicable to: All assessee

★ **Conditions:**

- The capital gains arise from the transfer of a long-term capital asset being an equity share in a company or a unit of an equity oriented fund or a unit of a business trust;
- Securities Transaction Tax (STT) has been levied:
- The condition of payment of STT in either case is not applicable in case where transfer has been undertaken on a recognised stock exchange located in any International Financial Services Centre provided the consideration for such transfer is received or receivable in foreign currency.

★ **Tax rate :**

Case	Rate of taxation
Where such long term capital gain does not exceed Rs. 1,00,000	Nil %
Where such long term capital gain exceeds Rs. 1,00,000	10% on income exceeding Rs. 1,00,000

➤ In case of a resident individual or a Hindu Undivided Family (HUF), the long-term capital gain taxable u/s 112 or 112A or short-term capital gain taxable u/s 111A shall be reduced by the unexhausted basic exemption limit and the balance shall be subject to tax.

➤ No deduction under Chapter VI-A can be claimed in respect of such long-term capital gain chargeable to tax u/s 112 or u/s 112A or short-term capital gain chargeable to tax u/s 111A.

➤ Rebate u/s 87A is not available in respect of tax payable @10% on Long-term Capital Gains u/s 112A.

### 8.15 Section-10 exemptions

<u>Exemptions u/s 10</u>	
10(33)	Income from transfer of units of UTI of unit scheme of 1964 of UTI
10(37)	Income by way of compensation for compulsory acquisition of urban agriculture land. <u>Conditions</u> <ul style="list-style-type: none"> <li>• The Land was used for agriculture either by the assessee or his parents for atleast 2 years prior to the date of transfer.</li> <li>• The compensation is received on or after 1.4.2004</li> </ul>
10(43)	The amount received by a senior citizen as a loan either in lumpsum or in installments in a transaction of reverse mortgage.

## 8.16 Deductions

Deductions							
Sec.	Eligible assessee	Old asset	New asset	Time limit for investment	Conditions to be fulfilled	Quantum of exemption	Does CG deposit scheme apply
54	Individual/HUF	Long-term residential house	One new residential house or at the option of assessee 2 residential house if CG ≤ 2 crores [One time option]	For purchase - 1 year before, or 2 yrs after, the date of transfer & For construction - Within 3 years after the date of transfer	1. New residential house should be in India. 2. Capital asset must be long term	Investment in new asset OR capital gain whichever is less.	Yes.
54B	Individual/HUF	Urban Agriculture land (long term or short term)	New land for agricultural purpose. The new land may be in urban area or rural area.	Within 2 years after the date of transfer.	1. Old asset must have been used by the individual or his parents or by such HUF for agricultural purposes for at least 2 years, prior to its transfer.	Investment in new asset OR capital gain whichever is less.	Yes.
54D	All assesses	Any land or building or any right therein, forming part of an industrial undertaking.	purchase any land or building or construct a building, for the shifting or re-establishing the said under-	Within 3 years after the date of receipt of compensation or any part thereof.	1. Old asset is compulsorily acquired under any law for the time being in force. 2. It was used for industrial purpose for at least 2 years prior to its transfer.	Investment in new asset OR capital gain whichever is less.	Yes

			taking or setting up another industrial undertaking				
54EC	All assesses	Long-term capital asset being land or building or both.	Long-term specified asset means any bond redeemable after 5 years, issued by a) NHAI , b) RECI c) PFCL d) IRFC e) any other bond being notified by the Central Govern.	Within 6 months after the date of transfer	The investment made during the financial year in which the original asset or assets are transferred and in the subsequent financial year cannot exceed Rs.50 lakhs. Earlier benefit shall be revoked if such bond is transferred or converted into money within 5 years of its acquisition or a loan is taken on security of the new asset within the said period.	Investment in new asset OR capital gain whichever is less.	No
54EE	All assesses	Any long-term capital asset.	Long-term specified asset means a unit or units, issued before 01-04-2019, of such fund as may be notified by the Central Govern.	Within 6 months after the date of transfer	The investment made during the financial year in which the original asset or assets are transferred and in the subsequent financial year cannot exceed Rs.50 lakhs. Earlier benefit shall be revoked if such bond is transferred or	Investment in new asset OR capital gain whichever is less.	No



					converted into money within 3 years of its acquisition or a loan is taken on security of the new asset within the said period.		
54F	Individual or HUF	Long-term capital asset other than a residential house property.	One residential house	For purchase - 1 year before, or 2 yrs after, the date of transfer & For construction - Within 3 years after the date of transfer	1. New house should be situated in India. 2. Assessee does not own more than one residential house property, on the date of transfer. 3. Also does not purchase (within 2 yrs) or construct (within 3 yrs) any other house property. Otherwise the exempt income will be deemed to be long term capital gain.	Investment X Capital gain Net sale consideration Or Capital gain Whichever is less	Yes
54G	Any person	Land, building, Plant and machinery	Land, building, Plant and machinery	1 years back and 3 years after	Transfer of asset in the case of shifting of Industrial undertaking from urban area	Investment in new assets or capital gain whichever is lower	Yes
54G A	Any person	Land, building, Plant and machinery	Land, building, Plant and machinery	1 years back and 3 years after	Transfer of asset to shift undertaking to a SEZ	Investment in new assets or capital gain whichever is lower	Yes
54G B	Individual/HUF	Long Term / Residential House property Upto 31-03-2017.	Shares in eligible company . Eligible company should purchase new	Shares should be acquired before due date of return u/s 139.	Shares should not be transferred within 5 years.  Assets should not be transferred	Investment in new asset x capital gain/net sale consideration	Yes

		In case of startup up to 31-03-2019	asset within 1 year of subscription	Asset should be acquired within 1 year of subscription.	within 5 years (in case of computers - 3 years)		
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### Common Points to remember

- If the new asset is not acquired till the due date of submission of return of income, then the taxpayer will have to deposit the money in 'Capital Gains Deposit Account' with a nationalized bank. The proof of deposit should be submitted along with the return of income.
- If the amount held in **Capital Gains Deposit Account Scheme (1988)** is **unutilized**, then such amount shall be taxable as long-term capital gain in the previous year in which the period of 3 years from the date of transfer expires.
- In case of 54F, proportionate amount will be taxable.
- In case of compulsory acquisition, time limit for new investment starts from the date of receipt of compensation.
- **Consequences of violation - U/s 54 , 54B , 54D**  
If the new asset is transferred within 3 years from the date of its acquisition then the benefit availed earlier shall be reduced from cost of acquisition of new asset.
- **Consequences of violation - U/s 54EC , 54EE, 54F, 54GB**  
Such revoked income shall be treated as long-term capital gain in the year of transfer of new asset.
- **Consequences of violation - U/s 54G , 54GA**  
Such revoked income shall be treated as short-term capital gain in the year of transfer of new asset
- An assessee can claim exemption under more than one section (from sec. 54 to 54GB) if conditions of the respective sections are fulfilled.
- **Sec 54H**
  - Where the transfer of the original asset is by way of **compulsory acquisition** under any law; and
  - Amount of **compensation awarded is not received** on the date of such transfer.
  - The **period for acquiring** the new asset or the period available to the assessee for depositing the amount of capital gain in relation to such compensation (sec. 54, 54B, 54D, 54EC and 54F) shall be reckoned **from the date of receipt** of such compensation.
  - In case of enhanced compensation, the period for acquiring the new asset shall commence from the date of receipt of such enhanced compensation.

## 8.17 Reference to Valuation Officer [Sec. 55A]

### Sec 55A - Reference to Valuation officer

- With a view to ascertaining the fair market value of a capital asset for the purposes of this chapter [e.g. sec. 45(1A), 45(2), 45(4), 46(2), 55 and 2(47)] the Assessing Officer may refer the valuation of capital asset to a Valuation Officer.
- Cases where reference to Valuation Officer can be made

Case	Condition
Where the value of the asset as claimed by the assessee is in accordance with the estimate made by a registered valuer.	If the Assessing Officer is of opinion that the value so claimed is at variance with its FMV
In any other case	If the Assessing Officer is of the opinion— <ol style="list-style-type: none"><li>1. That the fair market value of the asset exceeds the value of the asset as claimed by the assessee by more than<ul style="list-style-type: none"><li>• 15% of the value of the asset as so claimed; or</li><li>• by more than Rs. 25,000</li></ul>whichever is less.</li><li>2. That having regard to the nature of the asset and other relevant circumstances, it is necessary to do so.</li></ol>

## Income from other Sources

### (Residuary head)

#### 9.1 Basis of Chargeability [Sec. 145]

Income under this head shall be chargeable on 'accrual' or 'cash' basis depending on the method of accounting regularly followed by the assessee (i.e. either mercantile or cash system of accounting).

#### 9.2 Dividend

<b>Sec. 2(22)(a) to (e) - Deemed Dividend</b>	
Sec.2(22)(a)	<p><i>Distribution of accumulated profits, entailing the release of company's assets.</i></p> <ul style="list-style-type: none"><li>➤ Whether accumulated profits are capitalised or not.</li><li>➤ For example, if accumulated profits are distributed in cash - it is dividend in the hands of the shareholders.</li><li>➤ Where it is distributed in kind, for example by delivery of shares etc. entailing the release of company's assets, the market value of such shares on the date of such distribution is deemed as dividend in the hands of the shareholder.</li></ul>
Sec.2(22)(b)	<p><i>Distribution of debentures, deposit certificates to shareholders and bonus shares to preference shareholders</i></p> <ul style="list-style-type: none"><li>➤ Distribution to the extent of accumulated profits Whether capitalised or not</li><li>➤ Bonus shares given to equity shareholders are not treated as dividend</li><li>➤ Value of debentures, debenture stock etc. = market rate</li><li>➤ And if there is no market rate - then valued according to accepted principles of valuation.</li></ul>
Sec.2(22)(c)	<p><i>Distribution on liquidation -</i></p> <ul style="list-style-type: none"><li>➤ To the extent accumulated profits of the company immediately before its liquidation, whether capitalised or not.</li><li>➤ Distribution after the date of the liquidation is not considered as dividend.</li></ul>
Sec.2(22)(d)	<p><i>Distribution on reduction of capital - to the extent accumulated profits - Whether capitalised or not</i></p>
Sec.2(22)(e)	<p><i>Advance or loan by a closely held company to its shareholder or to a specified concern</i></p> <p><b>Conditions -</b></p> <ul style="list-style-type: none"><li>➤ Advance / loan given by Private limited company.</li></ul>

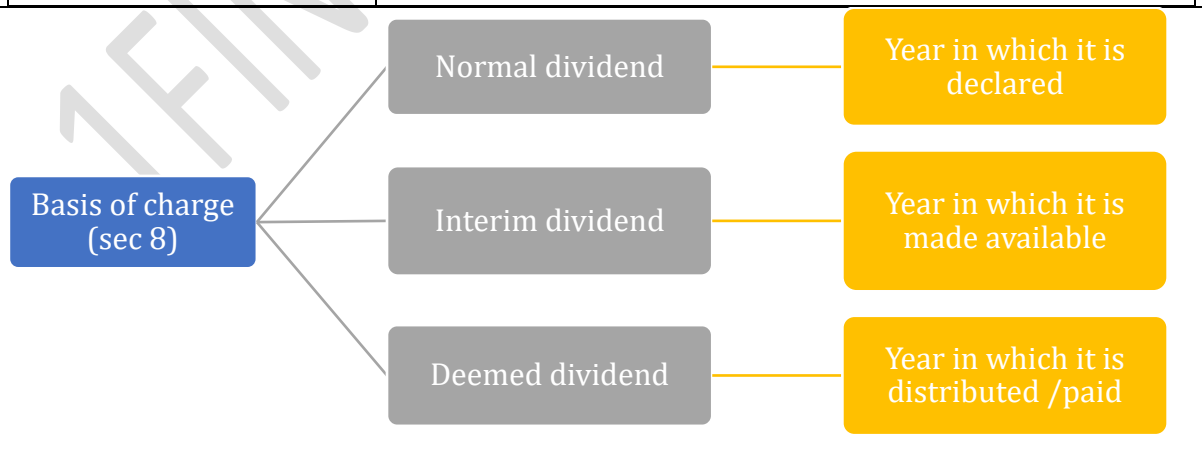
	<ul style="list-style-type: none"> <li>➤ Shareholder - who is the beneficial owner of 10% or more of the equity capital</li> <li>➤ Specified concern - (i.e. HUF/ Firm/ AOP/ BOI/ Company) - in which such shareholder has substantial interest</li> <li>➤ To the extent accumulated profits</li> <li>➤ No exemption even if the loan is repaid before the end of the year.</li> </ul> <p><b>Exceptions -</b></p> <ul style="list-style-type: none"> <li>➤ Loan is granted in the ordinary course of its business</li> <li>➤ Where a loan had been treated as dividend and subsequently, the company declares and distributes dividend and the dividend so paid is set off by the company against the previous borrowing, the adjusted amount will not be again treated as a dividend</li> <li>➤ Trade advances in the nature of commercial transactions.</li> </ul>
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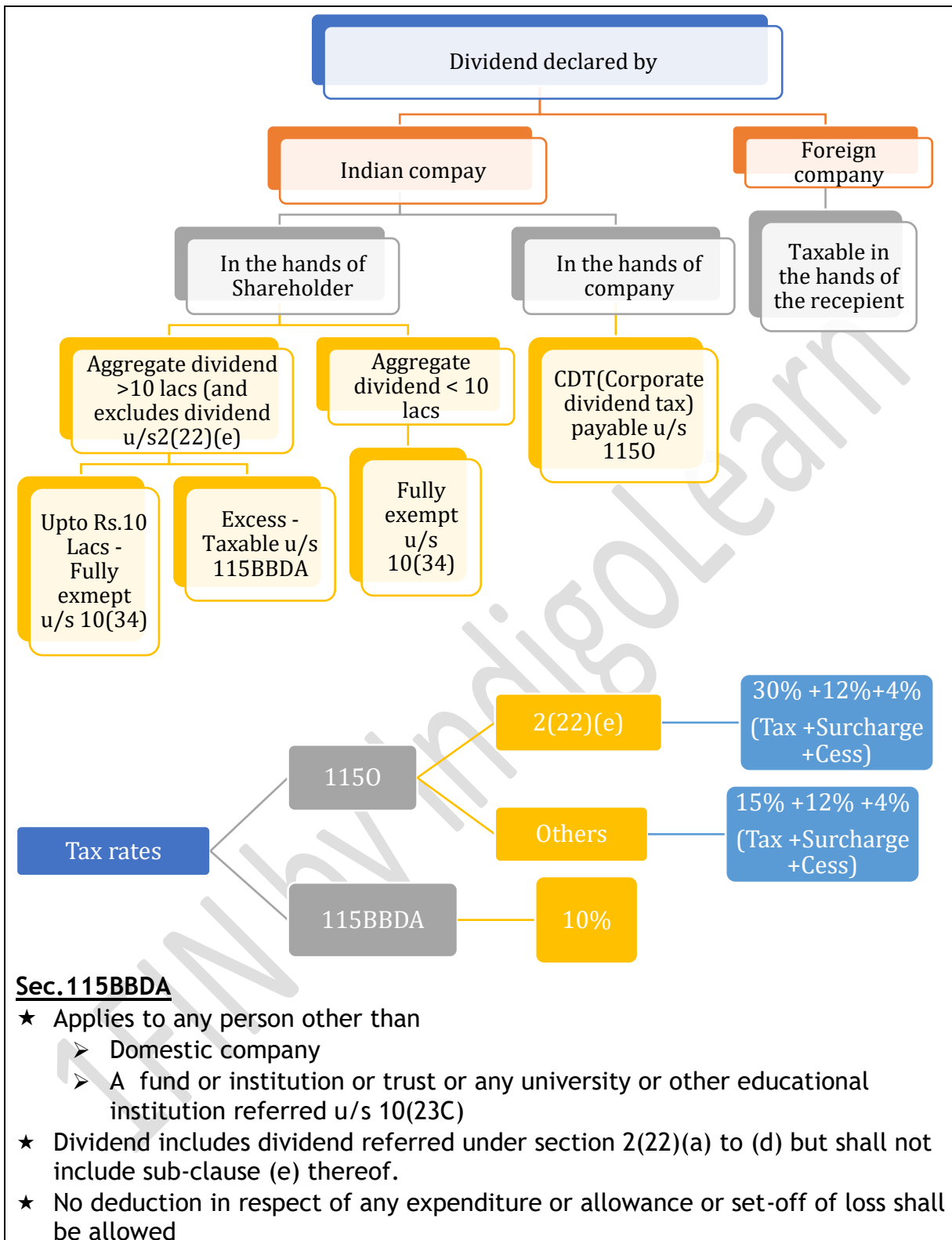
**General exceptions to above rule**

- Purchase of its own shares by the company
- Any distribution of shares on demerger by the resulting companies to the shareholders of the demerged company

**Accumulated profits -**

In case of company not in liquidation	up to the date of distribution or payment .
In case of company in liquidation	up to the date of liquidation
In case liquidation is consequent to the compulsory acquisition	<b>Shall not include</b> any profits of the company prior to the 3 successive previous years immediately preceding the previous year in which such acquisition took place
In case of 2(22)(e)	Upto the date of grant of such loan or advance





### 9.3 Section 56

<b>Sec.56 - Income chargeable under this head</b>	
<b>Sec.</b>	<b>Income</b>
56(2)(i)	Dividend - Includes dividend defined u/s 2(22)(a) to (e)

56(2)(ib)	Casual income - winnings from lotteries, cross- word puzzles, races including horse races, card games and other games of any sort, gambling, betting etc.
56(2)(viib)	Consideration received in excess of FMV of shares issued by a closely held company to be treated as income of such company, where shares are issued at a premium.
56(2)(viii)	Interest received on compensation/enhanced compensation <ul style="list-style-type: none"> <li>➤ Taxed <b>on receipt basis</b> (irrespective of method of accounting followed by the assessee)</li> </ul>
56(2)(ix)	Advance money forfeited - due to failure of negotiations for transfer of a capital asset
56(2)(x)	Any sum of money or value of property received without consideration or for inadequate consideration
56(2)(xi)	Compensation or any other payment received in connection with termination of his employment Includes compensation for the modification of the terms and conditions relating thereto.
Income, if not chargeable under the head “Profits and gains of business or profession”	<ul style="list-style-type: none"> <li>➤ Any sum received by an employer from his employees as contributions to any provident fund, superannuation fund or any other fund for the welfare of the employees</li> <li>➤ Interest on securities</li> <li>➤ Income from letting out on hire of machinery plant or furniture</li> <li>➤ Where letting out of buildings is inseparable from the letting out of machinery, plant or furniture, the income from such letting</li> <li>➤ Keyman insurance policy including bonus on such policy</li> </ul> <p>(if such sum is received by <b>any person other than the employer</b> who took the policy <b>and the employee</b> in whose name the policy was taken)</p> <ul style="list-style-type: none"> <li>➤ Any income chargeable to tax under the Act, but not falling under any other head of income</li> </ul>
Residual income	Any income which is not chargeable under any other income. For eg. <ul style="list-style-type: none"> <li>➤ Salaries of MPs and MLAs</li> <li>➤ Income from sub-letting</li> <li>➤ Income from vacant plot</li> </ul>

#### 9.4 Points to remember regarding casual income

1. Taxed at a flat rate of 30% + surcharge + cess under section 115BB.
2. Expenses not allowed - except in case of owning & maintaining race horses.
3. No chapter VIA deductions.
4. No benefit of basic exemption limit
5. Taxed under this head even if the assessee deriving such income claims to carry on any trade/business
6. Losses cannot be set off except loss from owning & maintaining race horses.

7. Income of Jockey & winning from motor car rally - taxed as professional income - as it calls for skill.
8. Lottery held as stock - taxed as business income - incidental to business.
9. Grossed up in case TDS is deducted.

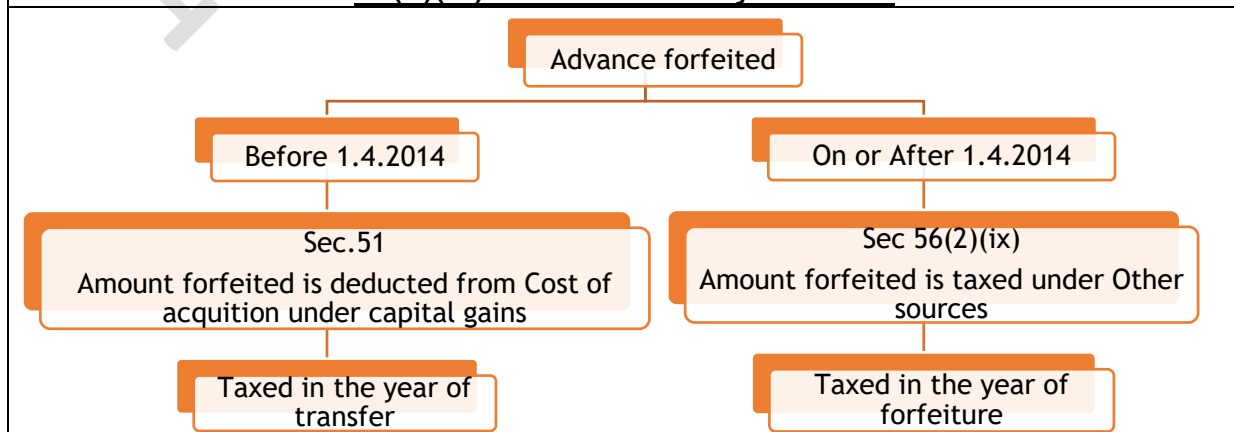
### 9.5 Section 56(2) (viib)

#### Sec. 56(2)(viib) - Share premium in excess of fair market value of shares

1. Company, receiving, any consideration for issue of shares is not being a company in which the public are substantially interested.
2. Such consideration is received from a resident person
3. Such shares are being issued at premium (ie. above face value)
4. Taxable amount = consideration - FMV of such shares
5. Taxed in the hands of recipient company
6. The provision is not applicable when shares are issued at par or at discount even though issue price of such shares exceeds the fair market value.
7. The provision is not applicable if such company is converted into a company in which the public are substantially interested during the previous year itself after issuance of shares.
8. For the purpose of computation of FMV, the value of assets would include the value of intangible assets being goodwill, know-how, patents, etc.
9. **Exceptions:** - consideration for issue of shares is received:
  - (1) by a Venture Capital Undertaking (VCU) from a Venture Capital Fund (VCF) or Venture Capital Company (VCC); **specified fund** or
  - (2) by a company from a class or classes of persons as notified by the Central Government for this purpose. **On failure of fulfilling conditions, the company shall be deemed to have under-reported and it shall be deemed to be income in such year of non-fulfillment of conditions.**

### 9.6 Section 56(2)(ix)

#### 56(2)(ix) - Advance money forfeited





## 9.7 Section 56(2)(x)

Sec 56(2)(x) - Gifts		
Nature of asset	Consideration	Taxable value
Money	Exceeding Rs.50,000.	The whole amount if the same exceeds Rs.50,000.
Movable property	Without consideration	The aggregate fair market value of the property, if it exceeds Rs.50,000.
	Inadequate consideration	The difference between the aggregate fair market value and the consideration, if such difference exceeds Rs.50,000.
Immovable property	Without consideration	The stamp value of the property, if it exceeds Rs. 50,000.
	Inadequate consideration	The difference between the stamp duty value and the consideration, if such difference is more than the higher of Rs. 50,000 and 5% of consideration.
<p>Gifts received in the following circumstances is <b>not taxable</b> u/s 56(2)(x)</p> <p>(a) from any relative; or</p> <p>(b) on the occasion of the marriage of the individual; or</p> <p>(c) under a will or by way of inheritance; or</p> <p>(d) in contemplation of death of the payer or donor, as the case may be; or</p> <p>(e) from any local authority; or</p> <p>(f) from any fund or foundation or university or other educational institution or hospital or other medical institution or any trust or institution; or</p> <p>(g) from or by any trust or institution <u>registered</u>; or</p> <p>(h) by any fund or trust or institution or any university or other educational institution or any hospital or other medical institution<sup>9</sup>.</p> <p>(i) by way of transaction not regarded as transfer under section 47(i)/ (iv)/ (v)/ (vi)/ (vib)/ (vid)/ (vii). Transfer of money or property between a holding company and its wholly owned Indian subsidiary company or between a subsidiary company and its 100% Indian holding company, shall not be subject to tax by virtue of the provisions contained in section 56(2)(x).</p> <p>(j) from an individual by a trust created or established solely for the benefit of relative of the individual.</p> <p style="text-align: center;"><b><u>Definition for the purpose of above section</u></b></p> <p>★ <b><u>Property</u></b> - Capital asset being</p> <ul style="list-style-type: none"> <li>○ Immovable property being land or building or both,</li> <li>○ Shares and securities,</li> <li>○ jewellery,</li> <li>○ Archaeological collections,</li> </ul>		

- Drawings,
- Paintings,
- Sculptures,
- Any work of art or
- Bullion.

**Relative -**

★ In case of an individual

- Spouse,
- Any lineal ascendant or descendant of the individual or spouse
- Siblings of the individual or spouse
- brother or sister of either of the parents of the individual
- spouse of any of the persons referred above

★ In case of HUF - any member of family

## 9.8 Section 57

<b>Sec. 57 - Allowable deductions</b>		
Sr.no	Income	Deductions
1.	Dividend (other than those mentioned u/s 1150) or Interest on securities	Any reasonable sum paid by way of commission or remuneration to a banker or any other person
2.	Contributions received by employer from employees towards P.F./ Superannuation./ other funds	Amount remitted before the due date under the respective acts, as per sec.36(1)(va)
3.	Income derived from letting of P&M and furniture	Current repairs, Insurance premium & Depreciation
4.	Family pension	1/3rd of the income or Rs.15,000, whichever is less
5.	Interest on compensation or enhanced compensation	50% of such income
	Other Income	Any other expenditure (not being in the nature of capital expenditure) laid out or expended wholly and exclusively for the purpose of making or earning such income

## 9.9 Section 58

<b>Sec.58 - Deductions not allowed</b>	
Sr.No.	Deductions
1.	Personal expenses
2.	Interest payable outside India and from which income tax has not been paid or deducted at source.

3.	Salaries payable outside India but on which tax has been paid or deducted there from at source
4.	30% of payment made to a resident on which TDS is applicable but not deducted.
5.	Disallowance u/s 40A - Eg. 1. Payment to relative in excess of reasonable amount 2. Cash payment in excess of Rs.10,000
6.	No deduction on casual income except from owning & maintaining race horses.

### 9.10 Section 59

#### **Sec.59 - Deemed income**

- Remission or cessation of a trading liability or receipt of any amount in respect of any loss or expense allowed as deduction in any previous year will be deemed to be income for the PY in which such remission or receipt take place.
- Similar to sec 41(1)
- This holds good even in case of succession or remission.

### 9.11 Method of Accounting

#### **Sec.145 - Method of accounting**

Income chargeable under this head is computed as per cash or mercantile system of accounting regularly employed by the assessee.

#### **Exemptions relevant to this chapter:**

- The family pension received by the widow or children or nominated heirs, of a member of the armed forces (including para-military forces) [sec 10(19)]
- Notified interest u/s 10(15)

## Income of other persons included in assessee's total income

### 10.1 Introduction

Sec. 60 to 64 deals with the provisions of clubbing of income, under which an assessee may be taxed in respect of income accrued to other person, e.g. certain income of minor child shall be clubbed in the hands of his parents, income from asset transferred to spouse for inadequate consideration shall be clubbed in the hands of the transferor, etc. These provisions have been enacted to counteract the tendency on the part of the taxpayers to dispose off their income or income generating assets to escape tax liability.

### 10.2 General Points to Remember

- The income, which is to be clubbed, shall be first computed in the hands of recipient, all expenditure related to such income shall be allowed as per the respective provisions of the Act, and thereafter the net income shall be clubbed.
- Clubbing shall be made **head wise**.
- If the clubbed income is eligible for deduction **u/s 80C to 80U**, then such deduction shall be allowed to the assessee in whose hands such income is clubbed.
- Includes clubbing of **negative income**.
- Clubbing provisions is **mandatory** and shall be applied even in those cases where the application of such provision causes loss of revenue to the Income tax department.
- The credit of **TDS** shall be given to the person in whose hands the income is taxable.
- The **advance tax** paid by the income earner (say spouse or minor child) with reference to such income is not eligible for adjustment towards the tax liability of the individual in whose hands such income has been clubbed. In such case, it is open to the payer of advance tax to apply for refund of advance tax so paid.
- sec. 65 empowers the income tax authorities to **serve demand notice** (in respect of tax of clubbed income) upon transferee.

### 10.3 Section 60

#### Sec 60 - Transfer of income without transferring assets

- Where an income is transferred without transferring the asset yielding such income - Such income is clubbed in the hands of the transferor.
  - whether the transfer is revocable or not; or
  - whether the transaction is affected before or after the commencement of this Act.

### 10.4 Section 61

#### Sec 61 - Revocable transfer

- If an assessee transfers an asset under a revocable transfer, then income generated from such asset, shall be clubbed in the hands of the transferor.
- Transfer shall be deemed to be *revocable* if -
  - It contains any **provision for the retransfer** (directly or indirectly) of any part or whole of the income/assets to the transferor; or

- It, in any way, gives the transferor a **right to re-assume power** (directly or indirectly) over any part or whole of the income/assets.

## 10.5 Section 62

### ➤ Sec 62 - Exceptions to the above rule

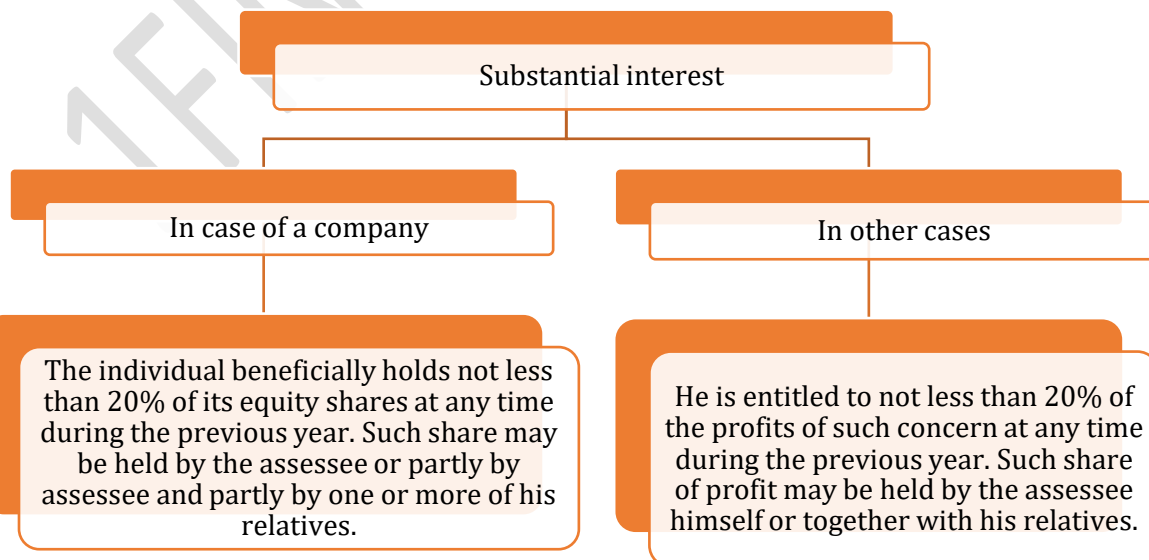
Sec. 61 shall not apply to an income arising to a person by virtue of

- A transfer by way of creation of a trust which is **irrevocable during the lifetime** of the beneficiary
- Any transfer which is irrevocable during the lifetime of the transferee
- Any transfer made **before 1.4.61**, which is not revocable for a period exceeding **6 years**

## 10.6 Remuneration to Spouse [Sec. 64(1)(ii)]

### Sec. 64(1)(ii) - Remuneration to spouse

- Income of spouse by way of **salary, commission, fees or any other remuneration** (whether in cash or in kind) from a concern in which such assessee has substantial interest will be included in the total income of the assessee.
- Any **other income**, which is not specified above is not clubbed.
- Income generated through technical or professional qualification of the spouse is not to be clubbed in the total income of the individual.
- Where both, husband and wife, have substantial interest in a concern and both are drawing remuneration from that concern without possessing any specific qualification.
  - Remuneration from such concern will be included in the total income of husband or wife, whose total income excluding such remuneration, **is higher**
  - In any subsequent years such income cannot be included in the total income of the other spouse without **prior intimation by the Assessing officer**.
  - If both are not having any other income then income will not be clubbed.



- Relative here includes spouse, brother or sister or any lineal ascendant or descendant of that individual [Sec. 2(41)].

### 10.7 Income from asset transferred to spouse [Sec. 64(1)(iv) & (vii)]

#### Sec. 64(1)(iv) - Income from asset transferred to spouse

- Income arising from assets transferred to spouse without adequate consideration, shall be included in the income of that individual.
- Clubbing provision shall not be attracted
  - When such transfer is for adequate consideration
  - The transfer is under an agreement to live apart
  - Where the asset transferred is house property (as such transfer will be governed by Sec. 27)
  - The relationship of husband and wife does not subsist either on the date of transfer of assets or on the date of accrual of income
  - Income from assets acquired by spouse out of pin money or household savings
- Points to remember with regard to house property
  - Where house property is transferred with adequate consideration & not in pursuance to an agreement to life apart - Income generated from such property is clubbed in the hand of the transferor by virtue of sec 27
  - When such asset is sold - Capital gain generated will be clubbed in the hand of the transferor by virtue of sec 64 (1)(iv).
  - When money is gifted and the spouse purchases house property from such amount - Income generated from such property is clubbed in the hand of the transferor by virtue of sec 64(1)(iv)

#### Sec. 64(1)(vii)] - Assets transferred to AOP or other person for the benefit of spouse

- In case an asset is transferred to another person or an AOP,
- otherwise than for adequate consideration,
- for immediate or deferred benefit of spouse,
- then income on such asset shall be clubbed in the hands of the transferor

### 10.8 Section 64(1)(vi) & (viii) - Income from assets transferred to son's wife

#### Sec. 64(1)(vi) & (viii) - Income from assets transferred to son's wife

- Assets transferred to son's wife (after 31.5.1973), without adequate consideration - Income from such asset clubbed with the income of the transferor.
- Aforesaid relationship must subsist on the date of transfer of assets as well as on the date of accrual of income
- Asset is transferred to other person or an association of persons (after 31.5.1973), without adequate consideration, for immediate or deferred benefit of son's wife - then income on asset so transferred shall be clubbed in the hands of the transferor

### 10.9 Income of minor child [Sec. 64(1A)]

#### Sec. 64(1A) - Income of minor child

- **All Income** of a minor child shall be clubbed with income of the parent as follows

Case	Clubbing
When marriage subsists	Parent whose total income (excluding this income) is higher.
When marriage does not subsist	That parent who maintains the minor child in the previous year

➤ Child includes a stepchild, adopted child and a minor married daughter

➤ When child attains majority and afterwards, it is taxable in the hands of the child itself.

➤ **Exceptions**  
The above clubbing provision shall not apply in the following cases -

- The income arises or accrues to the minor child due to any manual work done by him; or
- The income arises or accrues to the minor child due to his skill, talent, specialised knowledge or experience; or
- The minor child is suffering from any disability of nature specified u/s 80U.

➤ **Exemption [Sec. 10(32)]** - The assessee (parent) can claim exemption of  
(i) Amount clubbed or (ii) Rs. 1500 whichever is less

### 10.10 Conversion of self-acquired property into HUF Property [Sec. 64(2)]

<u>Sec. 64(2) - Conversion of self-acquired property into HUF property</u>	
➤ Asset was originally <b>self-acquired</b> property of the individual	
➤ Such asset is transferred directly or indirectly to HUF (in which he is member) for <b>inadequate consideration</b>	
<b>Case</b>	<b>Income to be clubbed in hands of transferor</b>
Before partition	The entire income from such property
After partition	Income from the assets attributable to the spouse of transferor.

### 10.11 Common points to remember for all transfers

➤ Consideration must be measurable in <b>terms of money</b> .
➤ If property has been transferred for <b>inadequate consideration</b> then only the part of <b>income which is attributable</b> to transfer for inadequate consideration, shall be clubbed.
➤ Income arising to the transferee from the <b>accretion</b> of such property shall <b>not be clubbed</b> in the total income of the transferor.
➤ <b>Profit on sale</b> of property, which is gifted to spouse, minor child or son's wife, shall be clubbed in hands of the transferor.
➤ Where an asset is <b>transferred under a trust</b> for the benefit of spouse or son's wife the provision of sec. 64(1) shall be applicable.
➤ In case of cross transfers, the income is assessed in the hands of the <b>deemed transferor</b> . If the transfer is intimately connected to form of single transaction and each transfer is made with an intention to avoid the provisions of this section.

## Set off and carry forward of losses

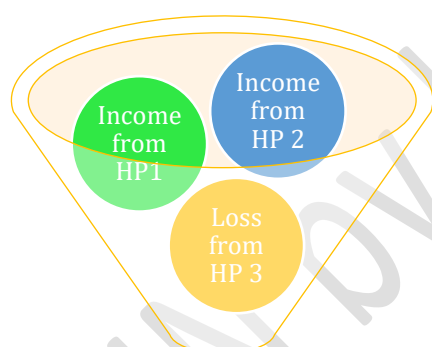
### 11.1 Introduction

For computation of Gross Total Income (GTI), income from various sources is computed under the five heads of income. If all the sources and heads are having positive income (i.e. profit) then the same can simply be added to compute GTI. However, if certain source(s) or certain head(s) have negative income (i.e. loss) then such loss needs to be adjusted with income of another source(s) or head(s). Set off means adjustment of loss from one source or one head against income from another source or another head. If a negative income is not fully set off in the current year, then the unabsorbed loss shall be carried forward to subsequent years subject to certain restrictions and conditions [e.g. Income from other sources (other than losses from activity of owning and maintaining horse races) cannot be carried forward].

### 11.2 Section 70 & 71

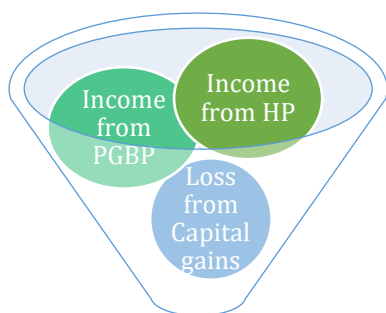
#### Sec 70 & Sec 71 - Inter source and Inter head set off

- For computation of Gross Total Income (GTI), income from various sources is computed under the five heads of income and aggregated. If certain source(s) or certain head(s) have negative income (i.e. loss) then such loss needs to be adjusted with income of another source(s) or head(s). Set off means adjustment of loss from one source or one head against income from another source or another head.



Sec 70 - Set off of losses from sources covered under same head. Also called Intra head set off





Sec 71 - Set off of losses from sources covered under different head. Also called Inter head set off

- Loss which could not be adjusted shall be carried forward to next year subject to certain conditions and exceptions.
- Sec 71 will be applicable after application of sec. 70.
- Losses which cannot be carried forward should be adjusted first
- Sec. 70 and 71 are mandatory i.e. there is no choice or option whether to set off the loss or not.
- From the clubbed income, one can set off the losses

<u>Exceptions to sec.70</u>	<u>Exceptions to sec.71</u>
Long term capital loss can be set off only against long term capital gain. short-term capital loss can be set off against any capital gains	Loss under the head 'Capital gains' cannot be set off against income under any other head.
Loss of a speculation business can be set off only against the profits of a speculation business.	Loss from speculation business cannot be set off against any other income except profits of speculation business.
Loss of a specified business covered u/s 35AD can be set off only against the profits of other specified business.	Loss of a specified business covered u/s 35AD cannot be set off against income taxable under other head.
Loss incurred in activity of owning and maintaining race horses can be set off against income from such activity only	Loss due to activity of owning and maintaining race-horses cannot be set off against any other income except profit from activity of owning and maintaining race-horses
Loss from a source, income of which is exempt u/s 10, cannot be set off against any income	Loss in excess of Rs.2,00,000 under the head 'Income from house property' cannot be set off with income under other heads of income.
No loss can be set off against casual income	Loss under the head "Profits and gains of business or profession" cannot be set off from income under the head "Salaries"

	Loss from a source, income of which is exempt u/s 10, cannot be set off against any income
	No loss can be set off against casual income
<b>Sec 70</b> - Loss from any normal business can be set off against income from specified business or income from speculation business.	
<b>Sec 71-</b> Loss under any other head can be set of against income under above exceptions. For e.g. business loss, shall be allowed to be set off against income under the head 'Capital gains', Loss under 'House property' can be set off against any business income including specified business or speculation business.	

### 11.3 Carry forward of Loss

* <b>CARRY FORWARD OF LOSS</b>					
Section	Loss under the head	Carried forward and set off against	Period for which carry-forward shall be allowed	file return of income on or before time specified u/s 139(1)	own the same house or continue the same business to carry forward
71B	House property	House property	8 assessment years	No.	No.
72	PGBP other than speculation loss	PGBP other than speculation loss	8 assessment years	Yes	No.
32(2)	Unabsorbed depreciation	Any income other than salaries & casual income	Indefinite period	No	No.

73	speculation business	speculation business	4 assessment years	Yes	No.
73A	specified business covered u/s 35AD	specified business covered u/s 35AD	Indefinite period	Yes	No.
74	Long term Capital loss	Long term Capital gains	8 assessment years	Yes	NA
	Short term Capital loss	Any capital gain	8 assessment years	Yes	NA
74A	Activity of owning and maintaining race horses	Activity of owning and maintaining race horses	4 assessment years	Yes	Such Activity must be carried on in the previous year in which set off is claimed

#### 11.4 Points to remember

##### Points to remember

##### Sec 41(5)

- Where any part of loss (not being a speculation loss), which arose during the previous year remains unabsorbed in the previous year in which business ceased to exist
- Such loss shall be allowed to be carried forward for any number of years (without restriction of 8 years) against income chargeable to tax u/s 41(1); (3); (4); (4A).
- Such loss can be set off even if the return of loss is not submitted in time

##### Sec 72

- The business losses can be carried forward, even the business in respect of which the loss was originally computed, is not carried on during the previous year.

- Unabsorbed depreciation, unabsorbed scientific research expenditure and unabsorbed family planning expenditure are not covered by sec. 72. Such losses can be carried forward for any number of years.
- In case of insufficient profit, losses shall be set off in the following order:
  - a) Current year's depreciation [Sec. 32(1)], capital expenditure on scientific research [Sec. 35(1)] and capital expenditure on family planning [Sec. 36(1)(ix)];
  - b) Brought forward business or profession losses [Sec. 72(1)],
  - c) Unabsorbed depreciation [Sec. 32(2)], unabsorbed expenditure on family planning [Sec. 36(1)(ix)], unabsorbed capital expenditure on scientific research [Sec. 35(4)]

### **Sec 73**

- Speculative transaction means a transaction in which contract for purchase and sale of any commodity including stock and shares, is periodically or ultimately settled otherwise than by the actual delivery or transfer of the commodity or scripts.
- where any part of the business of a company consists of purchase and sale of shares of other companies,
- such company shall be deemed to be carrying on speculation business to the extent of purchase and sale of shares.
- However, this rule is not applicable in case of companies -
  - a) of which gross total income mainly consists of income which is chargeable under the head "Income from house property", "Capital gains", and "Income from other sources"; or
  - b) of which principal business is the business of trading in shares or banking or granting of loans and advances.
- Notes: Above explanation covers only transactions of purchase and sale of shares. Debentures, units of UTI or of Mutual Funds are not covered by this explanation.

### **Sec 74A**

- Sec. 74A states only about losses from activity of owning and maintaining race horses, other race animals are governed by sec. 72.

In case of no income by way of stake money

Loss = Revenue expenditure incurred wholly and exclusively for the purpose of maintaining race horses

In case assessee has income by way of stake money

Loss = Stake money - Revenue expenditure incurred for the purpose of maintaining race horses

Income by way of stake money' means the gross amount of prize money received on a race horse by the owner thereof.

## Deductions from Gross Total Income

### 12.1 Basic Rules

1. Deductions not available from: Deductions under chapter VIA are not available from
  - long-term capital gain
  - short term capital gain covered u/s 111A (i.e., STCG on which STT is charged); and
  - casual income like winning from lotteries, races, etc.
2. Limit of deduction: The aggregate amount of deduction under chapter VIA cannot exceed Gross Total Income of the assessee excluding
  - long term capital gain
  - short term capital gain covered u/s 111A
  - casual income like winning from lotteries, card-games, horse races, etc.; and
  - income referred in Sec.115A, 115AB, 115AC, 115ACA, etc.
3. Deduction must be claimed: Deduction under chapter VIA shall be available only if the assessee claims for it.
4. Double deduction not permissible: Where deduction under any section of chapter VIA has been claimed then the same shall not qualify for deduction in any other section.

### 12.2 General Provisions

#### General provisions

- The deductions specified in sections 80C to 80U, shall be allowed from his gross total income.
- Deductions under chapter VIA are not available from -
  - Long-term capital gain;
  - Short term capital gain covered u/s 111A (i.e., STCG on which STT is charged); and
  - Casual income like winning from lotteries, races, etc. and
  - Income referred in Sec.115A, 115AB, 115AC, 115ACA, etc
- Deduction under chapter VIA shall be available only if the assessee claims for it.
- The aggregate amount of the deductions cannot exceed the gross total income of the assessee.
- In the case of AOP/BOI, if any deduction is admissible under section 80G/80GGA/80GGC<sup>1</sup>, no deduction under the same section shall be made in computing the total income of a member of the AOP or BOI.
- Where deduction under any section of chapter VIA has been claimed then the same shall not qualify for deduction in any other section.
- Once the assessee has claimed the benefit of deduction under section 35AD for a particular year in respect of a specified business, he cannot claim

benefit under Chapter VI-A under the heading “C.-Deductions in respect of certain incomes” for the same or any other year and vice versa

- Sec 80AC - Section 80AC stipulates compulsory filing of return of income on or before the due date specified under section 139(1), as a pre-condition for availing benefit of deductions under any provision of Chapter VI-A under the heading “C. - Deductions in respect of certain incomes”.
- The heading “C. - Deductions in respect of certain incomes” consists of following sections - 80-IA, 80-IAB, 80-IAC, 80-IB, 80-IBA, 80-IC, 80-IE, 80JJA, 80JJAA, 80LA, 80P, 80PA, 80QQB and 80RRB.

### 12.3 Section 80C

<u>Sec 80C - Deduction in respect of investment in specified assets</u>			
* <b>Applicable to -</b>			
➤ <b>Only to an Individual or a Hindu Undivided Family</b>			
<u>Investment made</u>	<u>Conditions</u>		
Life insurance premium	➤ Insurance policy can be taken on life of the following:		
	(a) <b>In case of an individual:</b> Himself, spouse and child (whether major or minor) of such individual;		
	(b) <b>In case of HUF:</b> Any member of the HUF.		
	<b>Maximum limit:</b> Premium on insurance policy in excess of following % of the actual sum assured shall be ignored.		
	Policy issued	Insured is disable* or suffering from disease specified u/s 80DDB	Insured is any other person
	Upto 31-03-2012	20%	20%

	During P.Y. 2012-13	10%	10%
	On or after 01-04-2013	15%	10%
	<p>➤ For the purpose of calculating the actual capital sum assured,</p> <ul style="list-style-type: none"> <li>• The value of any premiums agreed to be returned or</li> <li>• The value of any benefit by way of bonus or otherwise, over and above the sum actually assured, <b>shall not be taken into account.</b></li> </ul> <p>➤ <b><u>Note- Applicability of exemption-</u></b></p> <ul style="list-style-type: none"> <li>• Any sum received under a LIP including the sum allocated by way of bonus is exempt u/s 10(10D). However exemption would not be available if the premium payable for any of the years during the term of the policy exceeds the limits specified in the above table</li> <li>• Exemption u/s 10(10D) is not available in respect of amount received from an insurance policy taken for disabled person under section 80DD.</li> <li>• Exemption is not available in respect of the sum received under a Keyman insurance policy</li> </ul>		
Premium paid in respect of a contract for deferred annuity	➤ <b>Applicable to Individual only</b>		

	<ul style="list-style-type: none"> <li>➤ Annuity may be taken in the name of the individual, spouse and any child of such individual.</li> <li>➤ Such contract does not contain a provision for the exercise by the insured of an option to receive a cash payment in lieu of the payment of the annuity.</li> </ul>
Any sum deducted from the salary payable of a Government employee for securing a deferred annuity	<b>Maximum limit:</b> 20% of salary of the employee
Contribution to SPF/PPF/RPF	<p>Contribution can be made in the name of the individual, his spouse and any child of the individual; and any member of the family, in case of a HUF.</p> <p>Contribution must not be in form of repayment of loan.</p> <p>The maximum limit for deposit in PPF is ₹1,50,000 in a year.</p>
Contribution to approved superannuation Fund	
Contribution to approved annuity plan of LIC	
Subscription towards notified units of mutual fund or UTI	
Any sum paid or deposited in Sukanya Samridhi Account	
Contribution in Unit-linked Insurance Plan 1971	
Contribution in Unit-linked Insurance Plan of LIC Mutual Fund	
Subscription to National Savings	



<b>Certificates VIII</b>	
<b>Contribution to National Housing Bank (Tax Saving) Term Deposit Scheme, 2008</b>	
<b>Subscription to notified deposit scheme</b>	The deposit scheme should be notified by the Central Government, for example, public deposit scheme of HUDCO.
<b>Payment of tuition fees to any university, college, school or other educational institutions within India for full-time education for maximum 2 children</b>	Such payment does not include any payment towards any development fees or donation or payment of similar nature. <b>Private tuition fee is not covered</b>
<b>5 year time deposit in an account under the Post Office Time Deposit Rules, 1981</b>	
<b>Investment as term deposit for a period of 5 years or more with a scheduled bank.</b>	
<b>Notified Bonds issued by the National Bank for Agriculture and Rural Development (NABARD)</b>	
<b>Senior Citizens Savings Scheme Rules, 2004</b>	
<b>Any payment for purchase or construction of a residential house property including stamp duty, registration fee and other expenses and Repayment of housing loan</b>	<ul style="list-style-type: none"> <li>➤ This deduction can only be claimed for repayment of home loan taken from specified entity like banks, Housing Finance Companies. Etc.</li> <li>➤ The following are not admissible for deduction under this section. <ol style="list-style-type: none"> <li>1. Any expenditure in respect of which deduction is allowable u/s 24</li> </ol> </li> </ul>

	<ol style="list-style-type: none"> <li>2. Repayment of loan borrowed for acquiring commercial property</li> <li>3. Repayment of loan taken for repair, alteration, renovation, addition</li> <li>4. Admission fee, cost of share and initial deposit which a shareholder of a company or a member of a co-operative society has to pay for becoming a shareholder or member;</li> </ol>
<p><b>Contribution to a specified account of the pension scheme u/s 80CCD</b></p>	<ul style="list-style-type: none"> <li>➤ Central Govt. Employee to make the contribution</li> <li>➤ For a period not less than 3 yrs</li> <li>➤ Scheme notified by the central govt.</li> </ul>
<p><b>* <u>Quantum of deduction - lower of</u></b></p> <ol style="list-style-type: none"> <li>a. Aggregate of the eligible expenditure or investments OR</li> <li>b. Rs. 1,50,000</li> </ol>	
<p><b>* <u>Further points</u></b></p> <ul style="list-style-type: none"> <li>➤ In case of Termination of Insurance Policy or Unit Linked Insurance Plan or transfer of House Property or withdrawal of deposit</li> <li>➤ The amount allowed as deduction shall be deemed to be the income chargeable to tax in the Previous year in which such transfer happens.</li> <li>➤ For the purpose of Deduction u/s 80C, amount paid, invested or deposited shall be considered on payment basis.</li> </ul>	

## 12.4 Section 80CCC

### Sec. 80CCC - Deduction in respect of contribution to pension fund

\* **Applicable to**

- An individual only.

\* **Conditions to be satisfied**

- During the previous year, assessee has paid or deposited a sum under an annuity plan of the Life Insurance Corporation of India (LIC) or any other insurer for receiving pension from the fund referred to in Sec. 10(23AAB).
- The amount must be paid out of income which is chargeable to tax. However, it is not necessary that such income relates to current year.
- Taxable at the time of withdrawal from such fund. Interest or bonus received from such fund shall also be taxable.
- Deduction u/s 80C will not be available

\* **Quantum of deduction**

- a. Amount deposited or
- b. 1,50,000

**Whichever is less.**

## 12.5 Section 80CCD

### 80CCD - Deduction in respect of contribution to pension scheme notified by Central Government

\* **Applicable to**

- An individual

\* **Condition to be satisfied**

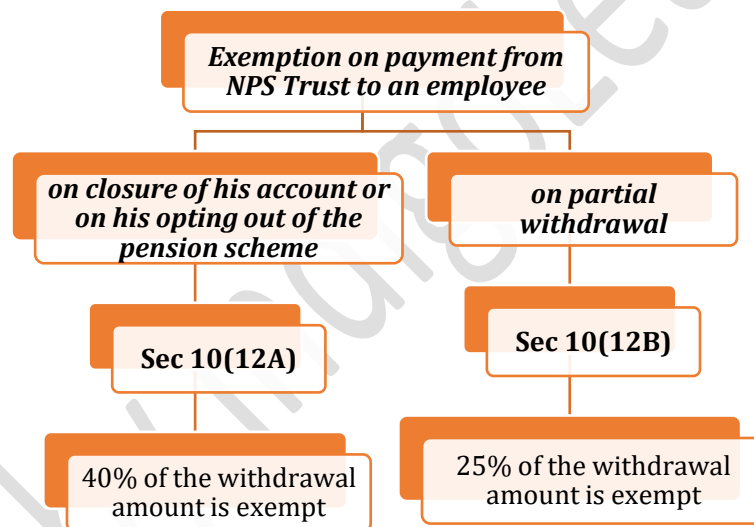
- Assessee has paid or deposited any amount in his account under a pension scheme notified by the Central Government (New Pension System and Atal Pension Yojna)

\* **Deemed Income**

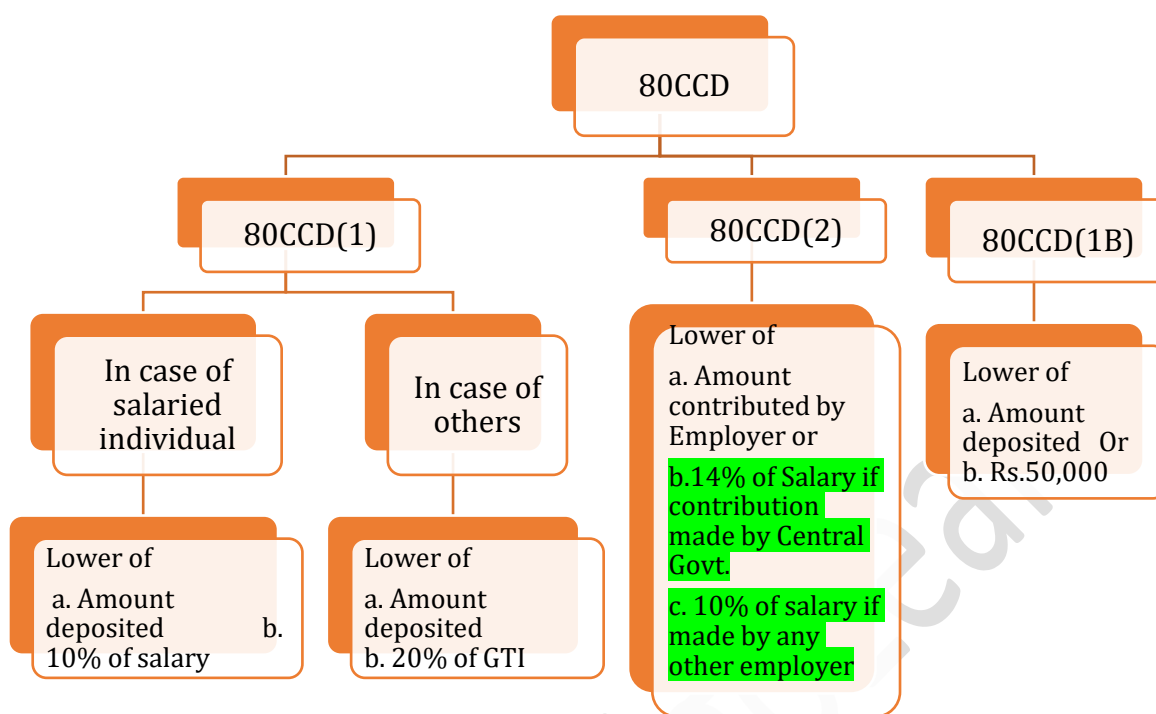
- The amount standing to the credit of the assessee in the pension account (for which deduction has already been claimed by him under this section) and accretions to such account, shall be taxed as income in the year in

which such amounts are received by the assessee on -

- (a) closure of the account or
  - (b) his opting out of the said scheme or
  - (c) receipt of pension from the annuity plan purchased or taken on such closure or opting out.
- If the amount is received by the nominee on the death of the assessee under the circumstances referred to in (a) and (b) above, shall not be deemed to be the income of the nominee.
- Where amount withdrawn is used for purchasing an annuity plan in the same previous year (i.e. year of withdrawal), such receipt shall not be taxable.



\* **Quantum of deduction**



➤ Salary = Basic + DA (if forms part of retirement benefit)

**12.6 Section 80CCE**

<b>80CCE: limit on deductions U/S 80C, 80CCC and 80CCD</b>	
<b>Particulars</b>	<b>Amount</b>
Deduction u/s 80C	xx
Deduction u/s 80CCC	xx
Deduction u/s 80CCD [Other than deduction in respect of Employer's Contribution and additional deduction u/s 80CCD(1B)]	xx
<b>Total [Restricted to maximum of Rs.1,50,000 u/s 80CCE]</b>	<b>xx</b>
Add: Contribution to the pension scheme by any individual allowable u/s 80CCD(1B) [Sub. to maximum of Rs. 50,000/-]	xx
Add: Employer's contribution to New Pension System referred to in Sec. 80CCD [Subject to max. of 10% of salary]	xx
<b>Deduction available u/s 80C, 80CCC &amp; 80CCD</b>	<b>xx</b>

**12.7 Section 80CCG**

<b><u>Sec. 80CCG - Deduction in respect of investment made under an equity savings scheme</u></b>
* <b><u>Applicable to</u></b>
➤ A resident individual

\* **Condition to be satisfied**

- The **gross total income** of the assessee for the relevant assessment year should be **less than or equal to ₹12 lakh**.
- The assessee should be a **new retail investor** as per the requirement specified under the notified scheme.
- The investment should be in such **listed equity shares or listed units** of equity-oriented fund specified under the notified scheme.
- The minimum lock-in period in respect of such investment should be **three years** from the date of acquisition. The fixed lock-in period would be one year from the end of the previous year in which the investment was made.
- Any other condition as may be prescribed.

\* **Quantum of deduction**

- a. 50% Amount invested or
  - b. 25,000
- Whichever is less.**

\* **Further points**

- The deduction shall be allowed for 3 consecutive assessment years, beginning with the assessment year relevant to the previous year in which the listed equity shares or listed units of equity oriented fund were first acquired.
- No deduction under this section shall be allowed from A.Y. 2018-19.
- The Central Government has, in this regard notified the Rajiv Gandhi Equity Savings Scheme, 2013.
- **Consequences of failure to comply with the conditions** - the deduction earlier allowed shall be deemed to be the income of the previous year in which he fails to comply with the condition

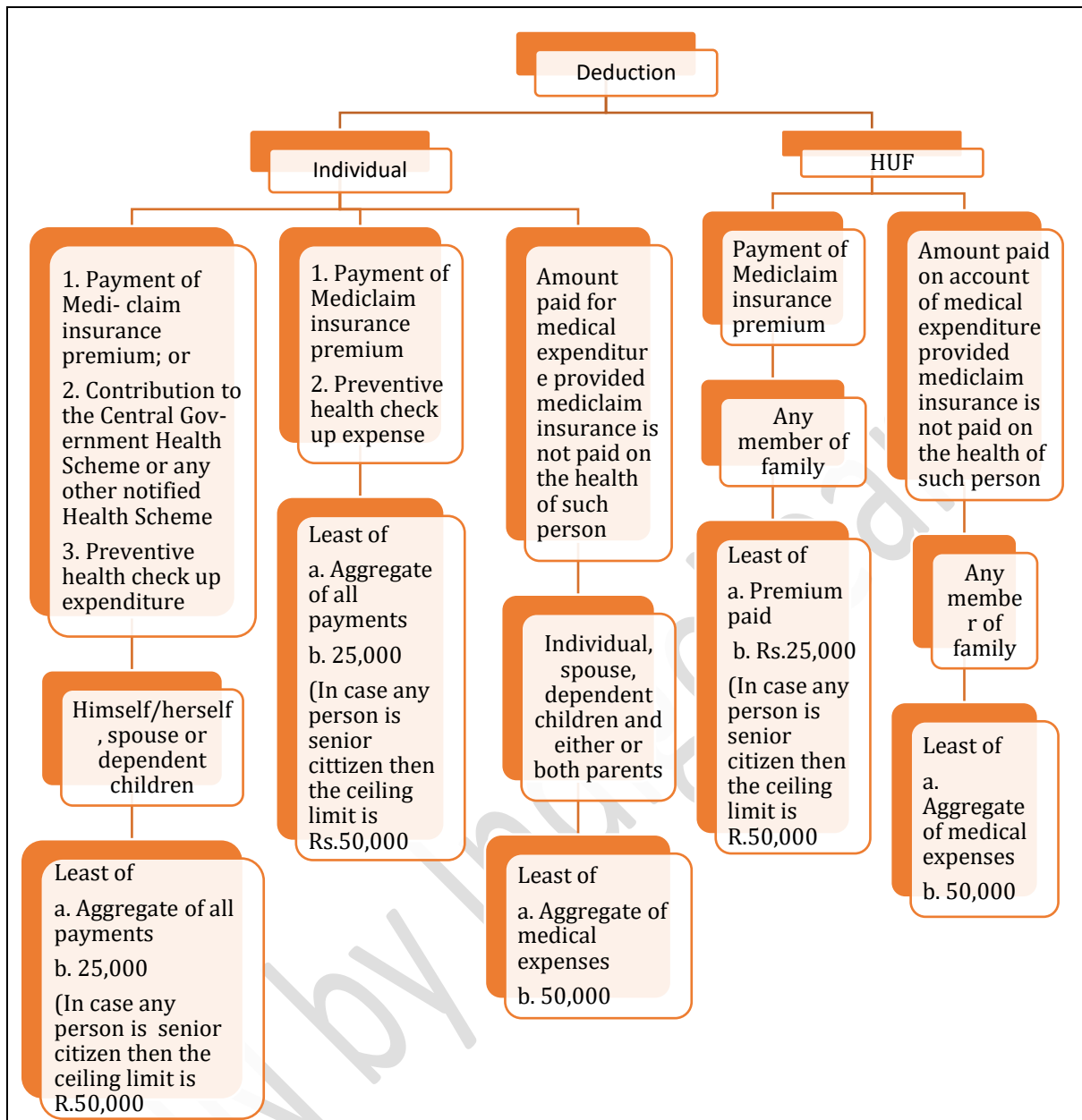
## 12.8 Section 80D

### **Sec. 80D- deduction in respect of medical insurance premium**

\* **Applicable to**

- Individual and HUF

\* **Quantum of deduction**



**\* Conditions to satisfy**

- Deduction in respect of payment towards preventive health check-up - to the extent of ₹ 5,000 shall be allowed.
- ₹5,000 is within the overall limit of ₹25,000 or ₹ 50,000 specified above.
- For claiming deduction under section 80D, the payment can be made by any mode other than cash in all other cases.
- However preventive check-up can be made in cash.
- The medical insurance should be in accordance with a scheme made in this behalf by GIC approved by Central government or IRDA.
- The amount must be paid out of income, which is chargeable to tax.

- Where **lumpsum health insurance premium is paid** (single premium) covering insurance for more than a year, then, deduction is available on **proportionate basis**.
- Senior citizen means an individual resident in India who is of the age of 60 years or more at any time during the relevant previous year

## 12.9 Section 80DD

### Sec. 80DD - Deduction in respect of maintenance of dependent disable relative

**\* Applicable to -**

- A resident individual (irrespective of citizenship) or a resident HUF

**\* Conditions to be satisfied**

- Assessee has a dependent disable relative.

In the case of	Relative includes
Individual	Spouse, children, parents, brothers and sisters of the individual
HUF	Any member of the Hindu Undivided Family

- **No benefit u/s 80U** to disable relative
- Assessee has -
  - Incurred any **expenditure for the medical treatment** (including nursing), training and rehabilitation of a dependent, being a person with disability; or
  - Paid or **deposited** any amount in an **approved scheme** for the maintenance of a disable dependent being framed by the Life Insurance Corporation or any other insurer or the Administrator or Unit Trust of India.
- Deduction shall be **irrespective of actual expenditure incurred** i.e. deduction is statutory in nature.
- Furnish a copy of the certificate issued by the medical authority\$ along with the return of income

**\* Quantum of deduction**

Relative is suffering from severe disability (more than 80% disability)	₹1,25,000
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Relative is suffering from disability but not severe disability	₹75,000
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➤ Any amount received from annuity plan shall be deemed to be the income of the assessee of the previous year in which such amount is received if the dependent person predeceases.

## 12.10 Section 80DDB

<b><u>Sec. 80DDB - Deduction in respect of medical treatment</u></b>
<p><b>* <u>Applicable to</u></b></p> <p>➤ A resident individual (irrespective of citizenship) or a resident HUF</p> <p><b>* <u>Conditions to be satisfied</u></b></p> <p>➤ The assessee has, during the previous year, actually paid any amount for the medical treatment of a specified disease or ailment as prescribed in rule 11DD for treatment of himself or for a dependent relative.</p> <p>➤ Dependent - same as 80DD</p> <p>➤ Assessee should obtain the prescription for such medical treatment from the prescribed specialist.</p> <p><b><u>Quantum of deduction</u></b></p> <p>➤ <b>Minimum of the following -</b></p> <p>a) Actual expenditure incurred by the assessee; OR</p> <p>b) Rs.40,000 (Rs.1,00,000 in case of senior citizens)</p> <p>➤ Deduction shall be reduced by the amount received, if any -</p> <ul style="list-style-type: none"> <li>• under an insurance from an insurer; or</li> <li>• reimbursed by an employer,</li> </ul>

## 12.11 Section 80E

<b><u>Sec. 80E - Deduction in respect of repayment of loan for higher education</u></b>
<p><b>* <u>Applicable to</u></b></p> <p>➤ An Individual (irrespective of residential status and citizenship of the individual).</p>

**\* Conditions to be satisfied**

- The assessee has taken a loan for the purpose of pursuing higher education of
  - a) himself/herself
  - b) spouse
  - c) Children (dependent or not)
  - d) the student for whom the individual is the legal guardian
- The loan is taken from a financial institution or an approved charitable institution
- The amount must be paid out of income chargeable to tax. However, it is not necessary that such income relates to the current year.

**\* Quantum of deduction**

- Amount paid during the year by way of payment of interest.
- The deduction is available for a maximum period of 8 consecutive years.
- The period starts from the year in which the assessee starts paying the interest on such loan.

## 12.12 Section 80EE

**Sec. 80EE - Deduction in respect of interest on loan taken for residential house property**

**\* Applicable to**

- An Individual (resident or non-resident).

**\* Conditions to be satisfied**

- The assessee has taken loan for acquisition of the residential house property
- The loan has been sanctioned by the financial institution during the PY 2016-17
- The amount of loan sanctioned does not exceed Rs.35 lakhs.
- The value of the residential house property does not exceed Rs.50 lakhs.
- The assessee does not own any residential house property on the date of sanction of the loan.

**\* Quantum of deduction**

➤ **Minimum of**

- a. Interest payable
- b. Rs.50,000

- In case of self-occupied property any interest over and above ₹2,00,000 can be claimed under this section.

### 12.13 Section 80EEA

#### **Sec. 80EEA- Deduction in respect of interest on loan taken for residential house property**

**\* Applicable to**

- An Individual (resident or non-resident) who is not able to claim deduction u/s 80EE.

**\* Conditions to be satisfied**

- The assessee has taken loan for acquisition of the residential house property
- The loan has been sanctioned by the financial institution during the PY 2019-20
- The value of the residential house property does not exceed Rs.45 lakhs.
- The assessee does not own any residential house property on the date of sanction of the loan.
- Interest is not claimed elsewhere under any other provision.

**\* Quantum of deduction**

**➤ Minimum of**

- Interest payable
- Rs.150,000

- In case of self-occupied property any interest over and above ₹2,00,000 can be claimed under this section.

### 12.14 Section 80EEB

#### **Sec. 80EEB- Deduction in respect of interest on loan taken for electric vehicle**

**\* Applicable to**

- An Individual (resident or non-resident).

**\* Conditions to be satisfied**

- The assessee has taken loan for purchase of electric vehicle

- The loan has been sanctioned by the financial institution during the PY 2019-23

**Quantum of deduction**

- **Minimum of**
  - a. Interest payable
  - b. Rs.1,50,000

**Electric Vehicle** - A Vehicle which is powered exclusively by an electric motor whose traction energy is supplied exclusively by traction battery installed in the vehicle. The vehicle should have electric regenerative braking system, which during braking provides for the conversion of vehicle kinetic energy into electrical energy.

**12.15 Section 80G**

**Sec. 80G - Deduction in respect of donations to certain funds, etc.**

**\* Applicable to**

- All assessee.

**\* Conditions to be satisfied**

- The assessee must donate (not in kind) to specified Funds or Organisations
- Donation in excess of Rs. 2,000 shall not be made in cash
- Proof of donation, in original, should be attached with the return of income.
- Where deduction under this section has been allowed, the same shall not qualify for deduction under any other section for the same or any other Assessment Year.
- **Donation by employees through employer -**
  - where employees make donations to the Prime Minister’s National Relief Fund, the Chief Minister’s Relief Fund or the Lieutenant Governor’s Relief Fund
  - through their respective employers,
  - in the form of a consolidated cheque
  - claim in respect of such donations is admissible on the basis of the certificate issued by the Drawing and Disbursing Officer (DDO)/Employer in this behalf.

There are **four categories of deductions**. The following table gives the details of the institutions and funds to which donations can be made for the purpose of claiming deduction under section 80G:

**I - Donation qualifying for 100% deduction, without any qualifying limit**

- |  |
|--|
| The National Defence Fund              |
| Prime Minister’s National Relief Fund. |

Prime Minister's Armenia Earthquake Relief Fund
The Africa (Public Contributions-India) Fund
The National Children's Fund
Chief Minister's Earthquake Relief Fund, Maharashtra
Any Zila Saksharta Samiti constituted in any district
National Blood Transfusion Council or any State Blood Transfusion Council
Any State Government Fund set up to provide medical relief to the poor
The Army Central Welfare Fund or Indian Naval Benevolent Fund or Air Force Central Welfare Fund
The Andhra Pradesh Chief Minister's Cyclone Relief Fund, 1996
The National Sports Fund
The National Cultural Fund
The Fund for Technology Development and Application
The Swachh Bharat Kosh, & The Clean Ganga Fund - contribution made not in pursuance to sec 135(5) of Companies Act 2013
The National Fund for Control of Drug Abuse
<b>II - Donation qualifying for 50% deduction, without any qualifying limit</b>
The Jawaharlal Nehru Memorial Fund
Prime Minister's Drought Relief Fund
Indira Gandhi Memorial Trust
Rajiv Gandhi Foundation
<b>III Donation qualifying for 100% deduction, subject to qualifying limit</b>
The Government or to any approved local authority, institution or association for promotion of family planning
Sum paid by a company as donation to the Indian Olympic Association or any other association/institution established in India, as may be notified by the Government for the development of infrastructure for sports or games, or the sponsorship of sports and games in India
<b>IV Donation qualifying for 50% deduction, subject to qualifying limit</b>
The Government or any local authority or Any Institution or Fund established in India for charitable purposes fulfilling prescribed conditions
Any Corporation established by the Central Government or any State Government for promoting the interests of the members of a minority community
for renovation or repair of Notified temple, mosque, gurdwara, church or other place of historic, archaeological or artistic importance
An authority constituted in India by or under any other law enacted either for dealing with and satisfying the need for housing accommodation or for the purpose of planning, development or improvement of cities, towns and villages, or both.

### Steps for computation of qualifying limit

Step 1:	Compute adjusted total income i.e., the GTI as reduced by the following: (i) Deductions under Chapter VI-A, except under section 80G (ii) Short-term capital gain taxable under section 111A (iii) Long-term capital gains taxable under sections 112 & 112A (iv) Any income on which income-tax is not payable
Step 2:	Calculate 10% of adjusted total income
Step 3:	Calculate the actual donation, which is subject to qualifying limit (Total of Category III and IV donations, shown in the table above)
Step 4:	Lower of Step 2 or Step 3 is the maximum permissible deduction.
Step 5:	The said deduction is adjusted first against donations qualifying for 100% deduction (i.e., Category III donations). Thereafter, 50% of balance qualifies for deduction under section 80G.

### Quantum of deduction

Category I and II donations	xxx
Category III and IV (as computed above)	xxx
Deduction u/s 80G	xxx

## 12.16 Section 80GG

### Sec. 80GG - Deduction in respect of house rent paid

- \* **Applicable to**
  - An Individual (irrespective of the residential status and citizenship of the individual)
- \* **Conditions to be satisfied**
  - Assessee is **not receiving** House Rent Allowance (**HRA**).
  - He or his spouse or minor child or HUF of which he is a member, should **not own any** residential **house at a place** where the assessee resides, perform the duties of his office, or employment or carries on his business or profession.
  - Assessee should not treat any residential house situated at other places as **self-occupied** property u/s 23(2)(a) or 23(4)(a).
  - A declaration in **Form 10BA** should be filed for expenditure incurred by him towards payment of rent.
  - Where an assessee has been provided an accommodation by his employer at concessional rent, then rent paid by him shall be

- deducted while valuing such perquisite; and
- eligible for deduction u/s 80GG.

\* **Quantum of deduction**

➤ **Minimum of the following:**

- ₹5,000 per month;
- Actual rent paid (-) 10% of the total income before allowing the deduction, or
- 25% of such total income (arrived at after making all deductions under Chapter VI A but before making any deduction under this section)

## 12.17 Section 80GGA

### **Sec.80GGA - Deduction in respect of donations for scientific research, etc.**

\* **Applicable to**

- Any assessee not having income chargeable under the head “Profits and gains of business or profession

\* **Conditions to be satisfied**

- Any contribution made to approved association or institution, any approved university or college for the purposes mentioned u/s 35CCA(2); 35CCA(2A), 35CCA(1)(c), 35CCA(1)(d), 35(1)(ii), 35(1)(iii), 35AC(2)(a)
- Payment in excess of ₹10,000 to aforesaid purpose shall be made by any mode other than cash.
- Deduction shall not be denied merely on the ground that subsequent to the contribution made by the assessee, the approval granted (or notification notifying eligible projects) has been withdrawn.

\* **Quantum of Deduction**

- 100% of such contribution made in the previous year.

## 12.18 Section 80GGB

### **Sec.80GGB - Deduction in respect of contributions to political parties**

\* **Applicable to**

- An Indian company

\* **Conditions to be satisfied**

- Assessee has contributed any sum (by any mode other than cash), in the previous year, to any political party or an electoral trust.

\* **Quantum of Deduction**

- 100% of such contribution made in the previous year.

## 12.19 Section 80GGC

### Sec.80GGC - Deduction in respect of contributions given by any person to political parties

\* **Applicable to**

- All assessee except local authority and every artificial juridical person wholly or partly funded by the Government

\* **Conditions to be satisfied**

- Assessee has contributed any sum (by any mode other than cash), in the previous year, to any political party or an electoral trust.

\* **Quantum of Deduction**

- 100% of such contribution made in the previous year.

## 12.20 Section 80JJAA

### Sec 80JJAA -Deduction in respect of employment of new workmen

\* **Applicable to**

- Any assessee subject to tax audit under sec. 44AB

\* **Conditions to be satisfied**

- New Business: Business is not formed by splitting up, or the reconstruction, of an existing business.
- No business reorganization: Business is not acquired by the assessee by way of transfer from any other person or as a result of any business reorganization.
- Audit: Books of account should be audited and report thereof should be submitted along with return of income.
- Claimed in the return: No deduction shall be allowed if the deduction has not been claimed in the return of income.

\* **Quantum of Deduction**

- 30% of additional employee cost incurred in the previous year, for 3 assessment years including the assessment year relevant to the previous year in which such employment is provided.

\* **Important definitions**



- **Additional employee cost** - Total emoluments paid or payable to additional employees employed during the previous year.
- The additional employee cost shall be nil, if:
  - There is no increase in the number of employees from the total number of employees employed as on the last day of the preceding year;
  - Emoluments are paid in cash or bearer cheques.
- **Additional employee** - Employee who has been employed during the previous year but does not include -
  1. Employee whose total emoluments are more than ₹25,000 per month; or
  2. Employee for whom the entire contribution is paid by the Government under the Employees' Pension Scheme
  3. Employee employed for a period of less than 240 days (150 days in case of an assessee who is engaged in the business of manufacturing of apparel or footwear or leather products) during the previous year; or
  4. Employee who does not participate in the recognised provident fund.
- **Emoluments** - any sum paid or payable in lieu of his employment by whatever name called, but does not include:
  1. Any employer contribution to any pension fund or provident fund or any other fund
  2. Any lump-sum payment paid or payable to an employee at the time of termination of his service or superannuation or voluntary retirement, such as gratuity, severance pay, leave encashment, voluntary retrenchment benefits, commutation of pension and the like.

## 12.21 Section 80QQB

### **Sec 80QQB - Deduction in respect of royalty income of authors of books**

\* **Applicable to**

- A resident individual

\* **Conditions to be satisfied**

- Assessee is an author or joint author of a book.

- The book should be a work of literary, artistic or scientific nature. It shall not include brochures, commentaries, diaries, guides, magazines, journals, newspapers, pamphlets, text-books for school, tracts and other publications of similar nature, by whatever name called.
- Gross total income includes any lump sum consideration for the assignment or grant of any of his interest in the copyright of book; or any other copyright fees
- However, when such income is earned from a source outside India then -
  - Such receipts should be brought into India in convertible foreign exchange within 6 months from the end of the previous year or within such further period as the competent authority may allow in this behalf; and
  - The assessee must furnish a certificate in the Form 10H (obtained from the prescribed authority) along with his return of income.

\* **Quantum of Deduction**

Income earned and received in Lumpsum		Income received in a mode other than lump sum	
Income earned in India	Income earned outside India	Income earned in India	Income earned outside India
Minimum of - a) 100% of such income (Receipts(-) Expense b) ₹ 3,00,000	Minimum of - a) Money brought into India in convertible foreign exchange within time limit (-) Expenditure incurred relating to such income b) ₹ 3,00,000	Minimum of - a) 100% of such income (Receipts (-) Expense relating to such income) b) ₹ 3,00,000 c) 15% of sale value of the book - Expense relating to such income	Minimum of - a) Money brought in India in convertible foreign exchange within time limit (-) Expense incurred relating to such income b) 15% of sale value of the book (-) Expense

			incurred relating to such income c) ₹ 3,00,000
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## 12.22 Section 80RRB

### Sec 80RRB - Deduction in respect of royalty on patents

#### \*Applicable to

- A resident individual being a patentee who is registered as first inventor of the invention and whose name is entered on the Patent register in accordance with the Patent Act, 1970 and includes co-owner of a patent.

#### \*Conditions to be satisfied

- Assessee has earned income (either in India or outside India) by way of royalty in respect of patent registered on or after 1-4-2003 under the Patents Act, 1970.
- It does not include any capital sum received for sale of patent, which is chargeable under the head Capital gains.
- when such income is earned from a source outside India, then
- Such receipts should be brought into India by the assessee in convertible foreign exchange within 6 months from the end of the previous year or within such further period as the competent authority may allow in this behalf and
- The assessee must furnish a certificate in the Form 10H from the prescribed authority along with his return of income
- Earlier deduction allowed under this section shall be deemed to be wrongly allowed and Assessing Officer has the power to rectify the assessment-order within 4 years from the end of the previous year in which such order of the High Court or the Controller was passed

#### \*Quantum of Deduction

Income earned in India	Minimum of the following - a. 100% of such income; OR b. ₹3,00,000
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Income earned outside India	<b>Minimum of the following -</b> <ol style="list-style-type: none"> <li>a. Income in respect of money brought into India in convertible foreign exchange within 6 months or</li> <li>b. ₹3,00,000</li> </ol>
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### 12.23 Section 80TTA

<p><b><u>Sec 80TTA - Deduction in respect of interest on deposits in savings account</u></b></p> <p><b>* <u>Applicable to</u></b></p> <ul style="list-style-type: none"> <li>➤ An individual (other than senior citizen covered u/s 80TTB) or a Hindu Undivided Family</li> </ul> <p><b>* <u>Conditions to be satisfied</u></b></p> <ul style="list-style-type: none"> <li>➤ Gross total income includes any income by way of interest on deposits with <ul style="list-style-type: none"> <li>• A banking company</li> <li>• A co-operative society engaged in carrying on the business of banking</li> <li>• A Post Office</li> </ul> </li> <li>➤ Interest on Post Office Saving Bank is exempt u/s 10(15)(i) to the extent of the interest of ₹ 3,500 (in case of single account) and ₹ 7,000 (in case of joint account)</li> <li>➤ Where such income is derived from any deposit held by, or on behalf of, a firm, an association of persons or a body of individuals, no deduction shall be allowed.</li> </ul> <p><b>* <u>Quantum of Deduction</u></b></p> <ul style="list-style-type: none"> <li>➤ <b>Minimum of</b> <ol style="list-style-type: none"> <li>a. Interest amount</li> <li>b. ₹10,000</li> </ol> </li> </ul>
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### 12.24 Section 80TTB

<p><b><u>Sec 80TTB - Deduction in respect of interest on deposits in case of senior citizens</u></b></p>
<p><b>* <u>Applicable to</u></b></p> <ul style="list-style-type: none"> <li>➤ Senior Citizen</li> </ul>

**\* Conditions to be satisfied**

- Gross total income includes any income by way of interest on deposits with
  - A banking company
  - A co-operative society engaged in carrying on the business of banking
  - A Post Office
- Where such income is derived from any deposit held by, or on behalf of, a firm, an association of persons or a body of individuals, no deduction shall be allowed.

**\* Quantum of Deduction**

- **Minimum of**
  - a. Interest amount
  - b. ₹ 50,000

**12.25 Section 80U**

**Sec 80U - Deduction in respect of person with disability**

**\* Applicable to**

- A resident individual (irrespective of citizenship of the individual)

**\* Conditions to be satisfied**

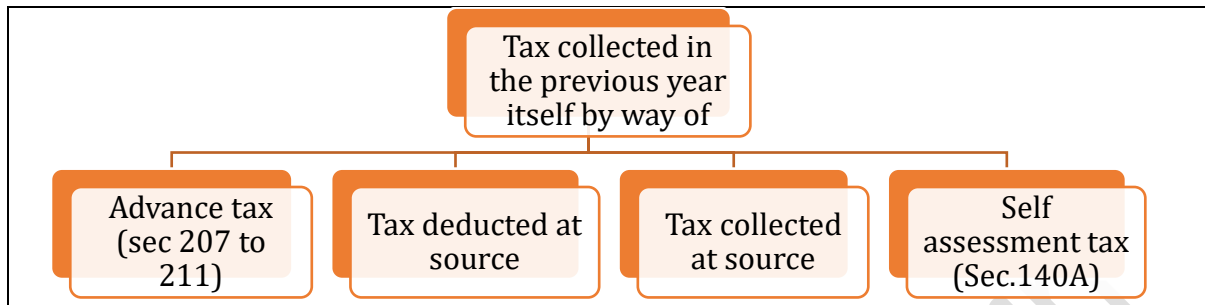
- Assessee is a disabled individual.
- Assessee must furnish a copy of the certificate issued by the medical authority in the prescribed form along with the return of income, in respect of the assessment year for which the deduction has been claimed.
- Deduction under this section is irrespective of actual expenditure incurred

**\* Quantum of Deduction**

disability but not severe disability	₹75,000
severe disability (i.e. disability to the extent of 80% or more)	₹1,25,000

## Tax Deducted at Sources (TDS)

### 13.1 General Provisions



### 13.2 Summarized TDS Provisions

Sec.	Income	Threshold limit for deduction	Payer	Payee	Tax rate	Time of deduction
192	Salary	Basic exemption limit (₹2,50,000/ ₹3,00,000) as the case may be).	Employer	Employee	Average rate of income-tax computed on the basis of the rates in force	At the time of payment
192A	Premature withdrawal from Employee Provident Fund	Payment or aggregate payment $\geq$ ₹ 50,000	Trustees of EPF scheme or any authorised person under the Scheme	Individual (Employee)	10% [In case of PAN not furnished TDS@ Maximum Marginal Rate]	At the time of payment
193	Interest on securities	> ₹ 10,000 in a F.Y., in case of interest on 8% Savings (Taxable) Bonds, 2003/7.75% Savings (Taxable) Bonds, 2018. > ₹ 5,000 in a F.Y., in case of interest on debentures	Any person responsible for paying the income	Any resident	10% [In case of PAN not furnished TDS@ 20%]	At the time of credit of such income to the account of the payee or at the time of payment, whichever is earlier.

		issued by a public company No threshold specified in any other case.				
194A	Interest other than interest on securities	> ₹ 40,000 in a F.Y., in case of interest credited or paid by - (i) A banking Co. (ii) A Co-operative society engaged in banking business (iii) A post office on any deposit under a notified scheme. In all the above cases, if the payee is resident senior citizen, tax deduction limit is ₹50,000. > ₹50,000 interest on the compensation amount awarded by the Motor Accidents Claims Tribunal > ₹5,000 in a F.Y., in other cases.	Any person (other than an individual or HUF whose total sales, gross receipts or turnover from business or profession do not exceed the limits specified u/s 44AB in the immediately preceding F.Y.)	Any Resident	10%	At the time of credit of such income to the account of the payee or at the time of payment, whichever is earlier.
194B	Winnings from any lottery, crossword	> ₹10,000	The person responsible for	Any Person	30%	At the time of payment

	puzzle or card games or other games of any sort		paying the income			
194B B	Winnings from horse race	> ₹ 10,000	Book maker or a person holding licence for horse racing or for arranging for wagering or betting in any race course.	Any Person	30%	At the time of payment
194C	Payments to contractors	Single sum credited or paid > ₹ 30,000 (or) The aggregate of sums credited or paid to a contractor during the FY > ₹1 lac Individual or HUF need not deduct tax where sum is credited or paid exclusively for personal purposes.	Central/state govt., Local authority, Central/State provincial corp., company, firm, trust, Co-operative society, university established under Central/State provincial act, Govt of foreign state or foreign entp.	Any Resident contractor for carrying out any work (including supply of labour)	1% of sum paid or credited, if the payee is an Individ. or HUF 2% of sum paid or credited, if the payee is any other person.	At the time of credit of such sum to the account of the payee or at the time of payment whichever is earlier.



			Individual / HUF liable to tax audit u/s 44AB in the immediately preceding FY			
194D	Insurance Commission	> ₹15,000 in a FY	Any person responsible for paying any Income by way of remuneration or reward for soliciting or procuring insur. business.	Any Resident	5%	At the time of credit of such sum to the account of the payee Or the time of payment whichever is earlier.
194D A	Any sum under a Life Insurance Policy	≥ ₹1,00,000 (aggregate amount of payment to a payee in a financial year)	Any person responsible for paying any sum under a LIP, including the sum allocated by way of bonus	Any resident	5%	At the time of payment
194E	Payment to non-resident sportsmen or sports association of income referred		Any person responsible for making the payment	Non-resident sportsman (including Athlete) or entertainer who is not a citizen of India or	20%	At the time of credit of such sum to the account of the payee or at the time of payment, Whichever is earlier.

	to in sec. 115BBA			non-resident sports associ. or institution		
194E	Payment of deposit under National Saving Scheme	≥ ₹ 2,500 in a FY	Any person responsible for paying	Individual or HUF	10%	At the time of payment
194G	Commission on sale of lottery tickets	> ₹ 15,000 in FY	Any person responsible for paying any income by way of commission remuneration, prize on lottery tickets	Any person stocking, distributing, purchasing, or selling lottery tickets.	5%	At the time of credit of such sum or at the time of payment, Whichever is earlier.
194H	Commission or brokerage	> ₹ 15000 in a FY	Any person (other than an Ind./ HUF whose total sales, gross receipts or turnover from does not exceed the limits specified u/s 44AB in the immediately preceding F.Y.) responsible for	Any resident	5%	At the time of credit of such sum to the account of the payee or at the time of payment, Whichever is earlier.

			paying commission or brokerage.			
194-I	Rent	> ₹2,40,000 in a financial year	Any person (other than Individ./HUF whose total sales, turnover does not exceed the limits per sec. 44AB in the immediately preceding F.Y.) responsible for paying rent.	Any resident	For P & M or equip.- 2%  For L&B, land appurtenant to a building, furniture or fittings -10%	At the time of credit of such sum to the account of the payee or at the time of payment, Whichever is earlier.
194-IA	Payment on transfer of certain immovable property other than agricultural land	> ₹50 lacs (Consideration includes club membership fee, car parking fee, electricity or water facility fee, maintenance fee, advance fee or any other charges of similar nature, which are incidental to transfer of the	Any person being transferee other than a person referred in sec. 194LA, responsible for paying the compensation compulsorily acquisition of immovable	Resident transferor	1%	At the time of credit of such sum to the account of the payee or at the time of payment, Whichever is earlier.

		immovable property	property. (No requirement to obtain TAN u/s 203A for the payer)			
194-IB	Payment of rent by certain individuals or HUF	> ₹ 50, 000 for a month or part of a month	Individual/ HUF (other than Individual/ HUF whose total sales, from Business or profession exceed the limits specified u/s 44AB in the immediately preceding F.Y.) responsible for paying rent. (No requirement to obtain TAN u/s 203A for the payer)	Any Resident	5% [In case of PAN not furnished TDS@ 20%]	At the time of credit of rent, for the last month of the PY or the last month of tenancy, if the property is vacated during the year, as the case may be, to the account of the payee or at the time of payment, whichever is earlier
194-IC	Payment under specified agreement referred to in	No threshold specified.	Any person responsible for paying any sum	Any Resident	10%	At the time of credit of such income to the account of the

	section 45(5A)		by way of consideration not being in kind under a registered agreement, where in L or B or both are handed over by the owner for development of real estate project, for a consideration, being a share in L or B or both in such project, with payment of part consideration in cash.			payee or at the time of payment, whichever is earlier
194J	1. Fees for Professional Services. 2. Fees for technical services, 3. Royalty 4. Non-competee fees, 5. Director's remunertio	> ₹ 30,000 in a FY, for each category of income. (However, this limit does not apply in case of payment made to director of a company).	Any person, other than an individual or HUF; However, in case of fees for professional or technical services paid or credited	Any Resident	2% - In case Payee engaged only in the business of operation of call centre  10% - In all other cases	At the time of credit of such sum to the account of the payee or at the time of payment, Whichever is earlier.

	n		by individual / HUF whose total sales, or gross receipts exceeds the limits specified u/s 44AB in the immediately preceding F.Y. is liable to deduct tax u/s 194J, except where such fees credited or paid exclusively for his personal purposes			
194L A	Compensation on acquisition of certain immovable property other than agricultural land	> ₹ 2,50,000 in a FY	Any person responsible for paying any sum in the nature of compensation or enhanced compensation on compulsory acquisition of immovable	Any Resident	10%	At the time of payment

			e property			
194M	Contractual commission (not being insurance commission referred to in section 194D) or brokerage or by way of fees for professional services during the financial year,	> ₹ 50,00,000 in a FY	Any person, being an individual or a Hindu undivided family (other than those who are required to deduct income-tax as per u/s 194C, 194H or 194J)	Any resident	5%	At the time of credit of such sum or at the time of payment whichever is earlier

### 13.3 Additional points to remember

#### **Sec 191 -**

#### **Direct payment of tax**

- In the following cases, tax is payable by the assessee directly -
  - (1) in the case of income in respect of which tax is not required to be deducted at source; and
  - (2) income in respect of which tax is liable to be deducted but is not actually deducted.
- The proceedings for recovery of tax necessarily had to be taken against the assessee whose tax was liable to be deducted, but not deducted.
- If any person, including the principal officer of the company -
  - (1) who is required to deduct tax at source; or
  - (2) an employer paying tax on non-monetary perquisites under section 192(1A), does not deduct the whole or part of the tax, or after deducting fails to pay such tax deducted, then, such person shall be deemed to be an assessee-in-default.

However, if the assessee himself has paid the tax, this provision will not apply.

#### **Sec 192 -**

- In cases where an assessee is simultaneously employed under more than one employer or the assessee takes up a job with another employer during the financial year, he may furnish the details of the income under the head "Salaries" due or received by him from the other employer, the tax deducted therefrom and such other particulars to his current employer.

- Thereupon, the subsequent employer should take such information into consideration and then deduct the tax remaining payable in respect of the employee's remuneration from both the employers put together for the relevant financial year.
- Deduction of tax at source should be made after allowing relief under section 89(1), where eligible.
- A tax payer can declare the following additions information for allowing to the employer to compute TDS:
  - particulars of such other income;
  - particulars of any tax deducted under any other provision;
  - loss, if any, under the head 'Income from house property'. (only loss from house property is considered and not losses under other head)
- The employer shall furnish to the employee (whose salary exceeds ₹ 150,000), a statement in Form No. 12BA giving correct and complete particulars of perquisites or profits in lieu of salary provided to him and the value thereof.
- It is the responsibility of the employer to obtain from the assessee, the following evidence or proof or particulars of prescribed claims

House Rent Allowance	Name, address and PAN of the landlord(s) where the aggregate rent paid during the previous year exceeds ₹ 1 lakh.
Leave Travel Concession or Assistance	Evidence of expenditure
Deduction of interest under the head "Income from house property"	Name, address and PAN of the lender
Deduction under Chapter VI-A	Evidence of investment or expenditure.

#### **Sec 192 A -**

- The withdrawal of accumulated balance by an employee from the RPF is exempt from taxation.
- However premature withdrawal, before continuous service of five years (other than the cases of termination due to ill health, contraction or discontinuance of business, cessation of employment etc.) is subject to tax.

#### **Sec 193 -**

- No tax deduction is to be made from any interest payable:
  - on 4¼% National Defence Bonds 1972, held by resident
  - on 4¼% National Defence Loan, 1968 or 4¾% National Defence Loan, 1972
  - on National Development Bonds
  - on 7-year National Savings Certificates (IV Issue)
  - on debentures issued by any institution or authority or any public sector company or any co-operative society as notified by the Central Govt.
  - on securities to LIC, GIC, subsidiaries of GIC or any other insurer in which they have full beneficial interest
  - on any security issued by a company, where such security is in dematerialised form and is listed on a recognised stock exchange in India.

#### **Sec 194A -**

- Where the bank or co-operative society is following core banking system, tax shall be deducted at source on



- accrual of interest at the end of financial year or
  - at periodic intervals as per practice of the bank or
  - as per the depositor's / payee's requirement or
  - on maturity or on encashment of time deposits,
  - whichever event takes place earlier,
- whenever the aggregate of amounts of interest income by the banks exceeds the limits specified in section 194A.
- **Non-applicability of TDS under section 194A**
- (a) Interest paid or credited by a firm to any of its partners;
  - (b) Income paid or credited by a co-operative society (other than a co-operative bank) to a member thereof or to any other co-operative society;
  - (c) Interest paid or credited in respect of deposits under any scheme framed by the Central Government and notified by it in this behalf;
  - (d) Interest credited or paid in respect of deposits with primary agricultural credit society or a primary credit society or a co-operative land mortgage bank or a co-operative land development bank.
  - (e) Interest income credited or paid by the Central Government under any provisions of the Income-tax Act, 1961, the Estate Duty Act, the Wealth-tax Act, 1957, the Gift-tax Act, the Companies (Profits) Surtax Act or the Interest Tax Act.
  - (f) Interest paid or credited to the following entities:
    - (i) banking companies, or co-operative societies engaged in the business of banking, including co-operative land mortgage' banks
    - (ii) Financial corporations established under any Central, State or Provincial Act.
    - (iii) Life Insurance Corporation of India.
    - (iv) Companies and co-operative societies carrying on the business of insurance.
    - (v) the Unit Trust of India; and
    - (vi) notified institution, association, body or class of institutions, associations or bodies (National Skill Development Fund has been notified by the Central Government for this purpose)
  - (g) income paid or payable by an infrastructure capital company or infrastructure capital fund or public sector company or scheduled bank in relation to a zero coupon bond issued on or after 1.6.2005.

#### **Sec 194 C**

- This section will apply only in relation to 'works contracts' and 'labour contracts' and will not cover contracts for sale of goods.
- Work includes -
- (a) advertising;
  - (b) broadcasting and telecasting including production of programmes
  - (c) carriage of goods or passengers by any mode of transport other than by railways;
  - (d) catering;
  - (e) manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from such customer. If goods are purchased from some other supplier then it would

become sale.

- Where the material component has not been separately mentioned in the invoice, tax shall be deducted on the whole of the invoice value
- Non-applicability of TDS
  - TDS is not applicable to a contractor, who fulfills the following three conditions cumulatively:
    - is engaged in the business of plying, hiring or leasing goods carriages
    - owns ten or less goods carriages at any time during the previous year
    - has furnished a declaration to this effect along with his PAN

#### **Sec 194E**

- **Income referred to in section 115BBA**
  - (i) income received or receivable by a non-resident sportsman (including an athlete) by way of-
    - (a) participation in any game or sport in India (However, games like crossword puzzles, horse races etc. taxable under section 115BB are not included herein); or
    - (b) advertisement; or
    - (c) contribution of articles relating to any game or sport in India in newspapers, magazines or journals.
  - (ii) Guarantee amount paid or payable to a non-resident sports association or institution in relation to any game or sport played in India. However, games like crossword puzzles, horse races etc. taxable under section 115BB are not included herein.
  - (iii) income received or receivable by a non-resident entertainer (who is not a citizen of India) from his performance in India.

#### **Sec 194H -**

- Non-applicability of TDS
  - Amount payable to person carrying on specified profession as per Sec 44AA
  - Commission or brokerage payments by BSNL or MTNL to their public call office (PCO) franchisees
- In case of advertising business -
  - Payment by client to the advertising agency - TDS is deductible u/s 194C
  - Fees/charges taken or retained by advertising companies from media companies for canvassing/booking advertisements - subject to 194H

#### **Sec 194 I -**

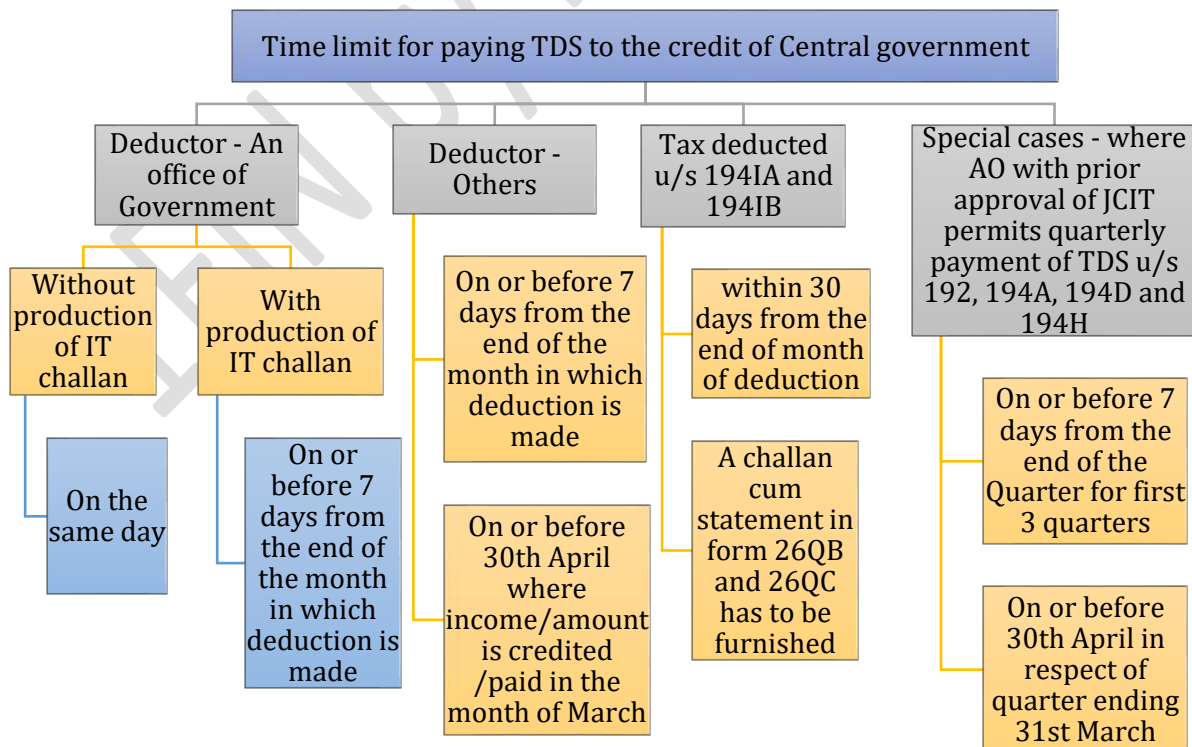
- “Rent” means any payment, by whatever name called, under any lease, sub-lease, tenancy or any other agreement or arrangement for the use of (either separately or together) of P&M / L&B / F&F whether or not they are owned by the payee.
- Non-applicability of this section -
  - Cooling charges paid by the customers of the cold storage. However 194C would apply to such case.
  - Payment of PSF (Passenger service fee ) by an airline to Airport Operator.
  - Lump sum lease premium or one-time upfront lease charges, which are not adjustable against periodic rent, paid or payable for acquisition of long-term leasehold rights over land or any other property
- 194-I would be required to be made on the amount of rent paid/payable without including the GST component.

## Sec 194 J -

- “Professional services” includes
  1. Those defined u/s 44AA (specified professions)
  2. Notified by the CBDT for the purposes of section 44AA (authorised representatives, film artist & company secretary)
  3. Persons in relation to the sports activities , as notified by the CBDT (Umpires and Referees, Coaches and Trainers, Team Physicians and Physiotherapists, Event Managers, Commentators, Anchors and Sports Columnists). Therefore, all other professions would be outside the scope of section 194J.
- Fees for technical services includes:
  - Managerial services
  - Technical services
  - Consultancy services
  - Provision of services of technical or other personnel.
- Following are excluded from technical services:
  - Consideration for any construction, assembly, mining or like project, or
  - Consideration which is chargeable under the head ‘Salaries’
- TPAs (Third Party Administrator’s) who are making payment on behalf of insurance companies to hospitals for settlement of medical/insurance claims etc. under various schemes sec. 194J is applicable.
- The consideration for use or right to use of computer software is royalty. Hence, 194J would be attracted in respect of consideration for use or right to use computer software.

## Sec 200 -

- The persons responsible for deducting the tax at source should deposit the sum so deducted to the credit of the Central Government.



➤ TDS returns have to be furnished by the due dates specified below:

For the quarter ending 30th June	31st July
For the quarter ending 30th September	31st October
For the quarter ending 31st December	31st January
For the quarter ending 31st June	31st May of the AY

TDS return forms

For TDS on salaries	Form 24Q
For TDS on all payments other than salaries	Form 26Q
For TDS on interest, dividends to non residents	Form 27Q
For TCS	Form 27EQ

#### **Sec 234E -**

- A fee of ₹ 200 for every day would be levied for late furnishing of TDS statements from the due date of furnishing to the date of actual date of furnishing.
- However the total amount of fee cannot exceed the total amount of TDS / TCS.
- Such fee has to be paid before delivering the TDS statements.

#### **Sec 200A -**

- All statements and returns in respect of TDS and TCS is made in electronic mode.
- During computerised processing, a correction of any arithmetic error or adjustment to an incorrect claim can be made.
- The sum payable by, or the amount of refund due to, the deductor has to be determined after adjustment of interest and fee against the amount paid under section 200 or section 201 or section 234E and any amount paid otherwise by way of tax or interest or fee.
- An intimation will be prepared and generated and sent to the deductor, specifying his tax liability or the refund due, within one year from the end of the financial year in which the statement is filed. The refund due shall be granted to the deductor.

#### **Sec 201-**

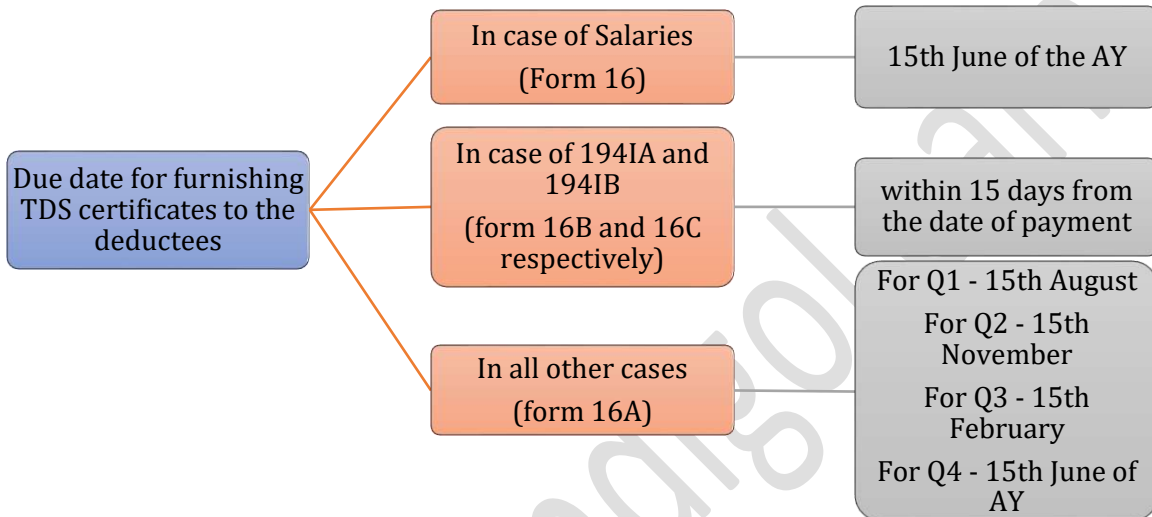
##### **\* Consequences of failure to deduct or pay**

- Any person who is obligated per above sections, does not deduct the whole or any part of the tax or after deducting fails to pay the tax will deemed as 'Assessee in default.'
- However such person shall not be deemed to be an assessee-in-default in respect of such tax if such payee -
  - has furnished his return of income under section 139;
  - has taken into account such sum for computing income in such return of income; and
  - has paid the tax due on the income declared by him in such return of income,
  - and the payer furnishes a certificate to this effect from an accountant in such form as may be prescribed.
- Assessee-in-default has to pay interest

- @ 1% per month or part of month on such tax from the date on which tax was deductible to the date on which such tax was actually deducted and
- @1.5 % for every month or part of month from the date on which tax was deducted to the date on which such tax is actually paid

### Sec 203 - Certificate for TDS

- Every person deducting tax at source shall issue a certificate to the effect that tax has been deducted and specify the amount so deducted, the rate at which tax has been deducted and such other particulars as may be prescribed.



- The deductee can also view the details of his TDS/TCS in an electronic form called **form 26AS**

### 14.1 Advance tax - Sec 207 to Sec 211

- The scheme of advance tax is based on the concept “Pay as you earn”.
- Under this scheme assessee needs to estimate its income and tax liability of the previous year and pay tax on basis of such estimation in the previous year itself.

\* **Applicable to**

- All assessee whose advance tax payable is ₹ 10,000 or more.

\* **Not applicable to**

- Senior citizens (age being 60 years or more) not having any income chargeable under the head “Profits and gains of business or profession”

\* **Computation of advance tax**

**A. On assessee’s own motion**

1. Make an estimate of current year’s income (excluding income covered u/s 44AD or 44ADA), considering brought-forward losses, after deducting all allowable deductions under chapter VIA.  
(The estimate is not required to be filed with the tax authorities.)
2. Compute the tax liability on above estimated income at the rates in force during the financial year and reduce rebate, If any.
3. Add surcharge (if applicable). And Health and Education cess.
4. Deduct tax deducted or collected at source.  
(only if tax has actually been deducted at source, the same can be reduced for computing advance tax liability of the payee. Tax deductible but not so deducted cannot be reduced for computing advance tax liability of the payee)
5. The amount so derived is the advance tax payable.
6. For subsequent installment, check if estimate of income made earlier requires revision.
7. If so revise the estimation and recompute tax liability.
8. From the advance tax payable for that instalment deduct the amount already paid.
9. Pay the remaining amount.

**B. On receipt of order from the Assessing Officer**

**Conditions to be satisfied for issuing such order**

1. The assessee has already been assessed by way of a regular assessment in any previous year.
2. The Assessing Officer is of opinion that such person is liable to pay advance tax.
3. Such order can be passed at any time during the financial year but not after last day of February.
4. Such order must be made in writing.

5. Such order also specifies the amount of advance tax and the installments thereof to be paid by the assessee.

**Note:** Such order can be issued even if assessee has paid any installment of advance tax during the year, which is, in the opinion of the Assessing Officer, not as per provision of sec. 211.

The above order can be served by the Assessing Officer at any time during the financial year but not later than the last date of February.

**Determination of advance tax by the Assessing Officer**

The amount determined by the Assessing Officer shall be the higher of the following -

1. Tax on latest assessed income as per regular assessment; or
2. Tax on income declared by the assessee in the return relating to the previous year subsequent to the previous year for which regular assessment has been made.

**\* Procedure to be followed by assessee on receipt of such order**

Case	Advance tax to be paid by the assessee	Whether intimation to AO is required
Where income estimated by the Assessing Officer is correct	On the basis of the order of the Assessing Officer	No
Where assessee estimates his current income to be higher than that estimated by the Assessing Officer	On the basis of his own estimate	No
Where assessee estimates his current income to be lower than that estimated by the Assessing Officer	On the basis of his own estimate	Yes, Assessee shall submit his own estimate to the Assessing Officer (in Form 28A)

**\* Due date for payment of advance tax [Sec. 211]**

Assessee	Due date of installment (of previous year)	Minimum amount payable
An eligible assessee referred to in sec. 44AD or 44ADA	On or before March 15	100% of advance tax liability
Other Assessee	On or before June 15	Upto 15% of advance tax liability
	On or before September 15	Upto 45% of advance tax liability
	On or before December 15	Upto 75% of advance tax liability



	On or before March 15	Upto 100% of advance tax liability
<ul style="list-style-type: none"> <li>➤ Any amount paid u/s 211 on or before 31st March of the previous year, shall be treated as advance tax paid during the financial year.</li> <li>➤ Where it is not possible to estimate capital gain or casual gain or where income under the head “Profits and gains of business or profession” accrues for the first time, the assessee can pay whole of the amount of tax payable in respect of such income - <ul style="list-style-type: none"> <li>• by March 31 of the financial year immediately preceding the assessment year,</li> </ul> </li> <li>➤ Net agricultural income has to be considered for the purpose of computing advance tax.</li> <li>➤ If any assessee does not pay any installment within due date he shall be deemed to be an assessee in default in respect of such instalment.</li> <li>➤ Any sum, other than a penalty or interest, paid by an assessee as advance tax shall be treated as a payment of tax and credit for such shall be given to the assessee in the regular assessment.</li> <li>➤ If advance tax payable is less than ₹ 10,000 then interest u/s 234B and 234C for defaults in payment of advance tax is not applicable. However, interest u/s 234A regarding interest for belated filing of return would be attracted.</li> </ul>		

#### **Sec 234B - Interest for non-payment or short-payment of advance tax**

**\* Applicability -**

- Interest under section 234B is attracted for
  - non-payment of advance tax or
  - payment of advance tax of an amount less than 90% of assessed tax.

**\* Interest -**

- The interest liability would be 1% per month or part of the month from 1st April following the financial year upto the date of determination of income under section 143(1).
- Such interest is calculated on the amount of difference between the assessed tax and the advance tax paid.
- However, where self-assessment tax is paid by the assessee under section 140A or otherwise, interest shall be calculated upto the date of payment of such tax and reduced by the interest, if any, paid under section 140A towards the interest chargeable under this section.

#### **Sec 234C - Interest payable for deferment of advance tax**

Assessee	Due date	Shortfall in advance tax	Period
An eligible assessee referred to in	On or before March 15	100% of tax due on returned income (-) advance tax paid	Simple Interest @ 1% per month or part of the month



sec. 44AD or 44ADA			
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Assessee	Due date	Shortfall in advance tax	Period
Other Assessee	On or before June 15	15% of tax due on returned income (-) advance tax paid up to 15 <sup>th</sup> June ➤ If the advance tax paid is not less than 12% of the tax due on the returned income then no interest is payable	Simple Interest @ 1% per month or part of the month for 3 months
	On or before September 15	45% of tax due on returned income (-) advance tax paid up to 15 <sup>th</sup> September ➤ If the advance tax paid is not less than 36% of the tax due on the returned income then no interest is payable	Simple Interest @ 1% per month or part of the month for 3 months
	On or before December 15	75% of tax due on returned income (-) advance tax paid up to 15 <sup>th</sup> December	Simple Interest @ 1% per month or part of the month for 3 months
	On or before March 15	100% of tax due on returned income (-) advance tax paid up to 15 <sup>th</sup> March	Simple Interest @ 1% per month or part of the month for 1 month

\* **Non-applicability of interest under section 234C in certain cases:**

- where such shortfall is on account of under-estimate or failure to estimate -
  - (i) The amount of capital gains;
  - (ii) Casual Income
  - (iii) Income under the head “Profits and gains of business or profession” in cases where the income accrues or arises under the said head for the first time;
  - (iv) Income of the nature referred to in section 115BBDA i.e., dividend in aggregate exceeding of ₹10 lakhs received during the previous year.
- However, the assessee should have paid the whole of the amount of tax payable in respect of such income, by 31<sup>st</sup> March of the financial year.

## 14.2 Miscellaneous provisions

### Sec 195A -

- Where any income is paid 'net of tax' (i.e., tax chargeable on such income shall be borne by the payer), then for the purpose of deducting tax, such income is required to be grossed up .
- However, grossing up is not required in case of tax on non-monetary perquisite paid by the employer.

### Sec 196 -

- No deduction of tax shall be made by any person from any sums payable to-
  - (i) the Government; or
  - (ii) the Reserve Bank of India; or
  - (iii) a corporation established by or under a Central Act, which is, under any law for the time being in force, exempt from income-tax on its income; or
  - (iv) a Mutual Fund specified u/s 23D

### Sec 197 -

- On an application being made (in form 13), the Assessing Officer shall issue a certificate for deduction of tax at such lower rate or no deduction of tax. Wherever he is satisfied that it is justified by the Assessee.
- Such an application can be made in case of income receivable u/s 192, 193, 194, 194A, 194C, 194D, 194G, 194H, 194I, 194J and 194LA, 194LLB, 194LLC, 194M
- Such certificate shall be valid for such period of the previous year as may be specified in the certificate, unless it is cancelled by the Assessing Officer at any time before the expiry of the specified period.
- The certificate shall be valid only with regard to the person responsible for deducting the tax and named therein.
- The certificate shall be issued direct to the person responsible for deducting the tax under advice to the person who made an application for issue of such certificate

### Sec 197A -

- No deduction shall be made under any section from any payment made to New Pension System Trust referred to in sec. 10(44).
- No deduction of tax shall be made u/s 194 (Dividend) and 194EE (NSS), u/s 192A(payment of accumulated balance of provident fund) or 193 (interest on securities) or 194A (other interest) or 194D (insurance commission) or 194DA (payment in respect of life insurance policy) or 194-I (rent), if
  1. The payee is a resident individual;
  2. The aggregate amount of income paid or credited does not exceed basic exemption limit
  3. Such individual furnishes to the payer, a declaration in writing in duplicate in the Form 15G (Form 15H in case of senior citizen).
  4. Such declaration states that the tax on his estimated total income of the previous year in which such income is to be included in computing his total income will be nil.

5. On receipt of the declaration, the person responsible for making payment should deliver one copy to Chief commissioner or Commissioner on or before 7<sup>th</sup> of the month following the month in which it is received.

- No tax will be deducted from interest payments by an offshore banking unit to a non-resident or not ordinarily resident in India.
- No deduction shall be made from such specified payment to notified institution, association or body as notified by Central government. E.g. specified payment (like bank guarantee commission, clearing charges, etc.) made to bank.

**Sec 198-**

- All sums deducted under this chapter shall be deemed as income for the purpose of computing the assessee's total income.

However

- tax u/s192A on non-monetary perquisites shall not be deemed as income.
- the sum deducted in accordance with the provisions of section 194N for the purpose of computing the income of an assessee, shall not be deemed to be income received.

**Sec 199-**

- Tax deducted at source in accordance with above provisions and paid to the credit of central government shall be treated as payment of tax on behalf of the person from whose income it is deducted. Thus the person can claim credit of the same while filing his return of income.
- CBDT has powers to frame rules in this behalf. It can also specify the AY for which such credit may be taken.
- Where whole or part of income is assessable in the hands of another person, credit of the tax deducted from such income shall be given to such other person and not the deductee.
- The deductee should file a declaration with the deductor and the deductor should report the tax deduction in the name of the other person.

## Tax collection at source (TCS)

### Sec 206C - Tax collection at source

\* **Applicability**

- Seller, shall collect tax from the buyer of any specified goods
- Every person, who grants a lease or a license or enters into a contract or otherwise transfers any right or interest in-
  - any parking lot; or
  - toll plaza; or
  - mine or quarry excluding mines or quarrying of mineral oil (mineral oil includes Petroleum and Natural gas),
 to another person (other than a public sector company) for the use of such parking lot or toll plaza or mine or quarry for the purpose of business

\* **Time of collection**

- Debiting the amount payable by the buyer to the account of the buyer/ licensee / lessee or
- Receipt of such amount whichever is earlier
- In case of sale of motor vehicle exceeding Rs.10 lacs, tax shall be collected at the time of receipt of such amount.

\* **Meaning**

- Seller - It does not include an individual or HUF whose books of accounts is not required to be audited u/s 44AB during the FY immediately preceding the FY in which goods are sold.
- Buyer" (for specified goods other than motor car) - means a person who obtains in any sale (by way of auction, tender or any other mode) specified goods or the right to receive any such goods but does not include, –
  - (i) A public sector company, the Central Government, a State Government and an embassy, a High Commission, Legation, Commission, consulate and the trade representation, of a foreign state and a club; or
  - (ii) A buyer in the retail sale of such goods purchased by him for personal consumption.
- Buyer in case of motor car means a person who obtains in any sale, motor care, but does not include:
  - (a) The Central Government, a State Government and an embassy, a High Commission, legation, commission, consulate and the trade representation of a foreign State; or
  - (b) a local authority; or
  - (c) a public sector company which is engaged in the business of carrying passengers

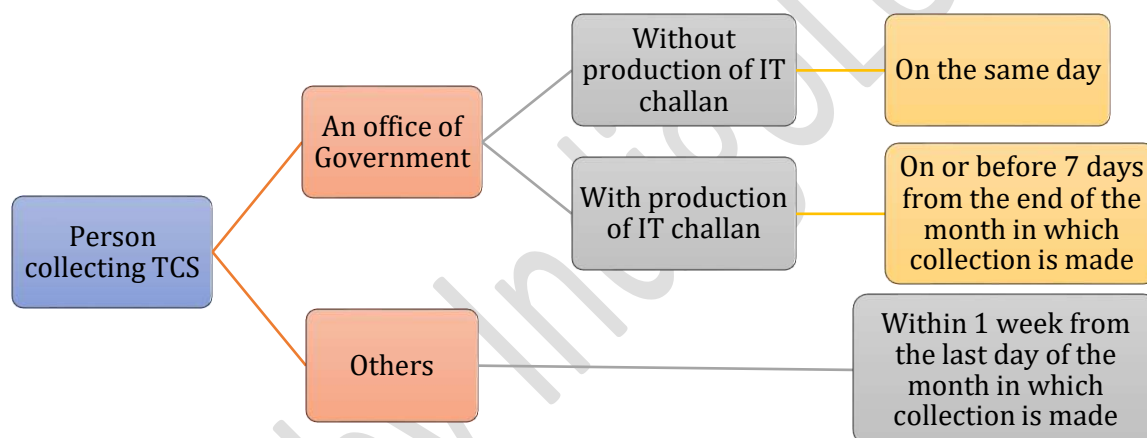
\* **Specified goods and Tax rates**

Alcoholic liquor for human consumption	1%
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Tendu leaves	5%
Timber obtained under a forest lease	2.5%
Timber obtained by any mode other than under a forest lease	2.5%
Any other forest produce (not being timber or tendu leaves)	2.5%
Scrap	1%
Specified minerals	1%
Motor car value of which exceeds Rs. 10 lakhs	1%
Parking lot, toll plaza, mining and quarrying	2%

- However, where the purchaser or licensee or lessee is a non-resident non-corporate assessee or a non-domestic company, then surcharge (if any applicable), health and education cess is also required to be deducted alongwith aforesaid rates

\* **Time limit for paying TCS to the credit of Central government**

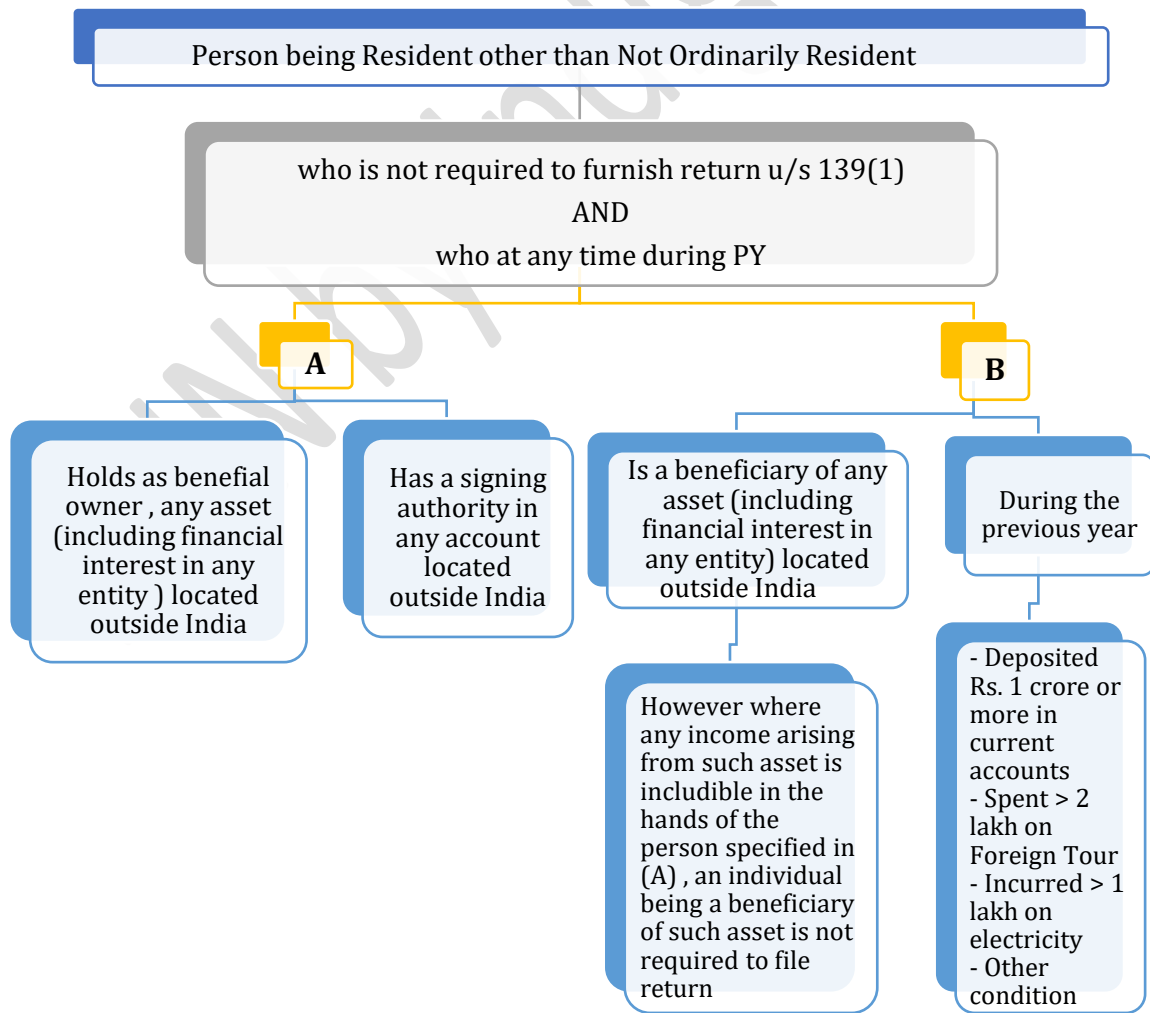


\* **Points to remember**

- Any person paying any sum, on which tax is collectible at source shall furnish his PAN to the person responsible for collecting such tax, failing which tax shall be collected at the higher of the following rates:
- At twice of the specified TCS rate; or
  - At the rate of 5%.
- No TCS in case of resident buyer, if
- Such buyer furnishes a declaration in writing in prescribed form
  - That the goods are to be utilised for the purpose of manufacturing, processing, or producing articles or things or for the purpose of generation of power and not for trading purposes.
- TCS @ 1% on sale of motor vehicle is at retail level and not at manufactures or dealers level.
- An individual who is liable to audit u/s 44AB during the FY preceding the FY in which motor vehicle is sold shall be liable for TCS.

### SEC.139(1) - COMPULSORY FILING OF RETURN OF INCOME

- ★ A return of income is the declaration of income by the assessee in the prescribed format.
- ★ The particulars of income earned under different heads, gross total income, deductions from gross total income, total income and tax payable by the assessee are generally required to be furnished in a return of income.
- ★ The format for filing of returns by different assesses is notified by the CBDT.
- ★ The following persons should mandatorily file return of income on or before the due date.
  - Company
  - Firms
  - Individual, HUF, AOPs or BOIs and artificial juridical persons
    - Having total income\* exceeding basic exemption limit
    - Before giving effect to the provisions of ChapterVI-A , Sec 10(38), sec 10A, sec 10B or Sec 10BA, 54 to 54GB
  - Person being Resident other than Not Ordinarily Resident,
    - Who is not required to furnish a return of income u/s 139(1) AND
    - Who satisfies the below conditions.



\*total income = includes income of any other person in respect of which he is assessable.

#### SEC. 139(1) - EXPLANATION 2 - DUE DATE FOR FILING RETURN OF INCOME

Assessee	Due date
Where the assessee is required to <b><u>furnish a report in Form 3CEB u/s 92E pertaining to international transaction(s)</u></b>	30 <sup>th</sup> November
Where the assessee is a <b><u>Company</u></b> not having international transaction(s)	30 <sup>th</sup> September
Any other assessee, where <b><u>accounts are required to be audited</u></b> under any law	
Where the assessee is a <b><u>working partner in a firm</u></b> and the accounts of the firm are required to be audited under any law	
In <b><u>any other case</u></b>	31 <sup>st</sup> July

#### SEC. 139(1A) - RETURN FILED TO EMPLOYER BY SALARIED EMPLOYEES / BULK FILING OF RETURN BY SALARIED EMPLOYEE

- The Scheme is optional and provides an additional mode of furnishing return of income by persons deriving salary income.
- Under the scheme, the employee may furnish his return of income in the prescribed Form together with relevant documents to his eligible employer.
- The employer will transcribe the data of such returns on computer readable media using an authorised Bulk Return Preparation Software (BRPS) and shall furnish these returns in specified form and in specified manner, including in a computer readable media (like floppy, CD- ROM, diskette, magnetic cartridge tape) to the designated Assessing Officer on or before the due date.
- The return furnished under such scheme shall be deemed to be a return furnished u/s 139(1).

#### SEC 139(1C) - SPECIFIED CLASS OR CLASSES OF PERSONS TO BE EXEMPTED FROM FILING RETURN OF INCOME

- For reducing the compliance burden of small taxpayers, the Central Government is empowered to notify the class or classes of persons who will be exempted from the requirement of filing of return of income, subject to satisfying the prescribed conditions.
- Every notification issued under section 139(1C) shall, as soon as may be after its issue, be laid before each House of Parliament while it is in session, for a total period of thirty days. If both Houses agree in making any modification in the notification, the notification will thereafter have effect only in such modified form. If both Houses agree that the notification should not be issued, the notification shall thereafter have no effect

#### SEC. 139(3) - RETURN OF LOSS

##### ★ **Compulsory requirement:**

- The following losses cannot be carried forward if the return of loss is not submitted within the time allowed u/s 139(1) -



- Sec 72(1) - Business loss
- Sec 73(2) - Speculative business loss
- Sec 73A(2) - Loss from business specified u/s 35AD
- Sec 74(1) &(3) - Capital loss;
- Sec 74A (3) - Loss from the activity of owning and maintaining race horses

Thus, any assessee suffering from any of the above loss must compulsorily file his return of loss on or before the due date.

★ **Points to remember**

- Loss declared in belated return cannot be carried forward. However, set-off of losses of current year is not prohibited while computing the total income, even if the return of loss is filed after the due date.
- Delay in filing the return of loss may be condoned in certain cases
- Unabsorbed depreciation u/s 32 and loss under the head “Income from house property” can be carried forward even if the loss return is filed after the due date u/s 139(1).
- Although the loss of the current year cannot be carried forward unless the return of loss is submitted before the due date but the loss of earlier years can be carried forward if the return of loss of that year was submitted within the due date.

**SEC. 139(4) - BELATED RETURN**

- If an assessee fails to file return within the time limit allowed u/s 139(1) or within the time allowed under a notice issued u/s 142(1), he can file a belated return.
- Time limit: Assessee may file such return
  - before the end of the relevant assessment year; or
  - before the completion of assessment (u/s 144),
 - whichever is earlier.
- However, if an assessee files a belated return, he would be liable to fee u/s 234F and interest u/s 234A.

**SEC. 139(5) - REVISED RETURN**

★ **Requirement**

- If an assessee discovers any omission or wrong statement (bonafide in nature) in the return filed, he can revise his return u/s 139(5).

★ **Time limit:**

- Assessee may file the revised return
  - before the end of the relevant assessment year; or
  - before completion of regular assessment,
 whichever is earlier.

★ **Points to remember**

- Replacement of original return: Once a revised return is filed, it replaces the earlier return. This signifies that the revised return should be complete in itself and not merely an accessory to the original return.
- Revision of revised return: A revised return can again be revised i.e. a second revised return can be filed u/s 139(5) for correcting any omission or wrong statement made in the first revised return within specified time.
- A belated return u/s 139(4) can be revised.



- A loss return u/s 139(3) can be revised.
- Return filed pursuant to notice u/s 142(1) cannot be revised.

#### **SEC. 139(6) - PARTICULARS TO BE FURNISHED WITH THE RETURN**

- The prescribed form of the return shall, in certain specified cases, require the assessee to furnish the particulars of -
  - (i) income exempt from tax;
  - (ii) assets of the prescribed nature and value, held by him as a beneficial owner or otherwise or in which he is a beneficiary;
  - (iii) his bank account and credit card held by him;
  - (iv) expenditure exceeding the prescribed limits incurred by him under prescribed heads; &
  - (v) such other outgoings as may be prescribed.

#### **SEC. 139(6A)- PARTICULARS TO BE FURNISHED WITH RETURN OF INCOME IN THE CASE OF AN ASSESSEE ENGAGED IN BUSINESS OR PROFESSION**

- The prescribed form of the return shall, in the case of an assessee engaged in any business or profession, also require him to furnish -
- The report of any audit referred to in section 44AB.
- The particulars of the location and style of the principal place where he carries on the business or profession and all the branches thereof.
- The names and addresses of his partners, if any, in such business or profession.
- If he is a member of an association or body of individuals, the names of the other members of the association or the body of individuals; and the extent of the share of the assessee and the shares of all such partners or members, as the case may be, in the profits of the business or profession.

#### **SEC. 139(9)- DEFECTIVE RETURN**

##### **★ When a return is termed defective -**

- A return of income is said to be defective where all or any of the following conditions are fulfilled:
    - The return is furnished without paying self-assessment tax along with interest, if any.
    - The annexure, statements and columns in the return have not been duly filled in.
    - The return is not accompanied by any of the following documents -
      - (i) A statement showing the computation of tax liability;
      - (ii) The audit report u/s 44AB (where the report has been submitted prior to the furnishing of return, a copy of audit report together with proof of furnishing the report);
      - (iii) The proof of tax deducted or collected at source, advance tax paid and tax paid on self-assessment;
- Note: - However, the return will not be regarded as defective if
- (a) a certificate for tax deducted or collected was not furnished under section 203 or section 206C to the person furnishing his return of income,
  - (b) such certificate is produced within a period of 2 years).

- (iv) where regular books of account are maintained by the assessee:
- a) Copies of Manufacturing A/c, Trading A/c, Profit and Loss A/c or Income and Expenditure A/c or any other similar account and Balance Sheet;
  - b) In the case of -
    - A proprietary business or profession - the personal account of the proprietor
    - A firm, AOP or BOI - personal account of the partners or members; or
    - A partner or member of the firm, AOP or BOI - his personal account in the firm, AOP or BOI
- (v) where regular books of account are not maintained by the assessee:
- A statement indicating the amount of turnover or gross receipts, gross profit, expenses and net profit of the business or profession and
  - the basis on which such amount have been computed; and
  - the amount of sundry debtors, sundry creditors, stock and cash balance as at the end of the previous year.
- (vi) where the accounts of the assessee have been audited, copies of the audited P&L A/c, Balance Sheet and a copy of the Auditor's report;
- (vii) Cost audit report u/s 233B of the Companies Act, 1956 (if any).

★ **Effect:**

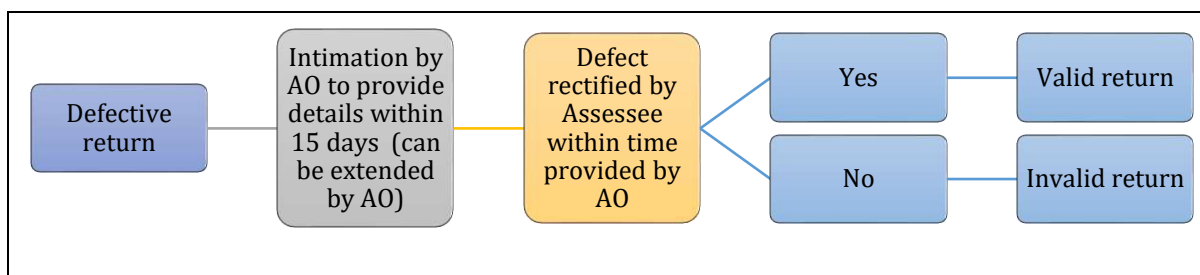
- Where the Assessing Officer considers that the return of income furnished by the taxpayer is defective, he may intimate the defect to the taxpayer and give him an opportunity to rectify the defect(s).

★ **Time limit for rectification:**

- The assessee must rectify the error within a period of 15 days from the date of intimation (served on the assessee) or within such extended time as allowed by the Assessing Officer. Where the taxpayer rectifies the defect after the expiry of the period of 15 days or such extended period but before the assessment is completed, the Assessing Officer can condone such delay.
- If defect is not rectified within the time limit, the AO will treat the return as an invalid return and provisions of the Act will apply as if the taxpayer had failed to furnish the return at all.

★ **Note:**

- Currently, the assessee is required to furnish paper-less return. i.e., no documents, proof or report (other than some specified report required to be furnished electronically) is required to be attached with return of income. In this regard, return of income shall not be considered as defective return. However, the assessee should retain these documents, proof or report with himself. If called for by the income-tax authority during any proceeding, it shall be incumbent upon the assessee to furnish/produce the same.



**SEC 139A - PERMANENT ACCOUNT NUMBER (PAN)**

★ **Meaning**

- Permanent Account Number (PAN) is an alpha-numeric (ten characters) code given to a person by income tax department for the purpose of identification of the assessee.
- A person can have only one PAN.

★ **Compulsory application for allotment of PAN**

- As per sec. 139A & rule 114, following persons are under statutory obligation to apply for PAN within the time limit stated as under:

Who is to apply for PAN	When to apply for PAN
Any person whose total income exceeds maximum exempted limit.	On or before 31 <sup>st</sup> May of the relevant assessment year.
Any resident person other than an individual, which enters into a financial transaction of an amount aggregating to Rs. 2,50,000 or more in a financial year	
Any person who is the managing director, director, partner, trustee, author, founder, karta, chief executive officer, principal officer or office bearer of the person referred above or any person competent to act on behalf of the person referred above	
Any person who intends to enter such transaction as may be prescribed by the Board in the interest of revenue	
Any person whose sales or turnover or gross receipts are likely to exceed Rs.5,00,000 in any previous year	On or before the end of the relevant financial year
Any person who is required to furnish return u/s 139(4A) i.e. trust and charitable institution	
Any person who is entitled to receive any sum or income, on which tax is deductible under in any financial year	
Any person who requires export-import code	Before making any export or import.
Assessee under the GST	Before making application for registration under GST.

- ★ **Sec 139A(1A)** - The Central Government is empowered to specify, by notification in the Official Gazette, any class or classes of persons by whom tax

is payable under the Act or any tax or duty is payable under any other law for the time being in force. Such persons are required to apply within such time as may be mentioned in that notification to the Assessing Officer for the allotment of a PAN.

★ **Sec 139A(1B)** - For the purpose of collecting any information which may be useful for or relevant to the purposes of the Act, the Central Government may notify any class or classes of persons, and such persons shall within the prescribed time, apply to the Assessing Officer for allotment of a PAN.

★ **Sec 139A(2)** -The Assessing Officer, having regard to the nature of transactions as may be prescribed, may also allot a PAN to any other person (whether any tax is payable by him or not) in the manner and in accordance with the procedure as may be prescribed.

★ **Sec 139A(3)** - Any person, other than the persons mentioned in (1) or (4) above, may apply to the Assessing Officer for the allotment of a PAN and the Assessing Officer shall allot a PAN to such person immediately.

★ **Sec. 139A(5) - Mandatory provision**

- A person to whom a PAN is allotted, is required to quote that number in -
  - All his returns to; or
  - Any correspondence with; or
  - Any other documents to,  
- Income-tax authority.
- A person to whom a PAN is allotted, is required to quote that number in challans for payment of any sum due under this Act.

★ **Sec. 139A(5)(c) & Rule 114B**

- Every person shall quote its PAN in all documents pertaining to following transactions entered into by him -
  1. Transactions relating to sale or purchase of a motor vehicle (other than two wheeled vehicles), which requires registration.
  2. Opening an account [other than a time-deposit and a Basic Savings Bank Deposit Account] with a banking company or a co-operative bank.
  3. Making application for issue of a credit card or debit card.
  4. Opening of a demat account.
  5. Payment in cash exceeding Rs. 50,000 to a hotel or restaurant against a bill or bills at any one time.
  6. Payment in cash exceeding Rs. 50,000 in connection with travel to any foreign country or payment for purchase of any foreign currency at any one time
  7. Payment exceeding Rs. 50,000 to any mutual fund for purchase of its units.
  8. Payment exceeding Rs. 50,000 to a company or an institution for acquiring debentures or bonds issued by it.
  9. Payment exceeding Rs. 50,000 to RBI for acquiring bonds issued by it.
  10. Deposit in cash exceeding Rs. 50,000 during any one day with a banking company or a co-operative bank.

11. Purchase of bank drafts or pay orders or banker's cheques from a banking company or a co-operative bank in cash for an amount exceeding Rs. 50,000 during any one day.
12. A time deposit of an amount exceeding Rs. 50,000 or aggregating to more than Rs. 5 lakhs during a financial year with:
  - (i) a banking company or a co-operative bank; or
  - (ii) a Post Office; or
  - (iii) a Nidhi referred to in section 406 of the Companies Act, 2013; or
  - (iv) a non-banking financial company
13. Payment in cash or by way of a bank draft or pay order or banker's cheque of an amount aggregating to more than Rs.50,000 in a financial year for one or more pre-paid payment instruments, as defined in the policy guidelines for issuance and operation of pre-paid payment instruments issued by Reserve Bank of India u/s 18 of the Payment and Settlement Systems Act, 2007, to a banking company or a co-operative bank
14. Payment aggregating to more than Rs. 50,000 in a financial year as life insurance premium to an insurer.
15. A contract for sale or purchase of securities (other than shares) where transaction value exceeds Rs. 1 lakh
16. Sale or purchase, by any person, of shares of a company not listed in a recognised stock exchange where transaction value exceeds Rs. 1 lakh
17. Sale or purchase of any immovable property where amount exceeds Rs. 10 lakh or stamp value exceeds Rs. 10 lakh
18. Sale or purchase, by any person, of goods or services of any nature other than those specified above where transaction value exceeds Rs. 2 lakhs.

- ★ **Sec.139A (5A)** - Every person who receives any amount from which tax has been deducted at source shall intimate his PAN to the person responsible for deducting such tax.
- ★ **Sec.139A (5B)** - Deductor needs to furnish PAN in returns, statements and certificates
- ★ **Sec.139A (5C)** - Buyer shall furnish PAN to Seller in case of TCS.
- ★ **Sec.139A (5D)** - Person collecting tax at source shall quote PAN of buyer in all returns, statements and certificates
- ★ **Sec.139A (5E)** - Aadhar number can be used in lieu of PAN even when PAN has not been issued.

★ **Points to remember:**

- Where a person, entering into any of the aforesaid transaction, is a minor and who does not have any income chargeable to tax, he shall quote the PAN of his father or mother or guardian, as the case may be, in the document pertaining to the said transaction.
- Any person who does not have a PAN and who enters into any of the aforesaid transaction, he shall make a declaration in Form No.60 giving therein the particulars of such transaction.
- The provisions of this rule shall not apply to the following class or classes of persons, namely:

- the Central Government, the State Governments and the Consular Offices;
  - the non-residents in respect of the transactions other than a transaction referred above with.
- If there is a change in the address or in the name and nature of the business of a person, on the basis of which PAN was allotted to him, he should intimate such change to the Assessing Officer.

#### **SECTION 139AA - QUOTING OF AADHAR NUMBER**

★ **Mandatory quoting of Aadhar Number**

- Every person who is eligible to obtain Aadhar Number is required to mandatorily quote Aadhar Number, on or after 1st July 2017:
- (a) in the application form for allotment of Permanent Account Number (PAN)
  - (b) in the return of income

★ **Mandatory quoting of Enrolment Id, where person does not have Aadhar Number**

- If a person does not have Aadhar Number, he is required to quote Enrolment ID (28 digits) of Aadhar application form issued to him at the time of enrolment
- (a) in the application form for allotment of Permanent Account Number (PAN) or
  - (b) in the return of income furnished by him.

★ **Intimation of Aadhar Number to prescribed Authority**

- Every person who has been allotted Permanent Account Number (PAN) as on 1st July, 2017, and who is eligible to obtain Aadhar Number, shall intimate his Aadhar Number to prescribed authority on or before a date as may be notified by the Central Government.

★ **Consequences of failure to intimate Aadhar Number**

- If a person fails to intimate the Aadhar Number, the permanent account Number (PAN) allotted to such person shall be made inoperative.
- However CBDT has notified that the permanent account number (PAN) of those who do not have Aadhaar and who do not wish to obtain Aadhaar for the time being, will not be cancelled so that other consequences under the Income-tax Act for failing to quote PAN may not arise

★ **Provision not to apply to certain persons or class of persons**

- The provisions of section 139AA relating to quoting of Aadhar Number would, however, not apply to an individual who does not possess the Aadhar number or Enrolment ID and is:
- (i) residing in the States of Assam, Jammu & Kashmir and Meghalaya;
  - (ii) a non-resident as per Income-tax Act, 1961;



(iii) of the age of 80 years or more at any time during the previous year;  
(iv) not a citizen of India

## SEC.139B - SCHEME FOR SUBMISSION OF RETURNS THROUGH TAX RETURN PREPARERS

### ★ Meaning:

- A TRP is an individual who has been authorized to enable any specified class(es) of person to prepare and furnish their returns of income.
- The TRP shall also affix his signature on such return.
- Specified class(es) of person means resident individual and resident HUF other than person whose accounts are required to be audited.
- Such specified person may, at his option, furnish his return of income under section 139 for any assessment year after getting it prepared through a Tax Return Preparer

### ★ CBDT has framed the Tax Return Preparer Scheme, 2006.

### ★ Person not eligible to become TRP

- Chartered Accountant
- Any legal practitioner who is entitled to practice in any civil court in India.
- Any officer of a scheduled bank cannot be the TRP of the assessee who maintains a Current account or has other regular dealing with such bank.
- Any employee of the specified class(es) of persons

(Note - Employees of companies and persons whose accounts are required to be audited under section 44AB or any other law for the time being in force are eligible to act as TRPs)

### ★ Educational Qualification of TRP

- An individual, who holds a bachelor's degree from a recognised Indian University or institution, or
- has passed the intermediate level examination conducted by the ICAI or ICSI or ICMAI shall be eligible to act as Tax Return Preparer.

### ★ When return cannot be filed through a TRP

An individual or a HUF cannot furnish a return of income for an assessment year through a TRP

- who is carrying out business or profession during the previous year and accounts of the business or profession for that previous year are required to be audited under section 44AB or under any other law for the time being in force; or
- who is not a resident in India during the previous year
- an individual or a HUF cannot furnish a revised return of income for any assessment year through a TRP unless he has furnished the original return of income for that assessment year through such or any other Tax Return Preparer

### SEC 140A - SELF-ASSESSMENT

- In self-assessment, assessee itself is responsible to determine its taxable income, tax liability and to pay tax accordingly.
- Where any tax is payable (after deducting relief, rebate, advance payment of tax or tax deducted or collected at source or MAT or AMT credit, if any) on the basis of return furnished the assessee is required to pay such tax before filing the return.
- A return furnished without paying self-assessment tax & interest, if any, shall be treated as defective return.
- If any interest is payable for delayed filing of return (u/s 234A) or default in payment of advance tax (u/s 234B) or for deferment of advance tax (u/s 234C) or fee (u/s 234F) is payable for filing return after due date, then such interest or fee should be paid along with self-assessment tax.
- While calculating above interest for the purpose of self-assessment, tax on the total income declared in the return shall be considered.
- Where the amount paid by the assessee falls short of the aggregate of tax, interest and fee, the amount so paid shall first be adjusted towards fee and thereafter towards interest payable and the balance, if any, shall be adjusted towards tax payable.
- If an assessee fails to pay whole or any part of such tax or interest or both in accordance with the provisions of sec. 140A, he shall be deemed to be an assessee in default.

### Sec. 234A - Interest for default in furnishing return of income

- Interest under section 234A is payable where an assessee furnishes the return of income after the due date or does not furnish the return of income.
- Assessee shall be liable to pay simple interest @1% per month or part of the month for the period commencing from the date immediately following the due date and ending on the following dates -

Circumstances	Ending on the following dates
Where the return is furnished after due date	The date of furnishing of the return
Where no return is furnished	The date of completion of assessment

- The interest has to be calculated on the amount of tax on total income as determined under section 143(1) or on regular assessment as reduced by the advance tax paid and any tax deducted or collected at source.
- where the assessee has paid taxes in full on or before the due date, interest under section 234A is not leviable.
- The interest payable under section 234A shall be reduced by the interest, if any, paid on self-assessment under section 140A towards interest chargeable under section 234A



Sec. 234F - Fee for default in furnishing return of income

- Where a person who is required to furnish a return of income under section 139, fails to do so within the prescribed time limit under section 139(1), he shall pay, by way of fee, a sum of
  - Rs. 5,000, if the return is furnished on or before the 31st December of the assessment year
  - Rs. 10,000 in any other case.
- However, if the total income of the person does not exceed Rs.5 lakhs, the fees payable shall not exceed Rs. 1,000.

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