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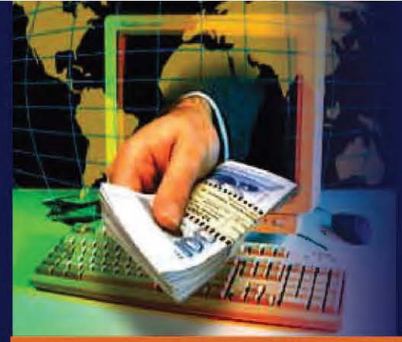
Income Tax Law & Practices



Institute of **Open** and **Distance Education**

Faculty of Commerce

Income Tax Law & Practices

4BCOM5

DR. C.V. RAMAN UNIVERSITY

Chhattisgarh, Bilaspur — A STATUTORY UNIVERSITY UNDER SECTION 2(F) OF THE UGC ACT

4BCOM 5

Income Tax Law & Practices

Credit-4

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CONTENTS

BLOCK – I

UNIT - 1

AN INTRODUCTION TO INCOME TAX ACT, 1961

CONTENTS

1.0 AIMS AND OBJECTIVES

After studying this lesson, you should be able to:

- Explain Income Tax Act, 1961
- Discuss the basic concepts of Income Tax Act, 1961
- Explain the meaning of Agricultural Income
- Describe the Concept of gross Income and total Income
- List the Exemptions under section 10 of Income Tax Act

1.1 INTRODUCTION

Income tax refers to the percentage of an individual's or organization's income paid to the government. The funds collected from income tax is used by the government for funding the infrastructural development of the state or country, paying salaries to the

people employed by the state government or central government, etc. It forms the largest part of the revenue of the Government of India.

Any tax is imposed in a country by passing a law that governs the provisions of the tax. The income tax in India is governed by the Income Tax Act, 1961. Let us study this Act in detail in this lesson.

1.2 INCOME TAX ACT, 1961

The Income Tax Act was introduced in 1961 on the basis of the recommendations of the Law and the Enquiry Committee. It is applicable in the whole of India including Jammu & Kashmir and Sikkim. This act involves the regulation of collection, recovery and administration of income tax in India. It provides a steady income to the Government of India, which use this fund for the development of the country.

Income tax is applicable on individuals, organizations and all other establishments that generate income. It is calculated on annual basis and paid according to the income tax slabs, which are modified every year by the Ministry of Finance. The income tax slab for the year 2017-2018 is as follows:

Income Tax Slab for Individual Tax Payers & HUF (Less Than 60 Years Old) (Both Men & Women)	
Income Slab	**Tax Rate**
Income up to ₹ 2,50,000*	No tax
Income from ₹ 2,50,000 – ₹ 5,00,000	5%
Income from ₹ 5,00,000 – 10,00,000	20%
Income more than ₹ 10,00,000	30%
Surcharge: 10% of income tax where total income exceeds ₹ 50 lakh up to ₹ 1 crore. *Surcharge:* 15% of income tax, where the total income exceeds ₹ 1 crore.	
Cess: 3% on total of income tax + surcharge.	
**Income tax exemption limit for FY 2017-18 is up to ₹ 2,50,000 for individual & HUF other than those covered in Part(II) or (III)*	

Income Tax Slab for Senior Citizens (60 Years Old or More but Less than 80 Years Old) (Both Men & Women)	
Income Slab	**Tax Rate**
Income up to ₹ 3,00,000*	No tax
Income from ₹ 3,00,000 – ₹ 5,00,000	5%
Income from ₹ 5,00,000 – 10,00,000	20%
Income more than ₹ 10,00,000	30%
Surcharge. 10% of income tax, where total income exceeds ₹ 50 lakh upto ₹1 crore. *Surcharge:* 15% of income tax, where the total income exceeds ₹ 1 crore.	
Cess: 3% on total of income tax + surcharge.	
**Income tax exemption limit for FY 2017-1 is up to ₹ 3,00,000 other than those covered in Part(I) or (III)*	

Income Tax Slab for Senior Citizens (80 Years Old or More) (Both Men & Women)	
Income Slab	**Tax Rate**
Income up to ₹ 2,50,000*	No tax
Income up to ₹ 5,00,000*	No tax
Income from ₹ 5,00,000 – 10,00,000	20%
Income more than ₹ 10,00,000	30%
Surcharge: 15% of income tax, where total income exceeds ₹ 1 crore.	
Cess: 3% on total of income tax + surcharge	
**Income tax exemption limit for FY 2017-18 is up to ₹ 5,00,000 other than those covered in Part(I) or (II)*	

1.3 BASIC CONCEPTS OF INCOME TAX ACT

For understanding the Income Tax Act, it is important to understand the basic concepts of this Act, such as income, person, assessee, assessor, and agricultural income. Let us discuss these concepts in detail.

1.3.1 Income

Income generally means, the activity which provides benefits in the form of cash or kind. This meaning of income is used for accounting purposes in taxation.

In the Income Tax Act, the term 'income' is not clearly defined. However, the Act specifies some types of earnings, which can be considered as income. Some of the important earnings or benefits that can be held under income are:

- Profits and gains
- Dividend
- Voluntary contribution made to any charity trust or corporation
- Any type of monetary benefits or perquisites
- Profits in lieu of salary
- Special allowances
- Any amount paid by an organization as an obligation
- Capital gains that are chargeable under u/s 45
- Winnings from different contests like lotteries, puzzles, races, and card games
- Amount received by an employee from his/her superannuation or provident fund or any other fund established under Employee State Insurance Act
- Amount received from an insurance policy

In addition to above mentioned earnings, any benefit received by an individual in the form of cash and kind in the previous year is considered as income.

1.3.2 Casual Income

Casual income refers to the amount received by an individual after winning a lottery, crossword puzzle, card game, horse race and other types of races, any game show or entertainment program, etc. According to Section 115 BB of Income Tax Act, such

type of income should be taxable @ 30% and as per section 2 (24). In such type of income, the Gross receipt is considered as taxable income as per section 58(4)

1.3.3 Person

In income tax, any entity, individual or organization, whose income of previous year is liable for taxation is called, person. The different entities that are considered as Person are as follows:

- ***An Individual:*** Any human being, male, female or minor of sound or unsound mind is considered as person.
- ***A Hindu Undivided Family (HUF):*** It includes individuals who are the descendants of a single common male ancestor. So, the income earned by HUF is assessable for taxation income derived from the joint family corpus. In HUF, income of individuals is taxed as personal income and not as the income of HUF. Therefore, the income from a proprietary firm (in individual capacity) and income from a business of HUF have separate tax exemptions.
- ***Association of Persons (AOP):*** It includes a group of persons, which can be a group of individuals, HUF, companies, or any other entity, brought together for some common purpose(s). Any entity is called an association when all the people associate with it, are involved in an income-producing activity.
- ***Body of Individuals (BOI):*** It comprises a group of individuals, who come together for common purpose(s) whether to earn income.
- ***A Company:*** It can include any of the following types of entities:
  - An Indian company
  - A corporate established by or under the laws of country outside India
  - An institution, association or body which is or was assessable or was assessed as a company under the 1922 Act or under the 1961 Act, for any assessment year.
- ***A Partnership Firm:*** It refers to an organization formed and run by different individuals, who share profits of the business conducted by all of them together or anyone of them on behalf of the others. Such individuals of partnership firm are called partners. In income tax, a partnership firm and its partners are taxed separately.
- ***A Local Authority:*** It includes municipal committees, district boards, body of port commissioners, or other authorities which are legally responsible for controlling and managing a municipal or local fund by the government.

All artificial, judicial persons, not falling in the above categories are the entities which are:

- Not natural persons
- Have separate entity in the eyes of law
- May be sued through person(s) managing them and not by court of law

Some of the examples of such entities are deities, idols and Universities.

1.3.4 Assessee

Assessee refers to the individual or organization that is responsible for paying income tax under the Income Tax Act. However, it is not necessary that the taxable income of

the assesse is his/her own income. As per section 2(7) of the Income Tax Act, an assessee is defined as, "a person by whom any tax or any other sum of money is payable under this Act, and includes the following:

a. Every person in respect of whom any proceeding under this Act has been taken for the assessment of his income or of the income of any other person in respect of which he is assessable, or of the loss sustained by him or by such other person, or of the amount of refund due to him or to such other person;

b. Every person who is deemed to be an assessee under any provision of this Act;

c. Every person who is deemed to be an assessee in default under any provision of this Act."

In simpler words, as per the Income Tax Act, an assessee is a person who:

- Needs to pay tax, interest, or penalty
- Deemed to be an assessee, as per the Act
- Default assessee, as per the Act
- Entitled for refund of tax

As per the Income Tax Act, assesse can be of the following types:

1. ***Ordinary assessee***: Such assessee is liable to pay tax, penalty or interest to the income tax department and is also eligible for getting refund on tax.
2. ***Deemed assessee***: Such assessee is the representative of another's' income. They have to take care of taxes on his income as well as other's income, whom he/she is representing. Some examples of deemed assesses are guardian of a minor, agent of a non-resident, and legal representative of a deceased person.
3. ***Assessee in default***: Such assessee fails to fulfil his duty or obligation. For example, if an individual needs to submit the return of income but he/she has not submitted it, then he/she is called assessee in default.

1.3.5 Assessment Year

It includes 12 months, which starts from 1st April and ends on 31st March of the next year. As per the Income Tax Act, the previous year income of an assessee should be taxed during the subsequent assessment year at the rates prescribed by the relevant Finance Act in the form of income tax slab. For example, the current assessment year is 2017-18, which starts from 1st April, 2016 to 31st March, 2017.

1.3.6 Previous Year

It refers to the year for which the income of an assessee is assessed and examined for income tax. For example, the previous year (PY) for the assessment year (AY) 2015–2016 will be 2014-2015. Similarly, the previous year for current assessment year (2017-18) is 2016-17.

1.4 AGRICULTURAL INCOME

According to the Income Tax Act, agricultural income may refer to any one of the following:

- Rent or revenues obtained from any land, which is located in India and used for agricultural purpose.

- Income earned from any land used for agricultural purpose. This income can be in the form of cash or kind received from the agricultural produce.
- Income earned from farmhouse.
- Income received from saplings or seeds grown in a nursery.

Under Section 10(1) of Income Tax Act, the agricultural income is completely exempted from tax. An individual can claim exemption towards the agricultural income, if he/she can satisfy the following conditions:

- Income should be received from the agricultural land either in the form of cash or kind or both
- The land should be used only for agricultural operations and not for any other business operation.
- The land should be situated in India.

In case, an individual is receiving income from agricultural and non-agricultural operations, then for determining the taxable income, the following procedure is adopted:

1. Calculate the total income of the individual
2. Separate the agricultural income from his/her total income
3. Balance income is the taxable income, which is taxed as non-agricultural income

This implies that the taxable income can be calculated as follows:

Taxable income of an individual = Total income from different sources – total income from agriculture

Note: An assessee has to prove that a particular portion of his income is obtained from agricultural operations.

For example, Vijay has an agricultural land and he grows sugarcane on it at a cost of ₹ 3,00,000. He also established a factory for producing sugar from the sugarcane, he grows, at the cost of ₹ 3,50,000. He sells the sugar for ₹ 8,00,000. Thus, the total income of Vijay is:

Total income = Income from sale of sugar – Cost of sugarcane cultivation – cost of producing sugar from sugarcane

= 8,00,000 – 3,00,000 – 3,50,000

= ₹ 1,50,000

The total income of Vijay includes agricultural income as well as non-agricultural income. The income received from the production of sugarcane is the agricultural income, while the income obtained from the production of sugar is non-agricultural income. Thus, for determining the tax on the total income of Vijay, his income needs to be separated as the agricultural income and non-agricultural income. This will help Vijay to get exemption on the agricultural income.

Under the Income Tax Rules, 1962, there are certain rules for segregating agricultural and non-agricultural income. These rules are Rule 7, 7A, 7B (1), and 7B (1A).

According to these rules, agricultural and non-agricultural incomes for different crops are determined as follows:

Crop	Rule	Agricultural Income	Non-agricultural Income
All crops except tea, coffee, and rubber	7	Market value of agricultural product used as raw material – Cost of cultivation	Sale proceed from industrial product – Market value of agricultural product used as raw material – Industrial expenses
Growing and manufacturing tea	8	60% of composite income	40% of composite income
Rubber manufacturing business	7A	65% of composite income	35% of composite income
Seller cultivating and curing coffee	7B(1)	75% of composite income	25% of composite income
Seller growing, curing, roasting, and grounding coffee in India with or without mixing flavouring ingredients	7B(1A)	60% of composite income	40% of composite income

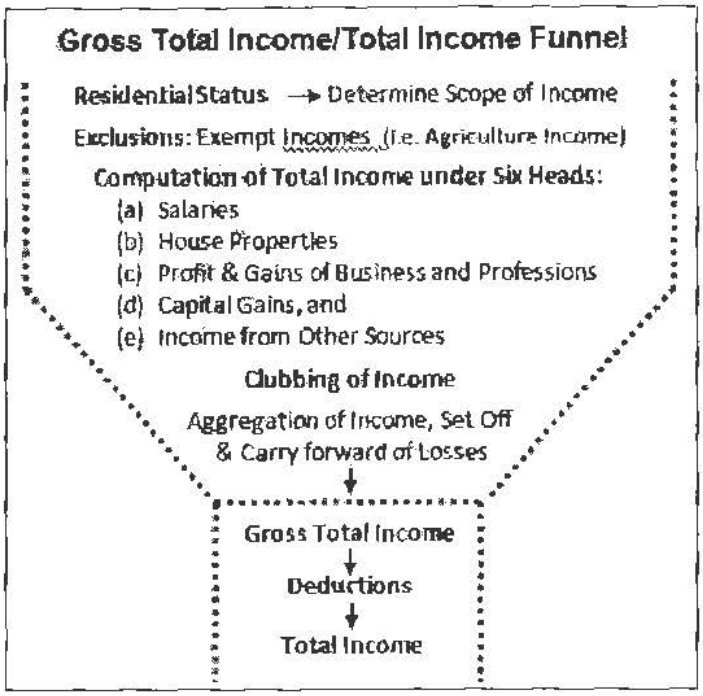
1.5 GROSS TOTAL INCOME AND TOTAL INCOME

As per the Section 14 of Income Tax Act, tax is charged on the five main heads of income. These heads are income from salary, house property, profit and gains of business or profession, and other sources. You will study about these heads in detail in this book. Before studying income under these heads, it is important to understand the meaning of gross income and total income.

The concept of gross total income and total income are specified under section 14 of the Income Tax Act. *"Gross Total Income can be defined as the summation of different heads of incomes, such as house property, gains from business, salary and any gains from other sources."* Gross total income is computed as shown below:

Income particulars	**Amount**
Income from salary	XXX
Income from house property	XXX
Income from business	XXX
Income from capital gains	XXX
Income from other sources	XXX
Gross Total Income	**XXX**

On the other hand, **Total Income** refers to the remaining part of income after the deductions (under u/s 80C to 80 U) from the gross total income. Total income is also called net income, and income tax is charged at a prescribed rate out of the total income. The following image shows the calculation of total income:



Source: http://abcaus.in/articles/income-tax/gross-total-income.html

Figure 1.1: Calculation of Total Income

As per the flow chart shown in the Figure 1.1, all income heads are added to the gross total income. Then, deductions are made on the gross total income, and finally the total income is calculated.

Let us take an example to understand how to calculate the gross total income and the taxable income.

Mansi is a 43 years old woman. The following are the details related to her income and investment for the financial year 2014-15:

Particulars	Amount (In Rupees)
Income from business	650000
Interest from fixed deposits with bank	35000
Interest from security deposits	15000
Interest from Public Provident Fund Account (PPF)	30000
Deposit in Public Provident Fund Account (PPF)	50000

Based on the above information, the gross income and income tax liability of Ragini for the financial year 2014-15 and assessment year 2015-16 can be calculated as follows:

Particulars	Amount (In Rupees)	Amount (In Rupees)
Income from Business		650000
Income from other sources		

Contd....

Interest from fixed deposits with bank	35000	
Interest from security deposits	15000	
Interest from Public Provident Fund Account (₹ 30000/-)	NIL	50000
Gross Total Income		600000
Less: Deductions under Chapter VI-A		
U/S 80C: Deposit in Public Provident Fund Account		50000
Net Taxable Income		550000
Tax Payable		35000
Education Cess @ 2%		700
Secondary & Higher Education Cess @ 1%		350
Total Tax Liability		36050

Note

- As Mansi's age is 43, her income tax exemption limit for the financial year 2016-17 is ₹ 250000. Thus, her net taxable income is ₹ 5,50,000. So, she is liable to pay income tax.
- Interest on Public Provident Fund Account is not taxable.
- Income Tax Rate from ₹ 250001 to ₹ 500000 is 10%.
- Income tax rate from ₹ 500001 to ₹ 10,00,000 is 20%.

Source: http://www.letslearnaccounting.com/various-examples-of-calculation-of-income-tax

1.6 EXEMPTIONS

In the Section 10 of the Income Tax Act, some specific exemptions are mentioned. The income that comes under this section is not considered as a part of total income and thus this income is not taxable. Following are some of the exemptions made under section 10:

Exemption U/S 10(1)	Agricultural income is completely exempted from tax if the income falls under the definition of agricultural income.
Exemption U/S 10(2)	Any individual having a share of HUF entire amount is exempted from tax.
Exemption U/S 10(2A)	If a firm is separately assessed, then its partners get full tax exemption on their share in the firm
Exemption U/S 10(4) (i)	Interests on securities/bonds for non-residents are exempted.
Exemption U/S 10(4) (ii)	Interest received by a non-resident on external account is exempted.
Exemption U/S 10(4B)	Interest on specific saving certificates
Exemption U/S 10(5)	Value of leave travel concession.

Contd...

Exemption U/S 10(6B)	Tax paid on behalf of non-residents/foreign companies in respect of other incomes.
Exemption U/S 10(6C)	Royalty or fees for technical services are exempted from tax.
Exemption U/S 10(7)	Allowance or Perquisites paid to Indian citizen outside India are exempted from tax.
Exemption U/S 10(8B)	Income associated with the technical assistance programme is exempted
Exemption U/S 10(10)	The gratuity up to ₹ 10,00,000 received under the payment of Gratuity Act is exempted from tax.
Exemption U/S 10(10AA)	Amount received as leave encashment on retirement.
Exemption U/S 10(10BB)	Any payment made under Bhopal Gas Leak 1985 is exempted from tax.
Exemption U/S 10(BC)	Amount received by an individual from the Govt. or local authority as compensation is exempted from tax.
Exemption U/S 10(10CC)	Income tax paid by an employer or monetary perk given to employee is exempted in the hands of employees.
Exemption U/S 10(10D)	Amount received from life insurance policy by either policy holder or beneficiary is completely exempted from tax.
Exemption U/S 10(11)	Payments made from provident fund or from PPF established by the Government are exempted from tax
Exemption U/S 10(12)	Payments from recognised provident funds are exempted from taxes.
Exemption U/S 10(13A)	Minimum of the following is exempt: 50 per cent if a person's house is situated at Delhi, Mumbai, Chennai or Kolkata or 40 per cent if a person's house is located at any other place Actual HRA received rent paid less 10 per cent of salary.
Exemption U/S 10(15) (iib)	Interest on capital investment bonds are exempted from taxes.
Exemption U/S 10(16)	The complete amount of scholarships provided for meeting the cost of education is exempted from tax. This cost includes tuition fees along with other expenses related to the cost of acquiring education. The exemption provided is irrespective of the actual expenses incurred by the scholarship recipient to meet the cost of education.
Exemption U/S 10(17)	Daily allowances or constituency allowances received by an MLA or MP are exempted from tax.
Exemption U/S 10(18)	Pension or family pension received from Central or State government by an employee is exempted from taxes.
Exemption U/S 10(20)	Incomes of local authorities including municipality, panchayat, district boards, etc., are exempted from taxes.
Exemption U/S 10(21)	Income of an approved Scientific Research Association is exempted from taxes.
Exemption U/S 10(23AA)	Income obtained by regimental fund is exempted from taxes.
Exemption U/S 10(24)	Incomes obtained from house property and from other sources by the registered trade unions are exempted from taxes
Exemptinn U/S 10(25)	Income obtained by the trustees on behalf of a recognised provident

Contd ...

	fund and approved superannuation fund. Moreover, the interest received or capital gains from the sale, exchange, or transfer of securities held by any provident fund which comes under the Provident Fund Act, 1925 are exempted from taxes.
Exemption U/S 10(25A)	Incomes received from an employee's state insurance fund are exempted from taxes.
Exemption U/S 10(26)	Incomes of members of scheduled tribes are exempted from taxes.
Exemption U/S 10(30)	Subsidy received by Tea Board is exempted from taxes.
Exemption U/S 10(32)	Upto ₹ 1500 is exempted if a minor's income is clubbed with individual.
Exemption U/S 10(33)	Dividend declared by a domestic company is liable to dividend distribution tax @15%+ surcharge @ 7.5% + education cess @ 2%+ SHEC @ 1% of the amount declared. Thus, it is exempted in the hands of shareholder.
Exemption U/S 10(35)	Income earned on units of UTI and mutual funds covered under section 10(23D) is exempted from tax.
Exemption U/S 10(37)	Capital gains obtained from Compulsory Acquisition of agricultural land in urban areas are exempted from taxes.
Exemption U/S 10(38)	Income obtained from the transfer of equity shares or units of equity oriented fund that are subjected to the Securities Transaction Tax is exempted from taxes.
Exemption U/S 10(39)	Income received from notified international sports event held in India.
Exemption U/S 10(42)	Specified income of a notified non-profit body or authority.
Exemption U/S 10(43)	Loan amount obtained by an individual in a reverse mortgage transaction either in instalments or lump sum.

Check Your Progress

Fill in the blanks.

1. _____ income refers to the amount received by an individual after winning a lottery, crossword puzzle, card game, horse race and other types of races, any game show or entertainment program, etc.
2. _____ refers to the individual or organization who is responsible for paying income tax under the Income Tax Act.
3. _____ refers to the year for which the income of an assessee is assessed and examined for income tax.
4. If an individual earns agricultural income as well as non-agricultural income, then his/her taxable income can be determined by first calculating _____ income and then separating _____ and _____ income.
5. Under Section _____ of Income Tax Act, the agricultural income is completely exempted from tax.

1.7 LET US SUM UP

- Income tax refers to the percentage of an individual's or organization's income paid to the government.
- The Income Tax Act was introduced in 1961 on the basis of the recommendations of the Law and the Enquiry Committee. It is applicable to the whole India including Jammu & Kashmir, and Sikkim.
- This act involves the regulation of collection, recovery, and administration of income tax in India.
- Income tax is applicable on individuals, organizations, and all other establishments that generate income.
- In the Income Tax Act, the term 'income' is not clearly defined. However, the Act specifies some types of earnings, which can be considered as income. Some of these earnings are profits, dividends, special allowances, capital gains, winnings from different contests like lotteries, puzzles, races, and card games, etc.
- Casual income refers to the amount received by an individual after winning a lottery, crossword puzzle, card game, horse race and other types of races, any game show or entertainment program, etc.
- According to Section 115 BB of Income Tax Act, casual income should be taxable @ 30% and as per section 2 (24).
- In income tax, any entity, individual or organization, whose income of previous year is liable for taxation is called person.
- Assessee refers to the individual or organization who is responsible for paying income tax under the Income Tax Act. However, it is not necessary that the taxable income of the assesse is his/her own income.
- Assessment year includes 12 months, which starts from 1st April and ends on 31st March of the next year.
- Previous year refers to the year for which the income of an assessee is assessed and examined for income tax.
- According to the Income Tax Act, agricultural income may refer to any one of the following:
  - Rent or revenues obtained from any land, which is located in India and used for agricultural purpose.
  - Income earned from any land used for agricultural purpose. This income can be in the form of cash or kind received from the agricultural produce.
  - Income earned from farmhouse.
  - Income received from saplings or seeds grown in a nursery.
- Under Section 10(1) of Income Tax Act, the agricultural income is completely exempted from tax.
- The concept of gross total income and total income are specified under section 14 of the Income Tax Act. "Gross Total Income can be defined as the summation of different heads of incomes, such as house property, gains from business, salary and any gains from other sources."
- Total Income refers to the remaining part of income after the deductions (under u/s 80C to 80 U) from the gross total income.

- In the Section 10 of the Income Tax Act, some specific exemptions are mentioned. The income that comes under this section is not considered as a part of total income and thus this income is not taxable.

1.8 UNIT END ACTIVITY

Select five industries and identify the items included in the taxable income of these industries. Prepare a report and give a presentation on it

1.9 KEYWORDS

Income Tax: It refers to the percentage of an individual's or organization's income paid to the government.

Income Tax Act, 1961: This act involves the regulation of collection, recovery, and administration of income tax in India.

Casual Income: It refers to the amount received by an individual after winning a lottery, crossword puzzle, card game, horse race and other types of races, any game show or entertainment program, etc.

Assessee: It refers to the individual or organisation who is responsible for paying income tax under the Income Tax Act. However, it is not necessary that the taxable income of the assesse is his/her own income.

Assessment Year: It includes 12 months, which starts from 1st April and ends on 31st March of the next year

Previous Year. It refers to the year for which the income of an assessee is assessed and examined for income tax.

1.10 QUESTIONS FOR DISCUSSION

1. Define income tax. Why government collects income tax?
2. Write a short note on Income Tax Act, 1961?
3. Explain the meaning of Income in the Income Tax Act.
4. Describe the word 'Person' in the Income Tax Act.
5. Who is an assessee? Explain the different types of assessee
6. Describe the agricultural income in the Income Tax Act.
7. Discuss the gross income and total income.

Check Your Progress: Model Answer

1. Casual
2. Assessee
3. Previous year
4. Total, agricultural, non-agricultural
5. 10(1)

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UNIT - 2

RESIDENTIAL STATUS AND TAX LIABILITY

CONTENTS

2.0 AIMS AND OBJECTIVES

After studying this lesson, you should be able to:

- Explain the meaning of residential status
- Discuss the residential status of firms, AOP and assessee
- Explain exceptions related to residential status
- Describe the legal proceedings of residence and tax incidence
- Explain the concept of double taxation

2.1 INTRODUCTION

In this lesson, a detailed explanation of the essential facet of the Residential status and tax accountability and all of the provisions that are associated included in Section (6) are described.

Residential status for all kinds of assessee can be calculated. These assesses can be:

a. Individual

b. HUF

c. AOP/BOI/FIRM

d. Company

2.2 UNDERSTANDING THE RESIDENTIAL STATUS OF AN ASSESSEE

In order to understand the residential status of an assessee its first step would be to calculate his taxable income, particularly of the previous year, that means, income earned by the assessee in the related previous year is taxable from the following evaluation year on the grounds of the residential status under his possession in that prior year. It means if to calculate the taxable income of an assessee, first of all, we have to determine his residential status since the taxable income is directly correlated with his residential status; unless we determine his residential status we can't compute his taxable income, and as long as residential status of an assessee is concerned it has no significance with citizenship, and both are entirely independent.

This means even a foreign national can be non-resident in the previous calendar year; he could be resident in the former calendar year, at exactly the same time, chances are there, Indian citizen could chance to be non-resident in India from the relevant past year. An assessee may assume distinct residential status in a variety of nations in the exact same previous calendar year, it means, it is not essential for an assessee **should** be presumed the same sort of residential standing in most of the states in precisely in the current calendar year. The assessee might have distinct residential status in various states in exactly same **period**, but whatever assessee supposes the residential status in India is considered for calculating the taxable income and tax liability.

During few preceding decades, one might be non-resident in the final year. However, he may become the normal resident at the relevant past year. It is therefore extremely vital to ascertain the residential status before we start to compute his taxable income. Today so far as decision of residential status is concerned, it is decided for a person or Hindu undivided family, or a partnership company, an association of different individuals, an organization and every other individual, it means we could ascertain the residential standing or just for people, it means there's not any other requirement to find out the residential status of local governments since it's always regarded as resident in India. Today we talk about the unique residential status of person HUF along with another assessee, as they are worried that they could be resident and non-resident, further they are sometimes resident and non-resident, they may be resident but not ordinary resident and they are sometimes non-resident but in the event of additional assessee means, besides person HUF could be either resident or non-resident in India

Let's understand the rules as included in section (6), for instance for residential status of a person, it's better that first we should go over the fundamental terms as laid down in part (6) (1), an individual is considered resident in the former year when he successfully meets any of those two standard requirements, firstly, is he Indian for a period of 182 days or more in the preceding calendar year. It means if a person needs to meet the first condition he is needed to be present in India for at least 182 days in the relevant past year; the day of departure and day of birth from India is taken into consideration. Next is he in India for a period of 60 days or longer, from the relevant previous year and 365 days or longer during 4 years preceding the past season, it means if an assessee is not in a position to satisfy the initial condition than he could meet the second condition because there's a selection between the 2 conditions, if He's competent to be in India for 60 days at the relevant past year at the same time and if He's in India for not less than 365 days in past 4 Decades.

An individual may be a regular visitor to India. In his case, the residential status will be determined on the basis of his presence in India for 365 days in four years immediately preceding the relevant Previous year. Along with this his presence for 60 days during the relevant previous year is another essential condition to be fulfilled. The purpose, object or reason of visit to and stay in India has nothing to do with the determination of residential status.

If an individual has to become Resend of India during any previous year, his/her personal stay in India during that year is a must although the number of days of stay differs in the two tests. It means that if an individual does not stay in India at all in any previous year, he cannot be Resident of India in that year. Stay in India means that the individual should have stayed in Indian territory and anywhere (cities, villages, hills, even Indian territory waters) for such number of days.

The onus to prove the number of days of stay in India lies on the assessee. It is for him to prove, if he desires to be taxed as non-resident or not ordinarily resident.

The person can stay in India for a few days he then returns, and then he comes to India, and again he stays for a few days in the prior calendar year, now while calculating a number of times we must find out, if his existence in India is 182 times or maybe not. Now in the same time his presence of 182 times at the same spot in India isn't essential, he might stay in India at various locations in 182 times.

2.3 EXCEPTIONS RELATED TO RESIDENTIAL STATUS

Currently, there are a number of exceptions available and these signify that the person who's an individual and that is an Indian citizen and comes to India for a job in the prior year or as the member of a team of the Indian boat leaves for overseas in the prior calendar year.

As per conditions [Section 6(1)] the Residential status requires that the individual is in India in the previous year for a period of 182 days or more; or he is in India for a period of 60 days or more during the previnus year and 365 days or more during 4 years immediately preceding the previous year. But the exception is meant for an Indian citizen who leaves India during the previous year, for the purpose of employment outside India or as a member of crew of an Indian ship.

Relative of an Indian origin is thought of Indian if his/her parents or his grandparents were born in undivided India, it means if someone who's born in India but he is currently settled outside India and he has obtained the citizenship of other states, at present he isn't Indian citizen but he is regarded as Indian origin.

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

However, in case of foreign bound ships where the destination of the voyage is outside India, there is uncertainty regarding the manner and the basis of determining the period of stay in India for an Indian citizen, being a crew member. To remove this uncertainty section 6(1) provides that in the case of an Individual, being a citizen of India and a member of the crew of a foreign bound ship leaving India, the period or periods of stay in India shall, in respect of such voyage, be determined in the prescribed manner and subject to the prescribed conditions. Accordingly, the CBDT has vide, Notification No.70/2015 dated 17.8 2015, inserted Rule 126 in the Income-tax Rules, 1962 to compute the period of stay in such cases. According to Rule 126,

for the purposes of section 6(1), in case of an individual, being a citizen of India and a member of the crew of a ship, the period or periods of stay in India shall, in respect of an eligible voyage.

2.4 RESIDENTIAL STATUS

How do we ascertain the residential status of a person? As long as someone is concerned he is regarded as resident and regular resident in India only when the individual is able to fulfil anyone of their fundamental conditions and exactly the same time he meets both of added conditions. However, he's considered as resident but not ordinary resident in India when he qualifies to meet just one fundamental condition. In case the individual is not able to meet both of added requirements he is seen as non-resident in the preceding season for calculating taxable income and its tax obligation. When the individual is not in a position to meet any of those two standard requirements, in that instance it's insignificant, it's irrelevant to confirm if a person can meet both of added conditions or maybe not.

After looking into residential area of somebody now we come to how do we ascertain that the residential area of Hindu Un-divided Household in India today?, so much as HUF in this regard remains a complex issue. It might be either resident or non-resident Indian or in precisely the same moment a resident; HUF is either normal resident in India or resident but not ordinary resident in India. HUF is thought to be resident in the former year whether its company efforts are entirely controlled and handled in India and when its efforts are wholly controlled outside India from the preceding calendar year, then that is considered non-resident in the preceding calendar year.

When HUF gets resident and average resident in India, in the event the occasions of HUF are either partly or completely controlled and handled in India and precisely the same period the Karta and also the director of HUF is able to meet both of further condition that is prescribed for a person in part (6) from the preceding calendar year, meaning people could state the HUF gets resident and average resident in the former year just when its attempts must be either partly and entirely controlled and handled in India however that isn't enough Then we must find out, if Karta of HUF is able to meet both of further conditions in the prior year or maybe not, today, so many HUFs are worried that they will become newcomers but not ordinary residents in the former year just when its events are either partly and entirely controlled and handled in India, however, Karta isn't in a position to fulfil both of added conditions that are prescribed for a person, currently HUFs become non-resident in the former calendar year.

If its attempts are wholly controlled and handle out in India, in this situation, we could say the function of HUF gets immaterial, if Karta can fulfil both of the further requirements, then it will not have any influence on the residential status of HUF in the former calendar year.

So, we can state that HUF is thought of as non-resident, its attempts are wholly controlled and handled out in India, in this case we aren't to confirm if a Karta can meet both of further circumstanee or not.

As we've noticed that it is important to have management and control of HUFs in the former calendar year, we ought to know what's the significance of administration and monitoring, control and direction is located at a location where the mind, chair, and directing forces are located.

As per law HUF, is said to be resident in every case except where during that year the control and management of its affairs is situated wholly outside India. It means that if a HUF is controlled from India even partially it will be resident assessee. It is only HUF besides individual, which can claim the advantageous status of Not Ordinarily

Resident A HUF will be 'Not Ordinarily Resident' if: its Karta has not been resident in India in nine out of ten previous years preceding the relevant accounting year; or the Karta had not, during the seven previous years preceding the relevant previous year been present in India for a period or periods amounting in all to 730 days. [Section 6(6)(b)j]

These two tests have to be applied in case of Karta of such HUF. In case the Karta has been succeeded by some other man, for computing the presence in India, the length of presence in India of each succeeding Karta will be added.

While determining the residential status of a HUF it should be noted that residential status of co-parceners of a HUF is of immaterial consideration. What is important to note is that from where the business of HUF is being controlled.

Not ordinarily resident status of HUF is linked with the status of its Karta. So if Karta taken as an individual is not ordinarily resident then the status of his HUF shall also be not ordinarily resident.

HUF, shall be non-resident in India if the control and management of affairs is situated wholly outside India.

The control and management of affairs refers to the controlling and directing power, the head and the brain. It means that decision making power for vital affairs is situated in India The control and management means de-facto control and management and not merely the right to control or manage.

It's quite important to notice whether policies have been formulated and quite significant from where the instructions are provided for the operation of actions from India, if each of the instructions is given from outside India for its operation of company activities in India it means the company is controlled and handled outside India. Sometimes what occurs some decision could be obtained in India only one choice was taken in India that represents partial direction in India, therefore we can state that we must observe the location where formulation of policies and instructions for the functioning of the company activities are granted or not, from outside India when instructions are given it signifies that the control is situated outside India, if instructions and policies are devised in India for its performance of company activities in India then we may say that company is entirely controlled and handled in India

2.4.1 Residential Status of Firm and Association of Person

How do we ascertain that the residential area of a company and partnership of individuals, a partnership company or AOP is either resident or non-resident in the prior year in India?

It means business and partner company both are distinct assessee, when we decide the residential status of a venture firm we never state whether spouse is resident or non-resident because so much as determination of status of partner is worried that's to get an individual however when we ascertain that the residential status of a venture company, this is another thing and both are employed separately for ascertaining taxable income and tax liability, so the standing of a spouse will have no effect on residential status of a company, assume a spouse gets ordinary resident. However, the partnership company is now non-resident so that can continue to become non-resident since it stays unaffected by the standing of a spouse.

After determining the residential status of a venture firm AOP and BOI today we must find the terms that are regarding the conclusion of residential status of an organization in India, today so much as Indian business is concerned it is constantly resident in India, what's Indian firm? Indian business means a company that is incorporated, organized, enrolled in India which is always resident, currently in this scenario there's

no requirement to confirm whether its attempts are regulated in India or attempts are regulated outside India after we come to understand that a particular company is an Indian company

In the event of a foreign firm it's either resident or non-resident in India, today a foreign firm becomes a resident just when it is entirely managed and regulated from India, it implies a foreign firm will get resident just when its company is totally controlled and handled in India but in case of partnership firm we've discovered that if attempts are partly controlled in India that's sufficient and venture gets resident but that's not in the event of a foreign firm, in the event of foreign firm it will become resident just when its attempts are totally controlled and handled in India but it will become non-resident if management and control of its affairs are either partly or entirely found outside India.

If the company of a foreign firm is either completely controlled from outside India and also it is partly controlled externally then it will become non-resident. Why there's some gap?: on one hand, we could say that venture becomes resident just when company is partly controlled in India, but that isn't so in the event of foreign business, this can be for the very simple reason that we would like to draw multinational foreign business to operate in India because following that we'll be talking about the extent and earnings, then we'll observe when a partner provider gets resident, it'll be inviting a great deal of tax obligation, lot of earnings will be taxable so each firm and every assessee will attempt to become non-resident in the preceding year in order to minimize his tax obligation and taxable income also.

As a matter of fact a business can never be regular resident or not average resident in India. It's only resident and non-resident in the past year. Today we discuss how to ascertain status of each other individual, each other individual means as we talk Person HUF partnership firm but moreover all these if we must find out the status of each kind of additional individual then these terms will be applicable, today every other individual is either resident or non-resident in the former calendar year, each other individual becomes resident just when its attempts are either, entirely or partly controlled and handled in India. However, it will become non-resident if management and control of its affairs are fully controlled and handled outside India.

2.4.2 Legal Proceedings of Residence and Tax Incidence

A Summary of Legal Provisions

The term "Incidence" isn't utilized in any part of Indian Income-tax Act. It's a term covering the consequences of many segments. We might have a wide look at the policy of the duration, and then we could consider individual segments.

Tax Incidence means that the tax needs to be borne by an individual. The quantity of tax that an individual will endure beneath Indian Income-tax Act is influenced by many legal provisions.

Section 1&2: This section provides that the reach of Indian Income-tax Act is within India. To put it differently, the authority for taxing authorities is inside India. The government does not have the power to tax beyond India. Despite apparent wordings of part 1 (2), empowerment remains a hugely contentious matter.

Section 3: Defines "Past Year" as the fiscal year. The tax incidence is determined individually for every year.

Section 4: Levies that the "Charge" of all income-tax. The rates of taxation are offered in the program 2 of the Finance Act.

Section 5: Explains the scope of total income.

Section 6: Explains the definition of Residence.

These provisions affect the taxation incidence—taxation burden on the assessee.

Tax prevalence from the perspective of the assessee is that the taxation price which he must bear. In the Government's point of view, it's the cost by Government on an individual's income.

Tax Base: When the whole income on which Government of India can inflict income-tax is to be considered it's as "Tax Base". Basically, as the very first step, India's tax base is India's GDP. Each of the incomes earned inside India is accountable to Indian Income-tax.

2.5 DOUBLE TAXATION

Under the classical method of taxation, a Government doesn't limit its rights to tax only on the income within its geographical borders. When many of the nations accept the classical method then double taxation takes place. When Indian GDP comprises of income earned by non-residents, the right to tax that part of the GDP is shared with India & several other nations. Same income is the taxation base for a couple of nations

Note: In the event of indirect taxation, one believes the best individual who conveys the tax—buyer/ dealer/ maker. Just how much tax each individual conveys is your tax incidence on such individual. It is dependent upon the elasticity of demand and supply.

2.5.1 Base Erosion and Base Protection

To prevent the Indian Income-tax, a Non-Resident assessee may attempt many games:

1. Attempt to demonstrate that the income was earned outside India and consequently India does not have any authority or
2. That he might attempt to maintain a categorisation of income that brings "NIL" or lesser taxation rate.

To capture such incomes escaping Indian taxation, you'll find deeming provisions. Earnings that under normal accounting procedures could be regarded as overseas income and is regarded as Indian Revenue, under part 9. Categorisation of revenue and several specific concepts are things of an enormous lawsuit.

2.5.2 Transfer Pricing

Provisions attempt to attract within Indian range incomes that the assessee has attempted to change to some other jurisdiction. Finance Act, 2013 will likewise provide for CFC & GAAR. An individual can understand that the term "Tax Incidence" is influenced by numerous legal provisions. The assessee attempts to lower his tax occurrence. Government attempts to expand its tax base and regain maximum taxation. Inside this Tug of War department 9, TP provisions, CFC, & GAAR and many provisions will continue coming to the statute books.

Check Your Progress

Fill in the blanks:

1. _____ is directly correlated to a person's residential status.
2. An assessee may assume distinct _____ in a variety of nations in the exact same past calendar year.

Contd . .

3. An individual is considered resident in the former year when he successfully meets any of those two standard requirements, first is he in India for a period of _____ in the preceding calendar year.
4. The partnership company is now non-resident so that can continue to become _____ since it stays unaffected by the standing of a spouse.
5. The term _____ isn't utilized in any part of this Indian Income-tax Act. It's a term covering the consequences of many segments.
6. The quantity of tax that an individual will endure beneath _____ is influenced by many legal provisions.
7. Tax prevalence from the perspective of the assessee is that the _____ which he must bear.
8. When the whole income on which Government of India can inflict income-tax is to be considered it is known as_____.
9. Earnings that under normal accounting procedures could be regarded as overseas income is regarded as _____ under part 9.
10. The assessee attempts to _____ his tax occurrence and Government attempts to _____ its tax base and regain maximum taxation.

2.6 LET US SUM UP

- In order to understand the residential status of an assessee its first step would be calculating the taxable income of the assessee for particular previous year, it means income earned by the assessee in the related previous year is taxable from the following evaluation year on the grounds of the residential status he supposes in that prior year.
- As per Section (6) (1), an individual is considered resident in the former year when he successfully meets any of those two standard requirements, first is he in India for a period of 182 days or more in the preceding calendar year.
- The person can stay in India for a few days he then returns, and then he comes to India, and again he stays for a few days in the prior calendar year, now while calculating a number of times we must find out if his existence in India is 182 times or maybe not.
- An individual is thought of Indian origin if his parents or his grandparents were born in undivided India, it means if someone who's born in India but he's currently settled outside India and he has obtained the citizenship of other states, at present he isn't an Indian citizen but he's regarded as man of Indian origin.
- An individual is seen as non-resident in the preceding season for calculating taxable income and its tax obligation as well if he's not in a position to meet any of those two standard requirements, in that instance it's insignificant, it's irrelevant to confirm if a person can meet both of added conditions or maybe not.
- After deciding the residential area of somebody today we come back to how do we ascertain that the residential area of Hindu un-divided household in India, today so much as HUF is worried it's either resident or non-resident Indian or in precisely the same moment a resident HUF is either normal resident in India or resident but not ordinary resident in India.

- We can state that HUF is thought of as non-resident, its attempts are wholly controlled and handle out in India in this case we aren't to confirm if a Karta can meet both of further circumstance or not.
- It's quite important to notice whether policies have been formulated that set is quite significant from where the instructions are provided for the operation of actions from India, if each of the instructions is given from outside India for its operation of company activities in India.
- It means business and partner company both are distinct assessee, when you decide the residential status of a venture firm we never state whether spouse is resident or non-resident
- Now so much as business is worried, a business can never be regular resident or not average resident in India, it's only resident and non-resident in the past year, today we discuss how to ascertain status of each other individual, each other individual means as we talk about Persons of HUF partnership firm.
- The term "Incidence" isn't utilized in any part of Indian Income-tax Act. It's a term covering the consequences of many segments. We might have a wide look at the policy of the duration, and then we could consider individual segments
- Tax prevalence from the perspective of the assessee is that the taxation price which he must bear. In the Government's point of view, it's the cost imposed by Government on an individual's income.

2.7 UNITEND ACTIVITY

Assume that a Chinese citizen has left India after staying for at least 10 years. He left on the date 1.12.2015 during the financial year of 2016-17 he came back after 50 days. He returns back to India in year 2017 for one year on 1.12.2017. How will you determine the residential status for the A.Y 2018-19?

Prepare an assignment for the above-mentioned question.

2.8 KEYWORDS

Residential Status: A term coined under Income Tax Act. It depends upon the territorial connections of the persons with their country which means the number of days the individual physically stays in India. In case of an assessee, the residential status is determined with reference to the previous year. In his case, residential status can change from year to year.

HUF: Hindu undivided family

AOP/BOI: Association of Person and Body of Individual

Tax Incidence: It means that the tax needs to be borne by an individual. The quantity of tax that an individual will endure beneath Indian Income-tax Act is influenced by many legal provisions.

Tax Base: When the whole income on which Government of India can inflict income tax is to be considered it's "Tax Base".

2.9 QUESTIONS FOR DISCUSSION

1. What do you mean by residential status?
2. Describe the residential status of an assessee.
3. Explain the exceptions related to residential status.

4. Discuss the residential status of firm and AOP.
5. What are the legal proceedings of residence and tax incidence?
6. Explain double taxation.

Check Your Progress: Model Answer

1. Taxable income
2. Residential status
3. 182 days or more
4. Non-resident
5. "Incidence"
6. Indian Income-tax Act
7. Taxation price
8. "Tax Base"
9. Indian Revenue
10. Lower; expand

2.10 REFERENCE

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BLOCK – II

UNIT - 3

INCOME FROM SALARY

CONTENTS

3.0 AIMS AND OBJECTIVES

After studying this lesson, you should be able to:

- Explain meaning of salary
- Describe gratuity, annuity and pension
- Explain provident fund and allowances
- Describe about leave salary and deductions from salary

3.1 INTRODUCTION

Under income tax law there are provisions for salary of an employee, pension after retirement and other facilities.

In the following lesson, we will discuss several aspects related to income from salary. You will study about the meaning and aspects of salary and the concept of allowances for various purposes. Moreover, the lesson mentions about annuity, gratuity and pension in detail

3.2 DEFINITION OF SALARY

Salary means:

Every payment made by employer to his employee for the service rendered by him would be chargeable to tax.

It includes both monetary payments (e.g., basic salary, bonus, commission, allowances etc.) as well as non-monetary facilities (e.g., housing accommodation, medical facility, interest free loan etc.)

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

(i) Wages,

(ii) Any annuity or pension,

(iii) Any gratuity,

(iv) Any fees, commission, perquisite or profit in lieu of or in addition to any salary or wages,

(v) Any advance of salary,

(vi) Leave salary or leave encashment,

(vii) Contribution to Recognized Provident Fund to the extend it is taxable,

(viii) Transfer balance in Recognized Provident Fund to the extent it is taxable,

(ix) Contribution made by the government or other employer under a pension scheme referred in section 80CCD.

3.3 RELATIONSHIP BETWEEN EMPLOYER AND EMPLOYEE

Relationship of employer and employee is treated as the payer and payee.

Full time or part-time employment: It does not matter whether the employee is full time employee or part-time employee.

Forgoing of Salary: Once salary accrues the subsequent waiver by the employee does not absolve him from liability of income-tax.

Surrender of Salary. If an employee surrenders his salary to the central government, the salary so surrendered would be exempted from tax.

Salary paid tax-free. It means employer bears the burden of tax on the salary of the employee and income from salary in the hand of employee will consist the salary income and also the tax paid by the employer on this salary.

3.4 BASIS OF CHARGE

Salary is chargeable to tax either on 'due' basis or 'receipt' basis whichever is earlier.

Salary, paid in advance, is assessed in the year of payment; it cannot be subsequently brought to tax in the year in which it becomes due.

In case the salary has been paid in arrears and got assessed already, then the same salary cannot be taxed again whenever it will be paid.

3.5 PLACE OF ACCRUAL SALARY

(i) ***Section 9(1)(ii):*** Salary earned in India is deemed to accrue or arise in India even if -

- It is paid outside India, or
- It is paid or payable after the contract of employment in India comes to an end.

Example: If an employee gets pension paid abroad in respect of the services rendered in India, the same will be accrue in India. Similarly, leave salary paid abroad in respect of the leave earned in India is deemed to be accrued or arise in India.

(ii) ***Section 9(1)(iii):*** Salary which must be paid by the government to a citizen of India for the purpose of services outside India will be deemed to be accrue or arise in India

(iii) ***Section 10(7):*** Any allowances or perquisite paid or allowed outside India by the government to citizen of India for rendering services outside India will be fully exempted.

3.6 PROFITS IN LIEU OF SALARY

It includes the following:

(i) Compensation due to or received by an employee from his employer or the previous employer when his employment is terminated.

(ii) Compensation due to or received by an employee from his employer or former employer at or in connection with the modification of the terms and condition of the employment

(iii) Any payment due to or received by an assessee from his employer or former employer from a provident or other fund, to the extant to which it does not consist of employee's contribution or interest on such contributions.

3.7 LOAN OR ADVANCE AGAINST SALARY

What is advance salary?

In case the advance salary is received by an employee regardless of the fact that it is due or not, then only it will be held taxable.

When an employee takes any loan from his employer, then such loan amount cannot be brought to tax as salary of the employee.

Advance against salary is different from advance salary. It is an advance taken by the employee from his employer. The advance taken by an employee gets adjusted in his salary for a certain period of time and this salary can't be taxed.

3.8 ANNUITY AND GRATUITY [SECTION 10 (10)]

- Annuity is a sum payable in respect of a particular year.
- As per the definition of salary, 'annuity' is treated as salary.
- Annuity received from present employer is to be taxed as salary.
- Annuity received from past employer is taxable as profit in lieu of salary.
- Annuity received from a person other than employer is taxable as 'Income from Other Sources'.

Gratuity: Gratuity is a payment made on behalf of the employee voluntarily for appreciating the service rendered by the employee.

Exemption:

1. Central/State Government Employees:
   - Any death cum retirement gratuity is fully exempted from tax.
2. Non-Government employees:
   a. For employees covered under the Payment of Gratuity Act, 1972, gratuity is exempt from tax to the extant of least of the following:
      i. ₹ 10,00,000
      ii. Gratuity actually received
      iii. 15 days' salary on the basis of salary which was withdrawn lastly for each completion of year of service or part thereof in excess of 6 months, i.e.,

      15 × Last drawn salary × No. of competed years of service or part in excess of 6 months

      Note: For this purpose salary means basic salary and dearness allowance (whether provided in terms of retiring benefit or not).

   b. For the employees not covered under the Payment of Gratuity Act, 1972-gratuity is exempted from tax to the extent of the following:
      i. ₹ 10,00,000
      ii. Gratuity actually received
      iii. Half month's salary (based on last 10 months' average salary) for each completed year of service. (Fraction is to be ignored)

      15 × Last drawn salary × No. of competed years of service

      Note: For this purpose salary means basic salary and dearness allowance (if provided in the terms of employment for retiring benefits) and commission which is expressed as a fixed percentage of turnover.

      Notes:

      Gratuity received during the period of service is fully taxable.

      If gratuity is received in any earlier year from former employer and again received from another employer in a later year, the limit of ₹ 10,00,000 will be reduced by the amount of gratuity exempt earlier.

      This exemption is available even if the gratuity is received by the widow, children or dependent of deceased employee.

3.9 PENSION [SECTION 10 (10A)]

Uncommuted Pension Fully taxable in the hands of both govt. and non-govt employees.

Commuted Pension. It means lump sum amount taken by commuting the whole or part of the pension. Commuted pension is that amount which is taken on commutation of whole or a portion of pension. The commuted amount is a lump sum amount given to the pensioner.

a. For Govt. employees: Fully exempt.

b. For Non-Govt. employees:

i. If employee is in receipt of gratuity –

Exemption = 1/3rd of whole amount of pension.

$$\left\{1/3 \times \frac{\text{commuted pension received}}{\text{Commutation \%}} \times 100\%\right\}$$

ii. If employees doesn't received any gratuity –

Exemption = 1/2 of the whole amount of pension.

$$\left\{1/2 \times \frac{\text{commuted pension received}}{\text{Commutation \%}} \times 100\%\right\}$$

3.10 LEAVE SALARY [SECTION 10 (10AA)]

1. For Govt. employees. Fully Exempt.

2. For Non-Govt. employees Leave salary is exempt from tax to the extent of least of the following:

   i. ₹ 3,00,000.

   ii. Leave salary actually received.

   iii. 10 month's salary (on the basis of average salary of last 10 months)

   iv. Cash equivalent of leave (based on average salary of last 10 months) to the credit of the employee Earned leave entitlement cannot exceed 30 days for every year.

   Notes:

   i. Salary received during the period of service is fully taxable.

   ii *Leave*: If leave salary received from two or more employers in the same year, then aggregate amount of leave salary exempt from tax cannot exceed ₹ 3,00,000.

   iii. In case leave salary is received from the previous employer in any earlier year and the employee receives the salary from another employer in the later year, the limit of ₹ 3,00,000 gets reduced from the amount of leave salary that was exempted earlier

   iv. Salary means basic salary and dearness allowance (if provided in the terms of retirement benefits) and commission which is expressed as fixed percentage of turnover.

3.11 COMPENSATION ON VOLUNTARY RETIREMENT [SECTION 10 (10C)]

Exemption:

- ₹ 5,00,000.
- Voluntary compensation actually received.
- Monthly salary × 3 Months × Numbers of completed years of service.
- Monthly salary (At the time of retirement) × balance months of service

This exemption will be available even if such compensations received in instalments.

Conditions:

i. Employee must have completed 10 years of service or completed 40 years of age. (This requirement is **not** applicable in case of an employee of a public-sector company under the scheme voluntary separation framed by the company).

ii. The employee who gets retired is not considered to be employed in some other company and to the same management to which he belonged.

3.12 PROVIDENT FUND

The tax treatment of provident fund is given below:

Particulars	Recognised PF	Unrecognised PF	Statutory PF	Public PF
Employers contribution	Amount in excess of 12% of salary is taxable.	Not taxable yearly	Fully exempt.	N.A. (as there is only assessee's own contribution)
Employee's Contribution	Eligible for deduction u/s 80C	Not eligible for deduction	Eligible for deduction u/s 80C	Eligible for deduction u/s 80C
Interest Credited	Amount in excess of 9.5% p.a. is taxable	Not taxable yearly	Fully exempt	Fully exempt
Amount received on retirement, etc.	See Note (i), (ii)	See Note (v), (vi)	Fully exempt u/s 10(11)	Fully exempt u/s 10(11)

Notes:

i. Amount which gets received when RPF matures, gets exempted fully if the employee had been in a continuous service of five years at least.

ii. If termination taken place within 5 years then amount received would be fully exempt only if the services had been terminated due to employee's health or discontinuance or contraction or employer's business or other reason beyond the control of employee.

iii. If an employee, after termination of his employment with one employer, obtains the employment under another employer, then so much of accumulated balance in his provident fund account will be exempt which is transferred to his individual account in a recognised provident fund maintained by the new employer.

iv. In such case, the period of service with the former employer shall also be taken into account for computing the period of five years' continuous service.

v. In case of 'Income from Other Sources' the interest of employee's contribution is taxable.

vi. Employer's contribution and interest thereon is taxable as salary.

vii. *Salary means*: Basic Salary + Dearness Allowances (If provided in the terms of employment) + commission (If provided as a percentage of turnover).

3.13 APPROVED SUPERANNUTAION FUND

The tax treatment of contribution and exemption of payment from tax are as follows:

i. Employers contribution is exempt from tax in the hands of employees **up to ₹ 1,00,000 per employee per annum**.

ii. Employees' contribution qualifies for deduction under section 80C.

iii. Interest on accumulated balance is exempt from tax.

Note: Salaries and emoluments, Pension received from UNO under United Nation Act. 1947 is **exempt** from tax.

3.14 ALLOWANCES

Allowances		
Fully Taxable	**Partly Taxable**	**Fully Exempt**
i. Entertainment Allowance ii Dearness Allowance iii Overtime Allowance iv. Fixed Medical Allowance v. Fixed Medical Allowance vi. City Compensatory Allowance vii. Interim Allowance (to meet increased cost of living in cities) viii Servant Allowance ix. Project Allowance x. Tiffin/lunch/dinner xi Any other cash allowance xii. Warden allowance xiii. Non-practicing allowance	i. House Rent Allowances [u/s 10(13A)] ii Special Allowances [u/s 10(14)]	i Allowances granted to Government employees outside India. ii Statutory Allowances granted to High Court or Supreme Court Judges. iii. Allowances paid by the United Nations Organisation iv. Compensatory Allowances received by a Judge.

Allowances which are Partially Taxable:

i. ***House rent allowances [Section 10(13A)]:*** HRA granted to an employee is exempt to the extent of least of the following:

Metro Cities (i.e. Delhi, Kolkata, Mumbai, Chennai)	Other Cities
1. HRA actually received.	1 HRA actually received.
2. Rent paid – 10% of salary for the relevant period	2 Rent paid – 10% of salary for the relevant period.
3. 50% of salary for the relevant period.	3 40% of salary for the relevant period.

Notes:

a. Exemption is not available to an assessee who lives in his own house, or in a house for which he has not paid any rent.

b. Salary means, Basic Salary + Dearness Allowances (If provided in the terms of employment) + commission (If provided as a percentage of turnover).

ii. ***Special Allowances [Section 10(14)(ii)]***

a. Special compensatory (*Tribal Areas/Schedule Areas/Agency Areas)* Allowance - ₹ 200 per month.

b. Children Education allowances - ₹ 100 per month per child up to two children.

c. Children Hostel Expenditure Allowance - ₹ 300 per month per child upto a maximum of two children.

d. Transport Allowance - For the purpose of communicating between the place of his residence and place of his duty - ₹ 1,600 per month.

e. An allowance of ₹ 3,200 per month is provided in case of employee who is having disabilities at the lower portion of body or is blind

3.15 PERQUISITES

i. ***Valuation of Rent-Free Concessional Accommodation–***

Sl. No.	Circumstances	Unfurnished Accommodation	Furnished Accommodation
(1)	(2)	(3)	(4)
1	Where accommodation provided by government	License fee determined by government as reduce by the rent actually paid by the employee.	Value of perquisite as determined under column (3) + 10% per annum of the cost of furniture. If such accommodation taken on hire, the actual hire charges payable reduce by any amount paid or payable
2	Where the accommodation is provided by any other employer–		
	i. Where accommodation is owned by the employer –		
	In cities having population up to 10 lakh	7.5 % of salary	Value of perquisite as determined under column (3) + 10% per annum of the cost of furniture. If such accommodation taken on hire, the actual hire charges payable reduce by any amount paid or payable
	a. In cities having population exceeding 10 lakh and up to 25 lakh	10 % of salary	
	c. In cities having population exceeding 25 lakh	15 % of salary	
	ii. Where accommoda-tion is taken on lease or rent by the employer	Actual lease rent paid payable Or 15 % of salary Whichever is	

Contd...

		lower as reduce by the amount actually paid by the employee	
3	Where accommodation provided by any employer in a Hotel.	Not Applicable	24 % of salary Or Actual Charges Whichever is Lower as reduce by the amount recovered from employee. However if such accommodation provided for a period not exceeding fifteen days on the account of transfer from one place to another, there would be no perquisite

Notes. "Salary" includes pay, allowances, bonus or commission payable monthly or otherwise but it does not include following:

a. Dearness allowances if not in terms of retiring benefits;

b. Employer's contribution to the provident fund of employee:

c. Allowances which are exempted from tax:

d. Perquisite value of Rent-Free Accommodation:

e. Any other expenses which are specifically excluded from payment of tax.

ii. ***Motor Car: Perquisite value of motor car will be determined as under:***

Sl No.	Circumstances	Engine Cubic Capacity	
		Up to 1.6 litres	Exceed 1.6 litres
1.	Used wholly or exclusively in the performance of his official duties	Not a perquisite	Not a perquisite
2.	Used exclusively for the private or personal purpose of employee	Expenditure incurred by the employer on running and maintenance + chauffeur	Expenditure incurred by the employer on running and maintenance + chauffeur
3.	Used partly in the performance of duties and partly for private or personal purpose		
	a. If running and maintenance are met or reimburse by employer	₹ 1,800 + ₹ 900 (if chauffeur is provided)	₹ 2,400 + ₹ 900 (if chauffeur is provided)
	b If running and maintenance are met or reimburse by assesse/ employee	₹ 600 + ₹ 900 (if chauffeur is provided)	₹ 900 + ₹ 900 (if chauffeur is provided)

a. Where the motor car is owned or hired by employer

b. Where Motor Car is owned by employee but running and maintenance charges are met by employer –

Sl No.	Circumstances	Engine Cubic Capacity	
		Up to 1.6 litres	Exceed 1.6 litres
1	Used wholly or exclusively in the performance of his official duties	Not a perquisite	Not a perquisite
2.	Used partly in the performance of duties and partly for private or personal purpose	Amount actually incurred – ₹ 1,800 + ₹ 900 (if chauffeur is provided)	Amount actually incurred – ₹ 2,400 + ₹ 900 (if chauffeur is provided)

Note: If more than one Motor Car is provided, then perquisite value shall be calculated only in respect of one car as per above rules and other cars are treated as used wholly for personal purpose.

iii. ***Valuation of benefit of provision of domestic servant:*** Perquisite value shall be actual cost to employer (Salary to servant) reduce by the amount recovered from employee

iv. ***Valuation of gas, electricity or water supplied by employer:***

a. Perquisite value shall be the sum equal the actual cost to employer.

b. In case of aforementioned resources whose owner is the employer, then the prerequisite value will be the manufacturing at the rate of cost per unit acquired by the employer.

c. Reduce by amount recovered from employer.

v. ***Valuation of free or concessional educational facilities:***

a. Value of such benefit shall be equal to the amount of expenditure incurred by employer on this behalf.

b. Where educational institution is maintained and owned by employer, the value of benefit shall be the cost of such education in a similar institution in or near locality

c. Such value shall be reduced by the amount recovered from employer

d. However, there would be **no perquisite** if cost of such educational facility per child is **not exceeding ₹ 1,000 per month.**

vi. ***Free or concessional tickets:*** In case of an employer's engagement in the business of carriage of passengers or goods, then the employee's or members of his household their personal or private journey free of cost or at concessional fare. In any conveyance owned or leased or any other arrangement, the value of perquisite shall be the value at which such benefits are offered by employer to public as reduce by amount recovered from employee.

vii. ***Interest-free or concessional loan:*** Value of such benefit shall be determined as sum equal to the interest computed at the rate charged per annum by the State Bank of India, as on the 1st day of the relevant previous year on the maximum outstanding balance reduce by the amount of interest received. However, there would be no perquisite if such loan is taken for the purpose of medical treatment

of prescribed diseases (like Cancer) or where amount of loan not exceeding ₹ 20,000 in aggregate.

viii. ***Travelling, touring and accommodation:***

a. The sum equal to the expenditure acquired by the employer will be considered as the total value for such facility.

b If such facility is maintained by the employer and not available uniformly to all employee, the value of benefit shall be taken to be the value at which such facilities are offered by other agencies to the public.

c In case the employee went on a tour for official purposes and the expenses taken place on his touring along with any other member who accompanied him, then the expenses will be treated as fringe benefit.

d. In case the official tour extends then the fringe benefit will get limited to only the extended period.

ix. ***Free or concessional food and non-alcoholic beverages:***

i. Value of benefit shall be amount of expenditure incurred by employer.

ii However, there would be no perquisite if –

a. Amount of such expenditure is not exceeding ₹ 50 per meal or

b. Tea or snacks provided during working hour or

c. Provided in a remote area or off-shore area.

x ***Value of gift, voucher or token:*** No perquisite up to ₹ 5,000 aggregate during the previous year. If exceeding ₹ 5,000 amount actually incurred.

xi. ***Credit card expenses:*** Amount of expenditure incurred by employee as reduce by the amount received from employee.

xii. ***Club expenditure:*** Amount of expenditure incurred by employee as reduce by the amount received from employee.

xiii. ***Use of movable assets:***

Asset given	Value of benefit
1. Use of laptop and computer	Nil
2 Movable asset other then – Laptop and computers; and Assets already specified	10% p.a. of actual cost of such asset Or The amount of rent or charges paid or payable by the employer, As the case may be

xiv. ***Transfer of movable assets:***

Assets transferred	Value of perquisite
Computers and electronic items	Depreciated value of asset [Depreciation is computed @ 50% on WDV for each completed year of usage]
Motor-Cars	Depreciated value of asset [Depreciation is computed @ 20% on WDV for each completed year of usage]
Any other Asset	Depreciated value of asset [Depreciation is computed @ 10% on SLM for each completed year of usage]

xv. ***Value of sweat equity shares:***

a. In case of listed shares:

i. In a case where, on the date of exercising the option, the share of the company is listed on a recognised stock exchange, the fair market value shall be the average opening and closing price of the share on that date on the said stock exchange.

ii. If shares are listed more than one recognized exchange, the fair value shall be the average of opening and closing price of that recognized exchange which records highest volume of trading in shares.

iii. If on the date of exercising, there is no trading-

- Fair market value shall be closing price of any recognized stock exchange.
- If listed in more than one recognized stock exchange, closing price of that stock exchange which records highest volume of trading.

b. If shares are not listed: Value shall be determined by merchant banker.

xvi. ***Value of securities other than shares:*** As determined by Merchant Banker.

xvii. ***Medical facilities:***

a. *Fully exempt.*

i. In a hospital maintained by employer.

ii. In government hospital.

iii. Treatment of prescribed disease in a hospital approved by chief commissioner.

iv. Insurance premium paid by employer on health of employee (Approved by IRDA)

b. There would be no perquisite up to expenditure ₹ 15,000.

c. *If medical treatment is outside India.*

i. Medical treatment + Travel and Stay abroad of employee or any member of his household + Travel and Stay abroad of one attendant.

ii. It will be exempt only to extant permitted by the RBI.

iii. Travelling of patient and attendant is exempt if employee's gross total income as computed before including the said expenditure is not exceeding ₹ 2 lakh.

iv. Family means spouse and children + parents (Wholly or mainly dependent).

3.16 DEDUCTIONS FROM SALARY

i. ***Entertainment Allowance [Section 16(ii)]:***

- Non-govt. employees: Fully taxable
- Government employees: Deduction will be lower as the following -

a. 20 % of salary (one fifth) or

b. ₹ 5,000 or

c. Entertainment allowance received.

- ❖ Entertainment allowances first to be included in salary and then allowed as deduction.

ii. ***Professional Tax:***

- ❖ Deduction is allowed only when actually paid.
- ❖ Paid by employer is first to be included in salary and then allowed as deduction.

Check Your Progress

Fill in the blanks:

1. Contribution made by the government or other employer under a pension scheme referred in _____
2. If an employee surrenders his salary to the central government, the salary so surrender would be _____.
3. In case the salary has been _____and got assessed already then, the same salary cannot be taxed again whenever it will be paid.
4. As per section 10(7) any allowances or perquisite paid or allowed _____by the government to citizen of India for rendering services outside India will be fully exempt.
5. When an employee taken any loan from his employer, then such loan amount cannot be brought to tax as _____.
6. Gratuity received during the period of service is _____.
7. _____is fully taxable in the hands of both govt. and non-govt. employees.
8. _____paid by employer is first to be included in salary and then allowed as deduction.

3.17 LET US SUM UP

- Salary means every payment, made by employer to his employee, for the service rendered by him would be chargeable to tax. It includes both monetary payments (e.g., basic salary, bonus, commission, allowances etc.) as well as non-monetary facilities (e.g., housing accommodation, medical facility, interest free loan etc.)
- Relationship of employer and employee should be existing between payer and payee.
- Salary, paid in advance, is assessed in the year of payment, it cannot be subsequently brought to tax in the year in which it becomes due.
- Salary which must be paid by the government to a citizen of India for the purpose of services outside India will be deemed to be accrued or arise in India.
- Compensation due to or received by an employee from his employer or the previous employer when his employment is terminated.
- In case the advance salary is received by an employee regardless of the fact that it is due or not, then only it will be held taxable.

- Annuity is a sum payable in respect of a particular year. As per the definition of salary, 'annuity' is treated as salary.
- If leave salary received from two or more employers in the same year, then aggregate amount of leave salary exempt from tax cannot exceed ₹ 3,00,000.
- The employee who gets retired is not considered to be employed in some other company and to the same management to which he belonged.
- If termination of an employee has taken place within 5 years then amount received would be fully exempt only if the services had been terminated due to employees' health or discontinuance or contraction or employer's business or other reason beyond the control of employee.
- Employers contribution is exempt from tax in the hands of employees up to ₹ 1,00,000 per employee per annum.
- Deduction is allowed only when actually paid in case of professional tax.

3.18 UNIT END ACTIVITY

Prepare a presentation covering important aspects on the topic *income from salary* Include some examples and case studies.

3.19 KEYWORDS

Salary paid tax-free: It means employer bears the burden of tax on the salary of the employee and income from salary in the hand of employee will consist the salary income and also the tax paid by the employer on this salary.

Gratuity: Gratuity is a payment made on behalf of the employee voluntarily for **appreciating the service rendered by the employee.**

Pension: **It is a payment made by the state to people above the age of retirement or those who have retired.**

***Provident Fund*: Provident Fund for employees if commonly known as PF, it is a saving scheme** that the employee gets after his retirement.

3.20 QUESTIONS FOR DISCUSSION

1. What do you mean by salary?
2. What is the basis of charge?
3. Describe annuity, gratuity and pension.
4. What is leave salary? Explain.
5. Describe all the aspects of provident fund.
6. Explain the concept of allowances.
7. What do you mean by deduction in salary? Explain.

Check Your Progress: Model Answer

1. Section 80CCD
2. Exempt from tax
3. Paid in arrears
4. Outside India
5. Salary of the employee
6. Fully taxable
7. Uncommuted Pension
8. Professional tax

3.21 REFERENCE

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3.22 SUGGESTED READINGS

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UNIT - 4

INCOME FROM HOUSE PROPERTY

CONTENTS

4.0 AIMS AND OBJECTIVES

After studying this lesson, you should be able to:

- Explain Income Tax Act, 1961
- Discuss the basic concepts of Income Tax Act, 1961
- Explain the meaning of Agricultural Income
- Describe the concept of gross income and total income
- List the exemptions under section 10 of Income Tax Act

4.1 INTRODUCTION

A house property could be your home, an office, a shop, a building or some land attached to the building like a parking lot. The Income Tax Act does not differentiate between a commercial and a residential property. All types of properties are taxed under the head 'income from house property' in the income tax return. An owner for the purpose of income tax is its legal owner, someone who can exercise the rights of the owner in his own right and not on someone else's behalf. When a property is used for the purpose of business or profession or for carrying out freelancing work – it is taxed under the 'income from business and profession' head. Expenses on its repair and maintenance are allowed as business expenditure. Income from house property shall be taxable under this head if following conditions are satisfied: The house property should consist of any building or land appurtenant thereto; The taxpayer should be the owner of the property; and The house property should not be used for the purpose of business or profession carried on by the taxpayer.

4.2 INCOME FROM HOUSE PROPERTY (SECTION 22-27)

Income from house property is just one of the taxable kinds of earnings according to the Income Tax Act. It represents the income earned by a property by their owner. Property identifies some building (home, office building, godown, mill, hallway, store, auditorium, etc.) or any property attached to the construction (e.g., compound, garage, garden, car parking area, park, gymkhana, etc.). This is the sole head of earnings, which taxes notional earnings (except under certain conditions under capital profits, income from different sources). The taxability might not necessarily be true rent or income obtained but the possible earnings, which the land is effective at yielding. While self-occupied and leasing property is within the purview of this kind, income from empty home is dealt with under the kind 'earnings from different resources'.

4.3 CONDITIONS APPLICABLE FOR TAXING THE INCOME UNDER THIS HEAD (SECTION 22)

The cornerstone of changeability under the head income from house property is Annual income.

The land should consist of Building or Property Appurtenant to it.

Construction includes not just residential construction, but also factory construction, offices, stores, godowns and other premises.

Property appurtenant means property connected to building, such as backyard, garage, etc.

The assessee has to be the owner of the land.

The land might be used for any purpose aside from the assessee's business or livelihood.

4.4 UNDERSTANDING OF COMPOSITE RENT

Meaning of composite rent: Composite rent is the rent charged in circumstances where the assessee doesn't only let-out a home, but also provides additional amenities.

(i) ***Tax treatment:*** Individually identifiable where construction is let-out together with plant and machinery and amenities and the earnings towards construction and other resources are individually identifiable, then the earnings from construction will likely be taxed under the head income from house property along with another income which will be taxed under the head company or profession.

(ii) ***Not separately identifiable:*** It is inseparable and will be liable to taxation under the head income from different sources.

(iii) ***The object of letting out:*** If from arrangement between two parties, it had been obvious that the primary thing was to let-out a portion of said land with added right of utilizing furniture and fittings and other common amenities, then rent billed from month to month's revenue derived from the said property can be assessable as income from Home.

(iv) ***Deemed owner:*** A person shall be deemed as the owner of a house once the record of title to the house is in his title. Under these conditions, "Income from House Property" is taxable at the hands of the person, even if the property isn't registered in his title:

(a) Where the land was transferred to partner for insufficient consideration aside from in pursuance of an agreement to live apart.

(b) Where the home is moved to a minor child for insufficient consideration (except a move to a minor married daughter)

(c) Where the person retains an impartible estate

(d) As per Section 27(iii) a member of a co-operative society, company or other association of person to whom a building or part thereof is allotted or leased under a House Building Scheme of a society/company/association, shall be deemed to be owner of that building or part thereof allotted to him, although the co-operative society/company association is the legal owner of that building.

(e) Where the property was moved to person's title as part-performance of a contract.

(f) Where the Person is a holder of a Power of Attorney allowing the right of ownership or enjoyment of their house.

(g) Where the land was assembled on a leasehold property.

(h) Where the possession of this house is under dispute.

(i) Where the land is chosen on a rental basis for not less than 12 decades, then the lessee will be deemed as the owner of your property.

4.5 TAXABLE VALUE

The yearly value of land comprising any construction or property appurtenant (belonging) to it, except such land that's used by the assessee for both business and profession will be taxable.

(i) ***How to Determine Annual Value?*** Gross Annual Value (GAV) of land will likely be required to ascertain the yearly value, which can be greater of the amount for which the land may reasonably be expected to let from year to year. In circumstances of possessions in which conventional rent has been mended, such amount cannot exceed this value. But where land was empty during the entire or portion of the former year and lease received or receivable is significantly less than anticipated lease, then rent received or receivable is accepted as GAV.

(ii) ***Exclusions:*** After amounts, will likely be deducted while ascertaining GAV: The quantity of Municipal tax accomplished from a renter. Notional interest on the sum received towards 'rent/security deposit' in the center repairs completed by the renter.

(iii) ***When Annual Value is 'NIL'?:*** The yearly value of a house will be considered 'nil' in the following cases:

a. Self-occupied property, i.e., property that's in the occupation of the proprietor with the goal of his residence and he doesn't derive any other advantage from it.

b. Likewise, if the owner of just one residential home is not able to occupy it due to his occupation, business or profession carried on in almost any other place, and he's residing in a house not possessed by him.

4.6 WHERE THE PROPERTY IS LET OUT THROUGHOUT THE PREVIOUS YEAR

Where the property is let out for the whole year, and the GAV are the higher:

a. Annual Allowing Value (AAV) or Expected Rent and

b. Actual rent received or receivable during the year

Gross yearly worth usually means the fair rental value of a home. It is computed with the support of 4 spares.

1. Fair lease, i.e., the rent of similar kinds of buildings in the same locality
2. Municipal valuation, i.e., rental value determined by the municipality for the purpose of charging civil taxation.
3. Standard rent, i.e , the highest possible rent as per Rent Control Act.
4. Rent received or receivable

The gross yearly value shall be calculated in the manner given below.

1. Compare Fair Rent and Municipal Valuation and select the bigger
2. Compare the lease so chosen with conventional rent, and also the lower of these two will likely be regarded as expected rent. (It's also known as Annual Letting Worth).
3. Compare Expected Rent together with Rent Received or even receivable along with the higher, shall be regarded as Gross Annual Worth.

4.7 PROPERTY TAXES (MUNICIPAL TAXES)

1. Property taxes are allowable as the deduction in the GAV subject to the following two conditions:

   (a) This should be carried by the assessee (owner), and

   (b) This ought to be paid during the past calendar year.

2. When property taxes levied by a local authority for a particular preceding year is not paid during this season, no deduction shall be allowed in the computation of income from house property for this year.

3. However, if in any subsequent year the arrears have been paid, then the amount so paid is allowed as deduction in the computation of income from house property for this year.

4. Thus, no matter the preceding year in which the liability to pay these taxes arise according to this process of accounting regularly employed by the proprietor, the deduction in respect of such taxation will be allowed only in the year of actual payment.

5. In the event of land situated outside India, taxes imposed by local jurisdiction of the country where the house is located, allowable.

Category II house lying vacant for some period/vacant throughout the year, Section 23(1)(c): If the house is partially let outside and partially vacant, in these instances expected lease should be calculated for 12 weeks. Although calculating rent received /receivable, leasing for the time where the home has been vacant will be excluded and GAV will likely be high in anticipated rent and lease received/receivable but when the lease received/receivable is significantly less than the anticipated rent because of vacancy, situation rent received/receivable shall be gross yearly value.

Set off and carry forward of losses under the head house property section 70/71/71b:

Inter Source Adjustment Section 70: As per section 70, if any individual has loss from any home property, such reduction can be put away from earnings of another home property and it's known as inter-source modification or intra-head modification. e.g., Mr. X has two homes: there's reduction of ₹ 14,000 out of one home and earnings from ₹ 80,579 in another home, in this case, reduction of a single source (home) could be put away from earnings of another source (home).

Treatment of unrealised rent explanation to section 23(1)/rule 4: Unrealised Rent means such lease that is irrecoverable and is regarded as reduction, i.e., poor debt and while computing rent received or receivable, for example, unrealised lease will probably be excluded, and GAV will be greater of anticipated rent and lease received/receivable (no particular treatment for example vacancy).

Rent will be thought of as unrealized lease only if all of the States of Rule 4 are complied with and that the assessee has taken all practical actions to institute a legal proceeding for its recovery.

4.8 SET OFF AND CARRY FORWARD LOSSES

According to Income Tax Act 1961, an individual as defined in Section 2(31) could set off and take out forward the losses occurred. This is a good aspect to an individual, as it does a vital part on the financial position of a person where losses have been incurred. So one could get soften to a certain. Loss from absolved source of Income may not be set off in favour of profit from any taxable source of Income, and no losses may be set off in favour of casual income e. g., lotteries winning, crossword puzzles, card games, races, betting etc.

What is the Meaning of Set off and Carry forward

Set off literally means keeping the losses not in favour of the profit of that financial year. In a case, with no adequate profits to set off the complete loss which can be carried forward to the next Assessment Years which is subjected to the conditions stated in the Act.

1. ***Inter Source Adjustments:*** According to Section 7, an Assesse may set off the losses which incurred in one source not in favour of the gain from any other source in the same head. This is not possible for an Assesse to do intercourse adjustment in the following cases.

a. *Speculative Business Losses*: When an Assesse could set off the losses incurred in speculation business only not in favour of the profits of only other speculation enterprise. This is not permissible to set off speculative loss not in favour of any other firm or Professional Income. The opportunity is given to assess to set off any other enterprise loss by the gains of speculation business.

As per Section 23 of the Act, a farmer in respect of supply of his farmland production as individual specially doing delivery of non-taxable will not be feasible for GST registration. Including, the CBEC issued the draft credit transfer document to access further on full credit of excise duty to a trader for not sold stocks earlier the last of the month. But, this facility would be accessible only for high-end goods cost over ₹ 25,000 that, "are examinable as a different number, like engine number of a car".

The document has to be released in thirty days of 1st July the planned GST pulling date. The proficiency would, although be segregated of the transformation plan, means, who is utilising it would not be required to allegate input tax credit on not sold goods. The CBEC has even notified various fines and utilising "provisions for recovery of credit, interest and fine in the CENVAT Credit Rules, 2004" not in favour of producers who collect tax credit two times on the similar goods. Traders and producers would be assumed to submit an online disclosure in sixty days on the GSTN

Imported goods if not requisite instantly, importers would store the goods in a warehouse without paying duty over a bond and after that it is clarified to them by the warehouse when payment of duty is required. Entry Bill is printed on yellow paper hence known as 'yellow bill of entry'. It is also known as 'into bond bill of entry' as the bond is shown for the transfer of goods in a warehouse by not paying duty.

GST is a vital process for fair governance and one should not to worry about taxes at many times, at many points. Bringing ITC Rules for Common Credit in GST i.e., Taxable delivery, organization and activity of a non-firm, it is proved that new policies are attached to vast extent with the present policies for claiming input tax credit in CENVAT Rules 2004, considered to input services and inputs utilized for firm and non-organization activity i.e., for personal affairs giving taxable delivery.

Providers who supply goods and/or services are imposed with tax under GST law when total turnover in a year succeeds the threshold beyond twenty lakh rupees it would be eligible to register himself in the State or the Union territory of Delhi or Puducherry, from the place he makes the taxable supply. Eleven special divisions are there under this threshold limit and registration eligibility is about ten lakh rupees. Apart from this, Section 24 of the Act implies classification of providers those would be feasible to register even if aggregate turnover is lower the threshold limit of 20 lakh rupees. As per Section 23 of the Act, a farmer in respect of supply of his farmland production as individual specially doing delivery of non-taxable will not be feasible for GST registration

CBEC (Central Board of Excise and Custom) issued the draft credit transfer document to access further on full credit of excise duty to a trader for unsold stocks before the end of the month. But, this facility would be available only for high-end goods priced over ₹ 25,000. The document has to be released in thirty days of 1st July, the planned GST pulling date. The proficiency would, although be segregated of the transformation plan, means, who is utilising it would not be required to allegate input tax credit on unsold goods. Traders

and producers would be assumed to submit an online disclosure in sixty days on the GSTN it is applied for.

Rate of duty applied on existence is the date a good is eliminated from a warehouse. Therefore, if the rate varies on goods have been clarified from a customs port, customs duty applied on a yellow bill of entry is a Bill of Entry for Housing paid on the value mentioned on the green bill of entry would not be similar.

Brought forward income losses occurs when the firm suffers a loss before going for depreciation, then all the amount of depreciation is unabsorbed depreciation. If the enterprise suffers a loss as a result of depreciation amount than the business loss will be negligible and balance of depreciation amount would be unabsorbed depreciation.

b. *Long Term Capital Losses:* A long term Capital Loss could be set off not in favour of the profits of any other long term capital profit, although short term capital loss could be set off not in favour of both, short term and long term capital profit. Brought forward income losses or Unabsorbed depreciation is like if the company suffer a loss before claiming depreciation, then the entire amount of depreciation is unabsorbed depreciation. However, if the company suffers a loss as a result of depreciation amount than the business loss will be nil and balance of depreciation amount will unabsorbed depreciation.

c. *Loss from owning and maintaining race horses:* This loss could be set off only not in favour of the income from owning and maintaining race horses. This maintains a fundamental step of financial controls of one's enterprise. The task needs that one should have sufficient information and better knowledge of principles of financial accounting and agreement which can authorise, maintain financial data and distribute task among employees. Hence one can figure out to review and invigilate such tasks to get result nearly. Stable financial records enable financial controls and ideas which minimise the hazard of scam and vandalism, which investors have to monitor.

A process well-known as double entry bookkeeping is also noted as "double entry accounting". Every financial transaction made by a firm or company is being recorded in this entry. Financial accounting is known as double entry bookkeeping. The terminology "double entry" implies that each transaction made, influences two accounts. Benefits of double entry bookkeeping are at any point of time it ensures firm's asset accounts balance would be equal to the liability and stockholders' equity accounts balance

d. *Loss of specified Business under section* Specified Business loss could be set off only against profit from such specified business, but loss from other business could be set off against the profit of the specified business.

2. ***Inter-head Adjustments:*** The second step is set off of losses. If it is not according for an Assesse to set off of losses in inter source adjustment they could set off the losses under inter head adjustments. In such condition an Assesse can set off the losses incurred in one head against the profits earned in other heads of Income in that financial year.

a. *House Property Losses:* House Property Losses could be set off against profits from other heads. It could be set off not in favour of firm's income, salary income, income from capital gain, and income from other sources by not including casual income.

b. *Non Speculative Business Losses:* Non speculative Business Losses can be set off under any other head except income from salary. This could be set off

from income from house property, income from capital gain and income from other sources not including casual income. In the following cases losses couldn't be set off under inter-head adjustments.

But, this facility would be accessible only for high-end goods that priced over ₹ 25,000, "are examinable as a different number". The document has to be released in thirty days of 1st July the planned GST pulling date. The proficiency would, although be segregated of the transformation plan, means, who is utilising it would not be required to allegate input tax credit on unsold goods. The CBEC has even notified various fines and utilising "provisions for recovery of credit, interest and fine in the CENVAT Credit Rules, 2004" not in favour of producers who collect tax credit two times on the similar goods. Traders and producers would be assumed to submit an online disclosure in sixty days on the GSTN.

c. *Speculative Business Losses:* Capital Gain Losses are both short term capital loss and long term capital loss. These are the losses from owning and maintaining race horses. To be utilised especially for non-firm intentions or utilised specially for influencing excluding delivery would be represented in FORM GSTR-2 would not be credited to electronic credit ledger; the value of input tax in order of capital goods utilised or purposed to be utilised excluding for influencing delivery other than excluding delivery however added zero-rated delivery would be represented in FORM GSTR-2 and would be credited to the electronic credit ledger.

Value of input tax in order of capital goods not given in clauses (a) and (b), represented as 'A', would be credited to the electronic credit ledger and the utilised life span of goods would be considered as five years from the date of the invoice for these goods. Given that where any capital goods previously mentioned in clause after given in this clause, the amount of 'A' would be given minimising the input tax in rate of 5% for each quarter, hence the value 'A' would be credited to the electronic credit ledger.

3. ***Carry forward of Losses:*** This is the third step in Set off and Carry forward of losses. This is not possible for an Assesse to set off the losses under intercourse adjustments and inter-head adjustments. He can carry forward the same to the next Assessment Years. Providers who supply goods and/or services are imposed with tax under GST law, and total turnover in a year succeeds the threshold beyond of twenty lakh rupees would be eligible to register himself in the State or the Union territory of Delhi or Puducherry from the place he makes taxable supply. In case of eleven special category states (as mentioned in Art.279A(4)(g) of the Constitution of India), this threshold limit for registration liability is ten lakh rupees. Apart from it, Section 24 of the Act implies classification of providers would be feasible to register even if aggregate turnover is lower the threshold limit of 20 lakh rupees. As per Section 23 of the Act a farmer in respect of supply of his farmland production as individual specially doing delivery of non-taxable will not be feasible for GST registration. Including, the CBEC issued the draft credit transfer document to access further on full credit of excise duty to a trader for not sold stocks previous the last of the month.

But, this facility would be accessible only for high-end goods priced over ₹ 25,000 that are examinable as a different number. The document has to be released in thirty days of 1st July the planned GST pulling date. The proficiency would, although be segregated of the transformation plan, means, who is utilising it would not be required to allegate input tax credit on unsold goods. The CBEC has even notified of a various fine and utilising "provisions for recovery of credit, interest and fine in the CENVAT Credit Rules, 2004" not in favour of producers

who collect tax credit two times on the similar goods. Traders and producers would be assumed to submit an online disclosure in sixty days on the GSTN.

This maintains a fundamental step of financial controls of one's enterprise. The tasks need one should have sufficient information and better knowledge of principles of financial accounting and agreement which can authorise, maintain financial data and distribute task among employees. Hence one can figure out, Financial accounting permit us to review and invigilate such tasks to get result nearly. Stable financial records enable financial controls and idea which minimise the hazard of scam and vandalism, which investors have to monitor.

A process well-known as double entry bookkeeping also noted by double entry accounting records every financial transaction made by a firm. It is important to know that Carry forward Losses can be set off only against that head of income. It must be noted that an Assesse must file the Income Tax Return within the due date prescribed (under section 139(1)) to carry forward the losses except in the cases loss arising under the head house property (under section 71B) and carry forward of unabsorbed depreciation (under Section 32(2)).

a *House Property Income Losses:* According to (Section 71B) of Income Tax Act, 1961 an Assesse could carry forward the income losses incurred in the head house property up to 8 years immediately succeeding the Assessment year in which the loss has incurred. This could be adjusted only against House property Income loss. In this case, an Assesse could file the belated return.

b. *Non-Speculative Business Losses:* According to section 72 of Income Tax Act, 1961 an Assesse could carry forward non-speculative business loss up to 8 years instantly succeeding the Assessment Year in which the loss has incurred then he should file ITR within due date prescribed under section 139 (1) of Income Tax Act 1961, then he would not be able to carry forward the losses. This could be set off only not in favour of business income.

c *Speculative Business Losses:* According to section 73, Income Losses in speculative businesses could be carried forward up to 4 years instantly forwarding the Assessment year in which it is incurred.

An Assesse should file the Income Tax Return within due date prescribed to carry forward the losses from speculative Business and can be adjusted only against income from speculation Business.

If goods where Integrated GST (IGST) is paid, a credit of thirty per cent would be provided for those taxation at eighteen per cent or above and twenty per cent for products which is taxed at lesser rates. The rules were ultimate by the GST Council in its meeting on third June and are supposed to provide some comfort to traders and establishment attained on the status of list at the period of GST pulled.

Individuals with a taxable aggregate turnover over ₹ 25 lakhs are required for GST registration. The word "person" under GST law, is liable to pay it. additionally proprietorship, LLP, partnership firms, Hindu Undivided Family, Company, Society and any other legal business are also liable. GST registration should be received from 30 days if turnover increases ₹ 25 lakh.

Goods and Services Tax which would be levied by the state and central governments encompasses VAT, Service Tax, etc., as indirect tax. Individual with PAN no and person with threshold GST 10 lakh/20 lakh or GST limit are liable to make registration for GST. TDS payer, casual traders, etc., will be liable to register for GST. GST will be applied on supply of goods & services in India. GST will be imposed on VAT, sales tax, excise duty, customs, service tax, luxury

tax etc GST registration is compulsory when supply of goods and services in India takes place.

Registration for GST can be preceded online through Central Government or State Government The individual has to provide an online application for GST registration by utilizing Form GST-I including information of the goods and services. Online payment required for the registration fee will be made under GST registration. Number will be given on submission of application. After submission of the application, the applicant required to print a copy of the form, include the documents listed and send to the GST department. On inspection of the form final GST slip would be released by the authorized officer GST registration process is surmised to be an entire online procedure like the service tax registration process.

According to (Section 71B) of Income Tax Act,1961 An Assesse could carry forward the income losses incurred in the head house property up to 8 years immediately succeeding the Assessment year in which the loss has incurred. This could be adjusted only against House property Income loss. In this case, an Assesse could file the belated return.

According to section 72 of Income Tax Act, 1961 an Assesse could carry forward non-speculative business loss up to 8 years instantly succeeding the Assessment Year in which the loss has incurred then he should file ITR within due date prescribed under section 139 (1) of Income Tax Act 1961, then he would not be able to carry forward the losses This could be set off only not in favour of business income.

According to section 73, Income Losses in speculative businesses could be carried forward up to 4 years instantly forwarding the Assessment year in which it is incurred

An Assesse should file the Income Tax Return within due date prescribed to carry forward the losses from speculative Business and can be adjusted only against income from speculation Business.

According to section 73A, Income Losses in Specified business loss could be carry forward subject to the following conditions:

- *Specified Business Loss.* According to section 73A, Income Losses in Specified business loss could be carried forward, subject to the following conditions:

  1 Any loss, computed in respect of any specified business referred to in section 35AD shall not be set off except against profits and gains, if any, of any other specified business.

  2 Income loss in specified business has not been wholly set off, so much of the loss as is not so set off or the whole loss where the assesse has no income from any other specified business shall be carried forward to the following assessment year.

    i. This would be set off against the profits and gains, if any, of any specified business, carried on by him assessable for that assessment year; and

    ii. If the loss not be completely so set off, the amount of loss not so set off would be carried forward to the following assessment year and so on.

In case a person is unable to set off the capital loss in the existing year, both Long Term loss and Short Term loss would be taken forward immediately for

8 Assessment Years. Capital Losses from a business are allowed to be carried forward and carrying on of this business is not mandatory. The inputs, partially furnished goods would be sent to the job professional in challan released and such goods are sent straight to a job professional.

The challan released and sent to the job professional would constitute the regulations categorised in Rule 55. Information of challans in order of goods sent to a job professional or obtained from a job professional or sent from one job professional to in quarter would be added in FORM GST ITC-04 completed for particular time or previously the twenty-fifth day of the month proceeding the mentioned quarter capital goods or inputs are not returned in particular time mentioned in section 143, would be considered like capital goods and inputs supplied by the job professional on particular day when mentioned inputs or capital goods are sent and mentioned supply would be disclosed in FORM GSTR-1 and would be permitted to pay the tax including applicable interest.

As an importer or exporter should be registered, Terms of Sale is negotiated. Export formalities and responsibilities towards sale proceed should be understood. Understanding of documentation on Custom duty Custom formalities to be completed and documents are obtained for exports. Submitted to the Bank for onward transmission to purchaser Sale Proceeds is received. Accounting is an integral part of accountability commonly known as recording the transaction, summarising, reporting and analysing the numerical figures to understand the financial position of a company/firm to monitor the progressive success or bankruptcy of a business in terms of monetary measure. Certain steps are followed for keeping records in accounts by an accountant to maintain a steady function of a running enterprise. Whereas Auditing in VAT means Value Added Tax is the difference of Value added tax input and Value added Tax output.

Countervailing duty is similar to central excise duty and is imposed on imported articles generated in India. In CVD, the procedure of manufacture value to 'manufacture' which is explained in the Central Excise Act, 1944. CVD is dependent on the total amount of goods inclusive landing charges. Inclusive CVD would be imposed equal to VAT or Sales Tax, not succeeding 4%. Such duty could be refunded in case importer pays each customs duties. the sales invoice implies the credit is not permitted. and importer pays sales tax/VAT on the sale of the good.

CVDs other than it would be levied on specialised imported goods to balance the impact of a subsidy in the nation of origin. A notification released by the central government on these specialised goods is valid for 5 years and majorly relate to later expansion of not succeeding 10 years. Subsidies relevant to research movement, helpful to not advantageous areas in the related nation, and helpful in adjusting present facilities to new environmental requisite are exempt.

The central government would levy an anti-dumping duty if it estimates a good is being imported at lesser than market price, and an importer would be released. The duty could not go beyond the difference in the export and average cost. It is not applicable to goods imported by units in Free Trade Zones (FTZs Export Oriented Units (EOU)) and Special Economic Zones (SEZs). In case if importer is released by the central government then imposition of Anti-Dumping duty, the release would be valid for 5 years with the probability of being expanded to 10 years.

Not like the Anti-Dumping Duty, the levy of Safeguard Duty would not requisite the central government to estimate a good is to be imported at lesser from market cost. Safeguard Duty is levied if the government declares on a sudden hike in exports is or claims to create risky hazard to a private sector. Release of notice relating to the levy of Safeguard Duty has validity for 4 years with the probability with expansion of 10 years.

Preventive duty is levied to protect private industry from imports. In case, if the Tariff Commission releases an allowance for the levy of a Preventive Duty, the central government would select to levy these at a rate which would not be succeeded that prescribed through Tariff Commission. The central government could specialise the time up to which the preventive duty would be implemented, minimise or expand the time, and fix the efficient rate.

Education Cess is imposed at 2% and Higher Education Cess at 1% of the total of customs duties. It is not exclusive of Safeguard Duty, Countervailing Duty on related articles, or Anti-Dumping Duty

On exporting or importing of goods from India, the enterprise or person should receive an Import Export Code or IE Code from the Directorate General of Foreign Trade. IE Code could be received by the organisation on receiving of PAN and opening a bank account.

As an importer or exporter should be registered Terms of Sale is negotiated Export formalities and responsibilities towards sale proceed should be understood. Understanding of documentation on Custom duty Custom formalities to be completed and documents are obtained for exports. Submitted to the Bank for onward transmission to purchaser Sale Proceeds is received.

Auditing of VAT is performed by a Tax auditor or authorised tax officer to ascertain the traders who are deceiving the Indian govt. by not paying tax thus collapsing the Indian economy. To such offenders penalties are applicable to punish them to operate the accuracy of accounts, bookkeeping and documents relevant to it. Sometimes, traders who are creating errors due to lack of information or slight negligence, in such cases tax authorities help such dealers to rectify the mistakes and assist in VAT auditing so that they can provide a valid explanation about their business details.

Bringing ITC Rules for Common Credit in GST i.e., taxable delivery, organization and activity of a non-firm has proved that new policies are attached to vast extent with the present policies for claiming input tax credit in CENVAT Rules 2004, considered to input services and inputs utilized for firm and non-organization activity i.e., for personal affairs giving taxable delivery.

Value-added Tax (VAT) is paid by the manufacturer of goods and services when a yearly aggregate income is over of ₹5 lakh. For e-filing of VAT returns in India concerned person has to make registration for VAT which takes time period of 20-40 days for sanction. Once completed, individual can pay online the amount received and can e-file VAT returns on the Commercial Taxes website of respected state VAT Returns are required to be filed monthly once or quarterly (but it depends on aggregate income from which state you are belonging). The CBEC issued the draft credit transfer document to access further on full credit of excise duty to a trader for unsold stocks before the last of the month. But, this facility would be accessible only for high-end goods costing over ₹25,000. The CBEC has notified various fines and utilising "provisions for recovery of credit, interest and fine in the CENVAT Credit Rules, 2004" not in favour of producers who collect tax credit two times on the similar goods. Traders and producers would be assumed to submit an online disclosure in sixty days on the GSTN.

GST will make a major reform in India and bring in one common market by eliminating the assorted tax and fiscal obstruction in the states. GST, as the name symbolizes would be tax imposed on goods and services at the point of sale or implementation of service. GST would be applied for every goods and services, excluding the imposed class of goods and service. Easy, simple procedure as taxes would be simpler majorly, and an enterprise would realize the smooth flow of goods in respected state. GST is a vital process fur fair governance. Bringing ITC Rules for

Common Credit in GST i.e., Taxable delivery, organization and activity of a non-firm it is proved that new policies are attached to vast extent with the present policies for claiming input tax credit in CENVAT Rules 2004, considered to input services and inputs utilized for firm and non-organization activity i.e., for personal affairs giving taxable delivery.

In each and every tax system, for identification of tax payers there is requirement of registration to safeguard tax consent in the economy. Under the GST Law registration of any enterprise or firm signify collecting a unique number from tax authorities to obtain tax from government side and to account Input Tax Credit for the taxes on his inbound stores. If a person is not registered under GST he can neither collect tax from his consumers nor claim any input Tax Credit of tax paid by them. If we will talk about nature of registration then it is State specific and PAN based; provided from where he is supplying and thus has to register in particular State or Union territory.

The provider is given a 15-digit GST identification number called "GSTIN" under GST registration, and a certification of registration including GSTIN provided to the applicant on the GSTN portal. GST law suggests particular process for registration, also for the extension of the operation period of informal or Non-Resident taxable individuals. Such persons have to apply for registration before five days in advance to make any supply before it. And registration is approved or operational time period is increased only after advance deposit of the progressive tax liability. If supplies to agencies like, multinational financial institutions, UN organization and other organizations, a unique identification number (UIN) is allotted.

Set of loss in order of capital goods, which influence the provisions of sub-sections (1) and (2) of section 17, as partially utilised for the intentions of firm and partially for other intentions or utilised for influencing taxable delivery including zero rated delivery and partially for influencing excluded supplies, would be given to the intentions of firm or for impact of taxable delivery in the perusing way.

Value of input tax in order of capital goods utilised or preferred to be utilised especially for non-firm intentions or utilised specially for influencing excluding delivery would be represented in FORM GSTR-2 would not be credited to electronic credit ledger; the value of input tax in order of capital goods utilised or purposed to be utilised excluding for influencing delivery other than excluding delivery however added zero-rated delivery would be represented in FORM GSTR-2 and would be credited to the electronic credit ledger: Value of input tax in order of capital goods not given in clauses (a) and (b), represented as 'A', would be credited to the electronic credit ledger and the utilised life span of goods would be considered as five years from the date of the invoice for these goods:

Given that where any capital goods previously mentioned in clause (a) is after given in this clause, the amount of 'A' would be given minimising the input tax in rate of 5% for each quarter hence the value 'A' would be credited to the electronic credit ledger.

Steps of setting off of losses and their carry forward would be covered in the following Steps:

Inter-Source Adjustment in the Same Head of Income

According to (Section 71B) of Income Tax Act, 1961 an Assesse could carry forward the income losses incurred in the head house property up to 8 years immediately succeeding the Assessment year in which the loss has incurred. This could be adjusted only against House property Income loss. In this case, an Assesse could file the belated return.

Audit should be strictly carried in order with rules and procedures mentioned in APVAT Act and Rules. APVAT 59 Rules 2005 signifies the category of officers who

are given authority to carry Audit–Inspection. According to mentioned rule the particular jurisdiction within, Assistant Commissioner. (LTU) and CTO are accessible to carry inspection cum assessment. Although for carrying inspection cum assessment through Assistant Commissioner from their respective jurisdiction; or through any other authorised officer lower than the designation of CTO, inside jurisdiction or outside, taken authority from Deputy Commissioner, corporation tax is mandatory Authorization should be received from Joint Commissioner in charge of CIU at state levels Deputy Commissioner in case may release authority in Form VDM 1B are described below

(1) Provided authority for Inspection only

(2) Provided authority for Assessment only

(3) Provided authority for single authorization i.e., inspection and assessment.

Task should be systematic means audit must take full account of accessible data, approach the required skill and fact taken out in a certain manner efficiently like:

- Making an audit programme
- Making an appointment in a systematic way except in place where audit is organised by sudden
- Make a plan for pre-visit arrangement
- Executing an interview initially
- Keeping the data obtained
- Analysing data, additionally by verifying possible risks
- Inspecting action and records, examining and identifying the obtained data
- Keeping reports of checklist and their potential results
- Inspecting the transactions done by an enterprise relevant to disclosure in the tax returns
- Keeping reports of work done

Brought forward income losses take place, if the firm suffers a loss before going for depreciation, then the entire amount of depreciation is unabsorbed depreciation. Although, if the enterprise suffers a loss as a result of depreciation amount than the business loss will be negligible and balance of depreciation amount would unabsorbed depreciation.

A well-defined access assures that:

- Efficiently spent time
- Decent approach on work
- Formal approach is indicated
- Strengthen audit officer's skill and confidence for the trader
- Not wastage of time
- Proper answer should be given to audit officer for their queries
- Queries relevant to tax are majorly surmised and settled on the mutual understanding of officers and dealers

Taxpayer units if large, VAT audit would be handled by Assistant Commissioner VAT audit must be carried by circle offices by the CTO. Audit staff numbers implies the number of audits which is integrated every year. Major VAT traders particularly

transactions complexity, stages of tax through input and output tax, monthly payment or any other condition approved by Commissioner. from time after time would be set aside to major taxpayer system in an area.

LTU must have 25-50 VAT traders based on the traders' numbers in the area which fulfils the eligibility well explained in Appendix XII amended by Commissioner in a particular period.

The AC must be liable for their return in filing and tax payment and periodic audits with a time period of one audit per annum for all VAT traders in the LTU. Additionally the team has to provide timely suggestions and accord with the VAT trader's inquiry on priority.

VAT traders must be preferred for Audit placed on principle determined and amended by commissioner.

The preference of VAT traders for general audit is accorded by Deputy Commissioner of particular area. Deputy Commissioner would make monthly strategy for assessing of audit. The selected VAT traders for general audits would be done on some criteria defined in (b) as amended by Commissioner from time to time. Below criteria would be taken as selection of VAT dealers for general audit amended from time to time:

1. 1/12th of LTU VAT traders monthly so that LTU VAT traders are audited at least once in a year.
2. TOP 0.50% of total VAT traders in the category monthly depend on Tax Payable of last financial year, eliminating LTU VAT dealers, hence minimum top 6% VAT traders in the zone alleviating LTU VAT traders are audited every year.
3. VAT trader's work in sensitive goods displaying minimum rise by 10% from general growth rate in that zone eliminating VAT traders chosen above Sl. Nos.
4. VAT traders display less growth by 10% from general growth rate in the area last over year eliminating VAT traders preferred under above Sl. Nos.
5. VAT traders imposed fine if exceeds ₹ 25,000/- in last 5 years eliminating VAT traders chosen under above Sl. Nos.
6. If default of more than 2 Returns in past year eliminates VAT traders selected under above Sl. Nos.
7. VAT traders layer credit returns for more than 5 months in past years eliminates VAT traders selected under above Sl. Nos.
8. Contractors, majorly who have not taken for composition eliminates VAT traders selected under above Sl. Nos.
9. VAT traders who have complicated transactions like Consignment sales, Branch transfers, exports, Transit sales etc., eliminate VAT traders selected under above Sl. Nos.
10. VAT traders wishing for Refunds eliminates VAT traders selected under above Sl. Nos.
11. VAT traders whose Sale/Purchase ratio if minimum then 1.0 over last year eliminates VAT traders selected under above Sl. Nos.
12. Depend on local skill and facts eliminate VAT traders selected under above Sl. Nos.
13. On Third party details like Income Tax, Banks, Service Tax, Central Excise, Manufactures, Government departments etc., eliminates VAT traders selected under above Sl. Nos.

14. VAT traders accessing sales tax holiday altered to deferment cases, in particular reference to cases in which the time limit for availability has been lapsed or the required amount is more.

15. The enterprise books of accounts of TOT traders would be audited randomly

In the zone, the DC would give power to the audit authority as per rule 59 of APVAT Rules on Form 1B for VAT traders preferred for general audit An individual authorization for inspection may be required.

At State Zone, Joint Commissioner will implement or use these powers.

(a) The preferred cases for particular audit visits is based on the valuable details, pre-requisite surprise audits in some cases, slip of immediate references and data about possible trader's not registered for VAT.

(b) The selected cases for refund audit of dealers request refund of surplus VAT credit.

(c) DC would permit the power to the audit officer as per rule 59 of APVAT Rules on Form ADM 1B for the VAT traders chosen for the special audit. A separate authorization for inspection, assessment or inspection cum assessment as the case may be and deputy commissioner would exercise the power

(d) The selected cases for particular audit visits would take place from other audits where audit officers have investigated proof of serious fraud or dependent on data given by different agencies which need investigation in depth.

(e) Proof of inter-state fraud or international fraud or inquiry involving more than one zone would be passed on to CIU.

(f) DC would give power to the audit officer (AC/CTO/DCTO) as per rule 59 of APVAT Rules on Form ADM 1B for the VAT traders chosen for Special audit. Different authorization for Inspection and assessment may be and at state zone Joint commissioner would use this power.

The Deputy Commissioner would allot the VAT traders specified for audit on the crew available in the zone for audit where no trader is audited more than one time by same audit officer in 5 years itself. No trader would be allotted to audit officer having provincial jurisdiction over the trader. At extension, attention should be given that VAT traders are not allotted to audit officers whose office is situated at distant from trader's enterprise area to reduce difficulty to VAT traders.

The power for audit would be given through system in Form ADM 1B. At Head Quarter level, allotted of VAT traders for audit, dependent on mentioned guidelines would be done by Joint Commissioner.

VAT traders for audit would be chosen on the basis of availability of crew members. The Deputy Commissioner would be liable for the smooth management of VAT audits in his division. Joint Commissioner at head quarter would assure smooth functioning of VAT Audits.

Audit authorities make strategy for audit visits must complete Form VAT 309 when planning for audit appointments. On local information and skill and other material sources DC would select in order to audit high-risk VAT traders. The divisional Deputy Commissioner would be answerable for the smooth functioning of exclusive audits. CIU Head must be answerable for the smooth functioning of exclusive audits.

Raw data is created by recording data. Raw data of pages are of minimum use for an enterprise for decision making. Due to this reason, accountants bifurcates data into

categories and are defined in the chart of accounts. When transactions take place, following two things happen;

i. An individual record is made.

ii. The summary record is updated.

For example, if a sale is made to Mr. Arun for ₹ 100 will be shown as:

i. Sale to Mr. Arun for ₹ 100.

ii. Increase in the total sales from 500 to 600 and will be summarised.

The financial reports are contemplated external as it is provided to individual's exterior of the corporate sector, while immediate receivers are proprietor/stockholders, lenders.

If a company's stock is enterprise civic, although its financial reports (other financial statements) meant to be extensively dispersed and material is spread to secondary recipients like consumers, competitors, employees, organizations of labour, and investment analysts.

This is of prime importance to figure out the objective of financial accounting. It does not mean to evaluate a corporate. Relatively, its goal is to administer abundant data for others to determine the value of an association for themselves.

External financial statements are practised by a sort of individuals in various means. Some common rules are followed in financial accounting noted as accounting standards and as generally accepted accounting principles (GAAP). The Financial Accounting Standards Board (FASB) is the association in United States which adds in advancing the accounting standards and regulations. Companies whose stock is traded publicly should obey the reporting requisites of the Securities and Exchange Commission (SEC), is a bureau of the govt. of United States.

As an owner of a firm, one can use financial accounting to advances ratio analysis and practise these ratios to execute significant information of numerous dimension of an expansive firm. Cash position of an enterprise can be analysed by profit or sales ratio and by contrast to it with your past execution or the observation of competitors. Financial accounting helps you formulate your future course of action or strategy and measure the success of this strategy with the financial information produced from another period. To be purposeful, value-added task, financial accounting of a firm should follow some delegation. It enables data stakeholder domination. Financial accounting must be acceptable, so the cost of presenting this information should not exceed its benefit. The information that you present must be consistent and you must meticulously follow the same accounting principles for all records. In each and every tax system, for identification of tax payers there is requirement of registration to safeguard tax consent in the economy. Under the GST Law registration of any enterprise or firm signify collecting a unique number from tax authorities to obtain tax from government side and to account Input Tax Credit for the taxes on his inbound stores. If a person is not registered under GST can neither collect tax from his consumers nor claim any input Tax Credit of tax paid by them.

If we will talk about nature of registration then it is State specific and PAN based. Provider from where he is supplying has to register in particular State or Union Territory. The provider is given a 15-digit GST identification number called "GSTIN" under GST registration, and a certification of registration including GSTIN provided to the applicant on the GSTN portal. GST law suggests particular process for registration, also for the extension of the operation period of informal or Non-Resident taxable individuals. Such persons have to apply for registration before five days in

advance to making any supply before it. And registration is approved or operational time period is increased only after advance deposit of the progressive tax liability.

If goods where Integrated GST (IGST) is paid, a credit of thirty per cent would be provided for those taxation at eighteen per cent or above and twenty per cent for products which is taxed at lesser rates. Required and registered persons are assumed to surrender a disclosure in ninety days of the value of input tax credit to which they are designated to.

The final Registration Certificate would be notified or released in six months of inspection of documents by Centre/State officials of the concerned Jurisdiction(s) further on the appointed date.

For registration individuals have to register within thirty days from the date on which he/she gets liable for registration. Informal Taxable individual and a non-resident taxable individual will apply for registration before 5 days to further business.

Informal taxable individuals are those whose business is registered in only some State of India, but wishing to effect supplies from other State in which the persons have not settled area of business. Aforesaid types of individuals have to register in the State from where they peruse to supply as informal taxable individuals. Tax paying Individual who has not residence in particular area can be foreigner and rarely wishes to supply including taxes from any particular State in India. and for these procedure individuals need to be registered under GST.

GST law suggests particular process for registration, also for the extension of the operation period of informal or Non-Resident taxable individuals. Such persons have to apply for registration before five days in advance to making any supply before it. And registration is approved or operational time period is increased only after advance deposit of the progressive tax liability. If supplies to agencies like, multinational financial institutions, UN organization and other organizations, a unique identification number (UIN) is allotted.

Following are the advantages of Registration under Goods and Service Tax (GST):

- Recognised legally as provider of goods or services.
- Accurate accounting of taxes paid on the input services or goods could be used for GST completed on supply of goods or services also by the business.
- Authorized legally to levy tax from buyers and credit is passed, taxes paid on the goods or services provided to recipients.
- To get feasible to get assorted benefits and allurement under the GST.

Present taxpayers could appeal to register and submit the mandatory documents. Registered taxpayers presently would be approved conditional registration at an initial phase and will be mandatory to submit inclusive documents in 6 months. It is surmised that GST registration will be given according to your PAN number. Other main benefits of GST are that GST registration number could be used in every state in India. Under the current VAT zone assisted by the State Governments, a VAT trader should receive VAT registration in particular State, including extra cost and complete rules and regulations.

Tax imposed on individuals or goods and services termed as taxation. This generates the revenue of a state or a country by which government works for the public welfare by constructing hospitals, schools, roads etc., for public comfort and required utility. But tax is not simple as it seems and this is classified in two types, namely direct tax and indirect tax. Direct tax is a types of taxation imposed *directly* on persons like income tax while indirect tax charged on the *price* of a good or services. *Government*

of India imposes an emolument on product or income and the reason of levying tax is to build the economy of a country by constructing it firm and strong.

Now you might think that what is service tax? So let's understand. Service Tax as the name symbolises is the tax imposed on particular type of services and this is a type of indirect tax. Transactions done at service providers levy service tax who does earn more than ₹ 10 lakh per annum, as such businesses need registration of service tax. Once completed, customers will make payment 15% of tax on respective bill. Amount paid by service provider is ultimately paid to the government. That's why service tax is called an indirect tax, which configures payment indirectly goes to the govt.

The purpose of service tax is to minimise the load of tax on corporate and people. Service tax was implemented in 1994. The service tax encompasses the mentioned list under section 65 of Finance Act, 1994. This type of tax is imposed on services, excluding some those are added in negative list, like education services, some coaching classes, trust activities, cultural events. Section 66D of the Finance Act, 1994 constitutes negative list. In this technological era where we get everything online like products, services, or we can do payments online for movie tickets, registration of forms etc. But what about calculating service tax online. Now you can compute your service tax online and save your time and attain accuracy. This is not so complicated, it is very simple and quick, only you have to follow the stepwise instructions, so what are you waiting for, let's see the first step as follows:

- First you have to select service type
- Next is abatement amount
- Third you have to enter tax payable
- Last stage you have to fill the total amount.

It is mandatory for all service providers to appeal for service tax registration in case the value of services exceeds ₹ 9 lakhs in a single financial year, covered by rules and regulations laid by the Government of India. But, if a case like value of services provided by a service provider is lower than ₹ 9 lakhs per annum, tax payer has the alternative to choose whether or not they are inclined to fulfil the service tax registration.

The Service Tax Registration Application should be filed using the ST-1 Form. It can be submitted online. Clients or any persons who are registering for service tax for the first time should create an account hence information in ST-2 Form can be completed.

After account creation, you will receive a password on your email id. The password can be altered by a custom password when you login to the account for the first time. It can be saved as a permanent account for service tax.

To complete the ST-1 Form, select 'REG' tab in which you have to choose the option 'Fill ST-1'. After fulfilling the criteria one can be redirected to the ST-1, where one can fulfill the information required. It covers Applicant's Name, Address, PAN Status of client is needed to fill the form PAN (if allotted), Applicant's Name as in PAN, Constitution of Business, Name of Trustee/Proprietor/HUF, Category of Registration, and Nature of Registration.

The office address of central institution has to be entered in the form. In case two premises, it can be registered in the same form. Select the option that directs for 'Services Offered' and then select the services. Information must be fulfilled while registering.

When Service Tax Registration is done online, you will get Acknowledgement Slip, sign it before completing the hard copy of the ST-1 Form that to be forwarded to the commissionerate.

When documents are sent to the commissioner, those are verified by the superintendent before allowing the Service Tax Registration Certificate or will intimate you for not accepting your Service Tax Registration, if any of the cases is not exercised within two days the Service Tax Registration will be thought as granted. You have the option to choose to get the Service Tax Registration Certificate (ST-2) online or by post. When Service Tax Registration Certificate is granted, Service Tax Number one can get which is 15 characters long. The number obtained would be used in all invoices.

When one is selected to receive the Service Tax Registration Certificate online one can see the ST-2 Form on homepage. If you want at a glance, click on the 'REG' tab, then choose 'View', and lastly select 'Latest ST-2'.

Table 4.1: Service Tax Registration Certificate

Income head under which Loss has incurred	If loss could be set off in the same year		If Losses could be carried forward and set off in subsequent years		Time limit for carry forward and set off of losses
	Under the same Head	Under any other Head	Under the same Head	Under any other Head	
1. Salaries Income	NA	NA	NA	NA	NA
2 House Income Property	Yes	Yes	Yes	No	8 years
3 Profit from Business					
a. Business which is Non-speculation	Yes	Yes	Yes	No	8 years
b. Speculation Business	Yes	No	Yes	No	8 years
c. Depreciation which are unabsorbed	Yes	Yes	Yes	No	N.A.
d Investment which are Unabsorbed or Development allowance	Yes	Yes	Yes	Yes	8 years
4 Capital profit (Short-term)	Yes	No	Yes	No	8 years
5 Capital Profit (Long-term)	Yes	No	Yes	No	8 years
6 Other Sources Income:					
a Crossword Puzzle, Card Games, Gambling, or betting of any form	Yes	No	No	No	NIL
b. Loss from activity of owning and maintaining Race Horses	Yes	No	Yes	No	4 Years
c. Other Income	Yes	Yes	No	No	NIL

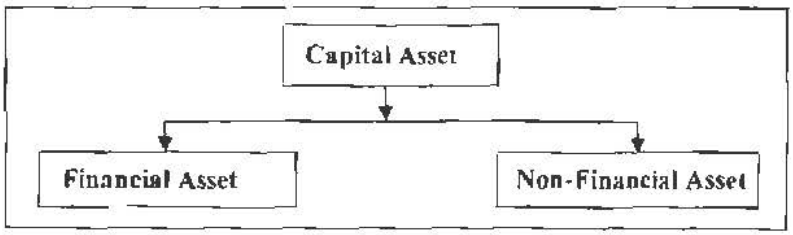

Figure 4.1: Types of Capital Asset

This loss could be set off only not in favour of the income from owning and maintaining race horses. This maintains a fundamental step of financial controls of one's enterprise. The tasks need one should have sufficient information and better knowledge of principles of financial accounting and agreement which can authorise, maintain financial data and distribute task among employees. Hence one can figure out, Financial accounting that permit us to review and invigilate such tasks to get result nearly. Stable financial records enable financial controls and idea which minimise the hazard of scam and vandalism, which investors have to monitor.

The newly rules regulated by the Central Board of Excise and Customs (CBEC) also permit traders and producers of goods like this to demand as much as sixty per cent of the input tax credit on stocks kept on not sold up to 30 June Much credit would be permitted for goods which favour GST at eighteen per cent or more than it. For goods other than it, credit of forty per cent would be accessible. If goods where Integrated GST (IGST) is paid, a credit of thirty per cent would be provided for those taxation at eighteen per cent or above and twenty per cent for products which is taxed at lesser rates. The rules were ultimate by the GST Council in its meeting on third June and are supposed to provide some comfort to traders and establishment attained on the status of list at the period of GST pulled. Required and registered persons are assumed to surrender a disclosure in ninety days of the value of input tax credit to which they are designated to.

Present Central Excise and Service Tax individuals and VAT traders would be migrated to GST. GST migrators will be given Provisional ID and Password by State Commercial Tax Departments/CBEC.

Provisional IDs will be released to individuals having a PAN relevant to their registration. An individual would not be given a Provisional ID in below cases:

1. The PAN included with the registration is not valid.
2. Registration of PAN with a State Tax authority and Provisional ID should be provided by the above State Tax authority.
3. Various registrations of CE/ST at the same PAN in a State. In such condition, only 1 Provisional ID would be released for the 1st registration in order of alphabets.

To include all, the function of ISD is not altered much from that of the conventional law to the new GST model. But excluding some vital alterations mentioned above, another alteration is that the ISD in the GST law would have to file every month returns by 13th of the succeeding month contrast to previous when they had to file half-annum returns.

Providing vital relief to car and customer durables producers it has released the ultimate rules and regulations for transformation law in the Goods and Services Tax (GST), permitting them to bring further input tax credit for ninety days, not in favour of the previous arrangement of sixty days.

If goods where Integrated GST (IGST) is paid, a credit of thirty per cent would be provided for those taxation at eighteen per cent or above and twenty per cent for

products which is taxed at lesser rates. The rules were ultimate by the GST Council in its meeting on third June and are supposed to provide some comfort to traders and establishment attained on the status of list at the period of GST pulled.

Goods and Services Tax which would be levied by the state and central governments encompasses VAT, Service Tax, etc., as indirect tax. Individual with PAN no. and person within threshold of GST is 10 lakh/20 lakh or GST limit are liable to make registration for GST. TDS payer, casual traders, etc., will be liable to register for GST GST will be applied on supply of goods & services in India. GST will be imposed on VAT, sales tax, excise duty, customs, service tax, luxury tax etc. GST registration is compulsory when supply of goods and services in India takes place.

Registration for GST can be completed online through Central Government or State Government. The individual has to provide an online application for GST registration by utilizing Form GST-1 including information of the goods and services. Online payment required for the registration fee will be made under GST registration. Number will be given on submission of application. After submission of the application, the applicant required to print a copy of the form, include the documents and send to the GST department. On inspection, of the form final GST slip would be released by the authorized officer. GST registration process is surmised to be an entire online procedure alike to the service tax registration process.

According to (Section 71B) of Income Tax Act,1961 an Assesse could carry forward the income losses incurred in the head house property up to 8 years immediately succeeding the Assessment year in which the loss has incurred. This could be adjusted only against House property Income loss. In this case, an Assesse could file the belated return

According to section 72 of Income Tax Act, 1961 an Assesse could carry forward non-speculative business loss up to 8 years instantly succeeding the Assessment Year in which the loss has incurred then he should file ITR within due date prescribed under section 139 (1) of Income Tax Act 1961, then he would not be able to carry forward the losses. This could be set off only not in favour of business income

According to section 73, Income Losses in speculative businesses could be carried forward up to 4 years instantly forwarding the Assessment year in which it is incurred.

An Assesse should file the Income Tax Return within due date prescribed to carry forward the losses from speculative Business and can be adjusted only against income from speculation Business.

According to section 73A, Income Losses in Specified business loss could be carried forward subject to the following conditions:

1. Income loss in respect of any specified business referred to in section 35AD would not be set off except against profits and gains, if any, of any other specified business.
2. Income loss in specified business has not been wholly set off, so much of the loss as is not so set off or the whole loss where the assesse has no income from any other specified business shall be carried forward to the following assessment year.
    i. This would be set off against the profits and gains, if any, of any specified business, carried on by him assessable for that assessment year; and
    ii. If the loss not be completely so set off, the amount of loss not so set off would be carried forward to the following assessment year and so on.

In case a person is unable to set off the capital loss in the existing year, both Long Term loss and Short Term loss would be taken forward immediately for

8 Assessment Years. Capital Losses from a business are allowed to be carried forward and carrying on of this business is not mandatory.

Brought Forward Income Losses

Example: This is observed that Seema's enterprise income before the claiming deduction in section 32 on account of depreciation is ₹ 84,000 and depreciation allowable as per section 32 is ₹ 1,00,000, therefore, after claiming the deduction on account of depreciation of ₹ 1,00,000, there would be a loss of ₹ 16,000. This loss is on account of depreciation and, therefore, loss of ₹ 16,000 would be termed as unabsorbed depreciation.

The office address of central institutions has to be entered in the form. In case two premises it can be registered in the same form. Select the option that directs for 'Services Offered' and then select the services. Information must be fulfilled while registering.

When Service Tax Registration is done online, you will get Acknowledgement Slip print sign it before completing the hard copy of the ST-1 Form to be forwarded to the commissionerate.

Set of loss in order of capital goods, which influence the provisions of sub-sections (1) and (2) of section 17, as partially utilised for the intentions of firm and partially for other intentions or utilised for influencing taxable delivery including zero rated delivery and partially for influence excluded supplies. would be given to the intentions of firm or for impact of taxable delivery in the perusing way.

4.9 DEDUCTION FROM ANNUAL NET VALUE (SECTION 24)

Under section 24(a). each assessee shall be granted a notional cost equivalent to half a percentage of the net yearly value of the home for the numerous expenses incurred by him. Actual cost incurred hy the assessee will not be taken into account.

Interest on borrowed capital is allowed as deduction under section 24(b).

a. Interest payable on loans made for acquisition, building, repairs or facelift could be claimed as the deduction.

b. Interest payable on a new loan is taken to repay the initial loan increased sooner for the aforesaid functions can be admissible as a deduction.

c Interest regarding the year of completion of building can be completely claimed in that season in spite of the date of conclusion.

d. Interest payable on borrowed funds for the time before the preceding year where the home has been constructed or acquired, could be claimed as deduction over a span of Five Years in deduction under section 24(b) to get interested can be found on an accrual basis. Therefore, interest accrued but not paid throughout the year may also be maintained as the deduction.

e. Where a purchaser agrees with a vendor to cover the sale price in installments together the purchaser becomes the debtor In this scenario, outstanding purchase price could be treated as funding made for obtaining property and attention paid thereon could be allowed as deduction under part.

f. Interest on outstanding interest isn't deductible.

4.10 INADMISSIBLE DEDUCTIONS-LOAN TAKEN FROM OUTSIDE INDIA (SECTION 25)

Interest Rates under this Act that's payable outside India will not be deducted should:

a. Taxation has not been deducted or paid from these interests

b. There isn't any individual in India who could be treated as a broker under Section 163.

Category III one house which is self-occupied or unoccupied property section 23(2)

1. Where the House is self-occupied to get house or unoccupied during the previous year, its own annual worth is going to be Nil. No deduction for high taxation is permitted with regard to such land.
2. The advantage of exemption of a single self-occupied home is offered only to an individual/HUF.
3. The saying "Unoccupied land" identifies a property that cannot be inhabited by the proprietor because of his occupation, business or profession in another location and that he resides in such other place at a construction not belonging to him

Category III more than one house which are self-occupied (deemed to be let out property) Section 23(4)

a. Where the assessee possesses more than 1 Land for self-occupation, then the earnings from any one of such land, in the conclusion of the assessee, shall be calculated under the self-occupied land class and another self-occupied/unoccupied possession will likely be treated as "deemed rented out possessions".

b. This choice could be changed the year later in a way beneficial to the assessee.

c. In the event of deemed let-out land, the ALV/Expected Rent shall be accepted since the GAV

d. The issue of considering real rent received/receivable doesn't arise. Consequently, no modification is essential due to land remaining vacant or unrealized lease.

4.11 NOTIONAL INCOME INSTEAD OF REAL INCOME

Under this head of earnings, there are cases where notional income is charged to tax rather than actual income. For instance –

Annual worth of any one of these properties, in the conclusion of the assessee, will be nil and another possessions are regarded as let-out, and income must be calculated on a notional basis by accepting the ALV/Expected Rent since the GAV.

Category III

House property owned by the assessee and used for own business/profession section 22/section 30: If any Individual owns any Home/house and it is being utilized by him within his business/profession, earnings of such construction won't be calculated under the head home property rather earnings shall be computed under mind business/profession, no lease shall be permitted to be debited to the profit & loss account in relation with this kind of building. The earnings of business or profession will get increased to this extent and each of them costs of this Home will probably be

debited to the profit and loss accounts and deduction under part the cost might be municipal taxation, repairs, depreciation, property earnings, floor rent, etc.

4.12 TAX LIABILITY IN RESPECT OF ARREARS OF RENT [SECTION 25B]

In this case the assessee receives some amount using arrears of rent in respect of any house comprising buildings or property appurtenant to it. where he's the proprietor, the sum so received will be chargeable it will be charged to tax because the earnings of the prior year where such lease is obtained even when the assessee isn't anymore the owner of the land. In calculating the income chargeable to tax in respect of their arrears therefore obtained. 30 per cent will be permitted as the deduction also therefore 70% independently will be chargeable to tax. The deduction of 30 per cent is no matter the real cost incurred.

Sub-letting of House Property Section 56: If any Individual has sub-let any Home property, any earnings received will be taxable under the head additional resources according to component 56 and additional total income will be, lease obtained without expenditures incurred.

Income from House Property situated outside the territory of India.

(i) In the event of a resident in India (resident and ordinarily resident in the event of individuals and HUF), then earnings from land located outside India is non-refundable, if such revenue is brought to India or never.

(ii) If a gardener but not ordinarily resident in India, earnings from your home located outside India is taxable only if it's obtained in India.

Treatment of income from co-owned property [Section 26]: Where Land is owned by two or more individuals, whose stocks are certain and ascertainable, then the earnings from such land can't be taxed as income of an AOP contained in his evaluation in which the Home property possessed by co-owners is allowed outside, the more income from such property will be calculated as though the house is owned by a single owner and afterward the income so calculated shall be apportioned among each co-owner by their particular share.

The owner of a Home may sometimes get rent on construction and additional resources like state, plant, furniture and machinery for various services supplied in the construction. The sum so obtained is called "composite leasing."

Where reserve rent includes lease of construction and fees for different services (lifts, safety, etc.), that the composite leasing must be broken up in another manner:

(a) That the amount attributable to utilize land is to be evaluated under section 22 as earnings from Home property;

(b) That the amount payable to the usage of services would be to charge with tax under the head "Profits and gains".

Where reserve leasing is obtained from letting from construction and other resources (such as furniture) and both lettings aren't separable.

(a) In the event, the setting from construction and other resources aren't separable, i.e., another party doesn't accept leasing from buildings with no other resources, and then the lease is taxable either as company earnings or earnings from other sources;

(b) That can be applicable even if amount receivable for the two lettings is fixed individually.

4.13 WHO IS LIABLE TO PAY INCOME TAX ON THE INCOME FROM HOUSE PROPERTY

According to section 22, the owner of house property will probably be responsible for paying income Taxation as well as other facets are as supplied below.

(a) The owner is the individual who's allowed to obtain income from your house in his very own right.

(b) Rewards comprise both free-holds along with lease-hold rights

(c) The individual who owns the construction shouldn't also be the person who owns the property on which it stands out.

(d) The assessee has to be the owner of the home property during the prior calendar year. It's not substance if he's the proprietor in the evaluation year.

(e) In the event the name of the possession of this house is currently under dispute in a court of law, then the choice regarding that, are the proprietor chargeable to income-tax under section 22 will function as those Income-tax Department until the court gives its decision into the lawsuit filed by this land.

4.14 DEEMED OWNERSHIP [SECTION 27]

According to section 27, the following persons, although not legal officers of a house, are regarded as the owners for section 22 to 26.

(i) ***Transfer to a spouse [section 27(i)]:*** In the event of transport of Home property by a Person to his or her Spouse otherwise than for adequate consideration, the transferor is considered to be the owner of the moved real estate

Exception: But in the event of transfer to partner about the agreement to reside, the transferor will not be regarded as the proprietor. The transferee is the owner of the Home property.

(ii) ***Transfer to a minor child [Section 27(i)]:*** In the Transport of Home property with someone to his or her little child differently than for adequate consideration, the transferor is considered to be the person who owns this House property moved.

Exception: But in the event of transfer to some small married girl, the transferor isn't regarded as the proprietor.

Event Notice Where money is moved to spouse/minor kid along with the transferee acquires home from this money.

Afterward the transferor will not be handled as deemed proprietor of the home property. But, clubbing provisions will be drawn.

(iii) ***Holder of an impartible estate [Section 27(ii)]:*** The impartible Property is a Home which isn't legally divisible. The holder of an impartible estate will be regarded as the person, owner of all Properties contained in property

Habit is to be evaluated in the standing of an HUF But, part 27(27) will continue to be relevant in terms of impartible property by award or covenant

(iv) ***Member of a co-operative society etc. [Section 27(iii)]:*** An Associate of a Society that is concerted, business or other association of men to whom a structure or part thereof is allocated or rented under a House Building Scheme of a society/company/association, will be deemed to become owner of the building or Part thereof allocated to him even though the amalgamated society/company/ institution is the lawful owner of the construction.

(v) ***Person in possession of a property [Section 27(IIIa)]:*** Someone who's permitted to take or keep this would contain instances where the–

a. Ownership of land has been passed over to the purchaser

b. Purchase consideration has been paid or guaranteed to be paid to the vendor from the purchaser

c. Purchase deed has not been implemented in favour of the purchaser, but certain other records like electricity or all attorney/agreement into sell/will etc. have already been implemented.

In most of the cases above, the purchaser will be regarded as the owner of the house though it isn't enrolled in his name.

(vi) ***Person having right in a property for a period not less than 12 years [Section 27(iii)]:*** An Individual who acquires any rights in or to any other building or a part thereof, by any trade as is known in part 269UA i.e., move using lease for not less than 12 decades, will be deemed to become whoever owns that building or component thereof.

Exception. Any rights using lease per month to month or two for a time not exceeding a year.

4.15 INCOME UNDER THE HEAD HOUSE PROPERTY WITHOUT HAVING ANY HOUSE PROPERTY

Occasionally an individual has the income below the head Home property although he doesn't have home property. Such cases are:

1. ***Unrealised Rent – Section 25AA:*** Where the assessee can't realize rent by a house let out into a renter and then the assessee has realised any sum in respect of the lease, the amount so realized will be deemed to be income chargeable beneath the head "Income from house property" and consequently billed to income-tax because the earnings of the previous year where such lease is calculated whether or not the assessee is the proprietor of the property because of past calendar year.

2. ***Arrears of rent – Section 25B:*** Where the assessee:

   a. Would be that the owner of any land comprising any lands or buildings appurtenant to it that is let to a renter and

   b. Has obtained some sum, by way of arrears of rent in such land, not billed to income-tax to get any preceding year, the amount obtained, after deducting an amount equivalent to 30 per cent of the amount, will be required to be the amount of the previous year where such lease is obtained. if the assessee is the owner of the land in this year rather than previous.

3. ***Deemed Ownership – Section 27(i):*** A Person who moves differently than for adequate attention any home property for their Spouse, not being a move in connection with the agreement to reside, or to your small child not being a married girl, will be regarded as the owner of the home property so moved. So even in this scenario this individual will be regarded as the owner of the house although he doesn't possess the Real Estate.

That was a detailed report explaining all the major elements of Income from House Property from section 22 to section 27.

That is the only real head of revenue, which notional taxation earnings (except under specific conditions under-funding gains, income from various sources). The taxability may not always be of authentic rent or earnings acquired, but the

probable earnings that the property is capable of yielding. While self-occupied and renting, land is at the purview beneath this thought, income from vacant residence is dealt with below the brain earnings from various sources.

Check Your Progress

Fill in the blanks:

1. Income from house property is just one of the taxable minds of earnings according to the _____.
2. The land should consist of _____to it.
3. _____ is the rent charged in circumstances where the assessee doesn't only let-out a home, but also provides additional amenities.
4. A person shall be _____ of a house once the record of title to the house is in his title.
5. _____ _____, i.e., Property that's in the occupation of the proprietor with the goal of his residence and he doesn't derive any other advantage from it
6. _____ _____, i.e., rental value determined by the municipality for the purpose of charging Civil taxation.

4.16 LET US SUM UP

- Income from house property is just one of the taxable minds of earnings according to the Income Tax action. It represents the income earned by a property by their owner.
- The cornerstone of changeability under the head income from house property is Annual income
- Composite rent is the rent charged in circumstances where the assessee doesn't only let-out a home, but also provides additional amenities.
- If from arrangement between two parties, it had been obvious that the primary thing was to let-out portion of said Land with added right of utilizing furniture and fittings and other common amenities, then rent billed from month to month's revenue derived from said property and can be assessable as income from Home.

  A person shall be deemed as the owner of a house once the record of title to the house is in his title
- The yearly value of land comprising any construction or property appurtenant (belonging) to it, except such land that's used by the assessee for both business and profession, will be the taxable price.
- Gross Annual Value (GAV) of land will likely be required to ascertain the yearly value, which can be greater of the amount for which the land may reasonably be expected to let from year to year.
- After amounts, will likely be deducted while ascertaining GAV: The quantity of municipal tax accomplished from a renter.
- Gross yearly worth usually means the fair rental value of a home. It's computed with the support of 4 spares.

- When property taxes levied by a local authority for a particular preceding year is not paid during this season, no deduction shall be allowed in the computation of income from house property for this year
- In the event of land situated outside India, taxes imposed by local jurisdiction of the country where the house is located allowable.
- If the house is partially let outside and partially vacant, in these instances expected lease should be calculated for 12 weeks.
- As per section 70, if any individual has loss from any home property, such reduction can be put away from earnings of another home property and it's known as inter-source modification or intra-head modification.
- Unrealised rent means such lease that's irrecoverable and is regarded as reduction, i.e., poor debt and while computing rent received or receivable, for example, unrealised lease will probably be excluded, and GAV will be greater of anticipated rent and lease received/receivable (no particular treatment for example vacancy).
- Under section 24(a), each assessee shall be granted a notional cost equivalent to half a percentage of the net yearly value of the home for the numerous expenses incurred by him. Actual cost incurred by the assessee will not be taken into account.
- Where the house is self-occupied to get house or unoccupied during the previous year, its own annual worth is going to be Nil. No deduction for high taxation is permitted with regard to such land.
- Where the assessee possesses more than 1 Land for self-occupation, then the earnings from any one of such land, in the conclusion of the assessee, shall be calculated under the self-occupied land class and another self-occupied/unoccupied possession will likely be treated as "deemed rented out possessions".
- Annual worth of any one of these properties, in the conclusion of the assessee, will be nil and another possessions are regarded as let-out, and income must be calculated on a notional basis by accepting the ALV/Expected Rent since the GAV.
- If any Individual owns any Home/house and it is being utilized by him within his business/profession, earnings of such construction won't be calculated under the head home property rather earnings shall be computed under mind business/profession, no lease shall be permitted to be debited to the profit & loss account in relation with this kind of building.

4.17 UNIT END ACTIVITY

Prepare a report on income tax laws for house property and give a presentation.

4.18 KEYWORDS

Income from house property: It represents the income earned by a property by their owner.

Taxable value: The yearly value of land comprising any construction or property appurtenant (belonging) to it, except such land that's used by the assessee for both business and profession, will be the taxable price.

Unrealised rent: Unrealised rent means such lease that's irrecoverable and is regarded as reduction. i.e., poor debt.

Gross yearly worth: Gross yearly worth usually means the fair rental value of a home. It's computed with the support of 4 spares.

4.19 QUESTIONS FOR DISCUSSION

1. Describe how is income from house property is extracted as per section (22-27) of Income Tax Law.
2. What is composite rent? Discuss in detail.
3. Explain the concept of taxable value.
4. What is deemed ownership? Explain in detail.

Check Your Progress: Model Answer

1. Income Tax action
2. Building or Property Appurtenant
3. Composite rent
4. Deemed as an owner
5. Self-occupied property
6. Municipal valuation

4.20 REFERENCE

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BLOCK – III

UNIT - 5

INCOME FROM BUSINESS AND PROFESSION

CONTENTS

5.0 AIMS AND OBJECTIVES

After studying this lesson, you should be able to:

- Explain the meaning of business
- Discuss the methods for computing taxable income and calculating depreciation
- Explain the speculative business income
- Describe the scope of business income

5.1 INTRODUCTION

Business is an activity of purchase and sell of goods with the intention of making profit. Profession is an occupation requiring intellectual skill. E.g. Doctor, Lawyer etc. Vocation is an activity, which requires a special skill, which is used to earn income. e.g. Painter, Singer etc. For income tax purpose there is no difference between business income, profession income and vocation income.

Section 2 (13): Business includes any trade, commerce or manufacture or any adventure or concern in the nature of trade, commerce or manufacture.

Thus business is any activity carried out with the intention to earn profit, whether such an activity is continuous or temporary is immaterial. In determining whether a particular transaction is an adventure in the nature of trade or not, total impression and effect of all relevant facts and circumstances of the transaction have to be seen. To bring a transaction within the term "business", the transaction must be a "trade" or in the nature of "trade". Hence everything depends upon the facts and circumstances of the case. E.g. A person making investment of surplus funds in shares or debentures cannot be deemed to be carrying on the business of trading in shares although occasionally he may be selling "some" shares or debentures and making gains thereon.

5.2 WHAT IS A BUSINESS?

Business, quite simply means an occupation carried on by someone who has a view to bringing in profit.

Business contains any of the following.

- Trade
- Commerce
- Manufacturing

Even delivering services to other people is also considered as business.

For, e.g., having a store, running a hotel, transport, travel service, share broking, etc.

Business doesn't include income from profession or venture firm.

5.2.1 Business: Section 2 (13)

As per the Section 2(13), business has been defined as any system related to any trade, commerce or manufacture or any adventure or concern like trade, commerce or manufacture.

From the above definition, we can make out that business means any continuous or systematic way of carrying out a profession.

Profession can be described as a vocation, or even a project requiring some idea, particular skill, and distinctive understanding.

So profession identifies those actions where the livelihood is made from the men through their manual or intellectual skill as follows:

- Legal
- Medical
- Engineering
- Chartered Accountant
- Architectural etc.

Any income earned by an individual from the above-listed activities will be taxed under the head Income from Business and Profession.

5.3 METHODS OF COMPUTING TAXABLE INCOME

Product Sales or Gross penalties since the case might be are to be considered as the base when Receipt and Payment A/C are given. From this Gross Income costs that are specially allowed by the income, tax act would be deducted to arrive at taxable earnings.

If profits & reduction or income and cost a/c is Provided Net Profit has been taken as the base.

5.3.1 Basis of Charge: Section 28

Under Section 28 the following would be the earnings chargeable to income tax for business or profession:

(1) Profits and Benefits of almost any business or profession that's taken on by the assessee at any time throughout the prior calendar year.

(2) Any reimbursement or any payment due to or obtained by an assessee for reduction of bureau due to conclusion or alteration of provisions.

(3) Income derived with a transaction, professional or a comparable institution for certain services performed because of its own members.

(4) Any gain available on a permit given beneath imports (controllers) Order 1955 made beneath Imports & Exports (controller) Act of 1947.

(5) Any money help (with whatever name called) received or lien against exports beneath.

(6) Any obligation of customs or excise reimbursed or repayable as downside to some individual against

(7) Any gain on the move of this duty entitlement pass book scheme beneath export-import policy

(8) Any gain on the move of this Duty-Free replenishment certificate under the export-import policy.

Exercise or business of a livelihood, e.g., A talent received by the lawyer from his customer's.

(9) Amount lien or received in money or kind under an arrangement for not carrying out any activity regarding any firm or perhaps not discussing some discover the way, copyright, patent, commerce mark, permit franchise or another company or business directly of similar character or technique or information prone to help the processing or manufacture of goods and supply of services.

(10) Any amount received for example bonus under Keyman insurance plan.

(11) Any amount obtained (or lien) in kind or cash, due to any capital asset (besides land or goodwill or financial tool) has been demolished, destroyed, lost or moved, in the event, the whole of this cost on such capital advantage was enabled because of deduction under SECTION 35AD.

(14) Revenue by a speculative organization.

5.4 DEDUCTIONS FOR EXPENSES SPECIFICALLY ALLOWED U/S (30-43D)

1. ***Rent, rates, taxes, repairs, and insurance of building (Section 30):***

   (a) If assessee has occupied the premises as a tenant, rent of the premises and when he has agreed to bear expense of fixes, such cost is allowed as deduction, given it isn't of Capital form

   (b) If the assessee has occupied premises as the owner, repairs, property revenue, local taxes, insurance premium, etc., are allowed as deduction. But no expenditure in the form of funding spending is allowed.

2. ***Repairs & Insurance of Machinery, Plant & Furniture (Section 31):*** Amount paid due to repairs and insurance premium against the danger of harm regarding machinery, plant & furniture are allowed as deduction given that they're not of capital character.

3. ***Depreciation u/s 32:*** Under Section 32 depreciation on assets is allowed as a deduction, while computing income from business or profession. To claim this deduction after conditions should be satisfied:

   (a) Assessee should be the owner of the asset.

   (b) The asset has to be utilized for the business.

   (c) Such use must maintain the previous calendar yeai

   Depreciation is allowed not on individual asset items, but on block of property under the following categories:

   1 Furniture

   2. Plant & Machinery

   3. Buildings

   4 Intangible Assets acquired after March 31, 1998, such as trademarks, licenses, franchises or any other business or commercial rights of similar nature.

   The term 'plant' includes ships, vehicles, books, scientific devices and surgical equipment utilized for your own business but excludes tea plantations or live inventory.

   If any asset falling in block of resources is obtained during the year and place to use during the previous season for less than 180 days' depreciation on such strength shall be restricted to 50 per cent of the standard reduction.

   No depreciation is permitted on the motor car which is manufactured out of India and acquired on or after 1st March 1975 but before 1st April 2001. However, this restriction does not apply if:

   1 Assessee carries on a business of running the car on the hire for tourist, or

   2 If the assessee is using the car outside India because of his business in a different country

   3. If business is carried on in a building not owned by the assessee but acquired on lease or

   Any additional occupancy right and any capital expenditure are incurred by him in respect of this construction such expenditure will be considered as the cost of the asset as if he is the owner of this property.

5.5 DEPRECIATION

Depreciation is a process of systematic reduction in the recorded cost of a fixed asset. Fixed assets could be depreciated are buildings, furniture, leasehold improvements, and office equipment. Land is the only exception, which is not depreciated. The usage of implementing depreciation is to cover a portion of the cost of a fixed asset to the revenue that it generates; this is compulsory under the matching principle, where we could record revenues with their associated expenses in the same reporting period in order to give a complete picture of the results of a revenue-generating transaction. The aggregate effect of depreciation is a slow decline in the already reported available amount of fixed assets on the balance sheet.

Steps to Calculate Depreciation in Business

Following three methods used to compute depreciation. They are:

1 Straight line method

2. Unit of production method

3. Double-declining balance method

Three main inputs are necessary to compute depreciation:

1. ***Useful life:*** It is the time period in which the company ponders the fixed asset to be productive. Apart from its useful life, the fixed asset is no longer cost effective to continue the operation of the asset. Not like the Anti-Dumping Duty, the levy of Safeguard Duty would not requisite the central government to estimate a good is to be imported at a lesser price of the market cost. Safeguard Duty is levied if the government declares a sudden hike in exports or claims to create risky hazard to a private sector. Release of notice relating to the levy of Safeguard Duty has validity for 4 years with the probability with expansion of 10 years.

   Depreciation is controlled by commission releases an allowance for the levy of a Preventive Duty, the central government would select to levy these at a rate which would not be succeeded that prescribed through Tariff Commission. The central government could specialise the time up to which the preventive duty would be implemented minimise or expand the time, and fix the efficient rate.

2. ***Salvage Value:*** After the useful life of the fixed asset, the organisation should consider selling it at a reduced amount. This is known as the salvage value of the asset. The document has to be released in thirty days of 1st July the planned GST pulling date. The proficiency would, although be segregated of the transformation plan, means, who is utilising it would not be required to allegate input tax credit on not sold goods. The CBEC has even notified of a various fine and utilising "provisions for recovery of credit, interest and fine in the CENVAT Credit Rules, 2004" not in favour of producers who collect tax credit two times on the similar goods. Traders and producers would be assumed to submit an online disclosure in sixty days on the GSTN.

   It provides financial data in such a way which depict smooth business performance function. As an owner of a firm, one can use financial accounting to advances ratio analysis and practise these ratios to execute significant information of numerous dimension of an expansive firm. Cash position of an enterprise can be analysed by profit or sales ratio and by contrast it with your past execution or the observation of competitors. Financial accounting helps you formulate your future course of action or

strategy and measure the success of this strategy with the financial information produced from another period. To be purposeful, value-added task, financial accounting of a firm should follow some delegation. It should be pertinent enables data stakeholder domination. Financial accounting must be acceptable, so the cost of presenting this information should not exceed its benefit. The information that you present must be consistent, and you must meticulously follow the same accounting principles for all records. In each and every tax system, for identification of tax payers there is requirement of registration to safeguard tax consent in the economy. Under the GST Law registration of any enterprise or firm signify collecting a unique number from tax authorities to obtain tax from government side and to account Input Tax Credit for the taxes on his inbound stores. If a person is not registered under GST can neither collect tax from his consumers nor claim any input Tax Credit of tax paid by them.

If we will talk about nature of registration then it is State specific and PAN based. Provider from where he is supplying has to register in particular State or Union Territory. The provider is given a 15-digit GST identification number called "GSTIN" under GST registration, and a certification of registration including GSTIN provided to the applicant on the GSTN portal. GST law suggests particular process for registration, also for the extension of the operation period of informal or Non-Resident taxable individuals. Such persons have to apply for registration before five days in advance to making any supply before it. And registration is approved or operational time period is increased only after advance deposit of the progressive tax liability.

If supplies to agencies like, multinational financial institutions, UN organization and other organizations, a unique identification number (UIN) is allotted. The newly rules regulated by the Central Board of Excise and Customs (CBEC) also permit traders and producers of goods like this to demand as much as sixty per cent of the input tax credit on stocks kept on not sold up to thirty June. Much credit would be permitted for goods which favour GST at eighteen per cent or much than it. For goods other than it, credit of forty per cent would be accessible.

If goods where Integrated GST (IGST) is paid, a credit of thirty per cent would be provided for those taxation at eighteen per cent or above and twenty per cent for products which is taxed at lesser rates. The rules were ultimate by the GST Council in its meeting on third June and are supposed to provide some comfort to traders and establishment attained on the status of list at the period of GST pulled. Required and registered persons are assumed to surrender a disclosure in ninety days of the value of input tax credit to which they are designated to.

3. ***The Cost of the Asset:*** It classifies taxes, shipping, and preparation/setup expenses.

In each and every tax system, for identification of tax payers there is requirement of registration to safeguard tax consent in the economy. Under the GST Law registration of any enterprise or firm signify collecting a unique number from tax authorities to obtain tax from government side and to account Input Tax Credit for the taxes on his inbound stores. If a person is not registered under GST can neither collect tax from his consumers nor claim any input Tax Credit of tax paid by them. If we will talk about nature of registration then it is State specific and PAN based. Provider from where he is supplying has to register in particular State or Union territory.

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It provides financial data in such a way which depict smooth business performance function. As an owner of a firm, one can use financial accounting to advances ratio analysis and practise these ratios to execute significant information of numerous dimension of an expansive firm.

Cash position of an enterprise can be analysed by profit or sales ratio and by contrast it with your past execution or the observation of competitors. Financial accounting helps you formulate your future course of action or strategy and measure the success of this strategy with the financial information produced from another period. To be purposeful, value-added task, financial accounting of a firm should follow some delegation. It should be pertinent enables data stakeholder domination. Financial accounting must be acceptable, so the cost of presenting this information should not exceed its benefit. The information that you present must be consistent, and you must meticulously follow the same accounting principles for all records. In each and every tax system, for identification of tax payers there is requirement of registration to safeguard tax consent in the economy. Under the GST Law registration of any enterprise or firm signify collecting a unique number from tax authorities to obtain tax from government side and to account Input Tax Credit for the taxes on his inbound stores. If a person is not registered under GST can neither collect tax from his consumers nor claim any input Tax Credit of tax paid by them.

Depreciation Problems

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Non-Resident taxable individuals. Such persons have to apply for registration before five days in advance to making any supply before it. And registration is approved or operational time period is increased only after advance deposit of the progressive tax liability.

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Types of Depreciation

1. *Straight line Depreciation Method:* It is vital method of all. It considers simple allocation of an even rate of depreciation every year over the useful life of the asset. The formula for straight line depreciation is:

$$\text{Annual Depreciation Expense} = \frac{(\text{Asset cost} - \text{Residual Value})}{\text{Useful life of the asset}}$$

Example: Let us a manufacturing enterprise purchases a machinery for ₹ 100,000 and the useful life of the machinery are 10 years and the remaining value of the machinery is ₹ 20,000

$$\text{Annual Depreciation Expense} = (100{,}000\text{-}20{,}000)/10 = ₹\ 8{,}000$$

Thus the enterprise can take ₹ 8000 as the depreciation expense every year over the next ten years as shown in depreciation table below,

Year	Original cost – Residual Value	Depreciation Expense
1	₹ 80000	₹ 8000
2	₹ 80000	₹ 8000
3	₹ 80000	₹ 8000
4	₹ 80000	₹ 8000
5	₹ 80000	₹ 8000
6	₹ 80000	₹ 8000
7	₹ 80000	₹ 8000
8	₹ 80000	₹ 8000
9	₹ 80000	₹ 8000
10	₹ 80000	₹ 8000

As per Section 23 of the Act. A farmer in respect of supply of his farmland production as individual specially doing delivery of non-taxable will not be feasible for GST registration. Including, the CBEC issued the draft credit transfer document to access further on full credit of excise duty to a trader for not sold stocks previous the last of the month. But, this facility would be accessible only for high-end goods costed over ₹ 25,000 that "are examinable as a different number, like engine number of a car".

The document has to be released in thirty days of 1st July the planned GST pulling date. The proficiency would, although be segregated of the transformation plan. means, who is utilising it would not be required to allegate input tax credit on not sold goods. The CBEC has even notified of a various fine and utilising "provisions for recovery of credit, interest and fine in the CENVAT Credit Rules, 2004" not in favour of producers who collect tax credit two times on the similar goods. Traders and producers would be assumed to submit an online disclosure in sixty days on the GSTN.

The central government would levy an anti-dumping duty if it estimates a good is being imported at lesser from market price. and an importer would be released. The duty could not go beyond the difference in the export and average cost. It is not applicable to goods imported by units in Free Trade Zones (FTZs Export Oriented Units (EOU)) and Special Economic Zones (SEZs). In case if importer is released by the central government then imposition of Anti-Dumping duty, the release would be valid for 5 years with the probability of being expanded to 10 years.

Not like the Anti-Dumping Duty, the levy of Safeguard Duty would not requisite the central government to estimate a good is to be imported at lesser from market cost. Safeguard Duty is levied if the government declares that a on a sudden hike in exports is reason, or claims to create risky hazard to a private sector. Release of notice relating to the levy of Safeguard Duty have validity for 4 years with the probability with expansion of 10 years.

Preventive duty is levied to protect private industry from imports. In case, if the Tariff Commission releases an allowance for the levy of a Preventive Duty, the central government would select to levy these at a rate which would not be succeeded that prescribed through Tariff Commission. The central government could specialise the time up to which the preventive duty would being implemented minimise or expand the time, and fix the efficient rate.

Education Cess is imposed at 2% and Higher Education Cess at 1% of the total of customs duties. It is not exclusive of Safeguard Duty, Countervailing Duty on related articles, or Anti-Dumping Duty, although.

On exporting or importing of goods from India, the enterprise or person should receive an Import Export Code or IE Code from the Directorate General of Foreign Trade. IE Code could be received by the organisation on receiving of PAN and opening a bank account.

As an importer or exporter should be registered Terms of Sale is negotiated. Export formalities and responsibilities towards sale proceed should be understood. Understanding of documentation on Custom duty Custom formalities to be completed and documents is obtained for exports. Submitted to the Bank for onward transmission to purchaser Sale Proceeds is received. Accounting is an integral part of accountability commonly known as recording the transaction, summarising, reporting and analysing the numerical figures to understand the financial position of a company/firm to monitor the progressive success or bankruptcy of a business in terms of monetary measure. Certain steps are followed for keeping records in accounts by an accountant to maintain a steady function of a running enterprise. Whereas Auditing in VAT

means Value added tax is the difference of Value added tax input and Value added Tax output.

This Auduting of VAT is performed by a Tax auditor or authorised tax officer to ascertain the traders who is deceiving the Indian govt. by not paying tax thus collapsing the Indian economy. To such offenders penalties are applicable to punish them to operate the accuracy of accounts, bookkeeping and documents relevant to it. Sometimes, traders who is creating errors due to lack of information or slight negligence, in such case tax authorities helps such dealers to rectify the mistakes and assist in VAT auditing so that they can provide a valid explanation about their business details.

It provides financial data in such a way which depict smooth business performance function. As an owner of a firm, one can use financial accounting to advances ratio analysis and practise these ratios to execute significant information of numerous dimension of an expansive firm.

Cash position of an enterprise can be analysed by profit or sales ratio and by contrast it with your past execution or the observation of competitors. Financial accounting helps you formulate your future course of action or strategy and measure the success of this strategy with the financial information produced from another period. To be purposeful, value-added task, financial accounting of a firm should follow some delegation. It should be pertinent enables data stakeholder domination. Financial accounting must be acceptable, so the cost of presenting this information should not exceed its benefit. The information that you present must be consistent, and you must meticulously follow the same accounting principles for all records. In each and every tax system, for identification of tax payers there is requirement of registration to safeguard tax consent in the economy. Under the GST Law registration of any enterprise or firm signify collecting a unique number from tax authorities to obtain tax from government side and to account Input Tax Credit for the taxes on his inbound stores. If a person is not registered under GST can neither collect tax from his consumers nor claim any input Tax Credit of tax paid by them.

If we will talk about nature of registration then it is State specific and PAN based. Provider from where he is supplying has to register in particular State or Union territory. The provider is given a 15-digit GST identification number called "GSTIN" under GST registration, and a certification of registration including GSTIN provided to the applicant on the GSTN portal. GST law suggests particular process for registration, also for the extension of the operation period of informal or Non Resident taxable individuals. Such persons have to apply for registration before five days in advance to making any supply before it. And registration is approved or operational time period is increased only after advance deposit of the progressive tax liability.

If supplies to agencies like, multinational financial institutions, UN organization and other organizations, a unique identification number (UIN) is allotted. The newly rules regulated by the Central Board of Excise and Customs (CBEC) also permit traders and producers of goods like this to demand as much as sixty per cent of the input tax credit on stocks kept on not sold up to thirty June. Much credit would be permitted for goods which favour GST at eighteen per cent or much than it. For goods other than it, credit of forty per cent would be accessible.

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Building Depreciation Schedules

It provides financial data in such a way which depict smooth business performance function. As an owner of a firm, one can use financial accounting to advances ratio analysis and practise these ratios to execute significant information of numerous dimension of an expansive firm. Cash position of an enterprise can be analysed by profit or sales ratio and by contrast it with your past execution or the observation of competitors. Financial accounting helps you formulate your future course of action or strategy and measure the success of this strategy with the financial information produced from another period. To be purposeful, value-added task, financial accounting of a firm should follow some delegation. It should be pertinent enables data stakeholder domination. Financial accounting must be acceptable, so the cost of presenting this information should not exceed its benefit.

Easy, simple procedure as taxes would be simpler majorly, and an enterprise would realize the smooth flow of goods in respected state. The GST is a vital process for fair governance and one have not to worry about taxes at many times. Bringing ITC Rules for Common Credit in GST i.e. Taxable delivery ,organization and activity of a non-firm it is proved that new policies are attached to vast extent with the present policies for claiming input tax credit in CENVAT Rules 2004, considered to input services and inputs utilized for firm and non- organization activity i.e. for personal affairs giving taxable delivery. Provider who supply goods and / or services are imposed to tax under GST law, and total turnover in a year succeeds the threshold beyond of twenty lakh rupees would be eligible to register himself in the State or the Union territory of Delhi or Puducherry from place he makes the taxable supply Eleven special divisions this threshold limit for registration eligibility is about ten lakh rupees. Apart from it, Section 24 of the Act implies classification of providers would be feasible to register even if aggregate turnover is lower the threshold limit of 20 lakh rupees. As per Section 23 of the Act. A farmer in respect of supply of his farmland production as individual specially doing delivery of non-taxable will not be feasible for GST registration.

Depreciation on Income Statement

The document has to be released in thirty days of 1st July the planned GST pulling date. The proficiency would, although be segregated of the transformation plan, means, who is utilising it would not be required to allegate input tax credit on not sold goods. The CBEC has even notified of a various fine and utilising "provisions for recovery of credit, interest and fine in the CENVAT Credit Rules, 2004" not in favour of producers who collect tax credit two times on the similar goods. Traders and producers would be assumed to submit an online disclosure in sixty days on the GSTN.

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nature of registration then it is State specific and PAN based. Provider from where he is supplying has to register in particular State or Union territory.

Causes of Depreciation

It provides financial data in such a way which depict smooth business performance function of depreciation. As an owner of a firm, one can use financial accounting to advances ratio analysis and practise these ratios to execute significant information of numerous dimension of an expansive firm. Cash position of an enterprise can be analysed by profit or sales ratio and by contrast it with your past execution or the observation of competitors. Financial accounting helps you formulate your future course of action or strategy and measure the success of this strategy with the financial information produced from another period. To be purposeful, value-added task, financial accounting of a firm should follow some delegation. It should be pertinent enables data stakeholder domination. Financial accounting must be acceptable, so the cost of presenting this information should not exceed its benefit.

The information that you present must be consistent, and you must meticulously follow the same accounting principles for all records. In each and every tax system, for identification of tax payers there is requirement of registration to safeguard tax consent in the economy. Under the GST Law registration of any enterprise or firm signify collecting a unique number from tax authorities to obtain tax from government side and to account Input Tax Credit for the taxes on his inbound stores. If a person is not registered under GST can neither collect tax from his consumers nor claim any input Tax Credit of tax paid by them.

3. ***Double Declining Method:*** It is one of the two significant methods a corporate uses to account for the expenses of a fixed asset. It is an accelerated depreciation method. As the name indicates, it counts expense twice as much as the book value of the asset every year.

If we will talk about nature of registration then it is State specific and PAN based. Provider from where he is supplying has to register in particular State or Union territory. The provider is given a 15-digit GST identification number called "GSTIN" under GST registration, and a certification of registration including GSTIN provided to the applicant on the GSTN portal. GST law suggests particular process for registration, also for the extension of the operation period of informal or Non-Resident taxable individuals. Such persons have to apply for registration before five days in advance to making any supply before it. And registration is approved or operational time period is increased only after advance deposit of the progressive tax liability.

If supplies to agencies like, multinational financial institutions, UN organization and other organizations, a unique identification number (UIN) is allotted. The newly rules regulated by the Central Board of Excise and Customs (CBEC) also permit traders and producers of goods like this to demand as much as sixty per cent of the input tax credit on stocks kept on not sold up to thirty June. Much credit would be permitted for goods which favour GST at eighteen per cent or much than it. For goods other than it, credit of forty per cent would be accessible.

a. Stages of audit activity and intervals of audit would depend on the crew feasible in the VAT trader's community. Although it would be mandatory to assure the present crew set up to achieve dual goals of increasing improving voluntary tax compliance by VAT dealers and collection of revenue.

b. The goal attainment can generate a rivalry sometimes, directing of risk dealers must increase revenue collection, while broad audit coverage becomes

mandatory to attain peak voluntary compliance. Hence a balance has to be struck between the two.

c. The goal of Audit is to fill the gap where Tax is legally due to state and Tax is paid actually by the tax payers.

Major goal of audit is to expand revenue collection and upgrade tax compliance by the trader. During this process, legal rights of traders should be safeguard and dignified. Process of audit should be handled efficiently to introduce the Law in effect.

4. ***Unit of Production Method:*** It is a two-step process, not like straight line method. It equal expense rates are given to each unit produced. It makes the method very useful in assembly for production lines. Hence, the calculation is based on output capability of the asset rather than the number of years.

The tasks needs one should have sufficient information and better knowledge of principles of financial accounting and agreement which can authorise, maintain financial data and distribute task among employees. Hence one can figure out, Financial accounting permit us to review and invigilate such tasks to get result nearly Stable financial records enables financial controls and idea which minimise the hazard of scam and vandalism, which investors have to monitor.

A process well-known as double entry bookkeeping also noted by "double entry accounting". Every financial transaction made by a firm that a company is being recorded in this entity. Can you tell me why Financial accounting is known as double entry bookkeeping. The terminology "double entry" implies that each transaction made influence two accounts at last. Benefits of double entry book keeping is at any point of time, firm's ' asset accounts balance would be equal to the liability and stockholders' equity accounts balance

Step 1: Calculate per unit depreciation:

Per unit Depreciation = (Asset cost – Residual value) / Useful life in units of production

Step 2: Calculate the total depreciation of actual units produced:

Total Depreciation Expense = Per Unit Depreciation * Units Produced

Example: ABC enterprise purchases a printing press to print flyers for ₹ 40,000 with a useful life of 1, 80,000 units and residual value of ₹ 4000. It prints 4000 flyers.

Step 1: Per unit Depreciation = (40,000-4000)/180,000 = ₹ 0.2

Step 2: Total Depreciation expense = ₹ 0.2 * 4000 flyers = ₹ 800

So the total Depreciation expense is ₹ 800 which is accounted. As per unit depreciation is found out, this could be implemented to future output runs.

But, this facility would be accessible only for high-end goods costed over ₹ 25,000 that "are examinable as a different number, like engine number of a car". The document has to be released in thirty days of 1st July the planned GST pulling date. The proficiency would, although be segregated of the transformation plan, means, who is utilising it would not be required to allegate input tax credit on not sold goods. The CBEC has even notified of a various fine and utilising "provisions for recovery of credit, interest and fine in the CENVAT Credit Rules, 2004" not in favour of producers who collect tax credit two times on the similar goods. Traders and producers would be assumed to submit an online disclosure in sixty days on the GSTN

Capital Gain Losses. (Both short term capital loss and long term capital loss) Losses from owning and maintaining race Horses). To be utilised especially for non firm intentions or utilised specially for influencing excluding delivery would be represented in FORM GSTR-2 would not be credited to electronic credit ledger, the value of input tax in order of capital goods utilised or purposed to be utilised excluding for influencing delivery other than excluding delivery however added zero-rated delivery would be represented in FORM GSTR-2 and would be credited to the electronic credit ledger.

Individual with a taxable aggregate turnover of over ₹ 25 lakhs are requisite for GST registration. A procedure accessible for GST registration to assist input tax credit The word "person" under GST law, is liable to pay it, additionally proprietorship. LLP, partnership firms, Hindu Undivided Family, Company, Society and any other legal business. GST registration should be received from 30 days if increases ₹ 25 lakh turnover. Business with present service tax or VAT registration, the process for VAT or Service Tax registration as a GST registration notification would be released.

Value of input tax in order of capital goods not given in clauses (a) and (b), represented as 'A', would be credited to the electronic credit ledger and the utilised life span of goods would be considered as five years from the date of the invoice for these goods. Given that where any capital goods previously mentioned in clause After given in this clause, the amount of 'A' would be given minimising the input tax in rate of 5% no. for each quarter or core hence the value 'A' would be credited to the electronic credit ledger:

This is not possible for an Assesse to set off the losses under intercourse adjustments and interhead adjustments he can carry forward the same to the next Assessment Years. Provider who supply goods and / or services are imposed to tax under GST law, and total turnover in a year succeeds the threshold beyond of twenty lakh rupees would be eligible to register himself in the State or the Union territory of Delhi or Puducherry from place he makes the taxable supply Eleven special divisions this threshold limit for registration eligibility is about ten lakh rupees. Apart from it, Section 24 of the Act implies classification of providers would be feasible to register even if aggregate turnover is lower the threshold limit of 20 lakh rupees. As per Section 23 of the Act. A farmer in respect of supply of his farmland production as individual specially doing delivery of non-taxable will not be feasible for GST registration. Including, the CBEC issued the draft credit transfer document to access further on full credit of excise duty to a trader for not sold stocks previous the last of the month.

But, this facility would be accessible only for high-end goods costed over ₹ 25,000 that "are examinable as a different number, like engine number of a car". The document has to be released in thirty days of 1st July the planned GST pulling date. The proficiency would, although be segregated of the transformation plan, means, who is utilising it would not be required to allegate input tax credit on not sold goods. The CBEC has even notified of a various fine and utilising "provisions for recovery of credit, interest and fine in the CENVAT Credit Rules, 2004" not in favour of producers who collect tax credit two times on the similar goods. Traders and producers would be assumed to submit an online disclosure in sixty days on the GSTN.

Methods of Asset Depreciation

This maintains a fundamental step of financial controls of one's enterprise. The tasks needs one should have sufficient information and better knowledge of principles of financial accounting and agreement which can authorise, maintain financial data and

distribute task among employees. Hence one can figure out, Financial accounting permit us to review and invigilate such tasks to get result nearly. Stable financial records enables financial controls and idea which minimise the hazard of scam and vandalism. which investors have to monitor.

A process well-known as double entry bookkeeping also noted by "double entry accounting". Every financial transaction made by a firm that a company is being recorded in this entity. Can you tell me why Financial accounting is known as double entry bookkeeping. The terminology "double entry" implies that each transaction made influence two accounts at last. Benefits of double entry book keeping is at any point of time, firm's ' asset accounts balance would be equal to the liability and stockholders' equity accounts balance.

It is important to know that Carry forward Losses can be set off only against that head of income. It must be noted that an Assesse must file the Income Tax Return within the due date prescribed (under section 139(1)) to carry forward the losses except in the cases loss arising under the head house property (under section 71B) and carry forward of unabsorbed depreciation (under Section 32(2)).

According to section 73, Income Losses in speculative businesses could be carried forward up to 4 years instantly forwarding the Assessment year in which it is incurred.

An Assesse should file the Income Tax Return within due date prescribed to carry forward the losses from speculative Business and can be adjusted only against income from speculation Business.

If goods where Integrated GST (IGST) is paid, a credit of thirty per cent would be provided for those taxation at eighteen per cent or above and twenty per cent for products which is taxed at lesser rates. The rules were ultimate by the GST Council in its meeting on third June and are supposed to provide some comfort to traders and establishment attained on the status of list at the period of GST pulled.

April 1. 2017 implies curiosity to understand new rules and regulations implemented by GST Council. Understand the Registration Requirement: Individual with a taxable aggregate turnover of over ₹ 25 lakhs are requisite for GST registration. A procedure accessible for GST registration to assist input tax credit. The word "person" under GST law, is liable to pay it, additionally proprietorship, LLP, partnership firms. Hindu Undivided Family. Company, Society and any other legal business. GST registration should be received from 30 days if increases ₹ 25 lakh turnover. Business with present service tax or VAT registration, the process for VAT or Service Tax registration as a GST registration notification would be released.

Goods and Services Tax which would be levied by the state and central governments encompasses VAT, Service Tax, etc. as indirect tax. Individual with PAN no, and person with Threshold GST 10 lakh/20 lakh or GST limit are liable to make registration for GST. TDS payer, casual traders, etc., will be liable to register for GST. GST will be applied on supply of goods & services in India. GST will be imposed on VAT, sales tax. excise duty, customs, service tax. luxury tax etc. GST registration is compulsory when Supply of goods and services in India takes place.

Registration for GST can be proceeded online through Central Government or State Government. The individual has to provide an online application for GST registration by utilizing Form GST-1 including information of the good and services. Online payment required for the registration fee will be made under GST registration. Number will be given on submission of application. After submission of the application, the applicant required to print a copy of the form. include the documents listed above and send by courier to the GST department. On inspection, of the form

final GST slip would be released by the authorized officer. GST registration process is surmised to be an entire online procedure alike to the service tax registration process.

According to (Section71B) of Income Tax Act,1961 An Assesse could carry forward the income losses incurred in the head house property up to 8 years immediately succeeding the Assessment year in which the loss has incurred. This could be adjusted only against House property Income loss. In this case, an Assesse could file the belated return.

According to section 72 of Income Tax Act,1961 An Assesse could carry forward Non-speculative business loss up to 8 years instantly succeeding the Assessment Year in which the loss has incurred then he should file ITR within due date prescribed under section139 (1) of Income Tax Act 1961, then he would not be able to carry forward the losses. This could be set off only not in favour of business income.

According to section 73, Income Losses in speculative businesses could be carried forward up to 4 years instantly forwarding the Assessment year in which it is incurred.

An Assesse should file the Income Tax Return within due date prescribed to carry forward the losses from speculative Business and can be adjusted only against income from speculation Business.

According to section 73A, Income Losses in Specified business loss could be carry forward subject to the following conditions:

Example: On April 1, 2012, company A purchased an equipment for ₹ 100,000. It is expected to have 5 useful life years. The salvage value is ₹ 14,000. Company A considers depreciation expense for the near whole month. Compute the depreciation expenses for 2012, 2013, 2014 using declining balance method.
Useful life = 5

Straight line depreciation percent = 1/5 = 0.2 or 20% per year

Depreciation rate = 20% * 2 = 40% per year

Depreciation for the year 2012 = ₹ 100,000 * 40% * 9/12 = ₹ 30,000

Depreciation for the year 2013 = (₹ 100,000-₹ 30,000) * 40% * 12/12
= ₹ 28,000

Depreciation for the year 2014 = (₹ 100,000 – ₹ 30,000 – ₹ 28,000) * 40%
* 9/12 = ₹ 16,800

When Service Tax Registration is done online, you will get Acknowledgement Slip print sign it before completing the hard copy of the ST-1 Form to be forwarded to the commissionerate

When documents is sent to the commissioner ate ,it is verified by the superintendent the ST-1 Form before allowing the Service Tax Registration Certificate or will intimate you for not accepting your Service Tax Registration., if any of the cases is not exercised within two days the Service Tax Registration will be thought as granted. You have the option to choose to get the Service Tax Registration Certificate (ST-2) online or by post.

Tax Depreciation

According to section 73A, Income Losses in Specified business loss could be carry forward subject to the following conditions:

1. Income loss in respect of any specified business referred to in section 35AD would not be set off except against profits and gains, if any, of any other specified business.

2. Income loss in specified business has not been wholly set off, so much of the loss as is not so set off or the whole loss where the assesse has no income from any other specified business shall be carried forward to the following assessment year.

   i. This would be set off against the profits and gains, if any, of any specified business, carried on by him assessable for that assessment year: and

   ii. If the loss not be completely so set off, the amount of loss not so set off would be carried forward to the following assessment year and so on.

In case a person is unable to set off the capital loss in the existing year, both Long Term loss and Short Term loss would be taken forward immediately for 8 Assessment Years. Capital Losses from a business are allowed to be carried forward and carrying on of this business is not mandatory. The inputs, partially furnished goods would be sent to the job professional in challan released constitutes and such goods are sent straight to a job professional.

The challan released and sent to the job professional would constitute the regulations categorised in rule 55. Information of challans in order of goods sent to a job professional or obtained from a job professional or sent from one job professional to in quarter would be added in FORM GST ITC-04 completed for particular time or previously the twenty-fifth day of the month proceeding the mentioned quarter capital goods or inputs are not returned in particular time mentioned in section 143, would be considered like capital goods and inputs supplied by the job professional on particular day when mentioned inputs or capital goods are sent and mentioned supply would be disclosed in FORM GSTR-1 and would be permitted to pay the tax including applicable interest.

As an importer or exporter should be registered Terms of Sale is negotiated. Export formalities and responsibilities towards sale proceed should be understood. Understanding of documentation on Custom duty Custom formalities to be completed and documents is obtained for exports. Submitted to the Bank for onward transmission to purchaser Sale Proceeds is received. Accounting is an integral part of accountability commonly known as recording the transaction, summarising, reporting and analysing the numerical figures to understand the financial position of a company/firm to monitor the progressive success or bankruptcy of a business in terms of monetary measure. Certain steps are followed for keeping records in accounts by an accountant to maintain a steady function of a running enterprise. Whereas Auditing in VAT means Value added tax is the difference of Value added tax input and Value added Tax output.

Countervailing duty is similar to central excise duty and is imposed on imported articles generated in India. In CVD, the procedure of manufacture value to 'manufacture' which is explained in the Central Excise Act, 1944. CVD is dependent on the total amount of goods inclusive landing charges. Inclusive CVD would be imposed equal to VAT or Sales Tax, not succeeding 4%. Such duty could be refunded in case importer pays each customs duties, the sales invoice implies the credit is not permitted, and importer pays sales tax/VAT on the sale of the good. Individual with a taxable aggregate turnover of over ₹25 lakhs are requisite for GST registration. A procedure accessible for GST registration to assist input tax credit. The word "person" under GST law, is liable to pay it, additionally proprietorship, LLP, partnership firms, Hindu Undivided Family, Company, Society and any other legal business. GST registration should be received from 30 days if increases ₹25 lakh turnover. Business with present service tax or VAT registration, the process for VAT or Service Tax registration as a GST registration notification would be released.

Formula of Depreciation

The formula is:

Depreciation = 2 * Straight line depreciation percent * book value at the beginning of the accounting period

Book value = Cost of the asset – accumulated depreciation

Accumulated depreciation is the total depreciation of the fixed asset accumulated up to a specified time.

CVDs other than it would be levied on specialised imported goods to balance the impact of a subsidy in the nation of origin. A notification released by the central government on these specialised goods is valid for 5 years and majorly relate to later expansion of not succeeding 10 years. Subsidies relevant to research movement, helpful to not advantageous areas in the related nation, and helpful in adjusting present facilities to new environmental requisite are exempt.

The central government would levy an anti-dumping duty if it estimates a good is being imported at lesser from market price, and an importer would be released. The duty could not go beyond the difference in the export and average cost. It is not applicable to goods imported by units in Free Trade Zones (FTZs Export Oriented Units (EOU)) and Special Economic Zones (SEZs). In case if importer is released by the central government then imposition of Anti-Dumping duty, the release would be valid for 5 years with the probability of being expanded to 10 years.

Not like the Anti-Dumping Duty, the levy of Safeguard Duty would not requisite the central government to estimate a good is to be imported at lesser from market cost. Safeguard Duty is levied if the government declares that a on a sudden hike in exports is reason, or claims to create risky hazard to a private sector. Release of notice relating to the levy of Safeguard Duty have validity for 4 years with the probability with expansion of 10 years.

Preventive duty is levied to protect private industry from imports. In case, if the Tariff Commission releases an allowance for the levy of a Preventive Duty, the central government would select to levy these at a rate which would not be succeeded that prescribed through Tariff Commission. The central government could specialise the time up to which the preventive duty would being implemented minimise or expand the time, and fix the efficient rate.

Depreciation and Accounting Tools

The newly rules regulated by the Central Board of Excise and Customs (CBEC) also permit traders and producers of goods like this to demand as much as sixty per cent of the input tax credit on stocks kept on not sold up to thirty June. Much credit would be permitted for goods which favour GST at eighteen per cent or much than it. For goods other than it, credit of forty per cent would be accessible. If goods where Integrated GST (IGST) is paid, a credit of thirty per cent would be provided for those taxation at eighteen per cent or above and twenty per cent for products which is taxed at lesser rates. The rules were ultimate by the GST Council in its meeting on third June and are supposed to provide some comfort to traders and establishment attained on the status of list at the period of GST pulled. Required and registered persons are assumed to surrender a disclosure in ninety days of the value of input tax credit to which they are designated to.

Education Cess is imposed at 2% and Higher Education Cess at 1% of the total of customs duties. It is not exclusive of Safeguard Duty, Countervailing Duty on related articles, or Anti-Dumping Duty, although.

On exporting or importing of goods from India, the enterprise or person should receive an Import Export Code or IE Code from the Directorate General of Foreign Trade. IE Code could be received by the organisation on receiving of PAN and opening a bank account.

As an importer or exporter should be registered Terms of Sale is negotiated. Export formalities and responsibilities towards sale proceed should be understood. Understanding of documentation on Custom duty Custom formalities to be completed and documents is obtained for exports. Submitted to the Bank for onward transmission to purchaser Sale Proceeds is received. Accounting is an integral part of accountability commonly known as recording the transaction, summarising, reporting and analysing the numerical figures to understand the financial position of a company/firm to monitor the progressive success or bankruptcy of a business in terms of monetary measure. Certain steps are followed for keeping records in accounts by an accountant to maintain a steady function of a running enterprise Whereas Auditing in VAT means Value added tax is the difference of Value added tax input and Value added Tax output.

This Auditing of VAT is performed by a Tax auditor or authorised tax officer to ascertain the traders who is deceiving the Indian govt. By not paying tax thus collapsing the Indian economy. To such offenders penalties are applicable to punish them to operate the accuracy of accounts, bookkeeping and documents relevant to it. Sometimes, traders who is creating errors due to lack of information or slight negligence, in such case tax authorities helps such dealers to rectify the mistakes and assist in VAT auditing so that they can provide a valid explanation about their business details.

In each and every tax system, for identification of tax payers there is requirement of registration to safeguard tax consent in the economy. Under the GST Law registration of any enterprise or firm signify collecting a unique number from tax authorities to obtain tax from government side and to account Input Tax Credit for the taxes on his inbound stores. If a person is not registered under GST can neither collect tax from his consumers nor claim any input Tax Credit of tax paid by them. If we will talk about nature of registration then it is State specific and PAN based. Provider from where he is supplying has to register in particular State or Union territory.

Overview of Depreciation with Tax system

Depreciation, simple procedure as taxes would be simpler majorly, and an enterprise would realize the smooth flow of goods in respected state The GST is a vital process for fair governance and one have not to worry about taxes at many times. Bringing ITC Rules for Common Credit in GST i.e. Taxable delivery ,organization and activity of a non- firm it is proved that new policies are attached to vast extent with the present policies for claiming input tax credit in CENVAT Rules 2004, considered to input services and inputs utilized for firm and non- organization activity i.e. for personal affairs giving taxable delivery. Provider who supply goods and / or depreciation are imposed to tax under GST law, and total turnover in a year succeeds the threshold beyond of twenty lakh rupees would be eligible to register himself in the State or the Union territory of Delhi or Puducherry from place he makes the taxable supply Eleven special divisions this threshold limit for registration eligibility is about ten lakh rupees. Apart from it, Section 24 of the Act implies classification of providers would be feasible to register even if aggregate turnover is lower the threshold limit of 20 lakh rupees. As per Section 23 of the Act. A farmer in respect of supply of his farmland production as individual specially doing delivery of non-taxable will not be feasible for GST registration.

This means to carry a systematic way of inquiry of accounts by a tax officer or an auditor to analyse the information and details to understand the accounts structure of a business or enterprise by applying skill and from other relevant sources. VAT stands for value added tax, payment of VAT is the difference in total VAT output and VAT input.

Value-added tax (VAT) paid by manufactures of goods and services if a yearly aggregate income over of ₹ 5 lakh. For e-filing of VAT returns in India concerned person has to make registration for VAT which take time period of 20-40 days for sanction. Once completed, individual can pay online the amount received and can e-file VAT returns on the Commercial Taxes website of respected state. VAT Returns are required to be filed monthly once or quarter (but it depends on aggregate income from which state you are belonging) Including, the CBEC issued the draft credit transfer document to access further on full credit of excise duty to a trader for not sold stocks previous the last of the month. But, this facility would be accessible only for high-end goods costed over ₹ 25,000 that "are examinable as a different number, like engine number of a car" The document has to be released in thirty days of 1st July the planned GST pulling date. The proficiency would, although be segregated of the transformation plan, means, who is utilising it would not be required to allegate input tax credit on not sold goods. The CBEC has even notified of a various fine and utilising "provisions for recovery of credit, interest and fine in the CENVAT Credit Rules, 2004" not in favour of producers who collect tax credit two times on the similar goods. Traders and producers would be assumed to submit an online disclosure in sixty days on the GSTN

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In each and every tax system, for identification of tax payers there is requirement of registration to safeguard tax consent in the economy. Under the GST Law registration of any enterprise or firm signify collecting a unique number from tax authorities to obtain tax from government side and to account Input Tax Credit for the taxes on his inbound stores. If a person is not registered under GST can neither collect tax from his consumers nor claim any input Tax Credit of tax paid by them. If we will talk about nature of registration then it is State specific and PAN based Provider from where he is supplying has to register in particular State or Union territory.

Set of loss in order of capital goods, which influence the provisions of sub-sections (1) and (2) of section 17, as partially utilised for the intentions of firm and partially for other intentions or utilised for influencing taxable delivery including zero rated delivery and partially for influence excluded supplies, would be given to the intentions of firm or for impact of taxable delivery in the perusing way.

This loss could be set off only not in favour of the income from owning and maintaining race horses. This maintains a fundamental step of financial controls of one's enterprise. The tasks needs one should have sufficient information and better knowledge of principles of financial accounting and agreement which can authorise, maintain financial data and distribute task among employees. Hence one can figure out, Financial accounting permit us to review and invigilate such tasks to get result nearly. Stable financial records enables financial controls and idea which minimise the hazard of scam and vandalism, which investors have to monitor.

So now we know the meaning of depreciation, the methods used to calculate them, inputs required to calculate them and also we saw examples of how to calculate them. Let's find out as to why the small businesses should care to record depreciation.

As we already know the purpose of depreciation is to match the cost of the fixed asset over its productive life to the revenues the business earns from the asset. It is very difficult to directly link the cost of the asset to revenues, hence, the cost is usually assigned to the number of years the asset is productive.

In the useful life of the fixed asset, the cost is moved from balance sheet to income statement. Correspondingly, it is just an allocation process as per matching principle instead of a technique that allocates the fair market value of the fixed asset.

Companies whose stock is traded publicly should obey of the reporting requisites of the Securities and Exchange Commission (SEC). is a bureau of the govt. of United States.

Brought forward income losses is almost like if the firm suffer a loss before going for depreciation, then the all amount of depreciation is unabsorbed depreciation. Although, if the enterprise suffers a loss as a result of depreciation amount than the business loss will be negligible and balance of depreciation amount would unabsorbed depreciation.

It provides financial data in such a way which depict smooth business performance function. As an owner of a firm, one can use financial accounting to advances ratio analysis and practise these ratios to execute significant information of numerous dimension of an expansive firm. Cash position of an enterprise can be analysed by profit or sales ratio and by contrast it with your past execution or the observation of competitors. Financial accounting helps you formulate your future course of action or strategy and measure the success of this strategy with the financial information produced from another period. To be purposeful. value-added task. financial accounting of a firm should follow some delegation. It should be pertinent enables data stakeholder domination. Financial accounting must be acceptable, so the cost of presenting this information should not exceed its benefit. The information that you present must be consistent, and you must meticulously follow the same accounting principles for all records.

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If supplies to agencies like, multinational financial institutions, UN organization and other organizations. a unique identification number (UIN) is allotted. The newly rules regulated by the Central Board of Excise and Customs (CBEC) also permit traders and producers of goods like this to demand as much as sixty per cent of the input tax credit

on stocks kept on not sold up to thirty June. Much credit would be permitted for goods which favour GST at eighteen per cent or much than it. For goods other than it, credit of forty per cent would be accessible. When documents is sent to the commissioner ate, it is verified by the superintendent the ST-1 Form before allowing the Service Tax Registration Certificate or will intimate you for not accepting your Service Tax Registration.. if any of the cases is not exercised within two days the Service Tax Registration will be thought as granted. You have the option to choose to get the Service Tax Registration Certificate (ST-2) online or by post. When Service Tax Registration Certificate is granted, Service Tax Number one can get which is 15 characters long. The number obtained would be used in all invoices

When one selected to receive the Service Tax Registration Certificate online one can see the ST-2 Form on homepage. If you want at a glance, click on the 'REG' tab, then choose 'View', and lastly select 'Latest ST-2'.

This loss could be set off only not in favour of the income from owning and maintaining race horses. This maintains a fundamental step of financial controls of one's enterprise. The tasks needs one should have sufficient information and better knowledge of principles of financial accounting and agreement which can authorise, maintain financial data and distribute task among employees. Hence one can figure out, Financial accounting permit us to review and invigilate such tasks to get result nearly. Stable financial records enables financial controls and idea which minimise the hazard of scam and vandalism. which investors have to monitor.

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To include all, the function of ISD is not altered much from that of the conventional law to the new GST model. But excluding some vital alterations mentioned above, one another alteration is that the ISD in the GST law would have to file every month returns by 13th of the succeeding month contrast to previous when they had to file half-annum returns.

Providing vital happiness to car and customer durables producers, the Finance Minister has released the ultimate rules and regulations for transformation law in the Goods and Services Tax (GST), permitting them to bring further input tax credit for ninety days, not in favour of the previous arrangement of sixty days.

The newly rules regulated by the Central Board of Excise and Customs (CBEC) also permit traders and producers of goods like this to demand as much as sixty per cent of the input tax credit on stocks kept on not sold up to thirty June. Much credit would be permitted for goods which favour GST at eighteen per cent or much than it. For goods other than it, credit of forty per cent would be accessible.

If goods where Integrated GST (IGST) is paid, a credit of thirty per cent would be provided for those taxation at eighteen per cent or above and twenty per cent for products which is taxed at lesser rates The rules were ultimate by the GST Council in

its meeting on third June and are supposed to provide some comfort to traders and establishment attained on the status of list at the period of GST pulled.

April 1, 2017 implies curiosity to understand new rules and regulations implemented by GST Council. Understand the Registration Requirement: Individual with a taxable aggregate turnover of over ₹ 25 lakhs are requisite for GST registration. A procedure accessible for GST registration to assist input tax credit. The word "person" under GST law, is liable to pay it, additionally proprietorship, LLP, partnership firms, Hindu Undivided Family, Company, Society and any other legal business. GST registration should be received from 30 days if increases ₹ 25 lakh turnover. Business with present service tax or VAT registration, the process for VAT or Service Tax registration as a GST registration notification would be released.

Goods and Services Tax which would be levied by the state and central governments encompasses VAT, Service Tax, etc. as indirect tax. Individual with PAN no, and person with Threshold GST 10 lakh/20 lakh or GST limit are liable to make registration for GST. TDS payer, casual traders, etc., will be liable to register for GST. GST will be applied on supply of goods & services in India. GST will be imposed on VAT, sales tax, excise duty, customs, service tax, luxury tax etc. GST registration is compulsory when Supply of goods and services in India takes place.

Depreciation Regulations and Policies

Depreciation for GST can be proceeded online through Central Government or State Government. The individual has to provide an online application for GST registration by utilizing Form GST-1 including information of the good and services. Online payment required for the registration fee will be made under GST registration. Number will be given on submission of application. After submission of the application, the applicant required to print a copy of the form, include the documents listed above and send by courier to the GST department. On inspection, of the form final GST slip would be released by the authorized officer. GST registration process is surmised to be an entire online procedure alike to the service tax registration process.

This loss could be set off only not in favour of the income from owning and maintaining race horses. This maintains a fundamental step of financial controls of one's enterprise. The tasks needs one should have sufficient information and better knowledge of principles of financial accounting and agreement which can authorise, maintain financial data and distribute task among employees. Hence one can figure out, Financial accounting permit us to review and invigilate such tasks to get result nearly. Stable financial records enables financial controls and idea which minimise the hazard of scam and vandalism, which investors have to monitor.

The newly rules regulated by the Central Board of Excise and Customs (CBEC) also permit traders and producers of goods like this to demand as much as sixty per cent of the input tax credit on stocks kept on not sold up to thirty June. Much credit would be permitted for goods which favour GST at eighteen per cent or much than it. For goods other than it, credit of forty per cent would be accessible. If goods where Integrated GST (IGST) is paid, a credit of thirty per cent would be provided for those taxation at eighteen per cent or above and twenty per cent for products which is taxed at lesser rates. The rules were ultimate by the GST Council in its meeting on third June and are supposed to provide some comfort to traders and establishment attained on the status of list at the period of GST pulled. Required and registered persons are assumed to surrender a disclosure in ninety days of the value of input tax credit to which they are designated to.

According to (Section 71B) of Income Tax Act,1961 An Assesse could carry forward the income losses incurred in the head house property up to 8 years immediately

succeeding the Assessment year in which the loss has incurred. This could be adjusted only against House property Income loss. In this case, an Assesse could file the belated return

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a **Accounting entry – DEBIT depreciation expense account and CREDIT accumulated depreciation account.**

   If one is not using depreciation in accounting, then one have to charge all assets to expense once they are purchased It will result in huge losses in the transaction period and in high profitability in periods when the relevant revenue is taken without an offset expense. Thus, enterprises, which do not use the depreciation expense in their accounts will incur front-loaded expenses and highly variable financial results.

   If we will talk about nature of registration then it is State specific and PAN based. Provider from where he is supplying has to register in particular State or Union territory. The provider is given a 15-digit GST identification number called "GSTIN" under GST registration, and a certification of registration including GSTIN provided to the applicant on the GSTN portal. GST law suggests particular process for registration, also for the extension of the operation period of informal or Non-Resident taxable individuals. Such persons have to apply for registration before five days in advance to making any supply before it. And registration is approved or operational time period is increased only after advance deposit of the progressive tax liability.

b Stages of audit activity and intervals of audit would depend on the crew feasible in the VAT trader's community. Although it would be mandatory to assure the present crew set up to achieve dual goals of increasing improving voluntary tax compliance by VAT dealers and collection of revenue.

c. The goal attainment can generate a rivalry sometimes, directing of risk dealers must increase revenue collection, while broad audit coverage becomes mandatory to attain peak voluntary compliance. Hence a balance has to be struck between the two.

d. The goal of Audit is to fill the gap where Tax is legally due to state and Tax is paid actually by the tax payers.

Major goal of audit is to expand revenue collection and upgrade tax compliance by the trader. During this process, legal rights of traders should be safeguard and dignified. Process of audit should be handled efficiently to introduce the Law in effect.

Final Notes of Depreciation

Depreciation is a vital part of accounting records which helps enterprises maintain their income statement and balance sheet in an appropriate manner with the right profits recorded.

Set of loss in order of capital goods, which influence the provisions of sub-sections (1) and (2) of section 17, as partially utilised for the intentions of firm and partially for other intentions or utilised for influencing taxable delivery including zero rated delivery and partially for influence excluded supplies, would be given to the intentions of firm or for impact of taxable delivery in the perusing way.

This loss could be set off only not in favour of the income from owning and maintaining race horses. This maintains a fundamental step of financial controls of one's enterprise. The tasks needs one should have sufficient information and better knowledge of principles of financial accounting and agreement which can authorise, maintain financial data and distribute task among employees. Hence one can figure out, Financial accounting permit us to review and invigilate such tasks to get result nearly. Stable financial records enables financial controls and idea which minimise the hazard of scam and vandalism, which investors have to monitor.

Countervailing duty is similar to central excise duty and is imposed on imported articles generated in India. In CVD, the procedure of manufacture value to 'manufacture' which is explained in the Central Excise Act, 1944. CVD is dependent on the total amount of goods inclusive landing charges. Inclusive CVD would be imposed equal to VAT or Sales Tax, not succeeding 4%. Such duty could he refunded in case importer pays each customs duties, the sales invoice implies the credit is not permitted, and importer pays sales tax/VAT on the sale of the good. Individual with a taxable aggregate turnover of over ₹ 25 lakhs are requisite for GST registration. A procedure accessible for GST registration to assist input tax credit. The word "person" under GST law, is liable to pay it, additionally proprietorship, LLP, partnership firms, Hindu Undivided Family, Company, Society and any other legal business. GST registration should be received from 30 days if increases ₹ 25 lakh turnover. Business with present service tax or VAT registration, the process for VAT or Service Tax registration as a GST registration notification would be released.

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5.6 METHOD OF CALCULATING DEPRECIATION

1. Contemplate total W.D.V. of assets falling in a particular block of resources at the start of the year.
2. Add the cost of assets purchased during the previous calendar year.
3. Deduct Sale Price (or Scrap value) of strength sold, discarded, demolished or destroyed through the year.
4. On the equilibrium amount, i.e., 1 + 2 - 3, calculate depreciation at the specified rate. If WDV becomes the drawback, no depreciation is permitted. If all resources in the block are offered depreciation isn't enabled even if the block has any balance WDV.
5. In the first year if asset obtained is used for less than 180 days depreciation is limited to 50% of normal depreciation.
6. W.e.f. A.Y. 1998 - 99 a job engaged in production/supply of electricity has an option to claim depreciation on Straight Line Method. After option is exercised, it will apply to all succeeding years.

5.6.1 Additional Depreciation

It can be claimed on new plant & machinery acquired after 31st March 2005 by an assessee in the previous year in which it starts manufacturing or producing.

The rate of additional depreciation: 20 percent of actual cost

5.6.2 Unabsorbed Depreciation (Section 32)

If gain for the year is not sufficient to absorb depreciation either entirely or partially, unabsorbed depreciation could be deducted from any other head of income.

If it remains unabsorbed it can be carried forward to subsequent assessment years to be adjusted against future taxable income. It can be carried forward for the unlimited period.

5.7 UNDERSTANDING ABOUT THE SPECULATIVE BUSINESS INCOME

First of all, we must understand what speculative transaction is in order to understand the Speculative Business income. When a contract for sale or purchase of any commodities (including stocks and shares) is occasionally settled without the actual delivery or transfer of the commodities, it's called a risky trade, and when your business is to earn income out of such risky trade, then that will be your income from Speculative Business. Among the example of Speculative Business is stock broking, in which the agent earns money by way of buying and selling the commodities without even taking delivery of the same. Incomes from normal business and speculative business should be calculated and maintained separately since they're treated differently while e-filing the Income Tax Yield.

Here is a Couple of examples of incomes which are chargeable under this head:

- Daily gain from general activities as per profit and loss report of Business/ Profession.
- Even though profits from the speculative business (e.g., Share trading) are chargeable under this head, it is crucial to maintain and display them separately while e-filing the income tax return.

- Any profits out of activities besides ordinary business tasks should be shown as the casual source of income and also you will be shown under Revenue from Other Sources.
- The worth of almost any edges whether convertible into money or not derived from business/professional activity.
- All income generated by way of interest, commission, wages, remuneration, earnings, etc. Taken from the partner with this company is going to be treated as income from business/profession underneath the hands of their partner. On the other hand, the share of profits from the venture firm will probably be exempt beneath the control of their partner.
- Money recovered because of poor trades which were corrected against the proceeds of the earlier decades, respectively.
- Allowable Expenses from Business/ Profession Income
- Each of the expenses that are incurred wholly and entirely regarding the business and profession will likely be allowed from the income from such business and profession.

Here is a list of Few of the expenses That Are permitted:

- Payments for Professional and Legal solutions.
- Wages, interest, and remuneration to working partners subjected to certain ailments.
- Traveling and conveyance costs.
- Fees for membership.

5.7.1 Payment for Know-How, Patents, Copyrights, Trademark, Permits

Expenditures on a scientific search for business goals.

- Initial expenses in the Event of a Provider.
- Communication expenditures
- Discount permitted for clients.
- Ad expenses regarding promotion of business solutions.
- Fiscal Fees (e.g. Interest on loans).
- Entertainment/Business Promotion expenses.
- Postage costs.
- The remainder of the expenses concerning business/profession.

These expenses are enabled on the grounds of actual payments in addition to the accrual basis on the day of finalization of their balances. For, eg. Employee's wages for March 2017 is going to be soon paid for the month of April 2017. Nevertheless, as the wages are associated with this Financial Year 2016-17 (that finishes on 31st March 2017), then this can be asserted from the income by business/profession income of this Financial Year 2016-17.

But, certain expenses are permitted only on the fee basis. Here Are Just Some of the cases of these expenditures:

(1) Any taxation, duty, cess or penalties with whatever name called.

(2) Expenses towards participation to Provident finance, Workers' nation insurance policy premium, the Gratuity fund or alternative funding for the welfare of their employees.

(3) Interest on loan by public banking institutions say financial corporations or banks that are scheduled.

Now let us take a look at a Few of the expenses which aren't allowed to be deducted out of the business/profession income whatsoever:

(1) Expenditure on any kind of advertisement campaigns for political parties.

All the interest, royalty or fees for technical services or every other amount that are payable out site the geographical territory of India or from India to some nonresident or an overseas company on which taxation hasn't yet been deducted or later deduction, maybe not deducted prior to the prescribed time.

(2) All the interest, commission, rent, royalty, technical or professional fees payable or paid to any individual in India on which taxation hasn't yet been deducted and should deduct afterward perhaps not deducted before the expected date of e-filing the yield.

(3) Any taxation calculated on such basis as this benefit of this business/profession.

(4) One other remuneration paid for not working partner.

(5) Any interest to partners if not given within the agreement and not over 12 percent.

(6) Any payment in cash exceeding ₹ 20,000 (₹ 35,000 if obligations, for instance, hiring or renting goods carriages) subject to certain exceptions according to principle 6DD of their Indian Income Tax Act

5.8 SCOPE OF BUSINESS INCOME (SECTION 28)

Time throughout the calendar year profit made by business and profession.

Any reimbursement or any payment due to or obtained by:

(1) Some other individual for conclusion or alteration of conditions of bureau,

(2) Some other person on taking over of resources of the business enterprize by the authorities.

(3) Income derived with a transaction, professional or comparable institution by a method of making of special services for the associates.

(4) Income gains made by selling import licenses.

(5) Any refund of excise or customs duty under some duty drawback

(6) Any amount received by an assessee under some Insurance coverage.

(7) Income by a speculative organization.

Where insecure transactions performed by an assessee are of such a character as to represent a firm, the business enterprise shall be regarded as different and different from any additional business enterprise.

An Insecure business is a company where purchase or sale of a commodity containing shares and stocks will occasionally be or ultimately settled differently than by the actual shipping of or transport of goods or safety

The e.g., payoff of trade through speed gap in cash.

5.9 COMPUTATION OF BUSINESS INCOME UNDER INCOME TAX ACT

According to Income Tax law, no specific method or procedure is defined either in the Act or the rules.

However, as per Section 145 that an assessee is needed to specify the system of accounting often followed by him.

And this section specified two methods:

(1) Mercantile System

(2) Cash system

When Cash System is adopted, assessee provides Trading Account and Profit and Loss Account.

In this situation, we use "Negative Strategy."

5.9.1 Negative Approach

For computation of business income according to this technique, Debit part of profit and loss account is thoroughly inspected, and the expenses must be categorized under the following thoughts:

(a) Expenses allowable in the amount in which they are debited to Profit and Loss Account, e.g., lease, interest, repairs, and audit fees, etc. (no alteration is to be made).

(b) Expenses disallowed, e.g., private expenditures, drawings, proprietor salary, income taxation, etc.. Because these costs are disallowed they should be added back to the net gain.

(c) Expenses allowable at a different amount than debited at the P & L accounts, e.g., depreciation, preliminary expenditures, household planning costs, scientific research expenditures. Primarily they're added to the interest gain and then they're deducted at allowable volume.

(d) Expenses allowable as deduction under other heads of revenue or by total gross income, e.g., fixes to home property, collection fees, contributions, etc. Primarily, all these are needed to be inserted back to the net gain, and after that, they'll be subtracted from the various heads of revenue or by Gross Total Income as the case will concern the credit side of profit and Loss A/c.

This strategy is adopted when Gain and Loss Account or Income and Expenditure Account is granted. In the same way, on the obligations side, different payments are granted irrespective of the fact if they're pertaining to the Business/Profession or not.

As a beginning point, we take just receipts that arise from Business or Profession. From those receipts, these obligations are deducted as 'Allowable Expenses' that are incurred for the purposes of both Business or Profession. Depreciation allowable can also be deducted in acceptable rates because though it's not a payment: it's allowable deduction under Section 32.

The equilibrium is the Company Income/Income out of Profession. People payment that isn't about the business or profession isn't contemplated for computation of Business/Profession income. A number of the payments might be wholly disallowed, and therefore they should be discounted. Regarding others either they might be qualifying for deduction under section VI-A such as Donations etc., or beneath different heads of revenue. Examples of this payment are municipal taxation, in the event of property, set fees in the event of interest income, etc.

5.9.2 Investment Allowance for Investment in New Plant and Machinery [U/s 32AC]

This deduction is permitted for A.Y. 2014 - 15 & 2015 - 16 just to a Company participated in Production and invests over ' 100 crores in new plant and machinery during the span. This deduction is permitted along with ordinary and Additional depreciation.

Actual deduction in A.Y. 2014 - 15 15 percent of real cost of new resources acquired and installed in the past year 2013 - 14.

In A.Y. 2014 - 15 15 percent of the real cost of new assets obtained from 1st April 2013 to 31st March 2015 as decreased by deduction permitted in A.Y.2014 15.

5.9.3 Expenditure on Scientific Research [U/S 35]

Scientific Research means some actions for the growth of knowledge in the relevant fields.

The following expenditure on scientific research has been allowed as a deduction:

(a) Revenue expenditure incurred for scientific study associated with assessee's firm will be completely allowed. This might be the payment of any wages into the people engaged in scientific research or purchase of substances for use in this scientific study.

(b) Capital expenditure incurred on scientific research associated with assessee's company will be permitted in full; nevertheless, purchase of property isn't allowed. No depreciation is permitted u/s 32. In regard to these strength during the prior year and following the calendar year.

(c) Contribution designed to accept scientific study institution or university or college or other authorized institutions for scientific study and to approved college or Institution to get the usage of scientific study is permitted. This may or might not be related to assessee's company & a weighted deduction of 1.25 instances of sums paid is allowed as a deduction.

(d) Contribution designed to approve college, college or association for study in social statistical or science study is permitted. This may or might not be related to assessee's company & a weighted deduction of 1 25 instances of sums paid is allowed as a deduction.

(e) Any amount paid into a "National lab" or even I.I.T. or a college or a specified individual accepted by prescribed jurisdiction, for use for scientific study under an approved program, will probably be permitted deduction of two times of the sum so paid.

(f) In the event of a firm engaged in production or manufacture of any medication pharmaceuticals, (excluding the cost of land and construction) or in - house development and research center as accepted by the prescribed authority, a weighted deduction of two times of this expenditure shall be let. The weighted deduction that was permitted in respect of such cost U/s 35(AB) may not be considered for almost any deduction under another provision of the Act.

This optional deduction is permitted subject to the condition which the study and development centre is approved by the prescribed authority and the firm has entered into an agreement of collaboration and also for audit of their accounts maintained with this the prescribed authority shall submit the record of the acceptance of the said facility into the manager General in such form and such period as may be prescribed.

5.9.4 Deduction u/s

1. Insurance: Section 36(1) (I): Premium paid to cover the risk of harm or destruction of Stocks, shops, cows and on the health of workers under the approved strategy. Society around the lives of cows owned by the Members of the Main Milk Co - op, Society connected to it. Section 36(1) (a). Premium for insurance on health of employees according to plot framed by GIC & Accepted by Central Government or some other insurance company & approved by the Insurance Bonus or commission paid for Workers: Section 36(1) (ii): This is allowed as deduction up to Now Since they aren't paid as gain or dividend. Interest on borrowed funds: Section 36(1) (iii): It's allowed as deduction. However, Curiosity paid by the company to its partners is granted subject to terms of Sections 40(b). Ignore on zero coupon bonds is allowable by issuing Business on pro rata Basis Contribution to recognized Provident fund or a licensed super annotation fund department.

   36(1)(iv).) Any amount paid by the assessee as an employer using contribution towards Retirement strategy.

2. ***Contribution to Pension Scheme:*** Section 36(1)(Fig a) Any participation by an employer by the method of contribution towards a pension scheme to get a worker up to 10 percent of salary will be allowed as deduction.

3. ***Contribution to authorized Gratuity Fund Section 36(1)(v):*** Number contributed to the finance which will be for the exclusive benefit of these workers will be allowed as deduction.

4. ***Contributions received from Employees (if deposited) Section 36(1)(VA):*** Any Contribution obtained from workers towards any capital for the welfare of their workers.

   E.g., P.F. will be allowed as deduction if such donation is credited to workers a/c before or on the due date. It's allowed as deduction not beeause it's a cost of the assessee. In actuality, it's not in any way a cost of the assessee. However, if this amount is deducted from wages of workers, it's treated as income under section 2(24)(x).

   Thus, the deduction is permitted if payment is made by the due date.

5.9.5 Animals used for your Firm or Business: Section 36 (1) (vi):

1. Deduction is Enabled when Creatures have expired or have become permanently useless. Number of deduction will be gap between the real price of these animals and quantity realized if any regarding carcasses of these animals.

2. Deduction is permitted only if animals are employed for the purpose of company but less inventory in Deduction is allowed with this account if Debts have emerged from a business transaction. It's the responsibility of the assessee to prove to the satisfaction of earnings tax officer that these debts are irrecoverable.

Expenditure for encouraging family planning: Section 36(1)(ix):

1. Just a company can claim any cost incurred by a company to promote family planning among its workers are allowed as deduction entirely, provided its revenue expenditure.

2. Any capital Cost on this account is allowed as a deduction in 5 equal instalments. If gain is not enough to consume this cost it could be carried forward to be set off in the future.

3. No Depreciation can be maintained under section 32 on capital resources utilized for boosting family Preparation and allowed as a deduction under section 36(1)(ix).

4. Any quantity of banking cash transaction tax paid throughout the year. 36(1)

Check Your Progress

Fill in the blanks.

1. _____means any continuous or systematic way of carrying out a profession.
2. Amount paid Due to _____against the danger of harm regarding machinery, plant & Furniture are allowed as deduction given that they're not of capital character.
3. Under _____depreciation on assets is allowed as a deduction while computing income from business or profession.
4. In the first year if asset obtained is used for less than ___ __depreciation is limited to 50% of normal depreciation.
5. Certain expenses are permitted only on the _____
6. An _____ ___is a company where purchase or sale of a commodity containing shares and stocks will occasionally be or ultimately settled differently than by the actual shipping of or transport of goods or safety
7. As per _____ an assessee is needed to specify the system of accounting often followed by him.
8. A _____might be wholly disallowed, and therefore they should be discounted
9. _____ incurred for scientific study associated with assessee's firm will be completely allowed.

5.10 LET US SUM UP

- Business, quite simply, means an occupation carried on by someone who has a view to bringing in profit.
- As per the Section 2(13), business has been defined as any system related to any trade, commerce or manufacture or any adventure or concern like trade, commerce or manufacture.
- Product Sales or Gross penalties since the case might be are to be considered as the base when Receipt and Payment A/C are given. From this Gross Income costs that are specially allowed by the income, tax act would be deducted to arrive at taxable earnings.
- If assessee has occupied the premises as a tenant, rent of the premises and when he has agreed to bear expense of fixes, such cost is allowed as deduction, given it isn't of Capital form.
- Under Section 32 depreciation on assets is allowed as a deduction while computing income from business or profession.

- The term 'plant' includes ships, vehicles, books, scientific devices and surgical Equipment utilized for your own business but exclude tea plantations or live inventory.
- Additional depreciation can be claimed on new plant & machinery acquired after 31st March 2005 by an assessee in the previous year in which it starts manufacturing or producing. The rate of additional depreciation: 20 percent of actual cost.
- If gain for the year is not sufficient to absorb depreciation either entirely or partially, unabsorbed depreciation could be deducted from any other head of income.
- When a contract for sale or purchase of any commodities (including stocks and shares) is occasionally settled without the actual delivery or transfer of the commodities, it's called a risky trade, and when your business is to earn income out of such risky trade, then that will be your income from Speculative Business.
- An Insecure business is a company where purchase or sale of a commodity containing shares and stocks will occasionally be or ultimately settled differently than by the actual shipping of or transport of goods or safety.
- As per Section 145 that an assessee is needed to specify the system of accounting often followed by him.
- The strategy of negative approach is adopted when Gain and Loss Account or Income and Expenditure Account is granted.
- Deduction is permitted only if animals are employed for the purpose of company but less inventory in Deduction is allowed with this account if Debts have emerged from a business transaction. It's the responsibility of the assessee to prove to the satisfaction of earnings tax officer that these debts are irrecoverable.

5.11 UNIT END ACTIVITY

Prepare a report on computation of business income under income tax act and give a presentation on it.

5.12 KEYWORDS

Business: business has been defined as any system related to any trade, commerce or manufacture or any adventure or concern like trade, commerce or manufacture.

Plant: this term in business includes ships, vehicles, books, scientific devices and surgical Equipment utilized for your own business but exclude tea plantations or live inventory.

Speculative Business: When a contract for sale or purchase of any commodities (including stocks and shares) is occasionally settled without the actual delivery or transfer of the commodities, it's called a risky trade, and when your business is to earn income out of such risky trade, then that will be your income from Speculative Business.

Negative Approach: Debit part of profit and loss account is thoroughly inspected while computation of business income

5.13 QUESTIONS FOR DISCUSSION

1. What is business as per section 2 (13)?

2. Describe the methods of computing taxable income
3. What is the method for calculating depreciation?
4. What is the scope of business income?
5. Describe computation of business income under income tax act.

Check Your Progress: Model Answer

1. Business
2. Repairs and insurance premium
3. Section 32
4. 180 days
5. Fee basis
6. Insecure business
7. Section 145
8. Number of the payments
9. Revenue expenditure

5.14 REFERENCE

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UNIT -6

CAPITAL GAINS AND INCOME FROM OTHER SOURCES

CONTENTS

6.0 AIMS AND OBJECTIVES

After studying this lesson, you should be able to:

- Explain accounting and its needs
- Discuss the concepts of accounting
- Explain the accounting conventions
- Describe the concept of double entry system

6.1 INTRODUCTION

As per recommended by Prof. Caldor for levying taxes on profits earned by selling or transferring any specific non-inventory asset, we can find the origination of capital gain tax in India in the year, 1956.

As capital gain tax evolved constantly, now-a-days they are levied on transferring the capital assets except those held as stock-in-trade. The computation mechanism of capital gain tax has been prescribed under sections 45-55A of Income Tax Act.

Since last two decades, incorporation of various exemptions has been incorporated in the statute in order to give a rational view on levying taxes. It is done to alleviate 'undue hardship' for the taxpayers. Since last few years, the profits taking place by transferring of capital market instrument has taken place as an effective way for increasing the growth of capital market due to levying of capital gain taxes.

6.2 CHARGING [SECTION 45(1)]

As per section 45 (1), it has been mentioned if the income earned by a person is chargeable as tax on the basis of receipt or on the basis of accrual, all heads of income are charged on different basis. The capital gains can be charged on the following bases:

- There must be a Capital asset owned by the assesse. The assessee must have transferred the Capital asset.
- Such transfer should have taken place during the previous year.
- Profit or Loss arises from such transfer.
- Such Capital gains should not be exempt u/s 54, 54B, 54D, 54EC, 54F, 54G or 54GA

Any profits arising on the *Transfer* of any *Capital Asset* shall be chargeable to tax under the head Capital Gains in the year of transfer.

6.3 CAPITAL ASSET

It means property of any kind movable or immovable, tangible or intangible does not include the following:

a. ***Stock in Trade:*** E.g.: X is a dealer in house property. For him, house property is stock-in-trade. Any profit earned by him on sale of stock-in-trade (i.e., house property) would be taxable as Business income).

b. ***Personal Effects:*** Personal effects can be defined as any Article or Commodity or Property, which is used in daily life by a person and can be considered as a movable property. Certain assets such as jewellery, archaeological collections, drawings or any other work of art are excluded from personal effects. These assets can't be considered as a capital asset and any surplus taking place for transferring them is not subjected to tax under Capital Gain tax.

   i. *Agricultural Land:* Agricultural land which is not situated in the "Specified Area" (i.e., agricultural land situated in specified area is called capital asset). By specified area it means the area which is located within the limits of Municipality, having a population more than or equal to a number of 10,1000 as per the last census conducted. It also includes the area that is within the distance of around 8 kms. from the limits of such Municipality.

   ii. Agricultural land which is not located in any specified area.

   iii. Special Bearer Bonds, 1991 (No more in existence).

   iv. Gold Bonds issued under Gold Deposit Scheme, 1999.

Issues:

- Gold, silver coins and bars used for pooja are "Capital assets". Maharaja Rana Hemant Singhji vs. CIT (1976).
- A property intended for personal or household use (may for ceremonial occasion only), is always a personal effect.
- In order to qualify for "agricultural land in India", it is not necessary that land was once agricultural land. It must be agricultural land at the time of sale-T.S.M.O. Mohamed Othuman vs. CIT.

6.4 WHAT IS A TRANSFER? [SECTION 2 (47)]

It includes:

a. Sale

b. Exchange (Must be of two capital assets)

c. Relinquishment of an Asset

d. Extinguishment of an Asset

e. Compulsory acquisition by Government

f. Conversion of an asset into Stock-in-trade

g. Any transfer covered by Section 53 A of the transfer of Property Act

h. The maturity or redemption of zero coupon bonds

Issues:

- If there is any case of relinquishment, then the person's interest in a property will be considered to be abandoned or surrendered. Yet the property will continue to be owned by some other person and hence it will remain existing. Here, the extinguishment refers to losing of holder's right to the assets.
- When an amalgamation takes place, the rights of the assessee in the shares held in the amalgamating company stood extinguished and therefore there is a "transfer". CIT vs. Grace Collis (2001).
- When there is a reduction in the face value of the shares and consequent payment by the company to the shareholder towards such reduction, the transaction results in extinguishment of right in the shares held by the shareholder Consequently, the reduction of the share capital would be subject to capital gains tax. Kartikeya vs. Sarabhai vs. CIT, (1997). In this case, the Supreme Court compared the decision in the case of Anarkali Sarabhai referred to above and held that in that case the preference shares were redeemed in entirety whereas in the present case it was partly redeemed by reduction of share capital. Therefore, the analogy is the same.
- When a partner of a firm retires and the amount of his share in the partnership assets, after deduction of liabilities and prior charges is determined on taking accounts as per the partnership law, there is no element of transfer of interest in the partnership assets by the retired partner to the continuing partners. The amount received by the retiring partner towards settlement of his share is not liable to tax as "Capital Gain". CIT vs. R. Lingmallu Raghukumar (1997).
- Amount received by a retiring partner in respect of his share in the partnership including goodwill is not assessable as capital gains. Addl. CIT vs. Mohanbhai Pamabhai, (1987)

6.4.1 Transfer When Completed

a. ***Immovable Property when Documents are Registered:*** Ownership of immovable assets will not pass till the title deeds are registered in the name of purchaser.

b. ***Immovable Property when Documents are not Registered:*** Even if the documents are not registered but when the conditions of Section 53A of the Transfer of Property Act are satisfied, ownership is "transferred".

c. ***Movable Property:*** Ownership passes at the time when property is delivered pursuant to a contract to sell.

6.5 TYPES OF CAPITAL GAINS

1. ***STCG:*** Capital gains arising on transfer of a short-term capital asset are called STCG.

   Manner of Computation – Section 48 (For Non-depreciable assets)

Full value of Consideration		XXX
LESS: Transfer Expenses Net Consideration		XXX
	XXX	XXX
LESS:	XXX	
Cost of Acquisition Cost of Improvement		XXX
Gross Capital Gains/Loss		XX
LESS: ExemptionU/s.54 etc. Net STCG/L		XXX
		XX

2. ***LTCG:*** Capital gains arising on transfer of a Long term capital asset are called LTCG.

   Manner of computation: Replace Indexed Cost of acquisition and Indexed Cost of Improvement for Cost of Acquisition and Cost of Improvement.

   Note:

   a. Capital gains are chargeable on accrual basis: It is not necessary that the consideration should be received in the year of transfer itself.

   b. Receipt of consideration in installments: Even in that case also the entire consideration has to be taken into account for computing the capital gains.

   c. Transfer expenses are: Sales commission paid for broker, cost of stamp, registration fees borne by the seller, traveling expenses incurred in connection with transfer.

6.5.1 Long Term Capital Asset [Section 2(29B)]

It is to be decided based on the period of holding by the assessee.

a. ***Ordinary Asset:*** A capital asset held by an assessee, before the date of its transfer, for >36 months is a Long term Capital Asset.

b. ***Shares etc.:*** In case of shares held in a company, Securities (listed), Units of UTI & Units of a mutual funds specified U/s.10 (23D), Zero coupon bonds will be treated as Long Term Asset if the period of holding is >12 months, before the date of its transfer.

6.5.2 Short Term Capital Asset [Section 2(42B)]

It is a capital asset other than the long-term capital asset.

Issues:

- If land is held for more than 36 months but the building constructed thereon is less than 36 months old as on the date of transfer, land becomes long term whereas the building is short term.
- In the case of transfer of a depreciable asset, capital gain is taken as short-term capital gain, irrespective of period of holding.

6.6 SPECIAL CASES IN COMPUTATION OF PERIOD OF HOLDING

Section 49(1) - Previous owner: If the capital asset is acquired by the assessee through any of the ways/modes specified U/S.49(1) then the period for which the previous owner held the asset should also be included for computing the period of holding of the assessee/person who sold it. (i.e., the word held by assessee means held by the assessee (i.e., the word held by assessee means held by the assessee and by the previous owner).

a. ***Primary Market:*** In case the assessee purchased any shares etc., in primary market, the period of holding shall be calculated from the date of allotment of such shares etc., and not from the date of application for shares etc., was made.

b. ***Amalgamation:*** In the case of a shareholder who received the shares in the amalgamated company in exchange of shares held in amalgamating company, in computing the period of holding of shares of amalgamated company, the period of holding of the amalgamating shares shall also be included.

c. ***Demerger:*** In the case of a shareholder who received the shares in the resulting company in exchange of the shares held in the demerged company, in computing the period of holding of shares in resulting company, the period of holding of the demerged company shares shall also be included.

d. ***Right Renouncement*** If the right to subscribe to shares is renounced to any other person the period of holding of the asset (Right Renouncement) shall be calculated from the date of the offer of such right by the company up to the date of renouncement

e. ***Liquidation*** In case the company in which shares are held by the assessee gets liquidated, while computing the period of holding of such shares, the period of holding subsequent to the date of liquidation shall not be taken into account (i.e., excluded).

f. ***Specified Security/Sweat Equity Shares:*** The period of holding for any specified security or sweat equity shares allotted or transferred, by the employer free of cost or at concessional rate to his employees shall be reckoned from the date of allotment or transfer of such specified security or sweat equity shares.

g. ***Exchange of stock exchange membership card*** with shares issued by stock exchange in the process of corporatisation of stock exchange - the period of holding of such shares shall be calculated from the date of acquisition of membership card.

h When the assessee is owner of an asset received under a mode specified under section 49(1) and thereafter the **asset is converted** by the assessee into a new asset, the period of holding would commence form the date of conversion

Problem 1: Determine whether the asset held was short term or long term capital asset.

a. R holds 1000 shares in G ltd., which goes into liquidation on 31-10-2008. R purchased these shares on 31-1-2008. The company made the payment to R on 31-3-2009.

b. R got a diamond ring by way of gift from his uncle on 1-1-2007. This ring was purchased by his uncle on 29-12-2005. R sold this ring on 31-12-2008.

c. R acquires 1000 shares in G Ltd., on 29-3-2008. He is allotted 500 shares of a resulting company S Ltd. on 1-4-2008. He transferred these on 30-3-2009.

6.7 COST OF ACQUISITION

1. ***Direct Ownership*** The cost incurred to purchase a capital asset shall be the cost of acquisition of that asset.

2 ***Indirect Ownership - Previous Owner:*** In case the property is acquired in any of the modes mentioned in Section 49 (1) the cost of acquisition is the cost to the previous owner.

SECTION 49 (1):

a. Property acquired by way of Gift or inheritance.

b. Property acquired on partition of H.U.F.

c. Property acquired by the amalgamated Company of the amalgamating company.

d Property acquired by the resulting company from the demerged company in demerger.

e. Property acquired by the amalg. banking institution of the amalgamating banking co.

f Transfer from a holding Co. to its 100% subsidiary Co., & Vice-versa. Both the Companies must be Indian/domestic companies.

g. Liquidation of a company & distribution of assets to its share holders.

h. Acquisition of a property by HUF where one of its members converted his self acquired property into joint family property.

i. On a transfer in a business reorganization, of a capital asset by the predecessor co-operative bank to the successor co-operative bank.

Who is a Previous Owner?

A person who acquired the property other than by any of the modes given in Section 49 (1).

FMV. Where the cost for which the previous owner acquired the property cannot be ascertained, the FMV as on the date of transfer shall be taken as cost.

6.8 COST OF ACQUISITION-SOME SPECIAL CASES

Amalgamation-Section 49(2): When an assessee acquires any shares in the amalgamated company in exchange of shares held in the amalgamating company, in a scheme of amalgamation, then the cost of acquisition of shares received from the amalgamated company shall be the cost at which the shares in the amalgamating company was acquired.

Conversion of Debentures Section 49(2A): In the case of conversion of debentures etc., of a company into shares of that company, the cost of acquisition of such debentures etc., shall be taken as the cost of acquisition of the shares obtained on conversion. Further, it provides that cost of acquisition of FCEBs will be deemed to be the cost of acquisition of the shares, debentures issued pursuant to the conversion of FCEBs. This is not applicable for conversion of preference shares into shares. To find out whether or not shares are long-term capital asset or short-term capital asset, the period of holding shall be determined form the date of allotment of shares. The indexation will start from the date of conversion of debentures into shares

ESOPs/Sweat Equity Shares Section 49(2AB): As per the amended provisions, issue of shares under ESOP/Sweat equity shares is now taxed as Fringe benefit tax. For the purpose of computing capital gain on the transfer of such securities in future, the cost of acquisition shall be the fair market value which has been taken into account while computing the value of fringe benefit.

Demerger – Section 49 (2C) & (2D)

a. ***Cost of acquisition of the shares in the resulting company:*** Cost of acquisition of shares held by the assessee in the:

$$\text{Cost of acquisition of shares held by the assessee in the Demerged Company} \times \frac{\text{Net Worth transferred in a demerger}}{\text{Net worth of the demerged Co. immediately before demerger}}$$

b. ***Net Worth:*** Paid up share capital + General Reserves.

c. **Cost of acquisition of the shares in demerged co. (Post demerger):** Cost of acquisition of the original shares (in demerged co.) minus cost of shares as obtained in 'a' above (resulting co.).

6.8.1 Reorganisation of Co-operative Bank

Section 49(2E): Section 49(2), 49 (2C), 49 (2D) are also applicable in relation to business reorganization of a co-operative bank. (i.e., the cost of the shares of the successor co-operative bank received by the shareholders of a predecessor co-operative bank shall be computed in the same manner as it is computed in case of amalgamation or demerger of a company under the aforesaid sections).

6.8.2 Shares (Original & Rights) (i.e., Financial Assets):

a. The **cost of acquisition (C.O.A.) of original shares** - Amount actually paid.

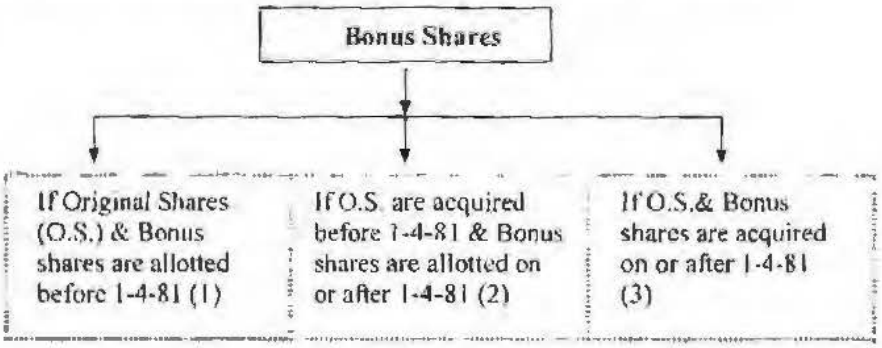
b. The **C.O.A. of the right shares** - Amount actually paid.

c. **Right Renouncements** - While computing capital gains C.O.A. to be taken as NIL.

d. ***Cost to the purchaser of right shares:*** Amount paid to the company for acquiring the shares + the amount paid to the owner towards rights renouncement.

Problem 2: X holds 1,000 equity shares in A Ltd. Since 1978 (cost of acquisition: ₹ 10,000 fair market value on April 1, 1981 ₹ 16,000). A Ltd. Offers 2,000 rights shares of ₹ 10 each to X on May 1, 2008 at a premium of ₹ 50. X subscribes for 800 rights shares and renounces 1,200 shares in favour of C by transferring the right entitlement for a consideration of ₹ 4,800. X sells 1,800 shares in A Ltd. on March 30, 2009 @ ₹ 90 per share. C also transfers his 1,200 shares @ ₹ 91 per share on March 31, 2009. Compute Capital gains.

6.8.3 Bonus Shares (i.e., Financial Assets) – Cost of Acquisition



1. In case of Original Shares - FMV as on 1-4-1981 or C.O.A, (whichever is higher).
   In case of Bonus Shares - FMV as on 01-04-1981.
2. In case of Original Shares - FMV as on 1-4-1981 or C.O.A,
   In case of Bonus Shares - N I L.
3. In case of Original Shares - Cost incurred.
   In case of Bonus Shares - N I L.

6.9 FAIR MARKET VALUE

Direct Ownership: If the Assessee acquired the asset before 01-04-1981 then the F.M.V. i.e., fair market value as on 01-04-1981 may be adopted as the cost of acquisition.

Indirect Ownership: If the previous owner acquired the asset before 01-04-1981 then the F.M.V. i.e., fair market value as on 01-04-1981 may be adopted as the cost of acquisition. (e g.: X purchased a house property on 1.1.75 for 30,000 and the property was passed on to his son Y on death of X on 15.6.86, the FMV of it as on 1.4.81 being 1.20,000. Y may opt 1,20,000 as the cost of acquisition).

Note:

a. This facility is not available in case of depreciable capital assets.

b. This facility is not available in case of Section 55 assets.

6.10 COST OF ACQUISITION IN CASE OF SPECIAL CATEGORY ASSETS [SECTION 55]

Supreme Court held that only if an asset cost something to the assessee in terms of money the provisions relating to levy of capital gains tax are applicable. To overcome/nullify this decision an amendment to Section 55 has been brought.

Goodwill:

a. ***Self-Generated Goodwill.*** Take Cost of Acquisition as NIL & Compute Capital gains.

b. ***Purchased Goodwill:*** Cost incurred to purchase becomes cost of Acquisition.

C.B.D.T. Circular:

a Transfer of Goodwill by professional firms will not attract Capital Gains.

b. Notional transfer of goodwill is not chargeable to Capital Gains.

Certain Other Assets: Tenancy Rights, Permits. Right to manufacture. (e.g., Patents, Copyrights). Right to carry on business. Loom hours.

But in case any price is paid for acquiring any of these assets the cost of acquisition shall be taken as such.

Note: In the case of these types of assets cost of improvement shall be taken as nil.

6.11 FORFEITURE OF ADVANCE (SECTION 51)

a. During the past, the asset now transferred, was proposed to be sold and on such proposal the assesse has taken some advance, and

b. The advance so taken was retained (Forfeited) by the assesse as the buyer failed to remaining money.

c. Any such advance amount received and retained by the assesse shall be reduced from the cost of acquisition or the FMV or the WDV as the case may be for the purpose of computation of capital gains when such asset is transferred.

Note: If advance money forfeited is more than the cost of acquisition, the excess of the advance money forfeited over the cost of acquisition of such asset shall not be taxable in the previous year in which advance money is forfeited as there is no transfer.

Cost of Improvement

a. It is the Capital Expenditure incurred for the improvement of Capital Asset.

b. Any cost of improvement incurred by the assessee or by the previous owner, before 1-4-81, shall be ignored.

c. In relation to Section 55 assets, it shall be taken as Nil.

6.12 INDEXATION

Starting from A.Y 93-94 the cost of acquisition and cost of improvement of a long term capital asset can be indexed.

Cost Inflation Index:

Financial Year	CII	Financial Year	CII
1981-82	100	1999-00	389
1982-83	109	2000-01	406
1983 84	116	2001-02	426
1984-85	125	2002-03	447
1985 86	133	2003-04	463
1986-87	140	2004-05	480
1987-88	150	2005-06	497
1988-89	161	2006-07	519
1989-90	172	2007-08	551
1990-91	182	2008-09	582
1991-92	199	2009-10	632
1992 93	223	2010-11	711
1993-94	244	2011-12	785
1994-95	259	2012-13	852
1995-96	281	2013-14	939
1996-97	305	2014-15	1024
1997-98	331	2015-16	1081
1998-99	351	2016-17	1125

This benefit is available either from the year of acquisition of the asset by the Assessee or from the base year 1981-82 whichever is later.

1. Indexed Cost of Acquisition = 1/ 2 × 3

Where,

- Cost of Acquisition [or] FMV as on 1/4/81 as the case may be.
- Indexed factor for the base year 81-82 or for the first year in which the asset was held by the assessee, whichever is later.
- Indexation factor for the year of transfer.

Issue: B inherited a property from A on 1-7-2004. The property was acquired by A on 1-7-86. This was sold in the current year by B. Is it a Long Term Asset or Short Term Asset? From which year B can get the benefit of indexation?

2. Indexed Cost of Improvement = 1/2 × 3

Where,

- Cost of Improvement incurred after 1/4/81.
- Indexation factor in the year such cost of improvement was incurred
- Indexation factor for the year of transfer.

Note: Bonus shares allotted prior to 1-4-81 - Indexation can be taken from the year 1981- 82 up to the year of sale.

Proviso's To Section 48:

a. ***Proviso 2:*** Indexation facility is available in computation of LTCG. It is not available to Non resident.

b. ***Proviso 3:*** Indexation is not available to bonds or debentures. But it is available to capital indexed bonds issued by the Government.

c. ***Proviso 5:*** No deduction (Either as transfer expenses or as cost of acquisition) shall be allowed in respect of any sum paid on account of Securities Transaction Tax.

6.13 CAPITAL GAINS EXEMPT FROM TAX

Section 112 - Tax on Long Term Capital Gains

U/S 10:

Exemption of c.g's on transfer of units of us-64 – Section 10(33): It provides that any income arising from the transfer of a capital asset being a unit of US 64, if such transfer takes place on or after 1.4.02, shall be exempt from tax. This is applicable whether the capital asset (US-64) is long-term capital asset or short-term capital asset.

Exemption of C.G. on compulsory ACQ. of urban AGR. Land – Section 10 (37): Capital gains will be exempted if the following conditions are satisfied:

a. The assesse is an individual or a HUF.

b. He or it owns an agriculture land situated in specified area.

c. There is a transfer of the agriculture land by way of compulsory acquisition.

d. The agriculture land was used by the assessee (and/or his parents if the land was owned by an Individual) for agricultural purposes during 2 years immediately prior to the date of transfer.

e. The assets may be long term capital asset or short term capital asset.

f. Capital gain arises from compensation which is received on or after 1.4.04 (the date of compulsory acquisition may be before 1.4.04).*

g. Even enhanced compensation which is received on or after 1.4.04 is eligible for such exemption.

* If part of the compensation is received before 1.4.04, then exemption shall not be available even though balance compensation is received on or after 1.4.04.

Exemption of LTCG on Transfer of Securities Subject To STT – Section 10 (38):

1. ***In general cases:*** Taxable at the rates at which the other income is chargeable to tax.

2. ***In case of Section 111A:***

   a. It will be taxable at a flat rate of 15%.

   b. In the case of individuals & HUF (Other than Non resident's), if the basic exemption is not exhausted by any other income then the short-term capital gain shall be reduced by the unexhausted or unavailed basic exemption limit and only the balance shall be taxed at 15%.

   c. ***Deductions*** under Chapter VIA are not available in computation of Taxable STCG.

   d. ***Surcharge*** is also payable on tax payable on STCG's after claiming eligible rebate U/s 88E (In addition it is subject to Education Cess of 2%).

c. ***When Section 111 A gets attracted?***

- The asset transferred is equity share in a company or units of equity oriented mutual fund.
- The transaction of sale is entered into on or after 01.10.04.
- Such transaction is chargeable to securities transaction tax.
- This is applicable to all the assessees.

Section 45 (1A):

1. *Background:* To nullify the judgment given in Vannia Silks Ltd. which says that the destruction of capital asset does not amount to transfer, 45 (1A) has been introduced.
2. *Event:* Damage or Destruction of any Capital Asset as a result of:
   a. Typhoon, Hurricane, Cyclone, Earth Quake etc.
   b. Riot, civil disturbances.
   c. Accidental fire or explosion.
   d. Action by an enemy (or) action taken in combating an enemy (with/without declaration of war).
3. *Year of Chargeability:* Previous year in which compensation or the asset is received from the Insurance Company. (This is against to charging Section)
4. *Consideration:* Value of money received or FMV of the asset received on the date of the receipt.
5. *Indexation Facility:* It is available only up to the year of destruction etc.

Note:

a. It is against to the charging Section as there will be capital gain even without transfer.

b. A ship, being overweight, is sunk and assets are lost. The receipt of insurance compensation in such circumstances is not chargeable to tax under Section 45(1A).

c. Insurance compensation for theft of stock-in-trade is not taxable under Section 45(1A) but it will be taxable as business income under Section 28.

d. In the case of Depreciable capital assets, Section 50 is applicable.

Section 45(2) - Conversion of A Capital Asset Into Stock in Trade:

a. *Background:* The Supreme Court in CIT vs. Bai Shirinbai K. Kooka [1962] had held that no transfer was involved where the assessee, holding by way of investment shares in companies, commenced a business in shares converting the shares into stock-in-trade of the business.

b. *Event:* Conversion of a capital asset into stock in trade.

c. *Year of Chargeability:* The year in which such stock-in-trade was sold.

d. *Consideration:* FMV as on the date of conversion.

e. Indexation facility is available only up to the year of conversion.

f. In the year in which such SIT is sold both capital gains and business profits will result.

Note: If stock-in-trade is sold in parts in different years, tax on capital gain on conversion of capital asset into stock-in-trade as per Section 45(2), can be said to arise in parts in different years and not in one year in which last of SIT is sold.

Section 45 (3) - Transfer of A Capital Asset into Capital Contribution:

a. *Event:* Transfer of a Capital Asset by a partner to the firm or by a member to the AOP by way of capital contribution.

b. *Year of Chargeability:* Previous year in which transfer takes place.

c. *Consideration.* The value of the Asset recorded in the books of the firm or AOP.

d. *Assessee chargeable to tax:* The partner or member.

Note:

a. These rules are not applicable when a member transfers a capital asset to a company or a co-operative society.

b. As per Section 45 (3) there is no requirement that in the case of transfer of an asset by a partner to the firm in which he is a partner, the amount of sale consideration has got to be credited to his capital account; crediting of purchase consideration to current account of the partners is sufficient--- Mafatlal Holding Ltd. V. CIT [2004].

Section 45 (4) - Distribution on Dissolution:

a. *Event.* Transfer of a Capital Asset by way of distribution on dissolution of a firm or otherwise.

b. *Assessee chargeable to tax:* Partnership Firm.

c. *Year of Chargeability:* Previous year in which transfer takes place from firm to the partners.

d. *Consideration:* FMV as on date of transfer.

e. Cost of acquisition of the firm is the value of the Asset recorded in the books.

Note:

a. These rules are not applicable when an asset is transferred by a company or a co-operative society.

b. If a firm distributes a depreciable asset, the capital gain/loss shall always be short-term capital gain/loss.

c. Section 45(4) is not applicable where some partners retire and the firm continues to carry on the business with remaining partners and with new partners or without new partners-CIT vs. G.K. Enterprises [2003]. However, the Bombay High Court in CIT vs. A.N. Naik Associates [2004] has held that the word "otherwise" appearing in Section 45(4) not only includes cases of dissolution but also included the cases of retirement of partners even though there is no dissolution and the business is a continuing one.

d. Amount credited in capital account of retired partner upon revaluation of asset of firm is not taxable as capital gain as there is no transfer-ITO vs. Ramesh M. Shah [2004].

Section 45(5) - Compulsory Acquisition:

a. *Event:* Transfer of a Capital Asset by way of Compulsory Acquisition, under any law or when a capital asset is transferred (not by way of compulsory acquisition) and the consideration is approved or determined by the Central Government (not by a State Government) or the Reserve Bank of India.

b. *Year of Chargeability:* In the previous year in which compensation is received (Full/Part).

c. *Consideration:* Compensation.

d. Indexation is available only up to the year of transfer.

Note:

a. If the Compensation is received by the legal representative of the deceased person from whom the Asset was acquired, the recipient shall be chargeable to tax.

b. Enhanced compensation/consideration: Sometimes, the assessee is not satisfied with the compensation determined and may go in for an appeal against the amount determined. If on appeal the compensation is enhanced, the additional compensation is called enhanced compensation. Such enhanced compensation shall be fully taxable as capital gain in the year in which it is received. The cost of acquisition and improvement thereto will be taken as nil, since it has already been deducted at the time of computation of capital gain for initial compensation.

c. Capital gains originally computed in respect of the compensation or the enhanced compensation received shall be revised if such compensation or enhanced compensation is reduced by any court etc.

d. Interest on enhanced compensation is chargeable under income from other sources. Interest on enhanced compensation cannot be taxed all in lump sum. The interest has to be spread over on an annual basis till the date of the order of the Court on a time basis---K. S. Krishna Rao vs. CIT [1990].

e. Expenses incurred for getting the enhanced compensation is allowable as expenditure.

6.14 TRANSFER OF SECURITY IN DEMAT FORM [SECTION 45 (2A)]

1. Section 45(2A) is applicable if shares/securities are transferred in "demat" form.
2. If shares/securities are transferred in "demat" form, beneficial owner of shares/ securities is chargeable to tax.
3. For computing capital gain chargeable to tax, the cost of acquisition and period of holding of any security shall be determined on the basis of first-in-first-out **(FIFO)** method.

The ***Board*** has issued the following ***clarification*** vide Circular No.768, June 24, 1998:

1. FIFO method will be applied only in respect of the dematerialised holdings.
2. In the depository system, the investor can open and hold multiple accounts. In such a case, where an investor has more than one security account, FIFO method will be applied account wise.

3. If in an existing account of dematerialized stock, old physical stock is dematerialized and entered at a later date, under the FIFO method, the basis for determining the movement out of the account is the date of entry into the account. This is illustrated by the following example:

Date of Credit	Particulars	Qty
June 1, 1997	Purchased directly in dematerialized form on May 25, 1997	2,000
June 5, 1997	Dematerialized share (originally purchased in Nov. 1985)	5,000
June 10, 1997	Purchased directly in dematerialized form on June 10 1997	4,000
June 15, 1997	Dematerialized shares originally purchased in May, 1962	3,000

If say, 2,500 shares were sold from out of this account, then the period of holding and the cost of acquisition of the first 2,000 shares should be as from May 25, 1997 and the cost thereof, whereas the balance 500 shares will be treated as having been acquired in November 1985 at the relevant cost. This is the effect of the FIFO method.

6.15 DISTRIBUTION OF ASSETS BY COMPANY'S LIQUIDATION- [SECTION 46]

1. When assets are transferred by way of distribution to the shareholders of a Co. on account of liquidation, such distribution shall not be regarded as transfer in the case of the company.

2. In the case of shareholders of the company, capital gains shall be chargeable to tax on such distribution. For the purpose of computation of Capital gains, the consideration shall be determined as follows

   a. *Distribution in cash*: Amount received less deemed dividend u/s.2(22) (c)

   b. *Distribution in kind*: Fair market value of the asset on the date of distribution less deemed dividend u/s.2(22) (c).

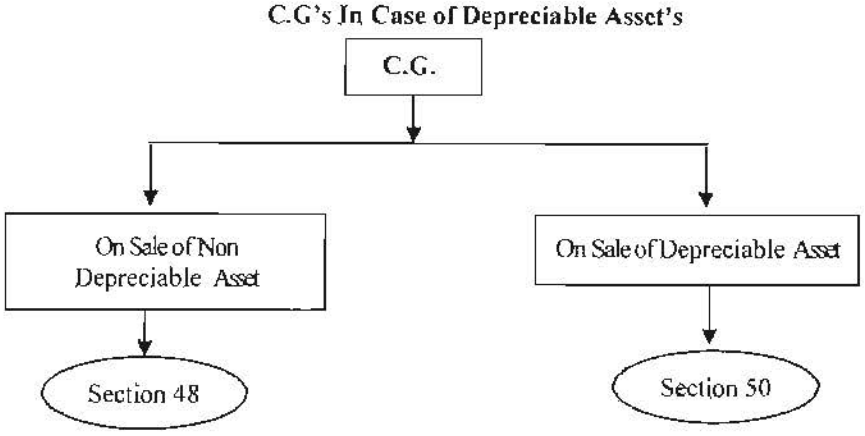
6.16 BUY BACK OF SHARES AND CAPITAL GAINS [SECTION 46A]

a. ***Manner of Computation***: Where a company purchases its own shares the difference between the cost of acquisition & consideration received by the shareholder shall be taken as C.G.'s.

b. ***Indexation***: If the shares are long term capital asset indexation facility is available.

c. ***Year of chargeability***: In the year in which such shares are purchased by the Co.

Section 50 - Computation of C. G's In Case of Depreciable Asset's



Conditions for claiming depreciation: Depreciation U/s. 32 can be claimed provided as on the last day of the previous year, the following two requirements are fulfilled:

a. There must be at least one asset in the block &

b. There must be some value for the block on which prescribed percentage can be applied.

Section 50 comes into picture:

1. Where any one or both of the above-mentioned requirements are not satisfied, Section 32 will not apply and automatically the provisions of Section 50 become applicable resulting in the STCG or STCL.

2. Section 50 thus gets attracted under the following circumstances:

   a. When one or some of the assets in the block were sold for a consideration which is more than the value of the block (STCG).

   b. When all the assets are transferred for a consideration which is more than (STCG) or less than the value of the block (STCL).

6.17 SLUMP SALE

Slump sale means the transfer of whole business for a lump sum consideration without values being assigned to the individual assets & liabilities. This system is very popular among professionals.

It is the value of total assets of the business as reduced by the value of outside liabilities of such business as appearing in the books of accounts. Revalued figures shall be ignored for the purposes of any profits arising from such sale shall be chargeable as capital gains.

a. ***> 36 Months:*** If the business that was transferred under the slump sale is owned & held for more than 36 months, the capital gains shall be treated as LTCG.

b. ***Cost of Acquisition + Cost of Improvement*** = Net worth of the undertaking/ business so transferred (No Indexation available).

Net worth means the total computing the net worth.

The total value of total assets, for this purpose, shall be:

- In the case of depreciable assets - the written down value of assets as per I.Tax act.

- In the case of other assets - the book value (Other than revalued figures).

  a. A ***C.A. report*** certifying the computation of Net worth to be enclosed.

  Advantages:

  a. 20% tax, in case the undertaking transferred is held for more than 36 months.

  b. Even if some of the assets transferred was held for less than 36 months they will be charged as LTCG.

6.18 SPECIAL PROVISIONS FOR COMPUTATION OF CONSIDERATION [SECTION 50C]

1. ***What it says:*** Where the consideration for the transfer of land or building or both (LTCA/STCA/Dep./Non-Dep.), is < the value adopted by stamp duty authorities for the purpose of payment of stamp duty (Called stamp duty value), the value so adopted shall be taken as consideration. (i.e., Stamp duty value = Consideration).
2. ***Refer to valuation officer:*** Where the assesse claims that the stamp duty value > FMV of the property, the assessing officer may refer the case to a Valuation Officer.
3. Such reference shall not be made, if the stamp duty value has been disputed in any appeal before any authority or court or the high court.
4. Action can be taken on report:
   a. If the value determined by the Valuation Officer > the stamp duty value, the Assessing Officer shall take stamp duty value = Consideration.
   b. If the value determined by the Valuation Officer < the stamp duty value, the Assessing Officer may take such determined value = Consideration.
   c. If the value determined by the Valuation Officer < the sale consideration, the Assessing Officer shall take Actual consideration = Consideration.
5. C.G.'s = Consideration as per '4th' point - Cost/Indexed Cost.
6. Subsequent to the making of assessment (Where the stamp duty value was adopted as consideration), if such value is revised in any appeal, the assessing officer shall amend the assessment order to recomputed the capital gain.

   Note: Unless property transferred has been registered by a sale deed and for that purpose value has been assessed and stamp duty has been paid by parties, section 50C cannot come into operation. If a property is transferred under a power of attorney transaction and value has not been assessed for the purpose of stamp duty, section 50C has no application.

6.19 EXCEPTIONS TO TRANSFER-[SECTION 47]

a. ***Gift or will:*** Transfer of a capital asset by way of gift or under a will.

b. ***Partition:*** Transfer of a capital asset in a partition of a H.U.F.

c. ***H to S/S to H:*** Transfer of a capital asset by holding company to its subsidiary company or vice versa if the following two conditions are fulfilled:

   1. The holding company & its nominee should hold the whole of the share capital of the subsidiary company.

   2. The transferee company should be an Indian Company.

d. ***Amalg. - Assets:*** Transfer of a capital asset in a scheme of amalgamation, if the amalgamated company is an Indian Company.

e. ***Demerger - Assets:*** Transfer of a capital asset by the demerged company in a scheme of demerger to the resulting company, if the resulting company is an Indian company.

f. ***Amalg. - Shares:*** Exchange of shares held by the shareholder of the amalgamating company in lieu of the shares issued by the amalgamated company if the amalgamated company is an Indian Company.

g. ***Demerger - Shares:*** Transfer of shares by the shareholder of a demerged company in a scheme of demerger in consideration of the shares issued by the resulting company.

h. Transfer of capital asset being any work of art, archaeological or scientific or art collection, any book manuscript, painting, drawing, etc., to the Government or University or notified Museums, Art Gallery or approved institutions.

i. Conversion of debentures and deposit certificates into shares.

j. Conversion of FCEBs into shares or debentures of any company.

k. *Conversion/Graduation of firm into company*: Transfer of capital assets made to the company by the partnership firm where a firm is converted into company is not taken as transfer, if the following conditions are satisfied:

- All the assets and liabilities of the firm shall be taken over.
- All the partners shall become the shareholders of the co. in the same proportion in which their capital a/c's stood in the firm's books on the date of succession.
- The consideration to the partners shall be paid only in the form of shares.
- The total share holding of the partners in the company shall not be less than 50% of the total voting power in the company and their share holding continues to be as such for a period of 5 years from the date of the succession.

l. *Conversion/Graduation of proprietary concern into Co.*: Similar to point j.

m. *Amalgamation of banking company with a banking institution*: Any transfer of a capital asset by a banking company to a banking institution in a scheme of amalgamation of such banking company with such banking institution sanctioned by the central government shall not be regarded as transfer for the purposes of capital gains.

n. In case of re-organising a business, any such transferring of a capital asset by the predecessor co-operative bank to its successor.

o. In case of re-organising a business, the transfer of a capital asset by the shareholder which was held by him as he owned to the predecessor co-operative bank. Then transfer must be made considering the allotment of shares to him in the successor co-operative bank.

p. Any transfer involved in a scheme for lending of a securities under an agreement or arrangement subject to the guidelines issued by the SEBI or RBI in this regard, which the assessee has entered into with the borrower of such securities.

q. Transfer of a capital asset, being bonds and Global Depository Receipts referred to in Section 115 AC, made outside India by a non-resident to another non-resident.

r. Any transfer of a capital asset being a membership right held by a member of a recognized stock exchange in India for acquisition of shares and trading rights acquired by such member in that recognized stock exchange in accordance with a scheme for demutualization or corporatisation which is approved by SEBI.

s. Transfer of land of a sick industrial company under a scheme sanctioned u/s 18 of the Sick Industrial Companies (Special Provisions) Act, 1985, where such sick industrial company is being managed by its workers' co-operative.

6.20 WITHDRAWAL OF EXEMPTION [SECTION 47A]

1. Where the capital gain arising on the transfer of a capital asset from the holding company to the subsidiary company or vice-versa was exempt from capital gains tax by virtue of Section 47 and any of the following events occur within a period of 8 years from the date of transfer, the capital gains so exempted would be chargeable to tax in the year in which the transfer took place:

   a. The holding company does not continue to hold the whole of the share capital of the subsidiary company; or

   b. The transferee company converts or treats the capital asset into/as stock-in-trade

2. In the case of a transaction between holding company and subsidiary company, the following additional points need to be borne in mind:

   a. If the provisions of section 47A are applicable to a transfer, then the assessment shall be reopened in respect of the assessment year relevant to the previous year in which original transfer took place u/s. 155(7B), to amend the order so as to charge the capital gains to tax.

   b. If the transferee company subsequently sells the asset without attracting the provisions of section 47A then for computation of capital gains the cost to the transferor company shall be adopted as cost to the transferee company- Section 49(1)

   c. If the asset is sold after attracting the provisions of Section 47A, then the cost to the transferee company shall be the actual cost incurred by that company to acquire the asset from the transferor company- Section 49(3).

3. The capital gain arising on transfer of a capital asset in the nature of membership of a recognized stock exchange exempted by virtue of Section 47, shall be chargeable to tax if the shares allotted to the transferor in exchange thereof are transferred before the expiry of a period of 3 years. The capital gain shall be deemed, in such a case, as the income chargeable during the previous year in which the shares are transferred.

4. If the conditions stipulated regarding the succession of a proprietary concern or a firm by a company are not complied with, the benefits availed by the sole proprietor or the firm, as the case may be, shall be deemed to be profit and gains of the successor company chargeable to tax in the year in which infringement takes place.

6.21 SPECIAL PROVISIONS FOR NON-RESIDENTS

In the case of an assessee who is a non-resident capital gains arising from transfer of capital assets being the shares or debentures of an Indian company shall be computed by converting cost of acquisition, expenses incurred for the transfer and sale consideration into the same foreign currency as was utilized for the purchase of shares

or debentures as indicated below. The capital gains so computed in such foreign currency shall be reconverted into Indian currency for the purpose of further computation- First proviso to Section 48 and Rule 115A.

Items Converted/ Reconverted	Rate of Conversion/ Re-conversion
Cost of acquisition	The average of telegraphic transfer selling rate and buying rate as on the date of acquisition.
Expenses incurred for transfer	The average of telegraphic transfer selling rate and buying rate as on the date of transfer.
Sale consideration	The average of telegraphic transfer selling rate and buying rate as on the date of transfer.
Capital gains (Re-conversion)	The buying rate for telegraphic transfer as on the date

The conversion and re-conversion shall be made on the basis of the rate of exchange adopted by the State Bank of India.

The aforesaid manner of computation of capital gains shall be applicable in respect of capital gains arising from every reinvestment thereafter in the shares or debentures of an Indian company on the sale of such assets.

In these cases indexation, will not be available in the computation of capital gains.

6.22 SPECIAL PROVISIONS IN THE CASE OF A NON-RESIDENT INDIAN [SECTION 115F]

If the following conditions are satisfied, one can take the benefit of Section 115I :

1. The ***taxpayer is a non-resident Indian*** (i.e., an individual being a citizen of India or a person of Indian origin who is non-resident. A person shall be deemed to be of Indian origin if he, or either of his parents or any of his grand-parents, was born in undivided India) at the time of sale of capital asset.
2. He has ***transferred a specified asset*** [i.e., shares in an Indian company, debentures of an Indian public limited company, deposits with an Indian public limited company or Central Government securities [hereinafter referred to as "original asset"] which has been acquired or purchased with or subscribed to in, convertible foreign exchange.
3. Such asset is a ***long-term capital asset.***
4. ***Within 6 months*** of transfer of original asset, the taxpayer has invested the whole/part of net consideration in any of the following (hereinafter referred as "new asset"):
   a. Shares in an India company;
   b. Deposit of an Indian public limited company;
   c. Deposit with an Indian public limited company;
   d. Central Government securities or
   e. National Saving Certificates VI and VII issue.
5. If all the above conditions are satisfied, ***exemption*** is available as follows:

$$\frac{\text{Amount invested in new Asset}}{\text{Net sale consideration}} \times \text{Capital gain}$$

6. In case the new asset acquired by the assessee ***is transferred or converted*** into money within a period of three years from the date of its acquisition, the capital gains exempted by virtue of the provisions given above is deemed to be income by way of long-term capital gains of the previous year in which such new asset is so transferred or converted into money.

7. A non-resident Indian ***may elect not to be governed*** by the provision of Section 115F for any assessment year by giving a declaration the return of income to this effect.

6.23 REFERENCE TO VALUATION OFFICER [SECTION 55A]

For the purpose of ascertaining the FMV, the Assessing Officer may refer the valuation of a Capital Asset to a valuation officer under the following circumstances:

a. ***Already valued***: Where the assesse already referred the matter to a registered valuer and the value as claimed by him is as per that valuation report - if the Assessing Officer is of the opinion that the value so claimed is less than its FMV.

b. ***If not so***, if the Assessing Officer is of the opinion:

- That the FMV of the asset exceeds the value of the asset as claimed by the Assessee by more than 15% of the value claimed or by more than 25,000 or
- That having regard to the nature of the Asset & relevant circumstances it is necessary to make the reference.

The valuation report of the Valuation Officer shall be binding on the Assessing Officer.

6.24 ZERO COUPON BONDS

1 ***Meaning of zero coupon bonds: "Zero coupon bond" means a bond:***

- Issued by any infrastructure capital company or infrastructure capital fund or public sector company on or after 1.6.2005,
- In respect of which no payment is received before maturity, and
- Which the central government by notification, specify in this behalf.

2. ***Redemption of zero coupon bonds to be regarded as transfer:*** The payment of zero coupon bonds shall be received from the issuing company/fund only at the time of maturity or redemption. Consequently, Section 2 (47) is amended to take redemption of zero coupon as a transfer.

3. ***Transfer of zero coupon bonds taxable as capital gains:***

   a. The profits arising on the transfer of such zero coupon bonds shall be chargeable under the head "capital gains".

   b. If zero coupon bonds are not held for more than 12 months, such capital asset shall be treated as short term capital asset and hence shall subject to short-term capital gain. On the other hand, where these bonds are held for more than 12 months, such capital gain shall be treated as long-term capital gain.

4. ***Taxability of long-term capital gain:*** Definition of specified security as given in Section 112 is amended. Therefore the option scheme is also available (i.e., 20% tax with indexation or 10% tax without indexation).

5. ***Tax treatment in the hands of company issuing such bonds:*** Discount on issue of zero coupon bonds to be allowed as deduction on pro rata basis, having regard to the maturity period of the bonds, under Section 36 while computing business income.

6.25 SERIES [SECTION 54]

Section	Assessee	Conditions	Quantum of Exemption
54	Individual & HUF	Residential house (L.O.P or S.O.P.) to be transferred. It must be a LTCA Within 1 year before or 2 years after, a residential house is purchased and/or within a period of 3 years, a residential house is constructed.	Amount of investment or Capital gain which ever is lower
54B	Individual	Agricultural and situated in specified area to be transferred. It must have been used in the 2 years immediately preceding the date of transfer for agricultural purposes either by the assessee or by his parents. Within 2 years from the date of transfer another Agric. land is purchased (Capital asset or not).	Same as Section 54
54D	Any Assessee	There must be a compulsory acquisition of a capital asset The property acquired is land and building forming part of an industrial undertaking The asset must have been used in the 2 years immediately preceding the date of transfer Within a period of 3 years any other land or building is purchased or/and constructed for the industrial undertaking existing or newly setup	Same as Section 54
54F	Individual & HUF	The asset transferred is a LTCA other than a residential house Within a period of *1 year before* or 2 years after the date of transfer, a residential house is to be purchased or and within a period of 3 years a residential house is to be constructed The assesse does not own more than one residential house on the date of transfer. Assessee does not within a period of 1 year purchase or does not within a period of 3 years construct any residential house other than the new asset. (*)	If the cost of the new residential house is equal to or more than the net consideration then the whole of the capital gain Other wise the capital gain is exempted proportion-ately

Contd...

54G	Any assessee	Asset transferred is a LTCA/STCA. Machinery, Land & building or any right in Land & building used for the business of an industrial undertaking situated in an urban area is transferred. Transfer is due to shifting to any area other than an urban area Within a period of *1 year before* or 3 years after the date of transfer the assesse has purchased machinery, building or land and/or constructed building & completed shifting to the new area	Same as Section 54
54GA	Any Assessee	Asset transferred is a LTCA/STCA. - Do - Transfer is due to shifting to SEZ - Do -	Same as Section 54
54EC	Any Assessee	The asset transferred is a LTCA **. Within a period of 6 months after the date of transfer, investment shall be made in Bonds redeemable after 3 years issued by NHAI or by the Rural Electrification Corporation	Same as Section 54 (However, the investment made on or after 1.4.07, can't exceed ₹50 Lakhs during any financial year

* Capital gain which was exempt u/s 54F shall be deemed to be income by way of long-term capital gain of the year in which another residential house is purchased or constructed.

** ***Exemption u/s 54EC in respect of depreciable asset:*** If conditions necessary under Section 54EC are complied with by the assesee on the transfer of a depreciable asset, if conditions necessary u/s 54EC are complied with by the assessee is eligible for the benefit u/s 54EC {CIT vs. Assam Petroleum Industries (P) Ltd. [2003]}

6.26 SOME CLARIFICATIONS ON SECTION 54 SERIES

a For the purpose of Section 54 and 54F, cost of land acquired by the assessee will also be eligible for exemption along with the cost of construction or acquisition. (Circular No.667, dated October 18, 1993).

b For Section 54/54F, the word house property means building or land appurtenant there to.

c. Conversion of joint ownership into single ownership by payment being made to other joint owners amounts to purchase.

d. House property does not mean an independent house property only, it includes flats in apartment & joint ownership as well.

e. Purchase of the house property which is already in occupation of the assessee in the capacity of the tenant is taken as an eligible purchase.

f. Sale of >1 house property & purchase/construction of a single property is permissible.

g. Sale of 1 house property & purchase/construction of > 1 property is permissible.

h. Construction of 2nd floor on existing property is valid.

i. For the purpose Section 54B & 54D usage as a tenant is also to be considered.

j. In case of Section 54D & 54G/GA, the assets to be sold are depreciable assets, the resulting C G, can only be either STCG or STCL.

k. Expenses incurred for registration of property will be considered as investment.

l. Expenditure incurred for construction before the date of transfer of the asset becomes eligible for exemption u/s.54 or 54F.

m. The construction of the new house may start before the date of transfer, but it should be completed after the date of transfer of the original house

n. Construction need not be completed in full.

o. Where a person who sold the house property has died, even if his legal representatives fulfill the condition as to purchase or construction of a new residential house within the stipulated period, the benefit of Section 54 can be taken by such representatives.

p. If the assessee complies with the conditions given in Section 53A of the transfer of property act within given time, he is eligible for exemption even if the sale deed was not registered.

q. The words "assessee or a parent of his" occurring in Section 54B of the Act, would clearly indicate that only an "individual assessee" is eligible.

r. Expenses incurred for shifting will be considered as investment u/s 54G, 54GA.

s. The cost of the bonds purchased under eligible issue of capital for which exemption under Section 54EC is claimed, will not qualify for deduction under Section 80C

t. Newly acquired or constructed property may be in India or outside India.

u. For claiming exemption u/s 54(1), construction of house need not be made by the assesse himself, as it can be constructed by a third party for the assesse CIT vs. Uma Budhia [2004].

v. There is nothing in provision of section 54 to warrant establishing a direct nexus or live-link between the amount of capital gain and the cost of new asset Ajit Vaswanit vs. CIT.

w. For purpose of claiming exemption u/s 54, investment in residential house would not only include cost of purchase of house but also cost incurred for making house habitable- Saleem Fazelbhoy vs. CIT[2006].

Capital gains accounts scheme: Under Section 54, 54B, 54D, 54F, 54G, 54GA (54 EC not covered) the capital gains is exempt if such gains or consideration, as the case may be, are invested in new assets within the time allowed in the respective sections. If such investment is not made before the date of furnishing the income tax return then the amount of capital gain or the net consideration, as the case may be is required to be deposited in an account under capital gains accounts scheme. The relevant points are:

a. *Date for deposit*: The deposit shall be made on or before furnishing the return of income or within the due date for furnishing the return under Section 139(1), whichever is earlier.

b. The deposit can be made in any public sector bank or approved institution.

c. *Proof*: The return of income shall be accompanied by proof of such deposit.

d. *Withdrawn*: The amount deposited can be withdrawn for making the investments as specified in the relevant sections.

e. *Unutilised*: If the amount deposited is not utilised for acquiring the new asset within the given period, the capital gain related to the unutilised amount shall be treated as the C.G. of the previous year in which the period specified in relevant sections expired.

f. The unutilised deposit amount in the Capital Gains Accounts Scheme, in the case of an individual, who dies before the expiry of the two/three years stipulated period under section 54, 54B, 54D, 54F and 54G, cannot be taxed in the hands of the deceased (Circular No.743 dt. 06.05.1996).

What happens if the newly acquired asset is sold?

a. ***Sale of new asset:*** Under Section 54, 54B, 54D, 54G and 54GA if the newly purchased asset is transferred within a period of 3 years from the date of its acquisition, the cost of such newly purchased asset shall be reduced by the amount of capital gains previously exempted and the short term capital gains arising on the transfer of newly purchased asset shall be computed by using such reduced cost of acquisition.

b. If the newly purchased asset under Section 54B is not a C.A. then "a" will not arise.

c. ***Sale of new asset:*** Under Section 54F, if the new asset is transferred within a period of three years then the capital gain exempted earlier shall be taxed as the capital gain in the previous year in which such asset is transferred. (In addition we shall calculate C.G's on sale of new asset).

d. ***Sale of Investments*** If the specified bonds U/s 54EC so invested are transferred or converted within a period of 3 years from the date of acquisition, the amount of capital gain previously exempted shall be deemed to be long-term capital gains of the previous year in which such transfer or conversion takes place. (If the assessee takes any loan or advance on the security of such specified bonds or debentures, he shall be deemed to have effected conversion). (In addition we shall calculate C.G's on sale of new asset).

Section 54H: Extension of time for acquiring new asset or depositing amount: Where the transfer of the original asset is by way of compulsory acquisition and the amount of compensation is not received by the assessee on the date of such transfer, the period available for acquiring new asset or investment by the assessee as referred to in Section 54, 54 B, 54D, 54EC and 54F in relation to such compensation, shall be calculated from the date of receipt of such compensation and not from date of transfer of the original asset. The extension of time as per section 54H is not available for section 54G/GA.

Exemption under more than one provision: It is possible to avail exemption under more than one section in respect of capital gains arising on transfer of a capital asset. For e.g., an assessee may sell a residential house, jewellery, land, shares etc., and invest the capital gains or net consideration as the case may be in another residential house whereby exemption can be claimed both u/s. 54 and Section 54F.

Some General Issues

1. Where a person obtains a capital asset from a Co-operative housing society by virtue of his membership, the date of acquisition of such capital asset shall be reckoned from the date of allotment of share in the society and not the date of delivery of possession of flat. (CIT v.s Jindas Panchand Gandhi)
2. Where land and building are sold and land is long term but the building is a short term capital asset, either because it is newly constructed or it is so treated by virtue of Section 50, the sale consideration can be split up so as to compute long term capital gains with reference to land separately and to avail in such computation the benefit of indexation. In respect of building, short term capital gain/loss can be computed separately CIT vs. Citibank.
3. Any payment made by an assessee to obtain vacant possession of the property, as a pre-condition for affecting the sale shall be considered to be expenses in connection with transfer. Accordingly, such payments are eligible for deduction from sale consideration. But for incurring such expenditure, the transfer cannot be completed and therefore, the expenditure is allowable u/s 48(1) of the Income-tax Act. (CIT vs. A. Venkataraman, 1982).
4. Any amount paid to mother/father having right of residence in the property is entitled to deduction as transfer expenses.
5. Any legal expenses incurred in connection with transfer of property are allowed as deduction. For e.g., Legal expenses incurred for obtaining the compensation.
6. Where a property inherited by the assessee was placed under mortgage by previous owner and where such mortgage is discharged by the assessee, the sum paid by assessee for discharge is to be treated as cost of acquisition. It is deductible in the computation of capital gains – Arunachalam vs. CIT (1997).
7. Any amount misappropriated by the power of attorney holder out of the sale consideration is not eligible for deduction while computing the capital gain of the owner of the property. (Naozar Chenoy vs. CIT, 1998). Again, the assessee cannot claim such amount as income diverted at source by overriding title.

Check Your Progress

Fill in the blanks:

1. The computation mechanism of capital gain tax has been prescribed under _____.
2. Any profits arising on the Transfer of any Capital Asset shall be chargeable to tax under the head _____ in the year of transfer.
3. Ownership of immovable assets will not pass till the title deeds are registered in the _____.
4. Transfer of _____ by professional firms will not attract Capital Gains.
5. A non-resident Indian may elect not to be governed by the provision of _____ for any assessment year by giving a declaration the return of income to this effect.
6. Discount on issue of _____ to be allowed as deduction on pro rata basis, having regard to the maturity period of the bonds, under Section 36 while computing business income.
7. Purchase of the _____ which is already in occupation of the assessee in the capacity of the tenant is taken as an eligible purchase.

6.27 LET US SUM UP

As capital gain tax evolved constantly, now-a-days they are levied on transferring the capital assets except those held as stock-in-trade.

As per section 45 (1), it has been mentioned if the income earned by a person is chargeable as tax on the basis of receipt or on the basis of accrual.

In order to qualify for "agricultural land in India", it is not necessary that land was once agricultural land.

Amount received by a retiring partner in respect of his share in the partnership including goodwill is not assessable as capital gains

If land is held for more than 36 months but the building constructed thereon is less than 36 months old as on the date of transfer, land becomes long term whereas the building is short term.

In case the company in which shares are held by the assessee gets liquidated, while computing the period of holding of such shares, the period of holding subsequent to the date of liquidation shall not be taken into account (i.e., excluded).

In case of direct ownership the cost incurred to purchase a capital asset shall be the cost of acquisition of that asset.

SECTION 49(2E): Section 49(2), 49 (2C), 49 (2D) are also applicable in relation to business reorganization of a co-operative bank.

Supreme Court held that only if an asset cost something to the assessee in terms of money the provisions relating to levy of capital gains tax are applicable.

As per Section 45(3) there is no requirement that in the case of transfer of an asset by a partner to the firm in which he is a partner, the amount of sale consideration has got to be credited to his capital account; crediting of purchase consideration to current account of the partners is sufficient.

If advance money forfeited is more than the cost of acquisition, the excess of the advance money forfeited over the cost of acquisition of such asset shall not be taxable in the previous year in which advance money is forfeited as there is no transfer.

Slump sale means the transfer of whole business for a lump sum consideration without values being assigned to the individual assets & liabilities. This system is very popular among professionals.

The total shareholding of the partners in the company shall not be less than 50% of the total voting power in the company and their shareholding continues to be as such for a period of 5 years from the date of the succession.

In the case of an assessee who is a non-resident the capital gains so computed in such foreign currency shall be reconverted into Indian currency for the purpose of further computation- First proviso to Section 48 and Rule 115A.

The valuation report of the Valuation Officer shall be binding on the Assessing Officer.

"Zero coupon bond" means a bond issued by any infrastructure capital company or infrastructure capital fund or public sector company on or after 1.6.2005, in respect of which no payment is received before maturity and which the central government by notification, specify in this behalf.

For the purpose of Section 54 and 54F, cost of land acquired by the assessee will also be eligible for exemption along with the cost of construction or acquisition. (Circular No 667, dated October 18, 1993).

Under Section 54, 54B, 54D, 54F, 54G, 54GA (54 EC not covered) the capital gains is exempt if such gains or consideration, as the case may be, are invested in new assets within the time allowed in the respective sections.

Any amount misappropriated by the power of attorney holder out of the sale consideration is not eligible for deduction while computing the capital gain of the owner of the property.

6.28 UNIT END ACTIVITY

R acquired agricultural land in Delhi, on 15.5.94 for ₹ 4,00,000. The land is compulsorily acquired by the Delhi government on 15.4.03 and the compensation fixed was ₹ 25,00,000. ₹10,00,000 was received by R on 15.1.2004 and the balance on 6.4.2005. R was not satisfied with the compensation and filed a suit in the court. The compensation was enhanced by ₹ 5,00,000 which was received on 25.3.09. Compute the capital gains taxable in the hands of R for the various assessment years

6.29 KEYWORDS

STCG: Capital gains arising on transfer of a short-term capital asset are called STCG.

LTCG: Capital gains arising on transfer of a long-term capital asset are called LTCG.

Ordinary asset: A capital asset held by an assessee, before the date of its transfer, for >36 months is a Long-term Capital Asset.

Previous owner: A person who acquired the property other than by any of the modes given in Section 49 (1)

Cost of improvement: It is the capital expenditure incurred for the improvement of capital asset.

Enhanced compensation: If on appeal the compensation is enhanced, the additional compensation is called enhanced compensation.

Slump sale: Slump sale means the transfer of whole business for a lump sum consideration without values being assigned to the individual assets & liabilities.

6.30 QUESTIONS FOR DISCUSSION

1. Define accounting. What is the need of accounting?
2. What are the basic concepts of accounting?
3. What are the key conventions of accounting?
4. Describe the objectives of accounting.
5. What are the different types of accounts?
6. What are the different branches of accounting?
7. Discuss the concept of double entry system of accounting.

Check Your Progress: Model Answer

1. 45-55A of Income Tax Act.
2. Capital Gains
3. Name of purchaser
4. Goodwill
6. Zero coupon bonds
7. House property

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BLOCK – IV

UNIT - 7

COMPUTATION OF TOTAL INCOME

CONTENTS

Contd

7.0 AIMS AND OBJECTIVES

After studying this lesson, you should be able to:

- Explain Income Tax Act, 1961
- Discuss the basic concepts of Income Tax Act, 1961
- Explain the meaning of agricultural income
- Describe the concept of gross income and total income
- List the exemptions under section 10 of Income Tax Act
- List different types of losses
- Discuss the limit of carry forward and set off against income
- Describe precondition to carry forward loses
- Define sole proprietorship in Tax Liability of an Individual
- Compute the tax liability of individuals and HUF
- Explain the key savings under Section 80C
- State the allowable tax deductions to individuals and HUF

7.1 INTRODUCTION

Section 14 of the Income-tax Act has classified the income of a taxpayer under five different heads of income, viz.: Salaries, Income from house property and Profits and gains of business or profession. Total Income is the income on which tax liability is determined. It is necessary to compute total income to ascertain tax liability .Section 80C to 80U provides certain deductions which can be claimed from Gross Total Income (GTI). After claiming these deductions from GTI, the income remaining is called as Total Income. In other words, GTI less Deductions (under section 80C to 80U) = Total Income (TI). Total income can also be understood as taxable income

7.2 COMPUTATION OF TOTAL INCOME

Although Section 14 of the Income-tax Act classifies income under five distinct heads, tax is not imposed on each of the heads separately. Under Section 4, which is the charging section and the backbone of the Act, the charge is on a single tax base called—total income. Section 4 thus provides that:

(a) The charge of tax shall arise in respect of the total income of every person defined in Section 2(31);

(b) The subject matter of tax is the total income of the previous year;

(c) The tax is to be charged at the rate or rates in force;

(d) The provisions of section 4 are subject to the other provisions of the Act.

Sections 15 to 59 of the Act lay down the procedure of computation of income under all the five heads mentioned in section 14. The sum total of income under all the five heads is known as Gross Total Income. Total income is obtained after subtracting from the GTI the permissible deductions under Chapter VI-A of the Act (Sections 80C -80U).

Computation of Total Income		
1. Income under the head "Salaries":		
Various components of salary defined u/s 17(1)		
• Pay, wages, pension, annuity, etc		
• Taxable allowances		
• Perquisites		
• Profits in lieu of salary Gross salary		
Less: Deductions u/s 16 :		
• Deduction for entertainment allowance		
• Deduction for professional tax		
2. Income from house property:		
Gross annual value:		
Less: Municipal tax Net annual value		
Less: Deduction u/s 24		
Standard deduction u/s 24 (a)		
Interest on borrowed capital u/s 24 (b)		
Income from house property		
3. Profits and gains from business or profession:		
Net profit as per Profit and Loss Account		
Add: Inadmissible expenses *Less*: Income credited to the Profit and Loss Account but not taxable under the head or exempt from tax Income from business or profession.		

Contd..

4. Capital gains:		
• Short-term capital gains:		
Consideration received on transfer of short-term capital asset		
Less: Expenses incidental to transfer		
Less: Cost of acquisition/improvement of capital asset		
Less: Exemptions u/ss 54B, 54D, 54G, 54GA (A)		
• Long-term capital gains:		
Consideration received on transfer of long-term capital asset		
Less: Expenses incidental to transfer		
Less: Indexed cost of acquisition/improvement of capital asset		
Less: Exemption u/ss 54,54B, 54D, 54EC, 54F, 54G, 54GA and 54GB (B)		
Taxable capital gains (A + B)		
5. Income from other sources:		
Gross income		
Less: Deductions for incidental expenses u/s 57		
Income from other sources		
Gross total income		
Less: Deduction u/ss 80C - 80U		
Total income or taxable income		
Computation of tax liability		
Tax on total income (Total income × Rate of tax)		
Less: Rebate u/s 87A		
Total tax after rebate		
Add: Surcharge		
Tax and surcharge payable		
Add: Education Cess on income-tax @ 2% of tax and surcharge		
Add: Secondary and higher education Cess @ 1% of tax and surcharge		
Less: Tax relief		
Tax payable		

Income of the previous year: The general rule is that only income of the previous year shall be liable to tax during the assessment year.

7.2.1 Rate of Taxes

The income tax is charged at the rate or rates prescribed by the Finance Act for that assessment year. The rates mentioned in the Finance Act are the normal rates of tax.

The rates of tax are mentioned in the First Schedule of the Finance Act. For example, Finance Act 2016 contains the normal rates of tax in three parts. Part I of the First Schedule contains the normal rates of tax as applicable to the assessment year 2016-17. Part II of the First Schedule contains the normal rates of tax to be deducted at source on certain incomes for the financial year 2016-2017. Part III contains the rates of tax for deducting income tax from income under the head salaries and computing advance tax. The rates mentioned in part III will be same as the rate to be mentioned in Part I of the First Schedule of the Finance Act 2017 and will be applicable for the assessment year 2017-18.

Part IV contains the rules for computation of net agricultural income. It is to be noted that, if on the 1st April every year the new Finance Bill is not placed in the statute book, the provision in force in the preceding year or the provisions proposed in the new Finance Bill, whichever is beneficial to the assessee, shall be applicable until the new provisions become effective (Section 294).

The following general rules should be kept in mind:

i. The law to be applied is that law in force in the Assessment Year.

ii. Although tax is paid in respect of the income of the previous year, the tax rate to be applied is that in force in the assessment year.

iii. The Income-tax Act as it stands amended on 1st April of a financial year must apply to the assessment for that year.

iv. Any amendment that comes into force after 1st April of the financial year, would not apply to the assessment for that year, even if the assessment is made after the amendments come into force.

7.2.2 Special Rates

Special rates are the rates which are mentioned in the Income-tax Act itself. Chapter XII (Sections 110-115BBE) of the Income-tax Act contains the special rates of tax to be applicable in certain cases. For example, u/s 111A, short-term capital gains from securities is to be charged to tax @15%; long-term capital gains are to be charged u/s 112 @20% and lottery income is to be charged u/s 115BB @ 30%.

7.3 CLUBBING OF INCOME

Under the Income-tax Act 1961, an assessee is generally liable to pay tax in respect of his own income. However, there are certain circumstances where the incomes of others persons are also included in his income. This is known as clubbing of income.

The clubbing provisions are necessary because in a taxation system where the tax burden increases with the increase in the slab of income, there is always a possibility on the part of the assessee to divert income, at least partially, in favour of the spouse, minor children or other persons, to minimise the tax burden, but at the same time, retaining control over the income.

For example, if a male individual below the age of 60 years has a total income of ₹ 3,00,000, then his tax liability is ₹ 5,000. But if the assessee diverts a part of the income, say ₹ 50,000, in favour of his minor son, then the assessee's own income becomes ₹ 2,50,000 and his son's income becomes ₹ 50,000 and both his son and he himself can avoid paying any tax. Chapter V of the Income-tax Act (i.e., Sections 60

to 65) contains deterrent provisions whereby such incomes of the other persons are to be clubbed with the total income of the assessee. The various situations where such clubbing is done are discussed below:

7.3.1 Transport of Income without Transfer of Assets [Section 60]

All income arising to any person by virtue of a transfer shall be chargeable to income-tax as the income of the transferor shall be included in his total income, provided that the following conditions exist:

(a) There is a transfer of income by the assessee.

(b) The income so transferred may be revocable or irrevocable.

(c) Such income is transferred either before or after the commencement of the Income-tax Act, 1961.

(d) The assessee does not transfer the assets from which such income arises.

A. ***Revocable Transfer of Assets [Section61]:*** As provided in section 61 all income arising to any person by virtue of a revocable transfer of assets, shall be chargeable to income-tax as the income of the transferor shall be included in his total income.

B. ***Exceptions when Transfer is Irrevocable for Specified Period [Section 62(1)]:*** Section 62 provides the exceptions to the rule contained in section 61 that in the case of revocable transfer of asset, income arising from such assets shall be included in the total income of the transferor. The following are the exceptions where income arising to any person from transfer of assets, shall not be included in the total income of the transferor:

   (a) Such income arises to any person by virtue of a transfer by way of a trust which is not revocable during the lifetime of the beneficiary, and in the case of any other transfer, it is not revocable during the life time of the transferee: or

   (b) Such income arises by virtue of a transfer made before 1st April, 1961 and is not revocable for a period exceeding six years.

   (c) In both the cases, the transferor should not derive any direct or indirect benefit from such income. The income in this case shall be chargeable in the hands of the transferee. Section 62(2), however, provides that, as and when the power to revoke the transfer arises, the income shall be chargeable in the hands of the transferor.

Example 1: On 1.4.2010 X transfers a house property to a trust with the explicit direction that till the life time of Y, his widowed mother, the income from the house shall be applied for the maintenance of Y. Y dies on 1.5.2016 and thereafter X continues to receive the income from the house. Discuss who is liable to tax in respect of the income from the house property:

Answer: By virtue of Section 62(1), from 1.4.2010 to 1.5.2016, the trustees shall be liable to tax in respect of the income from the house for that period. Under Section 62(2), income arising from the property after 1.5.2016 shall be assessable in the hands of X.

C. ***Meaning of Transfer and Revocable Transfer [Section 63]:*** For the purpose of Sections 60, 61 and 62, the expressions —transfer and —revocable transfer shall mean the following:

(a) *Transfer*: It includes any settlement, trust, covenant, agreement or arrangement

(b) *Revocable transfer*: A transfer shall be deemed to be revocable if:

(i) It contains any provision for the re-transfer directly or indirectly of the whole or any part of the income or assets to the transferor; or

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

7.3.2 Income of Individual to Include Income of Spouse, Minor Child, etc. [Section 64]

a. In computing income of an individual, the income of the under mentioned persons shall be included in the total income of the individual;

Remuneration received by spouse [Section 64(1)(ii)]: Income arising to the spouse of an individual by way of salary, commission, fees or any other form of remuneration, whether in cash or in kind from a concern in which such individual has substantial interest, shall be included in the total income of such an individual.

b *Exceptions*: Where the aforesaid income arises to the spouse by virtue of possession of technical or professional qualifications and the income is solely attributable to the application of his or her technical or professional knowledge and experience, the income of the spouse shall not be clubbed with the total income of the individual [Proviso to Section 64(1)(ii)]

When both the husband and wife have substantial interests [Explanation 1 to Section 64(1)]: When both husband and wife have substantial interests in the concern and both of them are in receipt of remuneration, the remuneration shall be clubbed with the total income of the husband or wife, whose total income (excluding such remuneration) is greater. Once any such income is included in the total income of either spouse, such income arising in any succeeding year shall not be included in the total income of the other spouse, unless the Assessing Officer is satisfied, after giving that spouse an opportunity of being heard, that it is necessary to do so.

c. ***Meaning of substantial interest [Explanation 2]:*** For the purpose of Section 64(1)(ii), an individual shall be deemed to have a substantial interest in a concern:

(i) In a case where the concern is a company, if its shares (not being shares entitled to a fixed rate of dividend whether with or without a further right to participate in profits) carrying not less than 20% of the voting power are, at any time during the previous year, owned beneficially by such person or partly by such person and partly by one or more of his relatives.

(ii) In any other case, if such person is entitled or such person and one or more of his relatives, are entitled to the aggregate, at any time during the previous year, to not less than 20% of the profits of such concern

Example 2

(a) Mr. X and Mrs. X are employed in X Ltd., where both of them are holding equity shares to the extent of 20% and 25% respectively. Salary of Mr. X is ₹ 20,000 p.m. while that of Mrs. X is ₹ 24,000 p.m. Other incomes of Mr. X and Mrs. X are ₹ 1,20,000 and ₹1,00,000 respectively. Compute the total income of Mr. X and Mrs. X.

(b) What will be the total income of Mr. X and Mrs. X if both of them are employed in X Ltd. as chartered accountants?

Answer:

(a) Since the remunerations received by Mr. X and Mrs. X from X Ltd. are not owing to possession of any technical or professional qualifications, under Section 64(1)(ii), read with Explanation1, salary of Mrs. X shall be clubbed with the total income of Mr. X and the total income of Mr. X and Mrs. X will be as under:

Computation of total income of Mr. X and Mrs. X

	₹	₹
	Mr. X	Mrs. X
Income under the head "Salaries": Mr. X [₹ 2,40,000 less deduction u/s 16] Mrs. X [₹ 2,88,000 less deduction u/s 16] Income from other sources:	2,40,000 2,88,000 1,20,000	Nil Nil 1,00,000
Gross total income Less: Deductions u/ss 80C to 80U	6,48,000 Nil	1,00,000 Nil
Total income	**6,48,000**	**1,00,000**

(b) Since both Mr. X and Mrs. X are chartered accountants and the remunerations received by them are in exercise of their professional skills, the provision of Section 64(1)(ii) for clubbing of income shall not be applicable. Accordingly, the total income of Mr. X and Mrs. X shall be as under: Computation of total income of Mr. X and Mrs. X.

	₹	₹
	Mr. X	Mrs. X
Income under the head Salaries (as above) Income from other source	2,40,000 1,20,000	2,88,000 100000
Gross total income Less: Deduction u/s 80C to 80U	3,60,000 Nil	3,88,000 Nil
Total income	**3,60,000**	**3,88,000**

7.3.3 Income from Assets Transferred to Spouse [Section 64(1)(IV)]

Income arising to the spouse of an individual from any asset (other than house property) transferred directly or indirectly to the spouse of such individual, otherwise than for adequate consideration or in connection with an agreement to live apart, shall be included in the total income of such individual. House property transferred to the spouse, otherwise than for adequate consideration, is outside the ambit of Section 64(1)(iv) because, in the case of such transfer (not being a transfer in connection with an agreement to live apart), the transferor is deemed to be the owner of the property and is accordingly chargeable to tax for income arising from such property.

7.3.4 Income from Assets Transferred to Son's Wife [Section 64(1)(VI)]

Income arising to the son's wife of any individual from any asset transferred directly or indirectly on or after 1st June, 1973, to the son's wife, otherwise than for adequate consideration, shall be included in the total income of such individual.

7.3.5 Clubbing of Income when Transferred Asset is Invested in Business [Explanation 3 to Section 64]

Where the assets transferred directly or indirectly by an individual to his spouse or son's wife (i.e., the transferee) are invested by the transferee, income arising from such investments shall be included in the total income of that individual for that previous year as under:

When the transferred assets are invested in any business, (such investment being not in the nature of the contribution of capital as partner in a firm or for being admitted to the benefits of partnership in a firm), the part of the income arising out of business to the transferee in any previous year, which bears the same proportion to the income of the assets aforesaid as on the first day of the previous year bears to the total investment in the business by the transferee as on the first day of the previous year.

When the transferred assets invested by the transferee are towards the contribution of capital as a partner in a firm, the part of the interest receivable by the assessee from the firm in any previous year, which bears the same proportion to the interest receivable by the transferee from the firm as the value of investment aforesaid as on the first day of the previous year bears to the total investment by way of capital contribution as a partner in the firm as on the said day

It may be noted that the provision of Explanation 3 to Section 64 applies to only interests receivable from the firm. It does not apply to share of profits from the firm, as such income is exempt under Section 10(2A).

7.3.6 Income from Assets Transferred to other Person or AOP for the Benefit of Spouse [Section 64(1)(VII)]

Income arising to any person or association of persons from assets transferred directly or indirectly by any individual, otherwise than for adequate consideration, to the person or association of persons, shall be included in the total income of such individual to the extent to which income from such assets is for the immediate or deferred benefit of the spouse of the individual.

7.3.7 Income from Assets Transferred to other Person or AOP for the Benefit of Spouse [Section 64(1)(VII)]

In the case of any transfer of asset by an individual on or after 1st June, 1973 to any person or association of persons, otherwise than for adequate consideration, any income arising to the person or association of persons from such assets shall be included in the total income of the individual to the extent to which such income is for the immediate or deferred benefit of the son's wife of the individual.

7.3.8 Income from Accretion to Property Transferred or Accumulated Income of such Property

When any asset is transferred by the individual under clauses (iv), (vi), (vii) and (viii) of Section 64(1), any income arising from accumulated income or from accretions to such assets shall not be included in the total income of the individual [C I T. vs. Saraswathi 133 ITR 315]

7.3.9 Clubbing of Income of Minor Child

In computing the total income of any individual, all such income as arises or accrues to a minor child shall be included in the total income of such individual.

When clubbing is not applicable:

The income of the minor child shall not be included in the total income of the parent of the minor when:

(i) The minor child is suffering from any of the disabilities specified in Section 80U (e.g., permanent Physical disability including blindness, mental retardation, etc.); or,

(ii) The income arises to such minor on account of any manual work done by him; or

(iii) The income arises to the minor from activity involving application of his skill, talent or specialised knowledge and experience.

7.4 DEDUCTIONS FROM GROSS TOTAL INCOME

Nature of Deduction: In computing the taxable income or total income of an assessee. Chapter VI-A of the Income-tax Act allows certain deductions. The various deductions available to different types of assessees are specified in sections 80 C to 80U. In order to claim deductions under this Chapter of the Act, the following conditions are to be complied with:

a. ***Overall Deductions [Sections 80A; 80AB]:*** Deductions under this chapter can be claimed only with respect to the income which is included in the gross total income [Section 80AB]. The aggregate deductions under Sections 80C to 80U, however, shall not exceed the gross total income of the assessee [Section 80A(2)].

   Further, multiple deductions for the same income/profit are not allowed under this section. As a result, if any deduction has already been allowed to the assessee under the provisions of Section 10A or Section 10AA or Section 10B or Section 10BA or under any provisions of Chapter VI-A under the heading —C.- Deductions in respect of certain incomes (i.e. u/s 80H to 80U) in any assessment year, no deduction shall again be allowed under any other provisions of the aforesaid sections. Besides, it is mandatory for the assessee to claim these deductions in the return of income.

b. ***Deduction in Certain Cases are Subject to Furnishing of Returns [Section 80AC]:*** No deduction shall be allowed u/s 80-IA or 80-IAB or 80IB or 80IC or Section 80-ID or Section80-IE unless the assessee furnishes a return of his income for such assessment year on or before the due date specified under Section 139(1).

7.4.1 Deductions Available to Non-corporate Assessee

The deductions under Sections 80C to 80U available to a non-corporate assessee may be classified into two groups:

a. Deductions in respect of certain payments and expenses.

b. Deductions in respect of certain incomes

Deductions available u/s 80C to 80U for non-corporate assessee:

Section	Nature of Deduction	Maximum Amount of Deduction
	A. Deductions in respect of certain payments	
*80C	Deduction in respect of life insurance premium and certain other savings.	₹ 1,50,000
*80CCC	Deduction in respect of certain pension funds. [*Aggregate amount of deductions u/ss 80C, 80CCC and 80CCD(1) shall not exceed ₹ 1,50,000 [Section 80CCE]	₹ 1,50,000

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*80CCD (1) 80CCD(1B)	Deduction for contributions to the notified pension scheme for the employees of the Central Government or any other employer who have joined service on or after 1st January, 2004 or contributions by any self employed person	Contributions made by the employer and employee are deductible to the extent of 10% of salary [80CCD (1)] Additional amount up to ₹ 50,000 [80CCD(1B)].
80CCG	Deductions in respect of investments made under an equity savings scheme.	Subject to the ceiling on investment of ₹ 50,000, actual deduction is 50% of the sum actually invested, provided that the GTI of the assessee does not exceed ₹ 12 lakh.
80D	Deduction in respect of medical insurance premium.	(a) For senior citizens ₹ 30,000 and (b) ₹25,000 for others. Maximum possible deduction ₹60,000 [a+b].
80DD	Deduction in respect of maintenance, including medical treatment of handicapped dependent.	₹ 75,000, ₹ 1,25,000 in case of severe disability.
80DDB	Deduction in respect of medical treatment of some specified diseases.	Actual amount spent or, ₹80,000 for very senior citizens, ₹ 60,000 for senior citizens and ₹ 40,000 for others, whichever is lower.
80E	Deduction in respect of payment of interest on loan taken for higher education	Actual amount paid.
80EE	Interest on loan taken from financial institutions for acquisition of residential house property for assessees who do not own any residential house property on the date of sanction of the loan	Fixed at ₹ 50,000 during the assessment years 2017-18 and subsequent assessment years. Amount of loan should not exceed ₹ 35 lakhs and value of the property should not exceed ₹ 50 lakhs.
80G	Deduction in respect of donation to certain funds and charitable institutions.	100% of donations to specified funds and 50% in other cases
80GG	Deduction in respect of rent paid.	25% of total income subject to a maximum of ₹ 5,000 p.m.
80GGA	Deduction in respect of certain donations for scientific research or rural development.	Actual amount paid.
80GGB	Deduction in respect of contributions given by an Indian company to political parties.	Actual amount contributed (other than cash) during the previous year.
80GGC	Deduction for contributions to political parties by any person, except local authority and an artificial juridical authority wholly and partly funded by the Government.	Actual amount contributed (other than cash) during the previous year.

Contd

	B. Deductions in respect of certain incomes	
80IA	Deduction in respect of profits and gains from industrial undertakings or enterprise engaged in infrastructure development.	100% of profits.
80-IAB	Profits and gains of an undertaking engaged in the development of Special Economic Zone.	100% of profit for 10 assessment years
80IB	Deduction in respect of profits and gains from certain industrial undertakings other than infrastructure development undertakings.	100% of profits for industries in backward states; in other cases 25% of profit (30% for corporate assessee).
80IC	Deduction for undertakings in special category states	100% of profits.
80JJA	Deduction in respect of profits from the business of collecting and processing of biodegradable waste.	100% of profits.
80JJAA	Deduction in respect of employment of new workman in the case of a company assesse having business income from manufacture of goods in factory	30% of the wages paid to new workmen for three years including the year in which employment is provided.
80LA	Deduction in respect of income of offshore banking units.	100% of income for the first five consecutive years and 50% of the income for the next five years.
80QQB	Deduction in respect of royalty income of authors of certain books other than text books	In case of lump sum payment amount actually received or ₹3,00,000, whichever is lower; in other cases 15% of the value of books sold or ₹ 3,00,000, whichever is lower.
80RRB	Deduction in respect of royalty on patent	100% of royalty or ₹ 3,00,000, whichever is lower.
80U	Deduction in the case of a person with disability.	₹ 75 000; ₹ 1,25,000 in case of severe disability

7.5 SET OFF AND CARRY FORWARD OF LOSSES

7.5.1 Set off of Losses

Set off of losses means adjusting the losses against the profit/income of that particular year. Losses that are not set off against income in the same year, can be carried forward to the subsequent years for set off against income of those years. A set-off could be:

a. An intra-head set-off

b. An inter-head set-off

a. Intra-head Set Off

The losses from one source of income can be set off against income from another source under the same head of income.

For eg: Loss from Business A can be set off against profit from Business B where Business A is one source and Business B is another source and the common head of income is "Business".

Exceptions to an intra-head set off:

1. Losses from a Speculative business will only be set off against the profit of the speculative business. One cannot adjust the losses of speculative business with the income from any other business or profession.
2. Loss from an activity of owning and maintaining race-horses will be set off only against the profit from an activity of owning and maintaining race-horses
3. Long-term capital loss will only be adjusted towards long-term capital gains. Interestingly, a short-term capital loss can be set off against long-term capital gain or short-term capital gain.
4. Losses from a specified business will be set off only against profit of specified businesses. But the losses from any other businesses or profession can be set off against profits from the specified businesses

b Inter-head Set Off

After the intra-head adjustments, the taxpayers can set off remaining losses against income from other heads.

Eg Loss from house property can be set off against salary income

Given below are few more such instances of an inter-head set off of losses

1 Loss from House property can be set off against income under any head

2 Business loss other than speculative business can be set off against any head of income except income from salary

One needs to also note that the following losses can't be set off against any other head of income:

a. Speculative Business loss

b Specified business loss

c. Capital Losses

d. Losses from an activity of owning and maintaining race-horses

7.5.2 Carry Forward of Losses

After making the appropriate and permissible intra-head and inter-head adjustments, there could still be unadjusted losses. These unadjusted losses can be carried forward to future years for adjustments against income of these years. The rules as regards carry forward differ slightly for different heads of income. It is important to know that Carry forward Losses can be set off only against that head of income. It must be noted that an Assessee must file the Income Tax Return within the due date prescribed (under section 139(1)) to carry forward the losses except in the cases loss arising under the head house property (under section 71B) and carry forward of unabsorbed depreciation (under Section 32(2)).

7.6 DIFFERENT TYPES OF LOSSES

Similar to the classification of the capital, capital loss also falls in the following two categories:

- ***Short Term Capital Loss:*** If the capital loss arise from selling the short term capital assets is short term capital loss. If the property is hold for less than three years then it is considered as the short term capital assets. If Shares in a company or any other security listed in a recognized stock exchange in India or a unit of a Unit Trust of India or a unit of a mutual fund specified under section 10(23D) held for not more than 12 month is considered as short term capital assets.
- ***Long Term Capital Loss:*** If the capital loss arise from selling the long term capital assets is long term capital loss. If the property is hold for more than three years then it is considered as the long term capital assets. If shares in a company or any other security listed in a recognized stock exchange in India or a unit of a Unit Trust of India or a unit of a mutual fund specified under section 10(23D) held for more than 12 month is considered as long term capital assets.
- ***Loss under the head Income from House Property:*** In so far as income from a self-occupied property is concerned and in respect of a property away from workplace, the annual value is taken at nil, no other deductions are allowed except for interest on borrowed capital upto a maximum of Rs.30,000. In such cases, there may be loss upto a maximum of Rs.30,000 (or Rs.1,50,000 as the case may be). In respect of other type of house property, namely a house property that is let out, there are no restrictions on deductions and therefore, there can be loss under this head.

7.7 LIMIT OF CARRY FORWARD AND SET OFF AGAINST INCOME

Section 72 of the Income Tax provides the limits for the carry forward and set off against income. According to it,

1. Where for any assessment year, the net result of the computation under the head "Profits and gains of business or profession" is a loss to the assessee, not being a loss sustained in a speculation business, and such loss cannot be or is not wholly set off against income under any head of income in accordance with the provisions of section 71, so much of the loss as has not been so set off or, where he has no income under any other head, the whole loss shall, subject to the other provisions, be carried forward to the following assessment year, and—

(i) it shall be set off against the profits and gains, if any, of any business or profession carried on by him and assessable for that assessment year;

(ii) if the loss cannot be wholly so set off, the amount of loss not so set off shall be carried forward to the following assessment year and so on

Provided that where the whole or any part of such loss is sustained in any such business which is discontinued in the circumstances specified in that section, and, thereafter, at any time before the expiry of the period of three years referred to in that section, such business is re-established, reconstructed or revived by the assessee, so much of the loss as is attributable to such business is carried forward to the assessment year relevant to the previous year in which the business is so re-established, reconstructed or revived, and—

(a) it shall be set off against the profits and gains, if any, of that business or any other business carried on by him and assessable for that assessment year; and

(b) if the loss cannot be wholly so set off, the amount of loss not so set off shall, in case the business so re-established, reconstructed or revived continues to be carried on by the assessee, be carried forward to the following assessment year and so on for seven assessment years immediately succeeding.

2. Where any allowance or part thereof is, to be carried forward, effect shall first be given to the provisions of this section.

3 No loss (other than the loss referred to in the proviso to sub-section (1) of this section) shall be carried forward under this section for more than eight assessment years immediately succeeding the assessment year for which the loss was first computed

7.8 PRECONDITION TO CARRY FORWARD LOSSES

The preconditions to carry forward losses are as under:

1. ***Unabsorbed loss must have been carried forward without interruption:*** The unabsorbed losses must enter the assessment of every 'following year' for ascertaining whether they could be set off against the profits and gains of any business, profession or vocation It is only when it is found in each year that they could not be so absorbed then they are allowed to be carried forward to the next following year and so on

2. ***Assessee does not have any option:*** Section 72 provides for carry forward of loss only when such loss cannot be set off against income under any other head. Under the Act, there is no provision which give option to the assessee to show the profit as income from one source and carry forward the loss from another source of income to the next year.

3 ***Loss from exempt source cannot be carried forward:*** If the loss arising in the previous year was under a head not chargeable to tax, it could not be allowed to be carried forward and absorbed against income in a subsequent year from a taxable source In such cases, neither the assessee is required to show the same in the return nor is the ITO under any obligation to compute or assess it, much less for the purpose of 'carry forward'

4. ***Loss can be set off against income included under section 64:*** Where section 64 operates, the profit or loss from a business of spouse included in the total income of the assessee should be treated as profit or loss of a business 'carried on' by him for the purpose of carry forward and set off of such loss under section 72

5 ***Loss due to depreciation is not covered:*** It is wrong to assume that section 72 also deals with the carrying forward of depreciation. This carry forward having been provided in section 32(2) in a different manner, section 72 deals with losses other than losses due to depreciation.

6. ***Loss can be set off against income from any business:*** The conditions in proviso (i) of section 72(1) requiring continuation of the carrying on of the same business by the assessee do not provide that the unabsorbed loss shall be set off against income from the same business. If the assessee continues to do the same business, then carried forward unabsorbed loss may be set off against the income of the assessee against any business

7. ***Current depreciation must be deducted first:*** Current depreciation must be deducted first before deducting the unabsorbed carried forward business losses of earlier years. Such losses cannot be given preference over current depreciation in the matter of set off in computing an assessee's income for any particular assessment year

8. ***ITO must allow set off even if it is not claimed:*** There is a duty cast on the ITO to apply the relevant provisions of the Act for the purpose of determining the true figure of the assessee's taxable income and the consequential tax liability. Merely because the assessee fails to claim the benefit of a set off, it cannot relieve the ITO of his duty to apply section 72 in an appropriate case.

9. ***ITO dealing with assessment of subsequent year should decide the issue:*** Whether the loss in any year may be carried forward to the following year and set off against the profits and gains of the business, profession or vocation under section 72 has to be determined by the ITO dealing with the assessment in the subsequent year.

10. ***Loss under the head Income from House Property:*** Once loss is determined in respect of house property, the next question would be regarding to be given to such losses. The loss from one house property can be set off against the income from another house property. The remaining loss, if any, will be set of against incomes under any other heads like salary. In case the loss does not get wiped out completely, the balance will be carried forward to the next assessment year to be set off against the income from house property of that year. However, such carry forward is restricted to eight assessment years only. For example,

    a. 'A' has a property, which is self-occupied. The net loss from this property is Rs.15,000. 'A' has income from salary of Rs.60,000. The loss can be set off from salary income (after standard deduction).

    b. 'A' a salaried employee (salary Rs.85,000/- after standard deduction) has two properties which are let out. The net loss from one property 'X' is Rs.20,000. The income from the other property 'Y' is Rs.14,000. The loss from property 'X' can be set off against income from property 'Y'.

11. ***Losses under the head capital gains:*** Where the assessee has suffered loss on transfer of certain capital asset and earned profit on transfer of other capital assets, he is entitled to have the amount of such loss set off against such gains. Any loss remaining unadjusted under the head 'capital gains', however, cannot be set off against income under the other heads, e.g. salaries, house property, business or profession and other sources, but shall be carried forward for set off against capital gains in the subsequent assessment year. However, no loss shall be carried forward for more than eight assessment years from the year for which the loss was first computed.

Example: For the A.Y. 2001-2002.

A resident individual has income under "salaries" of Rs. 1,80,000/-, capital loss on sale of shares of Rs 1,50,000 and capital gains on sale of a residential unit of Rs. 50,000/-. He has no other income.

Income under 'capital gains'	1,80,000
Loss on sale of shares	(–) 1,50,000
Gains on sale of residential units	50,000
Loss under 'capital gains'	(–) 1,00,000
Total income	1,80,000

(since loss under capital gains cannot be set off against the income under any other head)

Loss under 'Capital Gains'	1,00,000

to be carried forward for eight years (i.e. upto A.Y. 2009-2010)

If in A.Y. 2002-2003, the assessee has income under 'Salaries' of Rs. 2,30,000/-, Capital Gains on sale of shares of Rs. 50,000/- and no income under any other head.

Income under 'Salaries'	2,30,000
Income under 'Capital Gains'	
Capital gains on sale of shares	50,000
Less Loss under capital gains	50,000
Brought forward from A.Y. 2001-02	
Income from Capital Gains	NIL
Total income	
Income under Salaries	2,30,000
Income under 'Capital Gains'	NIL
Total Income	2,30,000
Loss under Capital gains to be carried forward	
Loss in A.Y. 2001-2002	1,00,000
Loss set off this year	50,000
Loss to be carried forward	50,000
(upto A.Y. 2009-2010)	

7.9 TAX LIABILITY OF AN INDIVIDUAL

A tax liability is the total amount of tax debt owed by an individual, corporation or other entity to a taxing authority like the Internal Revenue Service (IRS). It is the total amount of tax you're responsible for paying to the taxman. Tax liabilities are incurred due to earning income, a gain on the sale of an asset or other taxable events. Individuals are subject to income tax. Income tax is a direct tax levied on the income earned by individuals, corporations or on other forms of business entities. The Indian constitution has empowered only the Central Government to levy and collect income tax. The Income Tax department set up by the Government is governed by the Central Board for Direct Taxes (CBDT). The CBDT is a part of Department of Revenue in the Ministry of Finance. It has been charged with all the matters relating to various direct taxes in India. It provides essential inputs for policy and planning of direct taxes in India and is also responsible for administration of direct tax laws through the Income Tax Department. For all the matters relating to Income tax, the Income Tax Act, 1961 is the umbrella Act which empowers the Central Board of Direct Taxes to formulate rules (The Income Tax Rules, 1962) for implementing the provisions of the Act.

Tax liability is the amount of money you owe to tax authorities, such as your local, state, and federal governments (e.g., the IRS). When you have a tax liability, you have a legally binding debt to your creditor. Both individuals and businesses can have tax liabilities.

The government uses tax payments to fund social programs and administrative roles. For example, Social Security tax funds retirement and disability benefits. Tax liabilities are current liabilities. Current liabilities are short-term debts you must pay within a year. Generally, you incur short-term liabilities from normal business operations.

The Income Tax Act provides that in respect of the total income of the previous year of every person, income tax shall be charged for the corresponding assessment year at the rates laid down by the Finance Act for that assessment year. In other words, the

income earned in a year is taxable in the next year and the income-tax rates prescribed for an assessment Year are applicable in respect of income earned during the previous Year.

Note that: The financial year in which the income is earned is known as the previous year. The financial year following a previous year is known as the assessment year. The assessment year is the year in which the salary earned in the previous year is taxable. Any financial year begins from 1st of April of every year and ends on 31st of March of the subsequent year.

In case of a business or profession which is newly started, the previous year commences from the date of commencement of the new business or profession up to the next 31st March, unless the person is an existing assessee.

The Income Tax Act is subjected to annual amendments by the Union Budget every year. The Finance Bill in the budget contains various amendments which are sought to be made in direct and indirect taxes levied by the Central Government. The bill also mentions the rates of income tax and other taxes. The bill once approved becomes a Finance Act and provisions in it are incorporated in the Income Tax Act.

7.10 SOLE PROPRIETORSHIP

It is a business owned by one person. The individual is entitled to all profits and losses and is liable for all obligations of the business. Proprietorship represents the largest number of businesses and is normally the first form of setting up a business.

7.10.1 Merits of Sole Proprietorship form of Organisation

(i) A sole proprietorship is easy to establish because of the little interference of government regulations.

(ii) The cost of adopting this form of organisation is small because there being no legal requirement.

(iii) All the profits of the business go to the proprietor himself.

(iv) In case of a person carrying on small scale and having small income from other sources, this form of organisation would be suitable because the proprietor can avail of the ceiling of exempt income as given below.

7.10.2 Demerits of Sole Proprietorship

(i) The liability of the proprietor is unlimited and can extend even to his personal assets. When the proprietor incurs losses and the business assets are not sufficient enough to meet the liabilities of business, his personal assets can be used for discharging the business liabilities.

(ii) The proprietor does not get deduction on account of remuneration payable to him attributable to the rendering of services and interest on account of capital contributed by him.

(iii) Another main drawback of this form of ownership is that it does not provide opportunities to finance the expanding business activities.

(iv) In case of a business growing at a higher speed and yielding higher profits, the sole proprietor organisation may not be beneficial. As salary paid to the proprietor, and interest paid on capital is not allowable, the profits are higher and the tax incidence goes higher.

7.11 ASSESSMENT OF SOLE PROPRIETORSHIP OR AN INDIVIDUAL

For income-tax purposes, the sole proprietor is considered as an individual. An individual means a natural person i.e. human being. Individual includes a male, female, minor child and a lunatic or an idiot.

In the case of male/female who is a major, income-tax will be levied on his/her total taxable income separately, unless the income is to be clubbed under provisions of Sections 60 – 64.

As regards a minor child, the income of a minor after giving exemption up to Rs. 1500/- per minor child, will be clubbed with the income of that parent whose total income, before clubbing such income, is greater. However, there are certain incomes which are not to be clubbed. Such income of the minor, which is not to be clubbed, will be assessable in the hands of the representative assessee on behalf of the minor.

Income of a lunatic or an idiot will be assessed in the hands of the representative assessee.

An individual is liable to pay tax in respect of the following incomes:

1. ***Income earned by an individual himself*** i.e. incomes earned by an individual in his individual capacity.

2. ***Income earned as a partner of a firm assessed as a firm:*** The following types of incomes can be earned by an individual as partner of a firm:

   (a) *Share of profit of the firm.* The share of profit from a partnership firm assessed as such, is exempt from tax at the time of individual assessment of the partner; [Section 10(2A)];

   (b) The remuneration by way of salary, bonus, commission, etc. received by a partner, is taxable as business income in the hands of a partner [Section 28(v)];

   (c) Interest on capital/loans to a firm, in which he is a partner, is also assessed as income from business.

   Interest or salary will be taxable u/s 28(v) in the hands of a partner only to the extent such salary/interest is allowed as a deduction to the firm. [Section 40(b)]

3. ***As a member of an association of persons, etc.:*** Where an individual is member of an association of persons or body of individuals, his share of income from such AOP/BOI shall be taxed as under:

   (a) *Where the income of AOP or BOI is chargeable at maximum marginal rate* Share of income of a member from such AOP or BOI will not be included in his taxable income at all.

   (b) *Where the income of AOP or BOI is taxed at normal rates i.e. the rates applicable to an individual:* Share of income of a member from such AOP or BOI will be included in the taxable income of the individual only for rate purposes and a relief under Section 86 shall be allowed.

   (c) *Where no income tax is chargeable on the income of the AOP or BOI:* Share of income of a member from such AOP / BOI will be chargeable to tax as part of his total income.

4. ***Share of income from HUF:*** A HUF is a separate assessee. Therefore, any share of income received by a member from such HUF will be exempt in the hands of the individual and will not be included in his total income. [Section 10(2)].

5. ***Income from impartible estate of HUF:*** Any income from an impartible estate of Hindu Undivided Family is taxable in the hands of the Karta.

6. ***Income of the other person included in the income of the individual (Sections 60 to 65):*** As already discussed under the chapter on 'clubbing of income', the income of other persons will also be included in the individual's total income under respective heads of income.

7.12 COMPUTATION OF TOTAL INCOME AND TAX LIABILITY

An individual not only has to pay income tax on his total income at a graded scale of tax rates ruling during the concerned assessment year. In addition to his own income under different heads, an individual may also get share of income from his membership in different institutions and some income of others are also clubbed in his total income.

Finding out your tax liability is a fairly simple process, once you have understood the different incomes to be included in income of assessee. It's relatively simple to compute his total income and tax liability. Steps given below will help you in the same.

Step 1: Compute the income of an individual under 5 heads of income on the basis of his residential status.

Step 2: Income of any other person, if includible under Sections 60 to 64, will be included under respective heads.

Step 3: Set off of the losses if permissible, while aggregating the income under 5 heads of income.

Step 4: Carry forward and set off the losses of past years, if permissible, from such income.

Step 5: The income computed under Steps 1 to 4 is known as Gross Total Income from which deductions under Sections 80C to 80U (Chapter VIA) will be allowed. However, no deduction under these sections will be allowed from long-term capital gain/winning of lotteries, etc., though these incomes are part of gross total income.

Step 6: The balance income after allowing the deductions is known as total income which will be rounded off to the nearest Rs. 10.

Step 7: Compute tax on such total income at the prescribed rates of tax.

Step 8: Allow rebate of income tax under section from the tax computed in step 7.

Step 9: The balance tax shall be increased by a surcharge if applicable.

Step 10: Allow relief under Section 89(1), if any, and the balance tax shall be rounded off to nearest Re. 1.

Step 11: Deduct the TDS and advance tax paid for the relevant assessment year. The balance is the net tax payable, which must be paid as self-assessment tax before submitting the return of income.

7.12.1 Special Provisions for Persons Covered Under Portuguese Civil Law

The persons who are governed by the Portuguese Civil Code of 1860 and are residing in the state of Goa, Union Territories of Dadra & Nagar Haveli and Daman & Diu, are governed by the system of community of property. But the total income will not be

assessed as that of such community of property. Income of husband and wife under each head of income other than salary shall be apportioned equally between the husband and wife and the income so apportioned shall be included separately in the Total Income of the husband or wife respectively. Income from salary will, however, continue to be assessed in the hands of the husband or wife who actually earned the salary.

7.13 SPECIFIC SAVINGS AND INVESTMENT

The government encourages certain types of savings – mostly long term savings for retirement and therefore, offer tax breaks on such savings.

Section 80C of Income tax Act is the section that deals with these tax breaks. It states that the qualifying investment upto a maximum of 1 lakh are deductible from income. This means that income get reduced by this investment amount. Figure 7.1 will help you to get a quick review of all investments under the Section 80C.

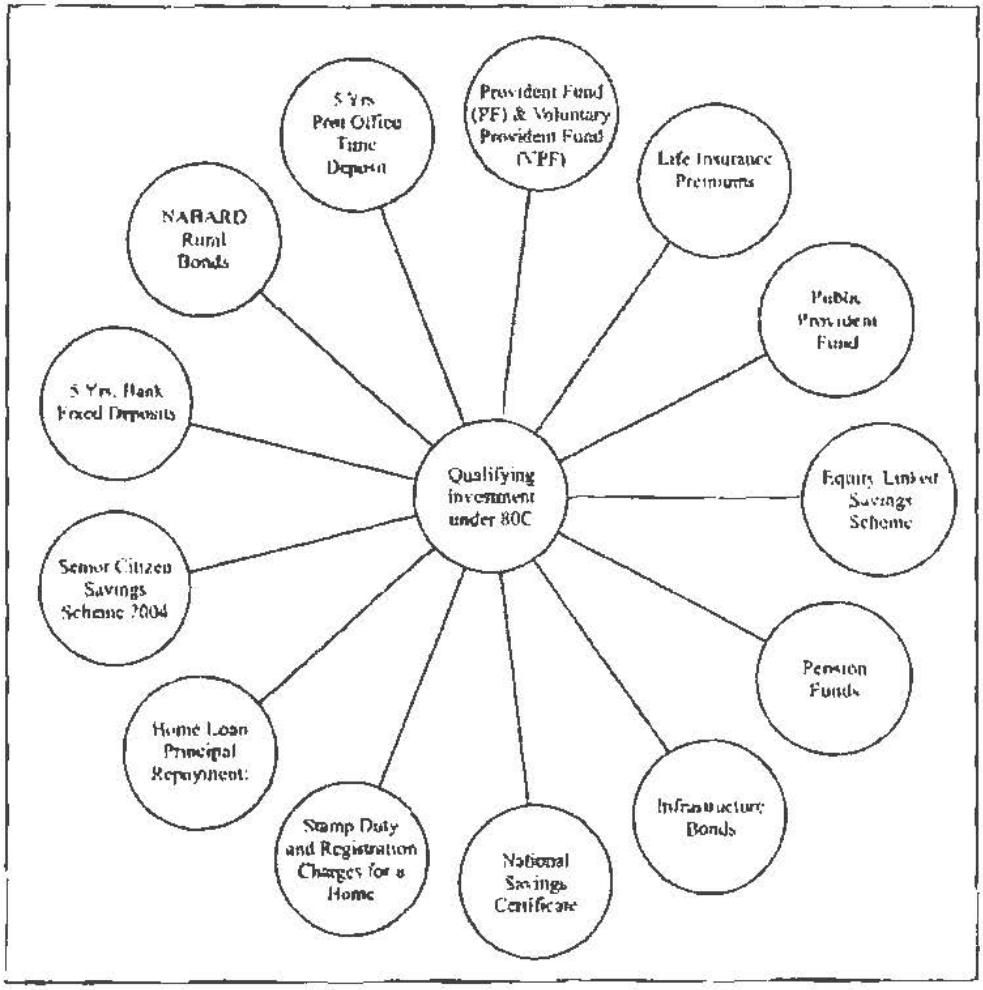

Figure 7.1: Qualifying Investments under Section 80C

Details of various qualifying investments under Section 80C are as follows:

Provident Fund (PF) and Voluntary Provident Fund (VPF): PF is automatically deducted from your salary. Both you and your employer contribute to it. While employer's contribution is exempt from tax, your contribution (i.e., employee's contribution) is counted towards Section 80C investments. You also have the option to contribute additional amounts through voluntary contributions (VPF). Current rate of interest is 8.5% per annum (p.a.) and is tax-free.

Public Provident Fund (PPF): Among all the assured returns small saving schemes, Public Provident Fund is one of the best. Current rate of interest is 8% tax-free and the normal maturity period is 15 years. Minimum amount of contribution is Rs. 500 and maximum is Rs. 70,000. A point worth noting is that interest rate is assured but not fixed.

Life Insurance Premiums: Any amount that you pay towards life insurance premium for yourself, your spouse or your children can also be included in Section 80C deduction. Please note that life insurance premium paid by you for your parents (father/mother/both) or your in-laws is not eligible for deduction under Section 80C. If you are paying premium for more than one insurance policy, all the premiums can be included. It is not necessary to have the insurance policy from Life Insurance Corporation (LIC) – even insurance bought from private players can be considered here.

Equity Linked Savings Scheme (ELSS): There are some Mutual Fund (MF) schemes specially created for offering you tax savings, and these are called Equity Linked Savings Scheme, or ELSS. The investments that you make in ELSS are eligible for deduction under Section 80C.

Home Loan Principal Repayment: The Equated Monthly Installment (EMI) that you pay every month to repay your home loan consists of two components – principal and interest. The principal component of the EMI qualifies for deduction under Section 80C. Even the interest component can save you significant income tax – but that would be under Section 24 of the Income Tax Act. Please read "Income Tax (IT) Benefits of a Home Loan/Housing Loan/ Mortgage", which presents a full analysis of how you can save income tax through a home loan.

Stamp Duty and Registration Charges for a Home: The amount you pay as stamp duty when you buy a house and the amount you pay for the registration of the documents of the house can be claimed as deduction under Section 80C in the year of purchase of the house.

National Savings Certificate (NSC): National Savings Certificate is a 6-Yr small savings instrument eligible for Section 80C tax benefit. Rate of interest is eight per cent compounded half-yearly, i.e., the effective annual rate of interest is 8.16%. If you invest Rs. 1,000, it becomes Rs. 1601 after six years. The interest accrued every year is liable to tax (i.e., to be included in your taxable income) but the interest is also deemed to be reinvested and thus eligible for Section 80C deduction.

Infrastructure Bonds: These are also popularly called Infra Bonds. These are issued by infrastructure companies, and not the government. The amount that you invest in these bonds can also be included in Section 80C deductions.

Pension Funds – Section 80CCC: This section – Section 80CCC – stipulates that an investment in pension funds is eligible for deduction from your income. Section 80CCC investment limit is clubbed with the limit of Section 80C – it means that the total deduction available for 80CCC and 80C is Rs. 1 lakh. This also means that your investment in pension funds upto Rs. 1 lakh can be claimed as deduction u/s 80CCC. However, as mentioned earlier, the total deduction u/s 80C and 80CCC can not exceed Rs. 1 lakh.

5-Yr Bank Fixed Deposits (FDs): Tax-saving fixed deposits of scheduled banks with tenure of 5 years are also entitled for Section 80C deduction.

Senior Citizen Savings Scheme 2004 (SCSS): A recent addition to Section 80C list, Senior Citizen Savings Scheme is the most lucrative scheme among all the small savings schemes but is meant only for senior citizens. Current rate of interest is 9% per annum payable quarterly. Please note that the interest is payable quarterly instead of compounded quarterly. Thus, unclaimed interest on these deposits won't earn any further interest. Interest income is chargeable to tax.

5-Yr Post Office Time Deposit (POTD) Scheme: POTDs are similar to bank fixed deposits. Although available for varying time duration like one year, two year, three year and five year, only 5-Yr post-office time deposit – which currently offers 7.5 per cent rate of interest – qualifies for tax saving under Section 80C. Effective rate works out to be 7.71% per annum (p.a.) as the rate of interest is compounded quarterly but paid annually. The interest is entirely taxable.

NABARD Rural Bonds: There are two types of Bonds issued by NABARD (National Bank for Agriculture and Rural Development) NABARD Rural Bonds and Bhavishya Nirman Bonds (BNB). Out of these two, only NABARD Rural Bonds qualify under Section 80C.

Unit Linked Insurance Plan: ULIP stands for Unit linked Saving Schemes. ULIP cover life insurance with benefits of equity investments. They have attracted the attention of investors and tax-savers not only because they help us save tax but they also perform well to give decent returns in the long-term.

7.14 ALLOWABLE TAX DEDUCTIONS AND RELIEF

The deductions are available to an individual under Chapter VIA are depicted in Table 7.1:

Table 7.1: Allowable tax deductions and releaf

Section	Nature of Deduction	To which individual allowed
80C	Deduction in respect of life insurance premium, deferred annuity, contribution to PF, subscription to equity shares or debentures, etc.	Resident and Non-resident
80CCC	Contribution to certain funds	ROR
80CCD	Deduction in respect of contribution to pension scheme of Central Government	Individual employed by Central Govt.
80CCE	Limit on deduction u/sec 80C,80CCC,80CCD	
80D	Payment of medical insurance premia	Resident & Non-resident
80DD	Medical treatment of handicapped dependents and deposits made for maintenance of handicapped dependents	Resident only
80DDB	Expenditure on medical treatment of certain diseases	Resident only
80E	Repayment of loan taken for higher education	Resident & non-resident
80G	Donations to certain funds/charitable institutions, etc.	Resident & non-resident
80GG	Deduction in respect of rents paid	Resident & non-resident
80GG A	Certain donations for scientific research or rural development	Resident & non-resident
80I A	Profits and gains of new industrial undertakings or enterprises engaged in infrastructure development undertakings	Resident & non-resident
80 I AB	Deductions in respect of profit and gains by an undertaking a enterprise engaged in development of Special Economic Zone	Resident & non-resident
80 IB	Profits and gains from certain industrial undertakings other than infrastructure development undertakings	Resident & non-resident
80 IC	Deduction in respect of profits and gains from undertakings in states of Himachal Pradesh, Uttaranchal, Sikkim and North Eastern states	Resident & Non resident

Contd...

80 ID	Deduction in respect of profits and gains from business of hotels and convention centres in specified area.	Resident & Non resident
80 IE	Special provisions in respect of certain undertakings in North Eastern states	Resident & Non resident
80 JJA	Deductions in respect of profit and gains from business of collecting and processing of bio-degradable waste	Resident & Non resident

Rates of income tax for the financial year 2010-11

For Individuals, Hindu Undivided Families, Association of Persons and Body of Individuals

Total Income	Tax Rates
Up to INR 160,000[a][b]	NIL
INR 160,001 to INR 500,000	10%
INR 500,001 to INR 800,000	20%
INR 800,001 and above[c]	30%

(a) In the case of a resident woman below the age of 65 years, the basic exemption limit is INR 190,000

(b) In the case of a resident individual of the age of 65 years or above, the basic exemption limit is INR 240,000.

(c) Surcharge is not applicable.

(d) Education cess is applicable @ 3 percent on income-tax

7.15 HINDU UNDIVIDED FAMILY

Under Section 4 of the Income Tax Act, income tax is payable by 'every person'. 'Person' as defined in Section 2(31) includes a Hindu Undivided Family.

The expression 'Hindu Undivided Family' finds reference in the provisions of the 1961 Act but that expression is not defined in the Act. The reason of the omission evidently is that the expression has a well-known connotation under the Hindu law and being aware of it, the legislature did not want to define the expression separately in the Act. Therefore, the expression 'Hindu Undivided Family' must be construed in the sense in which it is understood under the Hindu law [Surjit Lal Chhabda v CIT 101 ITR 776 SC].

A Hindu Undivided Family or a joint Hindu Family both terms speak of the same entity. It consists of all males lineally descended from a common ancestor, their wives and unmarried daughters and daughters-in-law. A daughter is a member of the family till her marriage and on being married, she ceases to be a member of the HUF in which she was born only to become a member of the HUF of her husband on her marriage.

7.15.1 Assessment of Hindu Undivided Family

HUF is a separate and distinct tax entity. The income of a HUF can be assessed in the hands of the HUF alone and not in the hands of any of its members, unless specifically provided by law.

However, any sum received by an individual as a member of a HUF, where such sum has been paid out of the family or income of the impartibly estate belonging to the family shall be exempt in the hands of the member of the HUF as per Section 10(2).

The liability of income tax in case of HUF also depends upon its residential status in India. As already discussed, HUF can be (a) resident and ordinarily resident in India; (b) resident but not ordinarily a resident of India; or (c) non-resident in India.

The scope of total income i.e. which incomes will be taxable in the case of residents and which incomes will be taxable in the case of non-residents etc. has already been discussed.

7.15.2 Computation of Total Income of Hindu Undivided Family

Before discussing the steps for computation of total income of HUF, the following points should be considered:

1. As per Section 64(2), already discussed under clubbing of income, income from the transfer of a self-acquired asset, without adequate consideration or conversion of the same into joint family property, shall not be treated as the income of the HUF. It shall be continued to be taxed in the hands of the transferor who is a member of the HUF.

2. Similarly, income from an impartible estate is taxable in the hands of the holder of the estate and not in the hands of the HUF.

3. Any fee or remuneration received by a member of the HUF as a director or a partner in a company or firm which is as a result of the investment made in such concern out of the funds of the HUF, shall be treated as income of the HUF. However, if such fee or remuneration is earned by the member as a director or partner for services rendered purely in his personal capacity, it shall be treated as the income of the individual and not the HUF. In a recent case decided by the Supreme Court it has been held that remuneration and commission received by the Karta on HUF on account of his personal qualifications and exertions and not on account of investments of the family funds in the company cannot be treated as income of HUF. [*Subbiah Pillai (K.S.) v CIT* (1999) 103 Taxman 400 (SC)]

4. If remuneration is paid to the Karta of a HUF under a valid agreement which is bonafide and in the interest of, and expedient for the business of the family and the payment genuine and not excessive, such remuneration paid wholly and exclusively for the business of the family, shall be allowable as an expenditure while computing the income of the HUF. [Jugal Kishore Baldeo Sahai v CIT (1967) 63 ITR 238 (SC) See also Ashok Kumar v CIT (2000) 246 ITR 261 (J & K)]

5. As already discussed above, the son is not a coparcener in the Dayabhaga school of law. Therefore, if the father does not have a brother as a coparcener, income arising from ancestral property is taxable as his individual income.

7.15.3 Steps for Computation of Income Tax of Hindu Undivided Family

After understanding the points given in 3.7.2, its relatively easy for you to compute income tax of HUF by following the steps given below:

Step 1: The Gross Total Income of HUF, like any other person, shall be computed under four heads of income, on the basis of their residential status. There can be no income under the head income from salaries in the case of HUF.

Step 2: Sections 60 to 63 relating to income of other person included in the assessee's total income are applicable in case of HUF but Section 64 is not applicable to HUF as it is applicable in case of individual assessee only.

Step 3: Set off of losses is permissible while aggregating the income under different heads of income.

Step 4: Carry forward and set off of losses of past years, if permissible, is allowed.

Step 5: The income computed in steps 1 to 4 is known as gross total income from which the deductions u/s 80C to 80 U will be allowed which are given in Table 7.2.

Table 7.2: Total Gross Income

Section	Nature of Deduction
80C	Deduction in respect of life insurance premia, deferred annuity, contribution to PF, etc
80D	Payment of medical insurance premia
80DD 80DDB	Medical treatment of handicapped dependents and deposits made for maintenance of handicapped dependents Deduction in respect of medical treatment, etc
80G	Donations to certain funds / charitable institutions, etc.
80GGA	Certain donations for scientific research or rural development
80GGC	Contributions to political parties
80IA	Profits and gains of new industrial undertakings or enterprises engaged in infrastructure development, etc.
80 IB	Profits and gains from certain industrial undertakings other than infrastructure development undertakings
80-IC	Deduction in respect of profits and gains from undertakings in states of Himachal Pradesh, Uttaranchal, Sikkim and North Eastern states
80-ID	Deduction in respect of profits and gains from business of hotels and convention centres in specified area.
80-IE	Special provisions in respect of certain undertakings in North Eastern states
80 JJA	Deduction in respect of profits and gains from business of collecting and processing of bio-degradable waste

Step 6: The balance income after allowing the deductions is known as Total Income which will be rounded off to the nearest Rs. 10/-.

Step 7: Compute the tax on such total income at the prescribed rates of tax.

Step 8: Allow rebate u/s 88 and 88E.

Step 9: The balance is the total tax payable which will be increased by a surcharge at 10% on such income tax if the total income exceeds Rs.1,000,000.

Step 10: Education cess @3% on the tax plus SHEC @ 1% on the tax plus surcharge if any shall be allowed.

Step 11: Deduct the TDS and advance tax paid for the relevant assessment year. The balance is the net tax payable which must be paid as self-assessment tax before submitting the return of income.

It may be observed that in computing the income under the head capital gains, the HUFI is also entitled to the following exemptions:

1. Capital gain on sale of property used for residence (Section 54).
2. Capital gain on compulsory acquisition of lands and buildings (Section 54D).
3. Capital gain on transfer of long term capital assets (Section 54EC).

4. Capital gain on transfer of certain capital assets where investment is made in a residential house (Section 54F).

5 Capital gain on transfer of assets on shifting of an industrial undertaking from urban area (Section 54G).

Exemption in respect of capital gains on transfer of agricultural land covered u/s 54B is not allowed to HUF.

Check Your Progress

Fill in the blanks:

1. Income from house property is just one of the taxable kinds of earnings according to the _____.
2. The land should consist of _____ to it.
3. _____ _____ is the rent charged in circumstances where the assessee doesn't only let-out a home, but also provides additional amenities.
4. A person shall be _____ of a house once the record of title to the house is in his title.
5 _____, i.e., property that's in the occupation of the proprietor with the goal of his residence and he doesn't derive any other advantage from it.
6. _____ _____, i.e., rental value determined by the municipality for the purpose of charging Civil taxation.

7.16 LET US SUM UP

- The sum total of income under all the five heads is known as Gross Total Income. Total income is obtained after subtracting from the GTI the permissible deductions under Chapter VI-A of the Act (Sections 80C-80U).
- The charge of tax under Section 4 is at the rate or rates in force for the time being. The income tax is charged at the rate or rates prescribed by the Finance Act for that assessment year. The rates mentioned in the Finance Act are the normal rates of tax.
- Special rates are the rates which are mentioned in the Income-tax Act itself. Chapter XII (Sections 110 - 115BBE) of the Income-tax Act contains the special rates of tax to be applicable in certain cases.
- Under the Income-tax Act 1961, an assessee is generally liable to pay tax in respect of his own income. However, there are certain circumstances where the incomes of others persons are also included in his income. This is known as clubbing of income.
- All income arising to any person by virtue of a transfer shall be chargeable to income-tax as the income of the transferor shall be included in his total income.
- Income arising to the spouse of an individual from any asset (other than house property) transferred directly or indirectly to the spouse of such individual, otherwise than for adequate consideration or in connection with an agreement to live apart, shall be included in the total income of such individual.

- It may be noted that the provision of Explanation-3 to Section 64 applies to only interests receivable from the firm. It does not apply to share of profits from the firm, as such income is exempt under Section 10(2A).
- In computing the total income of any individual, all such income as arises or accrues to a minor child shall be included in the total income of such individual.
- The deductions under Sections 80C to 80U available to a non-corporate assessee may be classified into two groups: Deductions in respect of certain payments and expenses and Deductions in respect of certain incomes.
- Income-tax is a composite tax on the total income of a person earned during a period of one previous year. There might be cases where an assessee has different sources of income under the same head or income under different heads of income. It might also happen that the net result from a particular source/head may be a loss. This loss can be set off against other sources/head in a particular manner. When the losses can't be set-off during the same assessment year in which they occurred, so much of the loss as has not been so set-off (only certain specified losses) can be carried forward for being set-off against his income in the succeeding years.
- Set-off can be inter source and Inter-head. If both the adjustments are not possible then certain losses namely loss from house property, loss from business including speculation business, capital loss, and loss from activity of maintaining race horses can be carried forward.
- A good plan is one which takes the maximum advantages of various incentives offered by the income tax law of the country. Tax planning is a tool to reduce tax liability through the finest use of all accessible allowances, exclusions, deductions, exemptions, etc. to trim down income and/or capital profits. Salaried individuals in India are not fully aware of the tax planning and various options available to plan the tax. Still, many individuals are paying lot of tax without knowing the various available options and also not plan in the beginning of the year. Many of us are always plan at the end of February or March because of which we end up into wrong decisions. The plans may vary for different persons depend on the financial status of a person and income.

7.17 UNIT END ACTIVITY

Prepare a report on clubbing of income and give a presentation.

7.18 KEYWORDS

Special Rates: Special rates are the rates which are mentioned in the Income-tax Act itself. Chapter XII (Sections 110-115BBE) of the Income-tax Act contains the special rates of tax to be applicable in certain cases.

Clubbing of Income: There are certain circumstances, where the incomes of other persons are also included in one same income. This is known as clubbing of income.

Assessee: A person who is payee of income-tax or any other sum of money under Income Tax Act.

Income: There is no specific definition of income but for statutory purposes there are certain items which are listed under the head income. These items include those heads also which normally will not be termed as income but for taxation we consider them as income. These items are included under section 2(24) of the Income tax Act, 1961. As per the definition in section 2(24), the term income means and include profits and gains: dividends ; voluntary contributions received by a trust created wholly or partly

for charitable or religious purposes or by an institution established wholly or partly for such purposes; the value of any perquisite or profit in lieu of salary taxable under clause (2) and (3) of section 17 of the Act; any special allowance or benefit, other than those included above; any allowance granted to the assessee either to meet his personal expenses at the place where the duties of his office or employment of profits are ordinarily performed by him or at a place where he ordinarily resides or to compensate him for the increased cost of living; capital gains ; any sum chargeable to income tax under section 28 of the Income tax Act; any winnings from lotteries, crossword puzzles, races, including horse races, card games and games of any sort or from gambling or betting of any form or nature whatsoever; any received as contribution to the assessee's provident fund or superannuation fund or any fund for the welfare of employees or any other fund set up under the provisions of the employees state insurance act and; profits on sale of a licence granted under the Imports (Control) Order, 1955 made under the Imports and Exports (Control) Act, 1947

Specified Asset: This includes shares in an Indian company; debentures issued by an Indian company which is not a private company as defined in the Companies Act, 1956; deposits with an Indian company which is not a private company; any security of the Central Government; units of the unit trust of India and; such other assets as the Central Government may specify in this behalf by notification in the official gazette

Sole Proprietorship: It is a business owned by one person where the individual owner is entitled to all profits and losses and is liable for all obligations of the business.

HUF: It consists of all males lineally descended from a common ancestor, their wives and unmarried daughters and daughters-in-law.

Equity Linked Savings Scheme: These are some mutual fund (MF) schemes specially created for offering tax savings.

Association of Persons: It means two or more persons joining for a common purpose for the purpose of earning income

7.19 QUESTIONS FOR DISCUSSION

1. Describe how is income from house property is extracted as per section (22-27) of Income Tax Law.
2. What is composite rent? Discuss in detail.
3. Explain the concept of taxable value
4. What is deemed ownership? Explain in detail.
5. Following are the particulars of net incomes and losses of X for the year ending 31st March 2009. Find out his total income.

		Rs.
(a)	Income from salary (net)	1,60,000
(b)	Income from house property:	
	(i) Income from house A	6,000
	(ii) Loss from house B	8,000
(c)	Income from business:	
	(i) Profit from cloth business	20,000
	(ii) Loss from hardware business	45,000
	(iii) Profit from speculation business	16,000

(d) Income from capital gains:

(i)	Short-term capital gain	10,000
(ii)	Long-term capital gain	5,000
(iii)	Loss from another long-term capital asset	19,000

6. Can non-speculative (regular) business losses can be set-off against speculation business profits? Why/why not?
7. When inter-source adjustment exhausts, inter-head adjustments begin. Right/wrong? Why?
8. Define the merits and de-merits of sole-proprietorship.
9. What is the other income which is included in individual's income to calculate their tax liability?
10. What are the key steps to calculate the tax liability of an individual?
11. Define the key investments which are tax free under Section 80C of the Income tax Act.
12. What are the considerable points in calculating tax liability of HUF?

Check Your Progress: Model Answer

1. Income Tax action
2. Building or Property Appurtenant
4. Composite rent
5. Deemed as a owner
6. Self-occupied property
7. Municipal valuation

7.20 REFERENCE

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7.21 SUGGESTED READINGS

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UNIT - 8

INCOME TAX ASSESSMENT PROCEDURE

CONTENTS

8.0 AIMS AND OBJECTIVES

After studying this lesson, you should be able to

- Explain how income tax is assessed
- Discuss the assessments under sections-143(2), 147, 143(3)
- Explain the rectification of mistake
- Describe notice of demand under section 156
- Explain the assessment of HUF, Firms and AOP

8.1 INTRODUCTION

Although assessment is an important step, the term has not been defined in the Act, except that under section 2(8), it includes reassessment. However, generally it means the whole procedure laid down under the Act for imposing liability upon the assessee. Under the Income-tax law, there are five major types of assessments as mentioned below:

- Summary assessment under section 143(1)
- Scrutiny assessment under section 143(3)
- Best judgment assessment under section 144
- Income escaping assessment under section 147
- Assessment in case of search or requisition under section 153A

8.2 ENQUIRY BEFORE ASSESSMENT [SECTION 142]

Section 142 deals with the general procedure of assessment as under:

a. ***Issue of Notice***: The assessment can be made by an Assessing Officer or by the person who had made a return as per Section 115WD or Section 139. Moreover, any person whose time as per allowed in Section 139 (1) for providing return has been expired a notice in case of purposes given as follows.

   i. When the person did not make a return as per the limit of time allowed under Section 139 (1) or he fails to provide a return of his income or any other person's income to which he is assessable, before ending of the assessment year, in the form as prescribed for time provided in the notice.

   ii. For producing or causing to produce the documents and accounts required by the Assessing Officer.

   iii. To provide a written and verified information in the manner as prescribed in such form and on certain points such as statements related to assets and liabilities of an assessee, as per required by the Assessing Officer.

b. ***Power to make inquiry [Sections 142(2), 142(3)]:*** An Assessing Officer has the liberty to carry out any enquiry which he considers important in case he wants to obtain information regarding income or loss of any person.

   In the case of best judgement assessment as per Section 144, it is exceptional that assessee can be provided with the opportunity to be heard regarding the material that was collected, in the inquiry as per the Section 142 (2) or based on any audit that which was inquired under Section 142 (2A). The collected materials and information collected from any audit can be projected for using in the assessment process as per Section 142 (3).

c. ***Audit of Accounts [Sections 142(2A) to 142(2D):*** Having regard to the nature and complexity of the accounts, volume of the accounts, doubts about correctness of the accounts, multiplicity of transactions in the accounts or specialised nature of business activity of the assessee, with the previous approval of the Chief Commissioner or Commissioner, the Assessing Officer may, after giving the assessee a reasonable opportunity of being heard, direct the assessee to get the accounts audited by an accountant to be nominated by the Chief Commissioner or Commissioner and to furnish a report of such audit in Form No. 6B duly signed and verified by such accountant [Section 142(2A)]. The audit under Section 142(2A) is independent of any audit under any other law [Section 142(2B)].

- The audit report under Section 142(2A) shall be furnished by the assessee to the Assessing Officer.
- Within such period as may be specified by the Assessing Officer. However, if there is sufficient reason, the Assessing Officer, either suo motu or on an application made by the assessee in this behalf, may so extend the time that the aggregate of the period originally fixed and the period so extended does not exceed 180 days from the date on which direction under Section 142(2A) was received by the assessee [Section 142(2C) as amended by the Finance Act 2008, w e f 1.4.2008] The expenses of such audit, including the remuneration of the accountant shall be determined by CT(C)-III
- The Chief Commissioners or Commissioner is to be paid by the assessee. In default of such payment by the assessee, it shall be recovered from the assessee in the manner provided in Chapter XVII-D of the Income-tax Act for recovery of arrears of tax. However, in relation to any direction for audit under Section 142(2A), which is issued by the Assessing Officer on or after 1st June, 2007, the expenses of, and incidental to, such audit (including the remuneration of the Accountant) shall be determined by the Chief Commissioner or Commissioner in accordance with such guidelines as may be prescribed and the expenses so determined shall be paid by the Central Government [Section 142(2D)].

8.3 SUMMARY ON THE BASIS OF RETURN SECTION 143 (1)

Where a return has been submitted under Section 139 or in response to a notice under Section 142(1), the Assessing Officer can complete the assessment without passing a regular assessment order or calling the assessee. The assessment under section 143(1), which is also known as summary assessment, is subject to the following conditions and propositions:

a. ***Correction of arithmetical mistakes and adjustment of incorrect claim through centralised processing of returns [Section 143(1)(a)]:*** In order to correctly compute the total income, all returns submitted under the provision of Section 139 or in response to a notice under section 142(1) shall be subjected to centralised processing in order to check for:

   i. Any arithmetical error in the return;

   ii. An incorrect claim which is apparent from any information in the return;

   iii. Disallowance of loss claimed, if return of the previous year for which set off of loss is claimed was furnished beyond the due date specified under sub-section (1) of section 139.

iv. Disallowance of expenditure indicated in the audit report but not taken into account in computing the total income in the return;

v. Disallowance of deduction claimed under sections 10AA, 80-IA, 80-IAB, 80-IB, 80-IC, 80-ID or section 80-IE, if the return is furnished beyond the due date specified under sub-section (1) of section 139; or

vi. Addition of income appearing in Form 26AS or Form 16A or Form 16 which has not been included in computing the total income in the return

The aforesaid adjustments will be made only in the course computerized processing without any human interface, but with prior intimation to the assessee either in writing or in electronic mode.

b. ***Computation of tax and interest due [Section 143(1)(b)]:*** On the basis of computation of total income as above, the tax and interest, if any, shall be computed.

c. ***Determination of sum payable by, or refund due to, the assessee [Section 143(1)(c)*** : The sum payable by, or the amount of refund due to, the assessee shall be determined after adjustment of the tax and interest, if any, [as computed in (b) above] by any tax deducted at source, any tax collected at source, any advance tax paid, any relief allowable under section 90 or section 90A, or any relief allowable under section 91, any rebate allowable under Chapter VIII-A, any tax paid on self-assessment and any amount paid otherwise by way of tax or interest.

d. ***Intimation to the assessee [Section 143(1)(d)]:*** An intimation shall be sent to the assessee when:

i. On the basis of adjustment made in (c) above, any sum is payable by, or any refund is due to, the assessee [Section 143(1)(d)],

ii. The loss declared in the return by the assessee is reduced but no tax or interest is payable by, or no refund is due to, him [First proviso to Section 143(1)]. Where any sum is determined to be payable by the assessee, intimation to this effect shall be deemed to be a notice of demand issued under Section 156 and all the provisions of the Act shall apply accordingly

e. ***When no intimation is required [Explanation (b) to Section 143(1)]:*** Where, on the basis adjustments made in (a) or (c) above, it is found that no sum is payable by, or refundable to, the assessee, no intimation is required to be sent to the assessee. In such a case, the acknowledgement of the return shall be deemed to be the intimation.

f. ***Time limit for intimation [Second proviso to Section 143(1)]:*** The time limit for sending intimation under section 143(1) to the assessee is one year from the end of the financial year in which the return is made.

8.4 ASSESSMENT IN RESPONSE TO NOTICE UNDER [SECTION 143(2)] [SECTION 143(3)]

An assessment under this section can be either (A) an assessment through limited scrutiny or (B) assessment through comprehensive scrutiny

a. ***Assessment through limited scrutiny [*Section 143(3)(i)]:*** Assessment through limited scrutiny applies where a return has been furnished under section 139 or in response to a notice under Section 142(1). The assessment in this case involves the following procedure:

i. The Assessing Officer has reason to believe that any claim of loss, exemption, deduction, allowance or relief claimed in the return, is inadmissible.

ii. A notice u/s 143(2)(i) is served on the assessee requiring him, on a date specified in the notice, to produce or caused to be produced evidence or particulars of such claim of loss, exemption, deduction, allowance and relief in support of his claim. The time limit for sending notice under this section is 6 months [as amended by the Finance Act 2016: Vide section 143(2)] from the end of the month in which the return is furnished.

iii. After the assessee has produced such particulars, they can be taken into account by the Assessing Officer is free to allow or reject the claims as specified, by ordering in writing. He can make an assessment in which, the total income or loss and the sum to be paid by the assesse, are determined

b. ***Assessment through Comprehensive Scrutiny [Section 143(3)(ii)]:*** The scheme of assessment through comprehensive scrutiny is applicable where a return is filed under section 139 or in pursuance of a notice under Section 142(1). The procedure involved in this case is as under:

i It can be considered important and convenient by the Assessing Officer for ensuring that the income has not been understated by the assessee or no huge loss has been calculated by the assessee or he has not under-paid the tax in any way.

ii. A notice u/s 143(2)(ii) is served on the assessee requiring him, on a date specified in the notice, either to attend the office of the Assessing Officer or to produce or cause to be produced any evidence on which the assessee may rely in support of his return. The time limit for sending notice under Section 143(2)(ii) is 6 months from the end of the month in which the return is furnished

iii The Assessing Officer can give a written order, only after hearing the evidences produced by the assesse on the specified day in the notice. He can collect all the relevant material from the evidences and take them into account for making an assessment. The assessment thus made, includes the total income or loss of the assesse and it determines a sum that has to be paid by him or refund any amount which was due to him, based on this assessment.

iv The time limit for completion of assessment under section 143 shall be within 2 years from the end of the relevant assessment year

8.5 BEST JUDGEMENT ASSESSMENT [SECTION 144]

An assessment carried out by applying the wide discretionary power of the Assessing Officer is known as Best Judgment Assessment. This assessment is carried out in cases where the taxpayer fails to comply with the requirements of section 144.

a *Reasons for best judgment assessment*: The best of his judgment is carried out in the following cases: the assessee fails to file the return required within the due date prescribed under section 139(1) or a belated return under section 139(4) or a revised return under section 139(5); or the assessee fails to comply with all the terms of a notice issued under section 142(1) or the directions under section 142(2A), or having made a return, the assessee fails to comply with all the terms of notice issued under section143(2).

b. Procedure of assessment under section 144

Best judgment assessment cannot be made unless the assessee is given a notice calling upon him

- To show cause, on the date and time to be specified in the notice, why the assessment should not be completed to the best judgment of the Assessing Officer. No notice as given above is required in a case where a notice under section 142(1) has been
- Issued prior to the making of an assessment under section 144. If the Assessing Officer is not satisfied by the arguments of the taxpayer and he has reason to

  Believe that the case demands a best judgment, then he will proceed to carry out the assessment to the best of his knowledge. If the criteria of the best judgment assessment are satisfied, then the Assessing Officer, after taking into account all relevant material which the Assessing Officer has gathered, shall make the assessment of the total income or loss to the best of his judgment and determine the sum payable by the assessee on the basis of such assessment. Under section 153, the time limit for completion of assessment under section 144 is two years from the end of the relevant assessment year.

a *Refund:* No refund can be granted in the case of best judgment assessment.

b. ***Remedies available to the assessee:*** In the case of best judgment assessment, the following remedies are available to the assessee:

   i. The assessee can file an appeal under Section 246A.

   ii. He can make an application to the Joint Commissioner for revision under Section 264

8.6 ASSESSMENT OR REASSESSMENT OF INCOME ESCAPING ASSESSMENT [SECTION 147]

Where the Assessing Officer has reason to believe that any income chargeable to tax has escaped assessment for any assessment year, then, subject to the provisions of Sections 148 to 153, 153A and 153B, he may:

a. Assess or reassess such income;

b. Re-compute the loss or depreciation allowance or any other allowance for the relevant assessment year;

c. Assess any other income chargeable to tax which has escaped assessment and which comes to his notice subsequently in the course of assessment proceedings under Section 147:

d. Assess or reassess such income, other than the income involving matters which are the subject matter of any appeal, reference or revision, which is chargeable to tax and has escaped assessment [Second proviso to Section 147].

*Where income deemed to have escaped assessment [Explanation 2 to Section 147]:

For the purpose of Section 147, the following shall also be deemed to be the cases of income escaping assessment:

a. Where no return of income has been furnished by the assessee, although his taxable income exceeded the exemption limit;

b. Where a return has been furnished by the assessee, but no assessment has been made and it is noticed that the assessee has understated the income or has claimed excessive loss, deduction, allowance or relief in the return;

c. Where the assessee has failed to furnish a report in respect of any international transaction which he was so required under section 92E;

d. Where an assessment has been made but:

   i. Income chargeable to tax has been under-assessed; or

   ii. Such income has been assessed at too low a rate; or

   iii. Such income has been made the subject of excessive relief; or

   iv. Excessive loss or depreciation allowance or any other allowance under the Act has been computed.

e. Where a return of income has not been furnished by the assessee or a return of income has been furnished by him and on the basis of information or document received from the prescribed income-tax authority, under section 133C (2), it is noticed by the Assessing Officer that the income of the assessee exceeds the maximum amount not chargeable to tax, or as the case may be, the assessee has understated the income or has claimed excessive loss, deduction, allowance or relief in the return;

f. Where a person is found to have any asset (including financial interest in any entity) located outside India.

Procedure of assessment under section 147:

- An assessment under section 147 cannot be proceeded with unless the Assessing Office has served upon the assessee a notice and an opportunity of being heard.
- If the Assessing Officer has reason to believe that any income chargeable to tax has escaped assessment for any assessment year, then he may assess or reassess such income and also any other income chargeable to tax which has escaped assessment and which comes to his notice subsequently in the course of the proceedings under this section. He is also empowered to recompute the loss or the depreciation allowance or any other allowance, as the case may be, for the assessment year concerned.

Time-limit for completion of assessment under section 147: As provided in section 153, assessment under section 147 shall be made within a period of one year from the end of the financial year in which notice under section 148 is served on the assessee.

Time-limit for issuance of notice under section 148: Notice under section 148 can be issued within a period of 4 years from the end of the relevant assessment year.

8.7 ASSESSMENT IN CASE OF SEARCH OR REQUISITION

This section applies in the case of a person where a search is initiated under Section 132 or books of account, other documents or any assets are requisitioned under Section 132A. In this case the Assessing Officer shall:

a. Issue notice to such person requiring him to furnish within such period, as may be specified in the notice, the return of income in respect of each assessment year falling within six assessment years in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed, and the provisions of this Act shall, so far as may be, apply accordingly as if such return were a return required to be furnished under Section 139,

b. Assess or reassess the total income of six assessment years immediately preceding the assessment year relevant to the previous year in which such search is conducted or requisition is made. In this case, assessment or reassessment, if any, relating to any assessment year falling within the period of six assessment years

referred to in this section pending on the date of initiation of the search under Section 132 or making of requisition under Section 132A, as the case may be, shall abate [Second proviso to section153A (1)].

c. However, if any proceeding initiated or any order of assessment or reassessment made under Section 153A (1) has been annulled in appeal or any other legal proceeding, then, notwithstanding anything contained in 153A (1) or Section 153, the assessment or reassessment relating to any assessment year which has abated, shall stand revived with effect from the date of receipt of the order of such annulment by the Commissioner [Section 153A(2].

Time limit for completion of assessment under section 153A: The time limit for completion of assessment under section 153A is 21 months from the end of the end of the financial year in which the last authorization for search under section 132 or for requisition under section was executed.

8.8 ASSESSMENT OF SCIENTIFIC RESEARCH ASSOCIATION, NEWS AGENCY, ETC. [FIRST PROVISION TO SECTION 143 (3)]

For the assessment of the following institutions/funds:

i. Scientific research association referred to in Section 10(21),

ii. News agency referred to in Section 10(22B).

iii. Association or institution referred to in Section 10(23A) or Section 10(23B); and

iv. Fund/institution/trust/university or other educational institution/hospital or other medical institution as referred to in clauses (iv), (v), (vi) and (via), respectively, of Section 10(23C), which are required to submit return of income under Section 139(4C), an assessment order can be passed after giving effects to the provisions of Section 10. However, the Assessing Officer can make an assessment order without giving exemption under the provisions of Section 10, provided the following conditions are satisfied:

   a. Where, in his view, any contravention has taken place of the provisions of Section 10(21) or Section 10(22B) or Section 10(23A) or Section 10(23B) or clause (iv) or (v) or (vi) or (via) of Section 10(23C) by the aforesaid institutions, the Assessing Officer has intimated the Central Government or the prescribed authority of the fact of such contravention.

   b. The approval granted to such scientific research association or other association or fund or trust or institution or university or other educational institution or hospital or other medical institution has been withdrawn or notification issued in respect of such news agency or fund or trust or institution has been rescinded,

   c. Where the Assessing Officer is satisfied that the activities of the University, college, or other institution referred to in clauses (ii) and (iii) of Section 35(1) are not being carried out in accordance with all or any conditions subject to which the University, college or institution was granted approval, he may, after giving reasonable opportunity of showing causes against the proposed withdrawal to the concerned University, college or other institution, recommend to the Central Government to withdraw the approval. On such recommendations, the central Government may, by an order, withdraw the approval and forward a copy of the order to the concerned University, college or other institution and the Assessing Officer.

8.9 RECTIFICATION OF MISTAKE

With a view to rectifying any mistake, which is apparent from the record, an income-tax authority referred to in Section 116 may do the following:

a. Amend an order passed by it under the provisions of this Act.

b. Amend any intimation or deemed intimation under Section 143(1) or Section 200A.

c. Amend any intimation under Section 200A (1).

d. In relation to an order, where any matter has been considered and decided in any proceeding by way of appeal or revision, it cannot be rectified under Section 154. However, the matter which has not been considered and decided in the appeal or revision may be rectified under Section 154.

e. Rectification under Section 154 shall be made by:

   i. The income-tax authority on its own motion.

   ii. The income-tax authority, if it is brought to its notice by the assessee or the deductor or collector.

   iii. The commissioner (Appeals), if the mistake is brought to its notice by the Assessing Officer.

Order of rectification:

An order of rectification is subject to the following conditions:

a Where an amendment is made under this section and if such an amendment has the effect of enhancing or reducing a refund or otherwise increasing the liability of the assessee, a notice specifying the intention to do so is necessary. The assessee shall also be allowed reasonable opportunity of being heard [Section 154(3)].

b. In the above case, the Assessing Officer shall serve on the assessee a notice of demanding the prescribed form specifying the sum payable. Such a notice of demand shall be deemed to be notice under Section 156 and the provisions of Section 156 and the provisions of the Act shall apply in this case [Section154(6)].

c. An order shall be passed in writing by the income-tax authority concerned [Section 154(4)].

d. Where any such amendment has the effect of reducing the assessment, the Assessing Officer shall make any refund which may be due to the assessee or the deductor or the collector [Section 154(5)].

e Where any such amendment has the effect of enhancing the assessment or reducing a refund already made or otherwise increasing the liability of the assessee or the deductor or the collector, the Assessing Officer shall serve on the assessee or the deductor, as the case may be, a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be issued under Section 156 and the provisions of this Act shall apply accordingly [Section 154(6)].

f. Except for cases coming under Sections 155 or 186(4), rectification of an order can be made only within four years from the end of the financial year in which the order sought to be amended was passed [Section 154(7)].

However, where an application for amendment under Section 154 is made by the assessee on an income-tax authority, the authority shall pass an order (either making the amendment or refusing it) within a period of six months from the end of the month in which the application is received by it [Section 154(8)].

8.10 NOTICE OF DEMAND

As a consequence of any order passed under this Act the tax, penalty, fine or any amount that is payable on part of assessee, the Assessing Officer can act upon the assessee by sending a notice demanding the specified amount that has to be paid. The notice of demand must be sent as prescribed form (Form No. 7 or, as per the requirement of case, Form No. 28).

In case of the determined amount which has to be paid by the assesse or deductor as per the sub-section (1) of Section 143 or Section 200A (1), the warnings under these sub-sections will be considered as a notice of demand for fulfilment of the purposes of this section [proviso to Section 156 as amended by the Finance Act 2105, w.e.f. 1.6. 2015].

8.11 INTIMATION OF LOSS [SECTION 157]

In case, during the process of assessing the total income of an assessee. if it is found that a loss had been taken place and the assessee was allowed to have carried forward under the provisions of Sections 72(1). 73(2), 74(1), 74(3) and 74A (3), then the Assessing Officer has to put the assessee under a notification in a written order regarding the amount of loss as calculated by him for the purpose of carrying forward these sections.

8.12 COMPUTATION OF TOTAL INCOME

The computation of total income of an individual involves the following three steps:

Step 1: Compute income under each of the five heads in accordance with the provisinns of Sections 15- 59. i.e.,

- Income under the head—Salaries [Sections 15-17].
- Income from house property [Sections 22-27].
- Profits and gains of business or profession [Sections 28-44]
- Capital gains [Sections 44-55].
- Income from other sources [Sections 56-59].

In computing income under the five heads mentioned above, the following should be considered:

i. Income of any other person in respect of which an individual is chargeable to tax under Sections 60-64, shall be included under the respective heads. The other person's incomes in respect of which an individual is chargeable to tax are: transfer of income where there is no transfer of assets (u/s 60), revocable transfer of assets (u/ss 61-63). and income of spouse. minor child. etc., (u/s 64).

ii. If the net result of computation in respect of one source of income shows a loss, it can be set off against income from another source under the same head (Section 70). In setting off income of one source against income from another. restrictions imposed under Section 70 should be considered.

iii. If the net result of computation under any head shows a loss, this can be set off against income under other heads (Section 71). The restrictions imposed u/s 71 in respect of such inter-head adjustments should be considered.

iv. If there is any unabsorbed loss in the earlier previous year or years. these shall be set off in accordance with the provisions of the Act.

Step 2: The aggregate of income under all the five heads in Step No. 1 is called gross total income. Allow deductions from gross total income under Sections 80C to 80U.

Step 3: The balance of income after allowing deductions u/ss 80C to 80U is called total income. Under the provision of Section 288A, the total income so determined shall be rounded off to the nearest multiple of ₹ 10.

i. ***Computation of Gross Taxability:*** Once the total income is determined, the gross tax liability of an individual assessee shall be computed in accordance with the rate or rates specified for the assessment year.

ii. ***Tax Rebates:*** For FY 2017-18, the Finance Minister has provided a maximum Rebate of ₹ 2,500 under Section 87A.

Section 87A rebate provides for income tax rebate to individuals earning income below the specified limit. It is being provided to reduce the tax burden of lower income bracket.

8.13 SURCHARGE

Surcharge is levied on Income Tax and is levied if Income is more than ₹ 50 Lakhs in case of Individuals and ₹ 1 Crores in case of Companies. The rate of Surcharge has been increased in the Finance Act 2017 which is applicable for Financial Year 2017-18. Different rates of surcharge are applicable for different categories of taxpayers and the current rates of Surcharge are as follows:

Individuals, HUF, Association of Persons, Body of Individuals, Artificial Judicial Persons.

Level of Income	Surcharge on Income
Less than 50 Lakh	Nil
₹ 50 Lakh to 1 crore	10%
More than 1 crore	15%

Firms, co-operative societies and Local Authorities

Level of Income	Surcharge on Income
Less than 1 crore	Nil
More than 1 crore	12%

Domestic Company

Level of Income	Surcharge on Income
Less than 1 crore	Nil
₹ 1 crore to 10 crores	7%
More than 10 crore	12%

Foreign Company

Level of Income	Surcharge on Income
Less than 1 crore	Nil
₹ 1 crore to 10 crores	2%
More than 10 crore	5%

i. ***Education cess:*** Education cess 2% and Secondary education cess 1%

ii. ***Reliefs:*** From the amount of tax liability computed above (i.e., gross tax liability plus education cess) an individual can claim the following reliefs.

8.14 ASSESSMENT OF HINDU UNDIVIDED FAMILY

8.14.1 Meaning

Although the definition of—Person under section 2(31) includes a Hindu undivided family, the term has not been defined in the Income-tax Act. It is expression of the Hindu Law and denotes a Hindu family consisting of all male members who have lineally descended from a common ancestor and includes their wives and unmarried daughters [CIT vs. Laxminarayan (1935) Bom. 618]. It is a relationship which arises not from any contract, but from status.

1. ***A few examples of Hindu undivided family:*** A Hindu undivided family requires at least two members [Krishna Prasad vs. CIT 97 ITR 493 (SC)]. Such members may be all males or all females or a combination of both. There is, however, no requirement that the number of the coparceners is more than one. The following are some examples of Hindu undivided family: A-a male Hindu, B-wife of A, C-unmarried daughter of A [Gowli Buddanna vs. CIT 60 ITR293(SC)].
   - A- a male Hindu, B widow of deceased brother of A [Sitabai vs. Ramchandra, AIR 19705. C.343].
   - C and D, the widows of A and B respectively the two deceased brothers [CIT vs. Veerappa Chettier 76ITR467].
   - A family consisting of mother and bart domino sons [Champa vs. Board of Revenue 46 ITR81].
2. ***Sikh and Jain families:*** Sikhs and Jains are not governed by the Hindu law. For the purpose of the Income-tax Act, however, such families are treated as Hindu undivided families [CWT vs. Surajit Singh 138 ITR 186: CWT vs. Champa 83ITR720].

8.14.2 Assessment of HUF

For the purpose of assessment of a Hindu undivided family to Income-tax, the following points may be considered as relevant:

1. ***Continued status:*** Once a Hindu undivided family is assessed dissect, it shall continue to be assessed as a Hindu undivided family except where a partition is claimed by the members and the findings of a partition are recorded [Section 171(1)].
2. Residential status of the HUF
3. ***Income received as a member of the Hindu undivided family:*** Under Section 10(2), any sum received by an individual member out of the income of the Hindu undivided family is exempt from tax.
4. ***Income of impartible estate:*** In the case of income from impartible estate, such income belongs solely and exclusively to the holder of the estate, even though the impartible estate is owned by the joint family. Therefore, the holder of an impartible estate is liable to be taxed on the income as an individual and not as the representative of the Hindu undivided family. Any amount received by other members of the Hindu undivided family out of the income of such impartible estate belonging to the family is, however, exempt under Section 10 (2).

5 ***Family income and individual income of a member:*** As mentioned above, amounts received out of the income of the Hindu undivided family are not taxable in the hands of the members. But individual income or income arising to a member out of the separate and self-acquired property of the member is taxable as income of the individual and not as the income of the Hindu undivided family.

6. ***Salary to the members and Karta of the HUF:*** Salary paid by the HUF to the Karta or any member under a valid agreement and as a matter of commercial expediency, shall be allowed as a deduction in computing the income of the HUF [Jugal Kishore Baldeo Sahaiv s. CIT63 ITR238(SC)].

8.14.3 Computation of Tax Liability of a HUF

Step 1. Find out the gross tax on total income at the prescribed rates [See Study Note 14]. The total income has to be rounded off to the nearest ₹ 10.

Step 2 The amount of tax and surcharge is to be further enhanced by education cess@ 2% of the tax and surcharge and secondary and higher education cess @1% tax and surcharge. The amount of tax thus arrived at is to be rounded off u/s 288B to the nearest ₹ 10.

Step 3 Deduct the amount of tax deducted at source (TDS) and advance tax already paid. The balance is the net tax payable at the time of submission of return on income.

8.15 ASSESSMENT AFTER PARTITION OF HUF [SECTION 171]

The assessment of a Hindu undivided family is governed by Section 171. This sectioned cognizes two distinct types of partitions, e g.,

a. Total or complete partition, and

b. Partial partition.

The consequence of partition of a Hindu undivided family, whether total or partial, is discussed below:

a. ***Total or Complete Partition:*** Total partition means a partition of the HUF where all the properties of the family are divided among the members and the family ceases to exist as an undivided family.

   Such partition under Explanation (a) to Section 171 has been referred to as mere—partition—and means.

   i. Where the property admits of physical division, a physical division of the property; but a physical division of the income without a physical division of the property producing the income shall not be deemed to be a partition; or

   ii. Where the property does not admit of a physical division, then such division as the property admits of; but a mere severance of status shall not be deemed as a partition.

b ***Partial partition.*** According to Explanation (b) to Section 171, —partial partition means partition which is partial as regards the persons constituting the Hindu undivided family, or the properties belonging to the Hindu undivided family, or both.

8.15.1 Consequences of Partition

The consequence of a total or partial partition is as follows:

i. A Hindu undivided family hither to assessed as undivided shall continue to be assessed as such unless the finding of partition has been recognized by the Assessing Officer under Section 171 [Section 171(1)].

ii. Where, at any time of making an assessment under Section 143 or Section 144, it is claimed by or on behalf of any member of a Hindu undivided family that a partition, (whether total or partial) has taken place among the members of the family, it is incumbent upon the Assessing Officer to make an inquiry into it an record a finding as to whether there has been a total or partial partite on the joint family, and, if there has been such a partition, the date on which it has taken place [subsections(2) and (3) of Section 171].

iii. Where such a partition has taken place during the previous year and the finding has been recorded by the Assessing Officer, the total income of the joint family in respect of the period upto the date of partition shall be assessed as if no partition had taken place, and each member or group of members shall, in addition to any tax for which he or it may be separately liable, be jointly and severally liable for the tax on the income so assessed [Section 171(4)].

iv. Where the partition has taken place after the end of the previous year and the finding has been recorded by the Assessing Officer, the total income of the previous year of the joint family shall be assessed as if no partition had taken place [Section 171(5)].

v. Where the Assessing Officer finds after the completion of the previous year that the family has already effected a partition, the Assessing Officer shall proceed to recover the tax from every person who was a member of the family before the partition and every such person shall be jointly and severally liable for the tax on the income so assessed [Section 171 (6)].

vi. For the purpose of Section 171, the several liabilities of any member or group of members shall be computed according to the partition of the joint family property allotted to him or it at the time of partition [Section 171 (7)].

8.15.2 Consequence of a Partial Partition after 31st December, 1978 [Section 171(9)

The consequence of a partial partition after 31st December, 1978 is as follows:

i. Such a partition is not recognized and no claim that such a partition has taken place shall be inquired into and recorded by the Assessing Officer.

ii. Such family shall continue to be liable to be assessed as if no such partial partition had taken place.

iii. Each member or group of members of such family immediately before such partial partition and the family shall be jointly and severally liable for any tax, penalty, interest, fine or other sum payable by the family in respect of any period, whether before or after such partial partition.

iv. The several liability of any member or group of members shall be computed according to the portion of the joint family property allotted to him or it at such partial partition.

8.16 ASSESSMENT OF FIRMS AND ASSOCIATION OF PERSONS

Under Section 2(31) (iv) of the Income-tax Act, a firm is a distinct unit of assessment. Before we proceed with the assessment procedure of firms the following points need to be underscored: There will be no distinction between registered and unregistered firms.

The income of the firm under the head—Profits and gains of business and profession shall be

- Computed in accordance with the provisions of Sections 30 to 38. Besides, the firm can claim special deduction, subject to the limits prescribed under Section 40(b), on account of remuneration to the working partners and interest on capital. The share of a partner in the income of the firm will not be included in his total income. Such income is exempt under Section 10(2A). However, remuneration and interest, which are allowed u/s 40(b) in computing business income of the firm, shall be taxable in the hands of the partners in their individual assessments under the head —Profits and gains of business or profession. Under the new scheme of taxation of firms, effective from the assessment year is 1993-1994.
- Partnership firms will be of the following two types (a) Partnership firms assessed as such [PFAS], and (b) Partnership firms assessed as association of persons [PFAAOP] The income of the firm shall be charged to tax at a flat rate of 30% -20% for long-term capital gains, 15% for short-term capital gains specified u/s 111A. For the assessment year 2017- 2018, for an income exceeding ₹1 crore, surcharge shall be 12% and education cess and secondary and higher education cess @ 2% and 1% respectively shall be charged on the amount of income tax computed above.

8.16.1 Partnership Firms Assessed as such [PFAS]

A firm shall be assessed as a firm if the following conditions are fulfilled

a. The partnership is evidenced by an instrument [Section 184(1)(i)]

b. The individual shares of the partners are specified in that instrument [Section 184(1)(ii)].

c. A copy including the instrument of partnership must be certified and attached with the return of income earned by the firm in the year that previous and relevant for assessment year which was commenced on or after 1st April, 1993 regarding which the assessment as a firm is first pursued [Section 184(2)].

- ***Consequence of failure to company with the provision of Section 144:*** Till the assessment year 2003-2004, the failure to comply with the provision of Section 144 was a reason of a firm to be assessed as an association of persons under the provisions of Section 167B [which means that interest/salaries, etc., paid to the partners shall be disallowed and the firm shall be taxed either at the rate applicable to an individual or at the maximum marginal rate (30% plus education cess) if any of the partners has income above the taxable limit] With effect from the assessment year 2004-2005, due to the amendment of Section 184(5) and Section 185, a firm shall continue to be assessed as such even if there is failure on the part of the firm to comply with the provisions of Section 144. However, in this case payment of interest, salary, bonus, commission or remuneration made by the firm to any partner shall not be allowed in computing the income of the firm under the head 'Profits and gains' of business or profession. As a result, these amounts will not be taxable in the assessment of the partners.

1. ***Continued Status as a Firm:*** Where any firm is assessed as such for any assessment year, it shall be assessed in the same capacity for every subsequent year, if there is no change in the constitution of the firm or the shares of the partners as evidenced by the instrument of partnership on the basis of which the assessment as a firm was first sought [Section 184(3)]. Where, however, any change had taken place in the previous year, the firm shall furnish a certified copy of the revised instrument of partnership along with the return of income for the assessment year relevant to the previous year.

2. ***Computation of Business Income:*** When a firm is assessed as such, its income under the head—Profits and gains of business or profession shall be computed in the usual manner after claiming deductions under Sections 30 to 38. But in respect of payment of interest and remuneration, the following should be considered: Interest paid to a partner is allowable as deduction u/s 36.

   - Remuneration paid to a working partner is allowable as deduction u/s 37.
   - The payment of interest and remuneration to a partner of a firm assessed as such is subject to the restrictions under Sections 40(b) and 40A.

   a. ***Restrictions on payment of interest and remuneration to partners [Section 40(b)]:*** The payment of interest and remuneration to the partners of a firm assessed as such is subject to the following rules:

      i. Any payment of salary, bonus, commission or remuneration to any partner who is not a working partner is to be disallowed [Section 40(b)(i)].

      ii. Any payment of remuneration to any partner who is a working partner or any payment of interest to a partner which, in either case, is not authorised by, or is not in accordance with, the terms of the partnership deed, is to be disallowed [Section 40(b)(ii)].

      iii. Any payment of remuneration to any working partner or payment of interest to any partner which is authorised by the partnership deed but which relates to a period prior to the date of such partnership deed shall not be allowed as deduction [Section 40(b)(iii)].

      iv. Any payment of interest to any partner in accordance with the partnership deed relating to a period falling after the partnership deed shall be allowed to the extent of 12% simple interest p.a., or the actual rate of interest in accordance with the partnership deed, whichever is lower [Section 40(b)(iv)] (v) Any payment of remuneration to any working partner in accordance with the partnership deed shall be allowed subject to the maximum limit shown below [Section 40(b)(v)].

Book-profit	Actual Amount Deductible
(a) On the first ₹ 3,00,000 of the book-profit or in case of a loss (b) On the balance of the book-profit	₹ 1,50,000 or @ 90 per cent of the book-profit, whichever is more @60% of the book-profit.

- ***Interest payable to a partner in representative capacity [Explanation 1 to Section 40(b)]:*** Where an individual is a partner in a firm on behalf, or for the benefit, of any other person, interest paid by the firm to such individual otherwise than as partner in representative capacity shall not be taken into consideration for the purpose of Section 40(b). However, interest paid by the firm to such individual as partner in a representative capacity and interest paid to the person so represented shall be taken into account for the purposes of Section 40(b). Further, under Explanation 2 to Section 40(b), where an individual is a partner in a firm otherwise than in a representative capacity, interest paid by the firm to such

individual shall not be taken into consideration for the purposes of Section 40(b), if such interest is received by him on behalf, or the benefit, of any other person.

b ***Restrictions on payment to any partner or any relative of such partner (Section 40A):*** Under Section 40A, if in the opinion of the Assessing Officer, any expenditure/payment to a partner or his relative is excessive or unreasonable, having regard to the fair market value of the goods, services or facilities for which the payment is made, then so much of the expenditure/payment as is considered excessive or unreasonable shall not be allowed as deduction.

i. Income under any other heads [e.g., Income from house property, Capital gains and Income from other sources] are not part of the book profit. These incomes, if included in the profit and loss account, shall be excluded.

ii. Bought forward business loss shall not be deducted to arrive at the book profit. But unabsorbed depreciation being allowed under Section 32, shall be deducted

iii. Deduction under Chapter VIA [i.e., deductions u/s 80C to 80U] shall be ignored for the purpose of computation of book profit.

8.16.2 Deductibility of Fringe Benefit Tax

Although fringe benefit tax payable by a firm is expenditure laid out wholly and exclusively for the purposes of the business, Section 40(a)(ic) expressly prohibits the deduction of the amount of fringe benefit tax paid for the purpose of computing income under the head—Profits and gains of business or profession. Therefore, fringe benefit tax is not a deductible expenditure for computing book profit within the meaning of Section 40(b)

8.17 TAX DEDUCTED AT SOURCE

TDS stands for tax deducted at source. It is the tax that an assessee has to pay at the time of earning an income. From the Gross Total Income (GTI), so computed, certain deductions under Chapter VI-A of Income Tax Act can be claimed. These deductions are on account of savings in approved channels, tax holiday, exports, approved donations, other incentives and income from various approved investment channels and are covered under sections 80C to 80U.

8.17.1 TDS – Basic Concept

Section 80(A) lays down following general rules for claiming deductions under chapter VIA

1. While computing total income of the assessee, the deductions specified in section 80C to 80U shall be allowed.

2. Total deductions u/s 80C to 80U shall be limited to the amount of the Gross total income of the assessee. In other words, the deductions allowable cannot result in a negative income. Thus, if GTI is found to be net loss, there is no question of any further deductions under these provisions.

3. If, in computation GTI of Association of Persons or Body of Individuals any deduction is allowed u/s 80G, 80GGA, 80GGB,80GGC, 80HH, 80HHA, 80HHB, 80HHC, 80HHD, 80I, 80IA, 80IB, 80J or 80JJ, no deduction under the same sections shall be allowed while computing total income of member of AOP or BOI. However, above provision is not applicable to company and its shareholders because the member and the company both enjoy separate identities.

4. Deductions under this chapter VI-A are allowed, only if assessee claims them. If no such deduction is claimed, Assessing Officer is not bound to allow any such deduction. However, any such omission to claim, may be made good at the appellate stage.

5. Where an assessee claims some deductions under this chapter, it shall be his duty to place all relevant material before the statutory authority. In other words, he must be in a position to satisfy the said authority that he was entitled to obtain the deductions in accordance with the provisions of taxing statute.

6. In other words, the deductions allowable cannot result in a negative income. Thus, if GTI is found to be net loss, there is no question of any further deductions under these provisions.

Above provisions can be classified in the following two categories:

(A) Deduction in respect of Payments

(B) Deduction in respect of Incomes.

8.17.2 TDS Rates on different transactions

There are different rates are apply for different transactions.

Form 26Q

Section	Nature of Payment	Status	Tax (%)
193	Interest on Debentures & Securities		10
194	Deemed Dividend		10
194A	Other Interest > Aggregate sum exceeding Rs. 10,000 for Banking Co's. etc. per person during the financial year > Aggregate sum exceeding Rs. 5,000 per person during the financial year		10
194B	Lottery/Crossword Puzzle > Rs. 5,000		30
194BB	Winnings from Horse Race > Rs. 2,500		30
194C	Contracts to Transporter, who has provided a valid PAN		0
	Contracts to Individuals/HUF		1
	Contracts to others		2
194D	Insurance Commission > Rs 5,000		10
194EE	Withdrawal from NSS > Rs.2,500		20
194F	Repurchase of Units by MF/UTI		20
194G	Commission on Sale of Lottery Tickets > Rs. 1,000		10
194I	Rent > Rs.1,20,000 p. a. Rent of Plant & Machinery		2
	Rent of Land, Building, Furniture, etc		10
194J	Professional or Technical Fess > Rs.20,000		10
194LA	Compensation on Compulsory Acquisition of immovable property >Rs.1,00,000 during the financial year		10
Surcharge			0
Education Cess			0
Note: If there is no PAN details, then from 1st April 2010 TDS will be deducted at the rate of 20%.			

Form 27Q

Section	Nature of Payment	Status	Tax (%)
194E	Payment to non-resident sportsmen or sports association		10
195(a)	Income from foreign exchange assets payable to an Indian citizen		20
195(b)	Income by way of long-term capital gain referred to in sec. 115E		10
195(c)	Income by way of Short-term capital gains u/s. 111A		15
195(d)	Income from other long-term capital gains		20
195(e)	Income by way of interest payable by Government/Indian concern on money borrowed or debt incurred by Government or Indian concern in foreign currency		20
195(f)	Royalty payable by Government or an Indian concern in pursuance of an agreement made by non-resident with the Government or the Indian concern after March 31, 1976, where such royalty is in consideration for the transfer of all or any rights (including the granting of a licence) in respect of copyright in any book on a subject referred to in the first proviso to section 115A(1A) to the Indian concern or in respect of computer software referred to in the second proviso to section 115(1A), to a person resident in India -		
	1. Where the agreement is made before June 1, 1997		30
	2. Where the agreement is made after May 31, 1997 but before June 1, 2005		20
	3. Where the agreement is made on or after June 1, 2005		10
195(g)	Royalty (not being royalty of the nature referred to in (e) sub para) payable by Government or an Indian concern in pursuance of an agreement made by non-resident with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to matter included in the industrial policy, the agreement is in accordance with that policy		
	1. Where the agreement is made after March 31, 1961 but before April 1, 1976	Company	50
		Others	30
	2. Where the agreement is made after March 31, 1976 but before June 1, 1997		30
	3. Where the agreement is made after May 31, 1997 but before June 1, 1997		20
	4. Where the agreement is made on or after June 1, 2005		10
195(h)	Fee for technical services payable by Government or an Indian concern in pursuance of an agreement made by non-resident with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to matter included in the industrial policy, the agreement is in accordance with the policy:		
	1. Where the agreement is made after February 29, 1964 but before April 1, 1976	Company	50
		Others	30
	2. Where the agreement is made after March 31, 1976 but before June 1, 1997		30
	3. Where the agreement is made after May 31, 1997 but before June 1, 2005		20
	4. Where the agreement is made on or after June 1, 2005		10

Contd...

195(1)	Any other income	Company	40
		Others	30
196A	Income in respect of Units of Non-residents		20
196B	Income and Long-term Capital gain from units of an Off shore fund		10
196C	Income and Long-term Capital Gain from Foreign Currency Bonds or shares of Indian companies		10
196D	Income of Foreign Institutional Investors for Securities		20
Surcharge (On Tax)	Applicable for Foreign Companies if payment/credit exceeds Rs.1 crore of such companies		2.5
Education Cess	on Tax deducted Plus Surcharge		3

Form 27EQ

Collection Code	Nature of Purchase	Tax (%)
6CA	Alcoholic liquor for human consumption	1
6CB	Timber obtained under a forest lease	2.5
6CC	Timber obtained under any mode other than forest lease	2.5
6CD	Any other forest product not being timber or tendu leave	2.5
6CE	Scrap	1
6CF	Parking Lot	2
6CG	Toll plaza	2
6CH	Mining and quarrying	2
6CI	Tendu leaves	5
Surcharge (On Tax)	Applicable for Foreign Companies if collections exceeds Rs.1 crore of such companies	2.5
Education Cess	Applicable for Foreign Companies	3

8.17.3 Obligation of Deductor

The tax deductor is the agent of the Revenue. All Drawing and Disbursing Officers of Central and State Governments come under the category of government deductors.

If there is any violation on the part of a tax deductor, the consequence should fall only on the Revenue and that cannot be foisted on the assessee.

However, as per the assessment order, the assessee is liable for payment of tax to the extent the amount is not paid to the Government and it can also look to the tax deductor to recover the amount for reimbursement. But the law envisaged that he should not be driven to that plight.

There is protection to the assessee and the Revenue is prevented from embarking on recovery proceedings against the assesee in respect of the default by the tax deductor. The only course open to the Revenue is to recover the amount from the very person who has deducted and not from the assessee.

The Income Tax Department of India has made certain obligations for the deductors. These obligations are discussed as under:

1. The deductor will have to file an application in Form 49B at the TIN Facilitation Centre along with application fee (Rs 50 + service tax as applicable) for TAN.
2. Where an employee has worked with a deductor for part of the financial year only the deductor should deduct tax at source from his salary and report the same in the quarterly Form 24Q of the respective quarter(s) up to the date of employment with

him. Further while submitting Form 24Q for the last quarter the deductor should include particulars of that employee irrespective of the fact that the employee was not under his employment on the last day of the year. Similarly where an employee joins employment with as deductor during the course of the financial year his TDS particulars should be reported by the current deductor in Form 24Q of the relevant quarter. Further while submitting Form 24Q for the last quarter the deductor should include particulars of TDS of such employee for the actual period of employment under him.

3. TAN once allotted can be used for all type of deductions. It can also be used in case tax is being collected at source also.

4 The credits available in the tax statement confirm that:

(a) the tax deducted/collected by the deductor/collector has been deposited to the account of the government;

(b) the deductor/collector has accurately filed the TDS/TCS statement giving details of the tax deducted/collected on your behalf;

(c) bank has properly furnished the details of the tax deposited by you. In future you will be able to use this consolidated tax statement (Form 26AS) as a proof of tax deducted/collected on your behalf and the tax directly paid by you along with your income tax return after the need for submission of TDS/TCS certificates and tax payment challans along with income tax returns has been dispensed with by the Income Tax Department (ITD). However as of now for claiming the credit for tax deducted/collected at source you may be required to enclose TDS/TCS certificates (Form 16/16A) issued to you by the deductor.

5 The possible reasons for incorrect credits in Form 26AS can be on account of wrong data provided by the deductor in the quarterly TDS/TCS statement. You may request the deductor to rectify the TDS/TCS statement using prescribed correction statement.

6. PAN of the deductors has to be given by non government deductors. It is essential to quote PAN of all deductees failing which credit of tax deducted will not be given.

7. The Form 26AS (Annual Tax Statement) is divided into three parts namely; Part A B and C as under: Part A displays details of tax which has been deducted at source (TDS) by each person (deductor) who made a specified kind of payment to you. Details of the deductor (name & TAN) along with details of tax deducted like section under which deduction was made (e.g. section 192 for salary) date on which payment was effected amount paid/credited tax deducted from payments and deposited in the bank are included in this part. Part B displays details of tax collected at source (TCS) by the seller of specified goods at time these goods have been sold to you. Details similar to those displayed in Part A in respect of the seller and the tax collected will also be available. Part C displays details of income tax directly paid by you (like advance tax self assessment tax) and details of the challan through which you have deposited this tax in the bank.

8. Every non-governmental entity that has deducted or collected tax at source is required to deposit the tax to the government account through a bank. Banks will upload this payment-related information to the TIN central system. These deductors are also required to file a quarterly statement to TIN giving the details of their TDS/TCS. The TIN central system will match the tax payment-related information in the statement with the tax receipt information from the banks. If both of these match TIN will create a comprehensive ledger for each PAN holder

giving details of the tax deducted/collected on its basis by every deductor who has filed the statement.

According to a Supreme Court ruling, there is no demand on tax deductor if deductee has discharged tax obligation.

8.17.4 Implication of TDS provisions not followed

Filing of Income Tax returns is a legal obligation of every person whose total income for the previous year has exceeded the maximum amount that is not chargeable for income tax under the provisions of the I.T Act, 1961.

Apart from the above, it is mandatory for the following types of assessees to pay tax online with effect from April 1, 2008.

(a) All the corporate assessees.

(b) All assessees (other than company) to whom provisions of section 44AB of the Income Tax Act, 1961 are applicable.

Income Tax Department has also introduced a convenient way to file these returns online using the Internet. The process of electronically filing your Income tax returns through the Internet is known as e-filing of returns.

Despite all these provisions, if somebody does not pay the tax due, a penalty of Rs. 10,000 (ten thousand only) may be levied as per Section 272B of the Income Tax Act, 1961 for failure to comply with the provisions of section 139A of the Income Tax Act, 1961.

8.18 ADVANCE PAYMENT OF TAX

Tax is paid in advance when the liability of advance tax is Rs.5, 000 or more. The provisions of advance tax are applicable on all types of persons irrespective of the residential status of the person. The advance tax is paid in the previous year itself. Thus, the tax is paid in the year of earning of income, in other words the earning of income and payment of tax goes simultaneously. Thus, the tax is paid as income is earned. This scheme of advance payment of tax is also called pay as you earn scheme, i.e., pay tax as you earn income

8.18.1 Benefits of Payment of Advance Income Tax

The payment of advance income tax is beneficial from the following reasons:-

- From the point of Government, money is received in time because Government needs money to meet its routine expenditures.
- From the point of view of taxpayers, it is easy for him to pay the tax in installments. So the burden of one-time payment is relieved. After all, tax payer has to pay the tax now or later.

8.18.2 Who is liable to pay Advance Income Tax?

All persons whose estimated income tax liability during financial year 2017-18 (assessment year 2018-19), is Rs.10000/= or more, are required to pay advance income tax.

If the amount of advance tax payable is less than Rs.10000/= after deduction of TDS, then there is no need to pay advance tax. In such case the amount of tax can be deposited at the time of filing of income tax return. For example, total tax liability of Mr. X is calculated on estimate basis for financial year 2017-18 for Rs.16000/= and an

amount of TDS is deducted for Rs.7000/=. In this case, he need not to pay any advance income tax, since the amount of tax payable after deduction of TDS, is Rs.9000/= i.e. less than Rs.10000/=. He can pay Rs.9000/= any time before filing his income tax return

With effect from financial year 2012-13 (assessment year 2013-14), any senior citizens who is not having any income from business or profession, need not to pay advance income tax. He/She can deposit the income tax amount any time before filing his/her income tax return. In simple words, if any senior citizen having income from salary, income from house property, income from capital gains or income from other source but not having any income from business or profession, is not supposed to pay advance income tax. Senior citizen means a person who has completed 60 years during the relevant financial year. For Example Mr. X is 61 years old. He has to pay total income tax for Rs.260000/= on his income during financial year 2017-18. He files his income tax return on 30.7.2018. In this case, being a senior citizen, he can pay the amount of income tax on or before 30.07.18 because he has to show the proof of payment of income tax in the income tax return.

8.18.3 Due Dates for Advance Income Tax

Due Dates for Advance Income Tax Installments for Financial Year 2016-17 and 2017-18.

Advance Income tax is payable in installments according to the dates given below:-

Date of payment	For companies	For non-companies
Up to 15th june	15% of total	15% of total
	Estimated tax	Estimated tax
Up to 15th September	30% of total	30% of total
	Estimated tax	Estimated tax
Up to 15th December	30% of total	30% of total
	Estimated tax	Estimated tax
Up to 15th March	25% of total	40% of total
	Estimated tax	Estimated tax

By 31st March, If tax on capital gain or casual income arising after 15th March

Important Note for Salaried Tax-payers:- In case of salaried person, income tax is being deducted by the employer on monthly basis and deposited on monthly basis also. It means that total tax payable of an employee is divided in 12 months on estimate basis. In this case the condition of "payment of advance tax" is not applicable.

How to Deposit Advance Income Tax?

Advance Income Tax can be deposited with any authorized bank by Income Tax Department. Challan No.280 is used to pay income tax amount.

8.19 INCOME TAX AUTHORITIES

The CBDT is a part of Department of Revenue in the Ministry of Finance. On one hand, CBDT provides essential inputs for policy and planning of direct taxes in India, at the same time it is also responsible for administration of direct tax laws through the

Income Tax Department. The Central Board of Direct Taxes is a statutory authority functioning under the Central Board of Revenue Act, 1963. The officials of the Board in their ex-officio capacity also function as a Division of the Ministry dealing with matters relating to levy and collection of direct taxes.

The Central Board of Revenue as the Department apex body charged with the administration of taxes came into existence as a result of the Central Board of Revenue Act, 1924. Initially the Board was in charge of both direct and indirect taxes. However, when the administration of taxes became too unwieldy for one Board to handle, the Board was split up into two, namely the Central Board of Direct Taxes and Central Board of Excise and Customs with effect from 1.1.1964. This bifurcation was brought about by constitution of the two Boards u/s 3 of the Central Boards of Revenue Act, 1963.

8.19.1 Classes of Income-tax Authorities

There shall be the following classes of income-tax authorities for the purposes of the Act 116, namely:-

(a) the Central Board of Direct Taxes constituted under the Central Boards of Revenue Act, 1963 (54 of 1963),

(b) Directors-General of Income-tax or Chief Commissioners of Income-tax,

(c) Directors of Income-tax or Commissioners of Income-tax or Commissioners of Income-tax (Appeals),

(cc) Additional Directors of Income-tax or Additional Commissioners of Income-tax or Additional Commissioners of Income-tax (Appeals),

(cca) Joint Directors of Income-tax or Joint Commissioners of Income-tax,

(d) Deputy Directors of Income-tax or Deputy Commissioners of Income-tax or Deputy Commissioners of Income-tax (Appeals),

(e) Assistant Directors of Income-tax or Assistant Commissioners of Income-tax,

(f) Income-tax Officers,

(g) Tax Recovery Officers,

(h) Inspectors of Income-tax.

8.19.2 Powers of Authorities

For all purposes of the Income-tax Act, the IT authorities are vested with the various powers which are vested in a Court of Law under the Code of Civil Procedure while trying a suit in respect of any case. More particularly, the provisions of the Code of Civil procedure and the powers granted to the tax authorities under the code would be in respect of:

- Discovery and inspection
- enforcing the attendance, including any officer of a bank and examining him on oath
- compelling the production of books of account and the documents
- collection certain information [section 133B-inserted by the finance act, 1986]
- Issuing commissions and summons

It shall be duty of every person who has been allotted permanent account number to quote such number in all his returns or correspondence with income tax authorities, in

all challans for the payment of any sum, in all documents prescribed by the board in the interest of revenue.

8.20 PENALTIES

Chapters XVII and XXI of Income-tax Act, 1961, contain various provisions empowering an Income-tax Authority to levy penalty in case of certain defaults. The following defaults may invite levy of penalty:

Table 8.1: Income-tax Authority to Levy Penalty in Case of Certain Defaults

(i)	When the assessee is in default or is deemed to be in default in making payment of tax, including the tax deducted at source, advance tax and the self assessment tax. [Section 221 read with Sec.201(1)]
(ii)	Failure to pay the advance tax as directed by the Assessing Officer or as estimated by the assessee. [Section 273(1)]
(iii)	Failure to comply with a notice issued under section 142(1) or 143(2) or failure to comply with the direction issued under section 142(2A) to get the accounts audited. [Section 271(1)(b)]
(iv)	Concealment of particulars of income or furnishing of inaccurate particulars of income [Section 271(1)(c)]
(v)	Failure to maintain books of accounts and documents by persons carrying on profession or business as prescribed under section 44AA. [Section 271A]
(vi)	Failure to get the accounts audited in prescribed circumstances or failure to obtain the prescribed audit report within prescribed time period of failure to furnish the audit report along with the return, as required under section 44AB. [Section 271B]
(vii)	Failure to subscribe to the eligible issue of capital [Section 271BB]
(viia)	Penalty for failure to deduct tax at source. [Section 271C]
(viii)	Accepting of any loan or deposit or repayment of deposit of Rs.20,000 or more otherwise than by account payee cheque or account payee draft, in contravention of the provisions of Section 269SS. [Section 271D]
(viiia)	Repayment of loan in contravention of the conditions imposed in section 269T. [Section 271E]
(viiib)	A. Failure of file the return of income as required under Section 239 (1), shall entail imposition of penalty [Section 271F] B. Failure to file the return as required under the proviso to Section 139(1), in the event of assessee fulfilling the prescribed conditions, i.e., certain persons in occupation of immovable property or owner of motor vehicle or subscriber to telephone, one who incurred expenditure on foreign travel, the holder of the credit card or a member of a club, subject to specific conditions, are required to file the return as per proviso to Section 139(1), failing which penalty may be imposed. (Proviso to Section 271F)
(ix)	Refusal to answer in contravention of legal obligation. [Section 272A(1)(a)]
(x)	Refusal to sign any statement made in the course of income-tax proceedings. [Section 272A(1)(b)]
(xi)	Failure to attend or give evidence or produce books of accounts and documents in compliance with the requirements of summons under section 131(1). [Section 272A(1)(c)]
(xii)	Failure to comply with the provisions of section 139A dealing with the application for and allotment of Permanent Account Number or General Index Register Number. [Section 272A(1)(d)]
(xiii)	Failure to furnish information regarding securities. [Section 272A(2)(a)]
(xiv)	Failure to give notice of discontinuance of business or profession. [Section 272A(2)(b)]
(xv)	Failure to furnish in due time information sought under section 133 of Income-tax Act. [Section 272A(2)(c)]
(xvi)	Failure to furnish in due time prescribed returns/statements. [Section 272A(2)(c)]

Contd...

(xvii)	Failure to allow inspection or take copies of registers of registers of companies. [Section 272A(2)(d)]
(xviii)	Failure to furnish in due time the return of income by charitable or religious institutions [Section 272A(2)(e)]
(xix)	Failure to deliver in due time a copy of declaration of non-deduction of tax at source u/s 197A. [Section 272A(2)(f)]
(xx)	Failure to furnish a certificate of tax deducted at source to the person on whose behalf tax has been deducted or collected as required by Section 203 or Section 206C. [Section 272A(2)(g)]
(xxi)	Failure to deduct and pay tax from salary payable to an employee as directed by the Assessing Officer or the Tax Recovery Officer as required by Section 226(2). [Section 272A(2)(h)]
(xxii)	Failure to allow an Income-tax Authority to collect any information useful or relevant to the purposes of Income-tax Act u/s.133B. [Section 272AA)]
(xxiii)	Failure to comply with the provisions of section 203a dealing with tax Deduction Account Number [Section 272BB]

The table below shows the nature of default and quantum of penalty.

Table 8.2: Penalties Under Income Tax Act

Section	Nature of Default	Basis of Charge	Quantum of penalty
221(1)	Failure to pay tax: i.e., non-payment of tax required by notice u/s. 156	--	Amount of tax in arrears
271(1)(b)	Non-compliance with notice u/s 142(1) to file returns or to produce documents required by assessing officer or u/s. 143(2) to produce evidence on which assessee relies or u/s 142(2A) to get accounts audited	--	Rs. 10,000
271(1)(c)	Concealment of the particulars of income, or furnishing inaccurate particulars thereof	Tax sought to be evaded	100 % to 300 % of tax sought to be evaded
271A	Failure to maintain books or documents u/s 44AA.	--	Rs. 25,000
271AA	Failure to keep and maintain information and documents u/s 92D.	International transaction	2% of International transaction
271B	Failure to get accounts audited and furnish Tax Audit Report as required u/s. 44AB.	Total Sales, Turnover, or Gross Receipts	0.5% of total sales, turnover or gross receipts, or Rs. 1,00,000 whichever is less
271BA	Failure to furnish a report as required u/s. 92E.	–	Rs. 1,00,000
271C	Failure to deduct the whole or part of the tax as required by or under Chapter XVII-B (Ss. 192 to 196D) or failure to pay the whole or part of tax u/s 115-O.	Tax failed to be deducted	Equal to the amount failed to be deducted
271D	Contravention of the provisions of S. 269SS: i.e., by taking or accepting any loan or deposit otherwise than by ways specified therein.	Amount of loan or deposit so taken or accepted	Equal to the amount of loan or deposit so taken or accepted
271E	Contravention of S. 269T, i.e. repayment of any deposit otherwise than by modes specified therein.	Amount of deposit so repaid	Equal to the amount of deposit so repaid
271F	Failure to furnish Return of Income under sub-section (1) of S. 139 before the end of the relevant Assessment Year.	–	Rs. 5,000

Contd.

Failure to furnish Return of Income under proviso to sub-section (1) of S 139 by the due date	--	Rs 5,000	
271G	Failure to furnish information or document u/s. 92D (3)	International transaction	2 % of such default
272A(1)	Failure to answer questions, sign statements, attend summons u/s 131(1), apply for permanent account number u/s 139A	--	Rs. 10,000
272A(2)	Failure to:		Rs. 100 for every day during which the failure continues.
	Comply with notice u/s 94(6) furnishing information regarding securities		
	Give notice of discontinuance of business - S. 176(3)		
	Furnish in due time returns, statements, or particulars u/s. 133, 206 or 285B		
	Allow inspection of any register(s) - S. 134		
	Furnish returns u/s. 139(4A)		
	Deliver in due time a declaration mentioned in S. 197A		
	Furnish a certificate u/s. 203.		
	Deduct and pay tax u/s. 226(2)		
	Furnish returns/ statements/ certificate u/s 206C		
	Furnish a statement of particulars of perquisites and profits in lieu of salary u/s. 192(2C)		
272AA(1)	Failure to furnish the prescribed information required u/s. 133B (Refer to Form No. 45D)	--	Rs. 1,000
272B	Failure to apply for Permanent Account Number (PAN)	--	Rs. 10,000
272BB(1)	Failure to apply for Tax Deduction Account No. (TAN) (S. 203A)	--	Rs. 10,000
272BBB	Failure to apply for Tax Collection Account No. (TCN)	--	Rs. 10,000

Note:
No penalty is imposable for any failure u/ss. 271(1)(b), 271A, 271AA, 271B, 271BA, 271BB, 271C, 271D, 271E, 271F, 271G, 272A(1)(c) or (d), 272(2), 272AA(1), 272B, 272BB(1) and 272BBB(1), if the person or assessee proves that there was a reasonable cause for such failure (S. 273B).

8.21 APPEAL

The term appeal has nowhere been defined under the Income Tax Act.

APPEALS PROCEEDINGS UNDER INCOME TAX ACT, 1961However as per Mozley and Whiteley's Law Dictionary "Appeal is a complaint to a superior court of an injustice done by an inferior one".

The party complaining is styled as the "Appellant" and the other party is known as "Respondent".

Under the scheme of the Income Tax Act, an assessment is normally the first Stage determining the Taxable Income and The Tax, Interest or Sum Payable by an Assessee.

The Act provides for various remedies available to an assessee on completion of the assessment.

The primary remedies available to an assessee on completion of the assessment are:

- Appeals
- Revision
- Rectification

All these remedies work in different areas. However, strictly speaking the remedies are not alternative to each other but at times more than one remedial proceeding may be used as complimentary to each other so as to achieve the best result by applying optimum resources.

The procedures governing these remedial provisions are proposed to be discussed here under.

Appellate Hierarchy

Nature of action	To whom it should be field	Against whose order it can be preferred	Who can prefer
First appeal	Commissioner(appeals) [cit (a)]	Against the order of assessing officer	Taxpayer
Second appeal	The income tax appellate tribunal	Against the order of the cit(a)	Taxpayer or commissioner of income tax
Appeal to high court	High court	Substantial question of law arising out of itat order	Taxpayer or commissioner of income tax
Appeal to supreme court	Supreme court	Judgment of high court	Taxpayer or commissioner of income tax

8.21.1 Appeal Before The Commissioner Of Income-Tax (Appeals)

An appeal before the Commissioner of income tax (Appeals) is an extremely useful remedy available to an assessee.

The commissioner of Income Tax (Appeals) is the first appellate authority under the scheme of the Act.

This forum helps in redressing the grievances that the assessee might have against the assessment order passed in his case.

However, one should bear in mind that the right of appeal is not an inherent right but it is a statutory right created due to the provisions of the statute [CIT vs. Garware Nylons Ltd.(212-ITR-242) (Bom).]

The proceedings of appeal work strictly as per the statutory provisions made in this regard. Therefore, , it is essential to understand these provisions in greater detail and

know exactly what are the powers, rights and duties of the CIT (A) as well as the assessee while dealing with the appeals.

Appealable Orders-Section 246A

Section 246A of the Act lists down the category of orders, which can be appealed against. The List is an exhaustive list and not an inclusive list.

Accordingly, if any order does not find place in any of the clauses of section 246A, the same becomes a non appealable order and the assessee has to exercise certain other options to protect himself against such order.

Majority of the orders with which we deal in our day to day life are appealable. However, it would be interesting to note the appealabilty or otherwise of few of the orders as under:

Appealable Orders (Illustrative list)	NON-appealable Orders (Illustrative list)
Orders giving effect to an appellate orderSection wise detail of such orders are given under various Subsections of Sec. 246A	Order levying interest u/s 234A, 234B, or 234C in a case where there is no other grievances arising from the order - alternate remedy- waiver petition before the CIT
Order denying the rectification of mistakes apparent from the records	Order imposing interest u/s 220(2)- alternate remedy- waiver petition before the CIT
A protective assessment order [Alludas Children Trust vs. CIT (251-ITR-50)) Guj.)]However, normally Protective assessment orders are dealt as Non-Appealable.	Order of revision u/s. 264- alternate remedy-writ petition before the High Court.
Order passed in reassessment proceedings.	Order of the commissioner passed u/s. 273A rejecting the application for waiver of Penalty- alternate remedy- writ petition before the High Court.

Appeal against the order under section 154 wherein interest under section 244A is reduced is maintainable.

–Progressive Construction Seenaiah & Co. vs. (IT (2003)851TD27) (HYD)

Appeal In Case of an Agreed Assessment

The issue whether an appeal can be preferred in the case of an agreed assessment is not free from doubt.

The Bombay High Court in the case of Rameshchandra & Co. vs. CIT (169-ITR-375) (Bom.) has held that when the additions are made on the basis of the assessee's own admissions, the assessment can not be subjected to appeal. A similar view has been expressed by the Allahabad High Court in the case of sterling Machine Tools Vs CIT (123-ITR-181)(All.)

As against this, the Punjab and Haryana High Court in the case of Chhatmull Agarawal vs. CIT (115-ITR-694) (Punj) has held that an agreed assessment can be subjected to appeal. The statutory right of appeal can not be taken away from the assessee since he has consented to the additions/disallowances at the time of the assessment. Under the Act, there is no provision for withdrawal of the statutory right to appeal.

In view of the conflicting decisions, the maintainability or otherwise of an appeal in such a situation will largely depend on the facts of each case. It seems that it is difficult to contend that the appeal can be preferred in a case of admission made by the assessee due to the decision of the Bom, HC in the case of Rameshchandra & Co. However keeping in mind the statutory right of appeal, it seems that the appeal can not be denied in a case where the addition/disallowance are agreed by an assessee during assessment proceedings with a view to settle the matter and buy peace of mind.

Section- 248- Appeal by person denying liability to deduct tax u/s. 195

Section 248 of the act deals with appeal in a case where under an agreement or arrangement, tax deductible on any income, other than interest u/s. 195 is to be borne by the payer and such payer claims that no tax was required to be deducted on such income. In such a situation, the section provides that the payer shall first pay the tax deductible on such income. If the CIT (A) issues a declaration as aforesaid, then the tax deposited by him will be refunded to him.

8.21.2 Section -249-Form of Appeal And Limitations

Section 249(1)

An appeal to the CIT (A) shall be in Form No. 35. Appeal shall be accompanied by appeal fees prescribed as under:

Appeal Fees For CIT(A)

Situtions	Amount(rs.)
If Total income as per assessment order is 1,00,000/- or less	250.00
II Total income as per assessment order is more than 1,00,000 but Less than 2,00,000/-	500.00
If Total income as per assessment order is more than 2,00,000/-	1000.00
If the subject matter of appeal is not covered by above	250.00

The above appeal fees are based on assessed income exclusive of agriculture income.

Documents to be filed with the Appeal form

- Form No. 35 along with statement of facts and grounds of appeal in duplicate.
- Receipted challans for the payment of Appeal Fees in original.
- Copy of the order appealed against (In case of appeal against the penalty order, also enclose a copy of the relevant assessment order).
- Original Notice of Demand

Important points to Remember

- I Form No. 35 should be filled up in a very neat and clean manner.
- Ii Address of the appellant and address where the notice of appeal is requested to be served may vary. Address where the notice is requested to be delivered must be written carefully and properly. If the notice sent by registered post at the same address is sent back as undelivered, the CIT (A) may reject the appeal
- Iii Section, sub-section and clause under which the appeal is preferred should be mentioned clearly.
- IV Grounds of appeal should be written in a very simple language.

- V There should be separate ground for each issue.
- Vi Grounds of appeal should be serially numbered.

Section 249(2)-Time Limit for filing appeal

As per section 249(2), an appeal shall be preferred within 30 days of the date of service of notice of demand in the case of an appeal against an assessment or penalty or of the intimation or any oeder sought to be appealed against. In the case of an appeal u/s 248, the same shall be preferred within 30days of the payment of tax.

Where the assessment order was served on a person who was not an authorized agent of the assessee and later on the assessee applied for and obtained a copy of the assessment, it was held that time limit for filing the appeal should be reckoned from the date on which the assessee obtained the copy of assessment order and notice of demand and not from the earlier date of the service of the assessment order

Appeal Sent By Post

In a case where the appeal is sent by post, then the date of filling will be the date on which the appeal is delivered to the office of the CIT (A) and not the date on which it is handed over to the postal authorities. This is because under the general law, the post office acts as an agent of the sender and not that of addressee

Section 249 (3)- Condonation of delay in filing appeal

Section 249(3) enables the CIT (A) to admit an appeal after the examination of the time limit of 30 days if he is satisfied that the appellant had sufficient cause for not presenting it within the time limit prescribed.

In case of an appeal filed beyond the period of 30 days, it is recommended that the same shall be accompanied by a petition for condonation of delay explaining the reasons for the delay.

In appropriate cases, it is also advisable to file an affidavit confirming the reasons for the delay. As far as possible an attempt shall be to explain the reasons for each and every day's delay in filing the appeal.

The words sufficient cause shall be interpreted liberally with a view to advance the cause of justice. The provision conferring right of appeal should be construed in a reasonable, practical and liberal manner [Mela Ram and Sons vs. CIT (29-ITR-607) (SC); CIT vs. Grafik India (194-ITR-645) (SC)].

If the appellant has acted diligently then normally the delay gets condoned However if the delay is caused due to negligence on the part of the appellant, it become difficult to get the delay condoned

Where the reason for delay in filing first appeal is attributed to negligence or inaction on the part of tax consultant and there is no malafide imputable to the assessee the delay can be condoned

Condonation of delay

The delay in filing the revision was caused mainly due to fault of the lawyer who did not inform the assessee. The delay caused due to negligence of assessee's counsel. In these circumstances it would be hard to penalize the assessee for fault of the lawyer Delay for five years in filing revision condoned.

Appeal related to Exparte assessment

Service of notice; important concept

Where the appeal relates to ex-parte asseeement u/s 144 and service of notice is one of the Grounds of appeal, it should be properly looked into whether the notice was served in the manner as prescribed under section 282 of the IT Act.

It is for the department to prove that service of notice was made in accordance with provisions of the Act –***Shambhu Dayal Gupta vs. CIT (1997) UPTU 215 (ALL)***

It is evident that valid service of notice on the assessee is necessary for making valid assessment If it is not served personally on the assessee. It is to be shown that same was served on an authorized agent of the assessee or an adult member of family who was or could be deemed to be authorized to receive notice on behalf of the assessee. An assessment made without service of notice can not be sustained. (***Satish Chand Varshney vs. ITO Chandausi ITA no. 3825 & 3826/Del "SME" Bench Delhi.***)

Section-249 (4)-payment of tax on Returned Income before the appeal

Section 249 (4) provides that no appeal shall be admitted unless the appellant has paid the tax due on the returned income before filing of the appeal. This is a very important part of appeal proceedings and one has to be extra careful on this front. If the tax on the returned income is not paid before the filing of the appeal, the appeal is not likely to be admitted. Section 249(4) is mandatory and there is no remedy available against the operation of the said section.

If the Tax is not paid before the filing of the appeal, then legally the CIT (A) is empowered to dismiss the appeal. However, if the tax is paid before the final date of hearing of the appeal, then normally the CIT (A) allows the appeal to be heard and decides the same on merit.

In a case where no return is filed the assessee should pay tax of an amount equivalent to the amount of advance tax payable by him before filing an appeal.

There is no condition that interest if any u/s. 234 A/B/C should also be paid before the appeal could be admitted.

Section 249(4) applies to appeals against assessment as well as appeal against penalty.

The provision of Section 249(4) however applies to appeal before CIT(A) only and do not apply for filing appeal before the ITAT.

Section-250-Procedure of Appeal

Section 250 of the act deals with the procedures in an appeal proceeding. As per the section, the CIT (A) shall give a notice in writing fixing a date of hearing to both the appellant and also the assessing officer. The assessee or his authorized representative is having a right to be heard at the time of the hearing of the appeal. Similarly right is made available to the assessing officer or his authorized representative to be heard however, normally in practice, only the appellant appears in the hearing.

No right is available to the assessing officer to be heard in the appeals under the wealth tax Act.

8.22 REVISION OF INCOME TAX ORDER

A Principal Commissioner or Commissioner of the Income Tax Department is empowered with the rights to enhance, annul or modify an income tax order if he/she feels that the interests of the revenue are at stake due to the erroneous passing of orders by the Assessing Officer. This article provides an in-depth analysis of the roles of a Principal Commissioner/Commissioner pertaining to revision of income tax orders.

8.22.1 Income Tax Order Revision

The Principal Commissioner/Commissioner has the powers to revise the following income tax orders:

An order of assessment made by the Assessment Commissioner or Deputy Commissioner or Income Tax Officer based on the directions issued by the Joint Commissioner.

An order made by the Joint Commissioner in exercise of the powers or in the performance of the functions of Assessing Officer conferred on him under the orders or directions issued by CBDT/Principal Chief Commissioner/Chief Commissioner/Principal Director/Commissioner authorized by CBDT under Section 120.

8.22.2 Section 263(1) of Income Tax Act

Explanation 2 of Section 263(1) of the Income-tax Act highlights the circumstances where the Assessing Officer has erred in passing of orders and can be revised. The circumstances, as explained under this provision, could be any of the following.

Orders passed without making necessary inquiries or verification.

Orders passed allowing any relief without investigating the claim.

The order is not in par with any order, direction or instruction issued by the Board under Section 119.

The order hasn't been passed in accordance with any decision which is prejudicial to the assessee, rendered by the jurisdictional High Court in the case of the assessee or any other person

Time Limit for Revision of Income Tax Order

Orders of the Assessment Officer must be revised within a period of two years from the date of the original order. The following periods are to be excluded while computing the period of limitation.

The time taken in giving an opportunity to the assessee to be re-heard.

Any period during which any proceeding under this section is stayed by an order or injunction of any court

Note: - Revisionary orders can be passed even after the expiry of two years under certain extraordinary circumstances.

Procedure for Revision of Income Tax Order

The following are some of the major powers enjoyed and aspects considered by the Principal Commissioner or Commissioner while considering revision of an Income Tax order.

Examination of Records

The Principal Commissioner or Commissioner may call for and examine the records of any proceedings under the Income Tax Act while revising an Income Tax order. He/she need not provide any reason for the same.

Entitled to Revise Parts of Other Order

The Principal Commissioner or Commissioner is entitled to revise other parts of the order which was ignored or taken up by the Assessing Officer.

Errors of Fact/Errors of Law

The Principal Commissioner/Commissioner is by no means restricted in revising the errors. The errors can be revised, be it errors of fact/errors of law.

Opportunity to be Heard

As is the case with many provisions of the Income Tax Act or for that matter the entire realms of taxation, the assessee must be given an opportunity to be heard before the Principal Commissioner or Commissioner goes on to pass the revised order.

Opinion of Sub-Ordinates Valued

The order or part of it can be taken for review even if the point of error is pointed out by a sub-ordinate, provided the Principal Commissioner/Commissioner is satisfied with the cause of review.

Approval from an Authority of a Higher Rank

The Principal Commissioner/Commissioner may undertake the review of any order or part of it on the discretion of a higher authority.

When Income Tax Order Cannot Be Revised

The Principal Commissioner or Commissioner cannot revise an income tax order which is subject to appeal. Also, the Principal Commissioner or Commissioner is restricted from reviewing any orders passed by the High Court, even if the said authority considers it erroneous.

Check Your Progress

Fill in the blanks:

1. The time limit for completion of assessment under section 143 shall be within _____from the end of the relevant assessment year.
2. Best judgment assessment cannot be made unless the assessee is given a _____calling upon him.
3. An assessment under _____cannot be proceeded with unless the Assessing Office has served upon the assessee a notice and an opportunity of being heard.
4. The time limit for completion of assessment under section 153A is _____from the end of the end of the financial year in which the last authorization for search under section 132 or for requisition under section was executed.
5. Once the total income is determined, the _____of an individual assessee shall be computed in accordance with the rate or rates specified for the assessment year.
6. Section 87A rebate provides for _____to individuals earning income below the specified limit.
7. The rate of Surcharge has been _____in the Finance Act 2017 which is applicable for Financial Year 2017-18.
8. The term _____ has not been defined in the Income-tax Act.

8.17 LET US SUM UP

- The audit under Section 142(2A) is independent of any audit under any other law [Section 142(2B)].
- The Chief Commissioner or Commissioner is to be paid by the assessee. In default of such payment by the assessee, it shall be recovered from the assessee in the manner provided in Chapter XVII-D of the Income-tax Act for recovery of arrears of tax.
- Where a return has been submitted under Section 139 or in response to a notice under Section 142(1), the Assessing Officer can complete the assessment without passing a regular assessment order or calling the assessee.
- The time limit for sending intimation under section 143(1) to the assessee is one year from the end of the financial year in which the return is made.
- Assessment through limited scrutiny applies where a return has been furnished under section 139 or in response to a notice under Section 142(1).
- The scheme of assessment through comprehensive scrutiny is applicable where a return is filed under section 139 or in pursuance of a notice under Section 142(1).
- An assessment carried out by applying the wide discretionary power of the Assessing Officer is known as Best Judgment Assessment. This assessment is carried out in cases where the taxpayer fails to comply with the requirements of section 144.
- An assessment under section 147 cannot be proceeded with unless the Assessing Office has served upon the assessee a notice and an opportunity of being heard.
- Assessment in case of search or requisition applies in the case of a person where a search is initiated under Section 132 or books of account, other documents or any assets are requisitioned under Section 132A.
- Once the total income is determined, the gross tax liability of an individual assessee shall be computed in accordance with the rate or rates specified for the assessment year.
- Section 87A rebate provides for income tax rebate to individuals earning income below the specified limit. It is being provided to reduce the tax burden of lower income bracket.
- Surcharge is levied on Income Tax and is levied if Income is more than ₹ 50 Lakhs in case of Individuals and ₹ 1 Crores in case of Companies.
- Once a Hindu undivided family is assessed dissect, it shall continue to be assessed as a Hindu undivided family except where a partition is claimed by the members and the findings of a partition are recorded [Section 171(1)].
- The assessment of a Hindu undivided family is governed by Section 171. This sectioned cognizes two distinct types of partitions, e.g., Total or complete partition, and Partial partition.
- Under Section 2(31) (iv) of the Income-tax Act, a firm is a distinct unit of assessment.
- When a firm is assessed as such, its income under the head —Profits and gains of business or profession shall be computed in the usual manner after claiming deductions under Sections 30 to 38.

- Under Section 40A, if in the opinion of the Assessing Officer, any expenditure/payment to a partner or his relative is excessive or unreasonable, having regard to the fair market value of the goods, services or facilities for which the payment is made, then so much of the expenditure/payment as is considered excessive or unreasonable shall not be allowed as deduction.
- Fringe benefit tax is not a deductible expenditure for computing book profit within the meaning of Section 40(b).

8.18 UNIT END ACTIVITY

Prepare a report on assessment and computation of HUF, AOP and Firms. Give a presentation.

8.19 KEYWORDS

Best Judgment Assessment: An assessment carried out by applying the wide discretionary power of the Assessing Officer is known as Best Judgment Assessment.

Gross Tax Liability: Gross tax liability of an individual assessee shall be computed in accordance with the rate or rates specified for the assessment year.

Surcharge: Surcharge is levied on Income Tax and is levied if Income is more than ₹ 50 Lakhs in case of Individuals and ₹ 1 Crores in case of Companies.

HUF: It is expression of the Hindu Law and denotes a Hindu family consisting of all male members who have lineally descended from a common ancestor.

Total Partition: Total partition means a partition of the HUF where all the properties of the family are divided among the members and the family ceases to exist as an undivided family.

Partial Partition: Partial partition means partition which is partial as regards the persons constituting the Hindu undivided family, or the properties belonging to the Hindu undivided family, or both.

Fringe Benefit Tax: Tax imposed on employee in lieu of benefits received by him along with the salary.

8.20 QUESTIONS FOR DISCUSSION

1. Explain Enquiry before assessment under section 142.
2. What do you mean by best judgment assessment? Explain.
3. How rectification of mistake is carried out as per section 154?
4. What is notice on demand as per section 156?
5. Describe surcharge in detail.
6. Differentiate between the assessment of HUF, AOP and Firms.
7. List the consequences of partial partition after 31st December, 1978 under section 171 (9).

Check Your Progress: Model Answer

1. 2 years
2. Notice
3. Section 147
4. 21 months
5. Gross tax liability
6. Income tax rebate
7. Increased
8. Hindu Undivided Family

8.21 REFERENCE

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8.22 SUGGESTED READINGS

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