



SATHYABAMA

**INSTITUTE OF SCIENCE AND TECHNOLOGY
(DEEMED TO BE UNIVERSITY)**

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SCHOOL OF MANAGEMENT STUDIES

UNIT I - INCOME TAX LAW AND PRACTICE-SBAA1404

UNIT-1

INTRODUCTION

Meaning of Income— Canons of taxation and the Income tax act — Important definitions under the income tax act — scope of total income— residential status— income exempt from tax.

Income Tax in India --- An Introduction

BRIEF HISTORY OF INCOME TAX IN INDIA

In India, Income tax was introduced for the first time in 1860, by Sir James Wilson in order to meet the losses sustained by the Government on account of the Military Mutiny of 1857. Thereafter; several amendments were made in it from time to time. In 1886, a separate Income tax act was passed. This act remained in force up to, with various amendments from time to time. In 1918, a new income tax was passed and again it was replaced by another new act which was passed in 1922. This Act remained in force up to the assessment year 1961-62 with numerous amendments. The Income Tax Act of 1922 had become very complicated on account of innumerable amendments. The Government of India therefore referred it to the law commission in 1956 with a view to simplify and prevent the evasion of tax. The law commission submitted its report in September 1958, but in the meantime the Government of India had appointed the Direct Taxes Administration Enquiry Committee submitted its report in 1956. In consultation with the Ministry of Law finally the Income Tax Act, 1961 was passed. The Income Tax Act 1961 has been brought into force with 1 April 1962. It applies to the whole of India including Jammu and Kashmir.

1. INCOME : Section 2(24)

The definition of the term “income” in section 2(24) is inclusive and not exhaustive. Therefore, the term “income” not only includes those things that are included in section 2(24) but also includes those things that the term signifies according to its general and natural meaning. Income, in general, means a periodic monetary return which accrues or is expected to accrue regularly from definite sources. However, under the Income-tax Act, 1961, even certain income

which do not arise regularly are treated as income for tax purposes e.g. Winnings from lotteries, crossword puzzles.

Section 2(24) of the Act gives a statutory definition of income.

At present, the following items of receipts are included in income:—

- (1) Profits and gains.
- (2) Dividends.
- (3) Voluntary contributions received by a trust/institution created wholly or partly for charitable or religious purposes or by an association or institution
- (4) The value of any perquisite or profit in lieu of salary taxable under section 17.
- (5) Any special allowance or benefit other than the perquisite included above, specifically granted to the assessee to meet expenses wholly, necessarily and exclusively for the performance of the duties of an office or employment of profit.
- (6) Any allowance granted to the assessee to meet his personal expenses at the place where the duties of his office or employment of profit are ordinarily performed by him or at a place where he ordinarily resides or to compensate him for the increased cost of living.
- (7) The value of any benefit or perquisite whether convertible into money or not, obtained from a company either by a director or by a person who has a substantial interest in the company or by a relative of the director or such person and any sum paid by any such company in respect of any obligation which, but for such payment would have been payable by the director or other person aforesaid.
- (8) The value of any benefit or perquisite, whether convertible into money or not, which is obtained by any representative assessee mentioned under section 160(1)(iii) and (iv), or by any beneficiary or any amount paid by the representative assessee for the benefit of the beneficiary which the beneficiary would have ordinarily been required to pay.
- (9) Deemed profits chargeable to tax under section 41 or section 59.
- (10) Profits and gains of business or profession chargeable to tax under section 28.
- (11) Any capital gains chargeable under section 45.
- (12) The profits and gains of any insurance business carried on by Mutual Insurance Company or by a cooperative society, computed in accordance with Section 44 or any surplus taken to be such profits and gains by virtue of the provisions contained in the first Schedule to the Act.
- (13) The profits and gains of any business of banking (including providing credit facilities) carried on by a co-operative society with its members.
- (14) Any winnings from lotteries, cross-word puzzles, races including horse races, card games and other games of any sort or from gambling, or betting of any form or nature whatsoever.

(15) Any sum received by the assessee from his employees as contributions to any provident fund or superannuation fund or Employees State Insurance Fund (ESI) or any other fund for the welfare of such employees.

(16) Any sum received under a Keyman insurance policy including the sum allocated by way of bonus on such policy will constitute income. “Keyman insurance policy” means a life insurance policy taken by a person on the life of another person where the latter is or was an employee or is or was connected in any manner whatsoever with the former’s business.

(17) Any sum referred to clause (va) of Section 28. Thus, any sum, whether received or receivable in cash or kind, under an agreement for not carrying out any activity in relation to any business; or not sharing any know-how, patent, copy right, trade-mark, licence, franchise, or any other business or commercial right of a similar nature, or information or technique likely to assist in the manufacture or processing of goods or provision of services, shall be chargeable to income tax under the head “profits and gains of business or profession”.

(18) Any sum of money or value of property referred to in section 56(2)(vii) or section 56(2)(viia).

(19) Any consideration received for issue of shares as exceeds the fair market value of shares referred to in section 56(2)(viib).

Gross Total Income Sec: 80b (5)

As per section 14, the income of a person is computed under the following five heads:

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

If the income is not derived from any of the above sources, it is not taxable under the act. The aggregate income under these heads is termed as “gross total income”.

Total Income Sec : 2(45)

Total income means the the amount left after making the deductions under section 80C to 80U from the gross total income.

I.3 Casual Income

Any receipt which is of a casual and non-recurring nature is called casual income. Casual income includes the following receipts:

1. Winning from lotteries,
2. Winning from crossword puzzles,
3. Winning from races (including horse races),
4. Winning from card games and other games of any sort
5. Winning from gambling or betting of any form or nature.

2. Canons of Taxation:

Canons of taxation refer to the administrative aspects of a tax. They relate to the rate, amount, method of levy and collection of a tax.

In other words, the characteristics or qualities which a good tax should possess are described as canons of taxation. It must be noted that canons refer to the qualities of an isolated tax and not to the tax system as a whole. A good tax system should have a proper combination of all kinds of taxes having different canons.

According to Adam Smith, there are four canons or maxims of taxation on the administrative side of public finance which are still recognised as classic.

To him a good tax is one which contains:

1. Canon of equality or equity.
2. Canon of certainty.
3. Canon of economy.
4. Canon of convenience.

To these four canons, economists like Bastable have added a few more which are as under:

Canon of elasticity.

5. Canon of productivity.

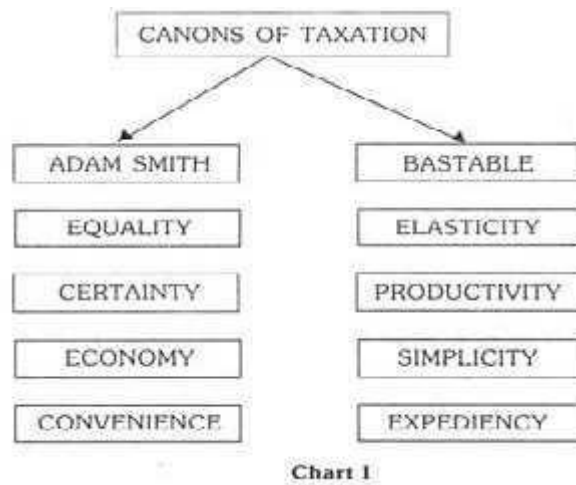
6. Canon of simplicity.

7. Canon of diversity.

8. Canon of expediency

9. Canon of Co-ordination

Chart I represents the different canons of taxation.



We shall briefly describe them as follows:

Canon of Equality:

Every fiscal economist, along with Adam Smith, stresses that taxation must ensure justice. The canon of equality or equity implies that the burden of taxation must be distributed equally or equitably in relation to the ability of the tax payers.

Equity or social justice demands that the rich people should bear a heavier burden of tax and the poor a lesser burden. Hence, a tax system should contain progressive tax rates based on the tax-payer's ability to pay and sacrifice.

Canon of Certainty:

Taxation must have an element of certainty. According to Adam Smith, "the tax which each individual is bound to pay ought to be certain and not arbitrary.

The time of payment, the manner of payment, the amount to be paid ought to be clear and plain to the contributor and to every other person."

The certainty aspects of taxation are:

1. Certainty of effective incidence i.e., who shall bear the tax burden.

2.Certainty of liability as to how much shall be the tax amount payable in a particular period. This the tax payers as well as the exchequer should unambiguously know.

3.Certainty of revenue i.e., the government should be certain about the estimated collection of revenue from a given tax levied.

Canon of Economy:

This principle suggests that the cost of collecting a tax should not be exorbitant but be the minimum. Extravagant tax collection machinery is not justified. According to Adam Smith, “Every tax has to be contrived as both to take and keep out of the pockets of the people as little as possible over and above what it brings into the public treasury of the state.”

Owing to the complex and ever-changing nature of taxation laws in India, government has to maintain elaborate tax collection machinery with a large staff of highly trained personnel involving high administrative costs and inordinate delay in assessment and collection of tax.

Canon of Convenience:

According to this canon, tax should be collected in a convenient manner from the tax payers. Adam Smith stresses: “Every tax ought to be levied at the time or in the manner in which it is most likely to be convenient for the contributor to pay it.” For example, it is convenient to pay a tax when it is deducted at source from the salaried classes at the time of paying salaries.

Canon of Elasticity:

Taxation should be elastic in nature in the sense that more revenue is automatically fetched when income of the people rises. This means that taxation must have built-in flexibility.

Canon of Productivity:

This implies that a tax must yield sufficient revenue and not adversely affect production in the economy.

Canon of Simplicity:

This norm suggests that tax rates and tax systems ought to be simple and comprehensible and not to be complex and beyond the understanding of the layman. This is what is rarely found in the Indian tax structure.

Canon of Diversity:

Canon of diversity implies that there should be a multiple tax system of diverse nature rather than having a single tax system. In the former case, the tax payer will not be burdened with a high incidence of tax in the aggregate.

Canon of Expediency:

This suggests that a tax should be determined on the ground of its economic, social and political expediency. For instance, a tax on agricultural income lacks social, political or administrative expediency in India and that is why the government of India had to discontinue it.

Canon of Co-ordination

This suggest that tax being imposed by Central and State and local Govts, it is desirable that there must be coordination between different taxes imposed by the tax authorities by avoiding overlapping of tax and double taxation which creates hardship to taxpayers.

3.Important Definitions**Assessment Year :Section 2(9)**

“Assessment year” means the period starting from April 1 and ending on March 31 of the next year. Eg: Assessment year 2016-17 which commences on April 1, 2016 and ends on March 31, 2017. Income of previous year of an assessee is taxed during the assessment year at the rates prescribed by the relevant Finance Act for tax rates.

Previous year : section 3

Income earned in a particular year is taxable in the next year. The year in which income is earned is known as previous year and the next year in which income is taxable is known as assessment year. In other words, previous year is the financial year immediately proceeding the assessment year. **Exceptions**

to the general rule that previous year's income is taxable during the assessment year

In the following situations income of an assessee is liable to be assessed to tax in the same year in which he earns the income:

- a. Income of non-residents from shipping;
- b. Income of persons leaving India either permanently or for a long period of time;
- c. Income of bodies formed for short duration;
- d. Income of a person trying to alienate his assets with a view to avoiding payment of tax;
- e. Income of a discontinued business.

Person : Section 2(31)

The term “person” includes:

- 1. an individual;
- 2. a Hindu undivided family;
- 3. a company;
- 4. a firm;
- 5. an association of persons or a body of individuals, whether incorporated or not;
- 6. a local authority; and
- 7. every artificial juridical person not falling within any of the preceding categories.

Assessee : Section 2(7)

Every person in respect of whom, any proceeding under the 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 the amount of refund due to him or to such other person may be called an assessee.

Deemed Assessee:

A person who is deemed to be an assessee for some other person is called “Deemed Assessee”.

Assessee In Default:

When a person is responsible for doing any work under the Income Tax Act and he fails to do it, he is called an “Assessee in default”.

Assessment [Section 2(8)]

This is the procedure by which the income of an assessee is determined by the Assessing Officer.

Basis Of Charge Of Income Tax Sec : 4

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

1. Annual tax - Income-tax is an annual tax on income.

2. Tax rate of assessment year - Income of previous year is chargeable to tax in the next following assessment year at the tax rates applicable for the assessment year. This rule is, however, subject to some exceptions

3. Rates fixed by Finance Act - Tax rates are fixed by the annual Finance Act and not by the Income-tax Act. For instance, the Finance Act, 2013, fixes tax rates for the Assessment year 2013-14.

4. Tax on person - Tax is charged on every person

5. Tax on total income - Tax is levied on the “total income” of every assessee computed in accordance with the provisions of the Act.

4. RATES OF INCOME TAX FOR THE ASSESSMENT YEAR 2016-17

General Rates (Excluding short term capital gains specified in sec:111A, long term capital gains, winning from lottery, cross word puzzle, races, etc.):

Individual- Super senior citizen (80 years or more): Upto Rs: 5,00,000 : Nil

Rs: 5,00,001 to 10,00,000 : 20%

Above Rs:10,00,000 : 30%

Individual- Senior citizen (60 years or more but less than 80 years):

Upto Rs: 3,00,000: Nil

Rs: 3,00,001 to 5,00,000 : 10%

Rs: 5,00,001 to 10,00,000 : 20%

Above Rs:10,00,000 : 30%

Other individuals, HUF, AOP, BOI:

Upto Rs: 2,50,000 : Nil

Rs: 2,50,001 to 5,00,000 : 10%

Rs: 5,00,001 to 10,00,000 : 20%

Above Rs: 10,00,000 : 30%

Special Rates:

On short term capital gains specified in Sec. 111A	: 15%
On long term capital gains	: 20%
On gains from listed shares without indexing the cost of acquisition :	10%
On winnings from lottery, cross word puzzle, horse race, etc.	: 30%

Education Cess: 2% on the amount of income tax

Surcharge : The rate of surcharge is 12% of income tax if the totla income exceeds Rs. 1 Crore

5.Capital and revenue receipts and expenditure

Receipts which are non-recurring (not received again and again) by nature and whose benefit is enjoyed over a long period are called "Capital Receipts", e.g. money brought into the business by the owner (capital invested), loan from bank, sale proceeds of fixed assets etc. Capital receipt is shown on the liabilities side of the Balance Sheet.

receipts which are recurring (received again and again) by nature and which are available for meeting all day to day expenses (revenue expenditure) of a business concern are known as "Revenue receipts", e.g. sale proceeds of goods, interest received, commission received, rent received, dividend received etc.

Distinction between Capital Receipt and Revenue Receipt:

No.	Revenue Receipt	Capital Receipt
1	It has short-term effect. The benefit is enjoyed within one accounting period.	It has long-term effect. The benefit is enjoyed for many years in future.
2	It occurs repeatedly. It is recurring and Regular in nature.	It does not occur again and again. It is nonrecurring and irregular in nature.
3	It is shown in profit and loss account on the credit side.	It is shown in the Balance Sheet on the liability side.
4	It does not produce capital receipt.	Capital receipt, when invested, produces revenue receipt e.g. when capital is invested by the owner, business gets revenue receipt (i.e. sale proceeds of goods etc.).
5	This does not increase or decrease the value of asset or liability.	The capital receipt decreases the value of asset or increases the value of liability e.g. sale of a fixed asset, loan from bank etc.

6	Sometimes, expenses of capital nature are to be incurred for revenue receipt, e.g. purchase of shares of a company is capital expenditure but dividend received on shares is a revenue receipt.	Sometimes expenses of revenue nature are to be incurred for such receipt e.g. on obtaining loan (a capital receipt) interest is paid until its repayment.
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Difference between Capital Expenditure and Revenue Expenditure:

No.	Revenue Expenditure	Capital Expenditure
1	Its effect is temporary, i.e. the benefit is received within the accounting year.	Its effect is long-term, i.e. it is not exhausted within the current accounting year-its benefit is received for a number of years in future.
2	Neither an asset is acquired nor is the value of an asset increased.	An asset is acquired or the value of an existing asset is increased.
3	It has no physical existence because it is incurred on items which are used by the business.	Generally it has physical existence except intangible assets.
4	It is recurring and regular and it occurs repeatedly.	It does not occur again and again. It is nonrecurring and irregular.
5	This expenditure helps to maintain the business.	This expenditure improves the position of the business.
6	The whole amount of this expenditure is shown in trading P & L A/c or income statement.	A portion of this expenditure (depreciation on assets) is shown in trading & P & L A/c and the balance are shown in the balance sheet on asset side.
7	It does not appear in the balance sheet.	It appears in the balance sheet until its benefit is fully exhausted.
8	It reduces revenue (profit) of the business	It does not reduce the revenue of the concern.

6.Residential Status And Tax Incidence

Tax incidence on an assessee depends on his residential status. The residential status of an assessee is determined with reference to his residence in India during the previous year. Therefore, the determination of the residential status of a person is very significant in order to find out his tax liability. Residence and citizenship are two different things.

The incidence of tax has nothing to do with citizenship.

Residential Status of an Individual

As per section 6, an individual may be (a) resident and ordinarily resident in India, (b) resident but not ordinarily resident in India, or(c) non-resident in India. The following are the two sets of conditions for determining the residential status of an individual:

Basic conditions :

He 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 previous year and has been in India for a period of 365 days or more during 4 years immediately preceding the previous year.

Note: In the following two cases, an individual needs to be present in India for a minimum of 182 days or more in order to become resident in India:

- (a) An Indian citizen who leaves India during the previous year for the purpose of taking employment outside India or an Indian citizen leaving India during the previous year as a member of the crew of an Indian ship.
- (b) An Indian citizen or a person of Indian origin who comes on visit to India during the previous year (a person is said to be of Indian origin if either he or any of his parents or any of his grandparents was born in undivided India).

Additional Conditions:

(i) He has been resident in India in at least 2 out of 10 previous years [according to basic condition noted above] immediately preceding the relevant previous year.

AND

(ii) He has been in India for a period of 730 days or more during 7 years immediately preceding the relevant previous year.

Resident

An individual is said to be resident in India if he satisfies any one of the basic conditions.

(A) Resident And Ordinarily Resident

An individual is said to be resident and ordinarily resident in India if he satisfies any one of the basic conditions and both of the additional conditions.

(B) Resident But Not Ordinarily Resident Sec 6(6)

An individual is said to be resident but not ordinarily resident in India if he satisfies any one of the basic conditions but not satisfies both of the additional conditions.

Non-Resident Sec 2(30)

An individual is a non-resident in India if he satisfies none of the basic conditions.

Residential Status Of A Hindu Undivided Family

As per section 6(2), a Hindu undivided family (like an individual) is either resident in India or non-resident in India. A resident Hindu undivided family is either ordinarily resident or not ordinarily resident.

HUF : Resident or Non-Resident

A Hindu undivided family is said to be resident in India if control and management of its affairs is wholly or partly situated in India. A Hindu undivided family is non-resident in India if control and management of its affairs is wholly situated outside India.

A resident Hindu undivided family is an ordinarily resident in India if the karta or manager of the family (including successive kartas) satisfies the following two additional conditions as laid down by section 6(6)(b).

Additional condition (i) Karta has been resident in India in at least 2 out of 10 previous years [according to the basic condition mentioned in immediately preceding the relevant previous year]

Additional condition (ii) Karta has been present in India for a period of 730 days or more during 7 years immediately preceding the previous year.

If the Karta or manager of a resident Hindu undivided family does not satisfy the two additional conditions, the family is treated as resident but not ordinarily resident in India.

Residential Status of Firm and Association of Persons

As per section 6(4), a partnership firm and an association of persons are said to be resident in India if control and management of their affairs are wholly or partly situated

within India during the relevant previous year. They are, however, treated as non-resident in India if control and management of their affairs are situated wholly outside India.

Residential Status of a Company

As per section 6(3), an Indian company is always resident in India. A foreign company is resident in India only if, during the previous year, control and management of its affairs is situated wholly in India. However, a foreign company is treated as non-resident if, during the previous year, control and management of its affairs is either wholly or partly situated out of India.

7.. Scope of Total Income (Section 5) :

Resident and ordinarily resident:

Total income of an assessee who is resident and ordinarily resident includes:

- (a) any income received or deemed to be received in India during the previous year by or on behalf of the assessee ; or
- (b) any income accrues or arises or deemed to accrue or arise to him in India during the previous year ; or
- (c) any income accrues or arises to him outside India during such year.

Resident but not ordinarily resident:

- (a) any income received or deemed to be received in India during the previous year by or on behalf of the assessee ; or
- (b) any income accrues or arises or deemed to accrue or arise to him in India during the previous year ; or
- (c) any income accrues or arises to him outside India from a business controlled in or a profession set up in India.

The following are not chargeable to tax

- (i) income is neither received nor deemed to be received in India
- (ii) it is neither accrued nor deemed to be accrued in India and
- (iii) It is derived from business business controlled in or a profession set up outside India.

Non- resident: sec 5(23)

- (a) any income received or deemed to be received in India during the previous year by or on behalf of the assessee ; or
- (b) any income accrues or arises or deemed to accrue or arise to him in India during the previous

year.

Therefore the following are not chargeable to tax

- (i) Income received or accrued outside India from a business controlled from or a profession set up in India
- (ii) Income received or accrued outside India from a business controlled from or a profession set up outside India
- (iii) Income (not being from a business/ profession) received or accrued outside India

8.Income Exempt from Income Tax

The following Income is exempt from Income tax:-

- 1.Agriculture Income [Sec. 10(1)]
- 2.Payments received from family income by a member of HUF [Sec. 10(2)]
- 3.Share of profit from a firm [Sec. 10(2A)]
- 4.Interest and premium received by a non resident from prescribed securities [Sec. 10(4)]
- 5.Interest received by a person who is resident outside India on amounts credited in the non- resident (External) account [Sec. 10(4)]
- 6.Leave travel concession provided by as employer to his Indian citizen employee,Sec. 10(5)]
- 7.Remuneration received by foreign diplomats of all categories [Sec. 10(6)]
- 8.Salary received by a foreign citizen as an employee of a foreign enterprise provided his stay in India does not exceed 90 days [Sec. 10(6)(vi)]
- 9. Salary received by a non-resident foreign citizen as a member of ship's crew provided his total stay in India does not exceed 90 days [Sec. 10(6)(vii)]
- 10. Remuneration received by an employee, being a foreign national, of a foreign government deputed in India for training in a Government establishment or public sector undertaking [Sec.10(6)(xi)]
- 11. Tax paid on behalf of foreign companies [Sec. 10(6A)]
- 12. Tax paid by Government or an Indian concern in case of a non-resident / foreign company[Sec.10(6B)]
- 13. Income arising to notified foreign companies from services provided in or outside India in project connected with the security of India [Sec. 10(6C)]
- 14. Foreign allowance granted by the Government of India to its employees posted abroad

[Sec.10(7)]

15. Remuneration received from a foreign Government by an individual who is in India in connection with any sponsored co-operative technical assistance programme with a foreign Government and the income of the family members of such employee [Sec.10(8)and(9)]

16. Remuneration / fee received by non-received consultants and their foreign employees [Sec.10(8A),(8B) and (9)]

17. Death-cum-retirement gratuity [Sec. 10(10)]

18. Commuted value of pension and any payment received by way of commutation of pension by as individual out of annuity plan of LIC or any other insurer from a fund set up by that corporation or insurer [Sec. 10(10A)]

19. Leave salary [Sec. 10(10AA)]

20. Retrenchment compensation [Sec. 10(10B)]

21. Compensation received by victims of Bhopal gas leak disaster [Sec. 10(10BB)]

22. Compensation from the Central Government or a state Government or a local authority received by an individual or his legal heir on account of any disaster [Sec. 10(10BC)]

23. Compensation received from a public sector company at the time of voluntary retirement or separation [Sec. 10(10C)]

24. Tax on perquisite paid by employer [Sec. 10(10CC)]

25. Any sum (including bonus) on life insurance policy [Sec.10(10D)]

26. Any amount from provident fund paid to retiring employee [Sec. 10(11)]

27. Amount from an approved superannuation fund to legal heirs of the employee [Sec. 10(13)]

28. House rent allowance subject to certain limits [Sec. 10(13A)]

29. Special allowance granted to an employee [Sec. 10(14)]

30. Interest from certain exempted securities [Sec. 10(15)]

31. Payment made by an Indian company, engaged in the business of operation of an aircraft, to acquire an aircraft on lease from a foreign Government or foreign enterprise [Sec. 10(15A)]

32. Scholarship granted to meet the cost of education [Sec. 10(16)]

33. Daily allowance of a member of parliament or state Legislature (entire amount is exempt), any other allowance subject to certain conditions [Sec. 10(17)]

34. Rewards given by the central or state Government for literary, scientific or artistic work

or attainment or for service for alleviating or for service for alleviating the distress of the poor, the weak and the ailing, or for proficiency in sports and games or gallantry awards approved by the Government [Sec. 10(17A)]

35. Pension and family pension of gallery award winners [Sec. 10(18)]

36. Family pension received by family members of armed forces [Sec. 10(19)]

37. National property income of any one place occupied by a former ruler [Sec. 10(19A)]

38. Income from local authorities [Sec. 10(20)]

39. Any income of housing boards constituted in India for planning, development or improvement of cities, town or villages [Sec. 10(20A)]

40. Any income of an approved scientific research association [Sec. 10(21)]

41. Income of specified non- agencies [Sec. 10(22B)]

42. Any income (other than interest on securities income from property income received for rendering any specific services and income by way of interest or dividends) of approved professional bodies [Sec. 10(23A)]

43. Any income received by any person on behalf of any regimental fund or non public fund established by the armed forces of the union for the welfare of the past and present members of the such forces or their dependents [Sec. 10(23AA)]

44. Income of funds established for the welfare of employee or their dependent [Sec. 10(23AAA)]

45. Any income of the pension fund set by LIC or any other insurer approved by the controller of insurance or insurance Regulatory and development authority [Sec. 10(23AAB)]

46. any income (other than business income) of a trust or a society approved by Khadi and village industries commission [Sec. 10(23B)]

47. Income of an authority whether known as Khadi and village industries board or by any other name for the development of Khadi and village industries [Sec. 10(23BB)]

48. Income of the European Economic Community derived in India by way of, interest, dividends or capital gains in certain cases [Section 10(23BBB)]

49. Any income arising to anybody or authority established, constituted or appointed under any enactment for the administration of public religious or charitable trusts or endowments or societies for religious or charitable purposes [Section 10(23BBA)]

50. Income of SAARC Fund for Regional Projects, set up by Colombo Declaration [Section 10(23BBC)]

51. Income of the Insurance Regulatory and development authority section 10(23 BBE)
52. Income of central Electricity Regulatory Commission section 10(23BBG)
53. Income of the PRASAR BARATHI [Section 10(23BBHD)]
54. Any income received by any person on behalf of specified national funds and approved public charitable trust or institution [Section 10(23C)]
55. Income of Mutual Fund set up by — a public sector bank or a public financial institution [Section 10(23D)]
56. Income form Investor protection fund [Section 10(23EA)]
57. Income of the credit Gurantee Fund Trust [Section 10(23EB)]
58. Any income by way of dividend, or long term capital gains of venture capital funds and venture capital companies [Section 10(23F)]
59. Income of Registered Trade Union [Section 10(24)]
60. Income of provident fund [Section 10(25)]
61. Income of Employee state Insurance fund [Section 10(26)]
59. Income of a member of Scheduled Tribe, living in Nagaland, Manipur, Tripura, Arunachal Pradesh and Mizoram from any source arising by reason of his employment therein and income by way of dividend and interest on securities [Section 10(26)]
60. Any income accruing or arising to any resident of Ladakh from any source therein or out of India before the assessment year 1989-90, provided that such person was resident in Ladakh in the previous year relevant to the assessment year 1962-63 [Section 10(26A)]
- 61 Any income of a statutory Central or State corporation or of a body/institution, financed by the Government formed for promoting the interest of Scheduled Castes/Tribes [Section 10(26B)]
62. Income of co-operative society formed for promoting interests of members of Scheduled Castes/Scheduled Tribes [Section 10(27)]
63. Income by way of subsidy from Tea Board for replanting or replacement of tea bushes or for the purpose of rejuvenation or consolidation of areas used for cultivation of tea in India [Section 10(30)]
64. Subsidy received by planters of Rubber, Coffee, Cardamon [Section 10(31)]
65. Income of a minor child up to Rs. 1,500 in respect of each minor child whose income is includible under section 64(1A) [Section 10(32)]

66. Any income by way of Capital gains on transfer of US-64 units [Section 10(33)]
67. Dividend on or after April, 2003 from domestic companies [Section 10(34)]
68. Income on units of Mutual Funds on or after April 1, 2003 [Section 10(35)]
69. Long term Capital gains on transfer of listed Equity Shares purchased during 1-3-2003 to 29-2-2004 [Section 10(36)]
70. Capital gain to individual/HUF on compensation received on compulsory acquisition of urban agriculture land [Section 10(37)]
71. Long term capital gain in some cases [Section 10(38)]
72. Sum received without consideration from international sporting event held in India [Section 10(39)]
73. Income of Industrial Units situated in trade-free zones, specified technology parks etc. [Section 10A]
74. Income from specified 100% export oriented undertakings [Section 10B]
75. Income from property held for approved charitable or religious purposes [Section 11]
76. Specified Income of Registered political parties [Section 13A]
77. Gifts and awards are exempted -however in case of gifts from unrelated person it limits with Rs50,000

Part- A

1. Define Tax
2. Write short notes on a) person b) Income.
3. Define a) Previous year b) Assessment year
4. Define a) Direct taxes b) Indirect taxes.
5. Write a short note on residential status.
6. Define Total Income?
7. Who is an ordinary resident?
8. What are the scope of total Income ?
9. Who is called Representative Assessee?
10. Write a short note on HUF.

Part-B

1. Which of the following incomes are taxable when the residential status of Mr. Umesh is :
I) Resident, (ii) Not Ordinary Resident, (iii) Non – Resident.

- Income accrued in Canada but received in India Rs. 2,000.
- Rs. 5,000 were earned in Africa and received in India Rs. 2,000.
- Rs. 5,000 earned in India but received in Canada.
- Rs. 10,000 earned and received in Srilanka from a business controlled from India.
- House property income (computed) from Srilanka Rs. 2,000.
- Rs. 4,000 was past untaxed foreign income which was brought to India during the previous year.
- Profit earned from a business in Kanpur Rs. 10,000.

1. Explain the term 'assessee' of state the different classes of Assesseees.
2. What are different categories of assesseees according to residential status?
3. Explain the concept of income and give its features.

4. 5. Discuss various canons of taxation.
5. Write the difference between Capital receipt and revenue receipts.
6. Write the difference between Capital Expenditure and revenue Expenditure.
7. Explain any ten items exempted from Income tax?

Problems.

RESIDENTIAL STATUS OF INDIVIDUALS

(A) RESIDENT AND ORDINARILY RESIDENT

(1) Shri .Venkatesh who was born and brought up in India went to U.K for future studies on 1st February 2014 and came back to India on 1st October 2015 . ascertain his residential status for the previous year 2015-16.

(2) Rajan Indian citizen leaves India for first time in last 20 years on 25-11-2013. During the calendar 2014, he comes to India on 1st September and stay for a period of 20 days. During the calendar year 2015 he does not visit India at all but comes to India on January 15, 2016 and stays on. Determine his residential status for the assessment year 2016-17.

(B) RESIDENT BUT NOT ORDINARILY RESIDENT :

(3) Mr. ARUN is a Indian citizen. What is his resident status for the assessment year 2016-2017?

ARUN's stay in India as follows :

Previous year	presence in India
2015-2016	185 days
2014-2015	15 days
2013-2014	26 days

10 year prior to 2013-2014, he was in India for 20 days.

(4) Arun an Indian citizen, stayed in India for 182 days during the previous year 2015-2016. Determine Arun's residential status for the assessment year 2016-2017 on the assumption that during the financial years 2005-2006 to 2014-2015 he was present in India as follows:

2005-2006	66 days
2006-2007	180 days

2007-2008	20 days
2008-2009	50 days
2009-2010	50 days
2010-2011	59 days
2011-2012	180 days
2012-2013	50 days
2013-2014	58 days
2014-2015	59 days

(C) NON RESIDENT

(5) Gowtham a German isappointed as ascientist in India on 15.4.12.on march 31,2013 he went to America on deputation and left his wife and children in India. He returned to India and joined his original job on 6thFebruary , 2016.determine his residential status in India for the AY: 2016-17.

(6) Mr.James a foreign national came to India for the first on June 15 2010.during the financial years 2010-11,,2011-12,2012—13,2013-14, 2014-15 and 2015-16, he stayed in India for 50 days 183 days ,115 days 25 days,190 days and 58 days respectively . Ascertain his residential status for the assessment year 2016-17.

(E)Indians working abroad or persons of Indian origin visiting India in the previous year:

(7) Mr Rajesh an Indian citizen employed in UK came to India for a visit in 2013 on 4th august and left again on 4th January 2014. He was again form 31stdec 2015 till 4th April 2016.You are required to determine his residential status for previous year 2015-16.

(II) Incidence of tax

(8) Following are the details of income of Murugan for the previous year 2015-16.

(i) Salary received in India for service rendered in Australia.	400000
(ii) house property income received in India from a property situated in Singapore.(computed)	200000
(iii)Salary received in US for service rendered in India.	500000
(iv)rent of a house property situated in Mumbai received in Australia.(computed)	600000
(v) Income from a business in UK controlled from India.	1000000
(vi)Income from a business in Chennai controlled from Japan.	1200000
(vii)Dividends from a business UTI received in India.	300000

(viii) Rent from property in France received there but subsequently remitted to India (computed)	50000
(ix) Profit from a business received in South Africa controlled from there.	100000
(x) Profit from the year 2010-2011 of a business in Indonesia remitted to India during the previous year 2015-2016.	10000

Compute the total income of murugan for the assessment year 2016-2017 if he is : (i) resident and ordinarily resident in India. (ii) resident but not ordinarily resident in India. (iii) non- resident.

(9) Following are the income of Shri Kishore for the previous year 2015-16:

i) Profit from business in Australia received in India Rs.15000. profit received from business in Chennai Rs.10000

ii). Income from house property in UK received in India 10000. interest of Indian Government securities received in India Rs 100000.

iii) Income from house property in US deposited in a bank there Rs 100000

iv) Profit earned and received from business in Mumbai rs 50000

v) Profit accrued/earned in India received in Singapore rs 40000

vi) Income from agriculture in USA rs 70000 entire amount spent for daughter's education.

vii). Interest on foreign government securities received in UK and deposited there Rs 30000

viii). Profit of a business established in Hongkong deposited in a bank there rs 200000 the business controlled from India.

ix) Profits of a business established in Germany and received in Germany from a business controlled in Germany rs 400000

x) Past untaxed foreign income brought into India during the previous year 60000

From the above particular ascertain the taxable income of shri Kishore for the previous year 2015-16, if he is (i) a resident (ii) a not ordinarily resident and (iii) a non-resident.

(10) The following are the details of income of Mrs. Selvi for the previous year 2015-16

(a) Profit from business in US received in India Rs 50000

(b) Salary earned in UK received in India Rs 100000

(c) Salary earned in India and received in UK RS 50000

- (d) House property situated in India and income received in UK rs 60000
- (e) Business controlled from India and income received in India Rs 100000
- (f) Profit from business established in Japan Rs 150000 deposited in a bank in Japan. The business is controlled from India.
- (g) Consultancy income received in US from profession set up there controlled from India Rs.50000
- (h) Profits from business in UK received in US and the business controlled from there rs 25000
- (i) Salary income received and earned in Singapore rs 50000
- (k) Dividend income on investment in Foreign companies received in US and deposited there rs 50000
- (l) Past untaxed foreign income brought into India during the previous year rs 50000

11. From the above details ascertain income of selvi for the previous year 2015-16

If she is (i) a resident (ii) a not ordinarily resident (iii) a non –resident .

1. salary received in India	200000
2. commission received in India for service rendered in Hongkong	400000
3.pension received in Indonesia rendered in India	150000
4.house property income received in UK for the house situated in India	125000
5.business income from manufacturing unit set up in India	20000
6.business income received in Singapore from a business controlled from India	40000
7. consultation fee received in Thaliland from a profession controlled from India	60000
	50000
8. Income earned in US from a business setup in US and controlled from there.	40000
9.profession income received in Austria from profession set up in Austria	20000
10. pension received and earned in Japan	50000
11.interest on securities ok UK government received in UK	
12.income of the year 2008 received in west Indies and brought to India on 30-8-2014	60000
13.salary earned and kept In Iran during the year 2012-13 and brought to India during 2015-16	450000

12. Ascertain the total income of Ganesan if he is

- (j) Resident and ordinarily resident
- (b)resident but not ordinarily resident
- (c) non –resident .

For the accounting year ended 31 march 2016 Mr. Shashikant furnishes the following particulars of his income

(a) salary received in India	60000
(b) profit from business in Germany but received in India	15000
(c) income from house property in Pakistan deposited into a bank there	12000
(d) profit from business established in Bangladesh but business is controlled from India	46000
(e) income accrued in India but received in Sweden	25000
(f) in this accounting year Mr. Shashikanth has brought into India foreign income of early year	42700
(g) profit from the sale of plant at Mumbai (50% received in Bangkok)	160000
(h) interest on Japan development bonds (60% received in India)	100000

Compute his total income if (i) he is resident (ii) he is not ordinarily resident or (iii) he is non resident.

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SCHOOL OF MANAGEMENT STUDIES

UNIT II - INCOME TAX LAW AND PRACTICE-SBAA1404

UNIT-II

INCOME FROM SALARIES

Introduction

Heads of Income- Salaries- allowances- perquisites and other valuations- deductions from salary- other related provisions- gratuity- pension- commutation of pension- provident fund- rebate.

Computation of total income

For the computation of total income to assess income tax, all income have been classified under the following five heads of income.

1. Salaries (Section- 15 -17)
2. Income from house property(Section- 22 -27)
3. Profits and Gains of Business or Profession(Section- 28 -44)
4. Capital Gains(Section- 45 -55)
5. Income from Other sources. (Section- 56 -59)

In this chapter Discussion is done on salaries the others in details in forthcoming chapters.

1. Salary (Section 15 – 17)

Salary is the remuneration received by or accruing to an individual, periodically, for service rendered as a result of an express or implied contract. It is otherwise expressed as ‘any remuneration received by an employee in consideration of service rendered to his employer is called Salary. The actual receipt of salary in the previous year is not material as far as its taxability is concerned. According to Income Tax Act there are certain conditions where all such remuneration is chargeable to income tax:

1. When due from the former employer or present employer in the previous year, whether paid or not
2. When paid or allowed in the previous year, by or on behalf of a former employer or present employer, though not due or before it becomes due.
3. When arrears of salary is paid in the previous year by or on behalf of a former

employer or present employer, if not charged to tax in the period to which it relates.

Section 17(1) of the Income tax Act gives an inclusive and not exhaustive definition of “Salaries”,

which includes:

- (i) Wages
- (ii) Annuity or pension
- (iii) Gratuity
- (iv) Fees, Commission, allowances perquisites or profits in lieu of salary
- (v) Advance of Salary
- (vi) Amount transferred from unrecognized provident fund to recognized provident fund
- (vii) Contribution of employer to a Recognized Provident Fund in excess of the prescribed limit
- (viii) Leave Encashment
- (ix) Remuneration for additional duties.

1.1 Arrears of Salary

Salary in arrears / advance, received in lump sum, is liable to tax in the year of receipt. Relief can be obtained for salary arrears u/s 89(1) of the Income Tax Act.

2. Pension

Pension is a payment made by the employer after the retirement or death of employee as a reward for past service. It is normally paid as a periodical payment on monthly basis but certain employers may allow an employee to forgo a portion of pension in lieu of lump sum amount. This is known as commutation of pension.

The treatment of these two kinds of pension is as under:

Periodical pension (or uncommuted pension): It is fully taxable in the hands of all employee, whereas government or non-government.

Commutated pension

For employees of government organizations, local authorities and statutory corporations, it is fully exempted from tax, hence not included in gross salary.

For other employees, commuted value of half of the total value of pension is exempted from tax. Any amount received over and above this amount is taxable, so included in gross salary.

If, however, the employee is also receiving gratuity (another retirement benefit) along with pension, then one third of the total value of pension is exempted from tax. Amount received in excess of this is taxable, so included in gross salary.

Pension received by employee is taxable under the head “Salaries”. However, family pension received by legal heirs after death of employee is taxable under ‘Income from other sources’ For Central Government Employees joined on or after 1-1-2004, 10% of Salary is compulsory deducted towards Pension with a matching contribution from the Govt. and is Non-Taxable u/s

80CCD. Only Terminal Benefit is charged to tax.

3. Gratuity

Gratuity is the payment made by the employer to an employee in appreciation of past services rendered by the employee. It is received by the employee on his retirement. Gratuity is exempted up to certain limit depending upon the category of employee. For the purpose of exemption, employees are divided into 3 categories:

(i) Government employees and employees of local authority:

In case of such employees, the entire amount of gratuity received by them is exempted from tax. Nothing will be added to gross salary.

(ii) Employees covered under Payment of Gratuity Act, 1972

In case of employees who are covered under Payment of Gratuity Act, the minimum of the following amounts are exempted from tax:

1.) Amount of gratuity actually received.

2.) 15 days of salary for every completed years of service or part thereof in excess of six months. (15

/ 26 x [basic salary + Dearness Allowance] x No. of years of service+1 [if fraction > 6 months]). 3.) Rs.10, 00,000 (amount specified by government).

(iii) Other employees.

In case of employees not falling in the above two categories, gratuity received from the employers is exempt to the extent of minimum of following amounts:

1. Actual amount of gratuity received.

2. Half month average salary for every completed year of service ($\frac{1}{2}$ x average salary of last 10 months x

completed years of service).

3. Rs. 10, 00,000 (amount specified by government).

Salary = 10 months average salary preceeding the month of retirement. = Basic Pay + Dearness Allowance considered for retirement benefits + commission (if received as a fixed percentage on turnover).

4. Leave Salary

Employees are entitled to various types of leave. The leave generally can be taken (casual leave/medical leave) or it lapses. Earned leave is a kind of leave which an employee is said to have earned every year after working for some time. This leave can either be availed every year, or get encashment for it. If leave is not availed or encashed, it is allowed to be carried forward. This leave keeps getting accumulated and is encashed by employee on his retirement.

The tax treatment of leave encashment is as under:

(i)**Encashment of leave while in service.** This is fully taxable and so is added to gross salary. (ii)**Encashment of leave on retirement.** For the purpose of exemption of accumulated leave encashment, the employees are divided into two categories. They are Govt employees and Other

employees.

- State or Central Government employees:

Leave encashment received by government employees is fully exempted from tax.

Nothing is to be included in gross salary

- Other employees:

Leave encashment of accumulated leave at the time of retirement received by other employees is exempted to the extent of minimum of following four amounts:

1. Amount specified by Central Government (3,00,000).
2. Leave encashment actually received.
3. 10 months average salary (10 x average salary of 10 months preceeding retirement).
4. Cash equivalent of unavailed leave.

(Leave entitlement is calculated on the basis of maximum 30 days leave every year, cash

equivalent is based on average salary of last 10 months).

Salary = Basic Pay + Dearness Allowance (forming a part of salary for retirement benefits) + Commission (if received as a fixed percentage on turnover).

5. Retrenchment Compensation 10(10B)

Retrenchment compensation is the compensation is received by a workman at the time of (i) closing down of the undertaking.(ii) transfer (irrespective of by agreement/compulsory acquisition) if the following conditions are satisfied:

1. Service of workmen interrupted by transfer
2. Terms and conditions of employment after transfer are less favourable
3. New employer is not under a legal obligation whether under the terms of transfer or otherwise to pay compensation on the basis that the employee's service has been continuous and has not been interrupted by transfer. The exemption is granted to the least of the followings:

- (i) Actual amount received
- (ii) Amount determined under the Industrial Disputes Act, 1947 (iii) Maximum Limit Rs 5,00,000

6. Voluntary Retirement Compensation 10(10c)

The following Conditions are to be met for claiming exemption:

- (i) An individual, who has retired under the Voluntary Retirement scheme, should not be employed in another company of the same management.
- (ii) He should not have received any other Voluntary Retirement Compensation before from any other employer and claimed exemption.
- (iii) Exemption u/s 10(10C) in respect of Compensation under VRS can be availed by an Individual only once in his lifetime.

Exemption is allowed to the least of the followings: (i) Actual amount received

(ii) Maximum Limit Rs 5,00,000 (iii) The highest of the following:

1. Last drawn salary \times 3 \times No. of fully completed years of service
2. Last drawn salary \times Balance of no. of months of service left.

7. Taxable Value of Allowances

Allowance is a fixed monetary amount paid by the employer to the employee (over and above basic salary) for meeting certain expenses, whether personal or for the performance of his duties. These allowances are generally taxable and are to be included in gross salary unless specific exemption is provided in respect of such allowance. For the purpose of tax treatment, we divide these allowances into 3 categories:

I. Fully taxable cash allowances

II. Partially exempt cash allowances III. Fully exempt cash allowances.

Fully Taxable Allowances

Dearness Allowance and

Dearness Pay City

Compensatory Allowance

Tiffin / Lunch Allowance Non practicing Allowance Warden or Proctor Allowance

Deputation Allowance Overtime Allowance

Fixed Medical Allowance

Entertainment allowance received by non- Govt employee is fully taxable.

Partly Exempted Allowances

House Rent Allowance or H.R.A. [Sec. 10(13A) Rule 2A] Conditions for claiming exemption: 1. Assessee is in receipt of HRA.

2. He has to pay rent.

3. Rent paid is more than 10% of salary.

An allowance granted to a person by his employer to meet expenditure incurred on payment of rent in respect of residential accommodation occupied by him is exempt from tax to the extent of least of the following three amounts:

a) House Rent Allowance actually received by the assessee

b) Excess of rent paid by the assessee over 10% of salary due to him

c) An amount equal to 50% of salary due to assessee (If accommodation is situated in Mumbai, Kolkata, Delhi, Chennai) 'Or' an amount equal to 40% of salary (if accommodation is situated in any other place).

Salary for this purpose includes Basic Salary, Dearness Allowance (if it forms part of salary for the purpose of retirement benefits), Commission based on fixed percentage of turnover achieved by the employee.

In case an employee is living in his own house and is receiving H.R.A or is living in a house for which he is not paying rent, full amount of HRA is taxable.

Special Allowances for meeting official expenditure

Certain allowances are given to the employees to meet expenses incurred exclusively in performance of official duties and hence are exempt to the extent actually incurred for the purpose for which it is given. These include travelling allowance, daily allowance, conveyance allowance, helper allowance, research allowance and uniform allowance.

Special Allowances to meet personal expenses:

There are certain allowances given to the employees for specific personal purposes and the amount of exemption is fixed.

i. **Children Education Allowance:** This allowance is exempt to the extent of Rs.100 per month per child for maximum of 2 children (grand children are not considered).

ii. **Children Hostel Allowance:** Any allowance granted to an employee to meet the hostel expenditure on his child is exempt to the extent of Rs.300 per month per child for maximum of 2 children.

iii. **Transport Allowance:** This allowance is generally given to government employees to compensate the cost incurred in commuting between place of residence and place of work. An amount upto Rs.1,600 per month paid is exempt. However, in case of blind and orthopedically handicapped persons, it is exempt up to Rs. 3,200 p.m.

iv. **High altitude allowance:** Rs. Rs1,060 in case of altitude of 9000 to 15,000ft and Rs.1,600 in case of above 15000 ft.

v.) **Tribal area allowance:** Exemption is available as Rs: 200 p.m.

vi) **Under ground allowance :** Exempted up to Rs:800 p.m

vii) Entertainment Allowance

This allowance is first included in gross salary under allowances and then deduction is given to only central and state government employees under Section 16 (ii).

(i) In case of Govt employee least of the following

(a)Rs.5,000

(b) 20% of the basic salary

(c) amount what collected in the previous year.

(ii) In case of non-Govt employee is not deductible

viii) **Special compensatory allowance(hill area)..** Rs 300p.m to Rs.7,000p.m

- ix)** Boarder area allowance: Rs. 200 to Rs.1,300
- x)** Compensatory field area allowance: Rs2,600 p.m
- xi)** Compensatory modified area allowance: Rs.1,000 p.m
- xii)** Counter insurgency allowance: Rs. 3,900p.m
- xiii)** High active field area allowance Rs.4200
- xiv)** Island duty allowance: Rs.3,250 p.m

7. 3 Fully Exempt Allowances

(i)Foreign allowance: This allowance is usually paid by the government to its employees being Indian citizen posted out of India for rendering services abroad. It is fully exempt from tax. (ii)Allowance to High Court and Supreme Court Judges of whatever nature are exempt from tax. (iii) Allowances from UNO organization to its employees are fully exempt from tax.

8. Perquisites

Perquisites are defined as any casual emolument or benefit attached to an office or position in addition to salary or wages. . Perquisites are taxable and included in gross salary only if they are

- (i) allowed by an employer to an employee, (ii) Allowed during the continuation of employment,
- (iii) directly dependent on service, (iv) resulting in the nature of personal advantage to the employee and (v) derived by virtue of employer's authority.

As per Section 17 (2) of the Act, perquisites include:

1. Value of rent free accommodation provided to the employee by the employer.
2. Value of concession in the matter of rent in respect of accommodation provided to the employee by his employer.
3. Value of any benefit or amenity granted free of cost or at a concessional rate in any of the following cases:
 - a) by a company to an employee who is a director thereof
 - b) by a company to an employee who has substantial interest in the company
 - c) by any employer to an employee who is neither a director, nor has substantial interest in the company, but his monetary emoluments under the head 'Salaries' exceeds Rs.50,000.
4. Any sum paid by the employer towards any obligation of the employee.

5. Any sum payable by employer to effect an assurance on the life of assessee.
6. The value of any other fringe benefit given to the employee as may be prescribed

Classification of Perquisites

For tax purposes, perquisites specified under Section 17 (2) of the Act may be classified as follows:

- (1) Perquisites that are taxable in case of every employee, whether specified or not
- (2) Perquisites that is taxable in case of specified employees only.
- (3) Perquisites that is exempt from

tax for all employees

Perquisites Taxable in case of all Employees

The following perquisites are taxable in case of every employee, whether specified or not:

1. Rent free house provided by employer
2. House provided at concessional rate
3. Any obligation of employee discharged by employer e.g. payment of club or hotel bills of employee, salary to domestic servants engaged by employee, payment of school fees of employees' children etc.
4. Any sum paid by employer in respect of insurance premium on the life of employee
5. Notified fringe benefits (on which fringe benefit tax is not applicable) – it includes interest free or concessional loans to employees, use of movable assets, transfer of moveable assets.

Perquisites taxable in case of Specified Employees only

Specified Employee:

An Individual will be considered as a Specified Employee if:

- He is a director of a company, or
- He holds 20% or more of equity voting power in the company,
- Monetary salary in excess of 50,000: His income under the head salaries, (from any employer including a company) excluding non-monetary payments exceeds 50,000. For the above purpose, salary, should be arrived at after making the following deductions:

(a) Entertainment Allowance

(b) Professional Tax.

The following perquisites are taxable in case of such employees:

1. Free supply of gas, electricity or water supply for household consumption
2. Free or concessional educational facilities to the members of employees household
3. Free or concessional transport facilities
4. Sweeper, watchman, gardener and personal attendant
5. Any other benefit or amenity

Perquisites which are tax free for all the employees

This category includes perquisites which are tax free for the employees and also other perquisites on which employer has to pay a tax (called Fringe Benefit Tax) if they are given to the employees and so are not taxable for them.

The following perquisites are exempt from tax in all cases and hence not includible for the purpose of tax deduction at source under section 192 during the financial year 2008-09:

1. Provision for medical facilities subject to limit
2. Tea or snacks provided during working hours
3. Free meals provided during working hours in a remote area or an offshore installation
4. Perquisites allowed outside India by the Government to a citizen of India for rendering service outside India.
5. Sum payable by an employer through a recognized provident fund or an approved superannuation or deposit-linked insurance fund established under the Coal Mines Provident Fund or the Employees Provident Fund.
6. Employer's contribution to staff group insurance scheme.
7. Free telephone including mobile for official purpose.
8. Payment of annual premium by employer on personal accident policy effected by him on his employee
9. Free educational facility provided in an institute owned/maintained by employer to children of employee provided cost/value does not exceed ` 1,000 per month per child (no limit on no. of children)
10. Interest-free/concessional loan of an amount not exceeding 20,000
11. Computer/laptop given (not transferred) to an employee for official/personal use.
12. Transfer without consideration to an employee of a movable asset (other than computer, electronic items or car) by the employer after using it for a period of 10 years or more.
13. Traveling facility to employees of railways or airlines.
14. Rent-free furnished residence (including maintenance thereof) provided to an Official of Parliament, a Union Minister or a Leader of Opposition in Parliament.
15. Conveyance facility provided to High Court Judges u/s 22B of the High Court Judges (Conditions of Service) Act, 1954 and Supreme Court Judges u/s 23A of the Supreme Court Judges (Conditions of Service) Act, 1958.

16. Conveyance facility provided to an employee to cover the journey between office and residence.
17. Accommodation provided in a remote area to an employee working at a mining site or an onshore oil exploration site, or a project execution site or an accommodation provided in an offshore site of similar nature.
18. Accommodation provided on transfer of an employee in a hotel for not exceeding 15 days in aggregate.
19. Interest free loan for medical treatment of the nature given in Rule 3A.
20. Periodicals and journals required for discharge of work.
21. Tax on perquisite paid by employer [Sec.10 (10CC)]
22. Other Exempted Payments:
 - i. Bonus paid to a football player after the World Cup victory to mark an exceptional event ii. Payment made as a gift in appreciation of the personal qualities of the employee.
 - iii. Payment of proceeds of a benefit cricket match to a great cricket player after he retired from test match.
 - iv. Trust for the benefit of employee's children

Valuation of Perquisites

Valuation of rent free accommodation

For the purpose of valuation of house, employees are divided into 2 categories:

a) Central and State Government employees: If accommodation is provided by the State or Central Government to their employees, the value of such accommodation is simply the amount fixed by the government (called the licence fees) in this regard.

Value of rent free accommodation:

The taxable value of the above perquisites is equal to the licence fees which would have been determined by Central.Govt or State .Govt.

In case of the furnished house:

The above mentioned value will be added with 10% p.a

b) : Other Employees: The valuation of accommodation for this category of non government employees depends upon whether the accommodation given to the employee is owned by the employer or taken on lease.

1. In cities having population exceeding 25 lakhs as per 2001 census

(a) Accommodation owned by employer

: 15% of Salary Less Rent actually paid by employee

(b) Accommodation not owned by employer

Amount of lease rent paid or payable or 15% of salary whichever is lower

2. In cities having population exceeding 10 lakhs but not exceeding 25 lakhs as per 2001 census

(a) Accommodation owned by employer

: 10% of Salary Less Rent actually paid by employee

(b) Accommodation not owned by employer

Amount of lease rent paid or payable or 15% of salary whichever is lower
In other places:

(a) Accommodation owned by employer

7.5% of Salary Less Rent actually paid by employee

(b) Accommodation not owned by employer

Amount of lease rent paid or payable or 15% of salary whichever is lower

2. Accommodation is taken on lease / rent by the employer

Rent paid by the employer or 15% of Salary whichever is lower Less Rent recovered from employee

3. Accommodation in a hotel

24% of salary paid/payable or actual charges paid/payable whichever is lower Less Amount paid or payable by the employee

4. Valuation of accommodation in case of Employees on transfer:

(a) For the first 90 days of transfer: Where accommodation is provided both at existing place of work and in new place, the accommodation, which has lower value, shall be taxable.

(b) After 90 days : Both accommodations shall be taxable.

Valuation of furnished accommodation where the accommodation is furnished, 10% per annum of the original cost of furniture given to the employee shall be added to the value of unfurnished accommodation. If the furniture is taken on rent by employer, then actual hire charges are to be added to the value.

5. Valuation of accommodation provided at concessional rate:

The amount of concession is to be included in salary of the employee.

6. Obligation of the employee met by the employer:

Any monetary obligation of the employee is discharged by the employer is considered as perquisites and it is taxable in the hands of employee expenditure like salary paid to domestic servant, children's education expenses, income tax, bills of supply of electricity, gas or water, car and other conveyance expenses, club bills etc.

7. Sweeper, gardener or watchman provided by the employer

The value of benefit of provision of services of sweeper, watchman, gardener or personal attendant to the employee or any member of his household shall be the actual cost to the employer. The actual cost in such a case is the total amount of salary paid or payable by the employer or any other person on his behalf for such services as reduced by any amount paid by the employee for such services. If the above servants are engaged by the employer and facilities of such servants are provided to the employees, it will be a perquisite for specified employees only. On the other hand, if these servants are employed by the employee and wages of such servants are paid / reimbursed by the employer, it will be taxable perquisite for all classes of employees.

8. Free Supply of Gas, Electricity or Water

The value of these benefits is taxable in the hands of specified employees, if the connection is taken in the name of the employer, and is determined according to the following rules:

- a) If the employer provides the supply of gas, electricity, and water from its own sources, the manufacturing cost per unit incurred by the employer shall be the value of perquisite.
- b) If the supply is from any other outside agency, the value of perquisite shall be the amount paid by the employer to the agency supplying these facilities.
- c) Where the employee is paying any amount in respect of such services, the amount so paid shall be deducted from the value of perquisite calculated under (a) or (b).
- d) Where the connection for gas, electricity, water supply is in the name of employee and the bills are paid or reimbursed by the employer, it is an obligation of the employee discharged by the employer. Such payment is taxable in case of all employees under Section 17 (2) (iv).

9. Free Education

- a) Cost of free education to any member of employees' family provided in an educational

institution owned and maintained by the employer shall be determined with reference to reasonable cost of such education in a similar institution in a nearby locality. For education facilities provided to the children of employee (excluding any other member of house hold), the value shall be nil, if the cost of such education per child does not exceed Rs.1, 000 per month.

b) Where free education facilities are allowed to any member of employees' family in any other educational institution by reason of his being in employment of that employer, the value of perquisite shall be determined as in (a).

c) In any other case: The value of benefit of providing free or concessional educational facilities for any member of the house hold (including children) of the employee shall be the amount of expenditure incurred by the employer.

d) While calculating the amount of perquisite in all in above cases, any amount paid or recovered from the employee in this connection, shall be deducted

10. Free Transport

The value of any benefit provided by any undertaking engaged in the carriage of passengers or goods to any employee or to any member of his household for private journey free of cost or at concessional rate in any conveyance owned or leased by it shall be taken to be the value at which such benefit is offered by such undertaking to the public as reduced by the amount, if any, paid by or recovered from the employee for such benefit. In case of employees of the Railways and airlines, the value of transport facility shall be exempt.

11. Use of any movable asset other than computer or laptops or other assets already mentioned

10% of Actual Cost if owned by the employer; or Actual rental charge paid/payable by the employer less Amount recovered from employee.

12. Free meals during office hours

Actual cost to the employer in excess of Rs 50 per meal less: amount recovered from the employee. Tea or non-alcoholic beverages and snacks during working hours is not taxable.

13. Gifts

Value of any gift or voucher or taken other than gifts made in cash or convertible into money (e.g. gift cheques) on ceremonial occasion. In this case if the aggregate value of gift during the previous year is less than Rs 5,000, then it is not a taxable perquisite.

10. Taxability of Perquisites Provided By Employers

Taxability of Motor Car Benefits

Owner of Car	Expenses borne by	Purpose	Taxable Value of Perquisite
1(a) Employer	Employer	Fully official	Nil
1(b) Employer	Employer	Fully private	Total of: (i) Actual expenditure on car (ii) 10% of the cost of car (normal wear & tear) Less: Amount charged from employee
1(c)(i) Employer	Employer	Partly official and partly personal	Cubic Capacity of Car Engine up to 1.6 litres` Rs 1,800 p.m+ Rs 900 p.m. for Chauffeur Cubic Capacity of Car Engine above 1.6 litres Rs2,400 p.m. + Rs 900 p.m. for Chauffeur
1(c)(ii) Employer	Employee	Partly official and partly personal	Cubic Capacity of Car Engine up to 1.6 litres Rs 600 p.m + Rs 900 p.m. for chauffeur Cubic Capacity of Car Engine above 1.6 litres Rs900 p.m. + Rs 900 p.m. for chauffeur
2(i) Employee	Employer	Fully official	Nil
2(ii) Employee	Employer	Partly official and partly personal	Actual expenditure incurred. Less: Car cubic capacity up to 1.6 litres [i.e. value as per 1(c)(ii)] Or Car cubic capacity up to 1.6 litres above 1.6 litres [i.e. value as per 1(c)(i)] Less: Amount recovered from employee
3(i) Employee Owns other auto motive but not car	Employer	Fully official	Not a perquisite
3(i) Employee Owns other auto motive but not car	Employer	Partly for official use	Actual expenditure incurred by employer. Less: Rs 900 p.m

11. Leave Travel Concession (LTC)

Leave Travel Concession is a non-taxable perquisite available for salaried class. An Employee with his dependent family members can avail of this facility to travel anywhere in India / native place. Exemption is limited to the amount actually spent. The amount exempt is

the value of any travel concession or assistance received or due to the assessee.

1. **Journey by Air:** Economy Class Airfare of India Airlines by the shortest route or the actual amount spent, whichever is lower.

2. **Journey by Rail:** A/C 1st Class rail fare by the shortest route or actual amount spent, whichever is lower.

3. Where the place of destination is connected by Rail: Air-conditioned first class Rail fare by the shortest route or the actual amount spent for the journey performed by road whichever is lower.

4. Where the place of destination is NOT connected by Rail :

1. *If Recognized public transport exists:* First Class or Deluxe Class fare by the shortest route or the actual amount spent whichever is lower.

2. *If No recognized public transport exists:* Air-conditioned first Class Rail fare by the shortest route or the actual amount spent whichever is lower.

These exemptions is available only for 2 journeys performed in a block of 4 calendar years.

Family of an Individual means:

- Spouse and children of the individual, and
- Parents, brothers and sisters of the individual or any of them, wholly or mainly dependent on the Individual

12. Definition of salary for rent free accommodation:

Basic Salary + Taxable cash allowances + Bonus or Commission + any other monetary payment. (It does not include dearness allowance if it is not forming part of basic salary for retirement benefit, allowances which are exempt from tax, value of perquisites specified under Section 17(2), employer's contribution to provident fund account of employees).

13. Profit in lieu of salary

Profit in lieu of salary means any amount received by the employee from the employer due to its employee employer relationship other than normal compensation what he receive from employer.

☐ ☐ The amount of any compensation due to or received by an assessee from his employer or former employer at or in connection with the termination of his employment or modification of his term of employment

☐ ☐ Any payment from Unrecognized Provident Fund(URPF) or such other fund to the extent

to which it does not consist of contribution by the assessee or interest on such contribution.

☐ ☐ Any sum received under a keyman insurance policy including the sum allocated by way of bonus on such policy.

☐ ☐ Any other amount from employer except the following:

- o Gratuity exempted u/s 10(10)
- o House rent allowance
- o Retrenchment compensation o Superannuation fund
- o Statutory provident fund or public provident fund
- o Recognized provident fund, if does not include contribution of assessee and interest thereon
- o Keyman insurance policy and bonus
- o Any amount received prior to employment or after the cession of employment o Any received from ex-employer

14. Provident Fund

Provident Fund Scheme is a welfare scheme for the benefit of employees. Under this scheme, certain amount is deducted by the employer from the employee's salary as his contribution to Provident Fund every month. The employer also contributes certain percentage of the salary of the employee to the Fund. The contributions are invested outside in securities. The interest earned on it is also credited to the Provident Fund Account. At the time of retirement, the accumulated balance is given to the employee.

(i) Statutory Provident Fund

This is set up under the provisions of Provident Fund Act, 1925. Contribution is made by Employer and Employee.

Assessee's Contribution: will get Deduction u/s 80C

Employer's Contribution- Not taxable

Interest credited- Fully exempted

Withdrawal at the time of retirement/resignation/termination, etc- Exempted u/s 10(11)

(ii) Recognized Provident Fund

This is set up under the Employee's Provident Fund and Miscellaneous Provisions Act, 1952 (PF Act, 1952) and is maintained by private sector employees.

Assessee's Contribution- will get Deduction u/s 80C

Employer's Contribution-Amount exceeding 12% of salary is taxable

Interest credited-Exempted up to 9.5% p.a. Any excess is taxable.

Withdrawal at the time of retirement/ resignation/termination, etc-Exempted u/s 10(12) Subject to conditions.

(iii) Unrecognized Provident Fund

If a provident fund is not recognized by the Commissioner of Income Tax, it is known as unrecognized PF. Assessee's Contribution: will not get Deduction u/s 80C. No Income Tax Benefit Employer's Contribution- Not taxable at the time of contribution Interest credited- On Employee's contribution taxable under the head "Other Sources" and, on Employer's contribution not taxable at the time of credit. Withdrawal at the time of retirement /resignation /termination, etc- Employee's contribution thereon is not taxable. Interest on employees share is taxable under the head income from other sources.

Employer's contribution and interest thereon is taxable as Profits in lieu of Salary, under "Salaries"

iv) Public Provident Fund

The Central Government has established the Public Provident Fund for the benefits of general public to mobilize personal savings. Any member of general public (whether salaried or self employed) can participate in this fund by opening a Provident Fund Account at the State Bank of India or its subsidiaries or other nationalized banks.

A salaried employee can simultaneously become member of employees provident fund (whether statutory, recognized or unrecognized) and public provident fund. Any amount may be deposited (subject to minimum of Rs.500 and maximum of Rs.70, 000 per annum) under this account. The accumulated sum is repayable after 15 years.

Assessee's Contribution: will get Deduction u/s 80C

Interest credited- Fully exempted

Withdrawal at the time of retirement/resignation/termination, etc-Exempted u/s 10(11)

15. Deductions:

The income chargeable under the head salaries is computed after making the following deductions under Section 16:

1. Entertainment Allowance [section 16(ii)] of the Act as given earlier, entertainment

allowance received from employer is first included in gross salary and thereafter, a deduction is allowed to government employees (State or Central Government) to the extent of least of following 3 amounts:

(i)Rs.5000

(ii) 20% of basic salary

(iii) Amount of Entertainment Allowance actually received during the year.

2. Professional Tax [Section 16(iii)] of the Act.

Professional tax or tax on employment levied by a State under Article 276 of the Constitution is allowed as a deduction only in the year when it is actually paid. If the professional tax is paid by the employer on behalf of the employee, it is first included in gross salary as a perquisite (since it is an obligation of employee fulfilled by employer) and then the same amount is allowed as deduction on account of professional tax from gross salary.

If not claiming HRA Interest on housing loan can be deducted

16. Deduction under section 80. C

Maximum limit RS1,50,000

1. Lic premium
2. Payment to non- commuted deferred annuity
3. Contribution to provident funds
4. Subscription to NSC
5. Contribution to ULIP- of UTI and LIC
6. Subscription to Mutual fund units
7. Contribution to pension funds
8. Repayment on Principles of housing loan
9. Tution fees
10. Investments in equity and debentures of public limited company.
11. Bonds of NABARD.
12. Post office deposits.

Heads of Income- Salaries- allowances- perquisites and other valuations- deductions from salary- other related provisions- gratuity- pension- commutation of pension- providend fund- rebate.

QUESTIONS

Part- A

1. Define salaries under the income tax act.
2. Write short note on 'perquisites'.
3. What is profit in lieu of salary?
4. From the following details calculate taxable house rent allowance of Mr. Kannan who is working and living in chennai.

Rs.

Basic Salary	78, 000
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Dearness allowance

(Service benefit)	7, 800
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H.R.A.	11, 700
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Rent paid per annum	13, 200
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5. What is meant by pension?
6. Explain the term Gratuity..
7. Mr. Z who lives in Coimbatore with his family in his own house is employed in a Pvt company. He gets a basic salary of Rs. 2000 p.m and D.A of Rs. 500 p.m (30% is not considered for retirement benefits) CCA Rs.200 p.m HRA Rs. 4500 p.m. From 1.12.2015 he lives in a rented house paying a rent of Rs. 5000 p.m
8. Sri varadhan an employee of TVSLtd draws Rs80,000 as basic payRs. 30,000 asD.A (half of which forms part of salary) and Rs.7,000 as bonus. Besides the company provides a rent free unfurnished house in pudukkottai(population of 8 lakhs) where he is presently posted. The house is owned by the company. Determine the taxable value of the perquisites if fair rent of the house is Rs. 20,000 p/a
9. Write about the deduction from gross salary.
10. Explain the types of Provident funds

Part- B

1. What are the various allowances generally paid to employees?

2. What are the perquisites taxable in the hands of all employees?
3. Form the particulars given below compute his salary income:
 - i. Basic Salary Rs. 13,000 p.m.
 - ii. Dearness Allowance Rs. 900 p.m. (Rs. 500 p.m. enters into pay for service benefits).
 - iii. Bonus Rs. 8,400.
 - iv. Salary in lieu of leave Rs. 3,000.
 - v. Entertainment allowance Rs. 1,500 p.m.
 - vi. Reimbursement of Conveyance expenditure incurred in performance of duties Rs. 200 p.m.
 - vii. Furnished House at Concessional rent of Rs. 800 p.m. in Chennai [population above 25 lakhs] Fair Rental Value Rs. 2,500 p.m. Cost of furniture Rs. 35,000. Salary of gardener Rs. 1,000 p.a.
 - viii. Club bill paid by employer Rs. 2,200 p.a.
 - ix. Contribution by employer to R.P.F. – 13%(each) of salary.
 - x. Reimbursement of Medical Exp. Rs. 2,000.
 - xi. Life Insurance Premium (Paid by employee) Own life = 3,000 p.a.
 - Wife's life = 4,000 p.a.
 - Major son = 2,000 p.a.
 - xii. ELSS deposit Rs. 2,400.
 - xiii. Contribution to public P.F. Rs. 2,000 p.a.
4. The Following are the particulars of the income of Shri. Arvind for the previous year ending on 31st March
 - i. Salary Rs. 12,000 p.m.
 - ii. Contribution to recognized P.F. Rs. 1,610 per month.
 - iii. Employer contributes the same amount as the employee contributes towards P.F.
 - iv. Dearness Allowance : Rs. 300 p.m. It is not considered for computation of his retirement benefits.
 - v. Interest credited to P.F.@13% is Rs. 13,000.
 - vi. Contribution to Public Provident Fund is Rs. 9,000.
 - vii. Bonus Rs. 3,000.

- viii. His ration bill of Rs. 2,000 p.m. is paid by employer.
- ix. Premium of life Policy is Rs. 12,000 on a Policy of Rs. 1,00,000.
- x. Deposited Rs. 4,800 in Equity Linked Saving Scheme (ELSS).
- xi. Repayment of house building loan taken from HDFC (a Govt. agency) Rs. 20,500 during the year.

Find out taxable income of Shri Arvind for the assessment year 2016 – 2017

5. Compute the taxable portion of allowance from the information furnished below of Mr. Hari Haran

	Rs.
(a) Travelling allowance(Expenditure Rs 750 p.m)	1,500 p.m
(b) Helper allowance(Expenditure Rs.1350 p.m)	1,200 p.m
(c) Tribal allowance	2,400 p.m
(d) Education allowance (3 Children)	900 p.m
(e) Hostel(per child)	2,500 p.m
(Actual Exp Rs. 2.500 p.m per child)	
(f) Transport allowance(Exp Rs.15,000 p.m)	19,000 p.m
(g) Conveyance allowance(50% personal)	1,500 p.m
(h) Dog allowance	1,000 p.m

6. Discuss the deduction allowable under the head “Salaries”.
7. Mr. Varun furnished the following particulars of his income for the financial year 2015- 16:
8. Compute Gross salary of Mr.X for the assessment Year 2018-19

Salary	15000 p.m.
D A	1250 p.m.
Entertainment Allowance	1000 p.m.
Employer’s and employee’s contribution to RPF	24000 each
Interest from PF @ 9.5% p.a.	19000
City compensatory allowances	200 p.m.
Medical allowances	10000

He has been provided with the facility of unfurnished house by the employer in a town (population less than 10 lakhs) for which the employer charge Rs:500 per month. The fair rent of the house is Rs: 30,000 p.a. The house is owned by the employer.

The employer has employed for him a sweeper @ Rs:200 p.m. and a servant a2 Rs:750 p.m.

Compute taxable income under the head 'salary' for the AY 2016-17

9. Mr. Akhildas is employed as an engineer in Indian railways. He is getting Rs:7,000 p.m. as basic pay; Rs:2,500 p.m. as D.A.and Rs:2,500 p.m. as dearness pay. During the year 2012-13, he received the following allowances also: Rs: 16,500 as running allowance p.m.Rs; 200 p.m. per child as educational allowance for his 2 children One of his son is staying in a hostel on which Akhildas is spending Rs:800 p.m. He is getting Rs:500 p.m. for his as hostel allowance for meeting their expenditure.Rs: 250 p.m. as CCA.Rs:400 p.m. as uniform allowance , fully spent for employment purposes. Rs: 1250 p.m. as HRA. He pays Rs:1500 p.m. as rent to house owner. He contributes 10% of his basic pay and DA to SPF and the Indian railway contributes a similar amount. Compute his taxable salary for the AY 2016-17.

10. Explain any 10 exempted perquisites.

11. Explain the rules relating to House rent Allowance,

UNIT II

Part-A (2 Marks)

Q.No	Questions	CO	LEVEL
1.	Define the term 'Salary'.	CO1	L2
2.	What are the items included under the head salary U/s 17?	CO1	L3
3.	Write Short Note 'Perquisite'.	CO1	L2
4.	What are the tax free Perquisite?	CO1	L2
5.	What is profit in lieu of Salary?	CO1	L2

6.	Define 'Gratuity'.	CO1	L2
7.	Write short note 'Pension'.	CO1	L2
8.	What is commuted value of Pension?	CO1	L2
9.	Who are 'specified employees'?	CO1	L2
10.	Write short note 'Dearness Allowance'.	CO1	L2

Part-B

(10 Marks)

Q.No	Questions	CO	LEVEL
11.	Explain about types of allowance.	CO1	L5
12.	Explain about types of Perquisites	CO1	L5
13.	<p>X receives Salary of Rs 9,000 p.m and D.A of Rs 5,000 p.m. His employer a private company, declares 50% of DA to enter into pay for services benefits. Compute the total taxable allowance considering the following information.</p> <p>a) Lunch allowance Rs 100 p.m b) Family allowance Rs 300 p.m c) Deputation allowance Rs 40 p.m d) Medical allowance Rs 500 p.m e) Allowance for entertainment Rs 1000 p.m f) Wardenship allowance Rs 600 p.m g) Non Practising allowance Rs 880 p.m h) Additional D.A Rs 1,500 pm i) City compensatory allowance Rs 150 pm</p>	CO2	L5
14.	<p>During the previous year 2015-16, the following allowance are given to Mr.Y by the employer company</p> <p>1. Transport allowance Rs 16,000 2. Tribal area allowance Rs 8,000 3. Children Education allowance for three of his children @ Rs 90 per month per child 4. Hostel expenditure allowance for two children: for Mr Y's daughter @ Rs 250 per month Rs 3000 and Mr Y's elder son @ Rs 500 per month Rs 6000 5. Running flight allowance in the course of running of such transport Rs 1,00,000</p> <p>Determine the amount of taxable allowance.</p>	CO2	L5
15.	<p>The following are the particulars of salary income of Mr.Govindan who is employed at Kanpur</p> <p>Salary Rs 12,000 DA Rs 40% salary Compensation Received for termination of employment under</p>	CO2	L5

	<p>industrial disputes Act from previous employer Rs 36,000.</p> <p>City compensatory allowance Rs 400 p.m.</p> <p>House Rent allowance Rs 4,000 p.m and he pays rent of Rs 5,000 pm.</p> <p>He is contributing Rs 1,500 towards recognized provident fund.</p> <p>The employer is also contributing the same amount.</p> <p>During the year he paid Rs 1,200 professional tax.</p> <p>He owns a car which he is using for official and personal use.</p> <p>Calculate his taxable income.</p>		
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SCHOOL OF MANAGEMENT STUDIES

UNIT III - INCOME TAX LAW AND PRACTICE-SBAA1404

UNIT-III

INCOME FROM HOUSE PROPERTY AND BUSINESS OR PROFESSION

Income from house property – definition of annual value - deductions from annual value – computation under different circumstances.

Income from business or profession – Allowable and not allowable expenses – General deductions – principles – Computation of income from business or profession. (Excluding Provision relating to depreciation)

INCOME FROM HOUSE PROPERTY AND BUSINESS OR PROFESSION

Introduction

The annual value of a property, consisting of any buildings or lands appurtenant thereto, of which the assessee is the owner, is chargeable to tax under the head 'Income from house property'. However, if a house property, or any portion thereof, is occupied by the assessee, for the purpose of any business or profession, carried on by him, the profits of which are chargeable to income-tax, the value of such property is not chargeable to tax under this head.

Thus, three conditions are to be satisfied for property income to be taxable under this head:

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

Ownership of house property

It is only the owner (or deemed owner) of house property who is liable to tax on income under this head. Owner may be an individual, firm, company, co-operative society or association of persons. The property may be let out to a third party either for residential purposes or for business purposes. Annual value of property is assessed to tax in the hands of the owner even if he is not in receipt of the income. For tax purposes, the assessee is required to be the owner in the previous year only.

Deemed Owner [Section 27]

- 1. Owner:** An Individual shall be considered as owner of a property when the document of title to the property is registered in his name.
- 2. Deemed Owner:** Under the following circumstances, Income from House Property is taxable in the hands of the Individual, even if the property is not registered in his name —
 - (a) Where the Property has been transferred to spouse for inadequate consideration other than in pursuance of an agreement to live apart.
 - (b) Where the Property is transferred to a minor child for inadequate consideration (except a transfer to minor married daughter)
 - (c) Where the Individual holds an impartible estate.
 - (d) Where the Individual is a member of Co-operative Society, Company, or other Association and has been allotted a house property by virtue of his being a member, even though the property is registered in the name of the Society / Company / Association.
 - (e) Where the property has been transferred to the individual's name as part-performance of a contract u/s 53A of the Transfer of Property Act, 1882. (i.e. Possession of the Property has been transferred to Individual, but the Title Deeds have not yet been transferred).
 - (f) Where the Individual is a holder of a Power of Attorney enabling the right of possession or enjoyment of the property.
 - (g) Where the property has been constructed on a leasehold land.
 - (h) Where the ownership of the Property is under dispute.
 - (i))Where the property is taken on a lease for a period of not less than 12 years, then the lessee shall be deemed as the owner of the property.

House Property Income Is Exempt From Tax To Certain Persons

1. An Ex-Ruler for his occupation (palace)
2. Local Authority.
3. Approved Scientific Research Association.
4. Institution for the development of Khadi and Village Industries.
5. Khadi and Village Industries Boards.
6. A body or authority for administering religious or charitable Trust or endowments.
7. Certain Funds, educational institutions, hospitals etc.
8. Registered Trade Union.
9. Statutory Corporation or an institution or association financed by the Government for promoting in the interests of members of SC or ST.
10. Co-operative Society for promoting the interest of the members of SC or ST.
11. Charitable Trust.
12. Political Parties

DETERMINATION OF ANNUAL VALUE

The basis of calculating Income from House property is the 'annual value'. This is the inherent capacity of the property to earn income and it has been defined as the amount for which the property may reasonably be expected to be let out from year to year. It is not necessary that the property should actually be let out. The municipal value of the property, the cost of construction, the standard rent, if any, under the Rent Control Act, the rent of similar properties in the same locality, are all pointers to the determination of annual value.

Gross Annual value

The Gross Annual Value is the municipal value, the actual rent (whether received or receivable) or the fair rental value, whichever is highest. If, however, the Rent Control Act applies to the property, the gross annual value Fair rental value or municipal value whichever is higher or Standard rental value whichever is less. If the property is let out but remains vacant during any part or whole of the year and due to such vacancy, the rent received is less than the reasonable expected rent, such lesser amount shall be the Annual value.

The principle of determining GAV is :

Step-I

Expected Rental Value

- (a) Municipal Valuation of property (MVR)
- (b) Fair Rental Value (FVR)
- (c) Standard rent - as per Rent Control Act

Expected Rental Value is calculated as follows:

Expected rent is higher of (a) and (b) but subjected to a maximum of (c)

C) Expected Rental Value

d) Actual rent received (Annual Rent – Unrealised)

Higher of the above c) and d) then if Vancancy (higher minus vancancy = GAV)

GAV minus Municipal Tax paid by owner = NAV

Less:

1. 30% standard Deduction

2. if self occupied (30,000 or 2,00,000 depends on loan borrowed year 1.4.1992)

Or let out Preconstruction loan / years plus current loan interest

Result is loss or income from house property

Municipal Tax

Municipal Tax includes services tax like Water Tax and Sewerage Tax levied by any local authority. It can be claimed as a deduction from the Gross Annual Value of the Property.

Conditions:

(a) Paid by Owner. The tax shall be borne by the owner and the same was paid by him during the previous year.

(b) Property let out: Municipal Tax can be claimed as a deduction only in respect of let out or deemed to be let out properties (i.e. more than one property self occupied).

(c) Year of payment: Municipal Tax relating to earlier previous years, but paid during the current previous year can be claimed as deduction only in the year of payment.

(d) Advance Taxes: Advance Municipal Tax paid shall not be allowed as deduction in the year of payment, but can be claimed in the year in which it falls due.

(e) Borne by Tenant: Municipal taxes met by tenant are not allowed as deduction.

Unrealized Rent

Unrealized Rent means the rent not paid by the tenant to the owner and the same shall be deducted from the Actual Rent Receivable from the property before computing income from that property, provided the following conditions are satisfied:

1. The tenancy is bonafide
2. The defaulting tenant should have vacated the property
3. The assessee has taken steps to compel the defaulting tenant to vacate the property
4. The defaulting tenant is not in occupation of any other property owned by the assessee
5. The assessee has taken all reasonable steps for recovery of unrealized rent or satisfies the Assessing Officer that such steps would be useless.

Deduction from Net Annual Value

A. Standard Deduction u/s 24(a): Standard deduction of 30% of NAV (Net Annual Value) shall be allowed to the assessee.

B. Interest on Loan u/s 24(b):

1. Purpose of loan: The loan shall be borrowed for the purpose of acquisition, construction, repairs, renewal or reconstruction of the house property.
2. Accrual basis: The interest will be allowed as a deduction on accrual basis, even though it is not paid during the financial year.
3. Interest on interest: Interest on unpaid interest shall not be allowed as a deduction.
4. Brokerage: Any brokerage or commission paid for acquiring the loan will not be allowed as a deduction.
5. Prior period interest: Prior Period Interest shall be allowed in five equal installments commencing from the financial year in which the property was acquired or construction was completed.

Note: Prior period interest means the interest from the date of borrowal of the loan up to the

end of the financial year immediately preceding the financial year in which acquisition was made or construction was completed.

6. Interest on fresh loan to repay existing loan: Interest on any fresh loan taken to repay the existing loan shall be allowed as a deduction.

7. Inadmissible interest: Interest payable outside India without deduction of tax at source and in respect of which no person in India is treated as an agent u/s 163 shall not be an allowable

expenditure. [Section 25]

8. Certificate: The assessee should furnish a certificate from the person from whom the amount is borrowed.

Income From Self – Occupied House Property

The annual value of one self-occupied house property is taken as 'Nil'. From the annual value, only the interest on borrowed capital is allowed as a deduction under section 24. The amount of deduction will be:

1. Either the actual amount accrued to the maximum of Rs.30,000/- when borrowed before 1.4.99
2. When borrowal of money or acquisition of the property is after 1.4.1999 - deduction is Rs.2,00,000/- applicable to A.Y 2016-17 and onwards.

In case of let out No limit for interest on borrowed capital.

However, if the borrowal is for repairs, renewals or reconstruction, the deduction is restricted to Rs.30, 000. If the borrowal is for construction/acquisition, higher deduction as noted above is available. If a person owns more than one house property, using all of them for self-occupation, he is entitled to exercise an option in terms of which, the annual value of one house property as specified by him will be taken at Nil. The other self occupied house property/is will be deemed to be let-out and their annual value will be determined on notional basis as if they had been let out.

Annual Value of a house property which is partly self – occupied and partly let out: If a house property consists of two or more independent residential units, one of which is self – occupied and the other unit(s) are let out, the income from the different units is to be calculated separately.

Format of Income under the head house property

GAV

1. Expected rental value

	Let out	self occupied	Deemed to be Letout
MRV	xxx	----	xxx
FRV	xxx	----	xxx
SR	xxx	----	xxx

 Xxx ---- xxx

2. Actual rent

xxx ---- ----

GAV xxx ---- xxx

Less

Municipal tax xxx ---- xxx

 NET ANNUAL VALUE xxx ---- xxx

Less

Deduction u/s 24

(a) Standard deduction @ 30%

On NAV xxx xxx

(b) Interest on loan for construction

(i)	1/5 pre construction interest	xxx	xxx	xxx
(ii)	Post construction interest	xxx	xxx	xxx

 NET INCOME FROM HP xxx -xxx xxx

Illustration:1

Compute Gross annual value:

Actual rent Rs: 24,000

p.a. Fair rent Rs:28,000

p.a.

Standard rent Rs: 20,000 p.a.

Solution:

Gross Annual Value = ERV or Actual Rent Received for full year, whichever is higher. Here Rent Control Act is applicable.

FRV =Rs: 28,000 ; SRV = 20,000

Therefore, ERV =

20,000. Actual

Rent = 24,000 So,

GAV = 24,000.

Illustration:2

Calculate annual rental value from the following particulars for the assessment year 2015- 16 .Actual rent Rs: 14,000 p.m.; MRV Rs: 1,20,000 p.a.; FRV Rs:1,32,000 p.a. Standard rent Rs: 1,38,000. During the P.Y. the assessee is not able to realise two months rent.

Solution:

Expected Rental Value = 1,32,000

Actual rent for the full year (14,000x12) = 1,68,000

Therefore, GAV = 1,68,000.

Annual Value = 1,68,000 – unrealised rent

= 1,68,000 -- 28,000 = 1.40,000.

=====

Illustration:3

Compute gross annual value for the AY 2015-16

FRV Rs: 1,32,000 p.a.; Actual rent Rs:12,000 p.m.; MRV Rs:1,20,000 p.a., Standard rent Rs: 1,30,000.

Solution:

Expected Rental Value = Rs:

1,30,000 Actual rent for full year (12,000 x 12)

= Rs:1,44,000 Therefore, GAV = Rs: 1,44,000.

=====

Illustration:4

Rinju is the owner of 2 houses. From the following, find out annual value of the houses:

	<u>House-1</u>	<u>House-2</u>
Municipal value	30,000	35,000
Actual rent	40,000	32,000
FRV	36,000	30,000
SRV	30,000	36,000
Municipal tax paid	4,000	3,500

Solution:

MRV or FRV (higher)	36,000	35,000
SRV	30,000	36,000
ERV (Lesser of the above 2)	30,000	35,000
Actual Rent	40,000	32,000
GAV (higher of 3 and 4)	40,000	35,000
Less : Municipal Taxes	4,000	3,500
Annual Value	36,000	31500
	=====	=====

Illustration:5

Mr. Abhinand constructed one house in 2010. Half of the portion is let out and the remaining half is used for his residence. The following particulars are available: MRV Rs: 12,500; Rent received Rs:10,000 ; Municipal taxes Rs:2,500 ; Ground rent Rs;250 ; Repairs Rs:2,000 ; Interest on loan taken for construction Rs: 2,500. Compute income from house property of Mr. Abhinand for the AY 2015-16

Solution:

Computation of Income from house property Let out portion:

GAV (MRV =6250 or Rent received, whichever is higher) : 10,000

Less : municipal rent ($\frac{1}{2}$) : 1,250

Net Annual Value : 8,750

Deductions:

30% of annual value	:	2,625	
Interest on loan taken for construction	:	1,250	
		-----	: 3,875

Income from let out portion		4,875
-----------------------------	--	-------

Self-occupied portion:

Net Annual Value	:	Nil
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Deductions:

Interest on loan taken for construction	:	1,250	

Income from self occupied portion		--1,250
-----------------------------------	--	---------

Income from House Property		<u>3,625</u>
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Illustration:6

The following information is available in respect of two houses owned by Neeraj. He let out the first house for a yearly rent of Rs: 11,000. He paid Rs:1,000 as interest on borrowings. He paid Rs: 100 as insurance premium. He let out his second house at a monthly rent of Rs:1,200. It is not rented out for 3 months. The unrealised rent for the past 5 years was Rs: 13,000. Compute the income from house property of Mr. Neeraj for the AY 2015-16.

Solution:

Computation of Income from house property for AY 2015-16

First House:

Annual Value	:	11,000	
Less : Deductions:			
Standard deduction (30%)	:	3,300	
Interest on loan	:	<u>1,000</u>	
			: <u>4,300</u>
			6,700

Second House:

Annual Value	:	14,400	
Less : Loss for vacancy period	:	3,600	
Unrealised rent	:	<u>13,000</u>	
			: <u>16,600</u>
			--2,200

Income from House Property		=
		4,500.
		=====

2. Income from Business or Profession

Business : Sec 2 (13)

Business includes any trade, commerce, or manufacture or any adventure or concern in the nature of trade, commerce, or manufacture. Or practical purpose business means the purchase and sale or manufacture of a commodity with a view to make profit. Business includes banking, transport business or any other adventure. Profit of an isolated transaction is also taxable under this head.

Profession 2(36)

A profession is a vocation founded upon specialized educational training, the purpose of which is to supply objective counsel and service to others, for a direct and definite compensation, wholly apart from expectation of other business gain. For example the work of lawyer, doctor auditor engineer and so on. Vocation means activities which are performed in order to earn livelihood. For example brokerage, music, dancing etc.

The following items are chargeable under the head income from business or profession. (section 28)

- ☐ The profits and gains of any business or profession, which was carried on by the assessee at any time during the previous year;
- ☐ Any compensation or other payment, due or received by the following:-
 - o Any person, by whatever name called, managing the whole or substantially the whole of the affairs of an Indian company, at or in connection with the termination of his management or the modification of the terms and conditions relating thereto;
 - o Any person, by whatever name called, managing the whole or substantially the whole of the affairs in India of any other company, at or in connection with the termination of his office or the modification of the terms and conditions relating thereto;
 - o Any person, by whatever name called, holding an agency in India for any part of the activities relating to the business of any other person, at or in connection with the termination of any agency or the modification of the terms and conditions relating thereto;
 - o Any person, for or in connection with the vesting in the Government, or in any

corporation owned or controlled by the Government, under any law for the time being in force, of the management of any property or business;

☐ Income, derived by a trade, professional or similar association from specific services performed for its members;

☐ Profits on sale of a license granted under the Imports (Control) Order, 1955, made under the Imports and Exports (Control) Act, 1947;

☐ Cash assistance (by whatever name called), received or receivable by any person against exports under any scheme of the Government of India;

☐ Any duty of customs or excise repaid or repayable as drawback to any person against exports under the Customs and Central Excise Duties Drawback Rules, 1971;

☐ The value of any benefit or perquisite, whether convertible into money or not, arising from business or the exercise of a profession;

☐ Any interest, salary, bonus, commission or remuneration, by whatever name called, due to, or received by, a partner of a firm from such firm.

☐ Income from speculative transactions.

☐ Any sum received under a key man insurance policy including bonus.

☐ Any sum whether received or receivable in cash or in kind, under an agreement for :

(a) Not carrying out any activity in relation to any business or

(b) Not sharing any know how, patent, copyright, trade mark, licence franchise or any likely to assist in the manufacture or processing of goods or provision of services.

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

However, it is provided that where any interest, salary, bonus, commission or remuneration, by whatever name called, or any part thereof has not been allowed to be deducted under Clause (b) of section 40, the income under this clause shall be adjusted to the extent of the amount not so allowed to be deducted.

In the following cases, income from trading or business is not taxable under the head "profits and gains of business or profession":-

☐ Rent of house property is taxable under the head "Income from house property". Even if the property constitutes stock in trade of recipient of rent or the recipient of rent is engaged in the business of letting properties on rent.

☐ Divided dividends on shares are taxable under the head "Income from other sources".

☐ Winnings from lotteries, races etc. are taxable under the head "Income from other sources". General Principles governing the computation of taxable income under the head "profits and gains of business or profession:-

☐ Business or profession should be carried on by the assessee. It is not the ownership of business which is important, but it is the person carrying on a business or profession, who is chargeable to tax.

☐ Income from business or profession is chargeable to tax under this head only if the business or profession is carried on by the assessee at any time during the previous year. This income is taxable during the following assessment year.

☐ Profits and gains of different business or profession carried on by the assessee are not separately chargeable to tax i.e. tax incidence arises on aggregate income from all businesses or professions carried on by the assessee. But, profits and loss of a speculative business are kept separately.

☐ It is not only the legal ownership but also the beneficial ownership that has to be considered.

☐ Profits made by an assessee in winding up of a business or profession are not taxable, as no business is carried on in that case. However, such profits may be taxable as capital gains or as business income, if the process of winding up is such as to involve the carrying on of a trade.

☐ Taxable profit is the profit accrued or arising in the accounting year. Anticipated or potential profits or losses, which may occur in future, are not considered for arriving at taxable income. Also, the profits, which are taxable, are the real profits and not notional profits. Real profits from the commercial point of view mean a gain to the person carrying on the business and not profits from narrow, technical or legalistic point of view.

☐ The yield of income by a commercial asset is the profit of the business irrespective of the manner in which that asset is exploited by the owner of the business.

- Any sum recovered by the assessee during the previous year, in respect of an amount or expenditure which was earlier allowed as deduction, is taxable as business income of the year in which it is recovered.
- Mode of book entries are generally not determinative of the question whether the assessee has earned any profit or loss.
- The Income tax act is not concerned with the legality or illegality of business or profession. Hence, income of illegal business or profession is not exempt from tax.
- Profits and losses of speculation business carried on by an assessee are kept separate.
- Profits made in winding up of a business by the sale of assets in one lot are not taxable as business profit but as capital gain. The profit on the sale of stock in trade will be taxable as business profit, because the sale of goods under any circumstances is a transaction in the nature of trader and hence its profit is taxable as business profit.
- Tax is levied on the actual profit of the previous year and not on the anticipated profit.

Speculative Transactions and Taxability of Speculation Business

Speculative Transaction [Section 43(5)]: “Speculative Business” means a transaction in which a contract for purchase/sale of any commodity/stocks/ shares is settled otherwise than by the actual delivery or transfer of the commodity or scrips. Transactions not regarded as speculative transaction.

Deduction In Respect Of Losses Incidental to Business

A loss (other than capital loss), which is incidental to the trade, is allowable in computing the business profits on ordinary principles of commercial trading. Such trading losses can be claimed as deduction provided the following conditions are satisfied:

- (a) Loss should be real in nature and not notional or fictitious;
- (b) It should be a revenue loss and not capital;
- (c) Loss should have resulted directly from carrying on of business i.e. it should be incidental to business;
- (d) Losses should have actually occurred during the previous year;
- (e) There should be no direct or indirect restriction under the Act against the deductibility of such loss. E.g. Loss of stock-in-trade on account of fire, embezzlement/theft of cash in course of business, or loss on account of advances/guarantees granted during course of business, are

admissible in the computation of taxable income on the basis of common principles of accounting and commercial expediency.

Amounts expressly allowed as deduction [U/s 30 to 37]

Deduction In Respect Of Rent, Rates, Taxes, Repairs and Insurance, etc. for Buildings, Plant and Machinery and Furniture [Section 30 And 31]

The following are allowable as deduction in computing the income under the head ‘Profits and Gains of Business or Profession’ –

1. Rent of the premises is allowed as deduction. However, notional rent paid by proprietor is not allowed as deduction. But rent paid by him to its partner for using his premises is allowed as deduction.
2. Current repairs if the assessee bears the cost of repairs are allowed as deduction. However, Capital repairs incurred by the assessee are never allowed as deduction whether premises is occupied as a tenant or as an owner. Instead the capital repairs incurred shall be deemed to be a building and depreciation shall be claimed.
3. Any sum on account of Land Revenue, Local Taxes or Municipal Taxes subject to section 43B.
4. Insurance charges against the risk of damage or destruction of building is allowed as deduction.
5. In respect of repairs and insurance of machinery, plant & furniture used for the purpose of business or profession the following deductions are allowable:
 - i. Amount of expenditure incurred on current repairs of machinery, plant or furniture used in the business is deductible.
 - ii. The amount paid for current repairs shall not include any expenditure in the nature of capital expenditure.

Depreciation [Section 32]:

In respect of depreciation of-

- (i) buildings, machinery, plant or furniture, being tangible assets;
- (ii) know-how, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of similar nature, being intangible assets acquired on or after the 1st day of April, 1998, owned, wholly or partly, by the assessee and used for the purposes of the business or profession

Tea Development account, coffee development account and rubber development account (section 33AB)

Certain deduction is allowed to assessee growing and manufacturing tea or coffee or rubber in India.

For this purpose, the assessee is required to

- i. Deposit in a special account with the national bank for Agriculture and rural development in accordance with the scheme approved by the tea board or the coffee board or rubber board or deposit any amount in on an account opened by the assessee (known as deposit account) in accordance with the deposit scheme framed by the tea Board or the Coffee Board or the rubber board as the case may be, with the previous approval of the central government.
- ii. The deposit should be made within a period of six months from the end of the previous year or before furnishing the return of income whichever is earlier.
- iii. In computing taxable profits from the above business the following deduction will be allowed in respect of the above deposit:
 - (a) A sum equal to the amount so deposited or
 - (b) 40% of the profits from such business (before making deduction under this section and before setting off brought forward business losses) whichever is less.
- iv. This deduction shall be allowed only if the accounts of such business from the previous year concerned have been audited by a chartered accountant and the audit report is furnished along with the return of income.

Deduction in respect of prospecting for or extraction or production of petroleum or natural gas or both India (Section 33ABA)

(1) Where an assessee is carrying on business consisting of the prospecting for, or extraction or production of, petroleum or natural gas or both in India and in relation to which the Central Government has entered into an agreement with such assessee for such business, has before the end of the previous year—

(a) deposited with the State Bank of India any amount or amounts in an account (hereafter in this section referred to as the special account) maintained by the assessee with that Bank in accordance with, and for the purposes specified in, a scheme (hereafter in this section referred to as the scheme) approved in this behalf by the Government of India in the Ministry of

Petroleum and Natural Gas; or

(b) deposited any amount in an account (hereafter in this section referred to as the Site Restoration Account) opened by the assessee.

(c) a sum equal to 20% of the profit of such business

Expenditure on scientific research (section 35)

The word 'Scientific Research' has been defined as 'an activity for the extension of knowledge in the fields of natural or applied sciences including agriculture, animal husbandry or fisheries'. Such an activity may result in an improved efficiency and thereby increases the productivity of the process. So, in order to encourage people to enhance the productivity, government has provided certain tax incentives under this section for expenditure incurred in respect of Scientific Research.

Such Scientific research may be carried out for the purpose of

- (a) Extension of business;
- (b) Providing medical facilities to the employees.

Deduction under this section is allowed in two ways

- (A) When assessee takes up scientific research on his own
- (B) When assessee contributes amount for scientific research to an approved body. The provisions of both are given below.

- (A) When assessee takes up scientific research on his own:

When assessee carries on any scientific research, the expenditure incurred by him for such may be

- (a) Revenue expenditure or
- (b) Capital expenditure.

The treatment of above is as follows.

(a) Revenue expenditure:

Any revenue expenditure incurred by the assessee in respect of scientific research within **3 years** immediately preceding the year of commencement of business shall be allowed deduction in the year of commencement. Such revenue expenditure may be in respect of salaries (excluding any perquisites) payable to the staff involved in the research; for acquiring the inputs required to carry out the research or any such eligible expenditure.

(b) Capital expenditure:

Any Capital expenditure incurred by the assessee is deductible **100%** in the year it is incurred.

(4) Amount contributed to National Laboratory [Section 35(2)]:

Any amount contributed by the assessee to a National laboratory* or University or IIT or to a specified person (approved by prescribed authority) with a specific direction that the amount shall be used for the purpose of scientific research, shall be given a weighted deduction of **2 times** (from the Assessment year 2012-13. For AY2016-17, it is given to the extent of 1.25 times only)

*National Laboratory

Any laboratory functioning at national level under the aegis of

- (1) Indian Council of Agricultural Research
- (2) Indian Council of Medical Research
- (3) Council of Scientific and Industrial Research
- (4) Defence Research and Development Organisation
- (5) Department of Electronics
- (6) Department of Bio-technology
- (7) Department of Atomic Energy

In all the above cases, deduction shall not be denied on the ground that subsequent to such contribution by the assessee, approval granted to the donee has been withdrawn by the prescribed authorities.

Conditions to be fulfilled in order to claim depreciation under section 32

In order to claim depreciation under Section 32, the following conditions are required to be fulfilled:

(1) Depreciation is available on 'assets' and 'block of assets': The assets may be tangible (Buildings, Machinery, Plant and Furniture) or intangible (know-how, patents, copyrights, trademarks, licences, franchises, etc.) in nature.

'Block of Assets' means group of assets comprising of tangible or intangible assets in respect of which the same rate of depreciation is prescribed

Rates of Depreciation In Case Of Block of Assets

Tangible Assets Rate

(I) Building:

- (1) Residential Buildings except hotel and boarding houses.....5%
- (2) Non-residential Buildings [office, factory, godown, hotels,.....10%
boarding houses but other than (1) above and (3)(i)below]
- (3) (i) Buildings for installing Plant and Machinery forming part of water supply or water treatment system for infrastructure business u/s 80-India IA (4)(i). (ii) Purely temporary erections such as wooden structures 100%

(II) Furniture And Fittings:

- (4) Furniture and Fittings including electrical fittings (“Electrical Fittings” include electrical wiring, switches, sockets, other fittings and fans, etc 10 %

(III) Plant And Machinery

- (5) Motor Cars not used in business of running them on hire; and Plant & Machinery other than those covered in other Blocks15%
- (6) Ships and vessels20%
- (7) Motor buses, Lorries and taxis used in business of running on hire; Moulds used in rubber and plastic goods factories; Plant & Machinery used in semi-conductor industry including circuits;
....30%
- (8) Aeroplane- Aeroengines; Life-saving Medical Equipments40%
- (9) Glass and Plastic containers used as refills50%
- (10) (i) Computer including computer software (ii) Books (iii) Gas Cylinders including valves and regulators (iv) Glass Manufacture – Melting Furnaces, Mineral Oil Concerns; 60%
- (11) Flour Mills-Rollers, Rolling Mill rolls in Iron and Steel Industry; Energy renewal and energy saving devices; Rollers in Sugar Works..... 80%

(12) (i) (a) Books (annual publications) owned by assessee carrying on profession; and (b) Books owned by assessee carrying on business in running lending libraries (ii) Plant and Machinery in water supply and treatment system for infrastructure u/s 80IA(4)(i); Wooden part in artificial silk

\ manufacturing Plant & Machinery; Cinematograph films-Bulbs of studio lights; Wooden Match frames in Match factories; Mines and Quarries-rubs, ropes, lamps, pipes; Salt works – Clay and salt pans, etc.; Air-pollution, Water-pollution, Solid waste control equipments and Solid waste recycling system 100%

Intangible Assets

(13) Know-how, patents, copyrights, trademarks, licences, franchises, or any other business or commercial rights of similar nature25%

Concept of “Written Down Value” (WDV) [Section 43(6)]

WDV in general: In case of assets acquired in previous year, WDV= Actual cost to the assessee. In case of assets acquired before previous year, WDV = Actual cost to assessee less depreciation actually allowed (including unabsorbed depreciation, if any) to the assessee.

WDV in case of Block of Assets:

Written down Value of the block of assets as on 1st day of previous year

Add: Actual Cost of asset falling within the block, acquired during previous year

Less : Moneys payable (including scrap) for asset falling within block which is sold, discarded, demolished, destroyed during the previous year to the extent of (A) + (B)

above WDV of block of assets eligible for depreciation

Carry Forward and Set-Off Of Unabsorbed Depreciation [Section 32(2)]

(1) Amount of depreciation remaining unabsorbed shall be allowed to be carried forward whether or not the business/asset to which it relates exists. It shall be treated as part of current year depreciation.

(2) Return of loss is not required to be submitted to carry forward unabsorbed depreciation.

(3) Brought forward business losses (speculative or non-speculative) under Section 72(2) and

73(3) shall be given priority of set off over unabsorbed depreciation.

(4) While allowing unabsorbed depreciation, the expression 'Profit and Gains Chargeable to Tax'

Some of the In admissible expenses

1. Salary paid to self
2. Drawings by the proprietor
3. Personal Legal expenses
4. Rent for residential portion
5. Rent paid to self
6. Any investment in savings such as NSS, NSC, PPF etc
7. Loss by theft from residence
8. Gifts and present
9. House hold and personal expenses
10. Pilgrimage expenses
11. Personal life insurance premium.
12. All provisions and reserves like bad debts, depreciation, income tax, losses
13. Capital expenditures like interest on capital
14. All taxes like income tax, wealth tax, advance income tax, gift taxes etc.,
15. Expenses like
 - (i) All charities and donations
 - (ii) Cultivation expenses
 - (iii) Excess depreciation
 - (iv) All type of fine
 - (v) Difference in books

Income credited to p& l Account which are exempted or taxable under other heads

- (i) Post office Interest
- (ii) Agricultural receipts
- (iii) Gifts from relatives
- (iv) Income tax refunds
- (v) LIC maturity receipts

(vi) Withdrawal from PPF

(vii) Bad debts recovered

Illustration: 1 The net profit of business of Mr. Baveesh as disclosed by its P&L account was Rs:3,25,000 after charging the following:

Municipal taxes on house property let out Rs:3,000
Bad debt written off Rs:15,000

Provision for bad and doubtful debts Rs: 16,000

Provision for taxation Rs: 15,000

Depreciation Rs: 25,000

Depreciation allowance as per rule is Rs:20,000. Compute taxable business profit.

Solution:

Computation of income from	Rs	Rs
Net profit		3,25,000
Add: Municipal taxes	30000	
Provision for bad debts	16000	
Provision for taxation	15000	
Excess epreciation	5000	39,000
Business Profit		3,64,000

Illustration:2

From the following P&L account, compute income from business:

PROFIT AND LOSS ACCOUNT

To Salaries	14,600	By G/p	1,35,000
To household expense	2000		
To income tax	900		
To Gifts	900		
To business expense	2,200		
To LIC premium	2,100		
To bad debt reserve	800		
To N/P	1,11,500		
	1,35,000		1,35,000

Solution:**Computation of income from business for the A Y 2013-14**

Net Profit as per P&L Account		:	1,11,50
Add : Expenses Disallowed:			
Household expenses	2,000		
Income tax	900		
Gift	900		
LIC Premium	2,100		
Bad debt reserve	<u>800</u>		<u>6,700</u>
Income from business			1,18,200
=====			

Illustration:3

Dr. Biju is a medical practitioner in Mahe. From the following, calculate his income from profession for the AY 2013-14:

Gross receipt from dispensary	2,35,000
Gross receipt from consultation	1,65,000
Operation fee	2,50,000
Visiting fee	50,000
Gifts from patients	30,000
Medicines purchased	1,25,000
Closing stock of medicines	35,000
Salaries paid to employees	1,50,000
Surgical equipments purchased	48,000
Dr. Biju wanted to attend a medical seminar in Australia to update the knowledge and spent an amount of	25,000
Medical books purchased	20,000
He owns a house whose MRV is Rs:50,000. Half portion of the house is used for profession. Expenses paid on house are municipal tax=30% of MRV ; Repairs Rs:10,000 ; and renovation expenses Rs:30,000.	

Solution:

Computation of income from profession for the AY 2013-14

Gross receipts from dispensary	2,35,000	
Gross receipts from consultation	1,65,000	
Operation fee	2,50,000	
Visiting fee	50,000	
Gifts from patients	30,000	7,30,000
Less : Expenses :		
Medicines (1,25,000—35,000)	90,000	
Salaries to employees	1,50,000	
Surgical equipments (Depreciation :15%)	7,200	
Visit to Australia to attend a medical seminar	25,000	
Medical Books (Depreciation : 60%)	12,000	
Expenses on house used for profession:		
Municipal tax (50,000 x 10% x ½)	2,500	
Repairs (10,000 x ½)	5,000	
Total		2,91,700
Income from profession		4,38,300

Illustration:4

The following is the Receipts and Payments account of Mr. Akhilesh, a practicing Chartered Accountant for the year ended 31-03-2013:

Receipts	Rs:	Payments	Rs:
Audit fee	19,210	Office expenses	10,000
Consultation	10,000	Office rent	5,000
Tribunal appearance	15,000	Salaries and wages	12,050
Miscellaneous	20,000	Printing and Stationeries	1,000
Interest on Govt. security	10,000	subscription	3,000
Rent received	10,000	Purchase of books(annual publication)	1,300
Presents from clients	10,000	Travelling expenses	5,800
		Interest on bank loan	3,000
		Donation to National Defence Fund	5,000

Loan from bank was taken for the construction of the house in which he lives. MRV of the house is Rs: 8,000 and the local taxes Rs: 800 p.a. One-fourth of travelling expenses are not allowable. Compute income from profession for the A Y 2013—14.

Solution:

Computation of income from business for the AY 2013-14

Particulars	Rs:	Rs:
Audit Fees	19,210	
Consultation Fee	10,000	
Tribunal appearance	15,000	
Miscellaneous	20,000	
Presents from clients	10,000	74,210
Less: Allowable Expenses:		
Office expenses	10,000	
Office rent	5,000	
Salaries and wages	12,050	
Printing and stationery	1,000	
Subscription	3,000	
Purchase of books (100% depreciation)	1,300	
Travelling expenses (5,800 x $\frac{3}{4}$)	4,350	36,700
Income from Profession		37,510

UNIT III

Part-A

(2 Marks)

Q.No	Questions	CO	LEVEL
1.	Define 'Annual Value'.	CO1	L2
2.	Define 'Gross Annual Value'.	CO1	L2
3.	Write short note 'Self Occupied Property'.	CO1	L2
4.	Define the clarity of the term 'Business'.	CO1	L2
5.	State any four In-admissible Expenses.	CO1	L2
6.	What do you mean by Self generated assets?	CO1	L2
7.	Write Short Note 'Expenditure on Scientific Research.	CO1	L2
8.	Define the term Profession.	CO1	L2
9.	State any four In-admissible income.	CO1	L2
10.	Define the term 'Deemed Profit'.	CO1	L2

Part-B

(10 Marks)

Q.No	Questions	CO	LEVEL
11.	How Annul Value of Letout house is determined?	CO1	L5
12.	Explain the method of computing income from business	CO1	L5
13.	Compute the annual Value from the particular given below: Municipal Rental Value Rs 84,000 Fair Rental Value Rs. 90,000 Standard Rent Rs. 87,000 Real Rent Rs 8,000 p.month Unrealised Rent Rs 4,000 Date of completion 31.7.2015 Date of letting the house 1.10.2015	CO2	L5

14.	<p>Mr.Babu owns a house property which is let out for residence. He submits the following details to compute gross annual value of the property.</p> <p>Municipal value Rs 1,40,000</p> <p>Fair rent Rs 1,45,000</p> <p>Standard rent under rent control Act 1,42,000</p> <p>Annual rent if property is let out throughout the previous year 1,68,000</p> <p>Unrealised rent Rs 14,000</p> <p>Loss due to vacancy Rs 7,000</p>	CO2	L5																																								
15.	<p>From the following profit and loss account, compute the business income</p> <table border="1"> <thead> <tr> <th>Particulars</th><th>Rs</th><th>Particulars</th><th>Rs</th></tr> </thead> <tbody> <tr> <td>Office salary</td><td>6500</td><td>Gross Profit</td><td>40000</td></tr> <tr> <td>Provision for bad debts</td><td>3000</td><td>Commission</td><td>5000</td></tr> <tr> <td>Interest on capital</td><td>2000</td><td>Rent on Building</td><td>500</td></tr> <tr> <td>Depreciation</td><td>1200</td><td></td><td></td></tr> <tr> <td>Advertisement</td><td>2000</td><td></td><td></td></tr> <tr> <td>Fire Insurance</td><td>3000</td><td></td><td></td></tr> <tr> <td>Sales tax</td><td>1000</td><td></td><td></td></tr> <tr> <td>Net Profit</td><td>26800</td><td></td><td></td></tr> <tr> <td></td><td>45500</td><td></td><td>45500</td></tr> </tbody> </table>	Particulars	Rs	Particulars	Rs	Office salary	6500	Gross Profit	40000	Provision for bad debts	3000	Commission	5000	Interest on capital	2000	Rent on Building	500	Depreciation	1200			Advertisement	2000			Fire Insurance	3000			Sales tax	1000			Net Profit	26800				45500		45500	CO2	L5
Particulars	Rs	Particulars	Rs																																								
Office salary	6500	Gross Profit	40000																																								
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SCHOOL OF MANAGEMENT STUDIES

UNIT IV - INCOME TAX LAW AND PRACTICE-SBAA1404

UNIT-IV

INCOME FROM CAPITAL GAIN AND OTHER SOURCES

Income under capital gains- short- term, long-term capital gains- Exempted capital gains – computation of Capital gains.

Income from other sources- as a residuary head of income- their computations- grossing up- deductions in computing income under this head and other related provisions.

1.Capital Gains

Introduction

Profits or gains arising from the transfer of a capital asset made in a previous year are taxable as capital gains under the head “Capital Gains”. The capital gain is chargeable to income tax if the following conditions are satisfied:

1. There is a capital asset.
2. Assessee should transfer the capital asset.
3. Transfer of capital assets should take place during the previous year.
4. There should be gain or loss on account of such transfer of capital asset.

Capital Asset: Sec. 2(14): Capital Asset means property of any kind (Fixed, Circulating, movable, immovable, tangible or intangible) whether or not connected with business or profession. Security held by a foreign institutional investor invested in accordance with rules of SEBI Act.

Exclusions —

- a. Stock-in-trade
- b. Personal effects of the assessee i.e., personal use excluding jewellery, costly stones, silver, gold
- c. Agricultural land in a rural area i.e., an area with population more than 10,000. 2 Kilometers

from the local limits of municipalities- population more than 10,000

6 Kilometers from the local limits of municipalities- Where population is more than 1 lakh but not more than 10 lakhs

8 Kilometers from the local limits of municipalities- Where population is more than 10 lakhs

d. 6 % Gold Bonds, 1977 or 7% Gold Bonds, 1980 or National Defence Bonds, 1980 issued by the Central Government

e. Special Bearer Bonds, 1991 issued by the Central Government.

f. Gold Deposit Bonds issued under Gold Deposit Scheme 1999

Kinds of capital assets

There are two kinds of capital assets

Short-term capital asset: Sec. 2(42A): means a capital asset held by an assessee for not more than thirty six months immediately preceding the date of its transfer. However, in the following cases, an asset, held for not more than twelve months, is treated as short-term capital asset—

- a. Quoted or unquoted equity or preference shares in a company
- b. Quoted Securities
- c. Quoted or unquoted Units of UTI
- d. Quoted or unquoted Units of Mutual Funds specified u/s. 10(23D)
- e. Quoted or unquoted zero coupon bonds

Long-term capital asset: Sec. 2(29A): means a capital asset which is not a short-term capital asset. Under the existing law, profits and gains arising from the transfer of capital asset made in a previous year is taxable as capital gains. A capital asset is distinguished on the basis of the period of holding. A capital asset, which is held for more than three years, is categorized as a long-term capital asset. However, if the capital asset is in the nature of equity, it is categorized as a long-term capital asset if it is held for more than one year. All capital assets other than long-term capital asset are termed as a short-term capital asset.

Transfer of capital asset

Transfer includes:

- Sale of capital asset
- Transfer to include Exchange of asset
- Transfer to include Relinquishment of asset
- Extinguishments of any right on asset (means reducing any right on asset)
- Compulsory acquisition of asset 45(5)
- Redemption of preference share is treated as transfer.
- Redemption of share capital is treated as transfer.
- Giving possession of immovable property under part performance
- Conversion of capital asset into stock in trade.45(2)

The definition of transfer is inclusive, thus transfer includes only above said five ways. In other words, transfer can take place only on these five ways. If there is any other way where an asset is given to other such as by way of gift, inheritance etc. it will not be termed as transfer.

Year of chargeability to tax

Capital gains are generally charged to tax in the year in which 'transfer' takes place.

Long term capital gains

Long term Capital gains, if the assets like shares and securities, are held by the assessee for a period exceeding 12 months or 36 months in the case of other assets. Units of UTI and specified mutual funds will now be eligible for treatment as long term capital assets if they are held for a period exceeding 12 months.

Long term Capital gains are computed by deducting from the full value of consideration for the transfer of a capital asset the following:

- Expenditure connected exclusively with the transfer;
- The indexed cost of acquisition of the asset, and

- The indexed cost of improvement, if any, of that asset.

The method of computing capital gains is given below:

Short-term Capital Gain	Long-term Capital Gain
A. Find out Full Value of Consideration	A. Find out Full Value of Consideration
B. Deduct:	B. Deduct:
(i) Expenditure incurred wholly and exclusively in connection with such Transfer. (ii) Cost of Acquisition (iii) Cost of Improvement (iv) Exemption provided by Ss. 54B, 54D & 54G, 54GA	(i) Expenditure incurred wholly and exclusively in connection with such Transfer. (ii) Indexed Cost of Acquisition (iii) Indexed Cost of Improvement (iv) Exemption provided by Ss. 54, 54B, 54D, 54EC, 54ED, 54F & 54G, 54GA

Differences between Long term capital gains and Short term capital gains

Long Term Capital Gain	Short Term Capital Gain
It arises out of transfer of long term capital assets	It arises out of transfer of short term capital assets
Tax rate is 20%	Rates applicable to all other incomes
Cost of acquisition and cost of improvement are indexed on the basis of CII.	No indexing is done.
If LTCA is acquired before 1-4-1981, then the fair market value of the asset as on 1-4-1981 is taken as the value of acquisition.	No such option is available to STCA.
Long term capital loss can be set off only against long term capital gain.	Short term capital loss can be set off against short term capital gain or long term capital gain.

Full value of consideration

Full value of consideration means and it includes the whole or complete sale price or exchange value or compensation including enhanced compensation received in respect of capital asset in transfer. The following points are important to note in relation to full value of consideration.

1. The consideration may be in cash or kind.
2. The consideration received in kind is valued at its fair market value.
3. It may be received or receivable.
4. The consideration must be actual irrespective of its adequacy.

When shares, debentures or warrants are received under employees stock option plan or scheme are transferred under a gift or an irrecoverable trust, the market value on the date of transfer shall be deemed to be the full value of consideration received or accruing as a result of transfer for computation of capital gains.

Cost of Acquisition

Cost of Acquisition (COA) means any capital expense at the time of acquiring capital asset under transfer, i.e., to include the purchase price, expenses incurred up to acquiring date in the form of registration, storage etc. expenses incurred on completing transfer. In other words, cost of acquisition of an asset is the value for which it was acquired by the assessee. Expenses of capital nature for completing or acquiring the title are included in the cost of acquisition.

~~Index cost of acquisition~~

$$\text{index cost of acquisition} = \frac{\text{cost of acquisition} \times \text{cost inflation index for the year of sales}}{\text{cost inflation index at the time of purchase}}$$

Cost to the previous owner deemed to be the cost of acquisition: If the asset is acquired by an assessee in the following circumstances the cost of acquisition of the asset shall be deemed to be the cost for which the previous owner of the property acquired it.

1. On any distribution of asset on the total or partial partition of a HUF or
2. Under gift or will
3. By succession , inheritance or devolution

or

4. On any distribution of assets on the dissolution of a firm, body of individuals or other association of persons at any time before 1-04-1987. Or
5. On Any distribution of asset on the liquidation of a company or
6. Under a transfer to a revocable or an irrevocable trust or
7. On transfer by a parent company to its Indian subsidiary company which is wholly owned by a parent company or
8. On the transfer by a subsidiary company to its Indian holding company which owns whole of the share capital of the subsidiary company or
9. On the transfer of capital asset by the amalgamating company to the amalgamated company if the amalgamated company is an Indian company . Or
10. On transfer of shares of an Indian company by amalgamated foreign company to the amalgamated foreign company. Or
11. On the transfer of capital asset in a scheme of amalgamation of a banking company with a banking institution sanctioned and brought into force by the central government or
12. When any members of HUF converts his self acquired property into HUF property or
13. On transfer of capital asset by the predecessor cooperative bank to the successor cooperative bank in a business organization or
14. On transfer of shares in the predecessor cooperative bank in lieu of shares allotted in the successor cooperative bank in a business reorganization or
15. On transfer of capital asset or intangible asset by a firm to a company as a result of succession of the firm by a company or
16. On succession of a sole proprietary concern by a company.

2. Cost of share or security

If the share or security was acquired before 1st April 1981, the cost of acquisition will be the actual cost or fair market value on 1st April 1981 whichever is beneficial to the assessee. If it is acquired after 31st march 1981, the actual cost is the cost of acquisition.

3. Cost of bonus shares

The cost of bonus shares or security which is received by the assessee without any payment on the basis of his holding any financial asset will be as under

- (a) Where bonus share or security was received prior to 1st April 1981, the fair market value on 1st April 1981.
- (b) In any other case- nil

4. Cost of acquisition of goodwill

If the asset is purchased from the previous owner – purchase price In any other case – Nil

5. Right issue-cost of acquisition in the case of right issue is amount actually paid to acquire it.

6. Capital asset acquired before 1st April 1981- total cost of the asset to the assessee or the fair market value on 1st April 1981.

7. Capital asset acquired by the previous owner before 1st April 1981- total cost of the asset to the previous owner or the fair market value on 1st April 1981.

8. Cost of acquisition of shares or debentures- shares or debentures acquired in consideration of conversion of debenture, debenture stock or deposit certificate shall be deemed to be the cost of original debentures, debenture stocks or deposit certificates converted.

Cost of Improvement

Cost of improvement is the capital expenditure incurred by an assessee for making any addition or improvement in the capital asset. It also includes any expenditure incurred in protecting or curing the title. In other words, cost of improvement includes all those expenditures, which are incurred to increase the value of the capital asset.

$$\text{Indexed Cost of improvement} = \frac{\text{cost of improvement} \times \text{CII for the year in which the asset is sold}}{\text{-- CII for the year in which the improvement To asset took place.}}$$

Any cost of improvement incurred before 1st April 1981 is not considered or it is ignored. The reason behind it is that for carrying any improvement in asset before 1st April 1981, asset should have been purchased before 1st April 1981. If asset is purchased before 1st April we consider the fair market value. The fair market value of asset on 1st April 1981 will certainly include the improvement made in the asset.

Computation of capital gains in case of slump sale: Any gain arising from the slump sale effected in the previous year shall be chargeable as long term capital gains of the previous year in which the transfer take place.

Expenditure on transfer

Expenditure incurred wholly and exclusively for transfer of capital asset is called expenditure on transfer. It is fully deductible from the full value of consideration while calculating the capital gain. Examples of expenditure on transfer are the commission or brokerage paid by seller, any fees like registration fees, and cost of stamp papers etc., travelling expenses, and litigation expenses incurred for transferring the capital assets are expenditure on transfer.

Note: Expenditure incurred by buyer at the time of buying the capital assets like brokerage, commission, registration fees, cost of stamp paper etc. are to be added in the cost of acquisition before indexation.

Exemption from Capital Gains

Capital gain arising on the transfer of property used for residence:

-

The exemption u/s 54 relates to the capital gain arising out of transfer of residential house. The exemption is available to only Individual assessee. The exemption relates to the capital gains arising on the transfer of a residential house.

Conditions: Exemption is available if:

-

1. House Property transferred was used for residential purpose.
2. House Property was a long term capital asset.
3. Assessee has purchased another house property within a period of one year before or two years after the date of transfer or has constructed another house property within three years of date of transfer i.e. the construction of the new house property should be completed within three years. The date of starting of construction is irrelevant. Where the amount of capital gain is not utilized by the assessee for acquisition of new house before the due date, it shall be deposited by him on or before the due date of furnishing the return of income in an account opened under the capital gain account scheme 1988.

Amount of Exemption will be the least of:

-

1. Capital Gain
2. Cost of new house.

Withdrawal of exemption: If the newly acquired house property is transferred within three years of acquisition. Thus the earlier exempted capital gain will be charged to tax in the year in which the newly acquired house property is transferred. For that the cost of acquisition of the newly acquired house property will be reduced by the amount of exemption already availed thus the cost will reduce and thus the capital gains on the new house property will be more. Above all the new house property will be a STCA since for withdrawal of exemption it should have been sold within three years of its acquisition thus now the capital gain of the new house property will be STCG which is charged as per the normal rates which may be 30% (a higher rate as compared to the flat rate of LTCG of 20%) in the case of individuals.

Capital gain arising from the transfer of agricultural land (sec 54 B)

Any capital gain arising on the transfer of agricultural land situated in an urban area is exempt subject to the following conditions

1. The agriculture land is owned by an individual or a HUF
2. The agriculture land was, in the two years immediately preceding the date of transfer, being used either by the assessee or his parent or HUF for agriculture purposes.

3. The assessee has purchased within a period of two years from the date of transfer any other land for agricultural purposes.

The amount of deduction is the capital gain arising from the transfer of such agricultural land is exempt to the extent of the cost of the new agricultural land purchased within two years from the date of transfer. If the amount of capital gain is not utilized by the assessee for the acquisition of the new agricultural land before due date of furnishing return of income, it shall be transferred to capital gain account scheme. The exemption is withdrawn if the assessee transfers the new land within 3 years of its purchase.

Capital gain on compulsory acquisition of land and buildings (sec 54 D)

This exemption is available to all categories of taxpayers. To get exemption the following conditions are to be satisfied.

1. The asset transferred is land or building or any right in land or building which formed part of new industrial undertaking belonging to the tax payer.
2. Asset in question is transferred by way of compulsory acquisition under any law.
3. The asset in question was used for the purpose of industrial undertaking at least for two years immediately before the date of compulsory acquisition.
4. Assessee has purchased any other land or building within a period of three years from the date of receipt of compensation or constructed a building within such a period.

If the new asset is not acquired by the due date for furnishing the return of income for the relevant assessment year, the unutilized amount of capital gains must be deposited in a Capital Gains Deposit Account.

The cost of acquisition of the new asset is reduced by the exemption granted from LTCG for a period of 3 years from its date of acquisition.

Investment in Financial Assets (Section -54 EC)

This exemption is available to all categories of taxpayers. To get exemption the following conditions are to be satisfied.

1. The assessee should transfer a long-term capital asset during the previous year.

2. The assessee should invest the whole or part of capital gain in long term specified assets.

The long term specified assets include

I. Bonds redeemable after three years

II. Issued on or after 1.4.2007 and

III. Issued by a) National Highway Authority of India (NHAI). Or b) Rural Electrification Corporation Limited (RECL).

The investment made on or after 1.4.2007 in the long term specified asset by an assessee during any financial year shall not exceed fifty lakh rupees. The investment is to be made within six months from the date of transfer of the original capital asset. The bonds should not be transferred or converted into money for a period of three years from the date of acquisition. In case the bonds are transferred within 3 years from the date of their acquisition, the exemption allowed for investment earlier would be taxed in the year of such transfer as capital gains. For this purpose it would be considered as transfer even if the assessee takes any loan or advance on the security of the specified securities. For the investment in the bonds deduction under section 80C will not be available.

Investment into a residential house (Section 54F)

If an individual or a HUF having LTCG arising out of sale of capital asset other than a residential house invests in the purchase or construction of a residential house, then, he/it is eligible for exemption.

Cost of New House X Capital Gains Amount of exemption = ..

.....

Net Consideration

Where net consideration = full value of consideration - cost of transfer.

The time available for investment and the method to be followed for investment after the due date for filing of return of income are the same as mentioned in the scheme in (a) above.

In this case, however, cost of the new asset is not changed. But the assessee should not own more than one residential house other than the residential house in which he has invested as on the date of transfer and also, he should not purchase/construct any other residential house for a

period of 1/3 years from the date of transfer. In case he owns more than one residential house as on the date of transfer he is not eligible for this deduction.

In case he purchases/constructs a house within 1/3 years from the date of transfer after getting this deduction, the amount allowed as deduction would be taxed as capital gains in the year of such purchase/construction.

g) Transfer of fixed asset of industrial undertaking effected to shift it from urban area - 54G

This exemption is available to all categories of taxpayers. The conditions for claiming the exemption are as under:

1. The transfer is effected in the course of or in consequence of shifting the undertaking from an urban area to any area other than an urban area.
2. Asset transferred is machinery, plant, building, land or any right in building or land used for the business of industrial undertaking in an urban area.
3. The capital gain is utilized within one year before or 3 years after the date of transfer
 - a) for purchasing new machinery or plant or building or land for tax payer's business in that new area; or
 - b) shifting of the old undertaking and its establishment to the new area; or
 - c) incurring of expenditure on such other purposes as specified in the scheme notified for the purpose.

Exemption of LTCG is given to the extent of the outlay for aforesaid asset and activities. The unutilized amount of capital gain as on the date on which return of income for the relevant Assessment Year is due; must be deposited in a Capital Gains Deposit account.

The cost of acquisition of the new asset is reduced by the exemption allowed from LTCG for a period of 3 years from its date of acquisition.

h) Shifting of an industrial undertaking from urban area to any Special Economic Zone (Sec54GA)

Capital gain arising out of shifting of industrial undertaking from urban area to any Special Economic Zone are exempt if the following conditions are satisfied.

1. The transfer should be a long term or short-term capital asset such as plant, machinery, building or land or right in building or land.

2. Such asset has been used for the purpose of business of industrial undertaking situated in urban area.
3. The transfer should be done in connection with shifting of industrial undertaking in SEZ.
4. The amount of capital gain must be used within a period of one year before or three years after the date of transfer to purchase machinery or plant, to acquire land, to construct building for the purpose of business in SEZ.

The unutilized amount of capital gain as on the date on which return of income for the relevant Assessment Year is due; must be deposited in a Capital Gains Deposit account.

Exemption of long term capital gains on transfer of residential property (sec 54 GB)

This exemption is available to an individual or HUF. Capital gain arising out of transfer of a long term capital asset being a residential property (a house or a plot of land) is exempted from tax if the following conditions are satisfied.

1. The assessee utilizes the net consideration for subscription in equity shares of an eligible company before the due date of furnishing the return of income. If he invests less than the net consideration in equity shares, the proportionate capital gains shall be exempt.
2. The company utilizes the money within one year from the date of subscription in equity shares by the assessee for the purchase of new plant and machinery.
3. If the company does not utilize the consideration, received for issue of shares to the assessee, for purchase of new plant and machinery before the due date of furnishing return of income by the assessee, the consideration not so utilized shall be deposited in specified banks or institution in notified scheme.

If the amount deposited in specified bank etc is not utilized within the mentioned period of time by the company, the proportionate capital gains shall be chargeable to tax of the assessee of the previous year in which the period of one year from the date of subscription in the equity shares by the assessee expires.

If the assessee sells or otherwise transfers the shares or the company sells or otherwise transfers the new plant or machinery within five years from the date of acquisition, the exempted capital gains shall be deemed to be the capital gains of the previous year in which the new plant and machinery is sold or transferred.

If there is a gain on transfer of shares to the assessee, it shall be chargeable to tax in his hands.

If there is a gain on transfer of plant or machinery to the company, the company shall be liable to pay tax on it.

i) Extension of time for acquiring new asset or depositing or investing amount of capital gain: (Section 54H)

Where the transfer of the original asset (residential house and land appurtenant there to (Section 54), agricultural land (Section 54 B), land and building of an industrial undertaking (Section 54D), any long term capital asset (Section 54 EC) and long term capital asset other than residential house is by way of compulsory acquisition under any law, and the amount of compensation awarded for such acquisition is not received by the assessee the date of transfer, the period of acquiring the new asset or the period for depositing or investing the amount shall be extended in relation to the amount of compensation as is not received on the date of transfer.

Tax on capital gains on transfer of equity shares in a company or units of an equity oriented fund In the case of short term capital gains arising from transfer of equity shares in a company or units of an equity oriented fund, the tax payable by the assessee shall be @15% +surcharge of any + education cess 3% on such short term capital gains provided that such a transaction is chargeable to securities transactions tax. Notably, no deduction is available u/s 80C to 80U from above short term capital gains. In case of LTCG on transfer of equity shares or units of equity oriented mutual funds, provided the transaction has been subject to securities transaction tax, the LTCG is not chargeable to tax at all.

If the transaction has not been subjected to securities transaction tax, the LTCG will be taxed @ 10% if no indexing is claimed and @ 20% if cost of acquisition is indexed. The taxpayer has an option to choose from either of the above.

In case the shares / securities are transferred in demat' form, for computing capital gain chargeable to tax, the cost of acquisition and period of holding of any security shall be determined on First in – First - out (FIFO) basis.

Tax on long term capital gains Long term capital gain tax rates

In case of an individual or HUF who are resident in India -20% In case of other assesses 20%

$$\frac{\text{Long term capital gain} \times \text{amount invested}}{\text{Amount of net consideration}}$$

2. INCOME FROM OTHER SOURCES

Under the Income Tax act, income of every kind which is not to be excluded from the total income shall be chargeable to income tax under the head 'Income from other sources', if it is not chargeable to income tax under any of the other heads of income. Thus, income from other sources is a residuary head of income i.e. income not chargeable under any other head is chargeable to tax under this head. All income other than income from salary, house property, business and profession or capital gains is covered under 'Income from other sources'.

The following incomes are chargeable to tax:-

1. Dividend received from any entity other than domestic company. This is because dividend received from a domestic company has been made exempt in the hands of the receiver. Accordingly dividend received from a cooperative bank or dividend received from a foreign company will be taxable as income from other sources.
2. Any pension received by the legal heirs of an employee.
3. Any winnings from lotteries, crosswords, puzzles, races including horse races, card games or other games of any sort or gambling or betting of any form or nature.
4. Income from any plant, machinery or furniture let out on hire where it is not the business of the assessee to do so.
5. Income from securities by way of interest.
6. Any sum received by the assessee from his employees as contribution to any staff welfare scheme. However when the assessee makes the payment of such contribution within the time limit under the scheme of welfare, then the payment will be allowed as a deduction and only the balance amount will be taxable.
7. Income from subletting.
8. Interest on bank deposits
9. Income received under keyman insurance policy including bonus on such policy.
10. An individual or HUF receives in any previous year from any person or persons.

11. Any sum of money, without consideration, the aggregate value of which exceeds Rs 50,000.

Any immovable property (i) without consideration, the stamp value of which exceeds Rs 50,000- the stamp duty is taxable.(ii) for a consideration which is less than the stamp duty value of the property by an amount exceeding Rs 50,000- the stamp duty is taxable

12. Any property other than immovable property

(i) without consideration, the aggregate fair Market value of which exceeds Rs 50,000- the whole of the aggregate fair market value of such property is included under this head as income.

(ii) for a consideration which is less than the aggregate fair market value of the property by an amount exceeding Rs 50,000- the aggregate fair Market value of such property as exceeds such consideration.

Gift of Cash / Cheque / Draft:

If, through one or more transactions, gift received is up to Rs 50,000 per financial year, then nothing is taxable. If gift is Rs 50,001 or above, then it is fully taxable. For example, if gift of Rs 70,000 is received in cash, then taxable amount is Rs 70,000 and not Rs 20,000.

Gift of immovable property : In this case, if Stamp duty value is up to Rs 50,000 then nothing is taxable. If it is above Rs 50,000, then fully taxable. It is applicable for each individual transaction.

Unlike above, if more than one transaction of Gift, below Rs 50,000, then they shall not be aggregated. Similarly, if there is consideration, may be less or say if difference between the actual selling price and Stamp duty value is more than 50,000, then the above law is not applicable. It is applicable only in case of gift i.e. when property is transferred without consideration.

Gift of movable property (one or more transactions): If fair market value of all movable properties gifted in one financial year is up to Rs 50,000, then nothing is taxable. But if it is more than Rs 50,000, then it is fully taxable.

Movable property transferred for inadequate consideration: If difference between actual consideration and fair market value is more than Rs 50,000, all transactions of one financial year combined together, then the difference is fully taxable. If difference is up to Rs 50,000, then nothing is taxable

Exempted Gifts:

1. Money / property received from a relative or by HUF from its members
2. Money / property received on the occasion of the marriage of the individual
3. Money / property received by way of will/inheritance
4. Money / property received in contemplation of death of the payer.
5. Money / property received from a local authority
6. Money / property received from any fund, foundation, university, other educational institution, hospital, medical institution, any trust, or institution referred to in the section 10(23C).
7. Money / property received from a charitable institute registered u/s 12AA.
8. Interest received on compensation or on enhanced compensation shall be deemed to be the income of the previous year in which it is received.

2. 5. With effect from 2013-14 the following shall be treated as income:

Where a closely held company issue shares to a resident person for consideration exceeding the face value of such shares, the deemed income shall be consideration received- fair market value of the shares.

Apart from the above the following incomes are also shall be chargeable under this head.

1. Income from subletting
2. Interest on bank deposits and loans and securities.
3. Agricultural income from a place outside India.
4. Rent of plot of land
5. Mining rent and royalty.
6. Casual income under a will, contract, trust deed.
7. Salary payable to a member of parliament.
8. Income from undisclosed sources.
9. Gratuity paid to a director who is not an employee of a company.
10. Any casual income exceeding Rs. 5,000.
11. Income from markets, ferries and fisheries etc.
12. Income from leasehold property
13. Remuneration received for writing articles in journals.
14. Salary of M.P, member of legislative assembly or council

15. Interest received on securities of cooperative society

16. Family pension received by the widow and heirs of deceased employees.

However the following family pensions are exempt:

(i) Pension received by the widow of an employee of the

U.N.O (ii) Family pension of gallantry awardee.

(iii) Family pension received by the widow or children or nominated person of a member of the armed forces (including para military force) of the union, where the death of such member occurred in the course of operational duties shall be exempt provided the prescribed conditions are satisfied.

17. Amount withdrawn from deposit in national Savings Scheme 1987 on which deduction u/s80

CCA has been allowed including interest thereon.

18. Directors commission for giving guarantee to bank.

19. Directors commission for underwriting shares of a new company.

20. Insurance commission not chargeable under the head business or profession

21. Gratuity received by a director who is not an employee of the company.

22. Tips received by a waiter or taxi driver not being given by his employer.

23. Tax paid by an Indian company on behalf of a foreigner who was sent to India by a foreign company with whom the collaborating company had entered into agreement was Income Of The Foreigner Taxable Under The Head Income From Other Sources.

Dividend

The dividend is the distribution of divisible profits by a joint stock company to its shareholders by way of return on investments in the shares of the company. Dividend from an Indian company is exempted from tax.

Winnings from lotteries & betting, crossword puzzles, horse races and card games etc. sec. 115

B B

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It also includes income through draw of lots, television game shows and similar other games. Taxable at a flat rate of 30% without claiming any allowance or expenditure. Even if income is less than Rs 2,00,000 for the financial year 2012–13, these incomes are fully taxable
Income from Units of UTI and Mutual Fund :Income from units of UTI and Mutual Fund is

exempt from tax as per section 10(35).

Lottery includes winnings, from prizes awarded to any person by draw of lots or by chance or in any other manner whatsoever, under any scheme or arrangement by whatever name called. Card game and other game of any sort includes any game show, an entertainment programme on television or electronic mode, in which people compete to win prizes or any other similar game. Deductions u/s 80C to 80U is not available against such incomes.

Surcharge & education cess

will apply in a usual way.

Net amount received X 100

Formula for grossing up = -----

100--Rate of TDS

TDS Rate

As per section 194B the TDS rate for lottery, crossword puzzles or card games or other games is 30% [No TDS if lottery etc. up to Rs 10,000—but if amount exceeds Rs 10,000 then TDS on whole amount].

As per section 194BB, the TDS rate for winning from horse races is 30 % [No TDS if winning Up to Rs 5000. But if winnings exceed Rs 5000 then TDS on whole winnings]. Note : No TDS is deducted if Lottery Price is less than Rs.10,000 but still the tax is payable by the assessee. Similarly no TDS in case of Winning from other races, gambling or betting.

Interest on securities

The income from interest on securities shall be chargeable to tax under income from other sources, if it is not taxable under the head income from business or profession.

The following amounts due to an assessee in the previous year shall be chargeable to income tax as interest on securities.

1. Interest on any security of the central or state govts.
2. Interest on debentures or other securities issued by a local authority.
3. Interest on debentures issued by a company (whether Indian or foreign)
4. Interest on debentures or other securities issued by statutory corporation.

Kinds of securities

There are four types of securities.

Tax free government securities: The interest on these securities is fully exempt from tax. The interest on such securities is neither included in total income nor taxed.

Less tax government securities: These securities are issued by central govt or state government. These securities are taxable securities. But no tax is deducted at source on such securities. Therefore the interest on such securities will not be grossed up.

Tax free commercial securities: These securities are issued by local authority or Statuary Corporation or a company in the form of debentures or bonds. Actually the interest is not tax free. Income tax due on this interest is payable by the company or authority or Statuary Corporation. These are called tax free because the assessee is not required to pay tax on it. The interest due to an assessee is grossed up and this grossed up amount is included in the total income.

Less tax commercial securities: These are taxable securities. In this case income tax is deducted at source on the amount of interest calculated at the percentage stated on the securities. In this type of securities, if the net amount of interest is given, it has got to be grossed up. If the rate of percentage of interest is given it is not grossed up.

Bond washing transaction

A bond-washing transaction is a transaction where securities are sold sometime before the due date of interest and reacquired after the due date is over. This practice is adopted by persons in the higher income group to avoid tax by transferring the securities to their relatives/friends in the lower income group just before the due date of payment of interest. In such a case, interest would be taxable in the hands of the transferee, who is the legal owner of securities. In order to discourage such practice, section 94(1) provides that where the owner of a security transfers the security just before the due date of interest and buys back the same immediately after the due date and interest is received by the transferee, such interest income will be deemed to be the income of the transferor and would be taxable in his hands. In order to prevent the practice of sale of securities-cum-interest, section 94(2) provides that if an assessee who has beneficial interest in

securities sells such securities in such a manner that either no income is received or income received is less than the sum he would have received if such interest had accrued from day to day, then income from such securities for the whole year would be deemed to be the income of the assessee.

Grossing up of Interest:

Interest is paid after TDS at following rates:

Govt. Securities: Nil (In case of 8% saving bonds, if amount of interest exceeds Rs 10,000 then there is a TDS @ 10%) Listed / Non listed securities: 10%

$$\text{Formula for grossing up:} = \text{Net amount received} \times \frac{100}{100 - \text{Rate}}$$

Note: No tax is deductible on debentures issued by a widely held company if interest is Paid /payable to an individual, resident in India and the aggregate amount of such interest paid or payable during the financial year does not exceed Rs 2500.

Expenses deductible from Interest income

The following expenses can be claimed as deductions from grossed up Interest income:

(a) Collection charges: e.g. commission or remuneration to a banker or any other agent/broker for the purpose of realizing the interest.

(b) Interest on loan: Interest on money borrowed for purchasing the securities can be claimed as deduction. This deduction can exceed the amount received by way of interest. If interest is payable outside India, TDS must be done, otherwise deduction is not available.

Basis of charge: Interest on securities is chargeable on receipt basis if the books of accounts of such income are maintained on cash basis. If, however, books of accounts are not maintained or maintained on the basis of mercantile system of accounting, then interest on securities is taxable on accrual basis. Deduction of collection charges, interest on borrowed capital is allowed as per the method of accounting followed by the assessee.

Interest exempt from tax [Sec. 10(15)] Interest on the following is exempt from tax:

1. Interest on notified securities, bonds or certificates:
 - a. National Defence Gold Bonds, 1980
 - b. Special bearer bonds, 1991
 - c. Post office Cash certificates d. National Plan

- d. Certificates e. National Plan Savings certificates
- e.. Post Office National Savings Certificates g. Post Office Savings Bank Account
- (i) Individual account – maximum exemption limit Rs 3,500
- (ii) Joint account – maximum exemption limit Rs 7,000
- f. The. Post Office Cumulative Time Deposit Rules, 1981
- g. Special deposit Scheme, 1981
- h. public account in Post office (up to Rs 5,000)
- 2. Interest on National Relief Bonds (only for individual and HUF)
- 3. 7% Capital Investment Bonds (only for individual and HUF)
- 4. Interest on notified bonds/ debentures of Public Sector companies
- 5. Interest on deposits in a specified scheme made by a retired govt./public sector employee out of retirement benefits.
- 6. Interest on Gold Deposit bonds
- 7. Interest received by a non-resident Indian from notified bonds (i.e. NRI bonds). Standard deduction in the case of family pension [Sec. 57(iia)]

In the case of income in the nature of family pension, the amount deductible is Rs. 15,000 or 33 1/3 per cent of such income, whichever is less.

For this purpose “family pension” means a regular monthly amount payable by the employer to a person belonging to the family of an employee in the event of his death.

2.12 DEDUCTIONS AGAINST INCOME FROM OTHER SOURCE U/S 57

- a. commission or remuneration for realising dividend or interest on securities – Section 57(i)
- b. Repairs, depreciation in case of letting out of plant, machinery, furniture, building etc. c. Standard deduction in case of family pension – 57(iia)
- d. Any other expenditure of revenue nature [57(iii)]
- e. Interest on borrowed capital [loan taken to invest in shares/ debentures etc.]

UNIT IV

Part-A Answer ALL the questions

Q.No	Questions	CO	LEVEL
1.	What are the capital Assets?	CO1	L2
2.	What is not included in the capital assets?	CO1	L2
3.	What is a 'Short term capital Loss'?	CO1	L2
4.	Write short note on Cost of Acquisition'.	CO1	L2
5.	Write short note 'Cost of Improvement'/'	CO1	L2
6.	What is Grossing up?	CO1	L2
7.	What is come from undisclosed sources?	CO1	L2
8.	What are the other sources of income?	CO1	L2
9.	Write short note on Tax Free Securities.	CO1	L2
10.	What is casual income?	CO1	L2

Part-B Answer ALL the questions)

Q.No	Questions	CO	LEVEL
11.	What are the deductions allowed for computing the capital gain?	CO2	L5
12.	Explain long term and short term capital gain. How are they taxed?	CO2	L5
13.	From the following information, compute taxable gain of Mr.Senthil for the P/Y 2016 Residential House; Year of purchase 1977-78, cost of acquisition Rs 22,000; FMV on 1.4.81 Rs 40,000; cost of improvement (1978-79) Rs 5,000; csot of improvement (2000-01) Rs 3,000; Date of sales 15.03.16. Sale consideration Rs 20,00,000; Selling expenses Rs 5,000. Purchase of constructed house on 20.04.16 is Rs 1,00,000. Amount deposited in capital gain accounts scheme Rs 30,000 CII 1980-81 = 100; 2000-01 = 406; 2015-16 = 1081	CO3	L5

14.	<p>Mr.K received the following incomes during 2015-16. Compute under the head income from other sources separately for each case:</p> <p><u>Item in A</u></p> <p>a) Winning from Sikkim lottery received Rs 1,05,000</p> <p>b) Winning from Horse race (Amount won) Rs 2,000</p> <p>Winning from Crossword Puzzle Rs 4,000</p> <p><u>Item in B</u></p> <p>a)Winning from lottery (amount won) Rs 2,000</p> <p>b) Winning from horse race received Rs 56,000</p>	CO3	L5
15.	<p>Mr.Senthil furnished the following incomes during 2015-16. Compute taxable income under ‘other sources’.</p> <p>A)Wiining from Tamilnadu state Lottery Rs 1,80,000</p> <p>b)Winning from Horse Race (Amount Won) Rs 1,500</p> <p>c)Winning from cross word puzzles Rs 15,000</p> <p>d)Winning from card games Rs 20,000</p> <p>e) Winning from gambling and bettings Rs 25,000</p> <p>Loss from card games Rs 10,000</p> <p>Expenses on buying lottery tickets Rs 500</p>	CO3	L5

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SCHOOL OF MANAGEMENT STUDIES

UNIT V - INCOME TAX LAW AND PRACTICE-SBAA1404

UNIT- V

Clubbing of Income – set off- carry forward and set off- Permissible deductions from gross total income- Sec 80 C to Sec 80 U

Clubbing of incomes

INTRODUCTION:

Clubbing of income means Income of other person included in assessee's total income, for example: Income of husband which is shown to be the income of his wife is clubbed in the income of Husband and is taxable in the hands of the husband. Under the Income Tax Act a person has to pay taxes on his income. A person cannot transfer his income or an asset which is his one of source of his income to some other person or in other words we can say that a person cannot divert his income to any other person and says that it is not his income. If he do so the income shown to be earned by any other person is included in the assessee's total income and the assessee has to pay tax on it. Inclusion of other's Incomes in the income of the assessee is called Clubbing of Income and the income which is so included is called Deemed Income. It is as per the provisions contained in Sections 60 to 64 of the Income Tax Act. For example: A purchased a house property in the name of his wife B. A let out this house property. The rental income earned by A in name of his wife B is taxable in the hands of A. Clubbing of Income takes place in the following cases:

1. **Transfer of income without transfer of Asset:** Sec 60 If any person transfers income without transferring the ownership of the asset, such income will be taxable in the hands of the transferor. Ex. X owns 4000, 14% debentures of A Ltd. of Rs. 100 each, he transfers interest income to his friend Y without transferring the ownership of Debentures. In this case although interest will be received by Y but it is taxable in the hands of X.

2. **Revocable transfer of Asset** Sec 61: If any person transfers any asset to any other

person in such form and condition that such transfer is revocable at any time during the lifetime of the transferee, the income earned through such asset is chargeable to tax as the income of the transferor. For ex. X transfers a house property to A. However, X has right to revoke the transfer during the life time of A. It is a revocable transfer and income arising from the house property is taxable in the hands of X.

3. **Remuneration to Spouse** Sec 64(1)(ii): An individual is chargeable to tax in respect of any remuneration received by the spouse from a concern in which the individual has *substantial interest (not less than 20% of ownership). This provision has an exception. If the remuneration is received by spouse by the application of technical or professional knowledge or experience clubbing provisions will not take place. For ex. X has substantial interest in A Ltd. and Mrs. X is employed by A Ltd. without any technical or professional qualification. In this case salary income of Mrs. X shall be taxable in the hands of X.

4. **Income from assets transferred to spouse** Sec 64(1)(iv): : Where an asset is transferred by an individual to his spouse directly or indirectly, otherwise than for adequate consideration or in connection with an agreement to live apart, any income from such asset is deemed to be the income of the transferor. For ex. Mrs. A transfers 100 debentures of IFCI to her husband without adequate consideration. Interest income on these debentures will be included in the income of Mrs. A.

5. **Income from asset transferred to son's wife** Sec 64(1)(vi): If an individual, directly or indirectly transfers asset, without adequate consideration to son's wife, income arising from such asset is included in the income of the transferor. For ex. Mrs. A transfers 100 debentures of IFCI to her son's wife without adequate consideration. Interest income on these debentures will be included in the income of Mrs. A.

6. **Income from asset transfer to a person for the benefit of spouse/ son's wife** Sec 64(1)(viii): If an individual, directly or indirectly transfers asset, without adequate consideration to a person or an association of persons for the benefit of his/her spouse /son's wife, income arising from such asset directly or indirectly is included in the income of the transferor. For Ex. X transfers Government bonds without consideration to an association of persons, subject to the condition that, the interest income from these bonds will be utilized for the benefit of Mrs. X or Mrs. X son's wife. Interest from bonds will be included in the income

7. Income of a minor child Sec 64 (1A): All income which arises to the minor shall be clubbed in the income of his parents. Income will be included in the income of that parent whose total income is greater. This case has two exceptions.(1) Income of minor child suffering from specified disability . (2) Income of minor child on account of manual work or involving application of his skill/talent etc.

***Substantial Interest:** An individual is deemed to have substantial interest if he beneficially holds equity shares carrying not less than 20% voting power in case of a company or is entitled to not less than 20% of the profits in case of a concern other than a company , at any time during the previous year.

Conversion of Self acquired property by a member of Joint Family into Family property . Sec 64(2)

If a member of HUF transfers self acquired property to HUF with the intention of converting such property as family's property without adequate consideration, the income derived from such property is assessed as income of transferor.

- (a) Subsequent partition: income derived by spouse and minor children on such transfer of transferor will be clubbed with the income of transferor. Rs 1,500 is exempted from parents income when such income is clubbed.

Some special points to remember:

1. If an individual makes a gift in cash or by cheque to his spouse and that money is utilized by the spouse for purchase of an asset . The income earned by the spouse from that asset will not be clubbed in the income of the individual.
2. In order to invoke clubbing provisions there must be relation of husband and wife. That means if a person transfers asset to his wife before marriage income arising from such asset will not be included in the income of transferor.
3. Negative income is also income. Under the Income Tax Act income does not mean positive income only. The term income includes negative income or loss also.
4. Income from accretion to asset is not taxable in the hands of the transferor.
5. Income from saving out of pin money is not included in the income of husband.
6. Income of minor child is clubbed with the income of the parent whose income after excluding the share of minor's income is greater.

7. If trust is created for the benefit of minor child and income during minority of child is being accumulated and added to corpus of trust and income from increased corpus is given to the child after attaining majority, clubbing provisions are not applicable.

Deemed Income

In certain cases, some amounts are deemed as income in the hands of the assessee though they are actually not in the nature of income. These cases are contained in sections 68, 69, 69A, 69B, 69C and 69D. The Assessing Officer may require the assessee to furnish explanation in such cases. If

the assessee does not offer any explanation or the explanation offered by the assessee is not satisfactory, the amounts referred to in these sections would be deemed to be the income of the assessee. Such amounts have to be aggregated with the assessee's income.

1. Cash credits (sec 68)

Where any sum is found credited in the books of an assessee maintained for any previous year, and the assessee offers no explanation about the nature and source thereof or the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory, the sum so credited may be charged to income-tax as the income of the assessee of that previous year.

2. Unexplained investments (sec 69)

Where in the financial year immediately preceding the assessment year the assessee has made investments which are not recorded in the books of account, if any, maintained by him for any source of income, and the assessee offers no explanation about the nature and source of the investments or the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory, the value of the investments may be deemed to be the income of the assessee of such financial year.

3. Unexplained money, etc (Sec 69A)

Where in any financial year the assessee is found to be the owner of any money, bullion, jewellery or other valuable article and such money, bullion, jewellery or valuable article is not recorded in the books of account, if any, maintained by him for any source of income, and the assessee offers no explanation about the nature and source of acquisition of the

money, bullion, jewellery or other valuable article, or the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory, the money and the value of the bullion, jewellery or other valuable article may be deemed to be the income of the assessee for such financial year.

4. Amount of investments, etc., not fully disclosed in books of account(69B.)

Where in any financial year the assessee has made investments or is found to be the owner of any bullion, jewellery or other valuable article, and the Assessing Officer finds that the amount expended on making such investments or in acquiring such bullion, jewellery or other valuable article exceeds the amount recorded in this behalf in the books of account maintained by the assessee for any source of income, and the assessee offers no explanation about such excess amount or the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory, the excess amount may be deemed to be the income of the assessee for such financial year.

5. Unexplained expenditure, etc (69C).

Where in any financial year an assessee has incurred any expenditure and he offers no explanation about the source of such expenditure or part thereof, or the explanation, if any, offered by him is not, in the opinion of the Assessing Officer, satisfactory, the amount covered by such expenditure or part thereof, as the case may be, may be deemed to be the income of the assessee for such financial year :

Provided that, notwithstanding anything contained in any other provision of this Act, such unexplained expenditure which is deemed to be the income of the assessee shall not be allowed as a deduction under any head of income.

6. Amount borrowed or repaid on Hundi (69D.)

Where any amount is borrowed on a hundi from, or any amount due thereon is repaid to, any person otherwise than through an account payee cheque drawn on a bank, the amount so borrowed or repaid shall be deemed to be the income of the person borrowing or repaying the amount aforesaid for the previous year in which the amount was borrowed or repaid, as the case may be:

Provided that, if in any case any amount borrowed on a hundi has been deemed under the

provisions of this section to be the income of any person, such person shall not be liable to be assessed again in respect of such amount under the provisions of this section on repayment of such amount. For the purposes of this section, the amount repaid shall include the amount of interest paid on the amount borrowed.

Set off, or carry forward and set off

Set off of loss from one source against income from another source under the same head of income (sec 70.)

(1) Save as otherwise provided in this Act, where the net result for any assessment year in respect of any source falling under any head of income, other than Capital gains, is a loss, the assessee shall be entitled to have the amount of such loss set off against his income from any other source under the same head.

(2) Where the result of the computation made for any assessment year under sections to in respect of any short-term capital asset is a loss, the assessee shall be entitled to have the amount of such loss set off against the income, if any, as arrived at under a similar computation made for the assessment year in respect of any other capital asset.

(3) Where the result of the computation made for any assessment year under sections to in respect of any capital asset (other than a short-term capital asset) is a loss, the assessee shall be entitled to have the amount of such loss set off against the income, if any, as arrived at under a similar computation made for the assessment year in respect of any other capital asset not being a short- term capital asset.

However the following are the exceptions to the general rule.

(1) Loss from speculation business cannot be set off against income from other sources. This loss can be set off only against income from another speculation business.

(2) Loss of specified business cannot be set off against income from other business. This loss can be set off only against income from other specified business.

(3) Long term capital loss cannot be set off against short term capital gain. This loss can be set off only against long term capital gain.

(4) Loss from the activity of owning and maintaining race horses shall be set off against income from owning and maintaining race horses only and not against any other income under the head other sources.

Inter head adjustment [Section 71]

Loss under one head of income can be adjusted or set off against income under another head. However, the following points should be considered:

- (i) Where the net result of the computation under any head of income (other than 'Capital Gains') is a loss, the assessee can set-off such loss against his income assessable for that assessment year under any other head, including 'Capital Gains'.
- (ii) Where the net result of the computation under the head "Profits and gains of business or profession" is a loss, such loss cannot be set off against income under the head "Salaries".
- (iii) Where the net result of computation under the head 'Capital Gains' is a loss, such capital loss cannot be set-off against income under any other head.
- (iv) Speculation loss and loss from the activity of owning and maintaining race horses cannot be set off against income under any other head.

Carry forward and set off losses

If it is not possible to set off the losses during the same assessment year in which they occurred, so much of the loss as he has not been so set off out of the following losses can be carried forward for being set off against his income in the succeeding years provided the losses have been determined in pursuance of a return filed by the assessee within the time allowed u/s 139(i) and it is the same assessee who sustained the loss.

- (i) Loss under the head income from house property.
- (ii) Loss of non speculation business or profession. (iii) Loss of speculation business.
- (iv) Loss of specified business
- (v) Short term capital loss or long term capital loss.
- (vi) Loss from activity of owning and maintaining race horses.

Set-off and carry forward of loss from house property [Section 71B]

- (i) In any assessment year, if there is a loss under the head 'Income from house property', such loss will first be set-off against income from any other head during the same year.

(ii) If such loss cannot be so set-off, wholly or partly, the unabsorbed loss will be carried forward

to the following assessment year to be set-off against income under the head 'Income from house property'.

(iii) The loss under this head is allowed to be carried forward up to 8 assessment years immediately succeeding the assessment year in which the loss was first computed.

(iv) For example, loss from one house property can be adjusted against the profits from another house property in the same assessment year. Any loss under the head 'Income from house property' can be set off against any income under any other head in the same assessment year. However, if after such set off, there is still any loss under the head "Income from house property", and then the same shall be carried forward to the next year.

(v) It is to be remembered that once a particular loss is carried forward, it can be set off only against the income from the same head in the forthcoming assessment years.

5.2.4. Carry forward and set-off of business losses [Sections 72 & 80]

Under the Act, the assessee has the right to carry forward the loss in cases where such loss cannot be set-off due to the absence or inadequacy of income under any other head in the same year. The loss so carried forward can be set-off against the profits of subsequent previous years. Section 72 covers the carry forward and set-off of losses arising from a business or profession. The assessee's right to carry forward business losses under this section is, however, subject to the following conditions:-

(i) The loss should have been incurred in business, profession or vocation.

(ii) The loss should not be in the nature of a loss in the business of speculation.

(iii) The loss may be carried forward and set-off against the income from business or profession though not necessarily against the profits and gains of the same business or profession in which the loss was incurred. However, a loss carried forward cannot, under any circumstances, be set-off against the income from any head other than "Profits and gains of business or profession".

(iv) The loss can be carried forward and set off only against the profits of the assessee who incurred the loss. That is, only the person who has incurred the loss is entitled to carry forward or set off the same. Consequently, the successor of a business cannot carry forward or set off the

losses of his predecessor except in the case of succession by inheritance.

(v) A business loss can be carried forward for a maximum period of 8 assessment years immediately succeeding the assessment year in which the loss was incurred.

(vi) As per section 80, the assessee must have filed a return of loss under section 139(3) in order

to carry forward and set off a loss. In other words, the non-filing of a return of loss disentitles the assessee from carrying forward the loss sustained by him. Such a return should be filed within the time allowed under section 139(1). However, this condition does not apply to a loss from house property carried forward under section 71B and unabsorbed depreciation carried forward under section 32(2).

Carry forward and set off speculation business losses (section 73)

The loss of a speculation business of any assessment year is allowed to be set off only against the profits and gains of another speculation business in the same assessment year. If a speculation loss could not be set off from the income of another speculation business in the same assessment year, it is allowed to be carried forward for 8 assessment years immediately succeeding the assessment year for which the loss was first computed. Also, it can only be set off against the income of only a speculation business. It may be observed that it is not necessary that the same speculation business must continue in the assessment year in which the loss is set off. However, filing of return before the due date is necessary for carry forward of such a loss.

The following are the other important points regarding carry forward of business losses.

1. Losses of discontinued business of an industrial undertaking after reestablishment or revival. If on account of natural calamities the business of an industrial undertaking is discontinued; but revived within 3 years thereafter, the unabsorbed losses of the undertaking shall be carried forward and set off against the profit of the revived business or any other business up to a maximum period of 8 years.
2. Treatment of losses after succession takes place by inheritance : The loss incurred by the father in the course of carrying on his business can be carried forward and set off by his son, if he succeeds to the business of his father on account of his death.
3. Provisions relating to carry forward and set off of accumulated loss and unabsorbed depreciation allowance in amalgamation or demerger, etc 72A.

Losses in speculation business (sec 73)

(1) Any loss, computed in respect of a speculation business carried on by the assessee, shall not be set off except against profits and gains, if any, of another speculation business.

(2) Where for any assessment year any loss computed in respect of a speculation business has not been wholly set off under sub-section (1), so much of the loss as is not so set off or the whole loss where the assessee had no income from any other speculation business, shall, subject to the other

provisions of this Chapter, be carried forward to the following assessment year, and

(i) it shall be set off against the profits and gains, if any, of any speculation business carried on by him assessable for that assessment year ; and

(ii) if the loss cannot be wholly so set off, the amount of loss not so set off shall be carried forward to the following assessment year and so on.

Losses under the head Capital gains (sec 74)

(1) Where in respect of any assessment year, the net result of the computation under the head Capital gains is a loss to the assessee, the whole loss shall, subject to the other provisions of this Chapter, be carried forward to the following assessment year, and

(a) in so far as such loss relates to a short-term capital asset, it shall be set off against income, if any, under the head Capital gains assessable for that assessment year in respect of any other capital asset;

(b) in so far as such loss relates to a long-term capital asset, it shall be set off against income, if any, under the head Capital gains assessable for that assessment year in respect of any other capital asset not being a short-term capital asset;

(c) 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.

(2) No loss 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.

(3) In respect of allowance on account of depreciation or capital expenditure on scientific research, the provisions of sub-section (2) of section 72 shall apply in relation to speculation business as they apply in relation to any other business.

(4) No loss 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.

5.3. Deductions From Gross Total Income

In computing the total income of an assessee, deductions specified under sections 80C to 80U will be allowed from his Gross Total Income. However, the aggregate amount of deductions under this chapter shall not, in any case, exceed the gross total income of the assessee.

Total Income = Gross Total Income – Deductions under sections 80C to 80U. These deductions are divided into two categories. They are:

- A. Deductions in respect of certain payments
- B. Deductions in respect of certain incomes.

Deductions in respect of certain payments

SECTION 80C: Deduction in respect of life insurance premium, deferred annuity, contributions to provident fund, subscription to certain equity shares or debentures, etc. Persons Covered: Individual /HUF.

Eligible Amount: Any sums paid or deposited in the previous year by the assessee Rs 1,50,000

1. As *Life Insurance premium* to effect or keep in force insurance on life of (a) self, spouse and any child in case of individual and (b) any member, in case of HUF.

(i). Insurance premium should not exceed 20% of the actual capital sum assured, if the policy is issued before 1-04-2012.

(ii). The qualifying amount of life insurance premium on the insurance policy issued on or after 1-04-2012 shall not exceed 10% of the actual capital sum assured.

(iii). The qualifying amount of life insurance premium on an insurance policy issued on or after 1-04-2013 shall not exceed 15% of the actual capital sum assured if it is on the life of a person who is (a) a person with disability or a person with severe disability or (b) suffering from disease or ailment specified u/s 80DDB.

2. To effect or keep in force *a deferred annuity contract* on life of self, spouse and any child in case of individual. Such contract should not contain a provision for cash payment option in lieu of payment of annuity.

3. By way of *deduction from salary payable by or on behalf of the Government* to any individual for the purpose of securing to him a *deferred annuity* or making provision for his spouse or children. The sum so deducted does not exceed 1/5th of the salary.

4. As contribution (not being repayment of loan) by an individual to ***Statutory Provident Fund***;

i.e., any provident fund to which the Provident Funds Act, 1925, applies.

5. As contribution to ***Public Provident Fund*** scheme, 1968, in the name of self, spouse and any child in case of individual and any member in case of HUF.

6. As contribution by an employee to a ***recognized provident fund***.

7. As contribution by an employee to an ***approved superannuation fund***.

8. any subscription to any such security of the central government or any such deposit scheme which is notified by the central govt.

9. Any sum deposited in a ***10 year or 15 year account under the Post Office Savings Bank (CTD) Rules, 1959***, in the name of self and as a guardian of minor in case of individual and in the name of any member in case of HUF.

10. Subscription to the NSC (VIII issue) and IX issue.

11. As a contribution to Unit-linked Insurance Plan (ULIP) of UTI or LIC Mutual Fund (Dhanraksha plan) in the name of self, spouse and child in case of individual and any member in case of HUF.

12. To effect or to keep in force a contract for such annuity plan of the LIC (i.e., Jeevan Dhara, Jeevan Akshay and their upgradations) or any other insurer as referred to in by the Central Government.

13. As subscription to ***any units of any Mutual Fund*** referred u/s. 10(23D) (***Equity Linked Saving Schemes***).

14. As a contribution by an individual to any ***pension fund*** set up by any Mutual Fund referred u/s 10(23D).

15. As subscription to any such deposit scheme of ***National Housing Bank (NHB)***, or as a contribution to any such pension fund set up by NHB as notified by Central Government.

16. As subscription to ***notified deposit schemes*** of (a) Public sector company providing long-term finance for purchase/construction of residential houses in India or (b) Any authority constituted in India for the purposes of housing or planning, development or improvement of cities, towns and villages.

17. As ***tuition fees*** (excluding any payment towards any development fees or donation or payment of similar nature), to any university, college, school or other educational institution

situated within India for the purpose of full-time education of any two children of individual.

18. Towards the cost of ***purchase or construction of a residential house property*** (including the repayment of loans taken from Government, bank, LIC, NHB, specified assessee's employer etc., and also the stamp duty, registration fees and other expenses for transfer of such house property to the assessee). The income from such house property should be chargeable to tax under the head "Income from house property".

19. As subscription to ***equity shares or debentures*** forming part of any eligible issue of capital of public company or any public financial institution ***approved by Board***.

20. As ***Term Deposit*** (Fixed Deposit) ***for 5 years or more with Scheduled Bank*** in accordance with a scheme framed and notified by the Central Government.

21. As subscription to any notified bonds of National Bank for Agriculture and Rural Development (NABARD).

22. In an account under the Senior Citizen Savings Schemes Rules, 2004.

23. As **five year term deposit** in an account under the **Post Office Time deposit Rules, 1981.**

Extent of Deduction: 100% of the amount invested or Rs. 1,50,000/- whichever is less. However, as per Section 80CCE, the total deduction the assessee can claim u/ss. 80C, 80CCC and 80CCD(1) shall be restricted in aggregate to Rs. 1,50,000/-.

SECTION 80CCC- Deduction In Respect of Contribution to Certain Pension Funds

Persons Covered- Individual.

Eligible Amount- Deposit or payment made to LIC or any other insurer in the approved annuity plan for receiving pension.

Extent of Deduction- Least of amount paid or Rs. 1,50,000/- .

SECTION 80CCD- Deduction In Respect of Contribution to Pension Scheme of Central Government

Persons Covered- Individual in the employment of Central Government or any other employer on or after 1-1-2004 or any other assessee being an individual.

Eligible Amount- Deposit or payment made by the employee and Central Government or individual under a pension scheme notified by the Central Government.

Extent of Deduction-A) Aggregate of (a) Amount paid or deposited by the employee and (b) Amount paid or deposited by the Central Government. The total deduction shall be restricted to

maximum 10% of salary.

B) Amount deposited by individual, subject to 10% of total income, in a previous year

80CCE- The aggregate amount of deductions under section 80C, section 80CCC and 80CCD shall not exceed Rs 1, 50,000.

An additional deduction of upto Rs. 50,000 for contribution made by an individual under NPS is allowed .

Section 80CCG

The deduction under the section 80 CCG is allowed to an individual who is a resident in India

Amount of deduction

(a) 50 % of the amount invested in equity shares or (b) Rs 25,000

whichever is less is allowed for each of 3 assessment year.

Maximum deduction limit: Maximum investment is capped at Rs 50,000. You can claim only 50% deduction on the amount invested. This deduction can be availed for three consecutive years, based on investments you make in those years, complying with RGESS requirements.

Section 80D- Deductions In Respect Of Medical Insurance Premia

Eligible Amount Premium paid on Mediclaim Policy issued by GIC or any other insurer approved by IRDA (Insurance Regulatory and Development Authority). Maximum of Rs 25,000

Extent of Deduction:

For Individual

A. For taxpayer his/her spouse and dependent children: 100% of premium paid subject to ceiling of (a) Rs. 30,000 in the case of premium paid in respect of senior citizen (who has attained the age of 60 years or more) and (b) Rs. 25,000/- in other cases.

B. Additional deduction for parents of the taxpayer whether dependent or not 100% of premium paid subject to ceiling of (a) Rs. 30,000/- in the case of premium paid in respect of senior citizen (who has attained the age of 60 years or more)

From Assessment year 2011-12, the benefit of deduction will be extended to the contribution made to Central Government Health Scheme. However, the aggregate limit for deduction remains the same.

Section 80DD- Deduction In Respect Of Maintenance Including Medical Treatment Of Handicapped Dependant

Persons Covered- Resident Individual/HUF.

Eligible Amount-(a) Expenditure incurred on medical treatment [including nursing], training and rehabilitation of a disabled dependant, or (b) Any payment or deposit made under a scheme framed by LIC or any other insurer or the administrator or the specified company and approved by the Board for payment of lump sum amount or annuity for the benefit of dependant with disability.

Relevant Conditions/Points

1. The concerned assessee must attach a copy of certificate in the prescribed Form and signed by prescribed medical authority along with return of income filed u/s 139. A fresh medical certificate may be required to be submitted after the expiry of stipulated period depending on the condition of disability as specified in such certificate.
2. Dependant means (a) in case of an individual, the spouse, children, parents, brothers and sisters of such individual and (b) in the case of a Hindu Undivided Family, any member of HUF; and who is dependant wholly or mainly on such individual or HUF for support and maintenance and who has not claimed deduction under section 80U for the assessment year relating to previous year.

Extent of Deduction(a) Rs. 75,000/- in case of normal disability or (b) Rs. 125,000/- in case of severe disability.

Section 80DDB- Deduction In Respect Of Medical Treatment, Etc. Persons Covered-

Resident Individual/HUF.

Eligible Amount- Expenditure actually incurred for the medical treatment of such diseases or ailments specified in Rule 11DD (some of the diseases are parkinsons disease, malignant cancers, full blown AIDS, chronic renal failure, thalassaemia etc.) for self or dependant relative (spouse, children, parents, brothers and sisters) in case of individual or any member of HUF in case of HUF.

Relevant Conditions/Points

1. The concerned assessee must attach a copy of certificate in the prescribed Form No.10-I by a neurologist, an oncologist, a urologist, a haematologist, an immunologist or such other specialist working in Government Hospital along with return of income. ndividual/HUF

2. The deduction under this section shall be reduced by the amount received under insurance from an insurer or reimbursed by an employer, for the medical treatment of the concerned person. **Extent of Deduction**

100% of the expenses incurred subject to ceiling of (a) Rs. 60,000/- in the case of expenses incurred for senior citizen (who has attained the age of 60 years or more) and (b) Rs. 40,000/- in other cases. Age over 80 years Rs. 80,000 or actual; expenditure.

Section 80E- Deduction in Respect of Interest on Loan Taken for Higher Education

Persons Covered- Individual.

Eligible Amount- Any amount paid by way of interest on loan taken from any financial institution or any approved charitable institution for his/her higher education or w.e.f. 1-4-2008 for the purpose of higher education of his/her spouse, children and legal guardian of the Individual.

Relevant Conditions/Points

1. Amount should be paid out of income chargeable to tax.
2. All field of studies including vocational studies pursued after passing the Senior secondary examination or its equivalent from any school, board or university recognized by the central govt. or state govt. or local authority or by any other authority authorised by the central govt. or state govt. or local authority to do so.
3. Approved charitable institution means an institution established for charitable purposes and notified by the Central Government u/s. 10(23C) or referred in 80G(2)(a).
4. Financial institution means banking company or financial institution notified by Central Government.
5. The deduction is allowed in the initial assessment year (i.e., the assessment year relevant to the previous year, in which the assessee starts paying the interest on loan) and 8 assessment years immediately succeeding the initial assessment year or until the interest is paid in full whichever is earlier.

Extent of Deduction- Entire amount of interest.

Section 80G Deduction In Respect of Donations to Certain Funds, Charitable Institutions, Etc.

Persons Covered-All assesseees [except for 80G (2)(c), which is applicable for donations made only by company] to the Indian Olympic Association or to any other Association or Institution for the development of infrastructure for sports & games or the sponsorship of sports & games, in India

Eligible Amount- Any sums paid in the previous year as Donations to certain funds, charitable institutions etc. specified u/s. 80G(2).

Relevant Conditions/Points

1. Donation in kind is not eligible for deduction.
2. Donations paid out of another year's income or out of income not includible in the assessment of current year are also eligible for deduction. Lt. F. No. 45/313/66 – ITJ (61) dt. 2-12-1966.

Extent of Deduction

Without any ceiling of 10% of adjusted Gross Total Income:—

(a) 100% of donation if donation given to

- (i) National Defence Fund set up by the Central Government; (ii) Prime Minister's National Relief Fund;
- (iii) Prime Minister's Armenia Earthquake Relief Fund; (iv) Africa (Public Contributions — India) Fund; (v) National Foundation for Communal Harmony;
- (vii) An approved university/educational institution of National eminence; (viii) The Maharashtra Chief Minister's Relief Fund
- (ix) Chief Minister's Earthquake Relief Fund, Maharashtra;
- (x) Any fund set up by the State Government of Gujarat exclusively for providing relief to the victims of earthquake in Gujarat;
- (xi) any Zila Saksharta Samiti constituted in any district under the chairmanship of the Collector of that district;
- (xii) National Blood Transfusion Council or to any State Blood Transfusion Council; (xiii) any fund set up by a State Government for the medical relief to the poor; (xiv) the Army Central Welfare Fund or the Indian Naval Benevolent Fund or the Air

Force Central Welfare Fund,

(xv) Andhra Pradesh Chief Minister's Cyclone Relief Fund, 1996;

(xvi) National Illness Assistance Fund;

(xvii) Chief Minister's Relief Fund or Lieutenant Governor's Relief Fund in respect of any State or Union Territory;

(xviii) National Sports Fund; (xix) National Cultural Fund;

(xx) Fund for Technology Development and Application;

(xxi) National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities;

(xxii) Any trust, institution or fund to which Section 80G(5C) applies for providing relief to the victims of earthquake in Gujarat (contribution made during January 26, 2001 and September 30, 2001) or

(b) 50% of donation if donation given to:

Jawaharlal Nehru Memorial Fund; Prime Minister's Drought Relief Fund; National Children's Fund (deduction shall be allowed 100% w.e.f.A.Y 2014- 15) ; Indira Gandhi Memorial Trust; Rajiv Gandhi Foundation.

With ceiling of 10% of adjusted Gross Total Income:— Where the aggregate of sums exceed 10% of adjusted gross total income, then such excess amount is ignored for computing such aggregate.

(a) 100% of qualifying amount, if donation given to Government or any approved local authority, institution or association to be utilised for the purpose of promoting family planning; Donation by a Company to the Indian Olympic Association or to any other notified association or institution established in India for the development of infrastructure for sports and games in India or the sponsorship of sports and games in India.

(b) 50% of qualifying amount if donation given to any other fund or any institution which satisfies conditions mentioned in Section 80G(5); Government or any local authority to be utilised for any charitable purpose other than the purpose of promoting family planning, Any authority constituted in India for the purpose of dealing with and satisfying the need for housing accommodation or for the purpose of planning, development or improvement of cities, towns, villages or both; Any corporation referred in Section 10(26BB) for promoting interest of minority

community; For repairs or renovation of any notified temple, mosque, gurudwara, church or other place.

Section 80GG Deduction in Respect of Rent Paid

Persons Covered Any assessee other than assessee having income falling u/s 10(13A) (i.e., House Rent Allowance).

Eligible Amount Any expenditure incurred by him on payment of rent (by whatever name called) in respect of any furnished or unfurnished accommodation in excess of 10% of his total income, before making any deduction under this section.

Extent of Deduction- Lower of (a) Rs. 2,000 per month, or (b) 25% of the total income (after allowing all deductions except under this section), or (c) Expenditure incurred in excess of 10% of the total income (after allowing all deductions except under this section).

Section 80GGA Deduction In Respect Of Certain Donations For Scientific Research Or Rural Development

Persons Covered- All assessees:

Eligible Amount-

1. Any sum paid to a scientific research association or to a university, college, or other institution to be used for *scientific research* [approved u/s. 35(1) (ii)];
2. Any sum paid to a university, college, or other institution to be used for *research in social science or statistical research* [approved u/s. 35(1)(iii)];
3. Any sum paid to an association or institution for any *programme of rural development* [approved u/s. 35CCA];
4. Any sum paid to an association or institution for *training of persons for implementing rural development programmes* [approved u/s. 35CCA];
5. Any sum paid to a public sector company or local authority or to an association or institution approved by National Committee for carrying out *any eligible project or scheme* [approved u/s. 35AC];
6. Any sum paid to a *rural developemt fund* set up and notified by Central Government for the purposes of Section 35CCA(1)(a);
7. Any sum paid to a *National Urban Poverty Eradication Fund* set up and notified by Central

overnment for the purposes of Section 35CCA(1)(d).**Extent of Deduction-**100% of the amount paid as donation/contribution.

Section 80GGB Deduction in Respect of Contribution Given by Companies to Political Parties or an Electoral Trust"

Persons Covered- Indian company.

Eligible Amount- Contribution given by Indian companies to any political parties or an electoral trust.

Extent of Deduction-100% of the amount paid as contribution.

Section 80GGC- Deduction In Respect of Contribution Given by any Person to Political Parties or an Electoral Trust"

Persons Covered- Any assessee (except local authority and every artificial juridical person wholly or partly funded by the Government).

Eligible Amount- Contribution given by assessee to political parties or an electoral trust.

Extent of Deduction-100% of the amount paid as contribution.

Section 80IA- Deduction under section 80IA in respect of profits and gains from industrial undertaking or enterprises engaged in infrastructure developments etc.

The above deduction is available to (a) provision of infrastructure facility (b).

Telecommunication services

(c). Industrial parks or special economic zone

(d). Power generation, transmission and distribution. (e). A cross country natural gas distribution network

(f). Under taking setup for reconstruction of power unit.

Amount of deduction: 100% of the profit for first 5 years and 30% of the profit in the next 5 years. For telecom industry

100% of the profit for first 10 years For Infrastructure facility provider and power sector

Section 80IC- In respect of profits and gain of certain special category state.

Industrial under taking situated in special category state are a eligible for 100 % profit deduction

based on year of commencement. For a period of 5 years. State like Sikkim, Uttarakhand, Northeastern states etc.

Section 80JJA- 100% profit is allowed as deduction to company involved in processing of bio-degradable waste.

Section-80 JJA- 30% of additional wages to new workman in excess of 100 workman employed during the previous year can be deductible.

Section- 80LA- The deduction is allowed to a scheduled bank whose income includes from the branch in special economic zone. Amount of deduction is 100% of aforesaid income for the first 5 years and 50% for the next 5 years.

Section 80P- The deduction is allowed as follows

- (i) Whole of the amount in case involved in small credit (banking), agriculture, Cottage industry, fishing
- (ii) Primary cooperative societies engaged in milk, oil seeds, fruits, vegetables raised or growers, food processing units etc whose total income does not exceeds Rs. 20,000
- (iii) Any activities other than above whose total income does not exceed Rs. 50,000 or Rs. 1,00,000 in case of consumer cooperative society.

Section 80QBB, 80RRB- Income of Authors of literary, artistic or scientific in nature whose royalty income is deducted to the extent of Rs. 3,00,000 or whichever is less.. Patents as above.

Section 80TTA- Income by way of interest on savings account with banking company, post office and co-operative society to the extent of Rs.10,000 is deductible.

Section-80U- Deduction to the extent of Rs. 75,000 and Rs. 1,25,000 is claimed for permanent physical disability and severe disability respectively.

UNIT V

Part-A Answer ALL the questions

Q.No	Questions	CO	LEVEL
1.	What do you understand by 'set-off' of losses?	CO1	L2
2.	What is carry forward and set-off of losses?	CO1	L2
3.	Write short note on set-off capital losses.	CO1	L2
4.	What is Inter sources Adjustment?	CO1	L2
5.	How is gambling losses set off?	CO1	L2
6.	Write short note on set-off of business loss.	CO1	L2
7.	Define the term 'Gross Total Income'.	CO1	L2
8.	Write short note about 'Section 80C'.	CO1	L2
9.	What are 'No limit deduction'?	CO1	L2
10.	Write short note "section 80E".	CO1	L2

Part-B Answer ALL the questions

Q.No	Questions	CO	LEVEL
11.	What are the losses which could be carried forward and set-off?	CO4	L5
12.	Explain Intra-head and Inter –head set-off.	CO4	L5
13.	<p>Mr.Sreenivasan, submits the following information, relevant for the previous year ending March 31,2016.</p> <p><u>Income from business</u></p> <p>Business I Rs 18,000</p> <p>Business II Rs 30,000 (loss)</p> <p><u>Income from other sources</u></p> <p>Interest on securities Rs 12,000 (Loss)</p> <p>Bank interest Rs 16,000</p> <p>Lottery Winnings Rs 60,000</p> <p>Determine the net incomes for the AY 2017-18</p>	CO4	L5

14.	What are the permissible deductions from Gross Total Income?	CO4	L5
15.	Calculate the deductions allowable u/s 80-d to an assessee having the following incomes for the A/Y 2016-17 (Age-30 years) Business Income Rs 83,000 Interest on Debentures Rs 49,000 Payment of medical insurance premium on own life Rs3,000 Preventive medical check-up of wife Rs 4,500 An expenditure of Rs 27,000 for medical purpose of his father who is 82 years old.	CO4	L5

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4. N. Hariharan, Income Tax Law and Practice, Tata McGraw Hill publishing Co. Ltd, New Delhi.