5th SEM B.COM CO-OPERATION
B.COM FINANCE
CALICUT UNIVERSITY

INCOME TAX
ASSESSMENT YEAR 2020-21
(2017 ADMISSION)

Prepared by

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Syllabus

Bc5 B09 Income Tax Law and Accounts

Lecture Hours per week: 5 Credits: 4 Internal: 20, External: 80

Objectives:

- To impart basic knowledge and equip students with application of principles and provisions Income - tax Act, 1961 amended up to date.

Module I Basic Concepts: Income - Agricultural income - Person - Assessee - Assessment Year - Previous Year - Gross total income - Total income - Maximum marginal rate of lax - Residential status - Scope of total income on the basis of residential status –Exempted incomes. 10Hours

Module II Computation of Income under Different Heads: Salaries - Allowances - Perquisites -Profit in lieu of salary - Gratuity – Pension. 20 Hours

Module III Income from house property: Annual Value of House property - Computation under different circumstances - Deduction from annual value. 15Hours

Module IV Profits and Gains of Business or Profession: Definition - Computation - Allowable expenses and non- allowable expenses - General deductions - Provisions relating to Depreciation. 20 Hours

Module V Capital Gains: Definition of Capital Assets - Long term and Short term - Transfers - Cost of acquisition - Cost of improvement - Exempted Capital gains. Income from Other Sources: Definition– Computation. 20 Hours (Theory and problems may be in the ratio of 40% and 60%respectjvely .Only simple problems are to be expected)

Reference Books:

1. Dr. Vinod K. Singhania : Direct Taxes - Law and Practice, Taxman publication.

2. Dr. Mehrotra and Dr. Goyal: Direct Taxes - Law and Practice, Sahitya Bhavan Publication. 3. B.B. Lai: Direct Taxes, Konark Publisher (P) ltd.

4. Bhagwathi Prasad : Direct Taxes - Law and Practice. Wishwa Prakashana.

5. Dinakar Pagare : Law and Practice of Income Tax. Sultan Chand and sons

6. Gaur & Narang : Income Tax.

INCOME TAX

MODULE: 1

Introduction

- ✓ Taxi is a compulsory contribution from a person
- ✓ Collected by government
- ✓ Taxi is the most important source of revenue of the government
- ✓ It is generally imposed by the central government, state government local authority etc…
- ✓ Taxes are generally Classify under direct tax and indirect tax.
- ✓ Incidence of tax(The liability to pay tax)Impact of tax(Burden of tax)Are on the
- ✓ Same person is called Direct tax. Indirect tax the burden of tax cannot be shifted to another person.
- ✓ If incidence of tax is on one person and the impact of tax is On another person it is called indirect tax. In indirect tax the burden of tax can be shifted to another person

Income tax

- ✓ Income tax is a very important direct tax
- ✓ It is collected by central government
- ✓ It is a major source of revenue to Central government But a major portion of income tax collected is distributed to state government.

CBDT

- ✓ Central board of direct tax
- ✓ Supreme authority of income tax in India
- ✓ Apex authority
- ✓ Empowered to frame rules under the control of central government
- ✓ It perform various statutory and administration function

<u>Important Definitions</u>

1) income (section 2(24)

That income has not been defined in the act. Under this section income includes:

a. Profit and gain
b. Dividend and interest
c. Voluntary contribution received by trust created for charitable or religious purpose or by scientific research Association, or by any games or sports Association, or by any university or hospital or by any electoral trust
d. Salary, allowances, Perquisites
e. Capital gain
f. Winnings from lottery crossword puzzle rise card games or Betting
g. Any sum of received from employees as contribution to any provident Or other fund for welfare of employees
h. Any sum of received under the key men Insurance policy

2).Assessment year(section 2(9)

- Assessment year means the period of 12 months commencing on first day of April every year and ending on 31st March of the next year
- It is the year in which assessment is made on the income of the previous year
- Current assessment year is 2020-2021

3).Previous year (section 3)

- It is the financial year immediately proceeding the assessment year
- it is the year in which income is earned

4). Assesee section 2(7)

means a person Who is liable to pay tax Or any other sum of money like interest or penalty
under the income tax act

2. Assessment Year section 2(9)
2020-2021
3. Previous Year section
2019-2020

***Accelerated assessment**

- Every Assesse is liable to be Assessed during the assessment year in respect of the income earned during the previous year.
- But in certain circumstances and Assesse is liable to pay tax in the previous year itself.
- it is known as accelerated assessment
- Circumstances

Si	Sections	Circumstances
1	172	Income of non-resident from shipping business
2	174	Income of person leaving India
3	174A	Income of an association of person or body of individuals formed for a particular purpose
4	175	Transfer of Property to avoid ax
5	176	On Discontinuance of a business or profession

It Means a person Who is liable to pay tax Or any other sum of money like interest or

4. Assesee section 2(7)

penalty under the income tax act

- Deemed assesse
  A person who is considered as an assesse for some other person or Representative of some Other person is called deemed
  Eg: Parent in respect of minor son or daughter
  legal representative of a disease that a person
  agent of a person residing out outside India.
- assessee in default
  When a person is liable to do a work or duty under this act And if he failed to do that he is called an assessee in default

5. Person section 2(31)

Taxis payable by a person. Person includes the following.

1. an individual,
2. An HUF,
3. A company
4. A firm,
5. an association of persons or a body of individuals
6. local authority
7. every artificial judicial person (idol, a deity, a university or a public corporation

6. Agriculture income section 2(1A)

- Any rent or revenue derived from land which is situated in India and is used for agriculture purpose
- and any income derived from such land by agriculture operations or any process or sales of such product
- and any income from a farm house

7. Gross total income section 80B(5)

- The total income under five heads of income is GTI
- Five heads are
  1. Income from salary
  2. Income from house property
  3. Income from business and profession

4. Income from capital gain
5. Income from other sources

8. Total income

- Total income is equal to gross total income minus all deduction under section 80
- it is the income on which income tax is calculated
- it is also known as taxable income

9. Minimum Margin Rate of Tax

- Minimum marginal rate is the rate of tax including surcharge applicable to the highest slab of income of an individual or association of person or body of individuals as specified in the financial act each year
- the present maximum marginal rate is 30%

10. Casual income

- Any receipt of cash and or non-recurring nature is Casual income
- Example : winning from lottery
  Betting
  Card games
  Crossword puzzle ect…..

Features of income tax

1. Direct tax
2. Annual tax
3. Collected by central government
4. Income calculated under five heads
5. Tax rate is fixed by annual finance act
6. Any income whether legal or illegal is taxable

Residential Status

- Incidence of tax or tax liability of a person depends upon the residential status of a person (section 5)
- Residential status of an assesse is determined with reference to his residence in during the previous year

Residential status of
- **Individual sec 6(1)**
- **HUF sec 6(2)**
- **A firms, AOP, BOI**
- **A company sec 6(3)**

Every other person sec 6(4)

1.Residential status of individual

SN	**Status**	**A Person Who Is Satisfied**
1	Ordinarily Resident	Anyone Of The Basic Condition And Both Additional Condition
2	Non-Ordinarily Resident	Anyone Of The Basic Condition But Does Not Satisfy Both The Additional Condition
3	Non-Resident	Who Satisfies None Of The Basic Condition. in this case additional condition are irrelevant

2. Residential status of HUF

	STATUS	
1	Ordinarily Resident	✓ if the control and management of its affairs is situated a wholly or partly in India during the relevant previous year ✓ Karta satisfies both additional condition
2	Non-Ordinarily Resident	✓ if the control and management of its affairs is situated a wholly or partly in India during the relevant previous year ✓ Karta does not satisfy additional condition
3	Non-Resident	✓ if the control and management of its affairs is situated a wholly In outside India

3. Residential status of A firms, AOP, BOI

SN	Status	
1	Ordinarily Resident	if the control and management of its affairs is situated a wholly or partly in India during the relevant previous

2	Non-Resident	if the control and management of its affairs is situated a wholly In outside India

4. Residential status of A company

SN	status	
1	Resident	✓ Indian Company Or ✓ During PY POEM Is Situated In India
2	Non resident	✓ Not An Indian Company ✓ And During PY POEM Is Situated In Outside India

5. Residential Status of Every Other Person

SN	**status**	
1	Resident	if the control and management of its affairs is situated a wholly or partly in India during the relevant previous
2	Non resident	if the control and management of its affairs is situated a wholly In outside India

<u>**Residential status of individual sec 6(1)**</u>

1 .Resident

a) Ordinarily resident
b) Non ordinarily resident

2. Non resident

Conditions

Basic condition	**Additional condition**
1.In INDIA ,during PY 182 days or more	1.He has been resident in INDIA at least two out of 10 PPY
2.In INDIA ,during PY 60 days or more & at least 365 days during 4 year PPY	2.In INDIA, at least 730 days during 7 year PPY

Exceptions case, 120 days instead of 60 day

1. **An individual who is citizen of India and leaving India in a PY for purpose of;**
   - **Employment**
   - **Member of the crew of Indian ship**
2. **If any citizen or a foreign national of Indian origin who is living outside India , came on a visit to India in the PY**

NOTE:

PY: Pervious Year

PPY: previous years preceding the relevant previous year

Work Out the Problems

1. Mr Tom left for Canada on 15 May 2016 after staying in India for 10 years. He came back on 1 September 2019. Determine his residential status of the assessment year 2020-2021

2. Mr Adarsh, Born and brought up in Mumbai, left India to Germany in May 2017. He came back to India to settle in India on 15th 2020. Determine his residential status of the assessment year 2020-2021

3. Mr Richard, Canadian citizen, came to India for the first time on 12 February 2018.he stayed in India up to 18 January 2020 and went back to Canada. Determine his residential status for the previous year 2019 to2020

4. Mr Kalyan an Indian citizen working in USA, came to India on 18 April 2019and went back to USA on 14 August 2019.He came back to India again on 28 February 2020 and went back to USA on 15 April 2020. Determine his residential status for the previous year 2019 to2020

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1) Mr Alex is a foreign citizen. Since 1997 he came to India every year in the month of July for 112 days.
a) Determine his residential status for previous year?
b) He is a person of Indian origin what will be his residential status?

2) Mrs Jyothi is a citizen of India she left for Sharjah on 12 May 2019 for the first time and could not return to India till 31 March 2020.
Determine his residential status

Incidence of tax (scope of total income on the basis of residence)

- The taxes lived on the total income of an assesse
- Total income of an assesse is determined on the basis of his residential status, under section 5
  <u>Incidence of tax is determined in the following manner:</u>

Kind of income

1. Income received

- Income received in India during the previous year is taxable in the hands of all type of assessee
- The income may be received by the assessee himself or by his agent by banker or broker on his behalf
- Income and by the assessee in any source is taxable here
- Income receiving money or money's worth is taxable

2. Income deemed to be received in India

- Incomes which are not actually received by the assessee during the previous year.
- But the act consider them has received of income or called income deemed to be received in India ,according to section 7

3. Income which accrues or arises in India

- Income is said to be accrue or arise due to an assessee only when he obtained a right to receive it.
- Accrual means the amount earned

4. Income deemed to accrue or arise in India section 9(1)

a) Income from business connection In India we be deemed to accrue or arise in India
b) Income from any property, asset or source of income situated in India
c) Income from the transfer of any capital asset situated in India
d) Any income under the head 'salaries' if it is payable for service rendered in India
e) Salary payable by the government to an Indian citizen for service rendered outside India
f) Income, which fall under the head 'salaries' if it is earned in India
g) A dividend paid by an Indian company outside India
h) Income by way of interest payable by government
i) Income by way of royalty payable by the government
j) Way of fee for technical service payable by the government

Residential status and Incident of tax

NO	INCOME	OR	NOR	NR
1	Income received in India	yes	yes	yes

2	Indian deemed to be received in India	yes	yes	yes
3	Income accruing or arising in India	yes	yes	yes
4	Income deemed to accrue or arise in India	yes	yes	yes
5	Income received or accrued outside India from a business controlled in or profession set up in India	yes	yes	no
6	Income received or accrued outside India from a business controlled from outside or professional set up outside India	yes	no	no
7	Income received or accrued outside India from any other source	yes	No	no
8	Income received or accrued outside India brought to India in previous year	no	no	no

INCOME TAX LAW, PRACTICE

MODULE 2

INCOME FROM SALARY

SALARY

- There is no distinction between wage of laborer and salaries of high officials
- Salary from foreign government is taxable
- Employee employer relationship is necessary
- Salaries of MP and MLA are taxable under the income from other source
- Salary of a partner is taxable under the head profit or gain from business or profession
- Pension is taxable under the head salary
- Family pension is taxable under the head income from other source
- Examination remuneration to a university teacher is taxable under the head income from other source
- Due dates of salary :

  Government and semi government employees- 1st of the next month

  Banks and non-government bodies- last date of the same month

<u>TAX PLANNING RELATING TO SALARY</u>

- It should be ensures that DA and DPFORM PART OF SALARY under the terms of employment. Then it will minimize tax incidence on HRA, Gratuity, commuted pension etc.
- If the commission paid on fixed percentage on turnover, it will reduce tax liability.
- Commuted pension is fully exempted for government employees and partly taxable for the non-government employees. Un commuted pension is always taxable. So employee can try to commute their pension.

ALLOWANCES

Payment in cash made by the employer to his employee monthly, other than salary is called allowances. These are for meeting some particular requirements connected with the service rendered by an employee. Allowance may be

- Fully taxable allowances
- Fully exempted allowance
- Partly taxable allowance

1. FULLY TAXABLE ALLOWANCE

- DA- on account of high prices. DP is a part of DA given as per terms of employment and considered as part of basic salary.
- Interim relief allowances.
- CCA
- Project allowances
- Fixed medical allowances
- Tiffin allowances
- Servant allowances
- Proctor/ wardenship allowances
- Deputation (substitution) allowances
- Overtime allowances
- Hill allowances (above 1000 mtrs)
- Marriage allowances
- Non practicing allowances
- Family allowances
- Lunch/dinner/refreshment allowances
- Special allowances
- Holiday trip allowances
- Festival allowances
- Entertainment allowances (non-government employees)
- Transport allowances (except handicapped employees).

2. PARTLY TAXABLE ALLOWANCES

1.HRA

1. Special allowances (official) sec 10(14) i
2. Special allowances (personal) sec 10(14) ii

➢ **<u>HRA (House rent allowance)</u>**

HRA is exempt subject to least of the following

- Actual HRA received
- Rent paid in excess of 10% of salary
- 40% of salary

(50% in case of Delhi, Mumbai, Chennai, Kolkata)

Salary = BP+DA forming part of salary +commission on turnover

➢ **<u>Special allowances (official)</u> - exempt up to the amount spent**

- Helper allowances
- Uniform allowances
- Daily allowances
- Travelling allowances
- Academic allowances
- Conveyance allowances

➢ **<u>Special allowances (personal)</u> - exempt up to the a specified limit**

- Children education allowance – 100/m/child-max 2 children
- Children hostel allowances – 300/m/child-max 2 children
- Transport allowances – 3200/m (handicapped employees)
- Underground allowance -800/m
- Tribal area allowances -200/m
- Running flight allowances employees working in transport system-10000/m or 70%, least
- Compensatory field area allowances -2600/m
- Compensatory modified field area allowances -1000/m
- Island duty allowances – 3250/m

3. FULLY EXEMPTED ALLOWANCES

- Foreign allowances-allowances given to government employees for rendering services abroad
- Sumptuary allowances to high court and supreme court judges
- Allowances paid to employees of UNO

PERKS/PERQUISITES

Any benefit attached to an office or position in addition to salary or wages (cash/kind)

1. Tax free perks
2. Perks taxable to specified employees only
3. Perks taxable to all employees

TAX FREE PERKS

- **Medical benefit**
  - Employer hospital – fully exempted
  - Government hospital – fully exempted
  - Private recognized hospital – fully exempted
  - Private unrecognized hospital – fully taxable
  - Foreign hospital –

  - Exempted up to the extent approved by RBI

  -Expenses of stay and travel of the patient and one attendant is exempted provided the GTI of the employee does not exceed the amount approved by RBI.
- Tea, snack provided in work place
- Residential accommodation at site
- Expenses on telephone (including mobile phone)
- Scholarships to employees & children
- Conveyance facility
- Expenses on refresher course
- Tax paid by the employer on the value perquisites
- Employers contribution to staff group insurance scheme
- Perquisite to government employees posted abroad

- Perquisite to high and supreme court judges
- Rent free house to ministers, officer of parliament, or opposition leader
- Laptop and computers for free use
- Periodicals and journals
- Interest free or concessional loan up to 20000. (if more than 20000, then 20000 is taxable)
- Interest free loan for specified diseases
- Transfer of asset after using more than 10 years
- Leave travel concession

PERQUISITES TAXABLE TO ALL EMPLOYEES

1. Value of residential accommodation (RFA)

- Government employees – license fee fixed by govt + 10% cost of furniture)
- Other employees –

1) If owned by employer

- 15% of salary (population exceeds 25 lakh)
- 10% of salary (population 10-25 lakhs)
- 7.5% of salary (population less than 10 lakhs)

2) Taken on lease or rent

- Actual rent
- Or 15% of salary **whichever is less** + 10% cost of furniture

3) Hotel accommodation

- Up to 15 days –nil
- Exceeds 15 days – 24% of salary or hotel bills whichever is least

4) Accommodation provided at site – NIL

Salary= BP+DP+ Bonus+ commission+ all taxable allowance except normal DA+ Leave encasement during service

PERQUISITE TAXABLE TO SPECIFIED EMPLOYEES ONLY

Specified employee:-

1. He is a director of a company
2. He possess 20% equity shares in a company
3. His salary income exceeds Rs 50000

The following perquisites are taxable for specified employees only

- Gas, electricity provided at free or concessional rate
- Education facility
- Salary of sweeper, watchmen, Gardner and PA
- Medical facility
- Car
- Transport facility by a transport undertakings
- Education facility: does not exceed 1000 per child per month –NIL

If exceeds 1000 per child per month – cost of education in similar institution will be taxable.

Valuation of car

- **Owned by employer**
  - **Used for official purpose only**: NIL
  - **Used for private purpose only**: expenses met by employer+ salary of driver + 10% depreciation
  - **Used both for official and private**

Expenses met by employer

- 1800pm (small car)
- 2400pm (large car)
- Add 900pm (drivers salary)

Expenses met by employee

- 600pm (small car)
- 900pm(large car)
- Add 900pm(drivers salary)

- **Owned by employee**
  - **Used for official purpose only**: NIL
  - **Used for private purpose only**: amount reimbursed by employer
  - **Used both official and private purpose**

Small car: amount reimburse – (1800/m+900/m)

Large car: amount reimbursed – (2400/m+900/m)

Tax planning relating to perquisites

Rent free accommodation

- Here employee have to decide whether the accommodation provided by the employer with furniture or not.
- Where the house rent is cheap and salary is high it would be profitable to the employee to take HRA instead of rent free accommodation.
- Where the accommodation is provided at a new place of posting on account of the transfer from one place to another, and retains the accommodation in the first place, the value of perquisite determined with reference to only one accommodation for a period not exceeding 90 days. There after value of perquisite shall be charged to both houses.

Provision of motor car

- In the case of non-specified employees, it is better to avail motor car instead of cash allowances. Because, the motor car provided by the employer to employee is taxable to specified employee only. If non- specified employees availing cash allowances, then it causes for increasing their total income and may reduce their advantage of non-specified employees.
- Medical allowance paid in cash is taxable. Same time if it is provided as facility it is not taxable.

PROVIDENT FUND

It is provided for future.

1. Statutory provident fund (SPF)

It is a PF to which Indian PF Act 1925 applies. It is maintained by government or semi government offices. It is fully exempt from tax

2. Recognized provident fund (RPF)

It is a PF to which Indian PF Act 1952 applies. It is maintained by private sector organizations.

3. Un recognized provident fund (URPF)

It is PF neither statutory nor recognized. It is approved by PF commissioner but not by the commissioner of income tax.

4. Public provident fund (PPF)

Every individual can subscribe this fund any amount being not less than 500 and not more than 150000 in a year.

	SPF	RPF	URPF	PPF
Employee contribution	Already taxed	Already taxed	X	X

Interest	Exempt	9.5% Exempted	X	X
Employer contribution	Exempt	12% Exempted	X	-
Interest	Exempt	9.5% Exempted	X	-
Lump sum received	Exempt	Exempt	Taxable	X

Salary = basic pay+ DA if part of pay+ commission on turn over

PROFIT IN LIEU OF SALARY

Any terminal benefits or payment made instead of salary. It includes

- Compensation for loss of employment
- Payment under URPF or superannuation fund
- Payment under key man insurance scheme
- Payment before joining or after retirement

INCOME FROM SALARY (RETIREMENT)

- Gratuity – sec 10(10)
- Pension and commuted value of pension – sec10(10A)
- Retrenchment compensation – section 10 (10B)
- Compensation on voluntary retirement – sec 10(10C)
- Amount from provident fund – sec 10(11)(12)

- **Gratuity sec 10(10)**

A. Government employees – fully exempted (sec 10(10) i)

B. Nongovernment –

1. **Covered by the payment of gratuity act 1972 (sec 10(10)ii)**

Least of the following is exempted

- 15/26 * last month salary* completed years of service (6 months and above considered as a year)
- Rs 2000000
- Actual gratuity received

Salary = BP + DA+ Commission on turnover

2. **Not covered by the payment of gratuity act 1972 –(sec 10(10)iii)**

   Least of the following is exempted

   - 15/30 * average salary* completed years of service (only completed years are considered)
   - Rs 2000000
   - Actual gratuity received

Salary = BP + DA forming part of salary+ Commission on turnover

Pension and commuted pension (sec. 10(10A))

- Pension – fully taxable under the head salary
- Un commuted pension- fully taxable
- Commuted pension government employees- exempted
- Commuted pension non-government employees:
  - ✓ 1\3 of full pension exempted if received gratuity
  - ✓ 1\2 of full pension exempted if not received gratuity

Leave encashment -sec 10(10AA)

- Leave encashment during service- fully taxable
- Government employees- exempted
- Non-government employees- least of the following is exempted
  - ✓ Actual amount received
  - ✓ Rs 300000
  - ✓ Last 10 month salary
  - ✓ Average salary * leave of credit (maximum 30 days in a year)

Salary = BP+DA forming part of salary + commission on turnover

Retrenchment compensation – sec10 (10B)

Least of the following is exempted

- ✓ Actual amount received
- ✓ Rs 500000
- ✓ 15\ 30* average salary* completed years (in excess of 6 months considered)

(Salary here includes all allowances and perquisites except any bonus, any contribution paid by employer, pension, provident fund Gratuity)

- **VRS compensation – sec 10 (10 C)**

Exemption is the least of the following

- ✓ Actual amount received
- ✓ Rs 500000
- ✓ Last month salary*3*completed years of services
- ✓ Last month salary* balance of month remaining

Salary= BP+ DA forming part of salary+ commission on turn over

- **Amount from PF- sec.10(11)(12)**

SPF- Fully exempted

RPF- Fully exempted

PPF- Fully exempted

URPF-

- Employer contribution and interest – taxable under the head salary
- Employee contribution – exempted
- Interest on employee contribution- taxable under income from other source

Deduction from gross salary

1. **Entertainment allowances**

- Government employees
  - ✓ Amount received
  - ✓ 20% of basic salary
  - ✓ Rs 5000

Whichever is less.

- Non-government employees – Nil

2. **Employment tax (professional tax)**
3. **Standard deduction up to Rs 50000**

CHAPTER 3

INCOME FROM HOUSE PROPERTY

The property consists of any building or land attached there.

- Building let out to employees – income from business
- Let out to authorities for locating bank, post office, police station etc. – income from business
- Composite lending of building with other assets – income from business or other source
- The main object of Assessee Company as per memorandum of association is to acquire properties and earn income by letting out of same property, said income is to be brought to tax as business income.
- Paying guest accommodation of clubs to its members – business income
- Assessee should be the owner of the property
- The property should not be used for the purpose of assessee's business or profession

Exemptions regarding income from HP

- Income from farm house- agricultural income
- One self-occupied house- exempted
- One palace of ex-ruler – exempted
- Income from property owned by local authorities, trade union, charitable trust, political party, universities, educational institutions, hospitals etc – exempted

Different types of rental values

Municipal rental value (MRV)

It is the annual rental value of the house property fixed by the municipality.

Fair rental value (FRV)

It refers to the rent charged on similar type of property located in the same locality.

Standard rent received (SR)

It is the maximum rental value fixed by rent control act.

Arrear rent received

Rent pertaining to the previous year received in the current year (reason increase in rent with retrospective effect). Standard deduction can be deducted as per sec 25 A (1).

Unrealized rent received

Rent not realized due to the default by tenant. 30% standard deduction can be deducted as per sec 25 A (1).

Co-ownership

If two or more persons own a house property jointly then they is known as co-owners. If individual share of each co-owner is definite and ascertainable then the share of each such person shall be taxable under his income. Owner includes legal owner beneficial owner and deemed owner.

Legal owner

He is a person who has the legal title of the property as per the Transfer of Property Act, Registration Act etc.

Beneficial owner

He is a person who enjoying the property as an owner to full extend he will be treated as a beneficial owner of such property and will be charged under the head income from house property.

Deemed owner or fictional owner

In following cases a person should be treated as a deemed owner of the property and liable to tax:

- An individual who transfers a house property without adequate consideration to his or her spouse, or a minor child not being a married daughter, shall be deemed to be the owner of that house property transferred.
- The holder of an impartible estate shall be deemed to be the individual owner of all the properties comprised in this estate.
- A member of co-operative society, company or other association of persons to whom a building or part thereof is allotted or leased under a house building scheme is deemed to be the owner of that building.
- A person having long term lease rights in a property under a lease agreement extending to 12 years or more in the aggregate including the term for which the lease may be extended.

- A person who is allowed to take or retain possession of any building or part of their of in part performance of a contract of the nature referred to in section 53A of the Transfer of Property Act 1882 shall be deemed to be the owner of the property.

Gross annual value - Deemed to be let out

If an assessee is holding more than two house property and all of them for self-occupation , in such a case only two houses of this choice is treated as self-occupied and all other houses will be considered as deemed let out. 2 house Property can be considered as self-occupied property. If the assessee considered the second house also as self-occupied property, then he is eligible for a total deduction of maximum Rs 200000 towards interest on housing loan of both the property.

Co-ownership of property

It means a single house property is owned by more than one person. If there are multiple owners for a single house property then the income shall be taxed in the hands of all such owners in the ratio of their ownership.

GAV Of self-occupied house remaining vacant due to employment

Here the assessee derives no benefit from the property so annual value is Nil.

Composite rent

composite rent means, when the owner of a property receives rent in respect of building let out includes:

- Other assets like a furniture, plant and machinery etc.
- For different services provided in the building such as providing lift, security, power etc. (The cumulative amount so received is called a composite rent. Where the composite rent includes rent of building and charges for different services the composite rent has to be divided in the following manner)

a) The amount apportionable to use of the property is to be assessed under income from HP

b) The amount apportionable to use of services is to be charged to tax under the head profit and gain from business or profession or income from other sources.
(Where composite rent received is not separable then the rent is taxable either as a business income or income from other sources.

In case of a house property held as stock in trade

- In this case the whole or any part of the property may not be let out during the whole or any part of the previous year.
- In such case the annual value of such property is Nil.

COMPUTATION OF INCOME FROM HP

❖ Let out house

	MRV	xxxx		
	FRV	xxxx		
	Higher		**xxxx**	
	SR	xxxx		
	Lower		**xxxx**	
	Actual rent	xxxx		
	Higher		**xxxx**	**GAV**
Less:	i) Municipal tax	xxxx		
	ii) Unrealized rent	xxxx		
			xxxx	**NAV**
Less:	i) SD @ 30%	xxxx		
	ii) Interest on loan	xxxx		
Add:	i) arrear rent received	xxxx		
	ii) Unrealized rent recovered	xxxx		
	Income from HP		**xxxx**	

Self-occupied house

NAV: Nil

Less: Interest on loan

Loss from HP

Deductions from GAV

1. Municipal tax paid by the owner during the previous year

2. Unrealized rent – deduction is allowed only if the following conditions are satisfied:

- The tenancy is bonafied
- The defaulting tenant is vacated or steps has been taken to compel him to vacate
- The defaulting tenant is not in occupation of any other property of the assessee.
- The assessee has taken all reasonable steps to of instituting legal proceedings for the recovery of the unpaid rent or satisfies the assessing officer that legal proceedings would be useless.

Interest on loan maximum limit-(for self-occupied house only)

- Loan before 1-4-1999 Rs 30000
- Loan after 1-4-1999 Rs 200000

Interest on loan= PY interest + 1/5 of preconstruction period interest

Pre-construction period

Period between the dates of loan taken and the date of repayment of loan or date of completion of construction whichever is earlier.

House partly let out

Let out portion will be treated as let out and self-occupied portion as self-occupied. While calculating HP income MRV, FRV, SRV, Municipal tax and interest on loan etc. should be apportioned between let out and self-occupied.

House let out part of the year: Treated as fully let out

Municipal tax paid by tenant – not allowed

CHAPTER4

INCOME FROM BUSINESS AND PROFESSION

Following are business incomes:

1. Business or professional income
2. Sale of an import license or receipt of any exports incentive.
3. Repayment of any customs or excise duty.
4. Profit earned from illegal business is also taxable
5. Income of a trade association.
6. Speculative transactions
7. The value of any benefit or perquisite
8. Interest, salary, bonus, commission or remuneration received by a partner
9. Sum received under key man life insurance policy
10. Compensation

Important rules regarding assessment

- Business carried on by the assessee.
- Tax is charged on aggregate income from all business or profession
- Speculation business is to be kept separately
- Expenses for earning income are allowed as deductions.
- Expenses incurred prior to setting of the business will not be allowed to deduct.
- No Tax is payable on anticipated or notional profit

Deduction allowable (sec 30-37)

1. Rent, rate, taxes, repairs and Insurance of building (u/s 30)
2. Repairs and Insurance of machinery, plant and furniture (u/s 31)
   Depreciation (u/s 32)
3. Deposit in special account with NABARD (u/s 33 AB)
4. Deposit in a special account with the SBI (u/s 33 ABA)
5. **Expenditure on scientific research**

- **Revenue expenditure incurred by the assessee himself:**

Fully allowed as expense incurred during three years immediately preceding the commencement of business.

- **<u>Contribution made to outsiders</u>**
  - To approved Research Organization or university or college or other institutions - 150 %
  - Contribution to a company - 100 %
  - Social or statistical research - 100%
  - National laboratory for a recognized university or an Indian Institute of Technology - 150%
  - Expenditure on in-house research- 150%
- **<u>Capital expenditure incurred by the assessee himself</u>**

  Fully allowed as expense incurred during 3 years immediately preceding the commencement of business.
  - Further depreciation will not be allowed in respect of the asset
  - Unabsorbed capital expenditure on scientific research can be carried forward for unlimited period.

6. Capital expenditure to obtain right to use spectrum for telecommunication services (u/s 35 ABA)
7. Expenditure for obtaining license to operate telecommunication service (u/s 35 ABB)
8. Expenditure on eligible project specified by central government (u/s 35 AC)
9. Expenditure on **specified business** (u/s 35 AD)

Specified business means:

- Setting up and operating a cold chain facility
  (Cold chain facility means a chain of facilities for storage and transportation of Agricultural and forest produce, meat, and meat products, marine and dairy products etc.)
- Setting up and operating a warehousing facility for storage of agricultural produce.
- Laying and operating a cross country natural gas or crude or petroleum oil pipeline network for distribution.
- Business of building and operating a new hotel of 2 star or above anywhere in India
- Business of developing and building a housing project.

10. Expenditure for carrying out rural development program notified by central government (u/s 35 CCA)
11. Expenditure on agricultural extension projects (u/s 35 CCC)
12. Expenditure on any skill development project (u/s 35 CCD)

13. Amortization of amalgamation for demerger in 5 years (u/s 35 DD)
14. Amortization of VRS expenses in 5 years (u/s 35 DDA)
15. Expenditure on minerals prospecting in 10 years (u/s 35 E)

16. Other deductions U/S 36

- Insurance premium paid to cover the risk of damage or destruction of stock
- Bonus or Commission paid to employees
- Interest on borrowed capital
- Contribution to recognized provident fund
- contribution to pension scheme
- Contribution to approved gratuity fund
- Right off of useless or dead animals
- Bad debts
- Expenditure on promotion of family planning among employees
- Discount on zero coupon Bond

17. General deductions U/S 37

- Expenses incurred in purchase manufacture and sale of goods
- General expenses incurred in the day-to-day running of the business
- Expenses incurred in defending cases
- Amount of VAT paid
- Payment of excise duty
- Retrenchment compensation paid
- Commission paid
- Compensation paid to employees
- Royalties paid
- Legal expenses
- Listing fee paid

Depreciation (U/S 32)

Depreciation is charged on block of asset. Block of assets means the assets falling in the same rate of depreciation. Following conditions are to be fulfilled

- Assessee must be the owner of the Asset
- Asset must be used for the purpose of business or profession
- Such use must be in the relevant previous year

Computation of depreciation

Opening WDV XXX

Add: Purchases during the year XXX

Less: Sales during the year XXX

Closing WDV XXX

Note: If the asset is put to use for less than 180 days in the year, depreciation will be allowed at 50 % of the eligible rate.

Additional depreciation for plant and machinery@ 20%

- A new plant and machinery should be acquired and installed after 31/03/2005
- It should be used for manufacturing purpose during the previous year
- It shall be allowed 10% if the asset is put to use for less than 180 days

Assets	Percentage
Residential building	5%
Nonresidential building	10%
Building for water treatment system	40%
Temporary building	40%
Furniture and fittings	10%
Plant and machinery (general)	15%
Motor bus, lorry, taxi	30%
Aero planes, aero engines	40%
Air/water/solid pollution control equipment	40%
Lifesaving medical equipment	40%
Water treatment plant	40%
Oil wells	15%
Computers including software	40%
Books (including annual publications)	40%
Books library purpose	40%
Ships/ vessels/ speed boats	20%

Intangible assets (patent, trademarks, copyright)	25%

Computation of business income

Net profit as per P/L A/C	XXX
Add: 1) Disallowed expenses debited in P/L A/C	XXX
2) Allowed income not credited in P/L A/C	XXX
3) Under valuation of closing stock	XXX
4) Over valuation of opening stock	XXX
Less : 1) Disallowed income credited in P/L A/C	XXX
2) Allowed expenses not debited in P/L A/C	XXX
3) Under valuation of opening stock	XXX
4) Over valuation of closing stock	XXX
Taxable business income	**XXX**

Disallowed expenses

- Income tax
- Wealth tax
- Fringe benefit tax
- Municipal tax
- All reserves and provisions
- Interest on capital
- Capital expenditure
- Donation
- Penalties
- Life Insurance Premium
- Gift
- Personal expenses
- Past losses charge to profit and loss account
- Payment in excess of Rs 10,000 to a person in a day
- Payment outside India were tax is not deducted at source
- Contribution to any un approved fund

Disallowed income

- Rent from let out building (not for employees)
- Interest on securities
- Bad debt recovered if disallowed earlier
- Income tax refund
- Gift (not related with profession)
- Sale of Capital Asset
- Dividend
- Lottery
- Games
- All other income not received exclusively from business or profession

CHAPTER 5

CAPITAL GAIN

Essential conditions

- Existence of a Capital Asset

- Transfer of such asset during the previous year
- Profit and gain must arise from such transfer

Capital Asset

Capital asset means property of every description. It may be movable or immovable, tangible or intangible whether connected with business or profession or not. But it **does not include**:

- Commercial goods (stock in trade)
- Rural agricultural land
- Gold Bond
- Special bearer Bond 1991
- Gold deposit Bond
- Movable assets for personal use example: refrigerator, wearing clothes, furniture etc.

  The following assets **will not be** treated as personal effects:
  - Archaeological collections
  - Drawings
  - Paintings
  - Any work of art
  - Jewelry

Types of capital assets

1. Short term capital Asset (section 2(42A) – STCG)
2. Long term Capital Asset (section 2 (29A)- LTCG)

STCA or LTCA	Asset
STCA if held for < = 12 months LTCA if held > 12 months	• Securities listed in a recognized stock exchange (other than unit) • Units of the UTI or equity oriented fund • Zero coupon bond • Unlisted shares
STCA if held for < = 24 months LTCA if held > 24 months	• Land or building or both • Units of debt oriented fund
STCA if held for < = 12 months LTCA if held > 12 months	• Unlisted securities other than shares • Other capital assets

Transfer of capital asset

Transfer includes: -

- The sales, exchange or relinquishment of the asset
- The extinguishment of any right there in
- The compulsory acquisitions thereof under any law
- In a case but the asset is converted by the owner thereof in to, or is treated by him as, stock in trade off a business carried on by him, such conversion or treatment:

Transaction not treated as transfer

- Transfer on partition or partial partition of HUF
- Transferred under gift or will
- Transfer buys a company to its subsidiary company and vice versa. Subject to certain conditions.
- Transferred on amalgamation of an Indian company
- Transfer in a case of demerger of Indian company
- Transfer of shares in case of demerger or amalgamation
- Transfer by way of conversion of bonds/ debentures into shares

- Distribution of assets in kind by a company to its shareholder on liquidation
- Any transfer of shares in an Indian company held by a foreign company to another foreign company as a part of amalgamation between two foreign companies.
- Any transfer made by a non-resident of such foreign currency convertible bonds or shares as may be specified by the central government to another nonresident where the transfer is made outside India.
- Any transfer of a capital asset which is a work of art or archeological, scientific or artistic importance to the government, university, national art gallery or any other public museum notified by central government.
- Any transfer made before 31/12/1998 by a person who is a member of a recognized stock exchange to a company of his membership rights in the stock exchange to the company incorporated for this purpose.
- Any transfer of land by a sick industrial company under the scheme prepared by BIFR, such transfer is made during the period of sickness.
- Conversion of a sole proprietorship concern or partnership in to a company.
- When a private or unlisted public company is converted in to a limited liability partnership, the transfer of capital asset or intangible asset to LLP is not regarded as a transfer if the conditions are satisfied.
- Transfer of a capital asset being a government security made outside India through an intermediary by a non-resident to another nonresident is not treated as transfer.
- Transfer of units by unit holders in consolidation scheme of mutual funds
- Any transfer by the way of conversion of preference shares in to equity shares.

EXEMPTION AS PER SECTION 10

1. Capital gain on transfer of US64
2. Long term capital gain on transfer BSE 500equity shares
3. Capital gain on compulsory acquisition of urban agricultural land. Exemption is applicable only the following conditions are satisfied

- The assessee is an individual or HUF
- He owns an agricultural land situated in urban area
- Transfer is done by the way of compulsory acquisition
- Agricultural land was used by the assessee or his parents for agricultural purpose during 2 years immediately prior to the date of transfer.
- Asset may be long term or short term capital asset.

4. Long term capital gain on transfer of securities not chargeable to tax in cases covered by transaction tax. To get exemption following conditions needed to satisfy :

- Asset should be long term capital asset
- Securities are equity shares of a company or units of equity oriented funds.
- Transaction is chargeable to security transaction tax.

Deemed transfer

If a capital asset is converted in to stock in trade then it will be deemed as a transfer. The difference between market value and cost price shall be taxable as capital gain.

Transfer capital asset by a person to firm, AOP or BOI:

In which assessee is or becomes a partner or as a member, profit or gain arising of such transfer shall be considered as capital gain and taxable.

Transfer of capital asset on dissolution of firm, AOP, BOI:

Gain arising out of such transfer shall be chargeable to tax as the income of the firm or AOP, BOI.

Difference between long term capital gain and short term capital gain

Long term capital gain	**Short term capital gain**
Arises out of transfer of long term capital asset.	Arises out of transfer of short term capital asset.
These are taxed at the rate of 20%	These are taxed at the rate of 15% or applicable the tax rate applicable to all other incomes
Cost of acquisition and cost of improvement are needed to indexed	No indexing is done
If LTCA is acquired before 1/4/2001, then the fair market value is taken as cost of acquisition.	No such option is available here.
Exemptions u/s 54,54B,54D,54EC,54ED,54F and 54G can be deducted	Exemptions u/s 54B,54D, 54G can be deducted
LTCL can be setoff only against LTCG	STCL can be set off from both LTCG and STCG.

Computation of STCG- section 48

Full value of consideration received or accruing		XXX
Less		
1. Cost of transfer	XXX	
2. Cost of acquisition	XXX	
3. Cost of improvement	XXX	
Gross short term capital gain		XXX
Less: exemption u/s 54 B/ 54 D/ 54 G	xxx	
Taxable STCG		XX

Computation of LTCG- section 48 (1)

Full value of consideration received or accruing		XXX
Less		
1.cost of transfer	xxx	
2. Indexed cost of acquisition	xxx	
3. Indexed cost of improvement	xxx	
Gross long term capital gain		XXX
Less:		
Exemption u/s 54/ 54 B/ 54 C/ 54 D/ 54 F/ 54 G/ 54 GA		xxx
Taxable LTCG		XXX

*Indexed cost of accusation = cost of acquisition * CII for the year of sale / CII for the year of acquisition*

Indexed cost of improvement = ***cost of improvement* CII for the year of sale / CII for the year of improvement***

DEPRECIABLE ASSET: gain arising from such asset is always treated as STCG.

CAPITAL GAIN IN SPECIAL CASES

I. **Capital gain in case of amount received from insurance on account of damage or destruction of any Capital Asset**

Profit or gain arising from receipt of such money or other as it shall be chargeable to Income Tax under the head capital gain in which previous year the capital gain shall arise. It' shall be value of any money or the fair market value of other is it for the date of such receipt.

II. **Capital gain on conversion of Capital Asset into stock in trade**

The conversion of Capital Asset into stock in trade is treated as a transfer but the capital gain will not arise in the previous year in which the asset is converted it will arise in the previous year in which the asset is converted it will arise in the previous year in which such converted asset is sold or otherwise transferred. The fair market value of the Asset as on the date of such a conversion shall be deemed to be full value of the consideration of the asset.

III. Transfer of Capital Asset to a firm/ BOI/AOP

Capital Asset is transferred by a partner to his partnership firm or AOP/ BOI by the way of his capital contribution is treated as transfer and capital gain will be taxable in the hands of the partner or members as his income in the previous year in which such transfer takes place.

IV. Capital gain on compulsory acquisition of a Capital Asset

Government has acquired an asset of a person by the way of compulsory acquisition the capital gain will be treated as follows

Initial compensation

It is taken as full value of consideration. Capital gain is chargeable to tax in the year in which the initial compensation is first received

Additional compensation

If a Court/ tribunal/ authority enhances compensation it will be taxable in the year in which enhanced compensation or additional compensation is received. For this purpose cost of acquisition and cost of improvement are taken as nil.

V. Computation of capital gain in case of joint development agreement.

Where the capital gain arises to an assessee being land or building or both under a specified agreement the capital gain shall be chargeable to Income Tax as income from the previous year in which the certificate of completion for the whole or part of the project is issued by the competent authority.

VI. **Capital gain on transfer of shares/ debentures in the hands of non-resident**

If a Non-resident acquires shares in or debentures of an Indian company by utilizing foreign currency, the gain will be calculated in the same foreign currency which was initially utilized in acquiring shares or debentures. After calculating capital gain in foreign currency it will be converted into Indian currency

VII. **Capital gain on transfer of securities in Demat form**

Demat account is a safe and convenient means of holding securities just like a bank account for his fund. The idea of dematerialized account is to avoid the need to hold physical shares. For computing capital gain chargeable to tax the cost of acquisition and period of holding of any security in Demat form shall be determined on the basis of first in first out (FIFO) method.

VIII. **Capital gains on distribution of assets by companies in liquidation**

Here Distribution shall not be regarded as a transfer by the company. Therefore there will be no capital gain to the company. However, where a shareholder on the liquidation of a company receives any money or other assets from the company in lieu of the shares held by him such a shareholder shall be chargeable to Income Tax under the head capital gain in respect of the money and the asset so received.

Cost of acquisition

It is the value for which the asset is acquired by the assessee.

1. Cost of acquisition and improvement to previous owner will be deemed to be cost of acquisition and improvement if the asset is acquired by the following mode of transfer:-

- By succession, inheritance
- by distribution of an asset by liquidation
- under a gift or Will
- On partial / total partition of HUF

2. Cost of acquisition of self-generated capital asset

- The cost of acquisition on of certain self-generated capital asset like goodwill of business, tenancy rights, route permits, loom hours, right of manufacturer, produce or process of any article or thing is the cost at which the same is purchased
- Otherwise the cost of acquisition is nil.

3. Cost of acquisition of bonus/ right shares

- cost of acquisition of bonus shares is nil
- cost of right shares is Cost at which it is purchased
- If the right is renounced - the cost of right is nil.
- If right share is purchased by others the cost of share is purchase price+ cost of purchase of right.

4. Cost of acquisition of asset acquired prior to 01-04-2001

The cost of acquisition of any property acquired prior to 0 10 4 2001 will be the fair market value of that property as on 0 10 4 2001 or actual cost of acquisition at the option of the assessee higher.

5. Cost of Acquisition in case of advance money received and forfeited

- Should be deducted from the cost of acquisition
- If it is received and forfeited on or after1-4-2014 it shall not be deducted from cost of acquisition. It should be treated as income from other sources

CII for PY 2019-20 = 289, 2001-02 base year 100.

Cost of improvement

It is the capital expenditure incurred in making addition and alterations in a Capital Asset.

- Cost of improvement before 142001 will not be considered.
- Cost of improvement relating to Goodwill patent etc should not be considered

Capital gain exempt from tax

1. Section 54- individual and HUF

- Transfer of residential property and invested in residential property
- Within a period of one year before or two year after the date of transfer purchased one house in India or within a period of three years constructed one residential house in India

Exemption = capital gain invested

2. Section 54B - Individual and HUF

- Transfer of agricultural land and invested in agricultural land
- The agricultural land was in two years immediately preceding the date of transfer being used by the assessee for his parent or a HUF for agricultural purpose.
- The assessee has purchased within a period of 2 years from the date of transfer any other land for agricultural purpose.

Exemption= capital gain invested

3. **Section 54D- any assessee**

- Compulsory acquisition of land and building
- Land and building should be used by the assessee for industrial undertaking at least 2 years immediately before the date of transfer
- The assessee has within a period of three years after such transfer purchased any other land or building or constructed any building for reestablishing the industrial undertaking

Exemption = capital gain invested

4. **Section 54EC etc. - Any assesse**

- Transfer of long term capital assets (land or building)and invested in long term specified asset (redeemable after 5 years, NHAI or RECL bonds)
- The new asset should be purchased within 6 months from the date of transfer

Exemption= capital gain invested up to the maximum of 50,00000

5. **Section 54EE - any assesse**

- Transfer of long term Capital Asset invested in notified units of specified fund (startup India Action Plan)
- The new investment should be made within six month from the date of transfer and before 1st April 2019

Exemption= capital gain invested up to the maximum of 5000000

6. **Section 54F- individual and HUF**

- Transfer of long term capital assets and invested in residential house
- The assessee does not on more than one residential house on the date of transfer
- Within a period of one year before or two years after the date of transfer, purchased one residential house in India or with in a period of three years constructed one residential house in India

Exemption = proportionate net consideration invested (capital gain/

Net consideration* amount invested)

7. **Section 54G – Shifting of industrial undertaking from urban areas to non- urban area – All assessee**

Here capital gain arising on the transfer of fixed assets other than furniture and fixtures of industrial undertaking effected to shift it from an urban area.

8. **Section 54G – Exemption of capital gain on shifting of industrial undertaking from Urban area to Non-Urban area.**

The capital gain arising on transfer of fixed asset other than furniture and fixtures of industrial undertaking effected to shift it from an urban area.

Following conditions for claiming the examination are as under:

- The Transfer is affected in the course of shifting undertaking from an urban area to any area other than an urban area.
- Asset transferred is machinery, planned, building land or any right in building or land used for the business of industrial undertaking in an urban area.
- The capital gain is utilized within one year before or three years after the date of transfer.
- For purchasing new machinery or planned or building or land for taxpayers business in that in new area.
- Shifting of the old undertaking and its establishment to the new area.
- Incurring of Expenditure on other purposes specified in this scheme notified for the purpose.

9. **Section 54 GA - shifting of an industrial undertaking from urban area to any special economic zone**

it is exempt of the following conditions were satisfied:

- The transfer should be a Long term or a short term Capital Asset such as plant, machinery, building or land or right in building or land.
- Such asset has been used for the purpose of business of industrial undertaking situated in urban area.
- The transfer should be done in connection with shifting of industrial undertaking in SEZ.
- The amount of capital gain must be used within a period 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 capital gain mast is deposited in a capital gain deposit account.)

10. Section 54GB- Exemption of long term capital gain tax on transfer of residential property

In this case assessee can claim exemption from capital gain tax if he invests the net consideration in equity shares of a new SME company. Such SME company is required to invest this amount in purchase of a new plant and machinery.

This exemption can be claimed subject to the following conditions:

- The investee company should qualify as a small or medium enterprise under the micro, small and medium enterprises Act 2006.
- The company should be engaged in the business of manufacture of an article or a thing.
- SME Company should be incorporated within the period from 1st of April of the year in which capital gain arises to the assessee and before the due date for filing the return by the assessee.
- The assessee should hold more than 50 % of the share capital or the voting right after the subscription in the shares of a SME company.
- The assessee will not able to transfer the above shares for a period of 5 years.
- The company will have to utilize the amount invested by the assessee in the purchase of new plant and machinery within a period of one year from the date of subscription in the equity shares.
- If the entire amount is not so invested before the due date of filing the return of income by the assessee, then the company will have to deposit the amount in the scheme to be notified by the central government. The above new plant and machinery acquired by the company cannot be sold for a period of 5 years.
- The exemption would be available in case of any transfer of residential property made on or before 31st March 2017.

11. Section 54 H - extension of time for acquiring new assets for depositing or investing amount of capital gain

where the Transfer of original asset by the way of a 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 gain

STCG

It is chargeable as per normal rates of income tax related to assessee. Other words, it is added to total income, and tax payer is taxed according to their income tax slab.

Tax on STCG on transfer of equity shares in a company or units of an equity - oriented fund. (Section 111A)

It is applicable on transfer of equity shares through recognized stock exchange and such transaction is liable to securities transaction tax. It is taxed at 15%.

If, STT not paid when shares are listed in recognized stock exchange located in an International Financial Services Centre. – 15%

LTCG

- **20% of capital gain computed after allowing indexation benefits**
- **10% of capital gain computed without giving the benefits of indexation**

TAX PLANNING FOR CAPITAL GAIN

- The benefit of long term capital gain is that certain special deductions are allowed while computing taxable income. So an assessee can plan the disposal of Capital Asset.
- Buya proper tax planning an assessee can adjust short term capital losses against short term capital gain or the long term capital gain after deduction under section 48.
- He can also plan the long term capital gain in such a manner that he stands to gain maximum benefit from exemptions and deduction.
- It is also to be noted that while calculating long term capital gain index cost of acquisition and indexed cost of improvement are required to be deducted from the full value of consideration of the capital Asset. This is done with CII. But the bonds and debentures are excluded from the list of capital assets eligible for the benefit of cost of inflation index.

- Tax on short term capital gain can be avoided if:
  - Another Capital Asset falling in that block asset is acquired at any time during the previous year.
  - Benefit of section 54g is availed

- Assessee should plan to transfer of his capital asset at such a time that a capital gain arise in the year in which his other recurring incomes are below taxable limits.
- If an assessee whose income is below 500000 then he should go for short term capital gains instead of long term capital gain, in his case his total income is taxable at 15%.
- If a person's total income is above 10 lakh then he should plan for long term capital gain.
- An assessee can go for short term capital gain in the year in which he has short term capital loss or loss under any other head that can be set off against such income.
- All the assessee should try to avail maximum exemptions under section 54, 54 B, 54D, 54EC, 54EE, 54F, 54G, 54GA, 54GB, 54H.
- It is better to avoid claiming short term capital loss against long term capital gain. As per as possible short term capital loss should be claimed against short term capital gain.
- If a minor child have a no or less recurring income and have income from capital gain it is better to have it from long term capital gains. The income of a minor child is clubbed with income of parent and it will attract higher slabs of income tax but if it is a long term capital gain then it is taxable at 20 %.
- The tax on short term capital gain is 15 % only in respect of transfer of securities were the sale of such securities entered into a recognized stock exchange in India.
- Whenever the employee receives shares as per the scheme of ESOP he is not required to make a payment of any Tax at the time of receipt of such shares, bond or warrant. When an employee sell the shares warrant or bond received under ESOP plan then that point of time he would be called upon to pay capital gain.
- Section 54ec has large potential for tax planning. it is to remember that in case continuous transaction involving capital gain like a securities trade, the cumulative effect of all transaction is to be taken for the whole year and net profit or loss is calculated, however in case of separate a transactions like a property sale which are one time translation the counter start from the day of transition itself.

CHAPTER 6

INCOME FROM OTHER SOURCES

Income not chargeable under any other head is chargeable to Tax under this head. Section 56 2 lays down a list of incomes which are taxable under this head:

1. Dividend
2. Casual income eg: of winning from lotteries crossword puzzles etc.
3. Gift
4. Share premium in excess of fair market value of shares
5. Income by way of interest received on compensation or enhanced compensation
6. Sum of money received as an advance or otherwise in the course of negotiations for transfer of a Capital Asset
7. Any sum received by the assessee from his employee as a contribution to provident fund etc.
8. Interest on securities
9. Income from letting of machinery, plant or furniture
10. Composite rent
11. Any sum received under key man insurance policy

    (Key man insurance policy means a life insurance policy taken by a person on the life of another person who is either the employee or is connected in any manner with the business of that person.
12. Any compensation or other payment due to or received by any person in connection with the termination of assembly meant for the modification of the terms and conditions relating thereto

In addition to above following items are also chargeable under the head of other source:

- Income from subletting of a house property
- Interest on Bank deposit
- Interest on company deposits, interest on loans etc.
- Remuneration received from a person other than his employer for evaluation of answer scripts
- Income from royalty
- Directors fees
- Rent from a vacant land
- Insurance commission
- Income from undisclosed source
- Income from private tuition
- Interest on income tax refund

- Family pension received by the family members of a deceased employee
- Dividend received from a cooperative society
- Income from activity of owning and maintaining race horse
- Stipend to trainee
- Interest on employees contribution towards and recognized provident fund at the time of payment of lump sum amount
- Agricultural income received outside India
- Income from leasehold property
- Rent of trademark
- Salary of MP, MLA or Council
- Unexplained cash credit, investment, money, expenditure
- Remuneration from writing articles in journals

I. **Dividend**

(Dividend means the sum received by a shareholder of a company on the distribution of its profits whether out of taxable income for tax free income. It is immaterial whether it is received in cash or kind.

- Dividend received from a domestic company is not taxable in the hands of the receiver under section 10 (34)
- The assessee is required to pay a tax @10%, if the total income from dividend exceeds Rs 10 lakh section (115 B BDA)
- Dividend from a foreign company and deemed dividend from an Indian company under section 2(22) are taxable in the hands of shareholders under this head regardless whether they are investment or stock in trade.
- Dividend received from a co-operative society is taxable under this head

Deemed dividend

Deemed dividend is the dividend which is not actually paid as a dividend but assumed to be dividend for the purpose of taxation under Income Tax law. In case of closely held Company payment by the way of loan or advances treated as a dividend to the extent of following cases:

1. Such loan or advance is given to a registered shareholder who beneficially holds 10 % or more of equity shares in the loan giving company.

2. such a loan / advance are given to a" concern" which may be a HUF, Sole proprietor, firm, AOP, BOI or a company where by one of the shareholders beneficially holding 10 % equity share capital in the closely held company has a substantial interest in the "concern". Substantial interest in a concern is if he is at any time during the previous year beneficially entitled to at least 20 % of the income of such a concern. Ceiling limit of the dividend is the extent of accumulated profit.

- Bonus shares declared by the company shall not be dividend as there is no release of profit.
- Any expenditure incurred in respect of exempted dividend is shawl not be allowed as deduction
- Income from units of a specified company or a mutual fund is exempt in the hands of the unit holder
- Deductions from dividend income:

  1. Commission or remuneration for releasing dividend
  2. Interest on loan
  3. Any other expenditure incurred wholly and exclusively for earning dividend except in the nature of capital expenditure or personal expenses

II. Casual Income: winning from lottery crossword puzzle

Such income should be fully taxable and no deduction should be allowed. Tax is charged at a flat rate of 30 % if the amount exceeds Rupees 10000. The person responsible to give tax on net amount of winnings but the amount includible in taxable income of the recipient it will be the amount of gross winning. Net winning is the amount received by the recipient after tax deduction at source grossing up of income. Casual income is to be grossed up when the amount given in the question as "net", "received", or "after deduction of tax" or is "collected by bank".
Gross up value = Net amount /70*100

- No deduction can be claimed from such income even if such expenditure is engaged exclusively and wholly for earning searching come.
- Deductions u/s 80C to 80 U is also not available for such income.

III. Gift

Give the means any sum of money, movable property or immovable property which received without consideration or inadequate consideration. Property does not include furniture, clothes etc. the provision of this section shall not apply. There are tangible gift and exempted gift:

Taxable gifts

1. Any amount received as gift up to rupees 50000 in 1 year is not taxable in the hands of recipient. But if amount exceeds Rs. 50000 then whole received amount will be taxable.

2. Any immovable property received without consideration and stamp duty value of property exceeds Rupees 50000 the stamp duty value of the property is taxable.

3. Any movable property is received for a consideration which is less than the stamp duty value of the property by an amount exceeding rupees 50000 then the difference between stamp duty value and the consideration is chargeable to tax. If the difference between the actual value and stamp duty is less than 50000 the transfer is not considered as a taxable gift.

4. Any movable property received without consideration and the fair market value of which exceeds Rupees 50000 the whole of the aggregate fair market value of such property.

5. Any movable property is received for a consideration which is less than the aggregate fair market value of the property by an amount exceeding rupees 50000 and then the difference between aggregate fair market value and the consideration is chargeable to tax.

Exempted gift

Gift received from relatives

- Relatives defined by income tax act as follows:
  Spouse, brothers, sisters, parents, brother in law, sister in law, father in law, mother in law.
- Gift received on occasion of the marriage of the individual
- Gift received under a will or by way of inheritance
- In contemplation of death of the payer
- Any local authority trust or university

IV. Interest on Securities

The term security generally means a document acknowledging the debt taken by the government or some other establishment from general public. Income from Security is also not chargeable to tax under the head. Interest on security means

a) interest on any security of the central government or a state government

b) interest on debentures or other securities issued by or on behalf of a local authority or a company or a corporation established by a central, state or provincial act.

- Interest on securities taxable as per cash basis or due basis depending on the method of accounting followed by the assessee. If there is no method is followed then it should always be taxable on due basis.
- Interest shall be taxable when such interest force due. Due date of interest as prescribed by the issuing authority. Interest on securities is chargeable in the hands of the person who happens to be its owner at the time when the interest becomes due.

- The expenses such as collection expenses interest on loan and any other expenditure are detectable from the interest income.

Types of securities

There are four types of securities.

1. Tax- free government securities

Interest on securities is fully exempt from Tax under section 10 (15). Interest on Such securities is neither included in total income nor it is taxed.

2. Less tax government securities

These securities are either by central or state government. These are taxable securities but no tax is deducted at source on such securities. Interest on such securities will not be grossed up.

3. Tax free non-government securities

These securities are not tax free actually. The tax on the interest amount is actually paid by the company. The assessee get full amount of interest from the company without detecting any tax. For income tax purpose the tax paid by the company on the interest is to be added with the interest received by the assessee and his gross amount shall be included in his total income. This process is called grossing up.

4. Less tax non-government securities

These securities are taxable securities and income tax is deducted at source on the amount of interest calculated at the percentage stated on the securities and balance of the amount of industries paid to the security holder. Here the gross amount of interest shall be included in the total income of the assessee.

Tax free securities

For all assessee

- 12 year national saving annuity certificate
- National Defense gold Bonds, 1980
- Special bearer bonds, 1991
- Treasury Savings Bank deposit certificate(10 years)
- Post office cash certificates(5 years)
- National plan certificate(10 years)
- National plant saving certificate(12 years)
- Post office National Savings certificate (12 years/7 years)
- Post office savings bank account
- Individual account- maximum exemption limit Rs. 3500
- Joint account- maximum exemption limit is Rs. 7000

- Post office cumulative time deposit account(15 years)
- Special deposit scheme 1981
- Fixed deposit scheme governed by the government saving certificate(fixed deposit) rules 1968
- Fixed deposit scheme governed by the post office(fixed deposit) rules 1968
  Public account in post office(up to 5000)
- Bonds issued by local authority and specified by the central government
- Gold deposit bonds 1999

For individuals and HUF

- Interest on 7% capital investment Bond
- Interest on 8 % relief bonds, 2002, 6.5 % savings Bond 2003.
- Interest on notified bonds or debentures of public sector companies

<u>Interest Exempted</u>

- Interest on notified securities, bonds, certificate, deposits etc.
- Interest on notified capital investment bonds
- Interest on notified relief bonds
- Interest on notified a bonds in the hands of non-residents
- Nonresident account
- Interest on notified savings certificate
- Interest on gold deposit bonds 1999 for deposit certificate under gold monetization scheme 2015
- Dividend from a domestic company

Grossing up of interest if it is given net of TDS

In some problem interest income received (net interest) is given rather than interest earned. In such case it is needed to gross up the interest income received.

Rules for grossing up per interest on securities

- If the rate of interest is given only the interest of tax free commercial securities is grossed up and interest on all other securities is not gross up.
- Interest on tax free commercial securities is always grossed up. Whether its rate percent is given or the amount received is given.
- Interest on less tax securities is gross up only when the amount received is given.
- Generally tax on interest on securities is required to be deducted at 10%.

Interest received*100/90

Deduction of tax at source

The person or company who deducted tax is required to deposit such a mode of tax deducted to the Government treasury on behalf of the assessee. This is known as deduction of tax at source.

Rates of TDS

- Interest on securities- 8% of savings (taxable) bonds, 2003 or 7.75% savings (taxable) bonds, 2018 during the financial year- 10%
- Interest on securities- issued on behalf of any local authorities statutory corporation listed debentures of a company and other industrial securities- 10%
- Interest(any other person)- 10%
- Winning from lottery- 30%
- Winning from horse race- 30%

Bond washing transaction

Is the technique adopted by high income group of assessee by transferring their securities to low-income class of assessee on the eve of the due date of interest. It is a method of sale and repurchase of same or similar securities with a view to avoid attacks. After the date of interest they again transfer the securities in the name of the real owner. By doing this Income Tax department suffers huge losses of revenue.

Family Pension

Regular monthly amount payable by the employer to a person belonging to the family of a deceased employee. It is taxable under the head income from other sources after allowing standard deduction.

Standard deduction: Minimum of 1/3 rd of Such pension, Rs 15000

Deductions

From the gross amount of income from other sources the following deductions are available to assessee:

- In case of interest from securities any reasonable sum paid by the way of remuneration or Commission for the purpose of realizing Such income
- In case of income from plant and machinery or furniture given out on hire the following expenses allowed as deduction:
  - Current repair to building
  - Current repair to machinery, plant or furniture
  - Insurance premium paid
  - Depreciation

- In case of any expenditure other than capital expenditure or personal expenditure which has been in necessarily and exclusively for earning income
- In case of family pension
- In case of interest on compensation or enhanced compensation - 50% of such interest.

Tax Planning related with the income from other sources

Consider all deductions available under section 57 while tax planning:

- There is no deduction is allowed in computing the income from lottery, crossword puzzle, betting and gambling, card games etc.
- Income from dividend and income from mutual fund is fully exempted from tax
- Avail maximum deduction which is available to gift
- Consider the incomes which are exempted from tax
- Provisions related to dividend income taxation is taken into account while tax planning