

Unit - 1

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.

Income-tax law in India

The income tax law in India consists of the following components:

1. Income tax Acts
2. Income tax rules
3. Finance Act
4. Circulars, notifications etc
5. Legal decision of courts.

Finance Act:

Every year, the Finance Minister of the Government of India presents the Budget to the Parliament. Once the Finance Bill is approved by the Parliament and gets the assent of the President of India, it becomes the Finance Act.

Income-tax Rules:

The administration of direct taxes is looked after by the Central Board of Direct Taxes (CBDT). The CBDT is empowered to make rules for carrying out the purposes of the Act. For the proper administration of the Income-tax Act, the CBDT frames rules from time to time. These rules are collectively called Income-tax Rules, 1962.

Circulars and Notifications:

Circulars are issued by the CBDT from time to time to deal with certain specific problems and to clarify doubts regarding the scope and meaning of the provisions. These circulars are issued for the guidance of the officers and/or assessees.

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 2013-14 which commences on April 1, 2013 and ends on March 31, 2014. 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 preceding 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:

- a. **Annual tax** - Income-tax is an annual tax on income.
- b. **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
- c. **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.
- d. **Tax on person** - Tax is charged on every person
- e. **Tax on total income** - Tax is levied on the “total income” of every assessee computed in accordance with the provisions of the Act.

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)(viii).

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

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.

Agriculture income

Agriculture income is exempt under the Indian Income Tax Act. This means that income earned from agricultural operations is not taxed. The reason for exemption of agriculture income from Central Taxation is that the Constitution gives exclusive power to make laws with respect to taxes on agricultural income to the State Legislature. However while computing tax on non-agricultural income agricultural income is also taken into consideration. As per Income Tax Act income earned from any of the under given three sources meant Agricultural Income;

- (i) Any rent received from land which is used for agricultural purpose.
- (ii) Any income derived from such land by agricultural operations including processing of agricultural produce, raised or received as rent in kind so as to render it fit for the market, or sale of such produce.
- (iii) Income attributable to a farm house subject to the condition that building is situated on or in the immediate vicinity of the land and is used as a dwelling house, store house etc.

Now income earned from carrying nursery operations is also considered as agricultural income and hence exempt from income tax.

In order to consider an income as agricultural income certain points have to be kept in mind:

- A. There must be a land.
- B. The land is being used for agricultural operations.
- C. Agricultural operation means that efforts have been induced for the crop to sprout out of the land .
- D. If any rent is being received from the land then in order to assess that rental income as agricultural income there must be agricultural activities on the land.
- E. In order to assess income of farm house as agricultural income the farm house building must be situated on the land itself only and is used as a store house/dwelling house.

Certain income which is treated as Agriculture Income:

- A. Income from sale of replanted trees.
- B. Rent received for agricultural land.
- C. Income from growing flowers and creepers.

- D. Share of profit of a partner from a firm engaged in agricultural operations.
- E. Interest on capital received by a partner from a firm engaged in agricultural operations.
- F. Income derived from sale of seeds.

Certain income which is not treated as Agricultural Income:

- a. Income from poultry farming.
- b. Income from bee hiving.
- c. Income from sale of spontaneously grown trees.
- d. Income from dairy farming.
- e. Purchase of standing crop.
- f. Dividend paid by a company out of its agriculture income.
- g. Income of salt produced by flooding the land with sea water.
- h. Royalty income from mines.
- i. Income from butter and cheese making.
- j. Receipts from TV serial shooting in farm house is not agriculture income.

Partly agriculture income

Partly agricultural income consists of both the element of agriculture and business, so non-agricultural part of the income is taxed. Some examples for partly agricultural income are given below:

1. Profit of business other than Tea

This rule applicable to agricultural produce like cotton, tobacco, and sugarcane etc, here the market value of the agricultural produce raised by the assessee for utilizing it as raw material for his business will be deducted out of the total profit of such assessee while calculating tax on his income.

2. Profit from Tea manufacturing

If a person using his own tealeaves grown by him for his tea manufacturing business, then 60 % of his income will be treated as agricultural income and the remaining 40 % will be treated as business income. So he has to pay tax on that remaining 40% of income.

3. Income from the manufacturing of centrifuged latex or cenex

If a person manufacturing centrifuged latex by using his own made raw then, 65 % of the income derived from the sale of the same is treated as agricultural income so he has to pay tax remaining part of the income.

4. Income from the coffee manufacturing

a) 75% of the income derived from the sale of coffee grown and cured by the seller in India is deemed to be agricultural income 25% is taken as business income.

b) 65% the income derived from the sale of coffee grown, cured, roasted and grounded by the seller in India is deemed to be agricultural income 40% is taken as business income.

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.
7	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.

8	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.
9	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.
10	It is recurring and regular and it occurs repeatedly.	It does not occur again and again. It is nonrecurring and irregular.
11	This expenditure helps to maintain the business.	This expenditure improves the position of the business.
12	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 is shown in the balance sheet on asset side.
13	It does not appear in the balance sheet.	It appears in the balance sheet until its benefit is fully exhausted.
14	It reduces revenue (profit) of the business	It does not reduce the revenue of the concern.

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

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

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

Residential Status of 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(2), 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.

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.

Non- 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.

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 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 (not being a key man 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 employees [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. Any income of Secretariat of Asian Organisation of Supreme Audit Institutions [Section 10(23BBD)]
52. Any income received by any person on behalf of specified national funds and approved public charitable trust or institution [Section 10(23C)]
53. Income of Mutual Fund set up by — a public sector bank or a public financial institution [Section 10(23D)]
54. Any income by way of dividend, or long term capital gains of venture capital funds and venture capital companies [Section 10(23F)]
55. 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)]
56. 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)]
57. 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)]
58. Income of co-operative society formed for promoting interests of members of

Scheduled Castes/Scheduled Tribes [Section 10(27)]

59. 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)]
60. Subsidy received by planters of Rubber, Coffee, Cardamom [Section 10(31)]
61. 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)]
62. Any income by way of Capital gains on transfer of US-64 units [Section 10(33)]
63. Dividend on or after April, 2003 from domestic companies [Section 10(34)]
64. Income on units of Mutual Funds on or after April 1, 2003 [Section 10(35)]
65. Long term Capital gains on transfer of listed Equity Shares purchased during 1-3-2003 to 29-2-2004 [Section 10(36)]
66. Capital gain to individual/HUF on compensation received on compulsory acquisition of urban agriculture land [Section 10(37)]
67. Long term capital gain in some cases [Section 10(38)]
68. Sum received without consideration from international sporting event held in India [Section 10(39)]
69. Income of Industrial Units situated in trade-free zones, specified technology parks etc. [Section 10A]
70. Income from specified 100% export oriented undertakings [Section 10B]
71. Income from property held for approved charitable or religious purposes [Section 11]
72. Specified Income of Registered political parties [Section 13A]

Problem: 1

Mr. Rangarajan left for U.S.A. along with his family, for the first time, on 14-10-2020. He returned to India on 31-5-2021. Determine his status for the assessment year 2021-2022.

Solution

Determination of Residential Status of Mr. Rangarajan

Assessment year: 2021-22; Previous year: 2020-21.

(a) Stay in India during the P.Y

From 1-4-2020 to 14-10-2021

30 + 31 + 30 + 31 + 31 + 30 + 14 = 197 days.

First Basic condition under sec. 6(1) of 182 days or more stay is satisfied.
Rangarajan is 'Resident'.

b) (i) Stay in India during 10 years preceding the previous year:

Since he left India for the first time on 14-10-2020, he would have been residing in India for the 10 years preceding the previous year. Additional condition (i) of being resident for 2 out of 10 years preceding the previous year is satisfied.

(i) Stay in India for 730 days during 7 years preceding the previous year:

Since he left India for the first time on 14-10-2020, he would have stayed for 730 days or more in preceding 7 years. Additional condition (2) of stay for 730 days during 7 years preceding the previous year is also satisfied.

Conclusion

Rangarajan is 'Resident' and 'Ordinarily Resident' under Sec. 6(1) for the assessment year 2021-22.

Problem 2:

Head office of AB, a Hindu undivided family, is situated in Hongkong. The family is managed by B who is resident in India 1 year out of 10 years preceding the previous year 2020-21. Determine the residential status of the HUF for the assessment year 2021-22 if the affairs of the family business are (a) wholly controlled from Hongkong; (b) partly controlled from India.

Solution:

Determination of Residential Status of HUF

Assessment Year: 2021-22; Previous Year : 2020-21

(a) If the affairs of the family's business are wholly controlled from Hongkong

The residential status of the H.U.F. is 'Non-resident' for the assessment year 2021-22 as the control and management of its affairs has been wholly situated outside India.

Problem 3:

An AOP carries on business from Chennai. Its president, the chief executive, resides in Chennai and controls its operations. Most of its members are foreign citizens and Non-residents.

(a) Determine the Residential status of the AOP.

(b) Does it make any difference if its principal officer resides in Bangladesh and controls its affairs?

Solution

Determination of Residential Status of AOP

(a) The AOP is 'Resident and Ordinarily Resident' because its principal officer i.e., President resides in India and controls its operations.

(b) The AOP is 'Non Resident' because its principal officer i.e., President controls its operations from outside India i.e., Bangladesh

Problem 4:

Sai & Co., is a partnership firm registered in India and controlled from India. Out of the 4 partners 3 partners were in Germany for more than 200 days during the previous year 2020 - 21. Determine the residential status of the firm for the previous year 2020-21 and also discuss the residential status of the firm if:

1. All the four partners are non-resident during 2020-21;
2. All the four partners are resident during 2020-21; and firm is controlled from outside India;
3. All the four partners are resident but not Ordinarily resident during 2020-21

Solution:

Determination of Residential Status of Sai& Co.,

Assessment year: 2021-2022; Previous year 2020-21.

The residential status of the firm is 'Resident' for the previous year 2020-21 as the firm is controlled from India.

1. Even if all the partners are non-resident the residential status of a firm still will be Resident, as the firm is controlled from India. Residential status of individual partners will be irrelevant in the case of a firm.
2. The Residential status of the firm will be non-resident as the firm is controlled from outside India.
3. The firm will be resident during 2020-21 as the business is controlled from India.

Problem 5:

Following are the particulars of taxable income of Hari previous year ended 31st March 2021.

1. Royalty received from Govt. of India Rs. 24,000.
2. Income from business earned in Afghanistan Rs. 25,000 of which Rs. 15,000 were received in India. Business is controlled from India.
3. Interest received from Kumar, a non-resident against a loan provided to him to run a business in India Rs. 5,000.
4. Royalty received out of India from Kannan a resident for technical services provided to run a

business outside India Rs. 20,000.

5. Income from business in Jaipur Rs. 40,000. This business is controlled from France. Rs. 20,000 were remitted to France.

(a) resident of India

(b) not ordinarily resident of India and

(c) non- resident of India in the previous year.

Solution:

Computation of Total Income of Shri. Hari for P.Y. 2020-21

Particulars	Resident	Not Ordinarily Resident	Non- Resident
Royalty from Govt. of India	24,000	24,000	24,000
(a) Income from Business in Afganisthan	25,000	-	-
(b) Controlled from India	-	25,000	-
(c) Received in India	-	-	15,000
Interest deemed to accrue in India	5,000	5,000	5,000
Royalty for Technical services for business outside India	20,000		
Business in Jaipur	40,000	40,000	40,000
Total	1,14,000	94,000	84,000

Problem 5:

Prema had the following income during the previous year 31-3-2021.

1. Salary received in India for three months 9,000
2. Income from House Property in India (computed) 13,470
3. Interest on Savings Bank Deposits in SBI 1,000
4. Amount brought into India out of the past untaxed Profits earned in Germany 20,000
5. Income from Agriculture in Indonesia being invested in India. 12,350
6. Income from Business in Bangladesh, being controlled from India. 10,150
7. Dividends received in Belgium from French companies out of which Rs. 2,500 were remitted to India 23,000.

You are required to compute his total income for the assessment year 2021-22, if he is:

(a) Resident; (b) not ordinarily resident; and (c) non-resident.

Solution:

Computation of total Income of Prema for the assessment year 2021-22

Particulars	Resident	Not Ordinarily	Non- Resident
Salary received in India	9,000	9,000	9,000
Income from House property in India	13,470	13,470	13,470
Interest on saving bank deposit in SBI	1,000	1,000	1,000
Amount brought into India out of the past untaxed Profits earned in Germany.	-	-	-
Income from Agriculture in Indonesia being invested in India	12,350	-	-
Income from Business in Bangladesh, being controlled from India	10,150	10,150	-
Dividends received in Belgium from French companies	23,000	-	-
Total	68,970	33,620	23,470

UNIT II

Income from Salaries

Salary is the remuneration received by or accruing to an individual, periodically, for service rendered as a result of an express or implied contract. 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) Compensation as a result of variation in Service contract etc.
- (x) Contribution made by the Central Government to the account of an employee under a notified Pension scheme.

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.

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.

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 then 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. $(15 / 26 \times [\text{basic salary} + \text{Dearness Allowance}] \times \text{No. of years of service} + 1 \text{ [if fraction} > 6 \text{ months]})$.
- 3.) Rs.20, 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
($1/2 \times \text{average salary of last 10 months} \times \text{completed years of service}$).
3. Rs. 20, 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).

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 ($10 \times \text{average salary of 10 months preceeding retirement}$).
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).

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.

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

Servant Allowance

Other allowances:- There may be several other allowances like family allowance, project allowance, marriage allowance, education allowance, and holiday allowance etc. which are not covered under specifically exempt category, so are 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.

While claiming exemption the following points are considered:

1. The exemption shall be calculated on the basis of where the accommodation is situated.
2. If the place of employment is the same for the whole year, then exemption shall be calculated for the whole year.
3. If there is a change in place during the previous year, then it will be calculated on a monthly

basis

4. Exemption should be calculated in respect of the period during which rental accommodation is occupied by the employee during the previous year.
5. Salary for the period during which rental accommodation is not occupied shall not be considered.

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).

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.800 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. **Running Allowance (Out of station allowance):** An allowance granted to an employee working in a transport system to meet his personal expenses in performance of his duty in the course of running of such transport from one place to another is exempt up to 70% of such allowance or Rs.10000 per month, whichever is less.
- v.) **Tribal area allowance:** Exemption is available as Rs: 200 p.m.
- vi) **Under ground allowance :** Exempted up to Rs:800 p.m.

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.

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. Leave travel concession subject to Sec.10 (5)
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 Medical Facilities

Medical facilities provided to employee are exempt from tax.

A. Medical benefits within India which are exempt from tax include the following:

- a) Medical treatment provided to an employee or any member of his family in hospital maintained by the employer.
 - b) Any sum paid by the employer in respect of any expenditure incurred by the employee on medical treatment of himself and members of his family :
 - (i) In a hospital maintained by government or local authority or approved by the government for medical treatment of its employees.
 - (ii) In respect of the prescribed diseases or ailments in any hospital approved by the Chief Commissioner.
 - (iii) Premium paid by the employer on health insurance of the employee under an approved scheme.
 - c) Premium on insurance of health of an employee or his family members paid by employer
- Limited Exemption: If the ordinary medical treatment of the employee or any member of his family is done at any private hospital, nursing home or clinic, the exemption is restricted to Rs.15,000.

B. Medical Treatment outside India which is exempt from tax includes the following:

- a) Any expenditure incurred by employer on the medical treatment of the employee or any member of his family outside India.
- b) Any expenditure incurred by employer on travel and stay abroad of the patient (employee or member of his family) and one attendant who accompanies the patient in connection with such

treatment, shall be exempt to the following extent :

- (i) The expenditure on medical treatment and stay abroad shall be exempt to the extent permitted by the Reserve Bank of India.
- (ii) The expenditure on travel shall be exempt in full provided the gross total income of the employee (including this expenditure) does not exceed Rs.2, 00,000.

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 license fees) in this regard.

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. Accommodation owned by employer

In cities having population exceeding 25 lakhs as per 2001 census:

15% of Salary Less Rent actually paid by employee

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

10% of Salary Less Rent actually paid by

employee in other places:

7.5% of Salary Less Rent actually paid by employee

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 paidor 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.

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).

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 facility 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.

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).

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

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.

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.

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 :

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.

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.

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)
 - House rent allowance
 - Retrenchment compensation
 - Superannuation fund
 - Statutory provident fund or public provident fund
 - Recognized provident fund, if does not include contribution of assessee and interestthereon
 - Keyman insurance policy and bonus
 - Any amount received prior to employment or after the cession of employment
 - Any received from ex-employer

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)

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.

Problem:1

Compute the taxable portion of allowances from the information furnished by Mr. Karthi for the A.Y. 2021-22.

(a) Travelling allowance Rs. 1,500 p.m.

(Expenditure Rs. 750 p.m.)

(b) Helper allowance 1,200 p.m.

(Expenditure Rs. 1,350 p.m.)

(c) Tribal area allowance 2,400 p.m.

(d) Education allowance (per child) 300 p.m.

(For 3 children)

(e) Hostel exp. allowance (per child) 2,500 p.m.

(For 3 children)

(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.

Solution

Computation of Taxable allowances of Mr. Karthi for A.Y. 2021-22

Particulars	Rs.	Rs.
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partially taxable allowances		
1. Exempted amount is amount spent for official purpose		
Travelling allowance 1,500 x 12	18,000	
Less: Exempted 750 x 12 being amount spent for official purpose	9,000	
Taxable Amount		9,000
Conveyance allowance: 1,500 x 12	18,000	
Less Spent for official purpose 18,000 x 50/100	9,000	
Taxable Amount		9,000
Helper allowance 1,200x 12	14,400	
Less Amount spent 1,350 x 12	16,200	-
2.Exempted amount is upto a specified limit		
Tribal area allowance 2,400 x 12	28,800	
Less: Exempted upto: 200 x 12	2,400	
Taxable Amount		26,400
Educational allowance: 300 x 12 x 3	10,800	
Less: Exempted Rs. 100 per child upto 2 children 100x 12 x 2	2,400	
Taxable Amount		8,400
Hostel Expenditure allowance 2,500 x 12 x 3	90,000	
Less: Exempted upto 300 p.m. per child upto 2 children (300 x 12 x 2)	7,200	
Taxable Amount		82,800
Transport allowance: 19,000 x 12	2,28,000	
Taxable Amount		2,28,000
Fully Taxable Allowance :		
Dog allowance-fully taxable 1,000 x 12		12,000
Taxable portion of allowances		3,75,600

Problem:2

Ajai a resident of Mumbai, receives Rs. 48,000 as basic salary during previous year 2020-21. In addition, he gets Rs. 4,800 as dearness allowance forming part of basic salary, 7% commission on sales made by him (sale made by Ajai during the relevant previous year is Rs. 86,000) and Rs. 6,000 as house rent allowance. He, however pays Rs. 5,800 as house rent. Determine the quantum of house rent allowance exempt from tax.

Solution:

Computation of house rent allowance exempt from tax P.Y.: 2020-21

House rent allowance exempted is least of the following:

1. HRA received	6,000
2. 40% of Salary (Basic + DASB + Commission on turnover) (48,000 + 4,800 + 6,020) x 40% 58,820 x 40/100	23,528
3. Rent paid - 10% of salary (Excess of rent paid over 10% of Salary) 5,800 - 5,882 = - 82	Nil

Least of the above is nil; Hence entire HRA i.e. Rs. 6,000 is fully taxable

Note: In the case of non-metro cities the second limit for exemption is 40%

Problem:3

Mrs Rani left from service after 15 years and received a refund of Rs 6,00,000 from Provident fund on 1-8-2018. It consists of his own contribution plus an equal contribution by his employer. Interest amount is Rs. 75,000. How will it be treated for income-tax purposes, If his contribution was to (a) SPF (b) RPF (c) URPF

Solution:

(a) & (b) In case Mrs Rani was contributing to SPF or RPF, the full amount of Rs. 6,00,000 received is exempted.

(c) In case of URPF : Employer's contribution plus interest on that part is taxable under the head "Salaries" and interest on own contribution is taxable under Other sources
Salary income is

Employer's Contribution to URPF (6,00,000-75,000)	2,62,500
2	
Interest on Employer's Contribution 75,000/2	37,500

Total amount taxable under the Head 'Salaries' 3,00,000

Amount Taxable as Income from Other Sources

Interest on Employee's Contribution = $75,000/2 = \text{Rs. } 37,500$.

Problem:4

1. Ms..Priya is a Government employee, receives Rs. 2,00,000 as gratuity at the time of retirement on May 30, 2019.
2. Shri. Raja, an employee of Audco Ltd., receives Rs. 3,00,000 as gratuity. He is covered by the payment of gratuity Act, 1972. He retires on November:2019, after rendering service of 32 years and 7 months. At the time of retirement his monthly basic salary and DA were Rs. 3,000 and Rs. 1,000 respectively.
3. Sathya who is not covered by the payment of gratuity Act,1972 retires on December 25, 2019, from Haritha Ltd. and receives Rs. 5,00,000 as gratuity after service of 36 years and 9 months. Her salary is Rs. 6,000 per month upto June 30, 2019 and Rs. 7,000 per month from July, 2019. Besides, she gets D.A. Rs. 1,000 per month (70% of which is considered for service benefits)

Solution

(1) Gratuity received by priya, a Govt. employee, is fully exempt from Tax.

(2) Gratuity received by Shri. Raja, an employee covered under gratuity Act is Exempted upto the least of the following:

(a) Gratuity actually received Rs. 3,00,000

(b)Rs. 20,00,000, being Maximum allowed as exempt.

(c) 15 days average salary for each year of completed service $4,000 \times 15/26 \times 33$ years is
. Rs.76,154. (Least)

least of the above (a), (b) and (c) is exempt from tax and the balance of Rs. 2,23,846 (3,00,000 -76,154) is taxable.

Note: Meaning of Salary: Basic Salary + D.A.

Salary for the purpose of exemption under gratuity act is Basic Salary and D.A. (Last drawn).

(3) Gratuity received by Sathya who is not covered by gratuity Act is exempted the least of the following:

(a) Actual gratuity received Rs. 5,00,000

(b) Rs.20,00,000, being maximum allowed as exempt.

(c) Half months average salary for each year of completed service $7200/2 \times 36 = 1,29,600$

Rs. 1,29,600 being least of the above a, b & c is exempt from tax and the balance of Rs.

3,70,400 (5,00,000-1,29,600) is taxable

Working Note:

Computation of average salary

Salary of 10 months preceding retirement	Rs.
Basic salary from February to November 30, 2019:	
(6,000 x 5 + 7,000 x 5)	65,000
D.A.SB 700 x 10	7,000
Total	72,000

Average = 72,000/10 months = 7,200

Note : Service of more than 6 months is rounded off as one year for employees covered under gratuity Act, 1972.

For employees not covered by the gratuity Act, service or less than full year i.e., even 11 months is ignored.

Problem :6

From the following details compute the income of Raman who is employed by ABC Ltd. for the assessment year 2021-22.

Basic salary Rs.	1, 16,000
Dearness allowance (considered for service benefits)	28,000
High cost of living allowance	30,000
House rent allowance (actual rent paid is Rs. 60,000 in Delhi.) 4	8,000
Commission (at 2% of turnover achieved by Raman)	18,000
Insurance premium of ICICI Prudential on policy in the name of Mrs. Raman (sum assured Rs.2,00,000) paid by 'Raman'	44,000
Own life LIC premium paid	90,000
Deposit in PPF	70,000

On 10th March, 2018 ABC Ltd. offers equity shares to employees at the rate of Rs. 410 per share (Market price Rs. 600 per share on 10th March 2020). Raman accepts the offer and as per terms of offer applies for 500 shares on 20th March 2019 (Market price on 20th March, 2020 Rs. 590 per share

Calculate the amount eligible for deduction /s 80C.

Solution

Computation of Salary income of Mr. Raman AY : 2021-22

Particulars	Rs.	Rs.
Basic salary		1,16,000
Allowances		
Dearness allowance (Service benefits)		28,000
High cost of living allowance		30,000
House rent allowance (HRA)	48,000	
Less Exempted (W.N.1)	43,800	4,200
Commission		18,000
Perks:		
Equity shares given under ESOP is taxable (590 -410)	180 x 500	90,000
Gross Salary		2,86,200
Less Deductions U/s. 16:		
Standard deduction U/s. 16(ia)		50,000
Taxable Salary		2,36,200

Amount deductible u/s 80C: Rs. 1,50,000.

Working Note 1

HRA exempted is least of the following: Rs.

1. Actual HRA received 48,000

2. 50% of Salary -1,62,000x 50/100 81,000

(Basic +DASB +Commission in Turnover)

3. Rent paid - 10% of salary 43,800

(60,000- 16,200)

HRA Exemption is Rs. 43,800.

Note: (1)

Shares allotted by a company to its employees is taxable. Perquisite value of shares allotted is, fair market value on the date of exercising the option minus value paid by employee per share.

(2) Qualifying amount for deduction /s 80C

LIC Premium: Rs.90,000

Rs. 20,000

PPF Rs. 70,000

1,80,000

(LIP) LIC premium on wife's policy upto 10 % of policy

$$= 20000 (44000/22 \times 10\%)$$

$$\text{ie. } (44,000/2,00,000 \times 100 = 22\%)$$

Amount deductible u/s is least of Rs. 1,50,000 or 1,80,000.

Note: Standard deduction u/s 16(i) is allowed upto Rs. 50,000.

Problem 7

The following particulars of Mr. X who is working in Ram& Delhi, (Population above 25 lakhs)

Compute his total income and find qualifying amount for deduction u/s 80C.

Salary Rs. 3,000 per month	36,000
Entertainment allowance (never given before)	25,000
Dearness allowance	18,000
Employer's contribution to RPF	4,000
Employee's contribution to RPF	4,000
Education expenses of Mr.X's son met by the employer	1,000
Rent-free and furnished house in Delhi provided by the employer, rental value of house owned by employer is	6,000
Medical expenses during office hours.	600
Club bill of Mr. X paid by the company.	400
Insurance premium paid from his salary	1,000
Bonus	26,000
Car of 1.8 Ltr. is provided for personal and official use.	
Drivers Wages Rs. 6,000. Expenses on running and maintenance are met by employer.	
Gas water and electricity bills, paid by employer is Rs 3,000	
Gardener's salary paid by employer Rs. 4,000	
Mr. X Paid college tuition fees of his children Rs.16,000	
Amount deposited in PPFs.	60,000
Life insurance premium on spouse's life principal	80,000
Housing Loan principal amount paid	60,000

Solution :

Computation of Salary income of Mr.X for the AY: 2021-22

Particulars	Rs.	Rs
Basic Salary		36,000
Bonus		26,000
Entertainment allowance		25,000
Dearness allowance		18,000
Employer's contribution to RPF	4,000	
Less Exempted 36,000 x12/ 100	4,320	-
Perquisites		
Car value as Perk: 2,400 x 12	28,800	
Drivers wages as perk: 900x 12	10,800	39,600
Education expenses met by employer		1,000
Gas water and electricity bills paid by employer		3,000
Club bills paid by the company		400
Rent free accommodation (W.N.1)		13,050
Gross salary		1,62,050
Less : Deductions u/s. 16:		
1. Standard deduction u/s. 16(ia)		50,000
Net Salary		1,12,050

Amount deductible u/s 80C : Least of 1,50,000 or 2,21,000: Rs. 1,50,000

Qualifying amount deduction u/s 80C

Housing Loan	60,000	
Q.A. Employee's contribution to RPF	4,000	
College Tuition Fees .	16,000	
Insurance Premium own life	1,000	
Spouse life	80,000	
PPF	60,000	
		2,21,000

W.N 1

Value of Rent Free Accommodation:

As the accommodation is owned by employer, RFA value in a city with population exceeding 25 lakhs is 15% of salary.

$$\text{Salary} = \text{Basic} + \text{Commission} + \text{Bonus} + \text{Taxable allowances} + \text{DASB}$$

$$= (36,000 + 26,000 + 25,000) \times 15/100 = \text{Rs. } 13,050.$$

Note 1

1. Medical Expenses during office hours is fully exempted.
2. Mr. X is a specified employee, since his monetary benefits (Basic + DA+ EA + Bonus + Taxable allowances - 16(ii) and 16(iii) exceeds Rs. 50,000. Gas, and water bills are taxable along with car facility.
3. Non Govt. employees are not eligible for deduction u/s 16(ii) for Entertainment allowance.
4. Since the house is owned by the employer, Gardener's salary is not taxable.
5. Car, club bills, credit cards and Free lunch are taxable as perquisites.
6. Standard deduction u/s 16(ia) is allowed upto Rs. 50,000.
7. RFA is 15% of salary (house owned by employer in a city with above 25, lakhs population).
8. Employers contribution to RPF is exempted upto 12% of salary.

UNIT - III

INCOME FROM HOUSE PROPERTY

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 :

Expected Rental Value OR
Actual Rent received for full year,
Whichever is more.

Here, Expected Rental Value is calculated as follows:

If the let out property is not subject to Rent Control Act ERV is:

FRV or MRV whichever is higher.

If the let out property is subject to Rent Control Act ERV is:

FRV or MRV whichever is higher

OR

Standard Rental Value ,

Whichever is less.

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 borrowable 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 or Rs.30,000/- whichever is less
2. When borrowed money or acquisition of the property is after 1.4.1999 - deduction is Rs.2,00,000/- applicable to A.Y 2002-03 and onwards.

However, if the amount borrowed is for repairs, renewals or reconstruction, the deduction is restricted to Rs.30,000. If the amount borrowed 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.

Problem: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.

Problem:2

Calculate annual rental value from the following particulars for the assessment year 2021-22. 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.
 =====

Problem:3

Compute gross annual value for the AY 2021-22:

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.

=====

Problem:4

Suresh 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
	=====	=====
Net Annual Value	36,000	31500
	=====	=====

Problem: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 2021-22.

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	
Deductions:		
Interest on loan taken for construction	: 1,250	

Income from self -occupied portion		--1,250

Income from House Property		<u>3,625</u>

Problem :6

X occupied three flats for his residential purposes, particulars of which are as follows:

Particulars	House I	House II	House III
House Municipal valuation	90,000	45,000	40,000
Fair Rent	1,20,000	40,000	45,000
Standard rent under Rent control Act	80,000	Not available	25,000
Municipal taxes paid	10%	10%	10%
Fire Insurance	1,000	600	1,200
Interest payable on Capital borrowed for purchase of flat before 1-4-99	40,000	50,000	10,000

Determine the taxable income for the assessment year 2021-22. You are formed that Z could not occupy House 2 for two months commencing from December 1, 2020 and that he has attained the age of 65 on August 23, 2020.

Solution :

Z has occupied three flats for his residential purposes. From AY 2021-22, an assessee can occupy two houses for self -occupation, and other house occupied is deemed to be let out

Particulars	House 1 Self - Occupied	House 2 Self - Occupied	House 3 DLO
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Gross annual value	-	-	25,000
Less Municipal taxes of 10% of M.V.			4,000
Net Annual Value	Nil	Nil	21,000
Less Deductions			
1. Standard deduction	-	-	6,300
30% of NAV			
2. Interest on Loan for Construction, borrowed before 1-4-99, is restricted to Rs. 30,000 in case of Self occupied House.	30,000	50,000	10,000
Income from house property	-30,000	-50,000	4, 700

Net Income with Option I:

House 1 Selfoccupied	- 30,000
House 2 Selfoccupied	<u>-50,000</u>
Net Income (Loss)	- 80,000 or
	<u>- 30,000</u>
	- 30,000
House 3 Deemed to be let	<u>4,700</u>
Net Income	-25,300

Conclusion

Houses with higher values are self-occupied and house with lower value is deemed to be letout.

Loss shown can be set off against any other income.

Note:

1. In case of Self occupied house, interest on Loan borrowed before 14-99 for construction or purchase or acquisition of house is restricted to Rs. 30,000. If the assessee occupies more than one house for his residence two houses are treated as self - occupied and the aggregate amount allowable as interest is Rs

30,000/2,00,000.

2. Fire insurance premium is not deductible.

UNIT-4

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

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 nay business or
 - (b) Not sharing any know how, patent, copyright, trade mark, license 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.
- ☐ ☐ Deemed 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 Principals 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.
- □ Modes 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:
 - Amount of expenditure incurred on current repairs of machinery, plant or furniture used in the business is deductible.

- 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, licenses, 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.

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.

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

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 AY 2011-12, it is given to the extent of 1.75 times only and before that 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.

Problem: 1 The net profit of business of Mr. Karthik 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 business

Particulars	Rs	Rs
Net profit		3,25,000
Add: Municipal taxes	30000	
Provision for bad debts	16000	
Provision for taxation	15000	
Excess depreciation	5000	39,000
Business Profit		3,64,000

Problem: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 2021-22**

Net Profit as per P&L Account : 1,11,500

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
=====

Problem:3

Dr. Bala is a medical practitioner in Chennai. From the following, calculate his income from profession for the AY 2021-22:

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 equipment purchased	48,000
Dr. Bala 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 of Dr. Bala for the AY 2021-22**

Particulars	Rs:	Rs:
Income from profession:		
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 equipment (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

Problem:4

The following is the Receipts and Payments account of Mr. Akhil, a practicing Chartered Accountant for the year ended 31-03-2021:

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	1,300

		publication)	
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 2021—22.

Solution:

Computation of income from Profession for the AY 2021-22

Particulars	Rs:	Rs:
Income from profession:		
Audit Fees	19,210	
Consultation Fee	10,000	
Tribunal appearance	15,000	
Miscellaneous	20,000	
Presents from clients	10,000	74,210
Less: Expenses in connection with profession		
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

Problem:5

Calculate the amount of depreciation on the assets of a mill:

Factory building W.D.V. on 01-04-2020 Rs: 14,00,000

Additions made on 01-06-2020 Rs: 6,00,000

Rate of depreciation 10%

The part of factory building which was destroyed by fire, for which the insurance company accepted the claim for Rs: 60,000 and scrap value realised amounted to Rs:10,000.

Solution:**Computation of Depreciation**

Factory building : W.D.V on 1-4-2020	Rs: 14,00,000
Additions made on 1-6-2020	Rs: 6,00,000

	Rs: 20,00,000

Less: Amount received from the insurance company Rs:60,000

Amountb received from the sale of scrap Rs:10,000 Rs: 70,000 Written
Down Value of factory building for the AY 2021-22 Rs: 19,30,000Therefore,
Depreciation @ 10% **Rs: 1,93,000**
=====

Problem:6

From the following figures, you are required to calculate the depreciation admissible during theprevious year:

	<u>Plant & Machinery(Rs:)</u>	<u>Building(Rs:)</u>
W.D.V. at the beginning of the year	3,75,000	15,00,000
Purchased during the year	4,50,000	Nil
Sales during the year	7,75,000	3,00,000

Computation of Depreciation**Solution:**

Particulars	Plant & Machinery	Building
	Rate = 15%	Rate = 10%
W.D.V at the beginning of the year	3,75,000	15,00,000
Add: Purchase	4,50,000	Nil
Total	8,25,000	15,00,000
Less: sales	7,75,000	3,00,000
W.D.V.	50,000	12,00,000
Depreciation	7,500	1,20,000

Problem:7

The following is the Profit & Loss account of Mr. Nataraj for the year.

Particulars	Rs.	Particulars	Rs.
To Rates and Taxes	450	By Gross profit	14,623
To Establishment (Staff)	1,750	By Bank interest on personal deposits	577
To Rent	600		
To Household expenses	1,450		
To Discount	250		
To Advertisement	200		
To Income-tax	480		
To Postage, Stationery	810		
To Fire insurance	150		
To Gifts and presents	160		
To Charity and donations (to approved institution)	1,140		
To Purchase of plant and Machinery (not yet installed)	1,500		
To Repairs of furniture	50		
To Interest on Loan	1,000		
To Life insurance premium	600		
To Reserve for doubtful debts	700		
To Interest on capital	250		
To Net profit	3,660		
	15,200		15,200

You are required to ascertain the business income of Mr. Nataraj.

Solution :

Computation of Business Income of Mr.Nataraj for the Assessment year 2021-22

Particulars	Rs.	Rs
Net Profit		3,660
Add: Inadmissible deductions:		
Household expenses	1,450	
Income tax	480	
Gifts and presents	160	
Charity and donations	1,140	
Capital expenditure on purchase of Plant and Machinery	1,500	
Life Insurance premium	600	
Reserve for doubtful debts	700	
Interest on Capital	250	6,280
		9,940
Less: Non Business income or income to be shown under other heads		
Bank Interest		577
Business Income		9,363

Note:

1. Charity and Donations to approved Institution are inadmissible since they are deductible from gross Total Income.
2. Expenses other than above inadmissible expenses are business expenses, being debited as allowable expense, hence they are ignored.

UNIT - V

Income Tax Authorities

Income Tax Act, 1961 provides for the administrative and judicial authorities for administration of this Act. The Direct Tax Laws Act, 1987 has brought far-reaching changes in the organizational structure. The implementation of the Act lies in the hands of these authorities.

Administrative [Income Tax Authorities][Sec. 116]

- (a) The Central Board of Direct Taxes constituted under the Central Boards of Revenue Act, 1963 (54 of 1963),
- (b) Directors-General of Income-tax or Chief Commissioners of Income-tax,
- (c) Directors of Income-tax or Commissioners of Income-tax or Commissioners of Income-tax (Appeals),
- (d) Additional Directors of Income-tax or Additional Commissioners of Income-tax or Additional Commissioners of Income-tax (Appeals),
- (e) Joint Directors of Income-tax or Joint Commissioners of Income-tax.
- (f) Deputy Directors of Income-tax or Deputy Commissioners of Income-tax or Deputy Commissioners of Income-tax (Appeals),
- (g) Assistant Directors of Income-tax or Assistant Commissioners of Income-tax,
- (h) Income-tax Officers,
- (i) Tax Recovery Officers,
- (j) Inspectors of Income-tax.

Central Board of Direct Taxes

The Central Board of Direct Taxes is a statutory authority functioning under the Central Board of Revenue Act, 1963. The officials of the Board in their ex-officio capacity also function as a Division of the Ministry dealing with matters relating to levy and collection of direct taxes.

CBDT Structure

The Central Board of Direct Taxes consists of a Chairman, and six members that deal with the following:

- Income Tax & Revenue
- Administration

- Legislation
- Audit and Judicial
- Investigation
- TPS & System

The Members of the CBDT are selected from the Indian Revenue Service (IRS). The members constitute the top management of the Income Tax Department.

Functions of CBDT

- It deals with matters related to levying and collecting Direct Taxes.
- Formulation of various policies.
- Supervision of the entire Income Tax Department
- Suggests legislative changes in Direct Tax Enactments
- Suggests changes in tax rates
- Proposes changes in the taxation structure in line with the Government policies.

Powers of CBDT

- Powers to make rules
- Power to issue orders, directions and instructions
- Power to appoint IT authorities
- Power to authorize IT authority
- Power to determine functions and Jurisdiction
- Power to issue general or special orders for collection of revenue
- Power to entertain objections
- Empowered to declare as a company
- Granting authority regarding Search and Seizure
- Power to order the furnishing of information
- Power to order of transfer

Chief Commissioner of Income Tax

The **Chief Commissioner of Income Tax**, or **Director General of Income Tax** is a senior rank in the Income Tax Department in India. Chief Commissioners are in charge of operations of the department within a region which is usually overlapping with the territory of a

state. They are chosen from the Indian Revenue Service and usually serve for the government for a period of 30 years. After cadre restructuring, a new designation is created the **Principal Chief Commissioner of Income Tax** and senior-most Chief Commissioners of Income Tax are promoted into this grade and have additional responsibilities as per personnel and budgetary targets are concerned. Their equivalent rank at the Union Secretariat is that of a Special Secretary(A secretary who is not the Administrative Head of a department but discharges the function of a Secretary for all other matters. A full Secretary designated as Secretary GOI is the Administrative Head) to Govt.of India in the apex scale.

Appointment of Income Tax Authorities:

The Central Government can appoint those persons whom it thinks are fit to become Income Tax Authorities. The Central Government can authorize the Board or a Director-General, a Chief Commissioner or a Commissioner or a Director to appoint income tax authorities below the ranks of a Deputy Commissioner or Assistant Commissioner, According to the rules and regulations of the Central Government controlling the conditions of such posts.

Jurisdiction of income-tax authorities:

Section 120 and 124 of Income Tax Act 1961 deals with Jurisdiction of income-tax authorities:

(1) Income-tax authorities shall exercise all or any of the powers and perform all or any of the functions conferred on, or, as the case may be, assigned to such authorities by or under this Act in accordance with such directions as the Board may issue for the exercise of the powers and performance of the functions by all or any of those authorities

(2) The directions of the Board under sub-section (1) may authorize any other income-tax authority to issue orders in writing for the exercise of the powers and performance of the functions by all or any of the other income-tax authorities who are subordinate to it.

(3) In issuing the directions or orders referred to in sub-sections (1) and (2), the Board or other income-tax authority authorized by it may have regard to any one or more of the following criteria, namely :-

- (a) territorial area;
- (b) persons or classes of persons;
- (c) incomes or classes of income; and
- (d) cases or classes of cases.

(4) Without prejudice to the provisions of sub-sections (1) and (2), the Board may, by general or special order, and subject to such conditions, restrictions or limitations as may be specified therein,-

(a) authorize Director to perform such functions of any other income-tax authority as may be assigned to him by the Board;

(b) empower the [Principal Director General or] Director General or 14[Principal Chief Commissioner or] Chief Commissioner or [Principal Commissioner or] Commissioner to issue orders in writing that the powers and functions conferred on, or as the case may be, assigned to, the Assessing Officer by or under this Act in respect of any specified area or persons or classes of persons or incomes or classes of income or cases or classes of cases, shall be exercised or performed by an Additional Commissioner or an Additional Director or a Joint Commissioner or a Joint Director, and, where any order is made under this clause, references in any other provision of this Act, or in any rule made there under to the Assessing Officer shall be deemed to be references to such Additional Commissioner or Additional Director or Joint Commissioner or Joint Director by whom the powers and functions are to be exercised or performed under such order, and any provision of this Act requiring approval or sanction of the Joint Commissioner shall not apply.

(5) The directions and orders referred to in sub-sections (1) and (2) may, wherever considered necessary or appropriate for the proper management of the work, require two or more Assessing Officers (whether or not of the same class) to exercise and perform, concurrently, the powers and functions in respect of any area or persons or classes of persons or incomes or classes of income or cases or classes of cases; and, where such powers and functions are exercised and performed concurrently by the Assessing Officers of different classes, any authority lower in rank amongst them shall exercise the powers and perform the functions as any higher authority amongst them may direct, and, further, references in any other provision of this Act or in any rule made thereunder to the Assessing Officer shall be deemed to be references to such higher authority and any provision of this Act requiring approval or sanction of any such authority shall not apply.

(6) Notwithstanding anything contained in any direction or order issued under this section, or in section 124, the Board may, by notification in the Official Gazette, direct that for the purpose of furnishing of the return of income or the doing of any other act or thing under this Act or any rule made thereunder by any person or class of persons, the income-tax authority exercising and performing the powers and functions in relation to the said person or class of persons shall be such authority as may be specified in the notification.

Section 124 of Income Tax Act "Jurisdiction of Assessing Officers"

Section 124. (1) Where by virtue of any direction or order issued under sub-section (1) or sub-section (2) of section 120, the Assessing Officer has been vested with jurisdiction over any area, within the limits of such area, he shall have jurisdiction-

(a) in respect of any person carrying on a business or profession, if the place at which he carries on his business or profession is situate within the area, or where his business or profession is carried on in more places than one, if the principal place of his business or profession is situate within the area, and

(b) in respect of any other person residing within the area.

(2) Where a question arises under this section as to whether an Assessing Officer has jurisdiction to assess any person, the question shall be determined by the [Principal Director General or] Director General or the [Principal Chief Commissioner or] Chief Commissioner or the [Principal Commissioner or] Commissioner; or where the question is one relating to areas within the jurisdiction of different [Principal Directors General or] Directors General or [Principal Chief Commissioners or] Chief Commissioners or [Principal Commissioners or] Commissioners, by the [Principal Directors General or] Directors General or [Principal Chief Commissioners or] Chief Commissioners or [Principal Commissioners or] Commissioners concerned or, if they are not in agreement, by the Board or by such [Principal Director General or] Director General or [Principal Chief Commissioner or] Chief Commissioner or [Principal Commissioner or] Commissioner as the Board may, by notification in the Official Gazette, specify.

(3) No person shall be entitled to call in question the jurisdiction of an Assessing Officer-

(a) where he has made a return under sub-section (1) of section 115WD or under sub-section (1) of section 139, after the expiry of one month from the date on which he was served with a notice under sub-section (1) of section 142 or sub-section (2) of section 115WE or sub-section (2) of section 143 or after the completion of the assessment, whichever is earlier;

(b) where he has made no such return, after the expiry of the time allowed by the notice under sub-section (2) of section 115WD or sub-section (1) of section 142 or under sub-section (1) of section 115WH or under section 148 for the making of the return or by the notice under the first proviso to section 115WF or under the first proviso to section 144 to show cause why the assessment should not be completed to the best of the judgment of the Assessing Officer, whichever is earlier.

(4) Subject to the provisions of sub-section (3), where an assessee calls in question the jurisdiction of an Assessing Officer, then the Assessing Officer shall, if not satisfied with the correctness of the claim, refer the matter for determination under sub-section (2) before the assessment is made.

(5) Notwithstanding anything contained in this section or in any direction or order issued under section 120, every Assessing Officer shall have all the powers conferred by or under this Act on an Assessing Officer in respect of the income accruing or arising or received within the area, if any, over which he has been vested with jurisdiction by virtue of the directions or orders issued under sub-section (1) or sub-section (2) of section 120.

Power regarding discovery, production of evidence, etc Section 131 of Income

Tax Act 1961

Section 131. (1) The Assessing Officer, Deputy Commissioner (Appeals), Joint Commissioner, Commissioner (Appeals), 17[Principal Chief Commissioner or] Chief Commissioner or 17[Principal Commissioner or] Commissioner and the Dispute Resolution Panel referred to in clause (a) of sub-section (15) of section 144C shall, for the purposes of this Act, have the same powers as are vested in a court under the Code of Civil Procedure, 1908 (5 of 1908), when trying a suit in respect of the following matters, namely :-

- discovery and inspection;
- enforcing the attendance of any person, including any officer of a banking company and examining him on oath;
- compelling the production of books of account and other documents; and
- issuing commissions.

Search and seizure

Search and seizure is defined under section 132 of Income Tax Act 1961.

Section 132. 20(1) Where the 21[Principal Director General or] Director General or 21[Principal Director or] Director or the 21[Principal Chief Commissioner or] Chief Commissioner or 21[Principal Commissioner or] Commissioner or Additional Director or Additional Commissioner or Joint Director or Joint Commissioner in consequence of information in his possession, has reason to believe that-

- (a) any person to whom a summons under sub-section (1) of section 37 of the Indian Income-tax Act, 1922 (11 of 1922), or under sub-section (1) of section 131 of this Act, or a notice under sub-section (4) of section 22 of the Indian Income-tax Act, 1922, or under sub-section (1) of section 142 of this Act was issued to produce, or cause to be produced, any books of account or other documents has omitted or failed to produce, or cause to be produced, such books of account or other documents as required by such summons or notice, or
- (b) any person to whom a summons or notice as aforesaid has been or might be issued will not, or would not, produce or cause to be produced, any books of account or other documents which will be useful for, or relevant to, any proceeding under the Indian Income-tax Act, 1922 (11 of 1922), or under this Act, or
- (c) any person is in possession of any money, bullion, jewellery or other valuable article or thing and such money, bullion, jewellery or other valuable article or thing represents either wholly or partly income or property which has not been, or would not be, disclosed for the purposes of the Indian Income-tax Act, 1922 (11 of 1922), or this Act (hereinafter in this section referred to as the undisclosed income or property),
- (d) the [Principal Director General or] Director General or [Principal Director or] Director or the [Principal Chief Commissioner or] Chief Commissioner or [Principal Commissioner or] Commissioner, as the case may be, may authorise any Additional Director or Additional Commissioner or Joint Director, Joint Commissioner, Assistant Director or Deputy Director, Assistant Commissioner or Deputy Commissioner or Income-tax Officer, or
- (e) such Additional Director or Additional Commissioner or Joint Director, or Joint Commissioner, as the case may be, may authorise any Assistant Director or Deputy Director, Assistant Commissioner or Deputy Commissioner or Income-tax Officer, (the officer so authorised in all cases being hereinafter referred to as the

authorised officer) to-

- (f) enter and search any building, place, vessel, vehicle or aircraft where he has reason to suspect that such books of account, other documents, money, bullion, jewellery or other valuable article or thing are kept;
 - (ii) break open the lock of any door, box, locker, safe, almirah or other receptacle for exercising the powers conferred by clause (i) where the keys thereof are not available;
- (g) search any person who has got out of, or is about to get into, or is in, the building, place, vessel, vehicle or aircraft, if the authorised officer has reason to suspect that such person has secreted about his person any such books of account, other documents, money, bullion, jewellery or other valuable article or thing;
- (h) require any person who is found to be in possession or control of any books of account or other documents maintained in the form of electronic record as defined in clause (t) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000), to afford the authorised officer the necessary facility to inspect such books of account or other documents;
- (i) seize any such books of account, other documents, money, bullion, jewellery or other valuable article or thing found as a result of such search;
- (j) Provided that bullion, jewellery or other valuable article or thing, being stock-in-trade of the business, found as a result of such search shall not be seized but the authorised officer shall make a note or inventory of such stock-in-trade of the business;
- (k) place marks of identification on any books of account or other documents or make or cause to be made extracts or copies therefrom;
- (l) make a note or an inventory of any such money, bullion, jewellery or other valuable article or thing provided that where any building, place, vessel, vehicle or aircraft referred to in clause (i) is within the area of jurisdiction of any [Principal Chief Commissioner or] Chief Commissioner or [Principal Commissioner or] Commissioner], but such [Principal Chief Commissioner or] Chief Commissioner or [Principal Commissioner or] Commissioner has no jurisdiction over the person referred to in clause (a) or clause (b) or clause (c), then, notwithstanding anything contained in section 120, it shall be competent for him to exercise the powers under

this sub- section in all cases where he has reason to believe that any delay in getting the authorisation from the [Principal Chief Commissioner or] Chief Commissioner or [Principal Commissioner or] Commissioner having jurisdiction over such person may be prejudicial to the interests of the revenue :

- (m) Provided further that where it is not possible or practicable to take physical possession of any valuable article or thing and remove it to a safe place due to its volume, weight or other physical characteristics or due to its being of a dangerous nature, the authorised officer may serve an order on the owner or the person who is in immediate possession or control thereof that he shall not remove, part with or otherwise deal with it, except with the previous permission of such authorised officer and such action of the authorised officer shall be deemed to be seizure of such valuable article or thing under clause (iii):
- (n) Provided also that nothing contained in the second proviso shall apply in case of any valuable article or thing, being stock-in-trade of the business:
- (o) Provided also that no authorisation shall be issued by the Additional Director or Additional Commissioner or Joint Director or Joint Commissioner on or after the 1st day of October, 2009 unless he has been empowered by the Board to do so.
- (p) Where any 25[Principal Chief Commissioner or] Chief Commissioner or [Principal Commissioner or] Commissioner, in consequence of information in his possession, has reason to suspect that any books of account, other documents, money, bullion, jewellery or other valuable article or thing in respect of which an officer has been authorised by the 25[Principal Director General or] Director General or [Principal Director or] Director or any other 25[Principal Chief Commissioner or] Chief Commissioner or [Principal Commissioner or] Commissioner or Additional Director or Additional Commissioner or Joint Director or Joint Commissioner to take action under clauses (i) to (v) of sub-section (1) are or is kept in any building, place, vessel, vehicle or aircraft not mentioned in the authorisation under sub-section (1), such [Principal Chief Commissioner or] Chief Commissioner or [Principal Commissioner or] Commissioner may, notwithstanding anything contained in section 120, authorise the said officer to take action under any of the clauses aforesaid in respect of such

building, place, vessel, vehicle or aircraft.]

- (q) (2) The authorised officer may requisition the services of any police officer or of any officer of the Central Government, or of both, to assist him for all or any of the purposes specified in sub-section (1) or sub-section (1A) and it shall be the duty of every such officer to comply with such requisition.
- (r) The authorised officer may, where it is not practicable to seize any such book of account, other documents, money, bullion, jewellery or other valuable article or thing, for reasons other than those mentioned in the second proviso to sub-section (1), serve an order on the owner or the person who is in immediate possession or control thereof that he shall not remove, part with or otherwise deal with it except with the previous permission of such officer and such officer may take such steps as may be necessary for ensuring compliance with this sub-section.
- (s) Explanation.-For the removal of doubts, it is hereby declared that serving of an order as aforesaid under this sub-section shall not be deemed to be seizure of such books of account, other documents, money, bullion, jewellery or other valuable article or thing under clause (iii) of sub-section (1).
- (t) The authorised officer may, during the course of the search or seizure, examine on oath any person who is found to be in possession or control of any books of account, documents, money, bullion, jewellery or other valuable article or thing and any statement made by such person during such examination may thereafter be used in evidence in any proceeding under the Indian Income-tax Act, 1922 (11 of 1922), or under this Act.

Explanation.-For the removal of doubts, it is hereby declared that the examination of any person under this sub-section may be not merely in respect of any books of account, other documents or assets found as a result of the search, but also in respect of all matters relevant for the purposes of any investigation connected with any proceeding under the Indian Income-tax Act, 1922 (11 of 1922), or under this Act.

- (u) Where any books of account, other documents, money, bullion, jewellery or other valuable article or thing are or is found in the possession or control of any person in the course of a search, it may be presumed-
 - (i) that such books of account, other documents, money, bullion, jewellery or other

valuable article or thing belong or belongs to such person;

- (v) (i) that the contents of such books of account and other documents are true ; and
(ii) that the signature and every other part of such books of account and other documents which purport to be in the handwriting of any particular person or which may reasonably be assumed to have been signed by, or to be in the handwriting of, any particular person, are in that person's handwriting, and in the case of a document stamped, executed or attested, that it was duly stamped and executed or attested by the person by whom it purports to have been so executed or attested.
- (w) The books of account or other documents seized under sub-section (1) or sub- section (1A) shall not be retained by the authorised officer for a period exceeding thirty days from the date of the order of assessment under section 153A or clause of section 158BC unless the reasons for retaining the same are recorded by him in writing and the approval of the [Principal Chief Commissioner or] Chief Commissioner, [Principal Commissioner or] Commissioner, [Principal Director General or] Director General or [Principal Director or] Director for such retention is obtained
- (x) Provided that the [Principal Chief Commissioner or] Chief Commissioner, [Principal Commissioner or] Commissioner, [Principal Director General or] Director General or [Principal Director or] Director shall not authorise the retention of the books of account and other documents for a period exceeding thirty days after all the proceedings under the Indian Income-tax Act, 1922 (11 of 1922), or this Act in respect of the years for which the books of account or other documents are relevant are completed.
- (y) (8A) An order under sub-section (3) shall not be in force for a period exceeding sixty days from the date of the order.
(9) The person from whose custody any books of account or other documents are seized under sub-section (1) or sub-section (1A) may make copies thereof, or take extracts therefrom, in the presence of the authorised officer or any other person empowered by him in this behalf, at such place and time as the authorised officer may appoint in this behalf.
(9A) Where the authorised officer has no jurisdiction over the person referred to in clause (a) or clause (b) or clause (c) of sub-section (1), the books of account or

other documents, or any money, bullion, jewelry or other valuable article or thing (hereafter in this section and in sections 132A and 132B referred to as the assets) seized under that sub-section shall be handed over by the authorized officer to the Assessing Officer having jurisdiction over such person within a period of sixty days from the date on which the last of the authorizations for search was executed and thereupon the powers exercisable by the authorized officer under sub-section (8) or sub-section (9) shall be exercisable by such Assessing Officer.

(10) If a person legally entitled to the books of account or other documents seized under sub-section (1) or sub-section (1A) objects for any reason to the approval given by the 29[Principal Chief Commissioner or] Chief Commissioner, 29[Principal Commissioner or] Commissioner, 29[Principal Director General or] Director General or 29[Principal Director or] Director under sub-section (8), he may make an application to the Board stating therein the reasons for such objection and requesting for the return of the books of account or other documents and the Board may, after giving the applicant an opportunity of being heard, pass such orders as it thinks fit.

(13) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), relating to searches and seizure shall apply, so far as may be, to searches and seizure under sub-section (1) or sub-section (1A).

30(14) The Board may make rules in relation to any search or seizure under this section ; in particular, and without prejudice to the generality of the foregoing power, such rules may provide for the procedure to be followed by the authorized officer-

- (z) (i) for obtaining ingress into any building, place, vessel, vehicle or aircraft to be searched where free ingress thereto is not available ;
- (ii) for ensuring safe custody of any books of account or other documents or assets seized.

Explanation 1.-For the purposes of sub-section (9A), "execution of an authorization for search" shall have the same meaning as assigned to it in Explanation 2 to section 158BE.

Explanation 2.-In this section, the word "proceeding" means any proceeding in respect of any year, whether under the Indian Income-tax Act, 1922 (11 of 1922), or this Act, which may be pending on the date on which a search is authorized under this section

or which may have been completed on or before such date and includes also all proceedings under this Act which may be commenced after such date in respect of any year.