INTRODUCTION

The word tax was derived from the Latin word 'taxore' meaning to estimate, appreciate or value. Tax is a price which each citizen pays to the state to cover his share of the cost of the general public services which he will consume. It indirectly provides employment opportunities. Taxes are compulsory contributions imposed by the government on its citizens to meet its general expenses incurred for the common good, without any corresponding benefit to the tax payer.

In 1860, the British government firstly introduced tax in India. The present law of income tax is contained in the income tax Act,1961 as amended up to date; the income tax rules 1962 as amended up to date and finance Act passed by the parliament every year. Income Tax Act came into force with effect from 1-4-1962 and extends to the whole of India.

Assessee [Sec 2(7)]

Assessee means a person by whom any tax or any other sum of money is payable under this Act, and includes;

a. Any person who is liable to pay tax, interest or penalty
b. Any person who is deemed to be assessee as per the Act
c. Any person who is considered as default assessee by the Act
d. Any person who is entitled to get refund of tax

Types of assessee:

There are three types of assessee;

a. ***Ordinary assessee:-*** Any person who is liable to pay tax, interest or penalty
b. ***Deemed assessee:-*** also known as representative assessee. He in not only responsible for his income but also responsible for income of other person to whom he acts as a representative. Guardian is a deemed assessee in the case of minor.
c. ***Assessee in default:-***if any person fails to fulfill his duty or obligation, then he is as assessee in default.

Assessment year [Sec 2(9)]

Assessment year means the period of twelve months commencing on the 1st day of April every year . It is also called the financial year. Current AY starts from 1st April 2009 and ends on 31st March 2010. AY is 2009-2010.

Previous year [Sec 3]

Previous year means the financial year immediately preceding the assessment year. The PY is 2008-09.

Average rate of income-tax [Sec2 (10)]

Average rate of income-tax means the rate arrived at by dividing the amount of income-tax calculated on the total income, by such total income.

Person [Sec 2(31)]

Person includes

(*i*) An individual,
(*ii*) A Hindu undivided family,
(*iii*) A company,
(*iv*) A firm,

(*v*) An association of persons or a body of individuals, whether incorporated or not,

(*vi*) A local authority

(vii) Every artificial juridical person, not falling within any of the preceding sub-clauses.

Gross total income [Sec 14]

Gross total income refers to the sum total of five heads of income such as salary, house property, business or profession, capital gain and other sources.

Income from salary	xxxx	
Income from house property		xxxx
Income from business or profession		xxxx
Income from capital gains	xxxx	
Income from other sources	xxxx	
Gross total income	***xxxx***	

Total Income

The excess of gross total income after allowing deductions under Sec 80 is termed as Total Income.

Gross total Income	xxxxx	
Less: deduction u/s 80		xxxxx
Total Income	**xxxxx**	

Agriculture Income [Sec 2(1A)]

Agricultural income refers to any income refers to any rent or revenue derived from land, which is situated in India and used for agricultural purpose and any income from a farm house. Since agriculture is a state subject, the central government can not impose tax on agricultural income. Therefore it is exempt from tax u/s 10(1). For treating an income as agricultural income it should satisfy the following conditions.

1. ***Land must be situated in India.*** The agricultural land must situate within India. Income received from agricultural land situated outside India is taxable.
2. ***Income must be derived from land*** There must be direct and positive relationship between the land and the income. The land must be the immediate source of income and not the secondary source.
3. ***Land must be used for agricultural purpose*** Agriculture means field cultivation. Cultivation involves some basic operation. If the basic operations are performed, only then the income is considered as agriculture income.

Features of Income:

The following are the main features of income

1. Income must come from a definite source in order to get it taxed
2. Income must come from outside. In other words self generated income cannot be taxed
3. Legal as well as illegal income is taxed
4. It is not necessary that income should be in the form of money, it can also be in the from of kind.
5. Income earned may be temporary or permanent
6. If income is collected and distributed then that income will be taxable.
7. Any loss is also included under the concept of income
8. In case of any disput regarding the title of the income, the beneficiary will be taxed

Accelerated Assessment

Generally the income of the previous year is taxable in the assessment year. But in certain cases the income of the previous year is taxable in the same year. It is called accelerated assessment. The following are the situations in which accelerated assessment is made

1. Income of a non resident from shipping business at a port in India is taxable in the year of earning itself.
2. Income of a person, who is leaving India in any previous year with intention of not returning to India in the near future, will be assessed in such year itself.
3. Income of an AOP or BOI formed for a short duration shall be chargeable to tax in the year in which it is dissolved.
4. If an assessee is likely to transfer his property to avoid tax, the total income of such transfer took place.
5. The income of discontinued business/profession will be taxed in the year in which such business or profession is discontinued.

TAX RATES [applicable for the AY 2009-2010]

1. **For Individual, HUF,AOP,BOI and artificial juridical person**

Net income	*% of tax*
Up to first 1,50,000	Nil
Rs.1,50,001-3,00,000	10%
Rs.3,00,001-5,00,000	20%
Rs.5,00,001 and above	30%

2. **For Resident women [below the age of 65 years at any time during the PY]**

Net income	*% of tax*
Up to first 1,80,000	Nil
Rs.1,80,001-3,00,000	10%
Rs.3,00,001-5,00,000	20%
Rs.5,00,001 and above	30%

3. **For Senior citizens [65 years of age or more at any time during the PY]**

Net income	*% of tax*
Up to first 2,25,000	Nil
Rs.2,25,001-3,00,000	10%
Rs.3,00,001-5,00,000	20%
Rs.5,00,001 and above	30%

a. Surcharge @10% is to be calculated in the income tax if the net income exceeds Rs.10,00,000

b. Education cess @3% is to be calculated on the tax amount after charging surcharge if any

4. **For firms**
   - ✓ Firm is taxed @ 30%
   - ✓ surcharge@ 10% is to be calculated in the income tax if the net income exceeds Rs.1 crore

- ✓ Education cess @3% is to be calculated on the tax amount after charging surcharge if any

5. For companies

- ✓ Domestic companies are taxed @ 30%
- ✓ Foreign companies:
  - For for royaly received from govt/ or other agreement made with govt @40%
  - Other income @50%
- ✓ surcharge@ 10% is to be calculated in the income tax to domestic company and 2.5% to foreign company if the net income exceeds Rs.1 crore
- ✓ Education cess @3% is to be calculated on the tax amount after charging surcharge if any

RESIDENTIAL STATUS AND TAX LIABILITY

The scope of total income is determined on the basis of residential status of the assessee. For the purposes of this Act, there can be three residential status. Residential status is determined on the basis Basic conditions and Additional conditions

1. Resident and ordinarily resident
2. Resident but not ordinarily resident
3. Non resident.

RESIDENTIAL STATUS OF AN INDIVIDUAL

Resident and Ordinarily Resident [ROR]

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

Resident but Not Ordinarily Resident [RNR]

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

Non Resident [NR]

If an individual does not satisfies any of the basic conditions he is said to be non resident in India

Basic conditions	***Additional conditions***

A stay of 182 days or more during the current previous year 2008-09 **OR** A stay of 60 days or more in the current PY 2008-09 and a total stay of 365 days or more in the 4 years immediately preceding the current PY	He should be resident in India in at least 2 out of 10 years immediately preceding the current PY **AND** A stay of 730 days or more during the 7 years immediately preceding the current PY 2008-09

Basic Conditions:

(*a*) He is in India in that year for a period or periods amounting in all to one hundred and eighty-two days or more; or

(*b*) He has been in India for a period or periods amounting in all to three hundred and sixty-five days or more within the four years proceeding the previous year, and has been in India for a period or periods amounting in all to sixty days or more in the previous year.

In the following cases the period of 60 days in clause (b) above will be substituted by 182 days.

1. An individual who leaves India in any previous year as a member of the crew of an Indian ship for the purposes of employment outside India.
2. An individual who is a citizen of India, or a person of Indian origin, who, being outside India, comes on a visit to India in any previous year

Additional Conditions:

(*a*) He has been resident in India in two out of the ten previous years preceding the relevant previous year, and

(b) He has been in India a period, or periods amounting in all to, seven hundred and thirty days or more during the seven previous years preceding the relevant previous Year.

Individual's stay in India during the previous year need not necessarily be a continuous one and at the same place. The period of stay may be a broken period. The calculation of his stay

in India shall be made on an hour basis. A total of 24 hours stay in India shall be counted as one day. The place and the purpose of the stay are also immaterial.

RESIDENTIAL STATUS OF HUF [SEC 6 (2)]

HUF is a separate tax entity apart from its members and therefore, it is liable to pay tax on income earned by it in the previous year.

Resident	Non Resident
1. When control and management is wholly situated in India 2. When control and management is partly situated in India and partly situated outside India	When control and management is wholly situated outside India
1. If the Karta satisfies the additional conditions of individual then the HUF is resident and ordinarily resident 2. If the Karta does not satisfies the additional conditions of individual then the HUF is resident but not ordinarily resident	

Resident and Ordinarily Resident:

A HUF is said to be resident in India if the control and management of its affairs is situated wholly or partly in India. And the manager or Karta satisfies the the following additional conditions

(*a*)He has been resident in India in two out of the ten previous years preceding the relevant previous year, and

(b) He has been in India a period, or periods amounting in all to, seven hundred and thirty days or more during the seven previous years preceding the relevant previous

Year.

Not Ordinarily Resident:

A HUF is not ordinarily resident in India, if control and management of its affairs is situated wholly or partly outside India but the manager or Karta does not satisfies the additional conditions.

Non Resident:

HUF is non resident if the control and management of its affairs is situated wholly outside India.

RESIDENCE OF A COMPANY [SEC 6(3)]

Resident	Non Resident
1. When the control and management is fully situated in India	1. When the control and management is partly situated in India and partly situated outside India 2. When control and management is fully situated outside India

A company can be either resident or non resident. A company is said to be resident in any previous year if, it is an Indian company or during that year, the control and management of its affairs is situated wholly in India.

If a company is neither an Indian company nor the control and management of its affairs is situated wholly in India it is said to be non resident India.

SCOPE OF TOTAL INCOME/ INCIDENCE OF TAX

The residential status of an assessee determines the scope of total income. The total income liable to tax vary according to the residential status The incidence of tax is highest on resident, a little lower on not ordinarily resident and lowest on non resident assessee.

Income	***Whether taxable or not***		
	O.R	**N.O.R**	**N.R**
Income received or deemed to be received in India in the PY	Taxable	Taxable	Taxable
Income which arises or accrues or is deemed to accrue or arise to the assessee in India in the PY	Taxable	Taxable	Taxable

Income received outside India from a business or profession controlled from India	Taxable	Taxable	Taxable
Income received outside India from a business or profession controlled from outside India	Taxable	Not Taxable	Not Taxable
Income received outside India from any other source apart from business	Taxable	Not Taxable	Not Taxable
Past untaxed profit brought into india	Not Taxable	Not Taxable	Not Taxable
Income earned outside India in earlier years but later on remitted to india	Not Taxable	Not Taxable	Not Taxable
salary drawn outside India from an Indian company	Taxable	Taxable	Not Taxable
salary drawn outside India from an Indian company for service rendered within india	Taxable	Taxable	Taxable

INCOME EXEMPT FROM TAX

Under Sec10 of income tax act the following incomes are exempt from tax

1. Agricultural Income [Sec 10(1)]

Income from agricultural land situated within India is exempted from tax.

2. Share income of HUF [Sec 10(2)]

Any sum received by an individual as a member of a Hindu Undivided Family either out of income of the family or out of income of estate belonging to family is exempt from tax.

3. Share of profit from partnership firm [Sec10 (2A)]

Share of profit received by partners from a firm in which they are partners is not taxable in the hands of partners.

4. Gratuity [Sec 10(10)]

Gratuity received by an employee from employer is exempted from tax subject to the following conditions

a) For Govt employee/ semi govt. employee – amount of gratuity received is fully exempt.
b) For employees covered under Payment of Gratuity Act 1972
    a. 15 days average wages for every one completed year of service or part thereof in excess of 6 months or
    b. actual amount received or
    c. Rs.3, 50,000.
c) For other employees who have more than 5 years service.
    a. ½ months salary for every completed year of service
    b. actual amount received
    c. Rs.3, 50,000.

5. Pension and Leave salary [Sec 10(10A)]

6. Leave encashment

7. HRA

8. Commuted pension

9. Income of a mutual fund

10. Dividend Income from a domestic company

11. Income of religious institutions

Pension and leave salary earned by the employee is exempted from tax.

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

Compensation received by workmen at the time of retrenchment is exempt from tax to the extent of the lower of the following

a) an amount calculated in accordance with the provisions of Sec 25F(b) of the Industrial Disputes Act 1947
b) maximum notified by the govt. (Rs.5,00,000)
c) actual amount received

7. Interest on the following is exempt from tax

a. 12 year National savings Annuity certificate
b. Post office cash certificate (5 years)
c. National Plan certificate(10years)
d. National Plan savings certificate
e. Post office national savings certificate
f. Post office savings bank accounts

8. Education Scholarship [Sec 10(16)]

Scholarship granted to meet the cost of education is exempt from tax.

9. Awards [Sec 10(17A)]

Any award instituted by central or state govt. or by any body and approved by the govt., whether paid in cash or in kind are exempt from tax.

10. Pension to Gallantry award winners [Sec10 (18)]

Pension and family pension to the members of defense forces who have been awarded the Param Vir Chakra, Maha Vir Chakra and Vir Chakra is exempt.

11. Family pension

Family pension received by family members of armed forces, when the member of armed force dies during service.

12. Formers rulers of Indian states [Sec 10(19A)]

Annual value of any one palace in the occupation of a former ruler is exempt from tax.

13. Income of pension fund [Sec 23(AAB)]

Any income of a fund set up by the LIC of India under a pension scheme to which contribution is made by any person for receiving pension from such fund, and which is approved by the controller of insurance is exempted from tax.

14. Income of a trade unions [Sec 10(23D)

Any income chargeable under the heads income from house property and income from other sources of a trade union is exempt from tax.

15. Income of Minor [Sec 10(32)]

If income of a minor child is included in the income of a parent u/s 64(1A) such individual is entitled to exemption of Rs.1500 in respect of each minor child or such income whichever is less.

INCOME FROM SALARY

DEFINITION

According to [Sec 17 (1)] Salary includes

(*i*) wages;

(*ii*) any annuity or pension;

(*iii*) any gratuity;

(*iv*) any fees, commissions, perquisites or profits in lieu of or in addition to any salary or wages;

(*v*) any advance of salary;

(*vi*) any payment received by an employee in respect of any period of leave not availed of by him;

(*vii*) the annual accretion to the balance at the credit of an employee participating in a recognised provident fund,

(*viii*) the contribution made by the Central Government in the previous year, to the account of an employee under a pension scheme .

Features of salary

Income from salary is the first head of income. The following are the important features of salary income.

1. **Employer – employee relationship**

There should be an employer employee relationship or master servant relationship between two persons. In other words the amount received by an employee from his employer while occupying the position of his employment is taxable under this head.

2. **Deductions from salary**

The deductions from salary, like employees contribution to PF, state insurance etc are merely applications of income and hence it is the gross salary which is taxable and not the net salary.

3. **Tax free salary**

In the case of tax free salary, tax payable on salary income by the employee is borne by the employer. Tax paid by the employer on behalf of employee is included in the salary income of the employee. But the employee can claim the credit of such payment of tax.

4. **Surrender of salary**

Salary surrendered by an employee is also taxable under the head salary income.

5. **Place of accrual of salary**

Salary is accrued at the place where services are being rendered.

6. **Amount after the service**

Any amount received by employees after cessation of employment like pension is also taxable under the head Salary.

7. Family pension

Any family pension received by the widow or legal heirs of a deceased employee is not taxable under the head salaries but is taxable under the head income from other sources

SCHEME OF TAXATION-INCOME FROM SALARY

Particulars	***Amount***
Basic items:	
Basic pay	Xxxx
Special pay	Xxxx
Bonus	Xxxx
Fees	Xxxx
Commission	Xxxx
Advance salary	Xxxx
Arrear salary	Xxxx
Allowances:	
Fully Taxable allowance	Xxxx
Partly taxable allowance	Xxxx
Fully exempted allowance	Xxxx
Perquisites:	
Taxable for all	Xxxx
Taxable for specifies employees only	Xxxx
Exempted for all	Xxxx
Special items:	
Gratuity	Xxxx
Pension	Xxxx
Leave encashment	Xxxx
Provident fund	Xxxx
Deductions under Sec16	

Standard deduction [N.A from AY 2006-07]	Nil
Entertainment allowance	Xxx
Professional tax	Xxx
Income from salary	**XXXX**

Advance salary

Advance salary is taxable on receipt basis. It is taxed in the assessment year relevant to the previous year in which the salary is received, irrespective of the incidence of tax in the hands of the employee.

Arrear salary

It is taxed on receipt basis provided it is not taxed earlier. The recipient can claim relief under Sec 89.

ALLOWANCES

Allowance is a fixed amount of money given along with salary in order to meet some particular requirement connected with the services rendered by the employee. It is taxed on due or receipt basis. They are generally classified into the following;

1. Fully taxable allowance
2. Partly taxable allowance
3. Fully exempted allowance

Fully taxable	**Partly taxable**	**Fully exempted**
Dearness allowance	House rent allowance	Foreign allowance
City compensatory allowance	Entrainment allowance	Allowance to high court and supreme court judges
Project allowance	Education allowance	Out of pocket allowance for NCC officers
Medical allowance	Hostel allowance	Allowance to employees of UNO
Lunch allowance	Travelling allowance	
Holiday trip allowance	Conveyance allowance	
Petrol allowance	Uniform allowance	
Deputation allowance	Academic research allowance	
Family allowance		

Dearness Allowance(DA)

The allowance given by the employer to employee to meet the high cost of living on account of inflation. It is included in salary and is always taxable.

City Compensatory Allowance (CCA)

The allowance given by the employer to employee to compensate the high cost of living in big cities. It is fully taxable.

House Rent allowance (HRA)

It is an allowance given to an assesee by his employer to meet the expenditure on payment of rent in respect of residential accommodation occupied by him. In case an assessee lives in his own house or lives in a house for which he is

not paying any rent, then the whole amount of HRA received will be taxed. Other wise The least of the following is exempted and the balance is taxable.

1) Actual amount of HRA received during the PY.
2) Excess of rent paid over 10% of salary
3) 40% of salary (50% of salary in Mumbai, Kolkata , Delhi and Chennai)

[Salary= basic pay +DA [FP]+fixed % of commission]

Entertainment Allowance (EA)

Entertainment allowance is not eligible for exemption but it only qualifies deduction. Entertainment allowance is first included in the salary and then deduction is allowed under [Sec16 (ii)]. Deduction is allowable only for Govt. employees (from AY 2002-03) and the quantum of deduction is least of the following

1) Rs.5,000
2) 20% of salary
3) Actual amount of entertainment allowance granted during the PY.

[Salary=Basic pay only]

Children Education Allowance

It is exempt up to Rs.100 pm per child subject to a maximum of two children.

Children Hostel Allowance

If hostel expenditure allowance is given, it is exempt to the extent up to Rs.300 pm per child subject to a maximum of two children.

Special allowance

Any special allowance given by the employer to employee in the performance of duties is exempt to the extent of amount actually spent. Eg, uniform allowance, travelling allowance, conveyance allowance, daily allowance, academic research allowance etc.

PERQUISITES

Perquisite means monetary benefits, facilities or advantages provided by the employer to the employee in addition to salary. It may be a casual emolument, fee or profit attached to a position or employment. Perquisites denote personal advantage. Perquisites may be provided either in cash or in kind. When the perquisites are provided in cash there is no need for valuation. But if perquisites are provided in kind, the value of such perquisites are to be determined as per income tax rules.

For taxation purpose perquisites may be divided into 3;

1. Perquisite taxable for all
2. Perquisite taxable for specified employees only
3. Perquisite exempted for all

Specified employee

Specified employee is one

i) who is a director cum employee of a company
ii) who is employee sum shareholder having substantial interest in the company
iii) any other employee whose monetary salary exceed Rs50,000/-p.a

[Monetary salary= basic pay+ DA+ Bonus+ Fees +Commission +all taxable allowance- Professional tax- Entrainment allowance]
[Substantial interest means 20% or more paid up capital / 20% or more voting power]

Taxable for all	***For specified employees only***	***Exempted for all***
Rent free house House at concessional rent Any obligation of employee paid by the employer	Domestic servant Watchman Gardner Sweeper Supply of gas electricity and water Education facility Transport faculty	Medical facility Interest free loans Free lunch Laptop, mobile etc

Rent Free House
Unfurnished house

1) For govt. employees- value is equal to the license fee which would have been determined by the central or state govt. in accordance with the rules framed by the government for allotment of houses to its officers.
2) For private employees and other employees

City	***Owned by employer***	***Taken on rent***
Population exceeding 25 lakhs	15% salary	Actual rent or 15 % of salary whichever is less.
Population exceeding 10 lakhs but up to 25 lakhs	10 % of salary	
Other places	7.5% of salary	

[Salary = basic salary+ DA[FP]+Bonus+Commission+fees+taxable allowance+ all other monetary payments+ leave encashment]
Value of rent free furnished house [Rule 3(1)]
Value of furnished house = value of unfurnished house + value of furniture
The value of furniture is determined as follows

1) 10 % per annum of the original cost of furniture, if furniture is owned by the employer.
2) Actual hire charges payable, if furniture is hired by the employer.

Accommodation in a Hotel
If the accommodation is provided in a hotel, the perquisite shall be calculated at the rate of 24%of salary paid. But if the following conditions are satisfied, hotel accommodation is not chargeable to tax

a) if it is provided for a period not exceeding 15 days in aggregate and
b) such accommodation is provided in connection with transfer of employee from one place to another place.

Valuation of concessional rent

In case the accommodation is provided by the employer at a concessional rent then, rent paid /payable by the employee will be deducted from form the value of accommodation .Balance amount is the value of concessional rent.

Free education

- ✓ Free education facilities and training facilitates to employees is not taxable
- ✓ If the school fees of employee's children are directly paid by or reimbursed by the employer to employee, the amount so paid or reimbursed is taxable for all types of employees
- ✓ If the education is provided in the school owned by the employer

Cost of education in similar institute		xxx
Less:1,000/month/child	xxx	
Taxable value		***xxx***

Gas, Electricity or Water

The taxable value of gas, electricity or water is determined as follows:

1) If the connection of gas, electricity or water is in the name of the employee and the bills paid or reimbursed by the employer, it is taxable in the hands of all employees. The taxable value is actual charges paid or reimbursed by the employer.
2) If the connection of gas, electricity is in the name of the employer, the perquisite will be taxable only in the case of specified employee. The taxable value is actual charges paid or reimbursed by the employer.
3) Where supply of electricity, gas etc is made from resources owned by the employer without purchasing them from any other outside agency, the taxable value of such perquisites shall be taken as manufacturing cost per unit incurred by the employer.

Domestic servant, Sweeper, Watchman, and Gardner

1) if the servant is appointed by the employee and the employer pays his salary, the full amount of salary will be taxed in the hands of all employees
2) if the servant is appointed by the employer and paid by him, it is taxable in the hands of specified employees only. The value is the actual wages paid by the employer
3) if a gardener is appointed by the employer in a building owned by him, and occupied by the employee, it is not a taxable perquisite.

Gratuity [Sec 10(10)]:

It is the lump sum amount paid by the employer to employee voluntarily or under law for the meritorious service rendered by the latter. It is paid at the time of retirement or death of employee whichever is earlier.

Gratuity is exempted under Sec10(10) to the extent of the following

a) For Govt or Semi govt. employees- amount of gratuity received is fully exempt
b) For employees covered under Payment of Gratuity Act 1972, the least of the following is exempt.

a. 15 days average salary for every one completed year of service or part thereof in excess of 6 months
b. actual amount received
c. notified limit Rs3,50,000/-

[Number of days in a month shall be 26]
[Average salary = last drawn salary immediately preceding the retirement]
[Average salary= Basic pay + DA[FP]+% of commission]

c) for other employees- least of the following is exempt provided service is more than 5 years
   a. ½ months average salary for every completed year of service9 part to be ignored)
   b. Actual amount received
   c. Notified limit Rs.3,50,000/-

[Average salary means 10 months average salary preceding the month of retirement]
[Average salary= Basic pay + DA [FP] +% of commission]

For govt.employess- *Fully Exempted*	
Payment of gratuity Act 1972	**Other employees**
Least of the following exempted: a. Actual gratuity received b. Rs.3,50,000 c. 15 days average salary for every one completed year of service or part thereof in excess of 6 months	*Least of the following exempted:* a. Actual gratuity received b. Rs.3,50,000 c. Half month average salary for every one completed year of service
• *Number of days in a month shall be 26* • *Average salary = last drawn salary immediately preceding the retirement* • *Average salary= Basic pay + DA[FP]+% of commission* • *Above 6 months- take as one year* • *6 months or below- ignore*	• *Average salary = last 10 months salary immediately preceding the retirement* • *Average salary= Basic pay + DA[FP]+% of commission* • *Fraction of a service is to be ignored*

Annuity or Pension [Sec 10(10A)]:

Pension is the periodical payment made by the employer to the employee after retirement. Commuted pension is a one time payment. It means lump sum amount taken by commuting the pension or part of the pension. Annuity is the annual payment made by an employer to employee. Uncommuted pension is the balance which he receives after commutation. Un commuted pension is taxable under the head salary in the hands of both Govt. and non Govt. employee.

a) In the case of govt.employee :- commuted value of pension received is fully exempted
b) In the case of other employees:
   a. Who receives gratuity:- 1/3rd of the commuted value of pension which he is normally entitled to receive.
   b. Who does not receive gratuity:- ½ o f the commuted value of pension which he is normally entitled to receive.

Encashment of earned leave [Sec 10(10AA)

Every employee can surrender the accumulated leave at the time of retirement Encashment of earned leave during service is fully taxable as salary. But encashment of earned leave at the time of retirement or resignation, exempt to the following extent.

1) Govt. employees :- amount fully exempt
2) Other employees :- least of the following is exempt.
    a. Cash equivalent of leave due at the rate of average salary for the period of earned leave to the credit
    b. 10 X Average salary
    c. Amount of leave encashment actually received
    d. Rs.3,00,000/-

[Average salary means average salary drawn during the period of ten months immediately preceding his retirement.]

[In case leave encashment is given to legal heirs of deceased employee, it will not be taxed under salary]

[Employee is eligible for one month leave for one years service]

Free medical facilitates

1) Fixed medical allowance is always chargeable to tax
2) Free medical facilities provided by employer to employee is tax free subject to the following conditions
    a. if treatment was taken from a hospital maintained by the employer, it is fully exempt.
    b. If treatment was undertaken in a Govt. hospital or any other approved hospital, it is fully exempt.
    c. In case treatment is taken from a private or unrecognized hospital, the benefit is exempt up to Rs.15,000
    d. In case of medical insurance premium of employee is paid by employer under a scheme approved by the central Govt., it is fully exempt.
3) In case of treatment outside India
    a. expenses incurred on medical treatment of employee/ member of his family and stay abroad, is exempted up to the extent of foreign exchange sanctioned by RBI
    b. travel expenses (to and fro) of employee/ member of his family and one attendant who accompanies the patient is exempted , if the gross total income of the employee does not exceed Rs2,00,000/- (before including traveling expenses)

Retrenchment compensation [Sec 10(10B)]:

Compensation received by a workman at the time of retrenchment is exempt to the extent of the least of the following:

a) amount calculated under the Industrial Disputes Act, 1947 or
b) Rs.5,00,000/-

VRS [Sec 10(10C)]:

At the time of VRS, the least of the following is exempted subject to certain conditions

1) Last drawn salary X3 X completed year of service.
2) Rs.5,00,000,
3) Actual compensation received.

Leave travel concession [Sec 10(5)]

If an employee receives any travel concession from his employer in connection with his proceeding on leave to any place in India for himself and his

family is exempt subject to rules framed by central Govt. family means spouse or the children of the individual and the parents, brothers or sisters of the individual or any of them wholly or mainly dependant on the individual.

Annual Accretion

Annual accretion means, employer's contribution to recognized provident fund (RPF) of the employee in excess of 12% of employee's salary and the interest credited to RPF in excess of 9.5%. It is included in salary income and is taxable.

Transferred Balance

Balance standing to the credit of an employee in unrecognized provident fund transferred to a recognized provident fund is called transferred balance. Out of this employer's contribution in excess of 12% of employee's salary and the interest credited to RPF in excess of 9.5%will be included in salary income and is taxable.

Provident Fund

It is a social security scheme. The employee contributes periodically from his salary a fixed sum to the fund. Employer too will contribute a sum to this fund. At the time of retirement or death of the employee whichever comes earlier, the amount standing to the credit of the employee together with accrued interest will be paid to him or his legal heir as the case may be.

For income tax purpose, provident fund can be classified into;

1. Statutory provident fund:

Provident fund to which provident fund Act 1925 applies. This is generally maintained for Govt.employees.

2. Recognised provident fund:

It is a provident fund which is recognised by Commissioner of Income Tax for income tax purpose.This type of fund is maintained by industrial undertakings, business houses and banks. Bothe employee and employer contributes towards this fund.

3. Unrecognised provident fund:

It is neither statutory nor recognised provident fund. Both employee and employer contributes towards this fund .

4. Public provident fund:

This is meant for public. Normally it is maintained by SBI and its associates. Even a person who is a member of any other provident fund can open an account under this type of fund to have his own savings.

Particulars	***SPF***	***RPF***	***PPF***	***UPF***
Employer's contribution	Not taxable	Not taxable up to 12% of salary	Not arises	Not taxable
Employee's contribution	Taxable	Taxable	Taxable	Taxable
Interest credited	Not taxable	Not taxable up to 9.5% per annum	Not taxable	Not taxable
Lump sum amount	Exempt u/s 10(11)	Exempt u/s 10(12)	Exempt u/s 10(11)	Taxable

Eligibility for deduction u/s 80C	Yes	Yes	Yes	Yes

[Salary = Basic Pay+ DA[FP]+% of commission]

DEDUCTIONS FROM SALARY:

Income from salary is computed after making the following deductions under [Sec 16]

1. **Standard deductions [Sec 16(i)]**

   From AY 2006-07 it is not available

2. **Entertainment allowance [Sec 16(ii)**

   Entertainment allowance is first included in the salary and then deduction is allowed under [Sec16 (ii)]. Deduction is allowable only for Govt. employees (from AY 2002-03) and the quantum of deduction is least of the following

   4) Rs.5,000
   5) 20% of salary
   6) Actual amount of entertainment allowance granted during the PY.

[Salary for this purpose excludes any allowances, benefits or perquisites]

3. **Professional tax or employment tax [Sec 16(iii)**

   It is the tax levied by state. It is allowed on payment basis. If profession tax is paid by the employer, it is included in salary as perquisites and then allowed as deduction.

INCOME FROM HOUSE PROPERTY

The annual value of any property comprising of building or land attached to the vicinity of the building of which the assessee is the owner, is chargeable to tax under the head income from house property. But if the assessee occupies the building or land attached to the vicinity of the building for the purpose of business or profession carried on by him, then it is not chargeable to tax. For income to be taxed as income from house property the following points should be noted

1. Building or land attached thereto.

Building means a permanent constructed structure. Building includes residential house , bungalows, docks, warehouse, any block of bricks or stone work covered by a roof etc. The use of the building is immaterial. It may be let out for residential purpose, business purpose or for profession. The location of the building is also immaterial. It may be situated within India or abroad.

2. Annual value

The meaning of the word annual value is important, because the annual value of the building or land appurtenant thereto is to be taxed and not the rent received.

3. Assessee should be the owner of the property

It is only the owner of the house property who can be taxed under this head of income. In certain case the legal ownership may vest with one person whereas the tax liability is cast on another person who is deemed to be the owner. The following persons are considered as deemed owner.

a. An individual who transfers house property to spouse without adequate consideration or without an agreement to live apart.
b. An individual who transfers house property to minor child other than a married daughter.
c. A member of a co operative housing society to whom a building is allotted under the house building scheme.

Annual value

The basis for computation of income from house property is the annual value of the property. Annual value is defined under Sec 23 as follows

a) the sum for which the property might reasonably be expected to let from year to year; or
b) Where the property or any part of the property is let and the actual rent received or receivable by the owner.
c) Where the property or any part of the property is let and was vacant during the whole or any part of the previous year and the actual rent received after considering the vacancy.

For the purpose of determining Annual Value following items are considered.

1. Municipal Value

This is the value determined by the municipal/local authority for fixing the property tax. This is based on a survey.

2. Fair rental value.

This is the reasonable amount of rent which a house property can fetch. It is based on the rent prevailing for similar type of property in same locality.

3. Actual rent

This is the rent actually received by the owner of the house property from the tenant. Any amount of local tax paid by the tenant is not to be added. If rent consists of amount charged for rendering some common facilities, such amount is deducted from actual rent.

4. Standard rent

In some states, government may fix rent as per Rent Control Act prevailing in that state. This rent is called Standard rent. It is the maximum rent an owner can claim from his tenant as rent.

Determination of Annual Value

1. Municipal value[MV] or Fair rent [FR]which ever is higher
2. First amount and Standard rent [SR]whichever is lower (if standard rent is fixed)
3. Second amount and actual rent[AR] whichever is higher

Unrealized rent

If any amount of rent is not capable of being realized, then such portion of rent shall not be included in computing the actual rent received or receivable. In order to exclude such unrealized rent, the conditions prescribed in the relevant rule should be satisfied. Exclusion of unrealized rent is permissible if the following conditions are satisfies.

a) The tenancy is bonafide
b) The defaulting tenant has vacated, or steps have been taken to compel him to vacate the property
c) The defaulting tenant is not in occupation of any other property of the assessee.
d) The assessee has taken all reasonable steps to institute legal proceeding for the recovery of the unpaid rent or satisfies the assessing officer that legal proceedings would be useless.

Vacancy period

It is the period in which the house was vacant. The value for the vacancy period is calculated on the basis of annual rent and that amount is to be deducted annual value for the calculation of gross annual value.

House property income exempt from tax

The following rental incomes are not chargeable to tax

1. Annual value of any one palace of an ex-ruler
2. Property income of a local authority
3. Property income of an approved scientific research association
4. Property income of a games association
5. Property income of a trade union

6. House property held for charitable purpose
7. Property income of political parties

Computation

All the building properties are divided into the following three categories for the purpose of knowing the principles involved in computation.

a) Let out property [Sec 23(1)]
b) Self occupied property or unoccupied property [Sec 23 (2) and (3)}
c) Deemed let out property [Sec 23(4)

Particulars	***Let out& deemed let out***	***Self occupied***
Gross Annual Value	Xxxx	Nil
Less: municipal tax paid	Xxxx	Nil
Net Annual Value	xxxx	Nil
Less: deductions under Sec 24		
a. Standard deduction (30% of NAV)	xxxx	Nil
b. Interest on borrowed capital	xxxx	Xxxx[if any]
Income from House Property	**XXXX**	**XXXX**

Note:

- ✓ Gross annual value is taken as Nil for self occupied house property
- ✓ Municipal tax paid by the owner is allowed. Municipal tax due or paid by the tenant is not allowed
- ✓ If there are more than one self occupied house property, one house whose municipal value is higher should be taken as self occupied and all other houses as deemed to be let out
- ✓ Municipal tax, if to be calculated on % basis, it should be calculated on municipal valuation
- ✓ Joint expenses should be separated on Municipal Valuation.

Municipal tax

Municipal tax paid by the assessee for the house property is deducted from gross annual value of the house property to determine the net annual value. Deduction is permissible in respect of taxes subject to the following conditions:

a) It should be borne by the assessee
b) It should be actually paid during the previous year.

Deductions [Sec 24]

The following deductions are allowed from net annual value for the computation of income from house property.

Standard Deduction – 30% of Net annual value.

30% of net annual value being allowed as deduction for repairs of let out and deemed let out house; it is automatic and does not depend on the quantum of actual expenditure incurred. This deduction is allowed even if no expenditure is incurred by the assessee. Assessee can avail this deduction even if tenant undertakes to do the repairs.

Interest on borrowed capital.

Interest payable on loans borrowed for the purpose of acquisition, construction, renovation, repairing or reconstruction can be claimed as deduction. Interest is allowed on accrual basis. No deduction is allowed for a brokerage or commission for arranging a loan.

Interest relating to the year of completion of construction can be fully claimed in that irrespective of the date of completion. Interest accrued during the construction period preceding the year of completion of construction can be accumulated and claimed as deduction over a period of 5 years in equal installments commencing from the year of completion of construction.

Any subsequent loan borrowed to repay the original loan shall also be entitled to the same treatment as the original loan. Therefore, the interest payable in respect of the second loan would also be admissible as deduction in the computation of income from house property. But interest on unpaid loan is not deductible.

Interest on borrowed capital for purchase or construction of self occupied house is also deductible subject to maximum ceiling given below.

a. If capital is borrowed on or after 1-4-1999 and, acquisition or construction is completed within 3 years from the end of the financial year in which the capital was borrowed amount of interest deductible is Rs.1,50,000 or actual amount of interest whichever is less.
b. In any other case interest is deductible up to a maximum of Rs.30, 000.

Interest on mortgage will be allowed only if the purpose of loan is relating to construction, repairs or renovation of house.

Pre-completion interest

Interest on pre-construction or pre-completion period is allowed as deduction in 5 equal installments from the PY in which the property is acquired or constructed. While calculating the pre completion interest the following dates are considered;

1. Date of loan[DOL]
2. Date of repayment[DOR]
3. Date of completion[DOC]

Always consider date of loan and take date of repayment or date of completion whichever is earlier to calculate the interest. If date of repayment is taken, consider the actual date and if date of completion is taken, consider the 31st March immediately preceding the date of completion.

If there is pre-completion interest

Current PY interest	XXX
Add:1/5th of the pre-completion interest	XXX
Total deductible interest	**XXX**

Self occupied property or unoccupied property [Sec 23 (2) and (3)]

Where the property consists of one house in the occupation of the owner for his own residence, the annual value of such house shall be taken to be nil, if the following conditions are satisfied.

a. The property is not actually let out during whole of the previous year
b. No other benefits is derived there from

If an assessee occupies more than one property for own residential purposes, only one property selected by the assessee will be treated as self occupied and all other properties will be deemed as let out.

If the assessee owns only one residential house and he could not occupy the same because of his employment , business or profession elsewhere and resides in a house not belonging to him in that place, the annual value in respect of the house which he claims as self occupied shall be taken as nil.

When a part of the property is self occupied and other part is let out, the annual value of self occupied unit shall be taken as nil. Annual value of the unit let shall be computed in the normal way and taxable.

When a property is self occupied for a part of the year and let out for the other part of the year, no concession is available. If the assessee lets out his house to his employer company, which in turn allots the same to him as rent free quarters, then assessee is not entitled to take the benefit of self occupied house property.

Tax treatment in self occupied house property

1. if the property is used by the owner for his own business or profession	Not taxable under the head house property
2. if property is used for his own residential purpose	Annual value of house is taken as Nil
3.when a part of the house is self occupied and the other part is let out	Self occupied portion is not taxable and the remaining let out portion is taxable
4.when house self occupied for the part of the year and let out for the other part of the year	House will be taken as let out for the whole year. No concession is available
5. if more than one property is self occupied for residential purpose	Only one property selected by the assessee will be treated as self occupied and the remaining houses will be treated as let out

Recovery of unrealized rent

Where a deduction has been allowed in respect of unrealized rent in the AY 2001-02 or earlier years, and subsequently the assessee has realized any such unrealized rent, such amount will be chargeable to tax under the head income from house property. No deduction is allowed from such amount recovered and is taxable even if house is not owned by the assessee at the time of collection of unrealized rent.

Arrears of rent received

If an assessee receives any amount by way of arrear of rent which is not charged to income tax for any PY, the amount so received shall be deemed to be the income from house property and from that amount a standard deduction of 30% is allowed as deduction.

Arrears of rent received [Sec 25B]

If the assessee has received any amount, by way of arrears of rent from such property, not charged to income-tax for any previous year, the amount so received, after deducting standard deduction shall be deemed to be the income chargeable under the head Income from house property and accordingly charged to income-tax

as the income of that previous year in which such rent is received, even though the assessee is not the owner of that property in the year of receipt.

Property owned by co-owners[Sec 26]

If the house property is owned by two or more persons and their respective shares are definite and ascertainable, the share of each such person in the income from the property shall be included in his total income. The concessional tax treatment in respect of self occupied property is applicable as if each such person is individually entitled to such relief.

Composite rent

When the owner of a building receives rent for letting the building along with furniture or machinery or for providing extra services like maintenance , lighting of stair case, water pool etc, such rent is called composite rent. If the rent of building is separable, rent is taxed under the head house property. The amount received for extra services less expenses is taxable as income from other sources. But if the rent is inseparable, then the whole amount is taxable under the head other sources.

Negative annual value

When the amount of municipal tax paid by the owner is more than the annual value then it becomes negative annual value. In such case only deduction of interest on loan is allowed as per the rules. Hence there will be loss from house property.

This loss can be set off from any income of the same year. With effect from assessment year 1999-2000 any loss under the head house property whether from let out or self occupied which remains unadjusted, can be carried forward for 8 succeeding previous years to be set off from income from house property only.

Joint Expense

If somewhere expenses are given jointly for two or more house, these will be apportioned on some common basis. Generally municipal value is taken as the base

PROFITS AND GAINS OF BUSINESS OR PROFESSION

Meaning of Business and Profession

Business simply means any economic activity carried on for earning profits. According to Sec 2(3) business is “any trade, commerce, manufacture or any adventure in the nature of trade commerce and manufacture”. Any transaction with a motive of selling at profits included under this concept. It is not necessary that there should be a series of transaction in a business and it should be carried on permanently.

Profession is an occupation requiring purely intellectual skills or manual skills controlled by the intellectual skill of the operator. e.g. Lawyer, doctor, engineer etc.

So profession refers to those activities where the livelihood is earned by the persons through their intellectual or manual skill.

The following income shall be chargeable to income-tax under the head Profits and gains of business or profession,

1) The profits and gains of any business or profession which was carried on by the assessee at any time during the previous year
2) Any compensation or other payment due to or received by any person in connection with a business or profession
3) Income derived by a trade, professional or similar association from specific services performed for its members
4) Profits on sale of a license granted under the Imports (Control) Order, 1955, made under the Imports and Exports (Control) Act, 1947 (18 of 1947) ;]
5) Cash assistance (by whatever name called) received or receivable by any person against exports under any scheme of the Government of India ;]
6) Any duty of customs or excise re-paid or re-payable as drawback to any person against exports under the Customs and Central Excise Duties Drawback Rules, 1971 ;]
7) Value of any benefit or perquisite, whether convertible into money or not, arising from business or the exercise of a profession;
8) Any interest, salary, bonus, commission or remuneration, by whatever name called, due to, or received by, a partner of a firm from such firm:
9) Any sum received under a Key man insurance policy including the sum allocated by way of bonus on such policy.
10) Interest on securities held as stock in trade

Computation of income from business or profession

The following are the general principles to be followed while computing income of business or profession.

1) Profit should be computed according to an accepted method of accounting regularly employed by the assessee. E.g. cash system or mercantile system
2) Only expenses incurred in connection with the business or profession of the assessee will be allowed.
3) Losses, if any should be incidental to the operation of the business
4) Profit and losses of speculation business should be kept separate.
5) If any sum is allowed as deduction in any previous year and subsequently recovered, it will be taxable in the previous year in which it is received.
6) Any amount allowed as expenses in the earlier years if recovered during the current

Expenses expressly allowed

1. Rent, rates, taxes, repairs and insurance for buildings[Sec 30]

Rent, rates, taxes, repairs and insurance for premises, used for the purposes of the business or profession is allowed as a deduction. If the business premises are owned by the assessee, no notional rent will be allowed.

2. Repairs and insurance of machinery, plant and furniture[Sec 31]

The amount paid on account of current repairs and the amount of any premium paid in respect of insurance against risk of damage or destruction of machinery, plant and furniture used in business or profession will be allowed as deduction

3. Depreciation [Sec32]

Depreciation is allowed in respect of tangible assets like buildings, machinery, plant or furniture and intangible assets acquired on or after the 1st day of April, 1998, like know-how, patents, copyrights, trade marks, licenses, franchises or any other business or commercial rights of similar nature, owned wholly or partly, by the assessee and used for the purposes of the business or profession.

Depreciation is allowed on block of assets at the prescribed rates on the written down value of such block of asset. Block of assets means the group of assets falling within a same class of assets for which same rate of depreciation is prescribed.

Depreciation will be allowed only when the assets are owned wholly or partly by the assessee. If an asset is used partly for business purpose and partly for personal purpose, depreciation shall be allowed only for that part which is used in business or profession.

Calculation of WDV	
Value of asset at the beginning of the previous year	XXXX
Add: value of assets acquired during the previous year	XXXX
	XXXX
Less: scrap value received on the sale of assets in the PY	XXXX
W.D.V of the asset	**XXXX**

In the case of an asset acquired by the assessee during the previous year and is put to use for the purpose of business or profession for a period less than 180 days in that previous year , the depreciation of such asset shall be restricted to 50% of the amount calculated at the prescribed rate.

Treatment of depreciation

a. If depreciation given P&L A/c and adjustment
    i. Add depreciation given in the P&L a/c to Net profit
    ii. Subtract depreciation given in the adjustment to net profit
b. If depreciation is given only in P&L a/c[and not in the adjustment]
    i. Ignore depreciation given in P&L a/c
c. If the depreciation is given only in the adjustment [and not in the P&L a/c]
    i. Subtract depreciation from the net profit

Unabsorbed depreciation[Sec 32(2)]

If the full amount of depreciation cannot be charged due to absence or inadequacy of profit, the balance amount of depreciation which cannot be so allowed is called unabsorbed depreciation. Unabsorbed depreciation relating to the

previous year can be set off against profit of other business and balance, if any can be set off against his income chargeable under any other head for that year. If still some part of such allowance remains unabsorbed, it can be carried forward. No time limit is fixed for the purpose of carrying forward of unabsorbed depreciation. It can beset off against any income. In the matter of set off, the order of priority is , first, current depreciation, second brought forward business losses and last ,unabsorbed depreciation.

Additional depreciation

Additional depreciation is available from the assessment year 2003-04, subject to the following conditions

1. It is available only in respect of plant and machinery acquired and installed after 31-3-2005
2. additional depreciation is available at the rate of 20% of the actual cost. If however, the asset is put to use for less than 180 days in the year in which it is acquired, the rate of depreciation will be 10%

4. Tea development account[Sec 33AB]

If an assessee , who carrying on the business of growing and manufacturing tea, coffee or rubber , deposits an amount in the tea development account , he can avail this deduction . The amount of deduction least of the following

(*a*) a sum equal to the amount or the aggregate of the amounts so deposited ; or

(*b*) a sum equal to 40% per cent of the profits of such business

Withdrawal from deposits will not be allowed except for the specified purposes specified below. They are:

(*a*) closure of business ;

(*b*) death of an assessee ;

(*c*) partition of a Hindu undivided family ;

(*d*) dissolution of a firm ;

(*e*) liquidation of a company.

5. Expenditure on scientific research[Sec 35]

The following deductions shall be allowed, in respect of expenditure on scientific research

a) Any revenue expenditure laid out or expended on scientific research related to the business.

b) An amount equal to 125% of any sum paid to a scientific research association which has as its object the undertaking of scientific research or to a university, college or other institution to be used for scientific research :

c) an amount equal to 125% of any sum paid] to a university, college or other institution to be used for research in social science or statistical research :

d) capital expenditure incurred, other than acquisition of a land, on scientific research related to the business carried on by the assessee. Where any deduction is allowed in respect of any capital expenditure represented by an asset, no depreciation will be provided on that asset under [Sec 32]

e) Where the assessee pays any sum to a National Laboratory University or an Indian Institute of Technology or a specified person with a specific direction that the said sum shall be used for scientific research undertaken under a programme approved in this behalf by the prescribed authority , then a deduction of a sum equal to one and one- fourth times the sum so paid is allowable. No deduction in respect of such sum shall be allowed under any other provision of this Act

f) Where a company engaged in the business of bio-technology or manufacture or production of any drugs, pharmaceuticals, electronic equipments, computers, telecommunication equipments, chemicals or any other article, incurs any expenditure on scientific research on in-house research and development facility a sum equal to 150% of the expenditure is allowed as deduction

6. Expenditure on know-how[Sec 35AB]

If the assessee has paid any lump sum amount for acquiring any know-how for the purposes of his business, the amount shall be allowable as deduction in 6 equal instalments commencing from the year in which such an expenditure in incurred. If such know-how is developed in a laboratory owned or financed by the government or university , deduction is allowable in 3 equal installments

7.Amortisation of certain preliminary expenses[Sec 35D]

Preliminary expenses incurred by an Indian company or a person (other than a company) who is resident in India will be allowed as a deduction. If the expenses are incurred before 1st April 1998, it will be allowed in 10 equal installments and if such expenditure is incurred on or after 1st April 1998 the deduction will be allowable in 5 equal installments. Maximum amount eligible for this deduction is an amount equal to 5% (if expenditure incurred before 1st April 1998 , it is 2.5%) of the cost of the project or in the case of an Indian company , at the option of the company,

the amount of capital employed in the business .

Preliminary expenses includes the following

- expenditure in connection with preparation of feasibility report, preparation of project report, conducting market survey or any other survey necessary for the business of the assessee, engineering services relating to the business of the assessee
- legal charges for drafting any agreement between the assessee and any other person for any purpose relating to the setting up or conduct of the business of the assessee;
- legal charges for drafting the Memorandum and Articles of Association of the company;
- printing charges of the Memorandum and Articles of Association
- registration fee etc.
- shares and debentures issue expenses
- underwriting commission
- brokerage and charges for drafting, typing, printing and advertisement of the prospectus;

8. General Deduction [Sec 37]

The following general deductions are allowable from business or professional income;

- ✓ Legal expenses
- ✓ Customs duty, excise duty and sales tax paid
- ✓ Sales tax appeal expenses
- ✓ Day to day expenses to carry on the business
- ✓ Gift to employees
- ✓ Workmen compensation fund

EXPENSES EXPRESSLY ALLOWED

The following expenses are expressly disallowed from business or professional income.

d. Guest house expenses
e. Wealth tax
f. Income tax
g. Tax penalty
h. Advance income tax
i. Drawings
j. Salary to proprietor
k. Interest on capital
l. Life Insurance Premium
m. Expenses for family members
n. Provision like provision for bad debts, provision for taxation etc
o. Donations, gift and charity
p. Depreciation allowed above the prescribed limit
q. All expenses of capital nature
r. All expenses relating to other heads of income
s. Amount exceeding Rs.20,000 paid in cash
t. Medical insurance premium paid in cash

SCHEME OF TAXATION OF INCOME FROM BUSINESS

Particulars	***Amount***
Net profit as per P&L A/c	xxxx
Add: Non business expenses	xxxx
Add: Business income not credited in P&L A/c	xxxx
Less: Non-business Income credited in P&L A/c	xxxx
Less: Business expenses not debited in P&L A/c	xxxx
Income from Business	**Xxxx**

SCHEME OF TAXATION OF INCOME FROM BUSINESS

Particulars	***Amount***
Professional receipts	xxx
Less: professional expenses	xxx
Income from profession	**Xxx**

All rules of business income is applicable in the case of professional income

INCOME FROM CAPITAL GAINS

Any profits and gains arising from the transfer of a capital assets effected in the previous year shall be chargeable to income tax under the head capital gain in the PY in which the transfer took place.

It should satisfy the following conditions

1. There should be a capital asset
2. The capital assets should be transferred.
3. Transfer should result in profit or gains

Capital Asset means any property of any kind held by an assessee whether or not connected with his business or profession.

But the following assets are not capital assets.

a. Any stock in trade, consumable stores or raw materials held for the purpose of his business or profession.
b. All personal effects except jewellery
c. Agricultural land in India which is situated in rural area etc.

For the purpose of computation the capital assets can be classified into two.

1. Short term capital assets
2. Long term capital assets

Short term capital assets means a capital asset held for not more than 36 months immediately preceding the date of its transfer. But in the case of the following assets , the period of 36 months shall be substituted by 12 months. i.e. share in a company, any security listed in stock exchange, a unit of UTI, any unit of a mutual fund. A capital gain arising from the transfer of short term capital asset is called short term capital gain (STCG).

Long term capital assets mean capital assets which are not a short term capital assets. Capital gain arising from the long term capital asset is called long term capital gain (LTCG). LTCG is computed in a different manner and is qualified for concessional tax treatment under the Income Tax Act.LTCG is taxed @ 20% plus surcharge and education cess.

Capital gains arise only when capital asset is transferred The term transfer includes:

1. Sale , exchange or relinquishment of a capital asset
2. Extinguishment of any rights in a capital asset.
3. Compulsory acquisition of a capital asset under any law.
4. Conversion of capital asset into stock in trade.

The capital gain is taxable in the year in which capital asset is transferred. In the case of an immovable property the ownership is considered as transferred if it satisfies the following conditions.

1. There should be a contract in writing

2. The transferee has paid consideration or is willing to perform his part of the contract
3. The transferee should have taken possession of the property.
4. Title to a movable property passes at the time when property is delivered pursuant to a contract to sell.

SCHEME OF TAXATION [SHORT TERM CAPITAL GAIN]

Particulars	***Amount***
Full value of consideration	XXXX
Less : expenses in connection with transfer	XXXX
Net consideration	**XXXX**
Less : Cost of acquisition	XXXX
Less : cost of improvement	XXXX
Gross short term capital gain	**XXXX**
Less ; Exemption under Sec 54B, 54D & 54G if applicable	XXXX
Short term capital gain	**XXXX**

SCHEME OF TAXATION [LONGTERM CAPITAL GAIN]

Particulars	***Amount***
Full value of consideration	XXXX
Less : expenses in connection with transfer	XXXX
Net consideration	**XXXX**
Less : Indexed Cost of acquisition	XXXX
Less : Indexed cost of improvement	XXXX
Gross short term capital gain	**XXXX**
Less ; Exemption under Sec 54,54B, 54D,54EC,54F & 54G if applicable	XXXX
Long term capital gain	**XXXX**

Full value of consideration means the whole price without any deduction whatsoever and it cannot refer to adequacy or inadequacy of price bargained. The market value of the capital asset transferred has no relevance.

Cost of acquisition means the amount for which capital assets was acquired by the assessee. [Sec 49 (1)]. If the capital asset is acquired by the assessee before 1st April 1981, the cost of acquisition shall be taken highest of the following

a. actual cost incurred

b. fair market value of the assets as on 1st April 1981.

If the capital asset came into possession of the assessee by means of gift , inheritance, succession, partition of HUF etc then cost of acquisition to the assessee means cost of the asset to the previous owner. If cost of acquisition to the previous owner cannot be ascertained then fair market value on the date on which the capital asset became the property of the previous owner shall be taken as cost to the assessee.

In the following cases, fair market value on 31st April, 1981 will be treated as the cost of acquisition.

1. Capital asset became the property of the assessee before 1st April ,1981 or
2. Where the capital assets became the property of the previous owner before 1st April 1981, in case where [Sec 49(1)] is applied.

Cost of improvement means all expenses of capital nature incurred in making any addition , alteration to the capital asset by the assessee or the previous owner in case of [Sec49(1)].Cost of improvement incurred before 1st April 1981 is not considered while calculating the capital gain.

Indexed cost of acquisition means cost of acquisition which is indexed on the basis of cost inflation index(CII) notified by the central govt. having regard to average rise in the consumer price index.

Indexed cost of acquisition = $\frac{\text{Cost of acquisition x C.I.I for the year of transfer}}{\text{C.I.I for the year of acquisition}}$

Indexed cost of improvement = $\frac{\text{Cost of improvement x C.I.I for the year of transfer}}{\text{C.I.I for the year in which improvement took place}}$

DEDUCTION FROM CAPITAL GAIN UNDER SEC 54						
	Sec 54	**Sec 54B**	**Sec 54D**	**Sec 54EC**	**Sec 54F**	**Se c 54G**
Assessee	Individual/ HUF	Individual	Any person	Any person	Individual/ HUF	Any person
Nature of assets transferred	Long term	Long term / Short term	Long term / Short term	Long term	Long term	Long term / Short term
Specification Of asset transferred	Residential House	Urban Agricultural Land	Land or building forming part of industrial undertaking	Any LTCA transferred after 31-03-2000	Any LTCA other than residential House	Land, building, plant or machinery for shifting of industrial undertaking
Assets to be acquired	Residential House	Agricultural land	Land or building for industrial purpose	Specified bonds	A residential house	Land, building, plant or machinery
Time limit	Purchase 1 year back or 3 year forward. Construct 3 years forward	2 years forward	3 years forward	6 months forward	Purchase 1 year back. Construction 3 years forward	1 year back or 3 years forward
Exemption	Investment in new	Investment in new	Investment in new	Investment in new	LTCGx amount	Investment in new

	assets or capital gain whichever is less	assets or capital gain whichever is less	assets or capital gain whichever is less	assets or capital gain whichever is less	invested /net consideration	assets or capital gain whichever is less

Cost Inflation Index as notified by the central govt			
Financial year	**C.I.I**	**Financial year**	**C.I.I**
1981-82	100	1995-96	281
1982-83	109	1996-97	305
1983-84	116	1997-98	331
1984-85	125	1998-99	351
1985-86	133	1999-00	389
1986-87	140	2000-01	406
1987-88	150	2001-02	426
1988-89	161	2002-03	447
1989-90	172	2003-04	463
1990-91	182	2004-05	480
1991-92	199	2005-06	497
1992-93	223	2006-07	519
1993-97	244	2007-08	551
1994-95	259	2008-09	582

INCOME EXEMPTED FROM CAPITAL GAIN

1 .Income from self cultivated agricultural land in urban area [Sec 10(37)]

in the case of an assessee , being an individual or a HUF , capital gain arising from the compulsory acquisition of self cultivated urban agricultural land shall be fully exempted.

3. Transfer of residential house property [Sec 54]

Capital gains arising from the transfer of house property and investing in a new house property are exempted from tax if the following conditions are satisfied.

1. Only individual and HUF can claim this deduction
2. It should be a long term capital asset
3. a new house should be purchased within a period of 1 year before or 2 years after the date of transfer or constructed a new residential house 3 years after the date of transfer.
4. the capital gain is exempted is the cost of the new house purchased or constructed or capital whichever is less
5. new house purchased or constructed cannot be sold within 3 years
6. if the amount of capital gain is not utilized by the assessee for purchasing or constructing a new house before the date of furnishing the return of income, it shall be deposited in Capital Gain Account Scheme (CGAS) with a public sector bank. If the amount so deposited is not utilized fully or partly for purchasing or constructing a house , then the amount not so utilized shall be treated as long term capital gain.

4. Transfer of land used for agricultural purpose

Capital gain arising from the transfer of agricultural land in urban area and is invested in another agricultural land is exempted subject tot the following conditions

1. assessee is an individual
2. the land was used by the individual or his parents for agricultural purpose for a period of 2 years immediately preceding the date of transfer.
3. assessee has purchased a new agricultural land either in rural or urban area within a period of 2 years from the date of such transfer.
4. the amount of exemption is capital gain or investment in the new asset whichever is less
5. if the new land is transferred , within a period of 3 years , then the amount of capital gain arising there from and together with the amount of capital gains exempted earlier, will be chargeable to tax in the year of sale of the new land. If the new land is situated in rural area it is not taxable.
6. if the amount of capital gain is not utilized by the assessee for purchasing a new agricultural land before the date of furnishing the return of income, it shall be deposited in Capital Gain Account Scheme (CGAS) with a public sector bank. If the amount so deposited is not utilized fully or partly for purchasing a land, then the amount not so utilized shall be treated as long term capital gain.

5. Compulsory acquisition of land and building forming part of industrial undertaking

[Sec 54D]

The following conditions should be satisfied to get the benefit of exemption

1. the asset may be short term or long term
2. the land or building or any right therein should from part of the industrial undertaking
3. such assets should have been compulsorily acquired under any law
4. the assessee has used such land or building for the purpose of industrial undertaking in the 2 years immediately preceding the date on which the transfer took place.
5. the assessee has purchased or constructed a new land or building within a period a 3 years for the purpose of shifting or re-establishing the industrial undertaking or setting up another industrial undertaking.
6. the capital gain is exempted to the extent of cost of the new land or building purchased or constructed for the purpose of industrial undertaking.
7. the new assets should not be transferred within a period of 3 years of its purchase.
8. if the amount of capital gain is not utilized by the assessee for purchasing a new land or building on or before the date of furnishing the return of income, it shall be deposited in Capital Gain Account Scheme (CGAS) with a public sector bank.

6. Amount invested in certain bonds [Sec 54EC]

Capital gain arising from a long term capital assets is exempted if the assessee invested whole or any part of capital gain in , long term specified assets within a period of 6 months from the date of transfer of the asset.

Long term specified asset means any bond, redeemable after 3 years and issued on or after the 1st day of April 2006, by National High way Authority of India (NHAI) or Rural Electrification Corporation Ltd.

The amount of exemption is capital gain or amount invested whichever is lower. If the specified assets are transferred within a period of 3 years from the date of its acquisition, the amount of capital gains charged to tax will be deemed to be long term capital gain in the PY in which such specified assets are transferred.

7. Transfer of a long term capital asset other than a house property [Sec 54F]

Exemption is available subject to the following conditions

1. assessee is an individual or HUF
2. asset transferred being any long term capital asset other than a residential house
3. assessee has purchased 1 year before or 2 years after the date of transfer or constructed within 3 years after the date of transfer, a residential house.
4. assessee should not own, on the date of the transfer of original asset more than one residential house other than the new house. He should not purchase any residential house other than the new house within a period of 2 years after such date.
5. the amount of exemption is the net consideration from the sale of capital asset invested in new house. If only a part of the net consideration is invested , capital gain will be exempted proportionately as follows

   capital gain/ net sale consideration X Cost of new house
6. if assessee transfers the new house within 3 years of its purchase or construction, capital gain which arises on the transfer of the new house will be taken as the capital gain.
7. if the amount of net consideration is not utilized by the assessee for purchasing or constructing a new house on or before the date of furnishing the return of income, it shall be deposited in Capital Gain Account Scheme (CGAS) with a public sector bank. If the amount of so deposited is not utilized , then the proportionate amount shall be treated as capital gain of the PY in which the period 3 years from the date of transfer original asset expires. The proportionate amount is :

   Amount deposited &claimed exemption but not utilized X amount of original capital gain / net sale consideration.

8. Transfer of assets in case of shifting of industrial undertaking from urban area [Sec54 G]

Exemption can be availed if the following conditions are satisfied.

1. a capital asset used for the purpose of industrial undertaking in an urban area is being transferred
2. the transfer is effected in the course of , or in consequence of the shifting of such industrial units to any other area other than an urban area
3. the assessee , within a period of 1 year before or 3 year after the date on which the transfer took place , has purchased a new capital asset for the purpose of I.U in the area to which the said undertaking is shifted or shifted the original asset and transferred the establishments to such area or incurred expense on such other purpose.
4. the amount of exemption is the amount of capital gain or cost and other expenses incurred for the purpose whichever is lower.
5. if the new asset purchased is transferred within a period of 3 years of its purchase , the amount exempted earlier will be reduced from the cost of the new asset and the surplus will be taxed.
6. if the amount of capital gain is not utilized by the assessee for the purpose aforesaid on or before the date of furnishing the return of income, it shall be deposited in Capital Gain Account Scheme (CGAS) with a public sector bank.

If the amount of so deposited is not utilized within a period of 3 years , then the amount not so utilized shall be treated as capital gain of the PY in which the period 3 years from the date of transfer original asset expires.

Computation Of Capital Gain In Special Cases

1. **Conversion of capital asset into stock in trade [Sec 45(2)]**

Conversion of capital assets in to stock in trade will be treated as transfer. The notional capital gain arising from the transfer by way of conversion of capital asset into stock in trade will be chargeable to tax in which stock in trade is sold.

2. **Cost of acquisition of bonus share**

The cost of bonus share is determined as follows:

If original shares and bonus shares are acquired before 1-4-1981	Original shares: actual cost or FMV on 1-4-1981 whichever is more. Bonus share: FMV on 1-4-1981
If original shares are acquired before 1-4-1981 but bonus shares are allotted after 1-4-1981	Original share: actual cost or FMV on 1-4-1981 whichever is more Bonus share: Nil
If original shares & bonus shares are acquired after 1-4-1981	Original shares: actual cost Bonus share: Nil

3. **Capital Gain in case of depreciable assets.[Sec 50]**

Full value of consideration	XXXXX
Less: expenses for transfer	XXXX
Less: WDV of the block of assets at the beginning of the PY	XXXX
Less: assets acquired during the year at the beginning and belonging to the same block	XXXX
Short term capital gain or loss	XXXXX

Capital Gain Accounts Scheme

Under Sec 54, 54B, 54D, 54EC, 54Fand 54G the capital gains is exempt if such gains are reinvested in new assets, within the time limit allowed for the purpose, if such re investment is not made before the date of furnishing the return of income then the amount of capital gain is required to be invested in CGAS, subject to the following conditions

1. the deposit shall be made before furnishing the return of income or within the due date for furnishing the return of income u/s 139(1), whichever is earlier.
2. the deposit shall be made in an account with a bank or financial institution approved for the purpose
3. the return of income shall be accompanied by proof of such deposit
4. the amount deposited can be withdrawn for utilization in accordance with the scheme, for the specified purpose

INCOME FROM OTHER SOURCES

Income from other source is a residuary head of income. Any item of income which does not fall under any other four specific heads of income is to be charged under this head.

According to sec 56(2) following incomes are chargeable under this head.

1. Dividend declared by a foreign company

2. Family pension
3. Winnings from lottery, crossword puzzles, horse race etc
4. Income from plant, machinery or furniture let out on hire where it is not the actual business of the assessee.
5. Interest from securities, bank deposits
6. Income from sub letting
7. Any other receipts which doesn't fall under any other heads of income.
8. Income from agricultural land situated outside India
9. Examiner ship fees received by college teachers
10. Income from undisclosed source
11. Ground rent etc
12. Receipts without consideration in certain cases

Dividend

It means any amount paid by a company, out of divisible profits, whether taxable or not taxable, to its share holders in proportion to his share holding in the company. Dividend also includes deemed dividend. The following payments are deemed as dividend.

a) any distribution entailing the release of company's assets
b) any distribution of debentures, debenture stock, deposit certificates
c) distribution on liquidation of company
d) distribution on reduction of capital
e) any payment by way of loan or advance by a closely held company

Dividend distributed or paid by a domestic company after 31-3-2003 is not taxable in the hands of the shareholder under sec10 (34). On such dividend, the dividend declaring company has to pay tax. But deemed dividend under sec2 (22) is taxable in the hand of the share holders.

Winnings from lotteries, crossword puzzles, horse races etc

Winnings from games of any sort or from gambling or betting of any form are taxable. A flat rate of 30% tax plus surcharge and cess will be deducted at source from such winnings. No TDS will be collected if the winnings from lottery, crossword puzzles etc is upto Rs.5,000/- and Rs.2500/- in case of winnings from horse race. While computing the income of the assessee it is the gross winning (net winnings plus tax deducted at source) is to be included.

$$\text{Gross amount} = \frac{\text{Net amount X 100}}{100\text{-}30}$$

Interest on securities

Interest on securities is charged to tax under this head if the securities are held by the assesee as fixed assets. If the securities are held as stock in trade then the interest is taxable under the head profit and gains of business or profession . The gross interest (net interest plus tax deducted at source) is taxable. If net interest is given, it should be grossed up in the hands of recipient if tax is deducted at source by the payer.

$$\frac{\text{Net interest X 100}}{100\text{- rate of TDS}}$$

N	***Particulars***	***TDS Rate***

o		
1	Interest on any security of central or state government	No TDS
2	Interest on debentures listed in a recognized stock exchange, statutory bodies and local authority	10%
3	Any other interest on security[unlisted]	20%
4	Winnings from lottery, crossword puzzles, card games, horse race etc	30%

For the purpose of income tax purpose, the securities can be classified into

1. **Government securities:**
    - ***a. Tax-free securities***
        - i. Interest fully exempted
        - ii. Not included in the total income
    - ***b. Less- tax securities***
        - i. Issued by central govt. or state govt.
        - ii. Non TDS
        - iii. Taxable securities
        - iv. Interest received should not be grossed up
2. **Commercial securities**
    - a. ***Tax-free securities***
        - i. Local authority, statutory corporation and company issues in the from of debentures and bond
        - ii. Tax is paid by the issuer
        - iii. Since tax is paid by the issuer it is termed as tax-free securities
        - iv. Interest should be grossed up
    - ***b. Less tax commercial securities***
        - i. Taxable securities
        - ii. TDS is collected
        - iii. Interest should be grossed up if net amount is given

Bond washing transaction [Sec 94] means selling securities to a friend or relative who does not have any taxable income before the payment of interest and purchasing the securities back after the payment of tax. To prevent the tax evasion through bond washing transaction, the interest received by the transferee will be deemed as the income of the transferor and accordingly, it will be included in the total income of the transferor and not the transferee.

Receipts without consideration [sec 56(2) (v)]

Any sum of money exceeding Rs.50,000/- received by an individual or HUF without any consideration is taxable if it is received on or after 1st April,2006. However exemption is granted in respect of any sum of money received

a. from any relative or
b. on the occasion of the marriage of the individual or
c. under a will or by way of inheritance or
d. in contemplation of death of the payer or
e. from a local authority
f. from a charitable institution registered under Sec12AA

In respect of above gift there is no ceiling limit and therefore , entire amount is exempt from chargeability. For the purpose of this provision relative includes

a) spouse of the individual
b) brother or sister of the individual

c) brother or sister of the spouse of the individual
d) brother or sister of either parents of the individual
e) brother of father of the individual
f) brother of mother of the individual
g) sister of father of the individual
h) sister of mother of the individual
i) any lineal ascendant or descendant of the individual
j) any lineal ascendant or descendant of the spouse of the individual
k) spouse of the persons referred to in (b) to (j)

5. Family pension

In case of family pension received by legal heirs , a standard deduction of 1/3rd of such actual amount received as family pension or Rs.15000/- whichever is less is allowed as deduction

Permissible Deductions from Income from other sources [Sec 57]

1. In respect of any sum collected from employees towards the welfare fund contribution, deduction shall be allowed to the extent the amount is remitted within the relevant due date under respective Acts
2. In respect of family pension a sum equal to 33.33% of the pension or Rs.15,000 whichever is less shall be allowed as deduction.
3. In respect of income earned by way of lease rental on letting machinery, the repairs , insurance and depreciation shall be deductible.
4. Any other expenditure incurred wholly and exclusively for the purpose of earning such income, subject to the following conditions
    a. Expenditure in incurred wholly and exclusively for the purpose of making or earning the income
    b. It is not a capital expenditure
    c. It is not a personal expenses
    d. It is incurred in the accounting year

Amount not deductible from Income from other sources [Sec 58]

The following expenses are not deductible from income from other sources;

1. Personal expenses of the assessee
2. Any amount paid as wealth tax
3. Any amount which is considered as unreasonable
4. Any expenditure in connection with winnings from lotteries, crossword puzzle etc
5. Interest payable outside India for which Tax has not been paid or deducted at source

Interest fully exempted from the heal income from other sources

Interest received by an assessee from following investments exempted from other source income

1. 12 year national savings annuity certificate
2. National Defence gold bond
3. Post office cash certificate
4. National plan certificate
5. National plan savings certificate
6. Post office national savings certificate
7. Post office savings bank account.

SCHEME OF TAXATION [INCOME FROM OTHER SOURCES]		
Particulars	***Amount***	***Amount***
Dividend from foreign company	XXXX	
Less: collection charges	XXXX	XXXX
Interest on securities	XXXX	
Less: reasonable expenses in connection with the securities	XXXX	XXXX
		XXXX
Casual income[winnings from lottery, crow puzzles etc]	XXXX	
Income from letting P&M, Building etc	XXXX	XXXX
Less: depreciation and other expenses related with it	XXXX	
Family pension	XXXX	XXXX
Less: 1/3rd or 15000 whichever is less	XXXX	
Any other income	XXXX	XXXX
Less: expenses related with the income		**XXXX**
Income from other sources		

CLUBBING OF INCOME

An assessee may reduce his tax liability by transferring his assets in favour of a person who is related to him. As per [Sec 60] to [Sec64], income belonging to some other person will be taxed in the hands of the assessee in certain situation for the purpose of avoiding tax evasion. This is called clubbing of income.

1. **Transfer of income without the transfer of assets**

Income arising to nay person by virtue of any transfer of any income, without transferring the assets is deemed to be the income of the transferor and is taxable in his hands. The transfer may be revocable or not. There is no exception to this rule.

2. **Revocable transfer of assets**

Any income arising to any person from an asset as a result of revocable transfer of asset shall be deemed to be the income of transferor. As per [Sec62] the income revocable transfer of assets shall not be clubbed with income of transferor when it is effected through the medium of trust is not revocable in the life time of the beneficiary or transferee.

3. **Remuneration of spouse**

any remuneration received by the spouse of the individual from a concern in which the individual has substantial interest will be clubbed with the income of the individual. However if the remuneration is solely attributable to the application of technical or professional knowledge and experience of the spouse, then the income will not be clubbed.

Where both husband and wife have a substantial interest in the concern and both are in receipt of the remuneration , it will be included in the total income of husband or wife whose total income excluding such remuneration is greater. If such income is included in the total income of either of the spouse, any such income in the subsequent year cannot be included in the total income of the other spouse unless the assessing authority is satisfied after giving a reasonable opportunity of being heard.

An individual is said to have substantial interest in a concern if he individually or along with relatives beneficially holds equity shares carrying not less than 20% voting power in case of a company or is entitled to not less than 20% of the net profit in the case of a company other than a company, at any time during the year.

4. **Income from any assets transferred to spouse**

Where an individual transfers an asset other than a house property to his or her spouse directly or indirectly otherwise than for adequate consideration or in connection with an agreement to live apart, any income from such asset will be deemed to be the income of the transferor. The relationship between the husband and wife should subsist both at the time of transfer and at the time when income is accrued, if the spouse sells that asset for a profit, capital gain arising from to the spouse on sale of the asset is chargeable to tax in the hands of the transferor.

5. **Transfer of assets to son’s wife**

If an individual directly or indirectly transfers assets after May31, 1973 without adequate consideration to a son's wife, income arising from such assets will be included in the total income of the transferor.

6. Income from assets transferred to a person for the benefit of the spouse

An asset transferred directly or indirectly by an individual to a person for the immediate or deferred benefit of his or her spouse, without any adequate consideration , the income arising the transferred assets will be included in the total income of the transferor to the extent of such benefit.

7. Income from assets transferred to a person for the benefit of the son's wife

An asset transferred directly or indirectly by an individual on or before 1st June, 1973, to a person for the immediate or deferred benefit of son's wife, without any adequate consideration, the income arising the transferred assets will be included in the total income of the transferor to the extent of such benefit.

8. Income of a minor child

Income accruing or arising to a minor child shall be included in the total income of those parents who has greater total income before clubbing the minor's income. If the marriage of the parents not subsist, the income will be included in the total income of that parent who maintains the child in the relevant PY. If the income of a minor child is included in the total income of a parent, that parent is eligible for exemption of Rs.1500 in respect of each minor child or actual amount clubbed whichever is less.

In the following situation income of the minor child shall not be clubbed.

a) Income of physically handicapped minor child
b) Income of a minor child on account of any manual work
c) Income of a minor child from any activity involving application of hi or her skill, talent or specialized knowledge and experience

9. Converted property [

Where an individual who is a member of a HUF converts, his self occupied property without adequate consideration after 31st December 1969 into the property belonging to the family, the income arising from such asset will be included in the income of the individual who transfers such property.

For this purpose of clubbing, income also includes loss. Where there is a loss to a specified person in specified circumstances, the individual will be entitled to set off such loss.

DEEMED INCOME

Deemed income refers to those income, which are not actually the income of the assessee , but are included in the total income for calculation of tax pupose. Certain amounts if they satisfy certain conditions will be considered as deemed income and are included in the income of the assessee for income tax purpose.

1. Cash credit [Sec68]

An amount found credited in the books of assessee will be deemed to be his incoe, provided he cannot give a satisfactory explanation about its source

2. Unexplained investment [Sec69]

Investment recorded but satisfactory explanation cannot be given about its source or investments recorded will not be deemed to be income of the PY in which investment is made.

3. Unrecorded and unexplained money[Sec69A]

Money or other valuable article found in the ownership of the assessee and if he cannot give a satisfactory explanation about its source, such money or other articles will be deemed to be the income of the assessee for the PY in which he has found to be the owner of these items.

4. Investments not fully disclosed in the books of accounts[Sec69B]

Income not fully disclosed in the books of account is an item which is taxable as deemed income.

5. Unexplained expenditure [Sec 69C]

Where an assessee incurred any expenditure in any PY and , he cannot give a satisfactory explanation about its source such expenditure will be deemed to be the income of the assessee for the PY in which such expenditure in incurred.

SET OFF AND CARRY FORWARD OF LOSSES

If an assessee incurs any loss under one or more heads of income, it can be set off against income under any other heads of income. This is known as set off and carry forward of losses. Losses can be set off subject to the following rules.

1. Intra head set off
2. Inter head set off
3. Carry forward of losses

Intra Head Set Off:

If the net result of any head of income is a loss in any financial year, the assessee can set off such loss against his income from any other source of income under the same head of income. But the following are the exceptions to this rule.

a) Loss from speculation business can be set off only against speculation business profit but not against non-speculation business profit.
b) Loss incurred from owning and maintaining race gorse cannot be set off against any income other than from such business
c) Losses cannot be set off against winnings from lotteries, cross word puzzles and card games
d) Long term capital loss can be set off only against long term capital gain.

Inter head set off:

If the net result under any heads of income is a loss the same can be set off against the income under any other heads. But the following are exceptions to this rule.

a) Losses in a speculation business cannot be set off against any other income
b) Loss under the head capital gain cannot be set off against income under any other head.
c) Loss from business or profession cannot be set off against income under the head salaries
d) Loss cannot be set off against winnings from lotteries, crossword puzzles, card games etc.

Carry forward of losses:

If in any year, loss cannot be set off either under the same head or under the different heads, because of absence or inadequacy of the income in the same year, it may be carried forward and set off against the income of the subsequent year. The following losses can be carried forwarded.

a) Loss under the head income from house property
b) Loss under the head income from business or profession
c) Loss under the head capital gain
d) Loss under the head income from other sources only from the activity of owning and maintaining race horse.

Set off and carry forward under different heads on income

1. Income from salary

Carry forward and set off will not arise under the head salary as there is no chance of any loss

2. Income from house property
    a. Loss can be carried forward for a period of 8 AY
    b. Carried forward loss should be set off only from house property income
    c. Return of loss should be filed within the time limit
3. Income from business and profession
    a. Non speculative loss
        i. Loss can be carried forward for a period of 8 AY.
        ii. Carried forward loss should be set off only against business income
        iii. It is not necessary that loss should belong to the same business and continuity of business is also not necessary
        iv. Return of loss should be filed within the time limit
    b. Speculative loss
        i. Loss can be carried forward and set off only against speculative income
        ii. Loss can be carried forward for a period of 4 AY.
        iii. It is not necessary that the same business should be continued
        iv. Return of loss should be filed within the time limit
4. Income from capital gain
    a. Loss can be adjusted only from capital gains
    b. Loss can be carried forward for a period of 4 AY.
    c. Long term capital loss can carried forward and set off only against LTCG
    d. Shirt term capital loss can carried forward and set off against both LTCG and STCG
    e. Return of loss should be filed within the time limit
5. Income from other sources
    a. Loss can be carried forward for a period of 4 AY.
    b. Return of loss should be filed within the time limit
    c. Loss from owning and maintaining horse race can be adjusted against same income

Loss under the head	**Carried forwarded to be set off against income of:**	**Time limit from the year in which loss was**

		occurred
Income from house property [Sec 71B]	House property	8 AY
Non speculation Business Loss [Sec72]	Speculation or non speculation business profit	8 AY
Speculation Business Loss [Sec73]	Speculation business profit only	4 AY
Unabsorbed depreciation	Any Income	No time limit
Long term capital loss [Sec74]	Long term capital gain	8 AY
Short term capital loss [Sec74]	Any capital gains	8 AY
Loss from the activity of owning and maintaining race horse [Sec74A]	Profit from the same activity	4 AY

Un absorbed depreciation

It refers to the amount of depreciation, which is still not absorbed from the profits of business or from other heads of income[except salary] in a particular financial year.

a. Depreciation allowance should be deducted from the business income
b. If the profit and gains is not sufficient then the same should be adjusted with other heads of income other than salary
c. Amy amount which is still remains unabsorbed should be carried forward to the next year
d. There is not time for carry forwarding unabsorbed depreciation
e. Unabsorbed depreciation carried forward can be adjusted with any heads of income except salary income
f. The following order should be followed in charging unabsorbed depreciation
    i. Current year depreciation
    ii. Brought forward losses
    iii. Unabsorbed depreciation

DEDUCTIONS TO BE MADE IN COMPUTING TOTAL INCOME

Certain deductions are allowed from the gross total income of an assessee either as an incentive to save for future or as a kind of relief to the assessee. The aggregate amount of deduction cannot exceed the gross total income.

1. LIC, PF, ULIP, NSC, Repayment Of Housing Loan, Amount Of Tuition [SEC 80C]

Deduction is available on the basis of gross qualifying amount. The maximum amount of deduction cannot exceed Rs.100000/-. The gross qualifying amount is the aggregate of contribution to the above-mentioned items. In the case of life insurance premium, deduction is subject to a maximum of 20% of sum assured.

The amount of deduction is gross qualifying amount or Rs.100000/- whichever is less.

2. **Pension Fund [SEC 80CCC**]

The amount received by the assessee as pension will be taxable in the year of receipts. No rebate under Sec88 will be allowed to persons to whom deductions under this section has been allowed..

3. **Pension Schemes Of Central Govt [SEC 80CCD**]

The assessee must be employed on or after 1-1-2004. Employee's contribution in the PY up to 10% of salary and central govt. contribution up to 10% of salary is deductible. Salary includes basic pay and DA if the terms of employment provides but excludes all other allowances and perquisites.

4. **Medical Insurance Premium [SEC 80D**]

Insurance premium paid by cheque on the health of the assessee, spouse, dependant children or parents are eligible for deduction. The insurance scheme should be formed by GIC of India.

5. **Medical Treatment Of Handicapped Dependant [SEC 80DD**]

Expenditure incurred for the medical treatment, training and rehabilitation of a handicapped dependant, or the assessee has paid or deposited under any scheme framed in this behalf by the LIC or UTI for maintenance of handicapped dependant.

6. **Medical Treatment [SEC 80DDB**]

Expenditure incurred for the treatment of specified disease or ailment for himself or any dependant relative or in case of HUF any member of family. The assessee shall have to submit a certificate in the prescribed form a registered doctor working in a Govt. hospital. The specific disease includes; Neurological diseases (dementia, motor neuron disease, ataxia, chorea, deformans, aphasia, Parkinson's disease) cancer, AIDS, chronic renal failure, hemophilia etc.

7. **Repayment Of Higher Education Loan [SEC 80E**]

Repayment of higher education loan taken from any financial institution for perusing his higher education is eligible for deduction. From the AY 2006-07, no deduction will be available under this section in respect of principal amount repaid.

8. **Donation [SEC 80G**]

Donations are classified into a) no limit donation , b) with limit donation. Each of these can again be classified into two. 1) Deduction allowed @ 100 % of qualifying amount and 2) deduction allowed @ 50 % of qualifying amount.

Limit means 10% of Adjusted Total Income (ATI). ATI means gross total income minus LTCG, STCG taxable under Sec 111A @ 10% and all deduction u/s other Sec 80 G

9. **Rent Paid [Sec 80GG].**

Self employed persons or a salaried employee who is not in receipt of any house rent allowance, are eligible for the deduction. Adjusted total income for this section means gross total income minus LTCG and all deduction u/s 80 other than Sec 80GG.

10**. Royalty income of authors [Sec 80 QQB]**

Assessee should furnish a certificate in Form 10CCD from the person responsible for paying the person responsible for paying the income. The book authored by him is a work of literary, artistic or scientific nature and it does not include guides, textbook of schools and other similar publication.

11. **Royalty on Patents [Sec 80 RRB]**

The assessee should furnish a certificate in Form 10 CCE duly signed by controller of Patents Act along with the return of income. If it is received from

outside India the income should brought into India in convertible foreign exchange within 6 months from the end of the relevant PY.

12. **Income of handicapped resident individual [Sec 80U]**

This deduction is available only if it is certified by a physician, surgeon or psychiatrist as the case may be working in a govt. hospital. Such certificate has to be produced before I.T.O in respect of the first AY for which deduction is claimed.

Section	**Eligible assessee**	**Eligibility**	**Quantum of deduction**
80C	Individual & HUF	LIP, PF, ULIP, NSC, housing loan, tuition fee etc	Qualifying amount or Rs.1,00,000/- whichever is less
80CCC	Individual	LIC pension fund	Actual contribution or Rs.1,00,000/-
80D	Individual& HUF	Medi claim	Actual premium or Rs.10,000 whichever is less (senior citizen- Rs.15,000)
80CCD	Individual central govt. employee	Contribution to PF	Actual amount
80DD	Individual& HUF	Treatment of handicapped dependant	Rs.50000 (for more than 80% disability Rs.75000)
80DDB	Individual& HUF	Treatment of terminal disease	Actual expenditure or Rs.40000 whichever is less. (senior citizen-60000)
80E	Individual	Higher education loan	Any amount paid by way of interest
80G	All assessee	Approved donation	100% in some case and 50% in other case
80GG	Individual & HUF	Rent paid	#Rs.2000p.m #Rent paid in excess of 10% of ATI # 25% of ATI
80GGA	All assessee	Scientific research	100% of donation
80GGB	All assessee	Contribution to political party	100%
80JJAA	All assesse	Employment of new workmen	100% of profits for first 5 years
80QQB	Resident individual	Royalty from books	Maximum Rs.300000
80RRB	Resident individual	Royalty from patents	Actual or Rs.300000 whichever is less
80U	Individual resident in India	Disability	Rs.50000(disability is over 80% , Rs75000)

DONATIONS WITHOUT LIMIT

Deduction @ 100%	Deduction @50%
a) National defence fund b) Prime minister's national relief fund c) National foundation for communal health d) University or educational institutions of national eminence as approved by the prescribed authority in this behalf e) National or state blood transfusion council f) Fund to provide medical relief to poor g) Central welfare fund of Army/ Air force/ Navy benevolent h) Chief minister' s relief fund i) National sports fund j) Fund for technology development	a) Jawaharlal Nehru memorial fund b) Prime minister's drought relief fund c) National children's fund d) Indira Gandhi memorial trust e) Rajiv Gandhi foundation

DONATIONS WITH LIMIT

10% of Adjusted GTI** or actual contribution whichever is less is deductible

Adjusted GTI = GTI – (All deductions Section 80 except Sec 80G& LTCG)

Deduction @ 100%	Deduction @50%
a) Govt. or approved local authority , institution or association to be utilized for the purpose of promoting family planning b) Donations paid by an Indian company to the Indian Olympic association or to an institute notified by the central govt. for the development of infrastructure for sports and games in India or the sponsorship of sports and games in India	a) Any notified temple, mosque, church, gurudwara or other place for renovation and repair. b) any corporation specified for promoting interest of minority community c) govt. or any local authority to be utilized for any charitable purpose other than promoting family planning

Calculation of Deductions under Sec 80G

2. in case of non limit donations

i. take the actual amount for consideration
ii. if it is 100% allowable, allow 100% of the donation
iii. if it is 50% allowable, allow 50% of the donation

3. in case of limit donations

i. if GTI has the above mentioned XXXX
gross total income (given in the problem) XXXX
less: deductions u/s 80C to 80G(except Sec80G) XXXX

less: LTCG or STCG if any XXXX
GTI on which 10% is to be calculated XXXX

ii. take the amount calculated as per step i

iii. allow 100% donations with limit first followed by 50% donations with limit to the available extent

INCOME TAX AUTHORITIES

The following are the various income tax authorities:

1. Central board of direct tax
2. Director general of income tax / chief commissioners of income tax
3. Directors of income tax/ commissioners of income tax
4. Additional director of income tax
5. Joint director of income tax
6. Deputy director of income tax
7. Assistant director of income tax
8. Income tax officers
9. Tax recovery officers
10. Inspectors of income tax

CBDT:

CBDT is the top most authority with regard to direct tax. It is constituted under the central board of revenue act 1963. CBDT is given powers to issue such orders, instructions and direction to other income tax authorities as it may deem fit for the proper administration of the Act.

Director general of income tax:

He is appointed by the central govt. He is required to perform such function as may be assigned by the CBDT

1.Giving instructions to the income tax officers
2.Enquiry or investigation into concealment
3.Search and seizure
4.To requisite books of accounts
5.Power of survey
6.power to make any enquiry

Commissioner Of Income Tax:

He is appointed by the central govt. they are appointed to administer the income tax departments of a specified area .CIT enjoys both administrative power and judicial powers. It includes

1.Search and seizure
2.Granting registration
3.Appointment of class ii officers
4.Reduction or waiver of penalty
5.To award and withdraw recognition to pf
6. Transfer case from one IT officer to another
7.Revision of orders passed by the ITO, which is prejudicial to the revenue.

Commissioner (Appeals):

He is an appellate authority. His powers are

1.Acceptance and disposal of appeals
2.Power to call for information or production of evidence
3.Power to inspect the registers

4.Set off refunds against tax remaining payable
5.Imposition of penalty

Income Tax officers:

They perform their functions in respect of such areas or of such persons or classes of incomes as the commissioner may direct. If a question arises as to whether ITO has jurisdiction to assess any person, the commissioner determines the question. His powers includes

1.Power regarding discovery, production of evidence
2.Search and seizure
3.Requisition of books of accounts
4.Issue notice for furnishing return and extend time therefore
5.Allot PAN
6.Impose penalty for default in payment of tax.
7. Make assessment
8. Reassess escaped income
9. Rectification of mistakes
10.Demand advance payment of tax.

Tax recovery officers;

Any income tax officer can be appointed as Tax recovery officer by the Chief Commissioner of Income Tax. Tax recovery officers can be appointed with specific or general orders. He will exercise powers as applicable.

Inspectors:

The commissioners appoint them. They are subordinate to ITO. They have no fixed jurisdiction or particular power or function. They are to assist the ITO or other income tax authority under which they are attached.

Assessing officer:

Assessing officer means an income tax officer. Assistant commissioner or deputy commissioner who is vested with powers to assess. AO is the first and foremost officer of the income tax department who comes in contact with the assessee. He is both an administrator and a quasi-judicial officer.

ASSESSMENT PROCEDURE

Assessment of income relating to one PY starts in the succeeding financial year, which is called AY. Assessment procedure begins when an assessee files his return of income to the income tax department.

Filing of return [Sec 139 (1)]

A person has to file return of income in the prescribed form within the specified time limit if his total income exceeds the maximum non-taxable limit. A person other than a company though income is less than the nontaxable limit, who satisfies any one of six economic criteria and residing in a specified area.

a. Ownership of a motor vehicle other than a two wheeler
b. Occupation of any category of immovable property as may be notified by the CBDT
c. Incurred expenditure on foreign travel by himself or in respect of any other person. Travel to Bangladesh, Pakistan, Bhutan, Nepal, Maldives, Sri Lanka and Saudi Arabia for hajj or china on pilgrimage to Manasarover are excluded.
d. Holder of a credit card other than an add on card
e. Member of a club where entrance fees charged is Rs.25000 or more
f. Expenditure of Rs.50000 or more during the PY towards consumption of electricity.

Time of filing of return

In the case of a company, due date of submission is October 31
In the case of person other than a company
Where audit is compulsory, due date of filing return is October 31
In any other case, the due date of filing of return is July 31

Return of loss [Sec 139 (3)]

Return can also be filed in the prescribed form in respect of loss suffered by the assessee. It is not compulsory to file a return of loss, but certain losses can be carried forward only on filing return of loss

Belated return [Sec 139(4)]

If the return is not furnished within the time, the person may furnish the return of any PY at any time before the end of one year form the end of the relevant AY or before making assessment whichever is earlier. An assessee who files belated return are liable for penal interest

Revised return [Sec 139(5)]

If after filing a return of income or in pursuance of a notice the assessee discovers any omission or wrong statement in return originally filed, he can file a

revised return. It should be filed within one year from the AY or before the completion of assessment whichever is earlier.

Defective return [Sec 139(9)]

Where the AO finds that the return filed by an assessee is defective he should intimate the assessee about the defect and give him an opportunity to rectify the defects within 15 days from the date of intimation or within such further extended time as the AO may allow. If the defect is not rectified within the time allowed, the return will be treated as invalid and it will be deemed that no return has been filed by the assessee attracting penal interest

TYPES OF ASSESSMENT

1. Self assessment [Sec 140A]

When a return is furnished the assessee will have to pay tax, if any payable on the basis of return. He has also to pay interest up to the date of filing the return along with self-assessment of tax. The return of income is to be accompanied by proof of payment of both tax and interest. Assessing officer may make an enquiry for getting full information in respect of assesse's income. The assessee shall be given an opportunity of being heard in respect of any material gathered on the basis of any enquiry so made. The assessing authority may also direct the assessee to get his accounts audited by an accountant nominated by chief commissioner, even if the accounts of the assessee have been audited under nay other provision.

2. Summery assessment [Sec 143(1)]

If on the basis of return filed, any tax or interest is due the A.O shall send intimation to the assessee specifying the sum so payable. If any refund is due on the basis of such return it shall be granted to the assessee. Such intimation shall be deemed to be a notice of demand. Such an intimation should be send before the expiry of 2 years from the end of the AY in which income was first assessable

3. Assessment in response to an order [Sec 143(2)]

Assessment of income after receiving a notice from income tax authorities is called assessment in response to an order. A.O can send notice if he considers it necessary to ensure that the assessee has not understated the income or has not underpaid tax. After hearing such evidence as the assessee may produce in response to the notice and after taking into account all relevant materials, which the A.O has gathered, he shall pass an assessment order in writing determining the total income of the assessee and the sum payable or refund due to the assessee on the basis of such assessment order.

4. Best Judgment Assessment [Sec 144]

In the following situation the A.O can make a best judgment assessment after considering all relevant materials, which he has gathered.

a. if the assessee has not filed a return or a belated return or a revised return
b. if he fails to comply with the terms of the notice or fails to comply with the direction to get his account audited
c. if he fails to comply with the terms of the notice requiring the presence or production of evidence and documents
d. if the A.O is not satisfied with the correctness or completeness of the accounts of the assessee

The best judgment assessment can be made only after giving the assessee a reasonable opportunity of being heard. Assessee has a right to file an appeal or to make an application for revision to the commissioner.

5. Income escaping assessment or reassessment [Sec 147]

If the AO has reason to believe that any income chargeable to tax has escaped assessment for any AY he may assess or re assess such income. If an assessee has not furnished a return of income although total income is above the taxable limit or where a return of income has been made but assessee is found to have understated his income where an assessment is made but income chargeable to tax has been under assessed, reassessment can be made.

Rectification of mistakes [Sec 154]

The AO may amend any order passed by it or amend nay intimation sent by it if he finds that a mistake apparent from record is made. This is called rectification of mistake. Where a rectification has the effect of enhancing tax liability or educing the refund, the AO is required to issue a notice of its intention to do so the assessee and give the assessee a reasonable opportunity of being heard. Rectification of mistakes may be made either on it's own motion or on the application of the assessee. Rectification can be made only within 4 years from the end of financial year in which the order sought to be rectified was passed.

PERMANENT ACCOUNT NUMBER (PAN)

This is number allotted by income tax department to a person who files return of income.

Every person whose taxable income exceeds Rs.1,50,000 or Rs.1,85,00(for women assessee)or Rs.2,25 ,000(for senior citizen) during an accounting year is required to obtain PAN. Every person who has been allotted PAN should quote such number in all his returns or correspondence with income tax authorities, quote such number in all challans for payment of any sum, quote such number in all documents pertaining to such transactions as may be prescribed by the board. New series of Pan contains ten alphanumeric characters and is issued on a laminated card.

Persons who should have PAN compulsorily:

1. Exporter or importer
2. Assessee under the Central Excise Act
3. Service tax assessee
4. Persons registered under the CST Act or value added tax act
5. Any employer who is required to file return of fringe benefits

Important point related with PAN

1. PAN should be quoted in all correspondence to income tax department
2. Any person who is receiving any sum of money or income on which TDS is to collected have to furnish the PAN to the person who is responsible for deducting TDS
3. Persons who do not have a PAN should furnish Form60 while entering into any of the specific transactions
4. If person fails to apply for PAN or to quote PAN in specified documents or transaction is liable to pay a penalty of Rs.10,000/-

TAX PLANNING

Tax planning refers to paying minimum amount of tax after legally utilizing the available deductions, exemptions, rebate and relief provided by the income tax department. Tax planning is in the hands of the tax payer. Tax planning is legal in nature and is entirely different from tax evasion and tax avoidance. Tax evasion is

one where the assessee makes a false claim of his income to reduce or escape tax liability. Tax avoidance is one where the assessee tries to reduce his tax liability by taking advantage of some provisions or some of the loopholes in the tax law. A person who has avoided tax is not liable for any penalty.

TAX HOLIDAY

If an assessee is permitted or given exemption for not to pay tax for certain number of year/ years then that particular year or years will be termed as Tax holiday. The following are the some of provisions mentioned by income tax department regarding tax holidays.

1. 100% export oriented units 10 year tax holiday is allowed for 100% of the income.
2. For newly established industrial undertaking in Free trade zones , electronic hardware technology park, software technology park or special economic zone- 10 year tax holiday is allowed for 100% of the profits(except for SEZ)

For SEZ the deduction is as follows

a) For the first 5 years 100% of export profit
b) For the next 2 years 50% of export profit
c) For the next 3 years 50% of export profit

E-FILING

Any return of income submitted through electronic media is E-filing . Under E-filing the following three concepts can be dealt

Filing of returns on computer readable medium

A person who is to furnish return of income can submit his return of income on or before the due date in the prescribed manner in any of the following methods

- ✓ Floppy
- ✓ Diskette
- ✓ Magnetic catridge
- ✓ Tape
- ✓ CD
- ✓ Any other computer readable media

Electronic furnishing of return of income scheme, 2004

An assessee at his option can furnish his return of income to an e-return intermediary who in turn will digitalise the data and transmit the same electronically to e-return administrator on or before the due date.

Furnishing of return of income on internet scheme, 2004.

An assessee having PAN and who has income from salary but does not have income from business and profession and who is assessed in a specified city may furnish his return under this scheme at his option before the due dates of return

FRINGE BENEFIT TAX

The finance act 2005 has introduced fringe benefit tax from the AY 2006-07. it is taxed in the hands of the employer. Fringe benefit tax is charged @ 30% plus surcharge if any and an educational cess@2%. It is taxed even if the employer does not have a any taxable income. Fringe benefit tax cannot be claimed as a deduction while computing total income.

Fringe benefit means privilege, service, facility or amenity directly or indirectly provided to employee. Fringe benefit also includes entertainment, festival

celebration, gifts, scholarships, health clubs and other similar facilities. Telephone including mobile phones, use of hotel, tours and travels etc.

TAX DEDUCTED AT SOURCE

Income tax Act makes it obligatory for certain persons to deduct tax and surcharge from certain payments at prescribed rates and to pay the tax so deducted to the credit f central Gov. within the prescribed time. Default in compliance of this obligation will make him assessee in default and liable to penalties and prosecutions .TDS should be collected form the following

1. Salary
2. Interest on securities
3. Winnings from lotteries
4. Winning from horse race
5. Payment to contractors
6. Payment of insurance commission
7. Payment to non resident sportsman or sports association
8. Commission on sale of lottery tickets
9. Fees for professional and technical services

1. TDS from salary [Sec 192]

Any person responsible for paying any income chargeable under the head salary is required to deduct tax at source on the amount payable. Tax rate is the rate applicable for the appropriate financial year in which payment is made to employees. While calculating the tax to be deducted at source exemptions of HRA, employment tax and deduction u/s 80 should be allowed. If the employee is eligible for relief u/s 89 TDS is to be made after allowing such relief.

2. TDS from interest on securities [Sec 193]

Any person responsible for paying interest on securities should deduct tax at the rate in force (10% plus surcharge plus education cess) at the time of payment of interest or crediting the same to the account of payee.

3. TDS from winnings from lottery, cross word puzzles [Sec 194B]

A person who pays any income exceeding Rs.5000 by way of winnings from lotteries or cross word puzzles is required at the time of such payment to deduct income tax thereon at the rate in force. Where the prize money is given partly in cash and partly in kind tax will be deducted from cash prize with reference to the aggregate amount of cash prize and the value of the prize in hand.

4.TDS from winnings from horse race [Sec 194BB]

a person responsible for paying to nay person any income by way of winnings from horse race is required at the time of such payment, to deduct income tax thereon at the rate in force. It is not possible to get the payment without TDS

5. TDS from insurance commission [Sec 194D]

a person responsible for paying to resident any income by way of commission or other wise, for procuring insurance business is required to deduct income tax thereon at the rates in force. But no tax is to be deducted at source if the insurance commission paid in the financial year does not exceed Rs.5000.

6. TDS from commission [Sec 194(I)]

Any person responsible for paying any income by way of commission, remuneration or prize on lottery tickets of an amount exceeding Rs.1000 shall deduct income tax thereon @ 10% plus surcharge plus education cess.

Tax deduction certificate

Every person making deduction of tax at source, is required to give a certificate to the effect that tax has been deducted, specifying the amount so deducted, at the rate at which tax has been deducted and such other particulars as pay be prescribed. The certificate should be issued in Form 16A for salary and Form 16A for others. The person deducting tax at source will be allotted a Tax deduction account number (TAN). The TAN so allotted shall be quoted in all challans for payment of any TDS, in all prescribed returns filed by persons paying salary.

Advance payment of Tax

The scheme of advance payment of tax is also known as pay- as – you – earn (PAYE) scheme. In this scheme an assessee pays tax in a particular financial year, preceding the AY on the basis of his estimated income. Every person is liable to pay advance tax if advance tax payable is Rs.5000 more. All items of income are liable for payment of advance tax.

An assessee who is liable to pay advance tax is required to estimate his current income and paid advance tax thereon. After making payment of first/second installment of advance tax in accordance with his revised estimate of current income and pay tax accordingly without any requirement of filing the revised estimate of advance tax. Advance tax should be deposited along with Challan No.280 in the Govt.Treasury or any of the authorized branches of nationalized banks. In the challan form Name , Address, PAN , AY, Assessing Officers Ward or Circle where the assessee is assessed or assessable and the amount of tax and surcharge if any should be shown speratly.

The date of payment of advance tax is as follows

Corporate assessee:

Up to 15 % of advance tax payable on or before June 15 of PY

Up to 45% of advance tax payable	on or before Sept 15 of PY
Up to 75 % of advance tax payment	on or before Dec15 of PY
Up to 100% of advance tax payment	on or before March 15 of PY

Non-corporate assessee:

Up to 30% of advance tax payment	on or before June15 of PY
Up to 60% of advance tax payment	on or before Sept 15 of PY
Up to 75% of advance tax payment	on or before Dec 15 of PY
Up to 100% of advance tax payment	on or before March 15 of PY

Refund of tax

If the amount of tax paid by an assessee in any year exceeds the amount, which he is properly chargeable for that year, he is entitled to a refund of the excess tax so paid. Only a person who has paid excess amount of tax can claim refund. For deceased person legal heirs are authorized for claiming refund of tax. Person entitle to refund should make a claim for the same in Form.30 within one year from the end of the assessment year. In case of a delay of refund , interest @ . 5% per month or part of the month can be claimed from the first day of the AY to the date of refund.

A refund of tax arises in the following cases;

1. Deduction of tax at source at a higher rate
2. Excess payment of advance tax
3. When relief for double taxation is due
4. Where tax liability is reduced either on account of rectification of mistakes or by an order passed in an appeal

Collection and Recovery of Tax

An amount of tax as determined by the AO as per notice shall be paid within 30 days of the service of the notice at the place and to the person mentioned in the notice. This period may be extended by the AO and allow payment in installment if the assessee makes an application on reasonable grounds. If the amount specified in the notice of demand is not paid within the period stated in the notice, the assessee shall be liable to pay simple interest @ 1% for every month or part thereof from the date of expiry of the aforesaid time. When an assessee is in default he shall be liable to pay by way of penalty, an amount that the AO may direct. Before levying any such penalty the assessee shall be given a reasonable opportunity of being heard.

Tax Clearance Certificate [Sec 230]

Every person who is domiciled in India or who is domiciled in India at the time of his departure, but:

a. Intends to leave India as an emigrant or
b. Intends to proceed to another country on a work permit with the object of taking up any employment or other occupation in that country
c. Any person as income tax authority may deem it necessary

Should obtain a certificate before he leave the territory of India from the duly authorized officer that he has no liabilities under the Income Tax Act.

CAPITAL AND REVENUE

Income tax is charged on income and not on capital. Therefore distinction between capital and revenue is very important.

Capital Receipts and Revenue Receipts

The following are the difference between capital receipts and revenue receipts

1. ***Nature of assets***
   If a receipt is referable to fixed asset, it is capital receipts and if it is referable to current asset it is a revenue receipt.
2. ***Termination of source of income***
   When a source of income ceases or terminates any compensation received thereof is capital receipt.
3. ***Receipt in substitution of an income***
   Any income received in substitution or in lieu of income is revenue receipt

4. Surrender of rights

A right is a capital asset. Amount received as compensation for surrender of rights is a capital receipt. But an amount received under an agreement as compensation for loss of future profits is a revenue receipts

5. ***Purpose of keeping an asset***.

If any asset is used by an assessee in his business or kept as an investment, the sale proceeds thereof will be a capital receipt. But if any asset has been purchased by a person for a resale, the proceeds thereof will be a revenue receipt.

Capital Expenditure & Revenue Expenditure

For computing profits of a business taxable under this Act, only revenue expenses are allowed to be deducted.

1. Nature of the assets

Any expenditure incurred to acquire a fixed asset or in connection with installation of fixed assets is capital expenditure.

2. Nature of liability

Any payment made by a person to discharge a capital liability is a capital expenditure whereas expenditure incurred, to discharge revenue liability is revenue expenditure.

3. Nature of transaction

If expenditure is incurred to acquire a source of income, it is a capital expenditure. But if expenditure is incurred to earn an income, it is revenue expenditure.

4. Purpose of transaction

If the amount is spent on increasing the earning capacity of an asset, it is capital expenditure. Any expenditure incurred on keeping an asset in running condition is revenue expenditure.

Capital loss and revenue loss

Under the provisions of income tax act, capital losses are dealt with under the head income from capital gains and revenue losses are treated as business losses and as such are treated under the head profits and gains of business or profession. A loss which relates to capital asset is a capital loss. A revenue loss is one which is sustained by selling the goods of the business or by destruction of the goods or on account of the non recovery of any amount due in connection with the business