

Business Taxation

MBA

4th Semester

18MBA401B

By:

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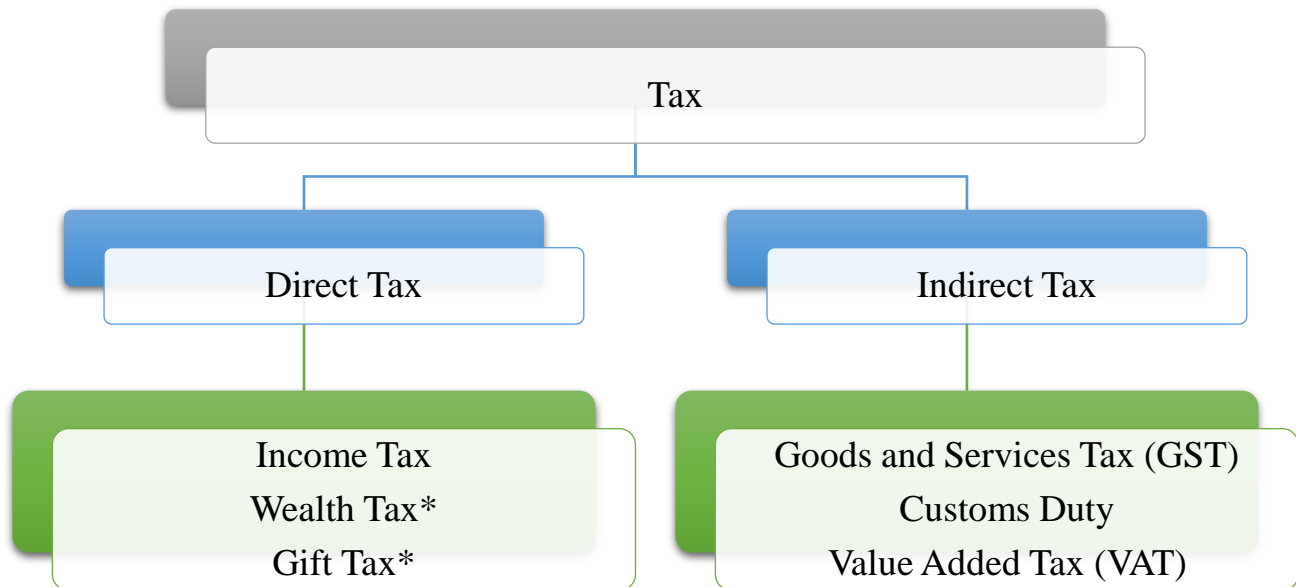
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Meaning of Tax

Taxes are considered to be the "cost of living in a society". Taxes are levied by the Governments to meet the common welfare expenditure of the society. Tax is a levy or charge made by the government of a political state on the privileged section of the society as a source of its revenue.

Types of Tax



When the impact and incidence (burden) of tax falls on the same person, it is called Direct Tax. Tax is recovered directly from the assessee, who ultimately bears such taxes. Here, the tax payer bears the burden of tax. Examples of direct tax are Income tax, wealth tax*, gift tax*, etc. When the impact and incidence (burden) of tax falls on two different persons, it is called Indirect Tax. Tax is recovered from the assessee, who passes such burden to another person & is ultimately borne by consumers of such goods or services. Here, the tax payer does not bear the burden of tax. Examples of indirect tax are GST, Customs Duty, VAT, etc.

Direct Tax
<ul style="list-style-type: none">• Incidence and impact fall on the same person• Assessee, himself bears such taxes. Thus, it pinches the taxpayer.• Levied on income• E.g. Income Tax• Progressive in nature i.e., higher tax are levied on person earning higher income and vice versa.

Indirect Tax
<ul style="list-style-type: none">• Incidence and impact fall on two different persons• Tax is recovered from the assessee, who passes such burden to another person. Thus, it does not pinch the taxpayer.• Levied on goods and services. Thus, this type of tax leads to inflation and have wider base.• E.g. GST, Customs Duty, etc.• Regressive in nature i.e., all persons will bear equal wrath of tax on goods or service consumed by them irrespective of their ability.• Useful tool to promote social welfare by checking the consumption of harmful goods or sin goods through higher rate of tax.

Constitution and Taxation

The Constitution of India is the supreme law of India. It consists of a Preamble, 22 parts containing 444 articles and 12 schedules. Any tax law, which is not in conformity with the Constitution, is called ultra vires the Constitution and held as illegal and void. Article 265 of the Constitution lays down that no tax shall be levied or collected except by the authority of law. Article 246 read with Schedule VII divides the subject matter of law made by the legislature into three categories:

- ✓ **Union List** (only the Central Government has the power of legislation on subject matters covered in the list)
- ✓ **State List** (only the State Government has the power of legislation on subject matters covered in the list)
- ✓ **Concurrent List** (both Central & State governments can pass legislation on subject matters).

Following major entries in the respective list enable the legislature to make law on the matter:

- ✓ Union List (List I) Entry 82 - Taxes on income other than agricultural income i.e., Income-tax
- ✓ State List (List II) Entry 46 - Taxes on agricultural income.
- ✓ Both of the Boards have been constituted under the Central Board of Revenue Act, 1963.
- ✓ **CBDT** deals with levy and collection of all direct tax whereas matters relating to levy and collection of Central indirect tax are dealt by **Central Board of Indirect Taxes & Customs (CBIC)**.



Sources of Income Tax Law in India

The Indian income tax laws are derived from various sources which are as follows:

- ☐ Income Tax Act, 1961
- ☐ Annual Amendments (Finance Act)
- ☐ Income Tax Rules, 1962
- ☐ Circulars and Clarifications by CBDT
- ☐ Judicial decision
- ☐ Notifications
- ☐ Explanations

Important Concepts of Income Tax:

★ Person [Section 2(31)]

The word “Person” is a very wide term and embraces in itself the following:

- Individual
- Hindu Undivided Family (HUF)
- Company
- Firm
- Association of Persons (AOP) or Body of Individuals (BOI)
- Local Authority
- Artificial Juridical Person

Individual: It refers to a natural human being whether Male or Female, Minor or Major.

Hindu Undivided Family (HUF): It is a relationship created due to operation of Hindu Law. The Manager of HUF is called “Karta” and its members are called ‘Coparceners’.

Company: It is an artificial person registered under Indian Companies Act 1956 or any other Law.

Firm: It is an entity which comes into existence as a result of partnership agreement. The Income Tax accepts only these entities as Firms which are assessed as Firms under Section 184 of the Act.

Association of Persons (AOP) or Body of Individuals (BOI): Co-operative societies, MARKFED, NAFED, etc. are the example of such persons. When persons combine together to carry on a joint enterprise and they do not constitute partnership under the ambit of law, they are assessable as an Association of Persons. An A.O.P. can have firms, companies, associations and individuals as its members. A Body of Individual (B.O.I.) cannot have non-individuals as its members. Only natural human being can be members of a Body of Individuals.

Local Authority: Municipality, Panchayat, Cantonment Board, Port Trust etc. are called Local Authority.

Artificial Juridical Person: Statutory Corporations like Life Insurance Corporation, University etc. are called Artificial Juridical Persons.

★ Assessment Year: [Section 2(9)]

It refers to the financial year in which the income earned in the preceding year is assessed to tax. It is a financial year consisting of a period of 12 months commencing from 1st of April and ending with 31st March of the next year. It is the year (just after the previous year) in which income earned in the previous year is charged to tax.

E.g., A.Y. 2024-25 is a year, which commences on April 1, 2024 and ends on March 31, 2025. Income of an assessee earned in the previous year 2023-24 is assessed in the A.Y. 2024-25.

Duration: Period of 12 months starting from 1st April.
Relation with Previous Year: It falls immediately after the Previous Year.
Purpose: Income of a previous year is assessed and taxable in the immediately following Assessment Year.

★ Previous Year: [Section 2(34) r.w. Section 3]

It refers to a period of 12 months immediately preceding the assessment year. The concept of previous year is very important in income tax because it is the income earned during the previous year which is put to tax in the assessment year. It is the income earning year. It does not mean that tax is not paid in the previous year. Tax is paid in the form of TDS, Advance Tax, etc., otherwise how the government will manage for a year.

The year in which income is earned is known as Previous Year and the next year in which income is assessed is known as Assessment Year. It is mandatory for all assessee to follow *financial year* (from 1st April to 31st March) as previous year for Income Tax purpose.

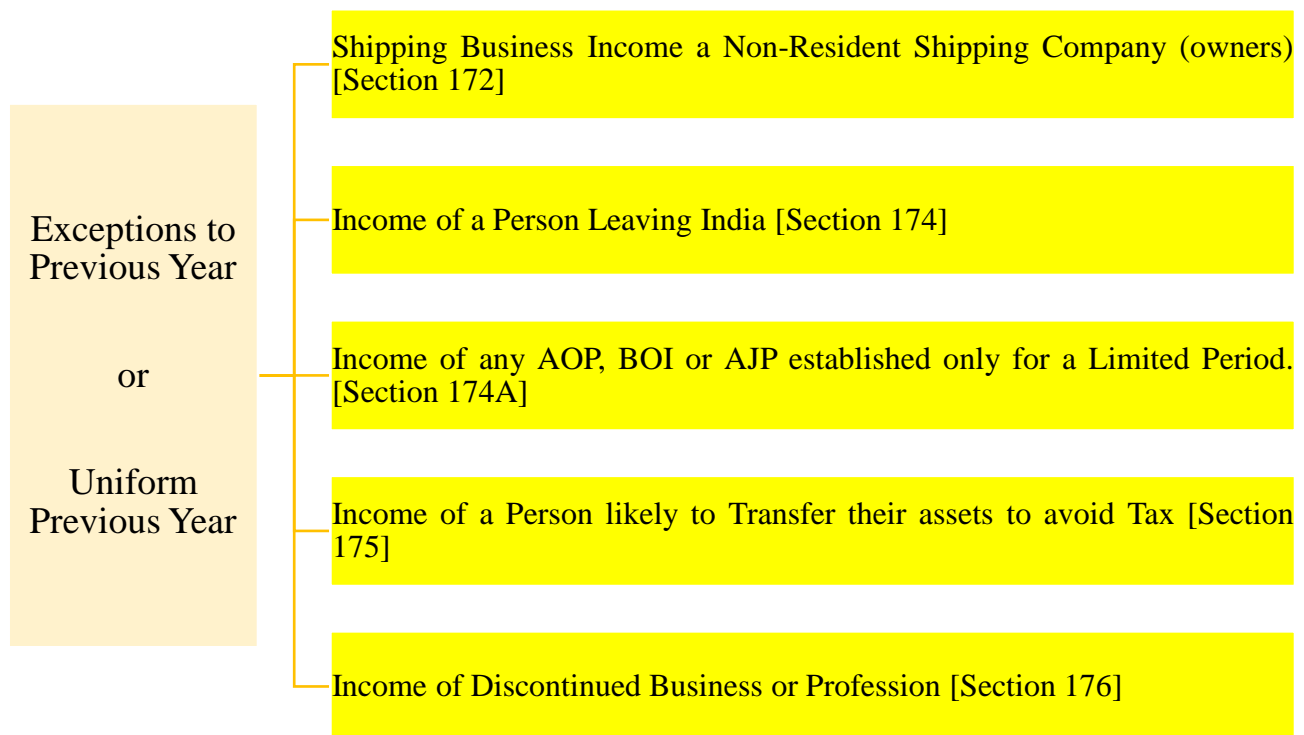
E.g.

The current previous year is 2023-24 (1st April 2023 to 31st March 2024)

Exceptions to Previous Year:

As a general rule, income earned in the previous year is put to tax in the next assessment year. However, in certain cases, income earned during a previous year is put to tax in the same year it was earned. These are known as exceptions to the concept of previous year.

These are as follows:



1. Shipping Business Income a Non-Resident Shipping Company (owners) [Section 172]

When a ship, belonging to or chartered by a non-resident, earns income by carrying passengers, livestock, mail or goods shipped at a port in India, the ship is allowed to leave the port only when the tax has been paid or satisfactory arrangement has been made for payment thereof. 7.5% of the total income of the owner or the charterer or any person on his behalf, whether in India or outside India on account of such carriage is deemed to be his income on which tax is to be paid in the same year in which it is earned.

2. Income of a Person Leaving India [Section 174]

Where it appears to the Assessing Officer that any individual may leave India during the current assessment year or shortly after its expiry and he has no present intention of returning to India, the total income of such individual for the period from the expiry of the respective previous year up to the probable date of his departure from India is chargeable to tax in that assessment year.

3. Income of any AOP, BOI or AJP established only for a Limited Period. [Section 174A]

If an AOP/BOI etc. is formed or established for a particular event or purpose and the Assessing Officer realise that the AOP/BOI is likely to be dissolved in the same year or in the next year, their income up to the date of dissolution will be charged to tax in the same year it is earned.

4. Income of a Person likely to Transfer their Assets to avoid Tax [Section 175]

If a person is likely to charge, sell, transfer, or dispose any of his assets to avoid payment of any tax liability under the Act, the total income of such person for the period from the expiry of the previous year to the date of such sale or transfer, is chargeable to tax in that assessment year.

5. Income of Discontinued Business or Profession [Section 176]

If any business or profession is discontinued in any assessment year, their income of the period from the expiry of the previous year up to the date of such discontinuance may be charged to tax in that assessment year at the discretion of the Assessing Officer.

★ Income Tax:

The tax levied on the income of a person is called Income Tax. It is a form of direct tax because the person who earns the income bears the burden of tax as well.

★ Heads of Income:

The gross total income of an assessee may consist of the following five heads:

1. **Salaries** [Sections 15-17]
2. **House Property** [Sections 22-27]
3. **Profits and Gains from Business or Profession** [Sections 28-44]
4. **Capital Gains** [Sections 45-55]
5. **Other Sources** [Sections 56-59]

Gross Total Income [Section 80B(5)]

$$\text{GTI} = \text{Salary} + \text{House Property} + \text{Business or Profession} + \text{Capital Gains} + \text{Other Sources} \\ + \text{Clubbing of Income} - \text{Set off of Losses}$$

Total Income [Section 2(45)]

$$\text{Total Income} = \text{Gross Total Income} - \text{Deductions under Chapter VIA (i.e. u/s 80C to 80U)}$$

★ Tax Rates:

The Finance Act 2023 has amended the provisions of Section 115BAC w.e.f AY 2024-25 to make new tax regime the default tax regime for the assessee being an Individual, HUF, AOP (not being co-operative societies), BOI and Artificial Juridical Person. However, the eligible taxpayers have the option to opt out of new tax regime and choose to be taxed under old tax regime.

The old tax regime refers to the system of income tax calculation and slabs that existed before the introduction of the new tax regime. In the old tax regime, taxpayers have the option to claim various tax deductions and exemptions.

The normal tax rates applicable to a resident individual will depend on the age of the individual. However, in case of a non-resident individual the tax rates will be same irrespective of his age. For the purpose of ascertainment of the applicable tax slab, an individual can be classified as follows:

- Resident individual below the age of 60 years.
- Resident individual of the age of 60 years or above at any time during the year but below the age of 80 years. (Senior Citizen)
- Resident individual of the age of 80 years or above at any time during the year. (Super Senior Citizen)
- Non-resident individual irrespective of the age.

Tax rates for Individual (resident or non-resident) less than 60 years of age anytime during the previous year are as under:

Old Tax Regime		New Tax Regime u/s 115BAC	
Income Tax Slab	Income Tax Rate	Income Tax Slab	Income Tax Rate
Up to ₹ 2,50,000	Nil	Up to ₹ 3,00,000	Nil
₹ 2,50,001 - ₹ 5,00,000	5% above ₹ 2,50,000	₹ 3,00,001 - ₹ 6,00,000	5% above ₹ 3,00,000
₹ 5,00,001 - ₹ 10,00,000	₹ 12,500 + 20% above ₹ 5,00,000	₹ 6,00,001 - ₹ 9,00,000	₹ 15,000 + 10% above ₹ 6,00,000
Above ₹ 10,00,000	₹ 1,12,500 + 30% above ₹ 10,00,000	₹ 9,00,001 - ₹ 12,00,000	₹ 45,000 + 15% above ₹ 9,00,000
		₹ 12,00,001 - ₹ 15,00,000	₹ 90,000 + 20% above ₹ 12,00,000
		Above ₹ 15,00,000	₹ 1,50,000 + 30% above ₹ 15,00,000

Tax rates for Individual (resident or non-resident), 60 years or more but less than 80 years of age anytime during the previous year are as under:

Old Tax Regime		New Tax Regime u/s 115BAC	
Income Tax Slab	Income Tax Rate	Income Tax Slab	Income Tax Rate
Up to ₹ 3,00,000	Nil	Up to ₹ 3,00,000	Nil
₹ 3,00,001 - ₹ 5,00,000	5% above ₹ 3,00,000	₹ 3,00,001 - ₹ 6,00,000	5% above ₹ 3,00,000
₹ 5,00,001 - ₹ 10,00,000	₹ 10,000 + 20% above ₹ 5,00,000	₹ 6,00,001 - ₹ 9,00,000	₹ 15,000 + 10% above ₹ 6,00,000
Above ₹ 10,00,000	₹ 1,10,000 + 30% above ₹ 10,00,000	₹ 9,00,001 - ₹ 12,00,000	₹ 45,000 + 15% above ₹ 9,00,000
		₹ 12,00,001 - ₹ 15,00,000	₹ 90,000 + 20% above ₹ 12,00,000
		Above ₹ 15,00,000	₹ 1,50,000 + 30% above ₹ 15,00,000

Tax rates for Individual (resident or non-resident) 80 years of age or more anytime during the previous year are as under:

Old Tax Regime		New Tax Regime u/s 115BAC	
Income Tax Slab	Income Tax Rate	Income Tax Slab	Income Tax Rate
Up to ₹ 5,00,000	Nil	Up to ₹ 3,00,000	Nil
₹ 5,00,001 - ₹ 10,00,000	20% above ₹ 5,00,000	₹ 3,00,001 - ₹ 6,00,000	5% above ₹ 3,00,000
Above ₹ 10,00,000	₹ 1,00,000 + 30% above ₹ 10,00,000	₹ 6,00,001 - ₹ 9,00,000	₹ 15,000 + 10% above ₹ 6,00,000
		₹ 9,00,001 - ₹ 12,00,000	₹ 45,000 + 15% above ₹ 9,00,000
		₹ 12,00,001 - ₹ 15,00,000	₹ 90,000 + 20% above ₹ 12,00,000
		Above ₹ 15,00,000	₹ 1,50,000 + 30% above ₹ 15,00,000

1. The rates of Surcharge under the tax regimes are as under:

Total Income	Old Tax Regime	New Tax Regime
	Rate of Surcharge Applicable	
Up to Rs. 50 Lakh	Nil	Nil
Above Rs. 50 Lakh and up to Rs. 1 Crore	10%	10%
Above Rs. 1 Crore and up to Rs. 2 Crore	15%	15%
Above Rs. 2 Crore and up to Rs. 5 Crore	25%	25%
Above Rs. 5 Crore	37%	25%

Surcharge is an additional charge levied for persons earning Income above the specified limits, it is charged on the amount of income tax calculated as per applicable rates.

Health and Education Cess: Health and Education Cess is levied at the rate of **4%** on the amount of income-tax plus surcharge.

★ INCOME [Section 2(24)]

The Definition given u/s 2 (24) is inclusive and not exhaustive. According to English dictionary, the term “Income” means “periodical *monetary return coming in regularly from definite sources like one’s business, Land, Work, Investments etc.*”.

In simple words Income means something that comes in. It is a periodical return with regularity or expected regularity.

It’s nowhere mentioned that “Income” refers to only monetary return. It includes value of Benefits and Perquisites.

The term “Income” includes not only what is received by using the property but also the amount saved by using it himself. Anything which is convertible into income can be regarded as source of accrual of income.

“Income includes”:

- a) **Profit and Gains:** For instance, Profit generated by a businessman is taxable as “Income”.
- b) **Dividend:** For instance, “Dividend” declared/paid by a company to shareholders is taxable as “income” in the hands of shareholders.
- c) **Voluntary contribution received by a Trust:** In the hands of a Trust, income includes voluntary contributions received by it. This rule is applicable in the following cases...
 - ★ Such contribution is received by a trust created wholly or partly for charitable or religious purpose; or
 - ★ Such contribution is received by a scientific research association; or
 - ★ Such contribution is received by any fund or institution established for charitable purposes; or
 - ★ Such contribution is received by any university or other educational institutions or hospital.
- d) The value of any perquisite or profit in lieu of salary taxable u/s 17(2) (3).
- e) Any capital gain taxable u/s 45.
- f) Any winnings from lotteries, crossword puzzles, races including horse races, card games or other games or from gambling or betting of any form or nature.
- g) Gifts received by a firm or closely held company as provided in Section 56(2) (vii) and many others.

The definition of term “Income” as given above does not explain what income is? It only tells that the above-mentioned receipts are also included in the meaning of the term Income.

FEATURES OF “INCOME”

The following features of income can help a person to understand the concept of income.

(i) Definite Source:

Income has been compared with a fruit of a tree or a crop from the field. Fruit comes from a tree and crop from fields. Thus, the source of income is definite in both cases. The existence of a source for income is somewhat essential to bring a receipt under the charge of tax.

(ii) Income must come from Outside:

No one can earn income from himself. There can be no income from transactions between head office and branch office. Contributions made by members for mutual benefit and the surplus found cannot be termed as income of such group.

(iii) Tainted Income:

Income earned legally or illegally remains income and it will be taxed according to the provisions of the Act. Assessment of illegal income of a person does not grant him immunity from the applicability of the provisions of another Act. Any expenditure incurred to earn such illegal income is allowed to be deducted out of such income only.

(iv) Temporary or Permanent:

Whether the income is permanent or temporary, it is immaterial from the tax point of view.

(v) Voluntary Receipt:

The receipts which do not arise from the exercise of a profession or business or do not amount to remuneration and are made for reasons purely of personal nature are not included in the scope of total income.

(vi) Dispute regarding the Title:

In case a person is receiving some income but his title to such receipts is disputed, it will not free him from tax liability. The recipient of such income has to pay tax.

(vii) Income in Money or Money's worth:

The income may be in Cash or in kind. It is taxable in both cases.

(viii) Diversion of Income and Application of Income:

Diversion of income means that a part of the income or whole of such income does not reach the assessee. It is diverted to some other person due to some legal obligation. Whereas, application of income means spending the income after receiving it.

For example, amount paid by a person to his step-mother out of the rent of property which he has inherited under the provisions of will from his father is diversion of income. But if there is no such provision in the will and he promises to pay some money to his step-mother, it is application of income.

(ix) Income is always chargeable in the hands of person not in vacuum. (Income can be of a living person not of a ghost).

(x) Pin money or pocket money given by husband to wife or parents or to children is not treated as income in their hands.

(xi) Income is taxable in the assessment year even if the source of income does not exist in the assessment year.

(xii) Income should be in real form not fictitious.

For example, trading between head office and branch or profit out of revaluation of assets is not treated as income.

(xiii) Same income cannot be taxed twice. (No Double Taxation)

Unless it is specifically provided in the Income Tax Act, 1961, an income can not be put to tax twice in the hands of the same person.

(xiv) **Income includes loss also.** Profits are positive income and loss is negative income which is subject to set off from other income.

(xv) Any amount received by a person because of devaluation of currency is taxable as income.

(xvi) Receipt on account of Dharmada, Gaushala and Pathshala is not income.

*(Dharmada means a gift or amount received for **religious** or charitable purposes)*

(xvii) Relief or reimbursement of expenses for actual spending is not taxable as income.

(xviii) Surplus from mutual activities is not income.

TAX TREATMENT OF “INCOME”

For the purposes of treatment of income for tax purposes it can be divided into 3 categories:

A. Taxable Income:

The income on which tax is being paid is called Taxable Income. These incomes form part of total income and are fully taxable. These are treated u/s 14 to 69 of the Act. These are Salaries, Rent, Business Profits, Professional Gain, Capital Gain, Interest, Dividend, Winning from Lotteries, Races etc.

B. Exempted Incomes:

These incomes do not form part of total income either fully or partially. Hence, No Tax is payable on such incomes. They are income but are not considered for tax purposes. These incomes are given u/s 10(1) to 10(32) of the Act.

C. Rebateable (Tax Free) Incomes:

These incomes form part of total income and are fully taxable. These are the income on which the income receiver will not pay tax rather income payer will pay tax. Tax is calculated on total income out of which a Rebate of Tax at average Rate is allowed.

Residential Status

Tax is levied on total income of a person depending upon his residential status. Hence, the residential status of the person needs to be determined first before imposing tax. It is to be noted here that the citizenship of an individual has nothing to do with his residential status.

An Indian, who is a citizen of India can be non-resident for Income-tax purposes, whereas an American who is a citizen of America can be resident of India for Income-tax purposes. Residential status of a person depends upon the territorial connections of the person with this country, i.e., for how many days he has physically stayed in India.

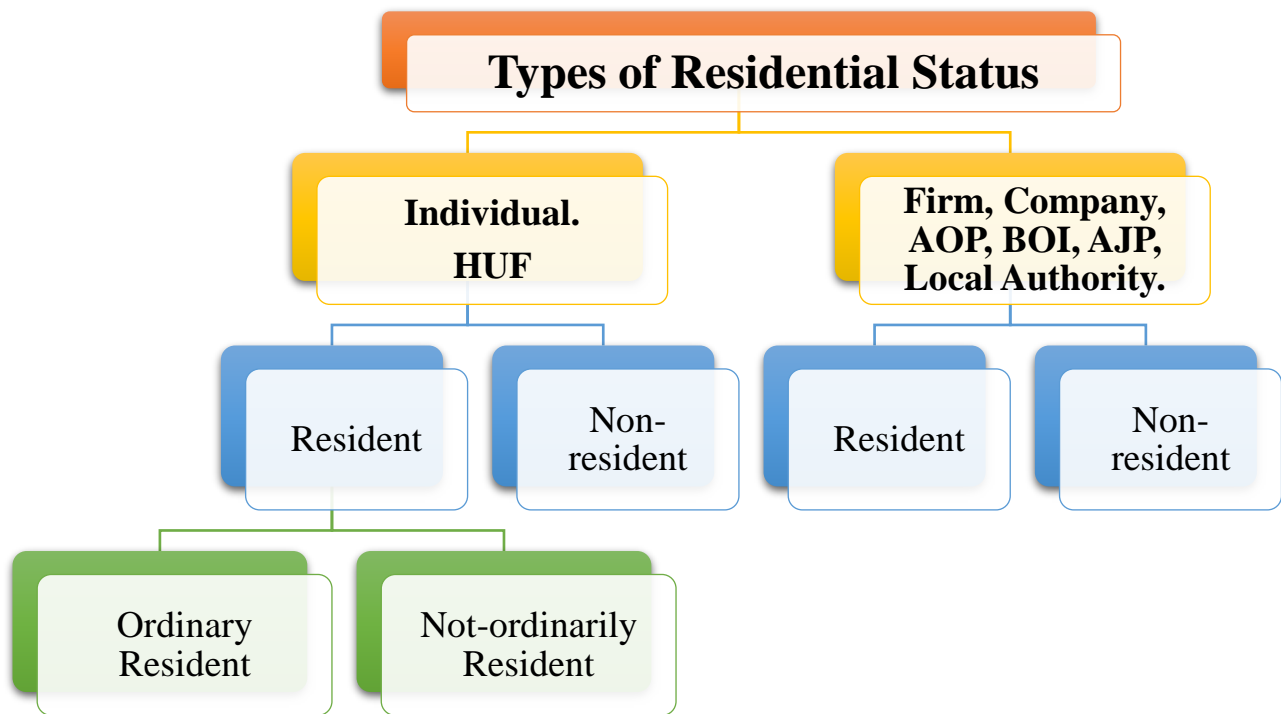
Points to be Remembered:

- Calculation of tax depends on the residential status of the person.
- It is determined before imposing tax.
- Citizenship of an individual has nothing to do with his residential status.
- Residential status of a person depends upon the territorial connections of the person with this country.
- It is determined each year with reference to the “previous year”.
- It may change from year to year.
- The status of a person during the previous year is important, not in the assessment year.
- It is the duty of the assessee to place relevant facts, evidence and material before the Income Tax Authorities supporting the determination of Residential status.
- Dual residential status is possible.
- **Same Residential Status for all sources of income.**

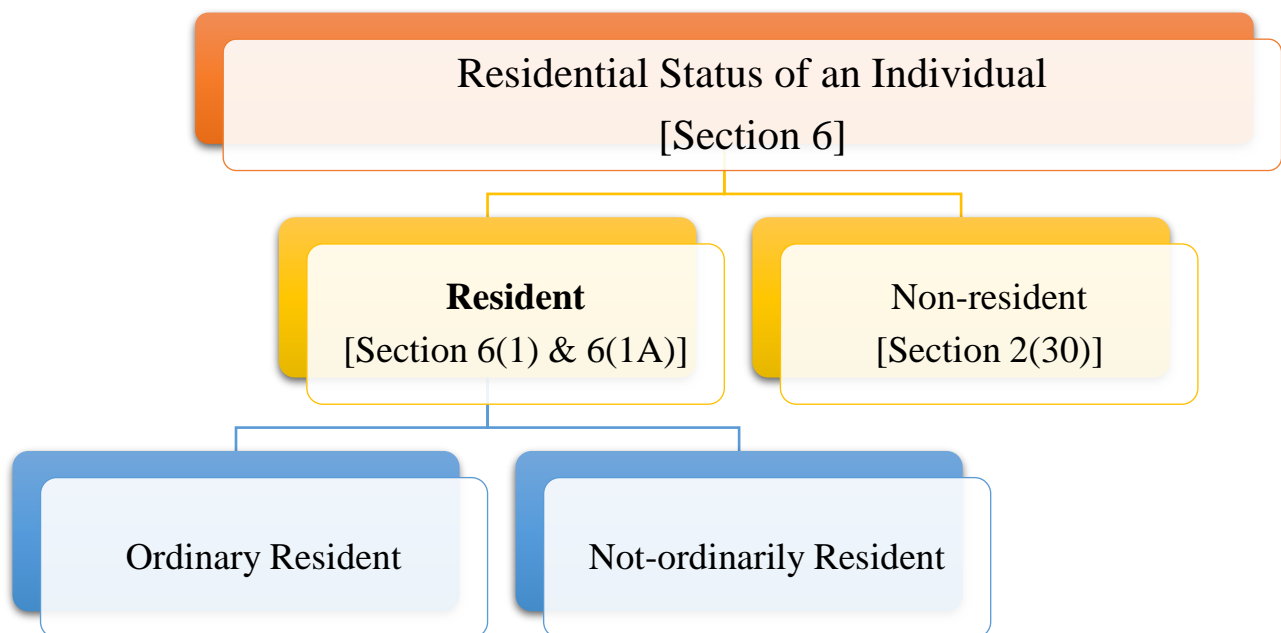
If a person becomes resident of India for one source of income, then he will be deemed to be resident of India for all other sources of income in that previous year. [Sec. 6(5)]

Section 6 of the Act divides the assessable persons into three categories:

- (i) Ordinary Resident; (OR)
- (ii) Resident but Not Ordinarily Resident; (NOR) and
- (iii) Non-Resident. (NR)



Residential Status of an Individual:



Resident [Section 6(1) and Section 6(1A)]:

A person is said to be resident of India, if he fulfils any one of the following two tests.

- (a) If he is in India for a period amounting in all to 182 days or more in the relevant previous year [Section 6(1)(a)].

Or

- (b) If he was in India for a period or periods amounting in all to 365 days or more during the four years preceding the relevant previous year and he was in India for a period or periods amounting in all to 60 days or more in that relevant previous year [Section 6(1)(c)]

Exceptions to condition (b):

- (i) If an Indian citizen leaves India, in the previous year, as a member of the crew of an Indian ship or for the purpose of employment outside India then the words 60 days will be substituted by 182 days.
- (ii) If an Indian citizen or a person of Indian origin comes to visit India in the previous year, then the word 60 days will also be replaced by 182 days.

Certain individuals to be treated as deemed residents [Insertion of Section 6(1A)]:

An Indian citizen having total income exceeding fifteen lakh rupees during the previous year (other than the income from foreign sources) shall be deemed to be resident in India in that previous year, if he is not liable to tax in any other country or territory by reason of his domicile or residence or any other criteria of similar nature.

Resident
Satisfying any one of the two conditions given u/s 6(1)
Or
Satisfying condition given u/s 6(1A)

Ordinary Resident:

An individual becomes resident of India when he fulfils one of the two tests contained in Section 6(1) (explained above). But, to become an ordinary resident of India an individual has to fulfil both the following two conditions:

- (1) He has been resident of India [fulfilling at least one test given under section 6(1)] in at least 2 previous years out of 10 previous years immediately preceding the relevant previous year.

- (2) He has stayed in India for at least 730 days in 7 previous years immediately preceding the relevant previous year.

Note:

While calculating number of days for stay in India, day of departure was not included. But now as per decision of Authority for Advance Rulings, both days i.e., day of departure from India and day of arrival in India are to be counted as stay in India.

Resident but Not Ordinarily Resident (NOR):

An individual who is a resident under section 6(1) can claim the beneficial status of NOR if he can satisfy any of the following conditions:

Condition (a) (a) He was non-resident in India for 9 previous years out of 10 previous years preceding the relevant previous year.

Or

Condition (b) (b) He was in India for a period or periods aggregating in all to 729 days or less during seven previous years preceding the relevant previous year.

Or

Condition (c) (c) An Indian citizen or a person of Indian origin, having total income exceeding 15 lakh rupees during the previous year (other than the income from foreign sources), who has been in India for a period(s) amounting in all to 120 days or more but less than 182 days; [w.e.f. A.Y. 2021-22]

Condition (d) (ii) A citizen of India who is deemed to be resident in India under clause (IA). [w.e.f. A.Y. 2021-22]

Non-Resident (NR) [Section 2(30)]:

An assessee or individual who does not fulfil any of the two tests given in section 6(1)(a) or (b) is called as a Non-resident under section 2(30) of the Income Tax Act, 1961.

Incidence of Tax

Incidence of tax refers to the burden of tax on a particular person. It very much depends on the residential status of an assessee. A summary of such is given below:

S.L. No.	Category of Income	OR	NOR	NR
1	Incomes received in India whether earned in India or not.	Taxable	Taxable	Taxable
2	Incomes earned in India whether received in India or not.	Taxable	Taxable	Taxable
3	Income earned and received outside India from a business controlled or profession set up in India. Income may or may not be remitted to India.	Taxable	Taxable	-
4	Income earned or received outside India from a business controlled or profession set up outside India	Taxable	-	-
5	Income earned and received outside India from any other source.	Taxable	-	-
6	Past untaxed incomes brought to India during the previous year.	-	-	-

Example:

The following are the Incomes of Shree Rupak Mishra for the previous year 2021-22 :

	₹
(i) Dividend from Indian Company	10,000
(ii) Profit from business in Japan received in India	1,20,000
(iii) Profit from business in Pakistan deposited in a bank there. This business is controlled from India	2,00,000
(iv) Profit from business in Indore (Controlled by London Head Office)	1,10,000
(v) Interest received from a non-resident Mr. Rahim, on the loan provided to him for a business carried on in India	50,000
(vi) Income was earned in America and received there, but brought in India	80,000
(vii) Share of income from Indian partnership firm	1,50,000
(viii) Income from house property in India received in America (Computed)	62,000
(ix) Interest on debentures of an Indian company received in Dubai	25,000
(x) Capital Gain on sale of agricultural land situated at Ajmer	48,000

Compute his taxable income, if he is :

(a) Resident (b) Not-ordinarily resident (c) Non-resident.

Solution:

Computation of Total Income of Mr. Rupak for the Assessment Year 2022-23

	<i>Resident</i> ₹	<i>Not-ordinarily resident</i> ₹	<i>Non- Resident</i> ₹
Income received in India			
Profit from business in Japan but received in India	1,20,000	1,20,000	1,20,000
<i>Income accruing and arising in India</i>			
Dividend from an Indian Company (Taxable w.e.f. A.Y. 2021-22]	10,000	10,000	10,000
Profit from business in Pakistan but controlled from India	2,00,000	2,00,000	NIL
Profit from business in Indore	1,10,000	1,10,000	1,10,000
Interest received from a non-resident	50,000	50,000	50,000
Share of profit from a Partnership firm (Exempted)	NIL	NIL	NIL
Income from house property in India but received in America	62,000	62,000	62,000
Interest on debentures of an Indian company but received in Dubai	25,000	25,000	25,000
Capital gain from sale of Agricultural land at Ajmer (Urban Area)	48,000	48,000	48,000
<i>Income accrued and received outside India</i>			
Income earned in America and received there	80,000	NIL	NIL
Total Income	7,05,000	6,25,000	4,25,000

Exempted Income

Income that is non-taxable is called as exempt income. Under Section 10, there are different sub-sections that define what kind of income is exempt from tax.

The term "Exempt Income" refers to ***any income that a person gets or earns throughout the course of a financial year and is judged to be non-taxable***. According to the Income Tax Act, certain sources of income are exempt from taxation as long as they adhere to the rules and regulations established in the Act. Exempted income can take on a variety of shapes, including interest from *agricultural sources*, *PPF interest*, *long-term capital gains from shares and stocks*, and *much more*.

Income Exempted from Tax as Per Section 10

Most income that is exempted from tax is listed under Section 10 of the Income Tax Act. This section contains a list of income that is deemed or considered to be free from taxation. Exempted income specified under Section 10 is as follows:

Sections	Exemptions
10(1)	Agricultural Income
10(2)	Payments received from family income by a member of a HUF
10(2A)	Share of profit from a firm
10(4)	Interest received by a non-resident from prescribed securities
10(5)	Leave travel concession provided by an employer to his Indian citizen employee.
10(6)	Remuneration received by foreign diplomats of all categories.
10(7)	Foreign allowance granted by the Government of India to its employees posted abroad.
10(10AA)	Leave salary.
10(10B)	Retrenchment compensation
10(10CC)	Tax on perquisite paid by employer
10(11)	Any amount from provident fund paid to retiring employee.
10(11A)	Any payment from Sukanya Samriddhi Account.
10(13)	Amount from an approved superannuation fund to legal heirs of the employee.
10(13A)	House rent allowance subject to certain limits.
10(14)	Special allowance granted to an employee
10(16)	Scholarship granted to meet the cost of education

And many others.....

Module 2

INCOME FROM HOUSE PROPERTY

Meaning:

According to Section 22 – “The annual value of property consisting of any building or land appurtenant (attached) thereto of which the assessee is the owner, *other than such portion of the property which he occupies for his business or profession* is chargeable as Income from House Property.

House Property Income = Annual Value of Building – Deductions specified u/s 24

Features:

Following are the important features of income from house property.

1) Building or Land Appurtenant thereto:

The subject matter of this head of income is ***building or land*** attached thereto i.e. situated in the vicinity of the building. Building for this purpose includes houses, bungalows, docks, warehouses, any block of brick or stone covered by a roof but does not include any temporary shed.

2) The assessee should be the owner of the property:

It is only the owner of the house who can be put to tax. Therefore, income from subletting is not a house property income.

3) Annual Value:

The concept of annual value is very important in income from house property because **it is the annual value of the house which is to be taxed** and not the rent recovered.

4) The house is not used for the purpose of Business or Profession:

If the assessee is carrying on business or profession in his own house, then such building or portion of it as the case maybe is not taxed under Income from House Property. It is taxable as business income.

Note:

However, if the business or profession so carried on is not taxable under the head Profits & Gains from Business or Profession, then such house is taxable under Income from House Property.

5) Dispute about ownership:

It is the owner who is liable to pay tax on the income of the house property and in case there is a dispute about ownership the person who receives the rent shall be liable to pay tax till the dispute about ownership is settled.

6) House Property situated in a foreign country:

If an assessee is resident of India and owns a house in a foreign country, income from such a house is taxable in India under the head Income from House Property. So, income from house property of a not ordinary resident and a non-resident shall be exempted but it will be taxable in India if it is received or it is payable in India.

Exempted House Properties:

The incomes from the following house properties are not taxable under Income from House Property or are exempted from tax.

a) Agricultural House Property [Section 2(1)(c)]:

Income from such house property which is situated on or in the immediate vicinity of an agricultural land which is used for agricultural purpose by the cultivator is exempted from tax.

b) House property held for Charitable or Religious Purposes [Section 11]:

Income from a house property held for charitable or religious purpose is exempted from tax.

E.g. rent from shops owned by a temple.

c) Self-occupied but Vacant house[Section 23(3)]:

If the assessee keeps one of his houses reserved for self-occupation but living in a rented house elsewhere then income from such house is taken as nil.

d) One Self-occupied House:

If the assessee owns more than one self-occupied houses, then the annual value of one such house is taken as nil, while the other houses are deemed to be let out.

e) House Property used for own Business or Profession:

Income from such house which is used by the assessee for his own business is exempted provided the profits from the same business or profession is taxable under Profits & Gains from Business and Profession.

f) Property held by Specified Institutions:

Income from house property held by a local authority, university, educational institution, scientific research institution, medical institution/hospital, political party are exempted from tax.

g) House Property held by registered trade union [Section 10(24)]:

Income from a house property owned by a registered trade union is not to be included in its Gross Total Income (G.T.I.).

h) House Property held by Co-operative Society:

If a co-operative society whose gross total income (G.T.I.) does not exceed Rs.20,000/- owns a house, then income from such house is first added to its GTI but then whole of such income is allowed as deduction. Co-operative society for this purpose does not include a housing society, urban consumer co-operative society or society carrying on transporting business.

Some Important Rental Values:

1) Municipal Rental Value (MRV):

The rent specified by the municipality or local authority for a house is called Municipal Rental Value.

2) Fair Rental Value (FRV):

The rent which the house can fairly fetch is called Fair Rental Value. It is ascertained on the basis of the rent of similar type of house on similar localities.

3) Standard Rent (SR):

It is the rent fixed under the Rent Control Act whosoever applicable.

4) Expected Rental Value (ERV):

The rent which is expected to be realised from a house is called Expected Rental Value. It is determined as follows:-

In case standard rent has not been fixed	In case standard rent has been fixed
Municipal Rental Value Fair Rental Value Actual Rent Received Whichever is higher shall be treated as ERV	ERV = MRV or FRV whichever is higher and then compared to Standard Rent (SR) whichever is less.

5) Actual Rent (AR):

The rent which is actually received during the period, had the house been given on rent, is called Actual Rent.

AR = Annual Rent – Unrealised Rent if any.

6) Real Rental Value (RRV):

If the rent received includes common maintenance charges like maintenance of common corridors, charges for lift operators, watchmen, gardener, swimming pool maintenance, then, such charges should be deducted from the actual rent. This rent is called Real Rent. So,

$$\text{Real Rent} = \text{Actual Rent} - \text{Common Maintenance Charges}$$

It is to be done if it is specifically asked in the question.

7) Annual Rental Value (ARV):

Expected Rental Value (ERV) or Actual Rent (AR/RR) whichever is higher is the Annual Rental Value. However, after comparison *loss due vacancy* (if any) should be deducted.

8) Net Annual Value (NAV):

When municipal and local tax actually paid by the owner during the previous year is deducted from Annual Rental Value, we get Net Annual Value. So,

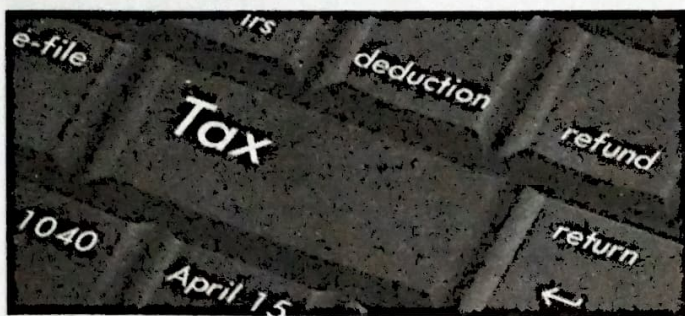
$$\text{NAV} = \text{ARV} - \text{Municipal Tax (paid by owner)}$$

Note: NAV of a self-occupied house is taken as nil.

Deductions u/s 24:

Out of the Net Annual Value, certain deductions are allowed u/s 24 of the Act as follows: -

(Refer book scan for details, file attached)



CHAPTER 5

INCOME FROM HOUSE PROPERTY

CONTENTS

- 5.1. DEFINITION OF HEAD
- 5.2. EXEMPTED INCOMES FROM HOUSE PROPERTY
- 5.3. ANNUAL VALUE
- 5.4. DETERMINATION OF ANNUAL VALUE
- 5.5. DEDUCTIONS U/S 24
- 5.6. TREATMENT OF ARREARS OF RENT RECEIVED OR UNREALISED RENT REALISED
- 5.7. SUMMARY CHART

5.1 DEFINITION OF THE HEAD [SECTION 22]

The income from houses, buildings, bungalows, godowns etc. is to be computed and assessed to tax under the head "Income from house property". The income under this head is not based upon the actual income from the property but upon notional income or the annual value of that building.

House Property Income = Annual Value of Building – Deductions Specified u/s 24

Section 22 of the Income-tax Act says :

The annual value of property consisting of any building or lands *appurtenant* thereto of which the assessee is the owner, other than such portions of such property as he may occupy for the purposes of any business or profession carried on by him the profits of which are chargeable to income-tax, shall be chargeable to income-tax under the head 'Income from house property'.

For income to be taxed as 'Income from house property' the following points should be noted carefully :

1. Building or Land Appurtenant thereto. The scope of this head of income is limited to the income from buildings or lands appurtenant (attached or situated in the vicinity of building) to buildings only. Buildings include residential houses, bungalows, docks, warehouses, any block of bricks or stone work covered by a roof etc. Land which is not appurtenant to any buildings does not come within the scope of this section. In other words, any rent from such land shall not be taxable as house property income but instead it shall be taxable under the head "Other Sources."

2. Annual Value. The meaning of word 'Annual value' is very significant because the annual value of the building or land appurtenant thereto is to be taxed and not the rent received. The annual value is to be determined according to the provisions of section 23 of Income-tax Act. These are discussed later in this chapter.

Annual Value = Annual Rental Value

3. The 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. The tax under this section is in respect of the legal or beneficial owner and not the occupation or possession of house property'. Therefore, income from subletting, will be chargeable under the head 'Income from other sources' and not under house property'. So only the owner, may be legal or deemed owner, is liable to tax under this head of income, unless the house property is used by him for the purposes of his own business or profession. The question of ownership may be noted in the following cases :

- (i) If the land was taken on lease (long time) and a super-structure constructed, the person who takes land on lease will be treated as its owner.
- (ii) Where the property is mortgaged, it is the mortgager alone and not the mortgagee who can be treated as the owner.
- (iii) Where the property was constructed in the name of partnership, it is the firm which is assessable as owner and not the individual partners.
- (iv) A person whose property is vested in the Custodian of Evacuee Property is not the 'owner' thereof for the purposes of this section.
- (v) Where the assessee takes a building on lease and he is deriving some income by subletting or re-letting, this income will be taxable under the head 'Income from other sources' and not under the head 'Income from house property'.
- (vi) In case houses were constructed by a cooperative building society and allotted or leased out to its members, the member shall be deemed to be the owner of the buildings or part thereof, as the case may be.

In one of the cases, Supreme Court decided that the owner must be a person who can exercise the rights of the owner, not on behalf of the owner but as his own right.

Deemed Owner of House Property [Section 27]

According to Section 27 of Income-tax Act the assessee in following cases is deemed to be the owner of the house property, though not owner of the house property :

- (i) An individual who transfers otherwise than for adequate consideration any house property to his or her spouse, not being a transfer in connection with an agreement to live apart or to a minor child not being a married daughter, shall be deemed to be the owner of the house property so transferred.
- (ii) The holder of an impartible estate shall be deemed to be the individual owner of all the properties comprised in the estate.
- (iii) A member of a co-operative society to whom a building or part thereof is allotted or leased under a house building scheme of the society, shall be deemed to be the owner of that building or part thereof.
- (iv) A person who is allowed to take or retain possession of any building or part thereof in part performance of contract of the nature referred to in section 53 A of the transfer of property Act, 1882.
- (v) A person who acquires any rights (Excluding any rights by way of a lease from month to month or for a period not exceeding one year) in or with respect to any building or part thereof, by virtue of a transfer by way of lease for a term of not less than 12 years as per section 269 UA (f) (whether originally or by extension).

4. It is not used for purposes of assessee's business or profession. Where the assessee is carrying on business or profession in his own house, building or in a portion of it and the income of such business or profession, is taxable under the head 'Profits or gains of business or profession', the

annual value in respect of property or portion of it is not taxable under this head of income. As the business is being carried on in the assessee's own premises, so no rent will be allowed as expenditure to the assessee in respect of these premises.

But where the profits of such business or profession are not chargeable to tax, the annual value of the (owned) premises shall be computed and charged under the head 'house property'.

IMPORTANT POINTS

- (i) **House property held as stock in trade.** Where the house property is held by an assessee as stock in trade in the course of carrying on business of purchase and sale of such house property, it (the house property) shall be assessed under the head house property. Thus, the annual value of such house properties shall be chargeable under the head 'Income from house property'.
- (ii) **House property of partner used by firm.** Where a house property owned by a partner is used by the partnership firm for the purpose of its business or profession, the annual value of such house property shall be chargeable in the hands of partner under the head 'Income from house property'. Such a house property cannot be treated as the property used by the partner for his own business or profession.
- (iii) **House property held in the name of business but not actually used for business.** If the house property belongs to business (i.e. held in the name of business but is not actually used for the purpose of business) it is to be assessed under the head 'Income from house property and not under the head 'Income from business or profession.'

5. Dispute about ownership. It is the owner who is liable to pay tax on the income of the house property and in case of a dispute about ownership the person who receives rent shall be liable to pay tax till the dispute about ownership is settled.

6. House Property situated in a foreign country. In case an assessee who is resident of India owns a house in a foreign country, income from such a house is taxable in India under the head house property. So income from house property in case of not ordinary resident and a non resident shall be exempted but again it will be taxable in India if it is received or it is payable in India.

7. Cases when rental income from building is not treated as house property income

(i) **Letting out of house property for smooth conduct of assessee's business/profession.** If a person lets out any house property for smooth conduct of his business/profession, the rental income from such house property shall not be treated as house property income rather it shall be treated as income under the head business/profession.

Example 1. Quarters let out to the employees of assessee's own business or profession.

Example 2. Building let out to a Bank, Post Office, Police Station, Excise department or Police department etc.

Similarly, if a person carrying on any business/profession lets out his house property to a Bank, Post Office, Police Station, Excise Department or other department and the main purpose of letting is not to earn rental income but to facilitate its own business/Profession, the rental income shall not be taxable as house property income rather it will be treated as business income of the person.

(ii) **Income from sub-letting of house property.** If a person occupies a building as tenant and lets out full or part of the hired building to another person, it is called sub-letting. The income from sub-letting, if any, is taxable under the head 'income from other source' and not under the head 'house property'. It is so because the person sub-letting the building is not the owner of that building. Such income is calculated as per section 56 after deducting all the expenses relating to sub-let portion.

(iii) **Composite letting out of building along with furniture etc.** If a person lets out building along with furniture, plant, machinery and other facilities etc., for a composite rent and such composite rent can not be separated between (a) rent of building and (b) rent of other items/facilities then such

composite rent shall be treated either as income under the head other sources or an income under the head business or profession, if such letting is the business of the assessee.

However, if such composite rent can be split up in parts and rent of building can be separately known, then such rent shall be treated as house property income and rent of other items/facilities shall be taxable as other source income/business or profession income.

(iv) **Income from hotel business/paying guest accomodation.** If a person runs the hotel business or runs the business of providing paying guest accomodation, such rental income shall be taxable as income under the head Business/Profession.

However, if a person has a building in the nature of a hotel and he lets out such building as such to another person for carrying on hotel business, such rental income shall be taxable as 'income under the head house property'.

Illustration 1

Mr. Rama Rao had taken a shop on rent at monthly rent of ₹ 2,000. He has sub-let 25% of the area to Mr. D.K. Rai @ ₹ 1,000 p.m. He incurred ₹ 4,000 on repairs of the shop. Calculate his income from sub-letting.

Solution

Income from other sources : sub-letting		₹
Rent Received @ ₹ 1,000 p.m.		12,000
Less : Actual expenses relating to sub-let portion	₹	
Rent paid (25% of ₹ 24,000)	6,000	
Repairs (25% of ₹ 4,000)	<u>1,000</u>	<u>7,000</u>
Income from sub-letting		<u>5,000</u>

Q. No. 1

Mr. Sudhakar Rao hired a house of 5 rooms at ₹ 5,000 p.m. He paid ₹ 6,000 as Municipal Taxes and spent ₹ 5,000 on the repair of the house. He has sub-let 2 rooms at the rate of ₹ 3,000 p.m. to his friend Mr. Prabhakar Rao. Compute income from sub-letting.

[Hints : Income from subletting ₹ 7,600]

5.2 EXEMPTED INCOMES FROM HOUSE PROPERTY

Under section 10 of the Income-tax Act 1961 following incomes from house property are exempted from tax. These incomes are not to be included in the total income of assessee. Hence no tax is payable on such incomes.

These incomes are :

1. Agricultural House Property [Section 2(1)(c)]. Income from such house property which is situated on or in the immediate vicinity of agricultural land which is used for agricultural purposes by cultivator is exempted from tax.

2. House property held for charitable purposes [Section 11]. Any income from a house property held for charitable or religious purposes e.g., rent from shops owned by a temple is also exempted.

3. Self-occupied but vacant house [Section 23(3)]. In case an assessee keeps one of his own houses reserved for self-occupation but is living in a rented house elsewhere due to his employment or profession the income from such house is taken to be nil.

4. House used for own business or profession. There is no income chargeable to tax under this head from such house property.

5. Property held by resistered trade union [Section 10(24)]. Income from a house property owned by a resistered trade union is not to be included in its G.T.I.

6. Income from house property held by following shall be exempted

- (i) House property held by a local authority.
- (ii) House property held by a scientific research institution.
- (iii) House property held at a political party.
- (iv) House property held by a university and any other educational institution working for spreading education and not to earn profit.
- (v) House property held by a hospital or medical institution working for the spreading of medical services to people and are not meant for earning profit.

7. One house property (a palace) owned by a former ruler of Indian states. Ex-rulers of Indian states may be owning many palaces but only one palace of their choice shall be treated as a self occupied house and shall be exempted.

8. Two self occupied houses. In case assessee owns more than one self occupied residential houses, the net annual value of any two houses shall be taken as nil but in case he owns more than two houses, then only two of his choice but normally of higher value shall be treated as self occupied ones and other/others are treated as deemed to be let out houses.

9. House Property held as Stock-in-Trade and not let out during the previous year [Section 23(5)]. Where any house property (building and land appurtenant thereto) is held as stock-in-trade and the property is not let during the whole or part of the year. The annual value of such property shall be taken as nil for the period upto two years (one year upto A.Y. 2019-20) from the end of the financial year in which the certificate of completion is obtained.

In case of a Cooperative Society

Income from following house properties is includible in Gross Total Income but a deduction is allowed from the Gross Total Income.

1. Income from any other Property [Section 80P(2)(b)]. In case the gross total income of a co-operative society does not exceed ₹ 20,000, any income derived by it from house property and included in its gross total income, the whole of such income is allowed as deduction while computing its total income. Co-operative society in this case should not be a housing society or an urban consumer's co-operative society or a society carrying a transport business.

2. Letting out of godown by co-operative societies [Section 80P(2)(c)]. If a co-operative society lets out godowns or warehouses for storage, processing or facilitating the marketing of commodities, the whole of its income derived from letting out of houses or storages etc. is deductible in computing its total income.

5.3 ANNUAL VALUE

The term annual value is very important as calculation of income from house property depends upon correctly calculated annual value. It takes into consideration not only the rent received but also the expected rent a house can fetch under the given situation and not only once but from year to year.

Definition of Annual Value [Section 23]

1. For the purposes of section 22, the annual value of any property shall be deemed to be :
 - (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 in respect thereof is in excess of the sum referred to in clause (a), the amount so received or receivable ; or
 - (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 owing to such vacancy the actual rent received or receivable by the owner in respect thereof is less than the sum referred to in clause (a), the amount so received or receivable :

Provided that the taxes levied by any local authority in respect of the property shall be deducted (irrespective of the previous year in which the liability to pay such taxes was incurred by the owner according to the method of accounting regularly employed by owner in determining the annual value of the property of that previous year in which such taxes are actually paid by him.

Explanation. For the purposes of clause (b) or clause (c) of this sub-section, the amount of actual rent received or receivable by the owner shall not include, subject to such rules as may be made in this behalf, the amount of rent which the owner cannot realise.

2. Where the property consists of a house or part of a house which
 - (a) is in the occupation of the owner for the purposes of his own residence ; or
 - (b) cannot actually be occupied by the owner by reason of the fact that owing to his employment, business or profession carried on at any other place, he has to reside at that other place in a building not belonging to him the annual value of such house or part of the house shall be taken to be nil.
3. The provisions of sub-section (2) shall not apply if :
 - (a) the house or part of the house is actually let during the whole or any part of the previous year ; or
 - (b) any other benefit there from is derived by the owner.
4. Where the property referred to in sub-section (2) consists of more than one house :
 - (a) the provisions of that sub-section shall apply only in respect of one of such houses, which the assessee may, at his option, specify in this behalf.
 - (b) the annual value of the house or houses, other than the house in respect of which the assessee has exercised an option under clause (a), shall be determined under sub-section (1) as if such house or houses had been let."

Section 23(1) of Income-tax Act has defined the word 'annual value', as "the sum for which the property might reasonably be expected to let from year to year". The annual value is the value which any house can fetch from the market under the prevailing circumstances such as local conditions, the demand for house, municipal valuation, type and standard of construction, rent for similar type of house in the similar type of locality, etc. From the explanation it should be clearly understood that the annual value does not mean the rent derived or rental value of the house but the notional rent at which the house can reasonably be let out. A property can be let out at a rent which is lower than its reasonable rent but its annual value will be its reasonable rent.

The Finance Act 2001 has changed the definition of the, *Annual value* as under :

In case of a let out house property, section 23(1) has defined this term as follows :

1. Where the house property or any part of it is let out, any sum of money received or receivable in the previous year or from year to year shall be treated as annual value.
2. Where any house property is let out and the rent received or receivable is in excess of the sum referred above {in point (1)}, the sum of money so received or receivable shall be treated as annual value.
3. Where a let out house property remains vacant during the previous year or during any part of the previous year and due to vacancy the actual rent received or receivable is less than the sum of money referred above in point (1), the sum of money so received or receivable shall be treated as annual value.

Different Types of Rental Values

1. Actual Rent. It is the rent actually received by the owner of the house property from the tenant. In case tenant pays composite rent i.e. rent of building, plant and machinery, furniture etc. and rent is separable, actual rent is reduced by the amount of rent of plant and machinery, furniture. etc. Balance

is actual rent of house property. Any amount of local taxes paid by tenant, cost of repairs borne by tenant or any interest on advance deposit are not to be added.

As per explanation attached to section 23(1) for the purposes of calculating Annual Value the actual rent received or receivable shall not include any amount of unrealised rent if it fulfils certain conditions.

2. Real Rental Value [RRV]. In case cost of common facilities such as lift and pump maintenance, salary of common gardener and watchman, lighting of common stairs and corridors and water and electricity bills (if included in rent) are borne by the owner and rent includes the cost of these items. Such cost is reduced out of actual rent received and balance is called **Real Rental Value (R.R.V.)**.

In case cost of following facilities is borne by the owner it shall be deducted out of actual rent before comparing it with other rental values.

- (a) Lift and pump maintenance charges,
- (b) Swimming pool maintenance charges,
- (c) Salary of common gardener and watchman,
- (d) Lighting of common stairs and corridors
- (e) Water and electricity charges (only if it is mentioned that rent includes them).

In case the cost of facilities is charged separately by owner *i.e.*, over and above the rent, it is treated as a separate source of income. The expenses incurred on such facilities are deducted out of amount so collected and balance (Income/Loss) is taxable **under the head, "Income from Other Sources."**

In case house property is divided in parts and a part is let out and other part is self-occupied, the fair rental value of the house shall be proportionately increased in following manner :

Example : Mr. X owns a house, 2/3rd portion of the house is let out @ ₹ 4,000 p.m. and remaining 1/3rd portion is self occupied for 7 months and let out for 5 months. Calculate its fair rental value.

Rent of 2/3rd portion of house

₹ 4,000 p.m.

Fair rental value of full house shall be ₹ 4,000 × 3/2 =

₹ 6,000 p.m.

Illustration 2

Mr. S. Pratihari has constructed a multistory building at Delhi consisting of 40 flats. Each flat is let out @ 1,000 p.m. The municipal authorities have fixed the rental value of this property as ₹ 4,50,000 p.a. The owner bears the following expenses :

	₹
(i) Lift maintenance	12,000 p.a.
(ii) Pump maintenance	8,000 p.a.
(iii) Salary of Gardener and Watchman	3,600 p.a.
(iv) Swimming pool expenses	9,000 p.a.

Compute the Annual Rental Value for the property.

Solution

Computation of Annual Rental Value

	₹	₹	₹
Municipal Rental Value			4,50,000
Actual Rent (40 × 1,000 × 12)		4,80,000	
Less : Lift maintenance	12,000		
Pump maintenance	8,000		
Salary of Gardener and Watchman	3,600		
Swimming pool exp.	9,000	32,600	4,47,400

Whichever is higher is ARV *i.e.* Municipal Rental Value of ₹ 4,50,000 shall be taken as ARV.

Q. No. 2

Compute Annual Rental Value in following case :

(i) Municipal Rental Value	₹ 48,000 p.a.
(ii) Actual Rent received	50,000 p.a.
(iii) Lift and pump maintenance charges paid by owner	6,000 p.a.
(iv) Salary of common gardener and watchman paid by tenants to the owner	500 p.m.

and actual expenses incurred by the owner during the year are ₹ 4,200

[Hints : ARV ₹ 48,000 ; Income from other sources ₹ 1,800]

3. Municipal Rental Value (MRV). For the purposes of levying local taxes the local authority i.e. Municipal Corporation/Committee etc. conducts a periodical survey of the house properties in their local limits. On the basis of such survey the rental values are fixed which serves as the basis for levying tax. The rental value so fixed is called **Municipal Rental Value (M.R.V.)**.

4. Fair Rental Value [FRV]. It is the rental value a house property can fetch. It is based on the rent prevailing for similar type of accommodation in same or similar type of locality. It is based on the principle that rent prevailing in same locality for similar sized property is almost the same. Such rental value is called **Fair Rental Value (F.R.V.)**.

5. Standard Rent [S. RENT]. The rent fixed under Rent Control Act, where so ever applicable, is called **Standard Rent**.

6. Expected Rental Value (ERV). The expected rental value shall be determined as under :

A. In case standard rent has not been fixed

- (i) Municipal Rental Value
- (ii) Fair Rental Value
- (iii) Actual Rent Received.

Whichever higher shall be treated as expected rental value.

B. In case standard rent has been fixed

- (i) Municipal Rental Value
- (ii) Fair Rental Value
- (iii) Standard Rent.

In case standard rent has been fixed, the expected rent cannot exceed standard rent. So firstly compare Municipal rental value and fair rent and find out the higher one and the amount so calculated cannot exceed amount of standard rent but if actual rent received is more than standard rent, then actual rental value shall be treated as expected rental value.

In a Supreme Court decision, it has been clearly laid down that the expected rent cannot exceed the standard rent but it can be less than the standard rent. *Balbir Singh v/s MCD (1985) 152 ITR 388(SC)*.

Illustration 3

From the figures given below calculate the Expected Rental Value in each case separately :

Rental value	Case A	Case B	Case C
	₹	₹	₹
MRV	30,000	30,000	30,000
FRV	36,000	36,000	36,000
Standard Rent	N.A.	33,000	42,000

Solution**Calculation of Expected Rental Value****A. Standard Rent is not applicable**

MRV

₹

30,000

FRV	36,000
Whichever is higher is ERV	36,000
B. Standard Rent is applicable i.e., Standard rent is given	₹
MRV	30,000
FRV	36,000
Whichever is higher	36,000

This figure is more than the Standard Rent which is ₹ 33,000 and the ERV cannot exceed the Standard Rent, as such the Standard Rent of ₹ 33,000 shall be ERV

C. Standard Rent is applicable	₹
MRV	30,000
FRV	36,000
Whichever is higher	36,000

This figure is less than the Standard Rent which is ₹ 42,000 as such this figure of ₹ 36,000 is ERV.

The above illustration is based on the judgment given by the Hon'ble Supreme Court of India in a case *Balbir Singh vs. MCD [1985] 152ITR 388(SC)*. According to this case ERV cannot exceed Standard Rent but it can be less than or equal to the Standard Rent except when Real Rent is more than Standard Rent.

Q. No. 3

Compute Expected Rental Value (ERV)

(a) Mr. R has a house at Pune where Rent Control Act is applicable. Its MRV is ₹ 1,08,000 p.a. and FRV is ₹ 1,20,000 p.a. Standard Rent is ₹ 1,02,000.

(b) In above case what difference it will make if Rent Control Act is not applicable and Standard Rent is not given.

[Hints : (a) ERV ₹ 1,02,000 ; (b) ERV ₹ 1,20,000]

5.4 DETERMINATION OF ANNUAL VALUE

The annual value of house property can be determined in following manner in different type of situations. These situations are :

A. Annual Value of Let out House Property

1. House property is let out for full year and there is no vacancy or unrealised rent ;
2. House property is let out and there is vacancy :
 - (a) If rent actually received or receivable is more than ERV ;
 - (b) If rent actually received or receivable is less than ERV.
3. House property is let out and there is unrealised rent :
 - (a) If rent actually received or receivable (after deducting unrealised rent as per conditions given) is more than ERV ;
 - (b) If rent actually received or receivable (after deducting unrealised rent as per conditions given) is less than ERV.
4. House Property is let out, there is vacancy also and there is unrealised rent.
5. House Property is let out for a part of the year because it is either purchased or constructed during the previous year.

B. Annual Value of Self-Occupied House Property

1. Only two houses under own occupation.
2. More than two houses under own occupation.

3. House property consists of various independent units and two are under own occupation and others are let out.
4. House property is partly let out and partly self under own occupation.
5. House property is used for own business or profession.

(A) Selection of Annual Rental Value (Gross Annual Value) for Let Out House Property

A-1. House property is let out for full year and there is neither vacancy nor unrealised rent

Step I. Compare MRV with FRV and whichever is higher is compared with Standard Rent and whichever is less is ERV.

Step II. (i) If actual rent received or receivable is more than ERV (Expected Rental Value) such rent received or receivable is Annual Rental Value (ARV).

(ii) If actual rent received or receivable is less than ERV (Expected Rental Value) such ERV is Annual Rental Value (ARV) and step II is not applicable.

(a) This rule is applicable only if property is actually let out and not in case of deemed to be let property.

(b) This rule is applicable only if there is no unrealised rent.

(c) Taxes paid by tenant, cost of repairs borne by tenant, or interest on deposit made by tenant are not to be added back.

Illustration 4

Calculate ARV from the particulars given below :

MRV ₹ 60,000 p.a. FRV ₹ 66,000 p.a.

A. If Actual Rent is ₹ 72,000 p.a. and Standard Rent is ₹ 69,000 p.a. or

B. If Actual Rent is ₹ 63,000 p.a. and Standard Rent is ₹ 69,000 p.a.

Solution A If actual rent is ₹ 72,000

	₹
MRV	60,000
FRV	66,000
whichever is higher	66,000 or
Standard Rent	69,000
whichever is less is ERV	66,000
But in this case actual rent is higher hence Actual rent is ARV i.e.	72,000
	72,000

Solution B If actual rent is ₹ 63,000

	₹
MRV ; or	60,000
FRV	66,000
whichever is higher ; or	66,000
Standard Rent	69,000
whichever is less is ERV i.e.	66,000
Actual Rent	63,000
is less than ERV as such ERV is ARV	66,000

Illustration 5

Calculate Gross Annual Value from following information :

	House-A	House-B
MRV	80,000	80,000
FRV	1,00,000	1,00,000
Standard Rent	70,000	1,20,000
Actual Rent	1,20,000	90,000

It is assumed that both the houses were let out throughout the year and there was also no unrealized rent.

Solution

Computation of Gross Annual Value

	House-A	House-B
MRV	80,000	80,000
FRV	1,00,000	1,00,000

w.e. is higher	1,00,000	1,00,000
Standard Rent	70,000	1,20,000
w.e. is less is Expected Rent	70,000	1,00,000
Actual Rent Received	1,20,000	90,000
w.e. is higher is Gross Annual Value	1,20,000	1,00,000
Therefore, Gross Annual Value		

Q. No. 4

From the particulars given below, compute ARV in each case separately

	A.	B.	C.	D.
	₹	₹	₹	₹
MRV	60,000	48,000	36,000	96,000
FRV	75,000	60,000	45,000	1,16,000
Real Rent	69,000	54,000	40,000	1,20,000
Standard Rent	Not Applicable	72,000	42,000	1,15,000

[Hints : ARV Case [A] ₹ 75,000 ; [B] ₹ 60,000 ; [C] ₹ 42,000 and [D] ₹ 1,20,000]

A-2. House property is let out and there is vacancy

A. If house property was vacant for full year the ARV is taken as NIL.

B. If house property was vacant for part of the year

(i) If rent actually received or receivable is more than ERV

Step I. Compare MRV with FRV and whichever is higher is compared with Standard Rent and whichever is less is ERV.

Step II. If rent actually received or receivable for full year is more than ERV (Expected Rental Value) such rent received or receivable is Annual Rental Value (ARV).

Step III. Such ARV is reduced by loss due to vacancy i.e. an amount of actual rent in proportion of vacancy.

(ii) If rent actually received or receivable is less than ERV

Step I. Compare MRV with FRV and whichever is higher is compared with Standard Rent and whichever is less is ERV.

Step II. If rent actually received or receivable for full year is less than ERV (Expected Rental Value) then ERV so calculated shall be treated as Annual Rental Value (ARV).

Step III. Such ARV is reduced by loss due to vacancy i.e. an amount of actual rent in proportion of vacancy.

Illustration 6

Calculate ARV from the particulars given below :

MRV	₹ 60,000 p.a.	Actual Rent	₹ 7,000 p.m.
FRV	₹ 66,000 p.a.	Standard Rent	₹ 69,000 p.a.

(a) House was vacant for full year during the previous year 2021-22.

(b) House was vacant for two months during the previous year 2021-22.

(c) Actual Rent of the house is ₹ 4,000 p.m. and was vacant for two months.

Solution A**Calculation of ARV**

As the house property was vacant for full year during previous year 2021-22 hence its ARV is NIL.

Solution B. Calculation of ARV

	₹
MRV	60,000 or
FRV	66,000

Solution. Calculation of ARV

	₹
MRV	60,000 or
FRV	66,000

whichever is higher is taken ;	66,000	or	whichever is higher is taken ;	66,000	or
Standard Rent	69,000		Standard Rent	69,000	
whichever is less is ERV	66,000		whichever is less is ERV i.e.	66,000	
Actual Rent for full year	84,000		Actual Rent for full year	48,000	
It is more than ERV	66,000		It is less than ERV	66,000	
∴ Actual rent is ARV i.e.	84,000		So ERV is ARV	66,000	
Less : Loss due to vacancy			Less : Loss due to vacancy		
[84,000 × 2/12]	<u>14,000</u>		[48,000 × 2/12]	<u>8,000</u>	
Annual Rental Value	<u>70,000</u>		Annual Rental Value	<u>58,000</u>	

A-3. House Property is let out and there is unrealised rent

(i) If rent actually received or receivable (after deducting unrealised rent as per conditions given below) is more than ERV :

Step I. Compare MRV with FRV and whichever is higher is compared with Standard Rent and whichever is less is ERV.

Step II. If rent actually received or receivable (after deducting unrealised rent as per conditions given below) is more than ERV (Expected Rental Value) such rent received or receivable is Annual Rental Value (ARV).

IMPORTANT POINTS

If following conditions are fulfilled, the amount of unrealised rent shall be deducted out of actual rent received :

- that the tenancy is bonafide ;
- that the tenant has vacated the house or steps have been taken to get the house vacated ;
- the tenant is not occupying any other house owned by the assessee ; and
- that all efforts to realise the rent have failed or the assessing officer is satisfied that there is no way to recover the rent ;
- unrealised rent of earlier years is not deductible.

Illustration 7

Calculate the ARV from the particulars given below :

Actual Rent	₹ 7,000 p.m.	MRV	₹ 60,000 p.a.
FRV	₹ 66,000 p.a.	Standard Rent	₹ 69,000 p.a.

During previous year 2021-22 assessee could not realise rent for two months.

Solution

Calculation of ARV

MRV	₹
FRV	60,000
whichever higher is	66,000
Standard Rent	66,000 or
whichever is less is ERV is i.e.	69,000
Actual rent [₹ 84,000 less unrealised rent (₹ 7,000 × 2 = 14,000)]	66,000
Actual rent is more than ERV	70,000
Hence such actual rent is ARV	70,000

(ii) If rent actually received or receivable (after deducting unrealised rent as per conditions given) is less than ERV :

Step I. Compare MRV with FRV and whichever is higher is compared with Standard Rent and whichever is less is ERV.

Step II. If rent actually received or receivable (after deducting unrealised rent as per conditions given) is less than ERV (Expected Rental Value) such ERV is treated as Annual Rental Value (ARV).

Illustration 8

Calculate the ARV from the particulars given below :

Actual Rent	₹ 6,000 p.m.	MRV	₹ 60,000 p.a.
FRV	₹ 66,000 p.a.	Standard Rent	₹ 69,000 p.a.

During the previous year 2021-22 assessee could not realise rent for two months.

Solution

Calculation of ARV

MRV	₹ 60,000 or
FRV	66,000
whichever higher is	66,000 or
Standard Rent	69,000
whichever is less is ERV i.e.	66,000
Actual Rent	60,000
[₹ 72,000 less unrealised rent (₹ 6,000 × 2 = 12,000)]	
Actual rent is less than ERV	
Hence such ERV is treated as ARV i.e.	66,000

A-4. House property is let out, there is both vacancy and unrealised rent

Step-I. Compare MRV with FRV and whichever is higher is compared with Standard Rent and whichever is less is ERV.

Step-II. If rent actually received or receivable for full year (after deducting unrealised rent as per conditions given) is more than ERV (Expected Rental Value) such rent received or receivable is Annual Rental Value (ARV).

Step-III. Such ARV is reduced by an amount of actual rent in proportion of vacancy. Firstly deduct unrealised rent out of annual rent received/receivable and compare and take the higher one and then deduct the loss due to vacancy and the value so arrived at shall be the gross annual value.

Step-IV. If rent actually received or receivable (after deducting unrealised rent and vacancy as per conditions given) is less than ERV, such ERV is ARV.

Illustration 9

(a) Calculate ARV from the particular given below :

Actual Rent	₹ 7,000 p.m.	MRV	₹ 60,000 p.a.
FRV	₹ 66,000 p.a.	Standard Rent	₹ 69,000 p.a.

Assessee could not realise rent for two months and house also remained vacant for 2 months during the previous year 2021-22.

(b) What difference it would make if every thing else remaining the same but actual rent received is ₹ 6,000 p.m.

Solution A Calculation of ARV if actual rent is ₹ 7,000 p.m.

	₹
MRV	60,000
FRV	66,000
whichever is higher is	66,000 or
Standard Rent	69,000
whichever is less is ERV i.e.	66,000 or

Solution B Calculation of ARV if actual rent is ₹ 6,000 p.m.

	₹
MRV	60,000
FRV	66,000
whichever is higher is	66,000 or
Standard Rent	69,000
whichever is less is ERV	66,000 or

Taxes levied by local authority and paid by owner

(a) House Tax	6,000 p.a.
(b) Sanitation Cess	1,000 p.a.

B. Date of completion 1-6-2021

Rent Received @ ₹ 4,000 p.m.	40,000
Municipal Rental value	36,000 p.a.

Municipal Taxes are 10% of MRV

He paid 50% of taxes during the year 2021-22.

Solution

Computation of Net Annual Value

A. For full year as house was completed in 2020-21	₹	₹
Municipal Rental value	60,000	
Actual Rent Received	72,000	
Whichever is higher is ARV		72,000
Less : Local Taxes :		
(i) House Tax	6,000	
(ii) Sanitation Cess	1,000	7,000
Net Annual value		65,000

Note : Since house was completed in the previous year 2020-21, so for the previous year 2021-22, net annual value for the full year is to be calculated.

B. Date of Completion 1-6-2021 [For 10 months]	₹	₹
Municipal Rental Value [10 months]	30,000	
Annual Rent [10 months]	40,000	
Whichever is higher is ARV. Hence, ARV is		40,000
Less : Municipal taxes (actually paid by owner) 50% of $(3,600 \times 10/12)$		1,500
Net Annual Value		38,500

Note : House is completed in the current previous year, so net annual value is to be calculated only for the period after completion, i.e., for 10 months only.

Q. No. 6

Mr. D owns a house at Vijay Nagar and submits the following particulars :

	₹
Rent Received	1,75,000
Standard Rent	1,60,000
Municipal Valuation	1,70,000
Fair Rental Value	1,72,000
Municipal Taxes	12% of MRV + 2% of Municipal taxes as Sanitation Surcharge

Compute the net annual value

[Hints : Net Annual Value ₹ 1,54,192]

(B) Selection of Annual Rental Value for Self-Occupied House Property

B-1. Only two Houses under own Occupation. Annual value is taken as nil.

B-2. More than two houses under own occupation. Annual value of two such houses is taken as NIL and other house/houses are deemed to be let out.

B-3. House Property consists of various independent units and two are under own occupation and others are let out. Annual value of two units is taken as NIL and other unit/units are treated as let out.

B-4. If house property is partly let out and partly self-occupied, it is to be treated as :

(a) if units are inseparable and it is treated as one house then no benefit of self-occupation shall be allowed;

(b) if units are separable, each unit or part is to be treated as a separate house and it shall get respective treatment.

B-5. House property is let out for part of the year and under own self-occupation for part of the year. Whole property is treated as let out house property and no benefit of self-occupancy shall be allowed. But actual rent is taken only for number of months house property is actually let out. As such it gets the same treatment as is for unrealised rent.

Illustration 13

Mr. P owns a house at Chandigarh. This house property is used in following manner :

1/3rd of the house is used for own business,

1/3rd of the house is used for own residence,

1/3rd of the house is used by a tenant to whom it is let out @ ₹ 3,000 p.m. and it was self-occupied for one month during the previous year. The municipal rental value of the house is ₹ 96,000 p.a. on which municipality levies 10% tax. These taxes are paid by the occupants. Compute net annual value of the house property for the previous year 2021-22 if **each portion is an independent unit.**

Solution

Computation of net annual value

	₹	₹
Unit A. 1/3rd portion used for own business-NAV is		NIL
Unit B. 1/3rd portion used for own residence-NAV is		NIL
Unit C. 1/3rd portion let out for 11 months & self-occupied for 1 month		
Actual rent received for 11 months	33,000	
MRV [96,000 × 1/3]	32,000	
whichever is higher is ARV i.e.	33,000	
Less : Municipal taxes paid by the owner	<u>NIL</u>	
Net Annual Value of let out portion		33,000
Net Annual value of house property		<u>33,000</u>

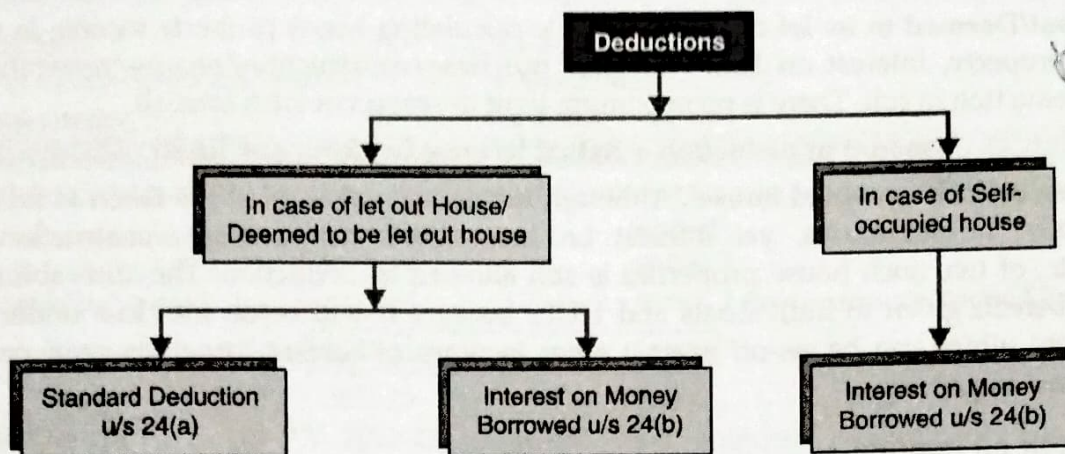
[In the above case rent is taken for 11 months as actual rent realised is only for 11 months]

B-6. House property is used for own business or profession. It is not treated under the head house property and NAV is taken as NIL. No rent can be debited under the head Profits and Gains.

B-7. Owner of a house occupies a house not in the capacity of its owner. There can be a situation in which the owner of a house is occupying his own house not in the capacity of its owner but in another capacity. For example, the owner of the house lets out his house to his employer on rent and the employer allots the same house to his employee as rent free accommodation. Here, the owner lets out his house on rent and earns income and such income shall be treated under the head 'house property' and the benefit of self-occupancy (i.e., reducing net annual value to NIL) shall not be available to such an owner of house.

5.5 DEDUCTIONS U/S 24

While calculating house property income, deductions are allowed out of net annual value (NAV). These deductions are as follows.

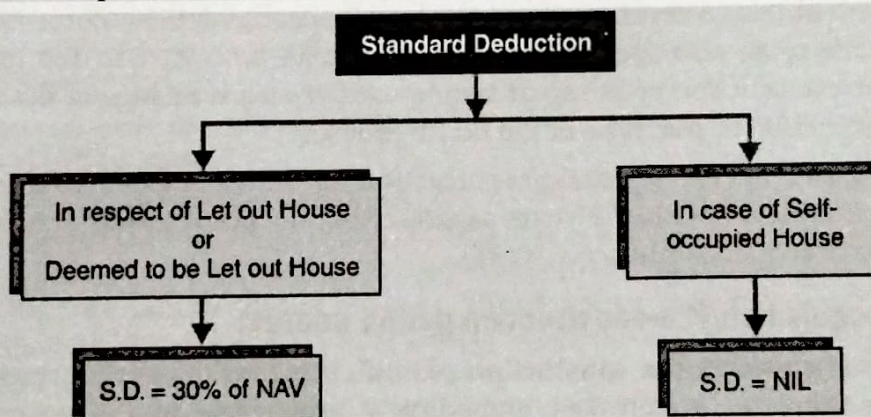


(1) Standard Deduction [Sec. 24(a)]

It is an adhoc/flat deduction available out of net annual value in respect of certain expenses of the owner of the house property connected with earning of rental income like rent collection charges, insurance of house, repair of house, etc. It is allowed @ 30% of 'net annual value'.

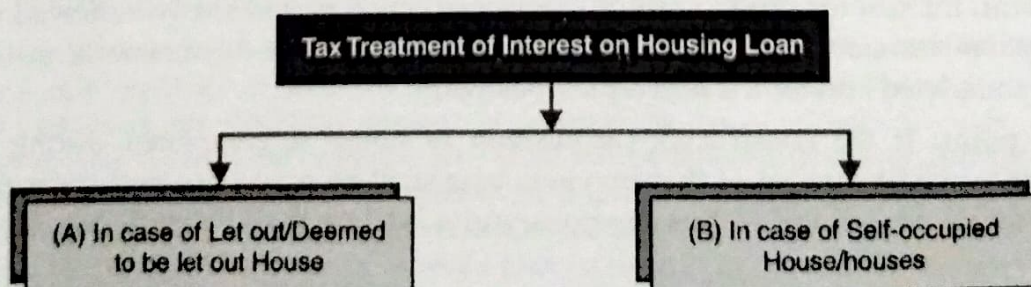
Note. (1) Actual expenses incurred by the owner of house property are not to be considered. The Standard deduction is available even if the owner has not incurred any expense for earning rental income.

(2) No Standard deduction is allowed in respect of self-occupied house property because net annual value of self-occupied house is taken as NIL. Thus,



(2) Interest on 'Housing Loan' [Section 24(b)]

Housing loan means loan taken/amount borrowed for purchase, construction, repairs or renovation, etc. of house property. Interest paid/payable on housing loan is allowed as deduction while computing house property income. It is important to note that while calculating house property income in respect of let out house property/deemed to be let out house property, there is no maximum limit on interest, however, (while calculating house property income) in respect of self-occupied house/houses, there is a maximum limit upto which interest can be claimed as deduction. The tax treatment of interest on housing loan can be explained as follows :



(A) Let out/Deemed to be let out house. While calculating house property income in respect of such house property, interest on loan taken for purchase/construction/repairs/renovation etc. is allowed as deduction in full. There is no maximum limit in respect of such interest.

Amount of deduction = Actual interest (without any limit)

(B) In case of 'Self-occupied house'. Although net annual value (NAV) is taken as nil in respect of self-occupied house/houses, yet interest on loan taken for purchase/construction/repairs/renovation etc. of two such house properties is still allowed as deduction. The allowability of such interest is a benefit given to individuals and HUFs because it will result into loss under the head house property which can be set-off against other incomes of current 'previous year' or of future 'previous years' as per rules.

Maximum limit on interest

(1) If loan is taken before 1-4-99. Interest on loan is allowed upto a maximum of ₹ 30,000. The purpose of loan may be construction/purchase/repair/renovation/extension, etc.

(2) If loan is taken on or after 1-4-99. (a) For purchase/construction of self-occupied house/houses. Interest on loan is allowed upto a maximum of ₹ 2,00,000 provided the following conditions are fulfilled.

- (i) The construction or acquisition of house property (may be one or two such self occupied houses or flats or units) is completed within 5 years from the end of the financial year in which capital was borrowed; and
- (ii) The borrower obtains a certificate from the lender specifying the amount of interest payable. The certificate must also specify the purpose of loan, i.e., whether the loan was taken for purchase or construction of house or two houses or as a refinance of the earlier loan taken for the construction or purchase of the house/houses.

(3) For repairs etc. or for purchase/construction of house property if such acquisition/construction is not completed within 5 years as prescribed in point 2(i) above. Interest on loan is allowed as deduction upto a maximum of ₹ 30,000.

Treatment of Pre-acquisition/Pre-construction period Interest

Meaning of 'Pre-acquisition/pre-constuction period'. It means the period starting from the date of borrowing and ending on March 31st immediately preceeding to the year of completion of construction/acquisition.

For example, Mr. A has taken a loan on 1-4-2018 for construction of a house and the construction was completed on 1-07-2020.

In this case, pre-construction period shall be the period starting from 1-04-2018 and ending on 31-3-2020 i.e. previous years 2018-19 and 2019-20.

Important point. The period from 1-04-2020 to 30-06-20 shall not be included in the pre-construction period as house has been completed in this previou year.

Tax treatment. Interest for pre-acquisition/pre-construction period shall be allowed as deduction in 5 equal instalments starting from the previous year in which the house is acquired or the construction is completed and for the next 4 previous years.

Important point. If the construction/acquisition of house is completed during a particular previous year then whole interest of that previous year shall be treated as post-construction period interest. In other words, no part of that previous year's interest shall be treated as 'pre-acquisition period interest'.

Date of loan	= 1-4-2018
Date of completion of construction	= 30-6-2020
Annual interest	= ₹ 50,000
Current previous year	= 2021-22

Calculate pre-acquisition and post-acquisition period interest for previous year 2021-22.

	Previous year	Interest	
Pre-acquisition period ←	2018-19	50,000	Pre-construction period interest
	2019-20	50,000	
Construction completed ←	2020-21	50,000	
	2021-22	50,000	

Deduction of Interest for P.Y. 2021-22 = Current Year Interest + 1/5th of Pre-construction Period Interest

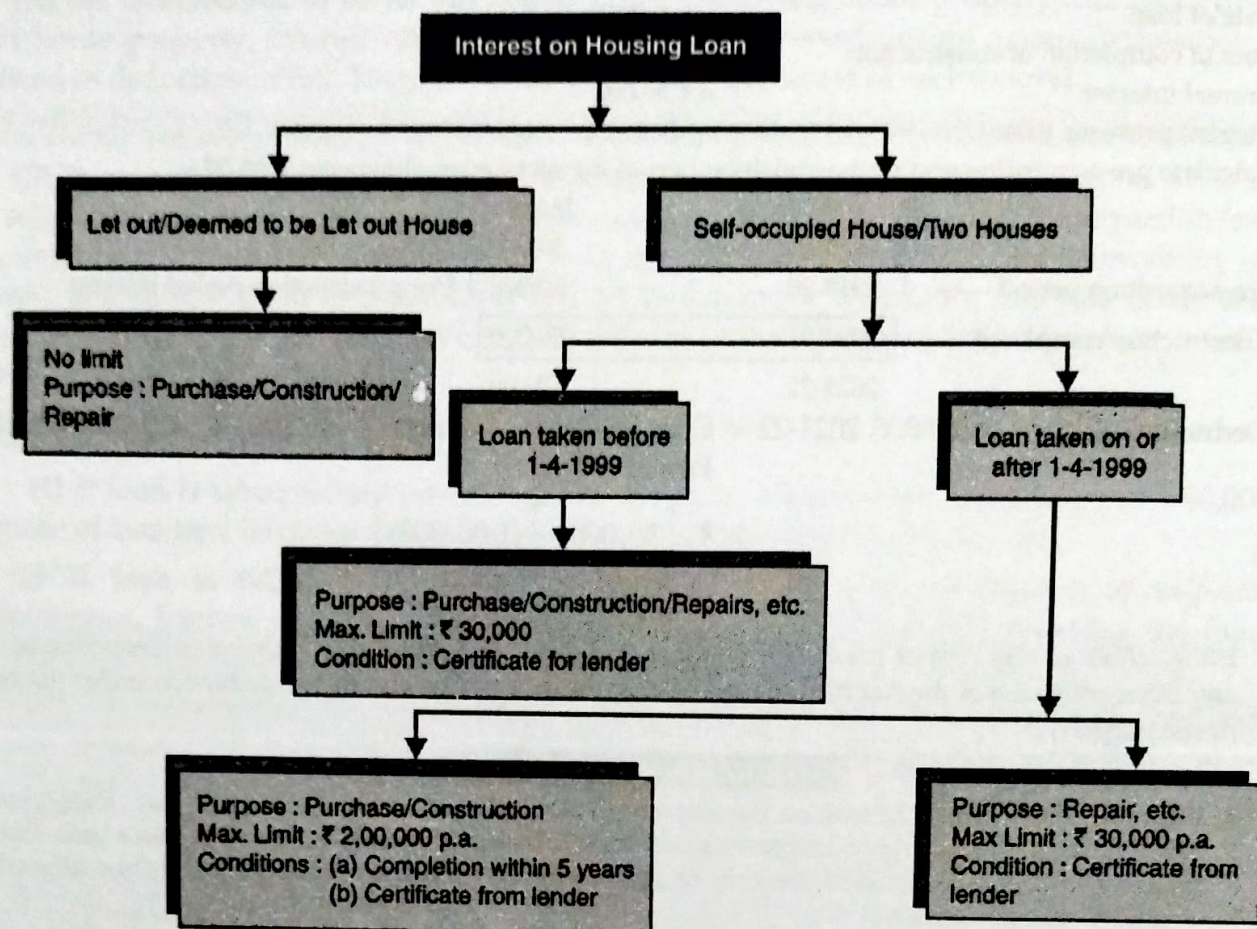
$$= ₹ \left[50,000 + \frac{1}{5}(1,00,000) \right]$$

$$= ₹ 70,000$$

Note. If the whole or any part of pre-acquisition/construction period interest is claimed as deduction under any other provision of the Act then that much interest shall not be allowed as deduction under the head house property.

OTHER IMPORTANT POINTS

- (i) **Basis of allowability.** Interest on housing loan is allowed as deduction on accrual basis. Thus, interest accrued/outstanding at end of the previous year is also allowed as deduction for that previous year. Even if an assessee maintains books of accounts on cash basis, the interest on housing loan shall be allowed as deduction on accrual basis.
- (ii) **Loan taken to repay the original loan.** Interest on new loan taken to repay the original housing loan is also allowed as deduction.
- (iii) **Interest on delayed payment of interest.** It is not allowed as a deduction.
- (iv) **Who may be lender?** Housing loan may be taken from any lender, i.e., the lender may be a bank or any financial institution, or any company, or any friend or relative of the assessee or any other person.
- (v) **Interest payable outside India (Section 25).** If interest on loan is payable outside India then deduction shall be allowed only if tax is deducted at source out of such interest. In other words, if interest is paid without deduction of tax at source then it shall not be allowed as deduction. However, the requirement of TDS is not necessary if there is any person in India who may be treated as an agent of the lender u/s 163 (who is outside India) in respect of such interest.
- (vi) **Applicability of maximum limit.** In case of self-occupied house or houses, the maximum limit of interest is in respect of both pre-acquisition period interest and post-acquisition period interest. This means that in case assessee has reserved two houses for his self occupation, total deduction regarding interest shall be only upto ₹ 2,00,000 p.a.
- (vii) **Loan taken to repay outstanding interest on old housing loan.** Interest on such new loan is not allowed as deduction.
- (viii) Interest on loan shall be allowed on deduction out of the Net annual value of the house for which the loan has been taken. Thus, interest on loan taken for house A shall not be allowed as deduction out of net annual value of house B.
- (ix) Interest on money borrowed for the payment of municipal tax etc. is not allowed as deduction.
- (x) **W.e.f. A.Y. 2021-22, if an assessee opts to be taxed u/s 115BAC i.e. under new tax regime, the deduction u/s 24(b) in respect of interest on housing loan for self-occupied house property (for acquisition or repair etc.) shall not be allowed. However, section 115BAC does not restrict the allowability of interest on housing loan (for acquisition or repairs etc.) in respect of a let out/ deemed to be let out house property. Thus, even if an assessee opts to be taxed u/s 115BAC, interest on housing loan in respect of let out/deemed to be let out house property can be claimed as deduction.**

**Illustration 14**

Mr. Vimal built a residential house at Hyderabad and for the completion of the house he took a loan of ₹ 20 Lacs from a bank as under :

1. On 1-5-2015 ₹ 8,00,000 @ 10%
2. On 1-11-2016 ₹ 8,00,000 @ 9%
3. On 1-1-2018 ₹ 4,00,000 @ 8%

House was completed in Oct., 2018 and since then it is occupied for the residential purposes of his family. He repaid ₹ 4,00,000 to the Bank on 1st Dec. 2021 and bank adjusted this amount against the loan of 2015.

Determine the amount of deduction admissible u/s 24.

Solution

House completed in Oct., 2018 so interest from the date of borrowing upto 31st March 2018 (i.e. prior to the previous year in which house was completed).

So interest from 1-5-2015 to 31-3-2018 shall be treated as pre-construction interest.

1-5-2015-31-3-2018 ₹ 8,00,000 @ 10% p.a.-2 years 11 months	₹ 2,33,333
1-11-2016-31-3-2018 ₹ 8,00,000 @ 9% p.a.-1 year 5 months	₹ 1,02,000
1-1-2018-31-3-2018 ₹ 4,00,000 @ 8% p.a.-3 months	₹ 8,000
Total interest for pre-construction period	₹ 3,43,333

Net Annual Value of self occupied is treated as

Less : Deduction u/s 24 :

Interest for current year 2021-22

On ₹ 4,00,000 @ 10% for full year

40,000

On ₹ 4,00,000 @ 10% for 8 months (upto 30-11-2021)

26,667

66,667

NIL

Municipal Taxes	1,200 p.a.
Ground Rent	500 p.a.
Interest on Loan	10,000 p.a.
B. Let out house	
Municipal Rental Value	24,000 p.a.
Actual Rent Received	30,000 p.a.
Municipal Taxes	2,400 p.a.
Interest on Loan for the Previous Years	
2021-22	10,000
2020-21	15,000
2019-20	15,000
2018-19	15,000
2017-18	15,000
2016-17	15,000
2015-16	15,000
Ground Rent	2,400
Fire Insurance Premium	2,000
C. Income from other sources	50,000

[Hints : Loss from self occupied house ₹ 10,000 ; Income from let out house

Loss from HP ₹ 680 to be set off from other heads ; Total Income ₹ 49,320]

5.7 CHART SHOWING COMPUTATION OF INCOME FROM HOUSE PROPERTY

Item	Treatment
I. Computation of Annual Rental Value	Out of actual rent received deduct cost of common facilities such as lift maintenance charges, lighting of common stairs, salary of common gardener and watchman, pump maintenance charges etc. Water and electricity charges are to be deducted only if it is expressly mentioned that rent includes them.
1. Let out house property	Out of <i>Municipal Rental value (MRV)</i> , or <i>Fair rental value (FRV)</i> , whichever is higher is selected as <i>Expected Rental Value (ERV)</i> . In case <i>Standard Rent</i> under Rent Control Act is given then the comparison is made between the <i>Standard rent</i> and <i>ERV</i> and <i>whichever is less is selected as ARV except when actual rent is more than ERV</i> . Out of ARV as selected as per above, amount of local/municipal taxes (<i>Municipal Taxes, Water Tax, Sanitation Tax, Education tax etc. levied by local authority</i>) actually paid by the owner are allowed to be deducted, Balance is net annual value.
2. Self-occupied Property	W.e.f. A.Y. 2020-21, assessee (an individual and karta of an H.U.F. only) is allowed to occupy two houses for self-occupation and the NAV of both the houses shall be reduced to NIL. If assessee owns more than two houses and claims all of them as self-occupied then only two houses of his own choice shall be exempted and other houses shall be deemed to be let-out.
3. House consists of few independent units/flats or more units are self-occupied and others are actually let-out.	Independent self-occupied units (Maximum two). Net Annual Value to be treated as NIL and so treated as any other self-occupied house/two houses. Other let-out units are treated as ordinary let-out house/houses.
4. House property is self-occupied for part of the year (say 7 months) and let-out for remaining 5 months.	Such a house shall be treated as a let-out house for the full year and no concession for self-occupancy shall be allowed.

5. If property consists of more than one unit/ house	Each such unit/flat/house shall be treated as one house and shall be given respective treatment.
6. Co-owners	If a self occupied house property is owned by co-owners, they shall not be assessed as an association of persons if their shares are determinable. Income of house property computed under this head shall be divided and added in their individual income.
7. Vacant Self-occupied House	Annual value of such property is also taken to be nil.
8. House used for assessee's own business	Such house property is not treated under the head 'House Property', and its income, if any, is not taxable under the head 'House Property'. Such house will be treated as part of Business or Profession head.
9. Deemed to be Let-out	Treated as let out house property.
II. Deductions from Net Annual Value [Section 24]	
(a) Self-occupied House	Actual interest paid or payable for the previous year 2021-22 + 1/5 of Pre-construction Interest (PCI). However, w.e.f. A.Y. 2021-22, if an assessee opts to be taxed u/s 115BAC, deduction in respect of interest on housing loan (for acquisition or repairs etc.) shall not be allowed.
1. Interest on loan taken to purchase, construct, etc.	Only one deduction of interest on loan taken to purchase, repair, renovate, construct the house is allowed upto ₹ 30,000 or actual interest whichever is less. Limit has been increased to ₹ 2,00,000 if loan is taken for acquiring or constructing on or after the 1st day of April 1999 and such acquisition or construction is completed <i>within five years from the end of financial year in which loan is borrowed</i> . As a result, there shall be loss which can be set off from other houses or from income of any other head.
(b) Let-out Houses	
1. Standard Deduction	30% of net annual value every year whether claimed or not.
2. Interest on loan taken to purchase, construct, repair or renovate the house	Actual interest for the previous year 2021-22 + 1/5th of pre-construction interest is allowed as deduction with no limit. Interest on mortgage is not allowed as deduction unless purpose of loan is connected with house. There is no limit on interest on loan.
III. Treatment of unrealized rent	Amount of unrealised rent is deducted out of actual rent received for calculating ARV if conditions as laid down are fulfilled.
IV. Treatment of unrealized rent Recovered/Arrears of rent	Arrears of rent or unrealised rent recovered subsequently shall be deemed as income from house property of the year in which recovered but after allowing standard deduction @ 30% of such amount.
V. Joint Expenses	If somewhere expenses are given jointly for two or more houses, these will be apportioned on some common basis and generally Municipal Rental Value serves as common basis.
VI. Loss from House Property	Loss from self-occupied house property can be set off from income under any other head only upto ₹ 2,00,000. Loss can be more than ₹ 2,00,000 in case of let-out house property.
	Any loss under the head 'House Property' whether from let out or self occupied house which remains unadjusted, can be carried forward for 8 succeeding previous years to be set off from Income under the head 'House Property' only.

Income from Salary

Employment provides a consistent source of income, frequently referred to as "income from salary." Salary is one of the most fundamental motivators for qualified workers and employers. However, this is not a casual agreement. In fact, your pay income is part of a legally binding contract between you and your company.

Salary refers to the money received by a person known as a "employee" from an organisation known as a "employer" in exchange for providing certain services in connection with employment.

Meaning of Salary:

As per Section 15, for the purpose of chargeability to tax, salary consists of:

1. Any salary due from an employer and in respect of which income tax is to be paid, whether such amount is received or not;
2. Any salary paid or allowed to him by or on behalf of an employer or a former employer, though not due or before it becomes due.
3. Any arrears of salary paid or allowed to him, if not charged to income-tax for any earlier previous year.

Rules/Features of Salary:

1. Relationship of Employer and Employee:

The amount received by an individual shall be treated as salary only if the relationship between payer and payee is of an employer or employee or master and servant. If the relation between the payer and payee is not of an employer and employee, then such payment will not be taxable under the head "Income from Salaries".

For instance, commission or fees received by a director who is not an employee of the company, salary received by a member of Parliament or State Legislature is not chargeable to tax under the head "Income from Salaries" but are chargeable to tax under the head "Income from Other Sources".

Salary, Bonus and Commission received by a partner from a firm will not be taxable in Salary Head. It will be taxable under the Head Profit and Gains of 'Business or Profession'.

2. Salary received from more than one Employer:

If an assessee (employee) receives salary from more than one employer then all such payments will be taxable under the head salaries. This includes any arrear or advance salary.

3. Salary received from Present, or Former Employer:

Remuneration received by an employee is chargeable to tax under the head "Income from Salaries" irrespective of the fact whether it is received from a former or present employer.

4. Tax-Free Salary:

Tax free salary means a salary in respect of which the liability to pay income tax is of the employer and not of the employee. If salary is paid tax-free by the employer, the employee has to include in his taxable income not only salary received but also the amount of tax paid by that employer.

5. Salary and Pension received from Foreign Government:

Such income is taxable under the head "Income from Salaries" provided it is not declared exempt by the Government.

6. Salary and Pension received outside for the Service rendered in India:

Salary and Pension received outside India for the services rendered in India, will be considered to be accrued in India.

7. Deductions made by Employer from Salary:

If the employer pays salary to the employee after making certain deductions therefrom then all such deductions shall be added to the salary of the employee. Because gross salary is taxable.

8. Salary and Wages both are Taxable:

Conceptually there is no difference between salary and wages. Both are compensation for work done or services rendered and hence, are taxable under the head "Income from Salaries".

9. Place of accrual of Salary:

Income under the head "Salaries" is deemed to accrue or arise at the place where the service is rendered. In case of Govt. employees who renders his services outside India, salary will be considered to be accrued/due in India.

10. Salary retained by Order of Court:

Where salary of any period is retained by any order of court then such retained salary shall also be included in income under the head "Salaries" at the time of computing the taxable income of the assessee.

11. Dearness Allowance and Dearness Pay:

Both dearness allowance and dearness pay are included in the computation of income under the head "Salaries".

12. Salary on the basis of Salary Grades:

Usually, employees are appointed in various salary grades. A salary grade denotes the basic salary of the employee and signifies the process of increment of the basic salary. According to pay scale, an increment in salary will be added every year up to the last limit of pay-scale. If there are more than one increment then next increment will be started after the last limit of first increment.

In case of government and semi-government employee's salary of any month is considered due on the first day of the next month. Their salary will be taxable from March to February. In case of bank and non-government employee's salary of any month is considered due on the last day of the same month. Their salary will be taxable from April to March.

For example, if Mr. X is appointed in the salary grade of ₹ 26,000-2,000-50,000. It means that basic salary of Mr. X is 26,000 at the time of his appointment. There will be an increase of ₹ 2,000 every year in this basic salary, e.g., next year this basic salary will be $26,000 + 2,000 = 28,000$, then in next year $28,000 + 2,000 = 30,000$. This increase in salary will continue every year till this basic salary reaches to 50,000. On the basis of this salary grade, the basic salary of any employee relating to any previous year may be determined.

13. Basic Salary on the basis of Grade Pay.

Presently most of the institutions appoint the employees on the basis of grade pay, not on pay scale. In this situation the basic salary of the employee will be initial pay + grade pay. For example, an employee was appointed on the basic salary of ₹ 15,600 and his grade pay is ₹ 6,000. His salary will be $15,600 + 6,000 = 21,600$. If the employee is given dearness allowance or any other benefit based on some part of basic salary, then in this example, he will be given this benefit on basic salary of ₹ 21,600.

14. Salary in lieu of notice period:

When an employer wants to terminate the services of an employee, then employee should receive the notice of that at least 3 months before, and if his services are to be terminated with immediate effect, then he is paid salary of 3 months. So, in the year in which this amount will be received will be taxable in that particular year.

15. Any other amount received by the employer along with Salary:

Any other amount received by the employee from employer will be taxable under the head of 'Salaries' whether it is under the terms of employment or not.

16. Salary under section 17(1):

Under section 17(1), salary is defined to include the following:

- a. wages;
- b. any annuity or pension;
- c. any gratuity;
- d. any fees, commission, perquisites or profits in lieu of or in addition to any salary or wages;
- e. any advance of salary;
- f. any payment received by an employee in respect of any period of leave not availed by him;
- g. the portion of the annual accretion in any previous year to the balance at the credit of an employee participating in a recognised provident fund to the extent it is taxable;
- h. transferred balance in a recognised provident fund to the extent it is taxable; and
- i. the contribution made by the Central Government or any other employer to the account of an employee under a notified pension scheme referred to in section 80CCD

17. Surrender of Salary:

If an employee surrenders his whole salary or any part of it, this surrendered salary shall be included while computing his taxable salary. If there has been a contract between the employer and employee not to take salary or partial salary, then salary not taken shall not be included in taxable income under head 'Income from Salaries'. Similarly, if an employee surrenders his salary to Central Government in public interest under Voluntary Surrender of Salaries (Exemption from Taxation) Act, 1961, it shall not be included in taxable income under head 'Income from Salaries'.

18. Foregoing of Salary:

Salary becomes taxable immediately just after it is accrued by the employee. If it is foregone to the employer, yet it shall be taxable. Foregoing of salary by employee shall be treated as use of this salary and it shall be taxable. If there has been a contract between an employee and employer for not taking salary, in this case, salary not taken by the employee from the employer shall not be included in taxable income.

(19) Salary due or received in foreign currency:

Salary received or receivable shall be converted into Indian currency, i.e., in rupees. Telegraphic Transfer Buying Rate (TTBR) shall be used for this currency at a particular date. Particular date means the last day of that month which is immediately prior to the month in which the salary becomes due or is paid in advance or arrears of salary are received.

Items which are not included in the computation of income under the head "Salaries":**1. Loan from Employer:**

Any loan taken from employer cannot be considered as advance salary since it is required to be returned to the employer. Therefore, it is not added to the total income of the assessee.

2. Surrender of Salary:

If an employee surrenders his salary to the Central Government in public interest under Section 2 of the Voluntary Surrender of Salaries (Exemption from Taxation) Act, 1961. The salary so surrendered would not be added in the taxable income of the employee. Even he is Government, Public or private sector employee.

3. Family Pension:

Pension received by the wife or legal heir of a deceased employee shall not be chargeable to tax under the head "Salaries". Such pension shall be taxable in the hands of the recipient under the head "Income from other Sources".

4. Salary Payable to a Partner:

Salary paid to a partner by a firm shall not be chargeable to tax under the head "Salaries". Such payment shall be chargeable under the head "Profits and Gains of Business or Profession".

5. Salary payable to a member of Parliament or of State Legislature;

A member of Parliament or of State Legislature is not treated as an employee of the Government. Hence, salary and allowances received by him are not chargeable to tax under the head "Salaries" but are chargeable to tax under the head "Income from other Sources".

Process of Computation of Taxable Salary Under Head 'Salaries'

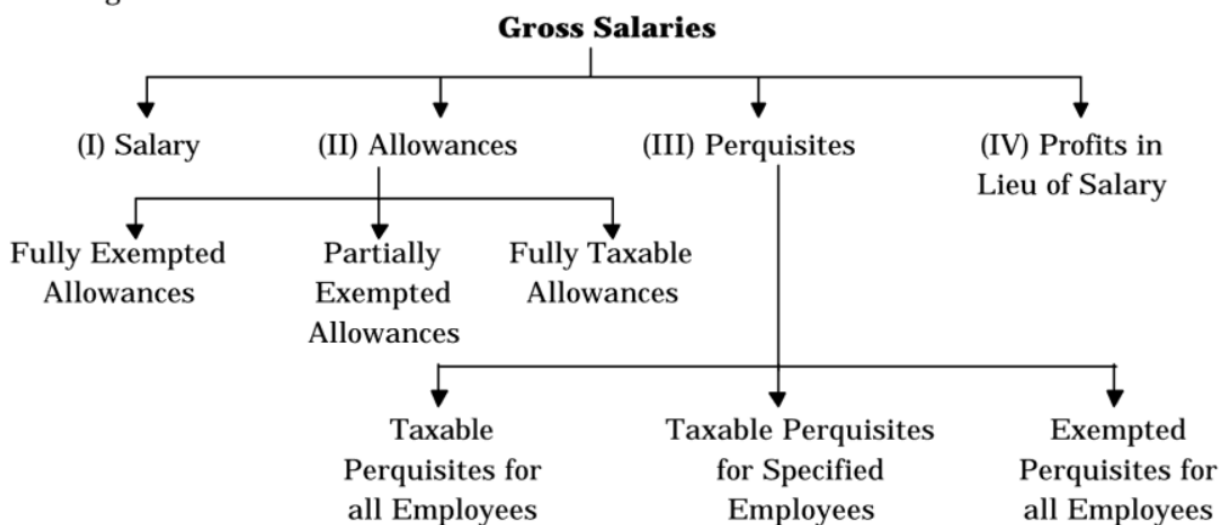
Whatever other perquisites or facilities, a salaried employee gets from his employer profits in lieu of salary, besides cash receipts, they are all kept in mind while computing taxable salary. The study of computing process of taxable salary may be studied in the following headings:

(a) **Computation of Gross Salaries.**

(b) **Deductions out of Gross Salaries.**

(c) **Computation of Taxable Salaries.**

Various items to be included in the gross salary of an employee have been shown in the following chart :



Income from Salary:

The salary income of an assessee has been classified into 4 groups as given below:

- ✓ **Salary [u/s 17(1)]**
- ✓ **Allowances [u/s 17(3) (ii)]**
- ✓ **Perquisites [u/s 17(2)]**
- ✓ **Profits in lieu of Salary [u/s 17(3)]**

The sum of the above four groups constitutes “**Gross Salary**” out of which **Standard Deduction [u/s 16(ia)]**, **Entertainment Allowance [u/s 16(ii)]** and **Professional Tax** (also known as *Tax on Employment*) [u/s 16(iii)] is deducted to find out the taxable salary.

Salary [u/s 17 (1)]

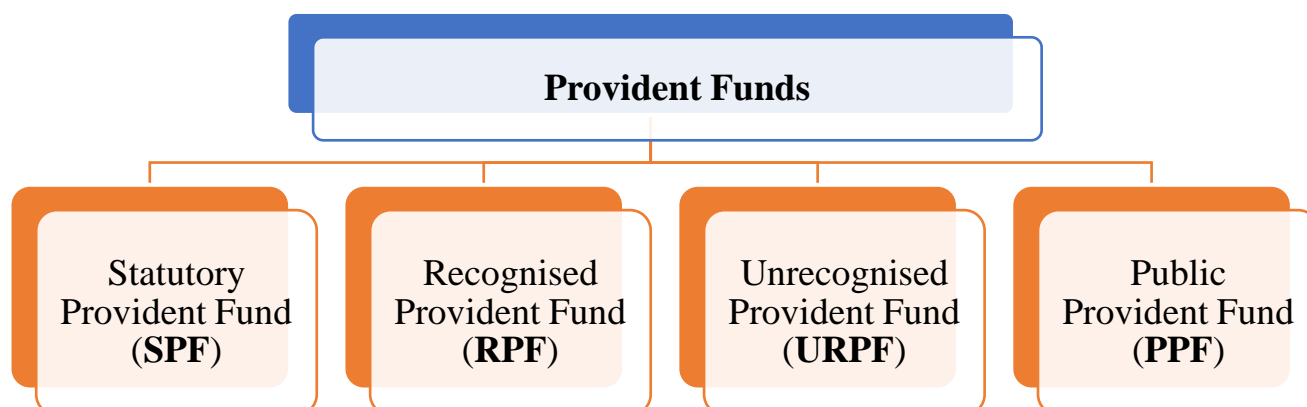
It consists of the following:

Basic Pay / Salary / Wages	Fully Taxable
Commission (All types)	Fully Taxable
Annuity	Fully Taxable
Bonus	Fully Taxable
Any Fees	Fully Taxable
Advance Salary	Fully Taxable
Arrears of Salary	Fully Taxable
Employers' Contribution to Employee's RPF	Taxable in excess of 12% of Salary Note: Salary for this purpose = Basic Salary + DP (or allowance that enters to service benefits) + Commission on Turnover (if any)
Interest on RPF balance	Taxable in excess of 9.5% of accumulated balance of RPF.
Transferred balance of URPF to RPF	When the balance of URPF is transferred to RPF it is called as Transferred Balance. Its taxation principle is as follows: (a) Employer's contribution to URPF is exempted to 12% of salary as stated earlier. (b) Interest on accumulated balance is exempted up to 9.5% of the accumulated balance.
Refund from Provident Fund: (a) If from SPF (b) If from RPF (c) If from URPF	(a) Fully Exempted (b) Fully Exempted if the service is more than 5 years. But if he leaves the service on his own accord before 5 years then the amount on which tax has not been paid earlier is taxable. (c) Taxable portion is employer's contribution plus interest on that part. Note: Employee's contribution earlier is always exempted but interest on own contribution is taxable under the head "Income from Salaries".

Provident Fund:

An investment fund contributed to by employees, and employers out of which a lump sum is provided to each employee on retirement. A provident fund is an investment fund set up to save for long-term goals such as retirement. Provident Fund is a government-managed retirement Savings Scheme for employees who can contribute a part of their pension fund every month. These monthly savings get

accumulated every month, easily accessible as a lump sum amount at retirement or the end of employment.



1. Statutory Provident Fund (SPF):

Statutory provident fund is the oldest type of fund. It was started in the year 1925 through the Provident Fund Act, 1925. This fund was started with a view of promoting savings amongst government employees. Generally, this fund is maintained by Government or Semi-Government Departments like Railways, Reserve Bank of India, Colleges, Universities, local bodies, insurance companies, etc.

The **employer's contribution** towards the employee's statutory provident fund and the amount of **interest earned** on the accumulated balance to the employee's credit balance are not to be included in the income of employee and so it is ignored.

When the employee retires or leaves the service and receives any amount from the accumulated balance to his credit in the statutory provident fund, the amount so received will not be included in employee's total income [Section 10(11)] being exempted income.

The employee's own contribution will qualify for deduction u/s 80C.

2. Recognised Provident Fund (RPF):

It is a fund to which the Commissioner of Income Tax has given the recognition as required under the Income Tax Act. Generally, this fund is maintained by industrial undertakings, business houses, banks, etc.

The employer's contribution over and above 12% of employee's salary, will be included in employee's salary income for tax purposes.

The employee's contribution towards this fund will fully qualify for deduction u/s 80C.

Interest on Provident Fund credit balance up to prescribed rate (9.5%) is exempted, but interest credited over and above such rate is deemed to be employee's salary income and is included in salary income of that previous year.

3. Unrecognised Provident Fund (URPF):

The provident fund which is not recognised by the Commissioner of Income Tax is called URPF. The employee and the employer both contribute towards this fund.

The employee's own contribution is added in this salary and he will not be allowed any deduction u/s 80C regarding this contribution while computing the total income of the employee.

The employer's contribution and interest on the accumulated credit balance of the fund are not to be included in employee's salary income from year to year.

A payment received out of this fund is taxable so far it represents the employer's contribution and interest thereon. The employee is entitled to relief under section 89(1). The employee's contribution is ignored because it was taxed when it was contributed. Interest on the employee's own contribution will be taxable as 'Income from Other Sources' and not as salary income.

Transferred Balance:

When the unrecognised provident fund is recognised for the first time, the credit balance in the employee's unrecognised provident fund is transferred to the recognised provident fund account. This balance is known as transferred balance.

In such case fund will be treated as RPF from the day of its inception and exemption will be allowed in same manner. Only excess of amount transferred to RPF over exempted amount shall form taxable portion of transferred balance

4. Public Provident Fund (PPF):

SPF, RPF and URPF are for salaried people only. However, on 1st July, 1968 a new fund known as Public Provident Fund was started so that self-employed people may also enjoy the benefit of deduction u/s 80C.

Self-employed people are doctors, lawyers, accountants, actors, traders, pensioners. This fund can suit all types of pockets and its working is also very simple.

The interested people can open their account in **State Bank of India** and its subsidiaries. The subscription can be between ₹ 500 and ₹ 1,50,000 in one year. At one time one can deposit in multiples of 50 and in one month only one deposit is possible and, in the year, minimum subscription should be ₹ 7500 and the maximum ₹ 150,000.

Full withdrawal is possible after 15 years but in case of death of the subscriber full repayment will be made to the legal heir of nominee. Partial withdrawal and loans are also possible.

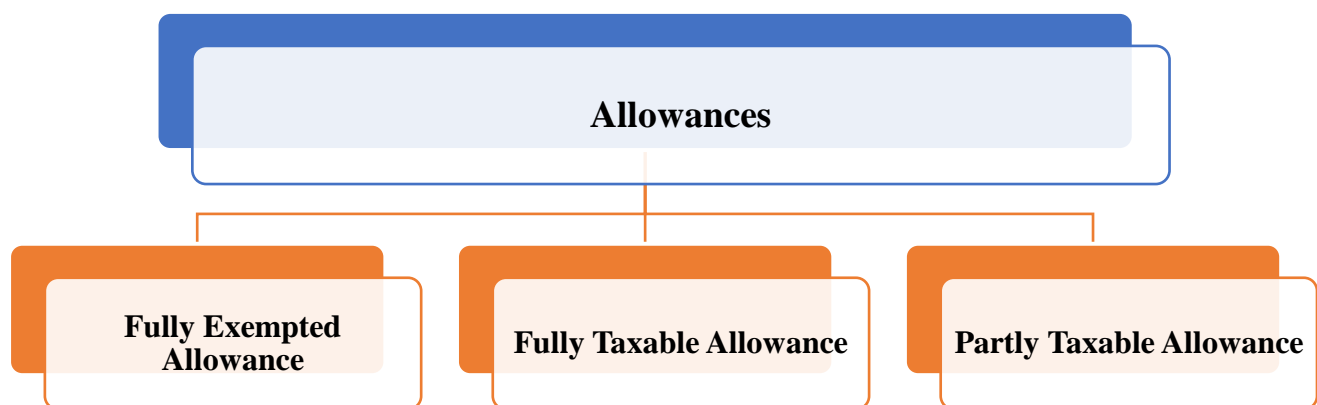
The subscription towards this type of fund is eligible for deduction in the similar manner, as in the case of statutory provident fund. Interest credited in this account is fully exempted.

Allowances [u/s 17 (3)]

The term allowance has been derived from the word 'to allow'. As per Oxford Dictionary the word “**Allowance**” means "**any amount or sum allowed regularly**". As such allowances are given in cash along with salary by the employer.

These allowances are given to an employee **to meet some specific type of loss or expenditure** of the employee or to help him to meet certain type of expenses which the employee might have incurred in the performance of duties assigned by his employer.

Allowances have been classified in three categories:



(i) Fully Exempted Allowance:

The following allowances are completely exempted from tax.

- (i) Foreign allowance given by Govt. to its employees posted abroad.
- (ii) House rent allowance given to Judges of High Court and Supreme Court.
- (iii) Sumptuary allowance given to Judges of High Court and Supreme Court.

Note: Sumptuary allowance is the allowance given to meet the expenses incurred in entertaining visitors.

(ii) Fully Taxable Allowance:

- a) Dearness Allowance / Dearness Pay
- b) City Compensatory Allowance
- c) Tiffin Allowance
- d) Lunch Allowance
- e) Marriage Allowance

- f) Family Allowance
- g) Deputation Allowance
- h) Project Allowance
- i) Wardenship Allowance
- j) Overtime Allowance
- k) Fixed Medical Allowance
- l) Non-practicing Allowance
- m) Entertainment Allowance (Non-Govt Employees)

3. Partly Taxable Allowance:

These allowances are partly exempted and partly taxable as per the Income Tax law. Some of the important partly taxable allowances are as follows:

3.1 House Rent Allowance:

The compensation, in cash, paid by the employer to the employee towards rent is called House Rent Allowance.

HRA is *partly exempted* in the following case:

For employees living in rented houses, the **least** of the following is *exempted*:

- (i) Actual HRA received.
- (ii) Rent paid – 10% of Salary
- (iii) 50% of salary in case of Bombay, Calcutta, Delhi and Madras, and 40% of salary in case of all other cities.

Taxable HRA = Actual HRA received - Exempted amount

Note: (Salary for this purpose)

Salary = Basic Salary + DA (enters)/ DP + Commission on Turnover.

HRA is *fully taxable* in the following cases:

- If employee is living in his own house, or
- If employee is living in a house for which he is not paying any rent, or
- If rent paid does not exceed 10% of salary.
- If the employee opts to be taxed u/s 115BAC i.e., under new concessional tax regime. (w.e.f. A.Y. 2021-22).

HRA is **exempted** in the following case:

- ✓ HRA received by judges of High Court or Supreme Court.

3.2 Helper Allowance

3.3 Uniform Allowance

3.4 Academic Research Allowance

3.5 Conveyance Allowance

3.6 Travelling or Transfer Allowance

3.7 Daily Allowance

Exempted up to the amount spent by the employee i.e.

exemption shall be the least of following two amounts-

- The amount of the allowance received.
- The amount actually spent by the employee for the purpose for which the allowance is given.

3.8 Tribal Area Allowance:

Allowance is exempted up to ₹ 200 p.m. in the States of Orissa, Madhya Pradesh, Tamil Nadu, Uttar Pradesh, Karnataka, Tripura, Assam, West Bengal, and Bihar.

3.9 Running Flight Allowance:

This allowance is given to employees of transport system to meet their personal expenses in course of running the transport from one place to another. If the employee is not receiving any daily allowance, then it is ***exempted up to 70% of such allowance or ₹ 10,000 per month whichever is less.***

3.10 Children Education Allowance:

If any amount is given by employer to its employee as education allowance for the education of own children in India, it shall be ***exempted up to ₹ 100 p.m. per child for two children only.*** Here, child includes both major or minor child.

Example.

Mr. X is employed by an MNC and is paying him ₹ 500 p.m. as Children Education Allowance to all the three children who are studying in a school at Bangalore.

Answer:

Exemption Allowed:

	1st Child	2nd Child	3rd Child
Received	₹ 500 p.m.	₹ 500 p.m.	₹ 500 p.m.
Exemption allowed	₹ 100 p.m.	₹ 100 p.m.	Nil

3.11 Hostel Expenditure Allowance:

Any allowance granted by employer to meet the hostel expenditure of employees' children, shall be ***exempted up to ₹ 300 per month per child for maximum for two children (own) only.***

3.12 Transport Allowance:

The exemption regarding transport allowance has been discontinued for normal employees with effect from Assessment Year 2019-20. However, the *exemption* shall continue ***to be allowed @ ₹ 3,200 per month to employees who are blind/deaf or dumb or orthopedically handicapped or disability of lower extremities.***

3.13 The following allowances are **exempted up to the amount** so notified:

- ✓ Composite Hill Compensatory Allowance/High Altitude Allowance/Uncongenial Climate Allowance/Snow Bound Area Allowance/Avalanche Allowance (**₹ 300 p.m. to ₹ 7,000 p.m.**)
- ✓ Special Compensatory Allowance like Border Area Allowance/Remote Area Allowance/Difficult Area Allowance/Disturbed Area Allowance (**₹ 200 p.m. to ₹ 1,300 p.m.**)
- ✓ Compensatory Field Area Allowance (**up to ₹ 2,600 p.m.**)
- ✓ Compensatory Modified Field Area Allowance (**up to ₹ 1,000 p.m.**)
- ✓ Highly Active Field Area Allowance (**up to ₹ 4,200 p.m.**)
- ✓ Underground Allowance to coal mine workers (**up to ₹ 800 p.m.**)
- ✓ Island Duty Allowance given to Armed Forces posted in Andaman & Nicobar and Lakshdweep group of islands (**up to ₹ 3,250 p.m.**)

Perquisites [u/s 17 (2)]

Perks

The word 'perquisite' has not been defined under Income-tax Act 1961. It may be defined as benefits which are given in kind or in deferred cash attached to an office. In other words, perquisite means any casual emolument attached to an office. Oxford English Dictionary also defines perquisite as "any casual emolument, fee or profit attached to an office or position, in addition to salary or wages".

Types of Perks **Fully Exempted Perquisites**

Perquisites Taxable for all Employees

Perquisites Taxable only for Specified Employees.

(A) Fully Exempted Perquisites:

The following perquisites are fully exempted for all employees.

A1: Free Medical Facilities or Reimbursement of Medical Expenditure:

(a) If treatment is taken from a hospital maintained by the employer	Fully Exempted
(b) If treatment is taken from a hospital maintained by central or state government, local authority or the hospital is approved by the CIT	Fully Exempted
(c) If the employee or any member of his family goes outside India for treatment, then medical expenses paid or reimbursed by employer; Expenses on stay and treatment of the patient outside India and expenses of stay of one attendant reimbursed by employer.	Exempted up to the extent of Foreign Exchange permitted by RBI
(d) Expenses incurred by the employer on travelling of the patient to a foreign country and one attendant	Fully Exempted provided GTI of the employee does not exceed ₹ 2,00,000 p.a. computed before including the said expenditure on travelling.
(e) In case the employer pays medical insurance premium of the employee under a scheme approved by the Central Government	Fully Exempted

A2: Free refreshments given by the employer during working hours (except free meals)	Fully Exempted
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A3: Free Meals given at remote area or offshore installation	Fully Exempted
A4: Free Recreational facilities	Fully Exempted
A5: Provision of telephones including mobile phones to facilitate the business of employer.	Fully Exempted
A6: Free Education provided by employer provided the value of such benefit does not exceed ₹ 1000 per month per child.	Fully Exempted
A7: Cost of refresher course attended by employee met by employer and cost of expenditure on higher education or training of employee.	Fully Exempted
A8: Perquisites allowed by Govt. to its employees posted abroad.	Fully Exempted
A9: Free ration received by members of armed forces	Fully Exempted
A10: Rent free house given to an officer of Parliament, a Union Minister, and leader of opposition in Parliament.	Fully Exempted
A11: Conveyance facilities to Judges of Supreme Court and High Court.	Fully Exempted
A12: Computers, laptops given to [no transferred] an employee for official/personal use.	Fully Exempted
A13: Transfer of a moveable asset [computer, car or electronic items] without consideration to an employee after such asset had been used by the employer for more than 10 years.	Fully Exempted
A14: Accident insurance premium paid by employer for his own benefit. Note: <i>In case such premium is paid for an insurance whose benefit is to accrue to the employee, it will be taxable.</i>	Fully Exempted
A15: Interest Free Loan	
(a) In case total amount of all loans taken by an employee from his employer does not exceed ₹ 20,000	Fully Exempted
(b) In case loan is taken for treatment of notifies illness [<i>Aids, cancer, mental disorders, renal failure, hemophilia, Thalassemia</i>] and no claim is received from insurance company <i>Note: In case any insurance claim is received, such amount shall be treated as loan and difference between rate of interest charged by employer and rate fixed by SBI on 1-4-2021 shall be taxable.</i>	Fully Exempted
(a) In case loan is taken for any other purpose and rate of interest is equal to or higher than the rate prescribed by SBI on 1-4-2021.	Fully Exempted
A16: Any unauthorised use of a benefit.	Fully Exempted

(B) Perquisites Taxable for all Employees:

B1. Rent Free Accommodation

B2. Concessional Rent Accommodation

B3. Obligation of Employee met by Employer

B4. Insurance Premium

B5: Employer's Contribution to an RPF, NPS and an Approved Superannuation Fund

B6. Other Fringe Benefits/Amenities

B7: Use of Movable Assets

B8: Transfer of Movable Assets to the Employee:

B1: Rent Free House or Rent Free Accommodation:

Any employer can give two types of accommodation to his employees viz; Unfurnished and Furnished. The rules relating to calculation of rent free house (unfurnished) is summarised below.

(I) If the house is owned by the employer:		
In case of Government Employees	The value of RFA or house is rent fixed (license fee) by the government for such house. In case no rent is fixed then it will be the rent charged by Govt. from another employee of same status for similar type of house.	
In case of other employees	Value of perquisite of RFA depends upon salary of the employee and the population of the city.	
	(i) In cities the population of which is more than 25 lakhs as per census of 2001:	15% of Salary
	(ii) In cities the population of which is exceeding 10 lakhs but not exceeding 25 lakhs as per census of 2001:	10% of Salary
	(iii) In cities and towns, the population of which is 10 lakhs or less than 10 lakhs as per 2001 census	7½% of Salary
	(iv) In case of Hotel Accommodation is given for more than 15 days on account of transfer from one place to another.	24% of Salary (for the period or days for which accommodation is provided in hotel) or actual bill whichever is less is taxable.
(II) If the house is hired by the employer:		
15% of Salary or Actual rent paid or payable by employer whichever is less is taxable in all cities.		

For Furnished Accommodation (RFA):

If the house is a furnished one then the value of unfurnished house is calculated in the manner laid down above. In addition, 10% of the cost of furniture is added if the furniture are owned by the employer or add the actual hire charges of the furniture if the furniture are hired by the employer.

The term furniture includes usual items of furniture like sofas, beds, chairs, tables and other appliances. It also includes modern electrical appliances like television, radio, refrigerator, air conditioner, geyser, etc.

For this purpose,

Salary = Basic Pay + Dearness Pay/DA (that enters to service benefits) + Commission + Bonus + Fees + Taxable part of Allowances + Leave Encashment of Salary if it relates to the current previous year + any other monetary payment chargeable to tax.

In conclusion,

$\text{Value of furnished RFA} = \text{Value of unfurnished RFA} + \begin{array}{l} 10\% \text{ of actual cost of furniture, if} \\ \text{owned by employer} \\ \text{OR} \\ \text{Actual hire charges of furniture, if} \\ \text{taken on hire} \end{array}$ <p style="text-align: right;">(Whether Govt. employee or non-govt. employee)</p>
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Special Note 1:

In case a person is allowed to retain more than one house then, for first 3 months, the value of one house with lower value is taxable. But if the house is retained for more than 3 months then there after value of both the houses are taxable.

Special Note 2:

Rent free accommodation given to an employee working in a remote area at mining site or project site or given in off shore area is fully exempted. Further, if the rent free house is given to a judge of the high court or supreme court, officer of parliament, union minister, leader of opposition then it is fully exempted.

B2. Concessional Rent Accommodation:

Concessional rent accommodation means that the employer has given a house to his employee for which he is charging a part of the rent or employee is paying a part of the rent.

Value of Concessional Rent Accommodation = Value of rent free house (RFA) – Rent paid by employee (charged by the employer)

Note: In case the balance amount is negative, then the value of CRA shall be nil.

B3. Obligation of Employer met by Employer:

In case the following payments are made by employer on behalf of employee then they are fully taxable.

- ✓ Gas and Electricity bills.
- ✓ Education of Children bills.
- ✓ Salary of Domestic servants.
- ✓ Income Tax and Professional Tax of an employee.

B4. Insurance Premium:

If the employer pays the life insurance premium for the employee or any member of his family, then it is fully taxable. However, accident insurance premium paid by the employer if the policy is for the benefit of the employer, then it is not taxable.

B5: Employer's Contribution to an RPF, NPS and an Approved Superannuation Fund:

The amount or aggregate of amounts of any contribution made to the account of the assessee by the employer in a recognised provident fund, in National Pension Scheme and in an approved superannuation fund, to the extent it exceeds Rs. 7,50,000 in a previous year shall be taxable as perk to employee. So, if an employer contributes an aggregate amount of Rs. 8,00,000 out of which Rs. 6,50,000 is towards RPF and Rs. 1,50,000 is towards an approved superannuation fund, then Rs. 50,000 shall be taxable as perk for the employee.

B6: Other Fringe Benefits/Amenities:

Interest Free Loans or Concessional Loans	Value of Perk = Amount spent by the employer – Amount charged/recovered by employer from the employee
Travelling, Touring and Accommodation Facility	
Food and Beverages Facilities	
Gifts and Vouchers	
Credit Card Facility and Club Facility	

B7: Use of Movable Assets

In case employee or any other member of his household is using any movable asset owed by the employer except computers and laptops-actual benefit derived by employee is taxable i.e., 10% of the

cost of the asset is taxable. In case the period for which asset is given for use to employee is less than full year, the value of benefit shall be calculated by taking actual number of days for which asset is used by total number of days of that financial year.

$(10\% \text{ of cost of asset} \times \text{Number of days asset is used} / \text{Number of days of the financial year})$

Movable asset does not include a car.

Valuation of this perk shall be determined as under:

- (a) If the asset is owned by employer—10% of the original cost of such asset.
- (b) If the asset is hired by employer—Charges paid or payable by the employer.

B8: Transfer of Movable Assets to the Employee:

Taxable value is to be calculated by charging depreciation at following rates:

Electronic Items	50% p.a. on WDV basis
Motor Car or other Conveyance	20% p.a. on WDV basis
Any other item	10% p.a. on actual cost basis

Taxable Value of this perk = Actual Cost to the Employer – Normal wear and tear of the asset – Any amount paid by employee or recovered from the employee

Electronic item here means data storage and handling devices like computer, digital diaries and printers. They do not include household appliances like washing machines, microwaves, ovens, mixers, etc. Depreciation is to be charged on year-to-year basis period of 12 months to be counted from date of acquisition.

C. PERQUISITES TAXABLE ONLY FOR SPECIFIED EMPLOYEES

Who is a Specified Employee?

An employee is said to be a specified employee if any of the following conditions are fulfilled:

- (i) He is director of the company, or
- (ii) He has substantial interest in the affairs of the company i.e., he holds at least 20% of the voting power (equity shares) in the company; or
- (iii) His monetary annual salary income is more than Rs. 50,000 p.a.

Note:

Salary for this purpose means all what he gets in cash from one employer or more than one employer (if he works for more than one employer simultaneously) whether full time or part time, and is taxable under the head Salary. The total of these items is to be treated as gross salary out of which deductions u/s 16(ia), 16(ii) and 16(iii) are to be allowed.

Monetary Salary includes:

- + Basic Salary.
- + Dearness Allowance / Dearness Pay
- + Bonus, Commission, Fees and all taxable allowances or taxable portion of an allowance
- + Any perquisites received in cash or in monetary form.
- + Gratuity, Pension, Leave Salary but arrears of salary and salary received in advance is to be excluded.
- + In case employee is working simultaneously with more than one employer, salary from all the employers is to be included.
- + Monetary annual salary income Rs. 50,000 shall be calculated after allowing deductions u/s 16(ii) and 16(iii).

Value of following perks is taxable only if employee becomes a specified employee. These perks are:

C1: Motor Car

C2: Free Servants (Sweeper, Watchman, Gardener, Attendant)

C1: Motor Car

In case employer had provided a car or any other vehicle for the private use of the employee or any other member of his family, it is a perquisite which is taxable in the hands of the employee provided he/she is an employee of a specified category.

But if car is owned by the employee and its running and maintenance expenses are met or reimbursed by employer, then this benefit becomes a taxable perquisite in the hands of all employees.

If the employee has been provided a car or vehicle for private use of the employee or any member of his family, then it is taxable as follows:

- (a) If the car is owned or hired by the employer and its running and maintenance expenses are met by the employer too.

Situation	Value of Perk	
(a) If the car is used for official duty only	Nil	
(b) If the car is used for private purpose only	Actual expenses spent by the employer on running and maintenance of car + Salary of Driver (chauffeur) + Normal wear and tear of car (10% of actual cost) – Any amount charged by employer from employee	
(c) If the car is used partly for office and partly for personal use		
	Small Car (Cubic capacity < 1.6 Litres)	Big Car (Cubic capacity > 1.6 Litres)
The expenses on maintenance and running are met or re-imbursed by the employer	Rs. 1,800 p.m.	Rs. 2,400 p.m.
The expenses on running and maintenance for private or personal use are fully met by employee himself.	Rs. 600 p.m.	Rs. 900 p.m.
Facility of Chauffeur		
In case of chauffeur or driver is also provided by employer to run the motor car Rs. 900 p. m. shall be added in the above-mentioned amounts mentioned in points above.		

So,

Value of Perk = Amount specified for use of Car + Rs. 900 p.m. for Driver's Salary.

(b) If the car is owned by the employee but its running and maintenance expenses are met by the employer.

Calculation is same as above.

C2: Free Servants (Sweeper, Watchman, Gardener, Attendant)

In case employer has provided the free services of a sweeper, a watchman or a personal attendant, the taxable value of this type of perquisite shall be the actual cost to the employer i.e., salary etc. paid or payable by employer to these servants. In case any amount is paid by the employee for these services then the value of perquisite shall be reduced by such amount. The valuation of the perk is done as follows:

(a) If the *servants are employed by employee* but their salary is paid by the employer, then it is **fully taxable for all types of employees**, whether specified or unspecified.

- (b) If the servants are ***employed by the employer***, then the salary paid by the employer to these servants less amount charged from the employee is taxable for ***specified employees*** only. Value of the perk is calculated as follows:

$$\text{Value of Perk} = \left[\begin{array}{c} \text{Amount spent} \\ \text{by employer} \end{array} \right] - \left[\begin{array}{c} \text{Amount charged/recovered by} \\ \text{employer from employee} \end{array} \right]$$

- (c) If a gardener is provided for rent free house, then his salary is added to the FRV (fair rental value) of the house and not taxed separately.

Profits in Lieu of Salary [17(3)]

Under section 17 (3) profits in lieu of salary includes the following:

1. Any compensation received from present or past employer during the relevant previous year on termination of service or modification of terms of service.
2. Any other payment received from present or past employer except under section 10(10), section 10(10A), section 10(11), section 10(12), section 10(13), section 10(13A), etc.
3. Any amount of payment received by employee from unrecognized provident fund or any such other fund to the extent to which it does not consist of employee's own contribution and interest thereon.
4. Any amount of sum received under a Keyman insurance policy including the sum allocated by way of bonus on such policy.
5. Any amount due or received whether in lumpsum or otherwise by any employee from any person before joining his employment with that person or after cessation of his/her employment with that person.

The above mentioned items are fully taxable but certain items are exempted u/s 10 which are given below:

(1) Leave Travel Concession [Section 10(5)]:

Any amount received by an employee from his employer for proceeding on leave any where in India is exempted as per the following rules:

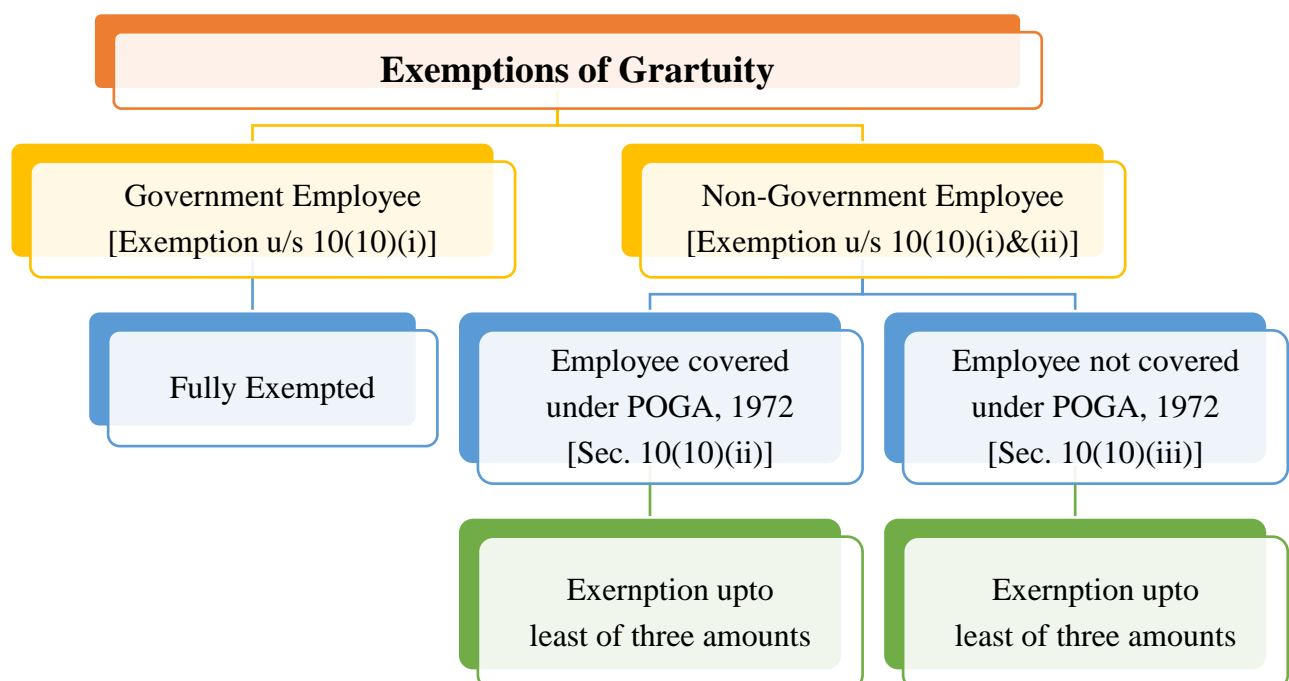
(a) If journey is performed by air	Least of following two amounts shall be exempted: (i) Economy class air fare of the national carrier by the shortest route. (ii) Actual amount spent by the employee on journey by air travel.
(b) If journey is performed by rail	Least of following two amounts shall be exempted: (i) Air-conditioned first class rail fare by the shortest route (ii) Actual amount spent by the employee on journey by rail
(c) If place of origin of journey and place of destination is connected by rail but the employee uses any other mode of transportation,	The amount of exemption allowed shall be least of following two amounts: (i) Air conditioned first class rail fare by the shortest route.

	(ii) Actual amount spent by the employee on that journey.
(d) If place of origin of journey and place of destination is not connected by rail	If a recognised public transport system is operating, then least of following two amounts shall be exempted: (i) First class or deluxe class fare by the shortest route. (ii) Actual amount spent by the employee on that journey.

(2) Gratuity [u/s 10 (10)]

Gratuity refers to a gratuitous payment made in lump sum by an employer to his employee at the time of his retirement or death in appreciation of his long and loyal services. It is also known as Death-cum-retirement Gratuity. Earlier it was a voluntary payment but now it has become a sort of compulsory payment for government employees, semi-government employees, and all other employees working in banks, universities, colleges, factories, etc. Gratuity is received by employee on leaving job either due to voluntary retirement or due to statutory retirement on reaching the superannuation age. Gratuity *received by an employee* because of retirement is taxable under the head salary after claiming exemption as provided under section 10(10).

Gratuity can also be *received by the legal heirs* of an ex-employee in the event of death of such employee. In this case, gratuity received shall be taxable in the hands of legal heirs under the head “Income from other Sources”. In this case also, an exemption will be granted as provided under section 10(10).



The rules relating to gratuity are given below:

(A) In case of Government Employees:

Any death-cum-retirement gratuity received by a government employee is fully exempted. It is to be noted here that Government employee means employees of central government, state government, local authority, defence and statutory corporations.

(B) In case of Non-Government Employees:

For employees covered under Payment of Gratuity Act (POGA) 1972

The least of the following is exempted (and balance is taxable):

- (a) Actual gratuity received.
- (b) Notified limit – Rs. 20,00,000 (Rs. 10,00,000 for those who retired prior to March 29, 2018).
- (c) 15 days salary (7 days in case of employees working in seasonal factories) for each completed year of service or part thereof in excess of six months on the basis of monthly salary last drawn.

Note:

While calculating length of service, period exceeding 6 months is to be taken as full year (i.e., one year).

Service period of 26 years and 7 months shall be taken as 27 years.

Service period of 26 years and 6 months shall be taken as 26 years.

Calculating 15 days salary:

$$15 \text{ days Salary} = \frac{\text{Monthly Salary last drawn}}{26 \text{ Days}} \times 15 \text{ days}$$

Salary = Basic Salary + DA (whether enters or not)

For employees not covered under Payment of Gratuity Act (POGA) 1972

The least of the following is exempted (and balance is taxable):

- (a) Actual gratuity received.
- (b) Maximum Notified limit – Rs. 20,00,000.
- (c) ½ month salary for every completed year of service on the basis of average salary drawn during 10 months immediately preceding the month of retirement.

Note:

Any fraction or part of the year is to be ignored (25 year 9 months is to be taken as 25 years).

Calculating 15 days salary:

$$\frac{1}{2} \text{ month Salary} = \frac{\text{Salary of last 10 months}}{10} \times \frac{1}{2}$$

Salary = Basic Salary + DA (enters to service benefits) + Commission on Turnover

Special Notes:

- (i) If any gratuity is received by an employee during his continuance of service, then it is fully taxable.
- (ii) The notified exemption limit of Rs. 20,00,000 is a whole life exemption limit for an employee which needs the following explanations:
 - a. If the employee receives gratuity for the first time – notified limit is Rs. 20,00,000.
 - b. If the employee receives gratuity for the second, third and subsequent times, the notified exemption limit to be taken shall be as follows:
Maximum Notified Limit of Rs. 20,00,000 — Exemption claimed in the past.

(3) Pension (Monthly and Commuted) [Section 10(10A)]

Uncommuted pension refers to the periodic/regular pension (generally monthly) received by an employee from ex-employer after retirement and until such an employee dies. Uncommuted pension is fully taxable whether the employee is a government employee or non-government employee. It is taxable as salary income of such an ex-employee.

Commutation of pension refers to a lump sum amount received in exchange of regular monthly pension. The rules relating to commutation of pension are given below:

(a) If received by a government employee	Fully Exempted
(b) If received by other employees	
If the employee receives gratuity	$\frac{1}{3}$ of commuted value of pension is exempted.
If the employee does not receive gratuity	$\frac{1}{2}$ of commuted value of pension is exempted.

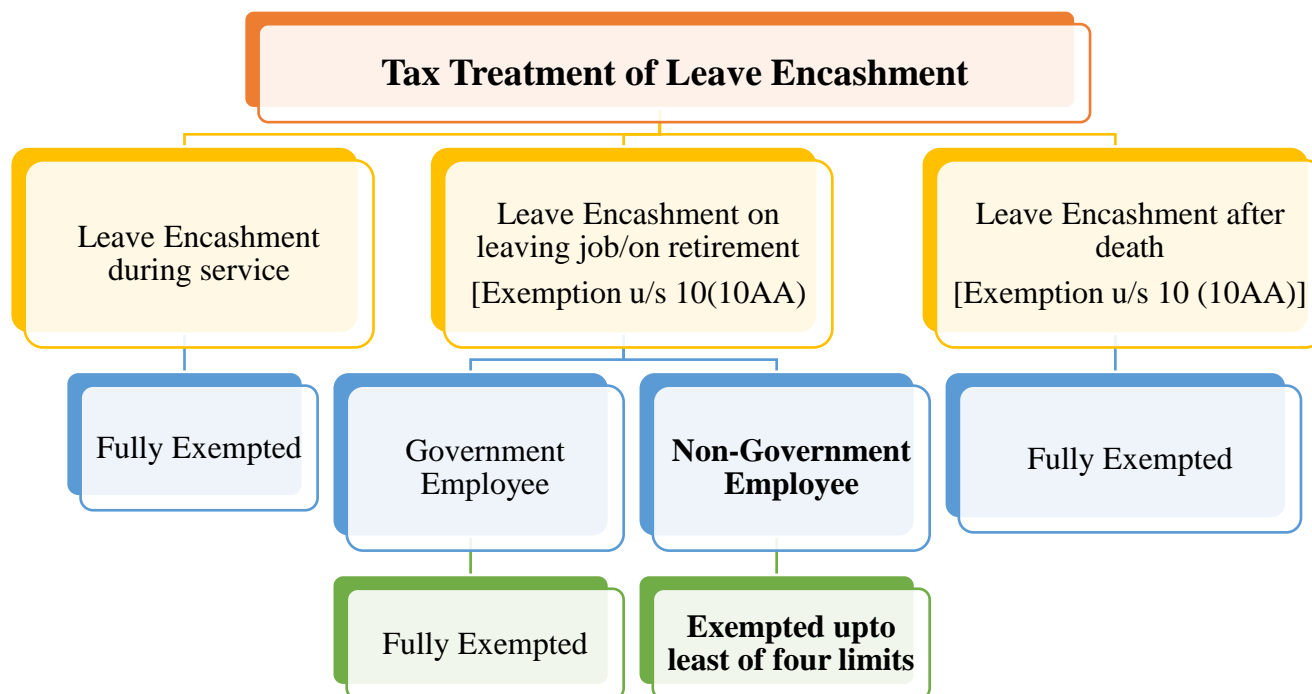
Note:

Uncommuted or regular pension received in periodic intervals is fully taxable.

(4) Leave Encashment [Section 10(10AA)]

As per terms of employment, generally, an employee is granted certain period of leave(s) on yearly basis. Such leave(s) may be casual leaves, medical leaves and privileged leaves or earned leaves. Generally, an employee can accumulate his medical leaves and privileged leaves and can avail such leaves in subsequent years as per his necessity. However, in some cases, an employee can even encash his accumulated privileged/earned leaves and can get salary for the said period of leave. Such receipt of salary by an employee from his employer in lieu of his accumulated leaves is called “Leave Encashment”.

Such encashment can be done by an employee either during the service or at the time of leaving job due to retirement or any other reason. However, in case of death of an employee, the salary for his/her accumulated leave is given to his /her legal heirs.



If leave encashment received at the time of retirement by a private employee, then least of the following is exempted:

- Actual amount received.
- Notified limit – Rs. 3,00,000/- (As specified by the central government)
- Salary of last 10 months immediately preceding his retirement/leaving job otherwise.
- Salary for approved period of leave standing to his credit at the time of retirement/leaving job otherwise.

Note:

(i) Cash equivalent of leave = Average Salary × No. of Leaves Due

(ii) Salary = Basic Salary + DA (enters)/DP + Commission on Turnover

(iii) Average Salary = $\frac{\text{Salary of last 10 months}}{10}$

(iv) Leave Due = 30 days leave for each completed year of service – leaves already availed.

(5) Retrenchment Compensation [Section 10(10B)]

This exemption is available to the employees who are covered under Industrial Disputes Act. In this case, the least of the following is exempted:

- (a) Actual amount received.
- (b) Notified Limit – Rs. 5,00,000/-.
- (c) Amount payable under Industrial Disputes Act i.e., 15 day's average pay for each completed year of service or part thereof in excess of six months.

The limits of section 10 (10B) shall not apply in cases where the Compensation is paid under any scheme approved by the Central Government.

Note: 6 months or more = 1 year.

(6) Compensation Received under VRS [Section 10(10C)]

Any payment received by an employee at the time of his voluntary retirement or termination of his service by a public sector company, an authority established under a Central, State or Provincial Act, a local authority, a co-operative society, etc., it shall be exempted up to the least of the following:

- (a) Actual amount received.
- (b) Notified Statutory Limit – Rs. 5,00,000/-.
- (c) 3 months salary for every completed year of service.
- (v) Salary for number of months remaining service [i.e., number of months to be counted from the month of voluntary retirement to the month of actual retirement]

Note:

Salary for this purpose shall have the same meaning as for provident fund for the month of retirement.

Deductions out of Gross Salary (Section 16)

The following deductions are allowed to an assessee out of his gross salary.

(1) Standard Deduction u/s 16(ia)

With effect from A.Y. 2019-20 standard deduction has been reintroduced for all employees and pensioners. For A.Y. 2022-23, this deduction shall be least of following two amounts Rs. 50,000 p.a. or salary/pension earned.

(2) Entertainment Allowance to Government Employees u/s 16(ii)

Deduction u/s 16(ii) admissible to government employees shall be an amount equal to *least of following*:

- (a) Statutory Limit of Rs. 5,000 (maximum).
- (b) 1/5th of Basic Salary.
- (c) Actual amount of entertainment allowance received during the previous year.

(3) Tax on Employment u/s 16(iii)

In case any amount of professional tax/employment tax is paid by the employee or by his employer on his behalf it is *fully allowed as deduction*.

Deductions out of Gross Total Income (GTI) u/s 80C

To encourage savings, an incentive in the form of a deduction out of one's taxable income has been allowed. To channelise those savings, various schemes have been framed and if the assessee deposits those savings in these approved saving schemes, a deduction shall be allowed. Deduction u/s 80C shall be allowed only to an Individual and a Hindu Undivided Family (HUF). Total amount deposited in various approved savings schemes or Rs. 1,50,000 p.a. whichever is less shall be allowed as deduction.

Qualifying amount for deduction u/s 80C :

1. Employee or assessee's own contribution to P.F.
If S.P.F., fully qualifies [Govt., LIC, University, SBI, RBI etc.]
If R.P.F., fully qualifies.
If P.P.F., fully qualifies. Account can be in the name of self, spouse or any child.
If U.R.P.F., does not qualify.
2. Any amount contributed by employee towards Approved Superannuation fund-Fully qualifies.
3. Life insurance Premium paid by employee or by employer to assure life of employee, his spouse or children (minor or major, married or unmarried) shall qualify up to actual premium paid or **20% of sum assured (10% of actual capital sum assured for policies issued on or after 1-04-2012) whichever is less. Sum assured shall not include bonus or any premium agreed to be returned.**
For a person suffering from disability or disease, the premium shall qualify upto 15% of the capital sum assured if the policy is issued on or after 1-04-2013.
4. Amount deposited in Sukanya Samridhi Account.
5. Any amount deducted from the salary payable by or on behalf of the Government to any individual in accordance with the conditions of his service, for the purpose of securing to him a deferred annuity or making provision for his spouse or children, in so far as the sum so deducted does **not exceed one-fifth of the salary.**
6. Any amount contributed to keep in force a contract for a deferred annuity, not being an annuity plan referred to in clause (12). The persons on whose name savings can be made are in the case of an individual, the individual, the wife or husband and any child of such individual. Such contract does not contain a provision for the exercise by the insured of an option to receive a cash payment in lieu of the payment of the annuity ;
7. Any amount deducted by employer (Govt.) out of employee's salary under group insurance scheme fully qualifies.
8. Any amount invested by an individual or H.U.F. with UTI or LIC under Unit Linked Insurance Plan (ULIP) fully qualifies.

9. Any amount invested in NSC VIII issue fully qualifies,
10. Interest Accrued on NSC VIII/IX issue purchased earlier is deemed to be reinvested hence fully qualifies.
11. Any amount deposited under notified deposit scheme 92 fully qualifies.
12. Any amount paid to LIC under New Jeevan Dhara, New Jeevan Dhara I, or New Jeevan Akshay, New Jeevan Akshay I, New Jeevan Akshay II plans fully qualifies.
13. Any amount deposited with mutual fund under a scheme of pension fund i.e. UTI retirement Pension Fund shall fully qualify.
14. Any amount deposited with nationalised bank under home deposit scheme of National Housing Bank, fully qualifies.
15. Any amount deposited with an authority engaged in housing development or town and rural development fully qualifies.
16. Any amount deposited with housing finance institutions fully qualifies

17. Any amount repaid under house building loan taken from Govt., LIC, Bank, HDFC, HUDCO or other housing finance institutions or employer. [Not from friends or relatives]

OR

Amount repaid as full price or installment of price of a house purchased from Govt. or an approved agency shall qualify up to actual amount repaid shall fully qualify for deduction u/s 80C.

The amount repaid must not include interest on loan or ground rent but shall include stamp duty and registration charges.

18. Any amount paid as tuition fees (excluding any payment towards any development fees or donation or payment of similar nature whether at the time of admission or thereafter to :

- (a) any school, college or university or other educational institution situated in India,
- (b) for the purpose of full time education of any **two children** of the individual.

The amount, which shall qualify under this section, shall not exceed actual amount paid as tuition fee for two children only.

19. Amount paid as subscription to equity shares or debentures of any eligible issue. In case such issue is notified by CBDT, the amount invested shall qualify for deduction u/s 80C. The amount so invested in on which deduction is claimed shall not qualify for exemption of capital gain u/s 54EA or u/s 54EB or u/s 54EC.

20. Amount paid as subscription to any units of any mutual fund. In case such unit scheme of mutual funds is notified by CBDT, the amount so invested shall qualify for deduction u/s 80C. The amount so invested in on which deduction is claimed shall not qualify for exemption of capital gain u/s 54EA or u/s 54EB or u/s 54EC.

The shares, debentures or units acquired under (18) and (19) above cannot be converted into money for three years. In case such units or shares are converted into money before the expiry of three years the amount of rebate claimed shall become as tax payable of the year in which these are sold or otherwise transferred.

21. Term deposits with scheduled banks for a duration of at least 5 years as per the scheme framed by Central Government.
22. Investment in Notified bonds issued by NABARD will also qualify for deduction u/s 80C.
23. Deposits in Post Office Time Deposit Rules and Senior Citizens Savings Scheme Rules.
24. Any amount of contribution made by an employee of Central Govt. to his National Pension System shall qualify for deduction u/s 80C. Such contribution has been made for not less than 3 years and this pension system is notified u/s 80CCD.
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New Tax Slab Rates under Alternate Tax Regime

The Finance Act, 2020 has inserted a new sub-section 115BAC for those individuals and H.U.Fs who do not want to claim certain exemptions and deductions and thus are eligible for new tax slab rates. If option of new tax slab incentives rates is exercised then following exemptions, deductions and certain incentives are not allowed to individuals and H.U.F assesseees.

Section	Exemptions/Deductions not allowed
Section 10(5)	Leave travel concession
Section 10(13A)	House Rent Allowance
Section 10(14)	Allowances specially granted to meet expenses wholly and exclusively incurred in the performance of duties except the following :
	(i) Transport allowance given to Divyang (handicapped) employees.
	(ii) Conveyance allowance for official purposes.
	(iii) Any other allowance to meet cost of travel or tour or transfer.
	(iv) Daily allowance to meet the ordinary charges incurred by an employee on account of absence from his normal place of duty.
Section 10(17)	Allowances to M.P's/MLA's.
Section 10(32)	Allowance for income of minor upto ₹ 1,500 available in the case of clubbed income
Section 10AA	Exemption of SEZ unit
Section 16	All deductions available under this section
Section 17(2)	Exemption available in respect of free food and non-alcoholic beverage given through paid voucher (upto ₹ 50 per meal)
Section 24(b)	Interest on housing loan in respect of self-occupied or vacant property upto 2 houses.
Section 32(1)(iia)	Additional depreciation
Section 32AD	Investment on new P&M in notified backward areas
Section 33AB	Business of manufacture of tea/coffee/rubber.
Section 33ABA	Business of extration or production of Petroleum and Natural Gas.
Section 35(1)(ii)(iia)(iii) and 35(2AA)	Expenditure on scientific research.
Section 35AD	Deduction regarding expedition on specified business
Section 55CCC	Deduction regarding expedition on Agricultural Extension Project.
Section 57(iia)	Deduction out of family pension
Deductions u/s 80	All deductions u/s 80C to 80U except u/s 80CCD(2) employer's contribution towards NPS, deduction u/s 80JJAA and 80LA(1A).

Example

Mr. A an employee of Ranchi [Population 15 lakhs] based company provides the following particulars of his salary income :

	₹
(i) Basic Salary	12,000 p.m.
(ii) Profit Bonus	12,000
(iii) Commission on turnover achieved by Mr. A	42,000
(iv) Entertainment allowance	2,000 p.m.
(v) Club facility	6,000
(vi) Transport allowance	1,800 p.m.
(vii) Free use of car of more than 1.6 lt. capacity for both personal and employment purposes ; expenses are met by employer.	
(viii) Rent free house provided by employer. Lease rent paid by employer	6,000 p.m.
(ix) Free education facility for three children of the employee : [Bills issued in the name of employer]	22,500
(x) Gas, water and electricity bills issued in the name of employee but paid by employer	16,800

Compute income under the head salary for the assessment year 2023-24.

Computation of Salary Income of Mr. A for the Assessment Year 2023-24

	₹
Salary	1,44,000
Profit Bonus	12,000
Commission	42,000
Entertainment Allowance	24,000
Club facility-Taxable	6,000
Transport Allowance-Fully taxable	21,600
Car Perquisite—Big car @ ₹ 2,400 p.m.	28,800
Education facility for children	22,500
Gas, water and electricity bill paid by employer	16,800
Value of rent free house ; Rent paid by employer ₹72,000	
Salary of employee for this purpose [1,44,000 + 12,000 + 42,000 + 24,000 + 21,600 = 2,43,600]	
15% of employee's salary i.e. ₹ 36,540 or rent paid by employer ₹ 72,000, w.e. is less	<u>36,540</u>
Gross salary	3,54,240
Less : Deductions u/s 16 : Standard deduction u/s 16(ia)	<u>50,000</u>
Income under the head 'Salaries'	<u>3,04,240</u>

Note. The perk of car and club facility both are taxable.