**Income Tax Theory Law & Practice**

**TWO MARK QUESTIONS**

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# UNIT – I

# BASIC CONCEPTS OF INCOME TAX

Income tax is a tax on year taxable income of a person levied by the Central Government at prescribed rates. Tax payers include individual, firm, company, Hindu undivided family, association of persons, trust etc. Taxable income means income calculated under the provisions of the Income Tax Act.1961

# Salient Features of Income Tax-

1. Central Tax
2. Direct Tax
3. Tax on Taxable Income
4. Progressive rates of Tax
5. Scope of Taxation not only with individual but also with firm, company, HUF, Trust & Co-Operative Societies
6. Tax Exemption limit
7. Burden on Rich class persons
8. Separate Administration
9. Distribution of Tax between Central and State Government
10. It is largest source of revenue.
11. Tax for country welfare
12. History of income Tax in India is about 150 years old.
13. Control on Income by Income tax
14. Beginning of Income Tax by sir James Wilson in 1860 in India.

# Income [Section 2(24)]

Though ‘Income’ is a very important word for the Income Tax Act but no precious definition of the word “Income” is attempted under the Income Tax Act, 1961. The term “Income”, in the context of the Act, in inclusive. The narrion given in Sub-Section (24) of Section 2 of the Act enumerates certain items, including those which cannot ordinarily be considered as income but are treated satutorily as such.

# Definition of Income [Section 2(24)]

Income Includes:-

1. Profit and gains;
2. Dividend;
3. Voluntary contributions received by a trust.
4. The value of a perquisite o profit in lieu of salary.
5. Any special allowance or benefit other than perquisites included under 4.
6. Any allowance granted to the assessee either to meet his personal expenses at the place where the duties of his office
7. The value of any benefit or perquisite obtained from a company.
8. Any compensation
9. Profit on sale of License
10. Cash assistance received
11. Any interest, salary, bonus, commission/remunerations
12. Profit/gain of mutual or co-operative insurance co.
13. Capital gain arising from transfer of capital gain
14. Any sum received under a key man insurance police.

# Agricultural Income [Section 2 (1A)] Definition of Agriculture Income

Sec. 2(1A) defines “agricultural income” to means –

1. any rent or revenue derived from land which is situated in India and is used for agricultural purposes,
2. any income derived from such land by agriculture or by the process employed to render the produce fit for the market or by sale of such produce by a cultivator or receiver of rent in kind,
3. Any income derived from any building provided the following conditions are satisfied (i) The Building is immediate vicinity of the agriculture land (ii) it is occupied by the cultivator or received of rent or revenue (iii) It is used as a dwelling house or store house/out house. (iv) The land is assessed to land revenue or a local rate.
4. Any income derived from saplings/seedling grown in a nursery shall be deemed to be agricultural income.

**Income connected with land but not agricultural income –**

1. Profit earned on purchasing the standing crop.
2. Income from mines
3. Income from self grown grass, trees/bamboos
4. Divided from a company engaged in Agricultural
5. Income from warehouses and godowns.
6. Income from land used for brick making
7. Income from supply of water for irrigation purposes.
8. Remuneration for managing agricultural property.
9. Income from dairying.
10. Interest accrued on promissory notes executed for arrears of rent.

# CASUAL INCOME

Causal Income means such income the receipt of which is accidental and without any stipulation. It is the nature of an unexpected windfall.

Though causal income is fully taxable but it is necessary to clear this meaning from the following point of view –

1. Causal income like lottery, race income are taxable at special rate of 30%
2. Causal income cannot be set off against other causal income as well as casual income cannot be used for setting off loss of other head.

# ASSESSMENT YEAR : (2015-2016)

It means the period of twelve months commencing on 1st of April every year. In other words period of 12 months – 1st April to 31st March is called assessment year.

# PREVIOUS YEAR (Section 3) (2014-2015)

Previous year means the financial year immediately preceding the assessment year e.g. for the assessment year 2015-2016 previous year will commence on 1st of April, 2014 and end on 31st March, 2015. Previous year for income tax purposes will be financial year which ends on 31st of March, however the assessee can close his books of accounts on other date e.g. an assessee may maintain books of accounts on calendar year basis but his previous year, for Income Tax purpose, will be financial year and not the calendar year. This uniform previous year has to be followed for all sources of income.

Important points in relation to previous year: Under the following situation the previous year would be -

* 1. Where a different accounting year is followed
	2. Previous year in case of newly set up business
	3. In case of newly created source of income

# Exception to the rule of Previous Year:

These exceptions are:

1. Shipping business income of non-resident ship-owners
2. In case of persons leaving India
3. In case of persons who are likely to transfer their assets to avoid tax
4. In case of discontinued business

# PERSON [SECTION-2 (31)]

The term ‘person’ includes:

1. An individual
2. A Hindu undivided family
3. A Company;
4. A Firm;
5. An association of persons or a body of individuals, whether incorporated or not;
6. A local authority like Municipalities, Panchayats, Cantonment Boards, Port Trusts etc.
7. Every artificial juridical person Like Life Insurance Corporation, University etc.

# ASSESSEE [SECTION-2 (7)]

In simple word, An Assessee is a person who is liable to pay any sum under Income Tax Act or in respect In respect of whom the proceeding have been initiated under this Act.

The word ‘assessee’ has been defined in Section 2(7) of the Act according to which assessee means a person by whom any tax or any other sum of money is payable under the Act and includes –

# Every person:

* 1. Who is liable to pay any tax; or
	2. Who is liable to pay any other sum of money under this Act (e.g. interest, penalty, etc); or
	3. In respect of whom any proceeding under this Act has been taken for the assessment of the income; or
	4. In respect of whom any proceeding under this Act has been taken for the assessment of the income of any other person in respect of which he is assessable; or
	5. In respect of whom any proceeding under this Act has been taken for the assessment for the loss sustained by him or by such other person; or
	6. In respect of whom any proceeding under this Act has been taken for the amount of refund due to him or to such other person;

# A Deemed Assessee:

A person who is liable to pay tax not only on his own income but on the income of any another person. Deemed assesses includes legal representative, agent of non resident, guardian or manager of an infant and lunatic, trustees and administrators etc.

# Who is deemed to be an assessee in default?

A person is said to be an assessee in default if he fails to comply with the duties imposed upon him under the Income tax Act.

# GROSS TOTAL INCOME

Gross Total Income means aggregate amount of taxable income computed under five heads of income i.e. salaries, house property, business & profession, capital gains and other sources. In other words, Gross Total Income means total income computed in accordance with the provisions of the Act before making any deduction under sections 80C to 80U.

In Simple words, the aggregate amount of the following heads of income is called Gross Total Income –

* 1. Salaries (Cash receipts and perquisites from the employer),
	2. Income from House Property (Rental income)
	3. Profits an Gains of Business or Profession,
	4. Capital Gains from transfer of movable and immovable assets,
	5. Income from other Sources i.e. interest, royalty, lottery etc.

**EXEMPTED INCOME**

**Section -10 of Income Tax Act laye down income which is totally or partially exempted from tax-**

* 1. **EXEMPTED INCOME FOR ALL ASSESSES**
1. Agricultural Income Sec. 10(1)
2. Share of income from partnership firm Sec. 10 (2A)
3. Share of HUF Income Sec. 10(2)
4. Scholarships – Sec.10(16)
5. Income as divided Sec. 10 (34 & 35)
6. Capital gain on transfer of u/s 64 (Sec. 10 (33)
7. Allowance of M.P./MLA Sec. 10 (17)
8. Award / reward Sec. 10 (17A)
9. Pension to gallantry award winner Sec. 10(18)
10. Family Pension received by the family members of armed forces Sec. 10(19).
11. Capital gain on compulsory acquision of urban Agriculture land Sec. 10(37)
12. Interest on notified Government Securities Sec. 10(15)
13. Income of minor child which is clubbed Sec. 10(32) [Up to 1,500/- per child]
14. Compensation under Bhopal Gas Leak Disaster Sec. 10(10BB)
15. Income of subsidy from Tea Board Sec. 10(30)
16. Income of schedule Tribe members Sec. 10(26)
17. Amount received under a life Insurance Policy Sec. 10(26)
18. Income of subsidy from Rubber Board/Coffee Board /spices board / any other notified Board Sec. 10(31)
19. Income from Sukanya Samriddhi Account – Sec. 10(11)A.

# RESIDENTIAL STATUS AND TAX LIABILITIES

The tax liability under income tax is determined on the basis of residential status of an assessee but not according to the citizenship hence it becomes necessary that firstly the residential status of an assessee should be determined.

# On the basis of residential status there are 3 categories of assessees:

1. Resident/Ordinary resident
2. Not ordinarily resident
3. Non resident

There are separate rules for different types of assessee like; individual, H.U.F., firm, companies etc. for determination of residential status.

# Individual Assessee

1. **Resident / Ordinary Resident : -** If an individual wants to become resident in India, then he has to fulfill the basic condition as well as two additional conditions:
	1. **Basic conditions:** In the basic conditions, there are two conditions. On satisfying any one of these, it will be assumed that the basic condition is satisfied.
		1. The assessee must have lived for at least 182 days in India during the previous year.

# OR

* + 1. The assessee must have lived for at least 365 days in 4 years preceding the previous year and at least 60days in 4 years preceding the previous year.

# EXCEPTIONS TO THE BASIC CONDITIONS

1. If an assessee is an India citizen and goes aboard for the employment purpose or leaves the country as a member of crew of an Indian ship.
2. If an assessee is an Indian citizen or an Indian origin, living in a foreign country and comes to India on tour during the previous year.

In both these exceptional cases an assessee has to lives for at least 182 days for satisfying the basic condition.

# Additional Conditions

There are two additional conditions and assessee has to satisfy both of these conditions. These are :

1. An assessee must have been assessed as resident for at least 2 out of 10 years preceding the previous year.

# AND

1. An assessee must have lived for at least 730 days out of 7 year proceeding the previous years.

# Thus on satisfying any of the two basic conditions and two additional conditions an individual assessee can be termed as “ordinary resident”.

1. **Not Ordinarily Resident:** If an assessee satisfies the basic condition but fails to satisfy the two additional conditions, then he will be assessed as “not ordinarily resident”.
2. **Non Resident:** If an assessee fails to satisfy even the basic condition, then he will be assessed or” non resident”.

# Hindu Undivided Family (H.U.F.)

1. **Resident :** An HUF will be assessed as resident in India if :
	1. Management and control of the business is wholly/partly situated in India.

# AND

* 1. “Karta” of the HUF satisfies the two additional conditions.
1. **Not Ordinarily Resident :** An HUF will be assessed as NOR if:
	1. Management and control of the business is wholly/partly situated in India

# BUT

* 1. Karta of HUF does not satisfy the two additional conditions.
1. **Non Resident:** An HUF will be assessed as non resident if control and management of the HUF is wholly situated outside in India.

# FIRM OR ASSOCIATION OF PERSONS

1. **Resident :-** A firm or an AOP will be assessed as Resident of India if its control and management is wholly/partially situated in India
2. **Non Resident :** A firm or an AOP will be assessed as non resident in India if it is wholly/partly controlled and managed from outside India.

# COMPANY

1. **Resident :** A company will be assessed as resident in India if :
	1. It is an Indian Company

OR

* 1. It is controlled and managed wholly within India.
1. **Non-Resident :** A company which is neither an Indian company nor it is wholly/partly controlled and managed from outside India, is called as non-resident.

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# Residential Status for Hindu Undivided Family (H.U.F.)

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# RESIDENTIAL STATUS AND TAX INCIDENCE (LIABILITIES)

Tax liability of an assessee depends upon the residential status on which income he is liable to pay tax and which incomes are not taxable for him, for determination of this matter, now we have to understand the relationship between residence and tax liabilities :

1. Tax liability of **Resident**
	1. Income received or deemed to be received in India.
	2. Income accurred or deemed to be accrued in India.
	3. Income received or accrued outside the India
2. Tax liability of **Not ordinarily resident:**
	1. Income received or deemed to be received in India.
	2. Income occurred or deemed to be accrued in India.
	3. Income business situated outside India but controlled and managed from India
3. Tax liability of **non residents:**
	1. Income received or deemed to be received in India
	2. Income occurred or deemed to be accrued in India.

# UNIT - II

# INCOME FROM SALARY

**COMPUTATION OF INCOME FROM SALARY**

Assessment Year 2014-15

|  |  |
| --- | --- |
| 1. Cash Receipts :- Salary Bonus Commission Allowances

Advance Salary Arrears of Salary1. (i) Employer’s Contribution in R.P.F. (Recognized provident fund) in excess of 12% of salary

(ii) Interest on R.P.F. in excess of 9.5%C) Perquisites:-Rent free house Medical facility Motor car Education facilityGross SalaryLess:- Deduction u/s 16 (ii)Entertainment allowance ……… Less:- Deduction u/s 16 (iii)Professional tax **………**Taxable Salary | ------------- |
| ------------- |
| ------------- |
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| **(---------)** |
|  ………….. |

Deduction form Gross Salary

1. **Entertainment allowance u/s 16(ii)** :- This deduction is allowable only to government employees.

Salary = Basic Salary :-

* 1. Allowance received
	2. 20% of Salary
	3. Rs. 5000

# Professional Tax or Employment tax u/s 16(iii) :-

Actual Payment will be deductible.

|  |
| --- |
| **Allowances** |
| **Fully Taxable Allowance** | **Fully Tax free allowance** | **Partly Taxable allowance** |
| 1. City compensatory allowance
2. Dearness Allowance
3. Deputation Allowance
4. Entertainment Allowance
5. Family allowance
6. High cost of living allowance
7. Medical Allowance
8. Non-practicing allowance
9. Overtime allowance
10. Project allowance
11. Rural area allowance
12. Servant allowance
13. Tiffin allowance
14. Warden and proctor allowance
 | 1. Conveyance allowance
2. Travelling allowance
3. Tour allowance
4. Helper or assistant allowance
5. Academic and research allowance
6. Uniform allowance
7. Special allowance for performing duty.

Above allowances will be fully exempted if :-1. Whole amount is spent
2. Amount is spent for office use only
 | 1. Education allowance
2. Hostel allowance
3. Tribal area allowance
4. Transport allowance
5. Composite hill compensatory allowance
6. Running allowance to the employees of transport undertakings
7. House rent allowance
8. Under Ground Allowance
 |

# Rules regarding partly taxable allowance

1. **Education allowance :-** Exempted to Rs.100/- P.M. per child for maximum 2 children i.e. 100 × 2 × 12 = Rs. 2,400/-
2. **Hostel allowance :-** Exempted up to Rs. 300/- P.M. per child for maximum 2 children i.e. 300 × 2 × 12

= Rs. 7,200

1. **Tribal area allowance:-** Exempted up to Rs. 200/- P.M.
2. **Transport allowance:-** Allowance for going to office and coming back to home is exempted up to Rs. 800 P.M.

# Composite hill compensatory allowance:-

* 1. Manipur skim, u.p., H.P. and J & K where height is 9000 ft. and above Rs. 800 P.M. exempted
	2. In Siachin area Rs. 7000 P.M. exempted.
	3. Places located at a height of 1,000 meter or more above the sea level Rs. 300 per month.

# Running allowance for employees of Transport undertakings

70% of allowance received or

Rs. 10,000/- P.M.

# House Rent allowance:-Whichever is less is exempted

Salary = Basic Salary + D.A. Under the terms + Commission at fixed percentage

|  |  |  |
| --- | --- | --- |
|  |  |  |
| **Allowance received**Less:- Whichever1. Allowance received
2. Rent paid – 10% of salary is less will be
3. 40% or 50% of salary
 | ------------------------------------------------ | -------------------------------- |
| **Taxable H.R.A.** |  | ---------------- |

# Under Ground Allowance : - Exempted upto Rs. 800 Per Month

**Perquisites**

|  |  |
| --- | --- |
| **Tax free perquisites** | **Taxable perquisites** |
| 1) Refreshment facility | **For all class of employers** | **For Specified employers** |
| 2) Telephone facility | 1) Rent free house | 1) Servant facility |
| 3) Medicinal facility | 2) Concessional rent house | 2) Gas, Water & electricity facility |
| 4) Expenses on Training | 3) Liabilities of employee paid by employer | 3) Free education facility(exceeding Rs. 1000 P.M. Per child) |
| 5) Sale of goods as concessional rate | 4) Interest free or concessional loan exceeding Rs. 20,000 |  |
| 6) Issue of shares/debentures at concessional rate | 5) Use of movable assets [10% of cost will be Taxable] |  |
| 7) Free Conveyance facility | 6) Transfer of movable assets [W.D.V. –Transfer price] |  |
| 8) Free Accommodation for employees | 7) Medical reimbursement (exceeding Rs. 15000) |  |
| 9) Scholarship to children ofemployee |  |  |
| 10) Leave travel concession or assistance |  |  |
| 11) Loan facility up to 20000 |  |  |
| 12) Free use of computers |  |  |
| 13) Free Education facility up to Rs. 1000 P.M. per child |  |  |
| 14) Health club and sport facilities |  |  |
| 15) Tax paid on perquisites |  |  |
| 16) Group insurance andaccidental insurance premium paid by employer |  |  |
| 17) Transfer of 10 year old movable assets |  |  |
| 18) Free meal upto Rs. 50 |  |  |

**Rules Regarding Retirement**

1. **Monthly Pension -** Fully Taxable

# Computation of Pension –

* 1. Government employee – Fully exempted
	2. Other employee
		1. If employee is getting Gratuity – 1/3rd of total pension will be exempted
		2. If gratuity employee is not getting gratuity – ½th of total pension will be exempted.

# Gratuity –

* 1. Government employee – fully exempted
	2. Employee covered under gratuity payment 1972

Salary = Basic salary + Dearness allowance (which is under the terms of employment or not)

|  |  |
| --- | --- |
| Gratuity received Less :-1. Gratuity received ----------
2. Salary last drawn x Service Year x 15 ---------- Whichever

261. Maximum limit Rs. 10,00,000 ---------- is less
 | ------------(-) ----------- |
| **Taxable Gratuity** | ------------ |

**Note:-** Salary will be calculated on the basis of last months receipts

* 1. Employee not covered under Gratuity payment Act 1972

Salary = Basic Salary + Dearness allowance under the terms + Commission at fixed percentage

|  |  |
| --- | --- |
| Gratuity received Less :-1. Gratuity received ----------
2. No. of Completed year x Preceding 10 month average salary Whichever

23. Maximum limit Rs. 10,00,000 ----------is less | ------------(-) ----------- |
| **Taxable Gratuity** | ------------ |

**Note:-** Salary will be calculated on the basis of last months receipts

# Earned Leave Salary:-

* 1. Government employee – Fully exempted
	2. Non Govt. employee –

Salary = Basic salary + D.A. under the terms+Commission of fixed percentage

|  |  |
| --- | --- |
| Salary received for earned leave Less :-1. Salary received for earned leave ----------- Whichever
2. Salary of approval period -----------
3. Salary of 10 months ----------- is less will

4) Maximum limit Rs. 3,00,000 ----------- be | ------------(-) ----------- |
| **Taxable earned leave Salary** | ------------ |

**Note:-** Salary will be calculated on the basis of last to month’s average salary.

# Compensation on Retrenchment

Salary = Basic salary + Allowances Taxable + All taxable perquisites

|  |  |
| --- | --- |
| Compensation received Less :-1. Compensation received -----------
2. Salary of 15/30 days on Whichever

the completed year of service(under industrial dispute act 1947) ----------- is less3) Maximum limit Rs. 5,00,000 ----------- | ------------(-) ----------- |
| **Taxable Amount** | ------------ |

**Note:-** Salary will be calculated on the basis of last 3 month’s average salary

# Amount received from provident fund:-

Amount received from statutory P.F. and Recognised P.F. will be fully exempted but amount received from unrecognised P.F. will be taxable as under-

1. Employer’s share with interest will be taxable in the head of salary
2. Interest on employee’s share will be taxable in the head of other sources.

# UNIT-III

**INCOME FROM HOUSE PROPERTY**

The second head of Income is income from house Property. In this head of income, we compute the income received by an assessee from the house owned by himself. There are some incomes which arise from house, Owned by the assessee, but not to be included in this head:

1. Income from staff-quarters.
2. House used by the assessee for his own business or profession.
3. House Let out to government authorities for police station, fire brigade, bank, insurance company etc. for taking assistance in the business.

Similarly, income from subletting house or sub-tenancy will not be the part of this head.

# Exempted Income from house properties:

Some incomes are been declared exempted which have arisen from house properties.

1. Income from self-residential house
2. Income from official residence of former rulers.
3. Income of some social & charitable institutions.
4. Income from agricultural farm house.

From the Income-tax point of view, house properties can be classified into 4 parts:

# Self-Residential House:

Computation of Income from House Property Assessment year 2015-16

|  |  |
| --- | --- |
| Gross Annual value of self-occupied house Less: Interest on loan (Rs. 30,000/ Rs. 2,00,000)Income from House Property | NIL---------------- |

# Let-Out House:

Computation of Income from House Property Assessment year 2015-16

|  |  |
| --- | --- |
| Gross Annual ValueLess: Municipal Taxes [Paid by owner on or before 31st march, 2013].Net Annual ValueLess: Deduction u/s 24:1. Standard deduction (30% of N.A.V.) --------
2. Interest on loan --------

Income from House Property (Taxable) | --------(-) ---------------- (-)-------- -------- |

# Partly let-out & Partly self-occupied House:

|  |  |
| --- | --- |
| 2/3Self-occupied | 1/3Let-out |

1. Some part of the house is self-occupied for the whole year and remaining portion is
2. let out for some period by self-occupies for the remaining period:

|  |  |
| --- | --- |
| 2/3Self-occupied | 10 months Let out |
|  | 2 months Self-occupied |

Important provisions related to Computation of Income from House Property:

**(A) Basis of Charge [Section 22]:**

Income from house property shall be taxable under this head if following conditions are satisfied:

* The house property should consist of any building or land appurtenant thereto;
* The taxpayer should be the owner of the property. Owner includes deemed owner.
* The house property should not be used for the purpose of business or profession carried on by the taxpayer.

**(B) Deemed owner [Section 27]:**

Income from house property is taxable in the hands of its owner. However, in the following cases, legal owner is not considered as the real owner of the property and someone else is considered as the deemed owner of the property to pay tax on income earned from such house property:

**(C) Meaning of composite rent**

When apart from recovering rent of the building, in some cases the owner gets rent of other assets (like furniture) or he charges for different services provided in the building (for instance, charges for lifts, security, air conditioning, etc.). The amount so recovered is known as “composite rent”.

**(D) Meaning of Self-occupied property**

A self-occupied property means a property owned by the taxpayer which is occupied throughout the year by the owner for the purposes of his own residence and is not actually let out during the whole or any part of the year. Thus, a property not occupied by the owner for his residence cannot be treated as a self occupied property. However, there is one exception to this rule. If the following conditions are satisfied, then the property can be treated as self-occupied and the annual value of a property will be “Nil”, even though the property is not occupied by the owner throughout the year for his residence:

* The taxpayer owns a property;
* Such property cannot actually be occupied by him owing to his employment,
* business or profession carried on at any
* other place and he has to reside at that other place in a building not owned to him; The property mentioned in (a) above (or part thereof) is not actually let out at any time during the year;
* No other benefit is derived from such property.

**Meaning of Municipal Value**

For collection of municipal taxes, local authorities make periodic survey of all buildings in their jurisdiction. Such value determined by the municipal authorities in respect of a property, is called as municipal value of the property.

**Standard Deduction:** 30% of Net Annual Value

# Interest on Loan:

This deduction is allowed on “Due basis”. It means that whether the amount of interest is paid or not by the assessee, on claiming the deduction by him he will get the deduction.

Deduction of interest on loan is allowed only when the amount of loan is utilized for purchasing, constructing or repairs or renewal of the house.

Deduction of interest of loan is given in 2 parts:

1. Amount of interest due during the previous year 2014-15
2. 1/5th of interest for construction period.

Construction period will be calculated from the date of taking loan upto 31st March immediately preceding the date of completion of construction of house.

**UNIT – IV**

**INCOME FROM BUSINESS AND PROFESSION**

**1. Definition of business?**

 The term ‘Business’ has been defined in section 2(13) of the income tax – Act. According to this definition, business includes “any trade, commerce, manufacture or any adventure or concern in the nature of trade, commerce or manufacture.”

**2. Definition of profession?**

 The term ‘profession’ has been defined in section 2(36) of Income Tax Act, 1961 to include vocation.

 Both these definition are neither exhaustive nor specific and clear. Section 2(36) defines ‘profession’ to include vocation. The word ’profession’ implies profession attainment and special knowledge as distinguished from mere skill.

**3. Computation of business profits?**

 **Computation of business income of………………**

 **PY:**

 **AY:**

 RS. RS.

Balance as per profit and loss A/C profit+

 Loss-

**Add: Inadmissible expenses:**

 a) Personal expenses relating to the proprietor:

 1. Salary paid to self or any other member of family for casual help. Excess

 Salary paid to relative.

 2. Drawings by the proprietor

 3. Personal life insurance premium

 4. Legal expenses on criminal case or a personal case of employee

 5. Rent for residential portion

 6. Rent paid to self

 7. Any amount invested in saving such as NSS, NSC, PPF etc.

 8. Loss by theft from residence

 9. Gifts and present (Non-advertisement)

 10. Household and personal expenses

b) All provisions and reserves:

 1. Reserve for bad debts

 2. Reserve for Depreciation

 3. Reserve for income tax

 4. Bad dept still recoverable.

 5. Employer’s contribution to unrecognised provident fund.

c) Capital expenses:

 1. All capital expenses except capital expenses on scientific research.

 2. All capital losses

 3. Interest on capital

 4. Expenses on acquisition of assets

 5. Past losses

 6. Speculation loss

 7. Cost of patent rights being capital expenditure

 8. Cost of Technical know-how being capital expenditure

d) Differences due to stock valuation:

 Under valuation of closing stock

 Over valuation of opening stock

 Under valuation of stock used by proprietor.

e) All taxes:

 1. Income tax

 2. Wealth tax

 3. Advance income tax

 4. Gift tax

 5. Local taxes of residential house.

d) Other Expenses:

 1. All Charities and Donations

 2. Cultivation expenses

 3. Excess depreciation

 4. Salary or interest payable outside India without deduction of tax.

 5. All types of fine or penalty

 6. Employee’s contribution to URPF

 7. Difference in Trial Balance

 8. Expenses on criminal case or a personal case of an employee.

**Less: Expenditure allowed but not debited:**

1. Under charging of depreciation
2. Actual bad debts not charged to P&L
3. Adjustment on account of stock:

 Under valuation of opening stock

 Over valuation of closing stock

1. Any other expenses incurred according to provision of IT Law but not debited

**Less: Income credited to P&L which is either exempt or taxable under other heads:**

1. Exempted income:
2. Post Office Saving Bank Interest
3. Agricultural receipts
4. Gifts from relatives
5. Bad debts, excise duty recovered but disallowed earlier.
6. Income tax refund
7. LIC maturity amount
8. Any capital receipt
9. Withdrawal from PPF.
10. Bad debts recovered but disallowed earlier.
11. Income not taxable under this head:
12. Part-time salary
13. Interest on Bank deposits and Securities
14. Rent from let out property
15. Capital gains
16. Dividends from Co-operatives and foreign companies and Indian companies.
17. Winning from Lotteries, race courses, etc.

**Add: Income earned but not shown in P&L:**

 Bad debts, excise duty recovered and allowed earlier.

 Income from any other business

 -----------

 Chargeable gains from business

 -----------

4. Computation of professional Income?

 **In case of Chartered Accountant**

 **Computation of Income from profession of……….**

**PY………..**

**AY………..**

 PAETICULARS Rs.

 **Professional income:**

 Fees received by auditing

 Receipts by accounting work.

 Fees received from Institute

 Examiner’s fees received

 Gifts and presents from clients

 Receipts from consultancy work

 Any other Incidental receipt.

 I Total receipts from profession

**Less: Expenditure in connection with profession:**

 Administration Expenses/ Office expenses

 Subscriptions

 Stipend to trainees

 Institute expenses

 Membership fees

 Car expenses incurred relating to profession

 Depreciation on office equipment and books used for profession

 II Total professional Expenses

 III Professional In

come

 I – II

 **In case of Doctor or Medical Practitioner**

 PARTICULARS Rs.

**Professional income/ Receipts**

 Fees received by consultation -

 Fees by conduction Surgery -

 Fees received by Visiting -

 Sale of Medicines -

 Gifts and present from patients -

 Examiner’s fees -

 Clinic, Nursing home, and Hospital receipts -

 Other receipts in connection with profession -

 Total professional receipts I -

**Less: Expenses in connection with profession**

 Clinic, hospital maintenance expenses -

 Cost of Medicines sold: -

 (Opening Stock + purchase –Closing stock) -

 If accounts are maintained on cash basis: Cost of actual -

 Medicines purchased during the year.

 Depreciation of equipment -

 Depreciation on books used for profession -

 Motor vehicles expenses relating to profession -

 Any other expenditure in connection with the profession -

 Total professional expenses II -

 Income from profession I – II -

 **In case of Lawyer or an advocate**

 PARTICULARS Rs.

**Professional income/ Receipts:**

1. Legal fees
2. Law practising fess
3. Special commission
4. Presents from clients
5. Examiner ship remuneration
6. Any other professional receipts

 Total Professional receipts I

 **Less: Expenses in connection with profession:**

 Staff salary

 Travelling expenses

 Subscription to law journal

 Office expenses

 Depreciation of office equipment and books used for profession

 Court fees

 Cost of stamp paper purchased

 Other expenses in connection with profession

 Total professional expenses II

 III Professional Expenses II

 I – II

**UNIT - V**

**INCOME FROM CAPITAL GAINS AND INCOME FROM OTHER SOURCES**

Any profit or gain arising from the sale or transfer of a capital asset is chargeable to tax under the head “Capital Gains”, Capital asset means any movable or immovable asset like land, building, plot, gold, silver, jewellery, shares, securities etc. Profit/Loss arising from transfer of such assets is compared under the had of capital gain from Income tax point of view.

# Definition of Capital Asset Sec-2 (14) -

Capital asset means property of any kind, whether fixed or circulating, movable or immovable, tangible or intangible e.g. land, building, plot, gold, silver, precious metals, jewellery, shares, securities, furniture, machinery etc.

Exception –

1. Though Property of any kind held by an assessee whether or not connected with his business/profession is included in the definition of ‘Capital Assets’ it does not include –
	1. Stock in trade
	2. Personal effect Assets (which is personally used by assessee and family member)
	3. Agricultural land in rural area
	4. Gold Bonds
	5. Special Bearer Bonds **Which is issued by Central Government**
	6. Gold deposit bonds

# Items included under capital gains Sec. -45

1. Profit from transfer of Capital Assets Sec. 45 (1)
2. Insurance Claim Sec. 45 (1A)
3. Conversion of Capital Assets into stock in trade Sec.45 (2)
4. Assets transferred to Firm/AOP Sec. 45 (3)
5. Profit from distribution of capital assets on dissolution Sec. 45(4)
6. Profit arises from compulsory acquisition of capital Assets. Sec. – 45 (5).
7. Capital Gain on repurchase of units of Mutual Fund Sec. 45 (6)

# Types of Capital Gains

* 1. Short term capital gain
	2. Long term capital gain

# Short term capital asset

1. Shares, securities, bonds, units are held by the assessee for not more than 12 months before transfer.
2. Assets on which deprecation has been allowed under the Income Tax Act, whether depreciable asset held by the assessee more or less 36 months.
3. Any other asset which is held by the assessee for not more than 36 months, e.g., land, building, precious metals, jewellery etc.

# Long term capital asset

1. Shares, securities, bonds, units held by the assessee for more than 12 months.
2. Other assets like building, gold, plot, land, jewellery etc. held by the assessee for more than36 months.

# Computation of Short term capital gain/loss (For the Assessment Year 2019-20)

Sales consideration ………

Less – Aggregate amount of the following:

|  |  |  |
| --- | --- | --- |
| (a) Transfer Expenses (Advertisement).Brokerage, legal exp. etc) |  | ………. |
| (b) Cost of acquisition of the asset | ………. |  |
| (c) Cost of improvement |  | ……… (-)…….. |

Short term capital gain/less ………..

# Computation Of Long Term Capital Gain/Loss (For the Assessment Year 2019-20)

|  |  |
| --- | --- |
| Full value of consideration |  |
| Less : Total of the following |  | ……… |
| (i) Transfer expenses | ………. |  |
| (ii) Indexed cost of acquisition | ………. |  |
| (iii) Indexed cost of improvement | ………. | (-)…… |
| Long term capital gain/loss |  | ………. |

**Formula:-**

1. **Calculation of Index cost of acquisition**
2. If assets acquired before 01.04.1981 by the Assessee

Original Cost or fair market value on × Index for the transfer year 2014-15(1024)

Index Cost =

 1.4.1981 (which ever is more) Cost inflation Index for 1981-82 (100)

1. If assets acquired on 01.04.1981 by the Assessee

|  |  |
| --- | --- |
|  | Cost of acquisition × Index for the transfer year 2014-15(1024) |
| Index Cost = | Cost Inflation Index for the year in which the assets is acquired by the assessee |

**Note:-** If the property is acquired before 1.4.81 then index for 1981-82 will be taken as index for the base year.

# Calculation of Indexed cost of improvement Formula:-

Cost of Improvement x

Cost Inflation index for the year in which the

 asset is transferred year 2014-15(1024)

**=** Cost Inflation Index for the year in which Improvement to the asset took place.

**Note:-** Improvement cost incured before 1.4.81 is not considered. It should be lgnored. Only cost of improvement will be considered which is related after 31.3.81.

# Exemption of Capital Gains

Exemptions are of two types

# Exemption of capital gains under various sub-clauses of section 10;

* 1. Capital gain on transfer of units of US 64 exempt [Section 10 (33)]
	2. Exemption of long-term capital gain arising from sale of shares and units and Securities Transaction Tax paid [Section 10(38)]
	3. Capital gain on compulsory acquision of urban agriculture land-Sec. 10(37)

# Capital gains exempt from tax – Under section 54 to 54H

|  |  |
| --- | --- |
| 1. Residential property converted in new residential property (Sec.54) within 3 years or before 1 year or after 2 years
2. Agricultural land transferred and another agricultural land purchased within 2 year (Sec. 54B)
3. Compulsory acquisition of land and building of industrial undertaking (Sec. 54D)
4. Capital gain is invested in notified bonds (Sec. 54EC) NABARD, Rural Electrification Corporation Bonds, National Highway Authority of India etc.
5. Other capital gains invested in residential property (Sec. 54F)

= Capital gain x Cost of new house Net consideration1. Shifting of industrial undertaking from urban area to other area (Sec. 54G) or SEZ (Sec. 54GA)
2. Capital gain on transfer of residential house property (sec.54GB)- w.e.f. of A.Y. 2014-15 a new exemption is available to an individual or a HUF in respect of LTCG gain. If assessee invest net consideration or part in

equity shares before due date of furnishing the return,in eligible company it least 5 year he shall entitled exemption as under\_Invested amt in new equity share =Net consideration \*capital gain | Cost of new land **or** capital gain (which ever is less)Cost of new land **or** capital gain (which ever is less)Cost of new land building **or**capital gain (which ever is less.)Invested amount within 6 monthsProportionate ExemptionUpto the cost of new industrial assets.Calculated Amount |

Tax on Capital Gains

* Long-term capital gains are taxable at special rates for each type of assessee –
1. 10% tax on long-term capital gain arising from transfer of securities. bonds, units, debent
2. 20% on other long term capital gains.
* Short-term capital gains are taxable at normal rates but Short term capital gain ce transfer of equity shares or units sold through Stock Exchange and Securities transaction tax paid, it will be taxable at concessional rate 15%.

Add : Education cess @ 3% on tax payable.

Important points should be kept in view

* Personal effects (clothing, furniture, utensils, vehicles etc), Rural agricultural land, stock in trade, Gold Bonds are not covered under definition of "Capital Asset". So, profit or loss arising from the transfer such assets is not noticeable.
* Depreciable assets will be treated as short-term asset even if such asset held by the assessee for Less than or more than 36 months.
* Indexed cost will not be allowed for the following long-term assets-
1. Securities, Bonds, Units and debentures of company.
2. Listed shares of an Indian company sold outside Stock Exchange and the assessee wants to pay tax @10% for long term capital gain instead of 20%
3. Nonresident assessee opts taxation u/s 115C to 1151 in respect of foreign exchange assets.
* If the equity shares or units are transferred during the previous year 2014-15 through Stock Exchange and Securities Transaction Tax has been paid, long term capital gain shall be exempt and in case of loss it will be ignored —
* If the transferred asset is acquired before 1.4.81, the cost of acquisition will be—

Original cost of the asset or

Fair market value on 1.4.1981 Whichever is more.

* Improvement cost incurred before 1.4.1981 should be ignored. It cannot be part of cost of the asset.
* Cost of bonus shares, obtained by the assessee after 31.3.1981, will be nil, so cost of acquisition of such shares will be taken Nil at the time of computation of capital gains.
* Cost of bonus shares acquired before 1.4.1981 will be considered. Fair market value of such shares on 1.4.1981 will be cost of acquisition. If the bonus shares are acquired after 31.3.81 the cost of acquisition will be Nil.
* Where any capital asset was on any previous occasion the subject of negotiations for its transfer, any advance or other money received and retained by the assessee in respect of such negotiations shall be deducted from the cost for which the asset was acquired or the written down value or the fair market value, as the case may be, in computing the cost of acquisition.
* During the previous year (2014-15) the assessee has transferred both type of capital assets, i.e. long term and short term and capital loss arise then —
1. Short term Capital Loss can be adjusted against any capital gain either Short term or Long term or both.
2. Long term Capital Loss can be adjusted against only Long term Capital Gains. Short term Capital Gain cannot used to set off for Long term Capital Loss.
* Sales consideration of Land or building is lower than value assessed for Stamp Duty purpose, then consideration will be taken as per Stamp Duty purpose instead of actual consideration.
* If the assessee acquired the asset under will or gift or any other way without consideration the cost of previous owner will be cost of acquisition from the point of view of capital gains. Period of holding of such property will be determined from the date of property acquired by the previous owner not the date of gift.
* Though the period of holding is determined on the basis of the date of acquiring the property by the previous owner but when we calculate the indexed cost of the asset then index will be taken for the year in which the assessee became the owner of the said property.

# Calculation of cost of Original Shares & Bonus Shares

Bonus shares means shares allotted by a company to its existing share holders without any consideration. An assessee holds shares of a company and thereafter the company allotted him bonus shares on the basis of holding.

# If original shares acquired before 1 April, 1981

The cost of actualisation will be taken-

Actual Cost of original shares or

market value on 1.4.81, whichever higher is cost

# If the original shares acquired after 1 April, 1981

Cost of actualisation will be actual cost

# If the bonus shares acquired before 1st April, 1981

Cost of Bonus Shares – Market value on 1 April, 1981

# If the Bonus shares acquired after 1 April, 1981

cost of Bonus Shares – Nil

# INCOME FROM OTHER SOURCES

This is the last and residual head of charge of income. An income which does not specifically fall under any one of the preceding four heads of income (viz Salaries. Income from house property, Profits and gains of business or profession or Capital gains) is to be computed and brought to charge under section 56 under the head Income from other sources.

# COMPUTATION OF INCOME FROM OTHER SOURCES

|  |  |  |
| --- | --- | --- |
| S.No. | Items | Taxability |
| 1. | Dividend on shares |  |
|  | (i.) Dividend from domestic company (ii.) Dividend from units(iii.) Dividend from non domestic company or co- operative society | Exempt Exempt Taxable as it is |
| 2. | Interest on securities |  |
|  | (i.) Interest on tax free Govt. securities (ii.) Interest on less tax Govt. securities(iii.) Interest on commercial securities | Exempt Taxable as it is |
|  | 1. If gross interest is given
2. If interest is given net and amount is more than Rs. 5,000 on listed debentures
3. Interest on tax free commercial securities
4. Listed debentures of a company
5. Unlisted debentures of a company

(d) Interest on Semi Govt. securities | Taxable as it isInt. x 100Gross 90 Int. x 100Gross 90 Int. x 100Gross 90Gross Interest taxable |
| 3 | Interest on Bank Deposit – up to Rs. 10,000 | Taxable as it is |

|  |  |  |
| --- | --- | --- |
|  | If interest is more than 10,000 and given net, such amount will be grossed up. | Int. x 100Gross 90 |
| 4 | Co-operative interest and dividend | Taxable as it is |
| 5 | Interest on company deposits or firm’s deposits1. If interest amount is upto Rs. 5,000
2. If net interest is more than Rs. 5,000
 | Taxable as it isInt. x 100Gross 90 |
| 6 | Lottery1. If the prize amount is given and
2. If net amount is given and such amount is more than Rs. 5,000
 | Fully taxableNet amount x 100 70 |
| 7 | Horse race income | Fully taxable |
| 8 | Causal income | Fully taxable |
| 9 | Royalty, director’s fees, article income, exam. Remuneration | Received income (-) expenses |
| 10 | Family pension | Received amount (-) 1/3 or 15,000 whichever is less |
| 11 | Income from sub tenant | Net income |
| 12 | Income from machinery, plagt or furniture on hire. | Rent received (-) expensed and depreciation. |
| 13 | Agricultural income outside India | Taxable |
| 14 | Income from non agricultural land in India | Taxable |
| 15 | Salary of M.P. or M.L.A. | Taxable |
| 16 | Income from undisclosed sources | Taxable |
| 17 | Cash gifts : (if the aggregate amount exceeding Rs. 50,000 in a financial year) from other persons except relatives.**Less : Deduction allowed (above mentioned incomes)**1. Interest Collection charges
2. Interest on loan
3. Any expenditure which is incurred by the assessee to earn such income
 | Fully taxable……………………….Actual amount Actual amount Actual amount |

**Calculation of Income from Sub-tenant**

|  |  |  |
| --- | --- | --- |
| Rent received from sub-tenant Less – Expenses allowed :1. Rent paid by the assessee for the part which is sub let out
2. Repairs and other expenses paid by the assessee regarding such part
 | ………………………. | ……………(-)………….. |
| Income from sub tenant |  | …………….. |

**Interest on National Saving Certificate**

|  |  |  |  |
| --- | --- | --- | --- |
| Year | Amount of interest accruing on Rs. 100 NSC (VIII issue) 8% | Year | Amount of interest accruing on Rs. 100 NSC (VIII issue) 8% |
| I | 8.16 | IV | 10.33 |
| II | 8.83 | V | 11.17 |
| III | 9.55 | VI | 12.08 |

**Income of minor**

Income of minor shall be included in income of his parents (mother or father which income is higher). Upto Rs. 1,500 in case of minor’s income is exempted so remaining amount shall be taxable. If the minor earns income from self efforts, then such income will not be added to income of his parents. Exemption of Rs. 1,500 is available for every minor.

# Income of cricketers

Receipts be a cricket Control Board for plays for India are chargeable in the following manner –

1. Test Matches in India – 25% of Remuneration received by the player from the Cricket Control Board for playing Test matches in India is taxable.
2. Other Matches in India – Entire amount is not possible.
3. Matches outside India – 50% portion of amount received by an Indian cricket player for playing in foreign countries is taxable.

# Receipts of gifts without consideration

Gift received on the occasion of marriage from any person, or gift received from nearer relative on any occasion is not taxable. However gifts (cash or property) received from any person are taxable if the following conditions are satisfied –

1. The receiver is an individual or a Hindu Undivided Family.
2. The aggregate amount of such money or value of property received by an individual or HUF during a financial year from any person or persons exceeds Rs. 50,000.
3. The sum so received does not come in the exception list.

**Exceptions –** Any sum of money shall not be taxable. Which is received from the following –?

1. By way of consideration
2. From any relative for the aforesaid purpose, the term “relative” means –
	1. Spouse of the individual
	2. Brother or sister of the individual
	3. Brother of sister of the spouse of the individual
	4. Brother or sister of either of the parents of the individual
	5. Any lineal ascendant or descendant of the individual
	6. Any lineal ascendant or descendant of the spouse of the individual.
	7. Spouse of the person referred in (b) to (f)
3. On the occasion of the marriage of the individual.
4. Under a will or by way of inheritance
5. In contemplation of death of the payer.
6. Aggregate of money not exceeding Rs. 50,000 from other persons.

# Government Securities

Securities issued by Central Govt. or state Government are of two types -

1. Tax free Government securities – Interest on tax free Govt. securities is exempted, so it is not included in the income of an assessee. Some Govt. Securities have been declared exempted from tax u/s 10 (15) of the Income Tax Act, namely –
	1. 12 year National Saving Annuity Certificates.
	2. National Defence Gold Bonds, 1980.
	3. Special Bearer Bonds, 1991.
	4. Treasury Savings Deposits Certificates (10 years)
	5. Post Office Cash Certificates (5 years)
	6. National Plan certificates (10 years)
	7. National Plan Savings certificate (12 years)
	8. Post office National Savings certificates (12 years/ 7 years)
	9. Post office Savings Bank Account. (exempt up to rs. 3,500 in single name, up to Rs. 7,000 in joint name)
	10. Post office Cumulative Time Deposits Rules, 1981.
	11. Scheme of fixed deposits government by the Government Savings Certificates (fixed deposits) Rules, 1968
	12. Scheme of fixed Deposits governed by the Post office (Fixed Deposit).
	13. Special deposit scheme, 1981.
	14. Post Office public account 9up to Rs. 5,000)
	15. 7% Capital Investment bonds (exempted only for individual of HUF)
	16. 9% Relief Bonds (exempted only for individual or HUF assessee.
	17. NRI Bonds issued by SBI
	18. Notified Bonds issued by public sector companies.
	19. Gold Deposit Bond – 1999
	20. Interest on securities and bank deposit in respect of Bhopal Gas Leak disaster.
	21. Interest on notified bonds issued by local authority.

so, interest on the above mentioned securities does not form part of total income of any assessee and it is not taken into account in computing total income it is tax free in the hands of all assesses.

# Exempted Income

Though a detail discussion has been given in chapter ‘Exemptions from Tax’ regarding exempted income or tax free incomes. Here a brief account of exempted incomes is given for convenience of students to solve the practical problems relating to income from other sources –

1. Agricultural income in India,
2. Share in income of HUF,
3. Share in profit of partnership firm
4. Post office savings bank interest (exempted in case of single name Rs. 3,500 and joint name Rs. 7,000)
5. All type of allowances received by M.P. (Lok Sabha or Rajya Sabha)
6. Daily allowances and constituency allowance received by MLA’s
7. Scholarships
8. Gallantry awards,
9. Interest on Post office CTD accounts (10 or 15 years.)
10. Interest on capital investment Bonds. Relief bonds and Certificates,
11. Dividend from domestic companies and mutual funds, e.g. UTI units income.
12. Family pension received by the family members of armed forces died in operational duties.

**\*\*\*ALL THE BEST\*\*\***

**INCOME TAX THEORY LAW & PRACTICE**

**TWO MARK QUESTIONS**

**UNIT – I**

1. Define previous year.

2. What is mean by Assessment year?

3. Define person.

4. What is mean by assesses.

5. Define the term income.

6. What are the total incomes?

7. What is residential status?

8. What do you mean by causal income?

9. Who is resident?

10. Who is an ordinary resident?

11. Who is a not-ordinary resident?

12. Who is non-resident?

13. How do you determine the residential status of an individual?

14. What do you mean by capital expenditure and revenue expenditure?

15. List out any 15 incomes which are exempted U/S 10 of the income tax act 1961.

**UNIT – II**

1. Define salary. Under the income tax act.

2. What are allowances?

3. Explain the fully exempted allowances.

4. What are the fully taxable allowances?

5. Explain the partly exempted allowances?

6. What do you mean by perquisites?

7. What are the tax free perquisites?

8. How do you exempt HRA?

9. What are the items include in salary while computing rent free house.

10. Explain the term gratuity.

11. What is profit in lieu of salary?

12. Write a short note on pension.

13. Write a short note on standard deduction.

14. What is provident fund?

15. What are the types of provident fund?

**UNIT – III**

1. Define annual income.

2. Define gross annual income.

3. Explain the net annual income.

4. How do you determine NAV/GAV?

5. Write a short note on exempted income from house property?

6. Write a short on (a) Unrealized Rent (b) vacancy Rent.

7. Write a short note on self occupied hose property.

8. Explain the deductions allow U/S 24 while calculating income from house property?

9. How will you determine the Income from house property?

10. Write a short note on (a) FRV (b) MRV (c) SR (d) ER.

11. What do you mean by let-out house property?

**UNIT – IV**

1. Define business.

2. Define profession.

3. State any four admissible expenses?

4. Explain the methods of computing income from business.

5. What are professional receipts and professional expenditure?

6. Write a short note on (a) Doctor (b) Advocate (c) Charted Accountant.

7. Compute valuation of Stock.

**UNIT – V**

1. What is meant by capital gain?

2. Classify the capital assets?

3. What do you mean by long term capital gain?

4. What do you mean short term capital gain/loss?

5. Write a short note on cost of acquisition.

6. Write a short note on cost of improvement.

7. Write a short note on exempted capital gain.

8. How to compute income from capital gain?

9. What do you mean by income from other sources?

10. What are the incomes from other source?

11. What are the general income/specify income.

12. How do you compute income from other sources?

13. What do you mean by interest on securities?

14. Explain deduction from U/S 80C.

15. What do you mean by direct tax code?