**SRINIVASAN COLLEGE OF ARTS AND SCIENCE**

**PERAMBALUR**

**III B.COM(CA)**

**INCOME TAX THEORY LAW AND PRACTICE**

**STUDY MATERIAL**

**INCOME TAX THEORY LAW AND PRACTICE**

**UNIT I**

**DEFINITION**

**Assessment Year: Section 2(9)**

“Assessment year” means the period starting from April 1 and ending on March 31 of the next year. Eg: Assessment year 2019-20 which commences on April 1, 2019 and ends on March 31, 2020? Income of previous year of an assessed is taxed during the assessment year at the rates prescribed by the relevant Finance Act for tax rates.

**Previous year: section 3**

Income earned in a particular year is taxable in the next year. The year in which include is known as previous year and the next year in which income is taxable is known as assessment year. In other words, previous year is the financial year immediately proceeding the assessment year

**Exceptions to the general rule that previous year’s income is taxable during the assessment year**

In the following situations income of an assessee is liable to be assessed to tax in the same year in which he earns the income:

a. Income of non-residents from shipping;

b. Income of persons leaving India either permanently or for a long period of time;

c. Income of bodies formed for short duration;

d .Income of a person trying to alienate his assets with a view to avoiding payment of tax;

e. Income of a discontinued business.

**Person: Section 2(31)**

The term “person” includes:

1. An individual;

2. A Hindu undivided family;

3. A company;

4. A firm;

5. An association of persons or a body of individuals , whether incorporated or not;

6. A local authority; and

7. Every artificial juridical person not falling with in any of the preceding categories.

**Assesses: Section 2(7)**

Every person in respect of whom, any proceeding under the act has been taken for the assessment of his income or of the income of any other person in respect of which he is assessable or of the loss sustained by him or by such other person or the amount of refund due to him or to such other person may be called an assesses.

**Deemed Assesses:**

A person who is deemed to be an assessee for some other person is called “Deemed Assessee”.

**Assesses In Default:**

When a person is responsible for doing any work under the Income Tax Act and he fails to do it, he is called an “Assessee in default”.

**Assessment [Section 2(8)]**

This is the procedure by which the income of an assessee is determined by the Assessing Officer.

**Basis Of Charge Of Income Tax Sec : 4**

To know the procedure for charging tax on income, one should be familiar with the following:

**1**. **Annual tax** - Income-tax is an annual tax on income.

**2**. **Tax rate of assessment year** - Income of previous year is chargeable to tax in the next following assessment year at the tax rates applicable for the assessment year. This rule is, however, subject to some exceptions

**3. Rates fixed by Finance Act** - Tax rates are fixed by the annual Finance Act and not by the Income-tax Act. For instance, the Finance Act, 2013, fixes tax rates for the Assessment year 2013-14.

**4. Tax on person** - Tax is charged on every person

**5. Tax on total income** - Tax is levied on the “total income” of every assessee computed in accordance with the provisions of the Act.

**INCOME: Section2 (24)**

The definition of the term “income” in section 2(24) is inclusive and not exhaustive. Therefore, the term “income” not only includes those things that are included in section 2(24) but also includes those things that the term signifies according to its general and natural meaning. Income, in general, means a periodic monetary return which accrues or is expected to accrue regularly from definite sources. However, under the Income-tax Act, 1961, even certain income which do not arise regularly are treated as income for tax purposes e.g. Winnings from lotteries,

crossword puzzles.

**Section 2(24)** of the Act gives a statutory definition of income.

At present, the following items of receipts are included in income:—

(1) Profits and gains.

(2) Dividends.

(3) Voluntary contributions received by a trust/institution created wholly or partly for charitable or religious purposes or by an association or institution

(4) The value of any perquisite or profit in lieu of salary taxable under section 17.

(5) Any special allowance or benefit other than the perquisite included above, specifically granted to the assessee to meet expenses wholly, necessarily and exclusively for the performance of the duties of an office or employment of profit

(6) Any allowance granted to the assessee to meet his personal expenses at the place where the duties of his office or employment of profit are ordinarily performed by him or at a place where he ordinarily resides or to compensate him for the increased cost of living.

(7) The value of any benefit or perquisite whether convertible into money or not, obtained from a company either by a director or by a person who has a substantial interest in the company or by a relative of the director or such person and any sum paid by any such company in respect of any obligation which, but for such payment would have been

payable by the director or other person aforesaid.

(8) The value of any benefit or perquisite, whether convertible into money or not, which is obtained by any representative assessee mentioned under section 160(1)(iii) and (iv), or by any beneficiary or any amount paid by the representative assessee for the benefit of the beneficiary which the beneficiary would have ordinarily been required to pay.

(9) Deemed profits chargeable to tax under section 41 or section 59.

(10) Profits and gains of business or profession chargeable to tax under section 28.

(11) Any capital gains chargeable under section 45.

(12) The profits and gains of any insurance business carried on by Mutual Insurance Company or by a cooperative society, computed in accordance with Section 44 or any surplus taken to be such profits and gains by virtue of the provisions contained in the first Schedule to the Act.

(13) The profits and gains of any business of banking (including providing credit facilities) carried on by a co-operative society with its members

(14) Any winnings from lotteries, cross-word puzzles, races including horse races, card games and other games of any sort or from gambling, or betting of any form or nature whatsoever.

(15) Any sum received by the assessee from his employees as contributions to any provident fund or superannuation fund or Employees State Insurance Fund (ESI) or any other fund for the

welfare of such employees.

(16) Any sum received under a Keyman insurance policy including the sum allocated by way of bonus on such policy will constitute income. “Keyman insurance policy” means a life insurance policy taken by a person on the life of another person where the latter is or was an employee or is or was connected in any manner what so ever with the former’s business.

(17) Any sum referred to clause (va) of Section 28. Thus, any sum, whether received or receivable in cash or kind, under an agreement for not carrying out any activity in relation to any business; or not sharing any know-how, patent, copy right, trade-mark, licence, franchise, or any other business or commercial right of a similar nature, or information or technique likely to assist in the manufacture or processing of goods or provision of services, shall be chargeable to income tax under the head “profits and gains of business or profession”.

(18) Any sum of money or value of property referred to in section 56(2)(vii) or section56(2)(viia).

(19) Any consideration received for issue of shares as exceeds the fair market value of shares referred to in section 56(2)(viib).

**Gross Total Income Sec: 80b (5)**

As per section 14, the income of a person is computed under the following five heads:

1. Salaries.

2. Income from house property.

3. Profits and gains of business or profession.

4. Capital gains.

5. Income from other sources.

If the income is not derived from any of the above sources, it is not taxable under the act. The aggregate income under these heads is termed as “gross total income”.

**Total Income Sec : 2(45)**

**T**otal income means the the amount left after making the deductions under section 80C to 80U from the gross total income.

**Casual Income**

Any receipt which is of a casual and non-recurring nature is called casual income. Casual income includes the following receipts:

1. Winning from lotteries,

2. Winning from crossword puzzles,

3. Winning from races (including horse races),

4. Winning from card games and other games of any sort

5. Winning from gambling or betting of any form or nature.

**Agriculture income**

Income earned from any of the under given three sources meant Agricultural Income;

(i) Any rent received from land which is used for agricultural purpose.

(ii) Any income derived from such land by agricultural operations including processing of agricultural produce, raised or received as rent in kind so as to render it fit for the market,

or sale of such produce.

(iii) Income attributable to a farm house subject to the condition that building is situated on or in the immediate vicinity of the land and is used as a dwelling house, store house etc.Now income earned from carrying nursery operations is also considered as agricultural income and hence exempt from income tax.

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

(i) There must me a land.

(ii) The land is being used for agricultural operations.

(iii) Agricultural operation means that efforts have been induced for the crop to sprout out of the land .

(iv) If any rent is being received from the land then in order to assess that rental income as agricultural income there must be agricultural activities on the land.

(v) In order to assess income of farm house as agricultural income the farm house building must be situated on the land itself only and is used as a store house/dwelling house.

**Certain income which is treated as Agriculture Income:**

(a) Income from sale of replanted trees.

(b) Rent received for agricultural land.

(c) Income from growing flowers and creepers.

(d) Share of profit of a partner from a firm engaged in agricultural operations.

(e) Interest on capital received by a partner from a firm engaged in agricultural operations.

(f) Income derived from sale of seeds.

**Certain income which is not treated as Agricultural Income:**

(a) Income from poultry farming.

(b) Income from bee hiving.

(c) Income from sale of spontaneously grown trees.

(d) Income from dairy farming.

(e) Purchase of standing crop.

(f) Dividend paid by a company out of its agriculture income.

(g) Income of salt produced by flooding the land with sea water.

(h) Royalty income from mines.

(i) Income from butter and cheese making.

(j) Receipts from TV serial shooting in farm house is not agriculture income.

**Partly agriculture income**

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

**1. Profit of business other than Tea**

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

**2. Profit from Tea manufacturing**

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

**3. Income from the manufacturing of centrifuged latex or cenex**

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

**4. Income from the coffee manufacturing**

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

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

**Illustration:1** Mr. Ramsanth had estates in Rubber, tea and coffee. He derives income from them.

He furnishes the following particulars of his income for the year ending 31-3-2019

Manufacture of rubber Rs: 5,00,000

Manufacture of coffee grown and cured Rs: 3,50,000

Manufacture of tea Rs: 7,00,000

Compute taxable income of Ramsanth for the A.Y. 2013-14.

**Solution :**

**Computation of Taxable income for the A.Y.2018**

manufacture of rubber ( 35% is non-agricultural income) : 175,000

Manufacturing of Coffee (25% is non-agricultural income) : 87,500

Manufacturing of tea ( 40% is non-agricultural income) : 2,80,000

Taxable Income : 5,42,500

**Capital and revenue receipts and expenditure**

Receipts which are non-recurring (not received again and again) by nature and whose benefit is enjoyed over a long period are called "Capital Receipts", e.g. money brought into the business by the owner (capital invested), loan from bank, sale proceeds of fixed assets etc. Capital receipt is shown on the liabilities side of the Balance Sheet.receipts which are recurring (received again and again) by nature and which are available for meeting all day to day expenses (revenue expenditure) of a business concern are known as "Revenue receipts", e.g. sale proceeds of goods, interest received, commission received, rent

received, dividend received etc.

**Distinction between Capital Receipt and Revenue Receipt:**

**No. Revenue Receipt Capital Receipt**

1 It has short-term effect. The benefit is

enjoyed within one accounting period.

It has long-term effect. The benefit is

enjoyed for many years in future.

2 It occurs repeatedly. It is recurring and

Regular in nature.

It does not occur again and again. It is

nonrecurring and irregular in nature.

3 It is shown in profit and loss account on

the credit side.

It is shown in the Balance Sheet on the

liability side.

4 It does not produce capital receipt. Capital receipt, when invested, produces

revenue receipt e.g. when capital is

invested by the owner, business gets

revenue receipt (i.e. sale proceeds of goods

etc.).

5 This does not increase or decrease the

value of asset or liability.

The capital receipt decreases the value of

asset or increases the value of liability e.g.

sale of a fixed asset, loan from bank etc.

6 Sometimes, expenses of capital nature

are to be incurred for revenue receipt,

e.g. purchase of shares of a company is

capital expenditure but dividend

received on shares is a revenue receipt.

Sometimes expenses of revenue nature are

to be incurred for such receipt e.g. on

obtaining loan (a capital receipt) interest is

paid until its repayment.

**Difference between Capital Expenditure and Revenue Expenditure:**

**No. Revenue Expenditure Capital Expenditure**

1 Its effect is temporary, i.e. the benefit is received within the

accounting year.

Its effect is long-term, i.e. it is not exhausted within the current accounting year-its benefit is received for a number of years in future.

2 Neither an asset is acquired nor is the value of an asset increased.

An asset is acquired or the value of an existing asset is increased.

3 It has no physical existence because it is incurred on items which are

used by the business.

Generally it has physical existence except intangible asset

4 It is recurring and regular and it occurs repeatedly.

It does not occur again and again. It is nonrecurring and irregular.

5 This expenditure helps to maintain the business.

This expenditure improves the position of the

business.

6 The whole amount of this expenditure is shown in trading

P & L A/c orincome statement.

A portion of this expenditure (depreciation on assets) is shown in trading & P & L A/c and the balance are shown in the balance sheet on asset side.

7 It does not appear in the balance sheet.

It appears in the balance sheet until its benefit is fully excauted

It reduces revenue (profit) of the business

It does not reduce the revenue of the concern.

**Residential Status And Tax Incidence**

Tax incidence on an assessee depends on his residential status. The residential status of an assessee is determined with reference to his residence in India during the previous year.

Therefore, the determination of the residential status of a person is very significant in order to find out his tax liability. Residence and citizenship are two different things. The incidence of tax has nothing to do with citizenship.

**Residential Status of an Individual**

As per section 6, an individual may be

(a) resident and ordinarily resident in India,

(b)resident but not ordinarily resident in India, or(c) non-resident in India. The following are the two sets of conditions for determining the residential status of an individual:

**Basic conditions :**

He is in India for a period of 60 days or more during the previous year and has been in India for a period of 365 days or more during 4 years immediately preceding the previous year.

**Note:** In the following two cases, an individual needs to be present in India for a minimum of 182 days or more in order to become resident in India:

(a) An Indian citizen who leaves India during the previous year for the purpose of taking employment outside India or an Indian citizen leaving India during the previous year as a member of the crew of an Indian ship.

(b) An Indian citizen or a person of Indian origin who comes on visit to India during the previous year (a person is said to be of Indian origin if either he or any of his parents or any of his grandparents was born in undivided India).

**Additional Conditions:**

**(i)** He has been resident in India in at least 2 out of 10 previous years [according to basic condition noted above] immediately preceding the relevant previous year.

**(ii)** He has been in India for a period of 730 days or more during 7 years immediately preceeding the relevant previous year.

**Resident**

An individual is said to be resident in India if he satisfies any one of the basic conditions.

**(A)Resident And Ordinarily Resident**

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

**(B)Resident But Not Ordinarily Resident**

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

**Non-Resident**

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

**Residential Status Of A Hindu Undivided Family**

As per section 6(2), a Hindu undivided family (like an individual) is either resident in India or non-resident in India. A resident Hindu undivided family is either ordinarily resident or not

ordinarily resident.

**HUF : Resident or Non-Resident**

A Hindu undivided family is said to be resident in India if control and management of its affairs is wholly or partly situated in India. A Hindu undivided family is non-resident in India if control and management of its affairs is wholly situated outside India.

A resident Hindu undivided family is an ordinarily resident in India if the karta or manager of the family (including successive kartas) satisfies the following two additional conditions as laid down by section 6(6)(b).

**Additional condition (i)** Karta has been resident in India in at least 2 out of 10 previous years [according to the basic condition mentioned in immediately preceding the relevant previous year)

**Additional condition (ii)** Karta has been present in India for a period of 730 days or more during 7 years immediately preceding the previous year.

If the Karta or manager of a resident Hindu undivided family does not satisfy the two additional conditions, the family is treated as resident but not ordinarily resident in India.

**Residential Status of Firm and Association of Persons**

As per section 6(2), a partnership firm and an association of persons are said to be resident in India if control and management of their affairs are wholly or partly situated within India during the relevant previous year. They are, however, treated as non-resident in India if control and management of their affairs are situated wholly outside India.

**UNIT 2**

**INCOME FROM SALARIES**

**Salary** (Section 15 – 17)

Salary is the remuneration received by or accruing to an individual, periodically, for service rendered as a result of an express or implied contract. The actual receipt of salary in the previous year is not material as far as its taxability is concerned. According to Income Tax Act there are certain conditions where all such remuneration is chargeable to income tax:

1. When due from the former employer or present employer in the previous year, whether paid

or not

2. When paid or allowed in the previous year, by or on behalf of a former employer or present

employer, though not due or before it becomes due.

3. When arrears of salary is paid in the previous year by or on behalf of a former employer or

present employer, if not charged to tax in the period to which it relates.

**Section 17(1)** of the Income tax Act gives an inclusive and not exhaustive definition of “Salaries”

, which includes:

(i) Wages

(ii) Annuity or pension

(iii) Gratuity

(iv) Fees, Commission, allowances perquisites or profits in lieu of salary

(v) Advance of Salary (vi) Amount transferred from unrecognized provident fund to recognized provident fund

(vii) Contribution of employer to a Recognized Provident Fund in excess of the prescribed limit

(viii) Leave Encashment

(ix)Compensation as a result of variation in Service contract etc.

(x) Contribution made by the Central Government to the account of an employee under a notified Pension scheme.

**Arrears of Salary**

Salary in arrears / advance, received in lump sum, is liable to tax in the year of receipt. Relief can be obtained for salary arrears u/s 89(1) of the Income Tax Act.

**Pension**

Pension is a payment made by the employer after the retirement or death of employee as a reward for past service. It is normally paid as a periodical payment on monthly basis but certain employers may allow an employee to forgo a portion of pension in lieu of lump sum amount. This is known as commutation of pension.

The treatment of these two kinds of pension is as under:

**Periodical pension (or uncommuted pension):** It is fully taxable in the hands of all employee,whereas government or non-government.

**Commuted pension**

For employees of government organizations, local authorities and statutory corporations, it is fully exempted from tax, hence not included in gross salary.

For other employees, commuted value of half of the total value of pension is exempted from tax.

Any amount received over and above this amount is taxable, so included in gross salary. If,however, the employee is also receiving gratuity (another retirement benefit) along with pension, then one third of the total value of pension is exempted from tax. Amount received in excess of this is taxable, so included in gross salary.

Pension received by employee is taxable under the head “Salaries”. However, family pension received by legal heirs after death of employee is taxable under ‘Income from other sources’ For Central Government Employees joined on or after 1-1-2004, 10% of Salary is compulsory

deducted towards Pension with a matching contribution from the Govt. and is Non-Taxable u/s80CCD. Only Terminal Benefit is charged to tax.

**Gratuity**

Gratuity is the payment made by the employer to an employee in appreciation of past services rendered by the employee. It is received by the employee on his retirement. Gratuity is exempted up to certain limit depending upon the category of employee. For the purpose of exemption,employees are divided into 3 categories:

**(i)Government employees and employees of local authority:**

In case of such employees, the entire amount of gratuity received by then is exempted from tax.

Nothing will be added to gross salary.

**(ii)Employees covered under Payment of Gratuity Act, 1972**

In case of employees who are covered under Payment of Gratuity Act, the minimum of the following amounts are exempted from tax:

1.) Amount of gratuity actually received.

2.)15 days of salary for every completed years of service or part thereof in excess of six months. (15 / 26 x [basic salary + Dearness Allowance] x No. of years of service+1 [if fraction > 6 months]).

3.) Rs.10, 00,000 (amount specified by government).

**(iii) Other employees.**

In case of employees not falling in the above two categories, gratuity received from the employers is exempt to the extent of minimum of following amounts:

1. Actual amount of gratuity received.

2. Half month average salary for every completed year of service

(1/2 x average salary of last 10 months x completed years of service).

3. Rs. 10, 00,000 (amount specified by government).

Salary = 10 months average salary preceeding the month of retirement. = Basic Pay + Dearness Allowance considered for retirement benefits + commission (if received as a fixed percentage on turnover).

**Illustration:1**

Mr. Ashikh retired in September, 2019

2 after having put in 42 years of service in a company.

His average salary for 10 months preceding Sept. 2012 was Rs:2500 p.m. He received a gratuity of Rs;60,000. Compute his taxable gratuity.

**Solution:**Mr.Ashikh is not covered by the Payment of Gratuity Act,1972. He has put in 42 years of

completed service. Here, least of the following is exempted:

½ month’s salary for every completed years of service (2500x ½ x 42) = **52,500**

Actual amount of gratuity received = Rs: 60,000

Statutory limit = Rs: 10,00,000

**Computation of taxable Amount of Gratuity**

**Particulars Rs:**

Amount of gratuity received 60,000

Less: amount exempted 52,500

Taxable Gratuity 7500

**Illustration 2:**

Mr. Athul, covered under the Payment of Gratuity Act, 1972, retires on 10th January, 2013 after serving the company for 16 years. At the time of retirement his basic salary was Rs:4,400 p.m.

and DA Rs:800 p.m. On retirement he receives Rs:1,00,000 as gratuity. Compute the amount of gratuity exempt U/s 10(10).

**Solution :**

As Mr. Athul is covered by the Payment of Gratuity Act, 1972, out of the gratuity received by him, the least of the following is exempted u/s 10(10): 15 days salary for every completed years of service:

(4400+800) x 15/26 x 16 years = **48,000**

Actual amount of gratuity received = Rs: 1,00,000

Statutory limit = Rs:10,00,000

Therefore exempted amount = 48,000.

**Leave Salary**

Employees are entitled to various types of leave. The leave generally can be taken (casual leave/medical leave) or it lapses. Earned leave is a kind of leave which an employee is said to have earned every year after working for some time. This leave can either be availed every year,or get encashment for it. If leave is not availed or encashed, it is allowed to be carried forward.

This leave keeps getting accumulated and is encashed by employee on his retirement. The tax treatment of leave encashment is as under:

(i)**Encashment of leave while in service.** This is fully taxable and so is added to gross salary.

(ii)**Encashment of leave on retirement.** For the purpose of exemption of accumulated leave encashment, the employees are divided into two categories. They are Govt employees and Other employees.

•State or Central Government employees:

Leave encashment received by government employees is fully exempted from tax. Nothing is to be included in gross salary

•Other employees:

Leave encashment of accumulated leave at the time of retirement received by other employees is exempted to the extent of minimum of following four amounts:

1. Amount specified by Central Government (3,00,000).

2. Leave encashment actually received.

3.10 months average salary (10 x average salary of 10 months preceeding retirement).

4. Cash equivalent of unavailed leave.

(Leave entitlement is calculated on the basis of maximum 30 days leave every year, cash

equivalent is based on average salary of last 10 months).

Salary = Basic Pay + Dearness Allowance (forming a part of salary for retirement benefits) +

Commission (if received as a fixed percentage on turnover).

**Illustration:3**

Mr.Afsal was employed in a company. He took voluntary retirement on 1st December, 2012 after completing 25 years of service. On 1st January, 2013 his salary was Rs: 4,000 p.m. after adding the annual increment. The total leave aviled during service is 10 months and actual amount received is Rs: 1,60,000 on encashment. Compute the amount exempt regarding encashment of earned leave.

**Solution:**

The exempted amount of leave encashment is least of the following:

Cash equivalent of earned leave (15 months leave x Rs:4,000) = Rs: 60,000

Ten months average salary (10 months x Rs; 4,000) = Rs: 40,000

Actual amount of leave salary received = Rs: 1,60,000

Statutory Limit = Rs: 3,00,000

Therefore, the exempted amount of leave salary is Rs: 40,000.

**Illustration:4**

Mr. Abhijith retired on 31st October, 2012 after serving 20 years. He received Rs: 96,000 as leave

encashment for 12 months. His average salary at the time of retirement amounted to Rs: 7,400. H had 2 months leave at his credit. Find the taxable amount of leave encashment.

**Solution:**

Exempted amount of leave encashment is least of the following:

Cash equivalent of earned leave (2 months leave x Rs:7,400) = **Rs: 14,800**

Ten months average salary (10 months x Rs; 7,400) = Rs: 74,000

Actual amount of leave salary received = Rs: 96,000

Statutory Limit = Rs: 3,00,000

Therefore, the taxable amount of leave salary = 96,000 – 14,800 = **Rs: 81,200**

**Retrenchment Compensation 10(10B)**

Retrenchment compensation is the compensation is received by a workman at the time

of (i) closing down of the undertaking.(ii) transfer (irrespective of by agreement/compulsory

acquisition) if the following conditions are satisfied:

1. Service of workmen interrupted by transfer

2. Terms and conditions of employment after transfer are less favourable

3. New employer is not under a legal obligation whether under the terms of transfer or otherwise to pay compensation on the basis that the employee’s service has been continuous and has not been interrupted by transfer. The exemption is granted to the least of the followings:

(i) Actual amount received

(ii) Amount determined under the Industrial Disputes Act, 1947

(iii) Maximum Limit Rs 5,00,000

**Illustration:5**

Mr, Adithya Raveendran is employed in a company at Allahabad since 1st October,1998. He is getting a salary of Rs:12,000 p.m. and Rs:2,400 p.m. as DA since 1-1-2018. His service was terminated on account of retrenchment of employees on 1-7-2018 and he was paid Rs:96,000 as

compensation. Compute taxable amount of compensation for the AY 2019-2020.

**Solution:**

The exempted amount of retrenchment compensation is least of the following:

Actual retrenchment compensation received = Rs: 96,000

15 days salary for every completed years of service= 14x ½ x 14400=Rs:1,00800.

Maximum limit Rs: 5,00,000

Sum calculated as per Industrial Dispute Act, 1947 = not given

Therefore, taxable amount of retrenchment compensation= 96,000—96,000 = Nil

**Voluntary Retirement Compensation 10(10c)**

The following Conditions are to be met for claiming exemption:

(i) An individual, who has retired under the Voluntary Retirement scheme, should not be employed in another company of the same management.

(ii) He should not have received any other Voluntary Retirement Compensation before from any other employer and claimed exemption.

(iii) Exemption u/s 10(10C) in respect of Compensation under VRS can be availed by an Individual only once in his lifetime.

Exemption is allowed to the least of the followings:

(i) Actual amount received

(ii) Maximum Limit Rs 5,00,000

(iii) The highest of the following:

1. Last drawn salary × 3 × No. of fully completed years of service

2.Last drawn salary × Balance of no. of months of service left.

**Taxable Value of Allowances**

Allowance is a fixed monetary amount paid by the employer to the employee (over and above basic salary) for meeting certain expenses, whether personal or for the performance of his duties.

These allowances are generally taxable and are to be included in gross salary unless specific exemption is provided in respect of such allowance. For the purpose of tax treatment, we divide these allowances into 3 categories:

I. Fully taxable cash allowances

II. Partially exempt cash allowances

III. Fully exempt cash allowances.

**Fully Taxable Allowances**

Dearness Allowance and Dearness Pay

City Compensatory Allowance

Tiffin / Lunch Allowance

Non practicing Allowance

Warden or Proctor Allowance

Deputation Allowance

Overtime Allowance

Fixed Medical Allowance

Servant Allowance

Other allowances:- There may be several other allowances like family allowance, project

allowance, marriage allowance, education allowance, and holiday allowance etc. which are not

covered under specifically exempt category, so are fully taxable.

**Partly Exempted Allowances**

House Rent Allowance or H.R.A. [Sec. 10(13A) Rule 2A]

Conditions for claiming exemption:

1.Assessee is in receipt of HRA.

2. He has to pay rent.

3.Rent paid is more than 10% of salary.

An allowance granted to a person by his employer to meet expenditure incurred on payment of rent in respect of residential accommodation occupied by him is exempt from tax to the extent of least of the following three amounts:

a)House Rent Allowance actually received by the assessee

b) Excess of rent paid by the assessee over 10% of salary due to him

c) An amount equal to 50% of salary due to assessee (If accommodation is situated in Mumbai, Kolkata, Delhi, Chennai) ‘Or’ an amount equal to 40% of salary (if accommodation is situated in any other place).

Salary for this purpose includes Basic Salary, Dearness Allowance (if it forms part of salary for the purpose of retirement benefits), Commission based on fixed percentage of turnover achieved by the employee.While claiming exemption the following points are considered :

1. The exemption shall be calculated on the basis of where the accommodation is situated.

2. If the place of employment is the same for the whole year, then exemption shall be calculated for the whole year.

3. If there is a change in place during the previous year, then it will be calculated on a monthly basis

4. Exemption should be calculated in respect of the period during which rental accommodation is occupied by the employee during the previous year.

5. Salary for the period during which rental accommodation is not occupied shall not be considered.

**Illustration:6**

Mr. Aswin is entitled to a basic salary of Rs 5,000 p.m. and dearness allowance of Rs 1,000p.m.,

40% of which forms part of retirement benefits. He is also entitled to HRA of Rs 2,000 p.m. He

actually pays Rs 2,000 p.m. as rent for a house in Delhi. Compute the taxable HRA.

**Solution:**

Salary for HRA = (5,000 × 12) + (40% × 1,000 × 12) = 64,800

Particulars Rs: Rs:

Amount received during the financial year for HRA 24,000

Less: Exemption u/s 10(13A) Rule 2A Least of the followings:

(a) Actual amount received 24,000

(b) 50% of Salary of Rs 64,800 32,400

(c) Rent paid less 10% of Salary [2,000 × 12 – 10% of 64,800] 17,520 17,520

Taxable HRA 6,480

**Entertainment Allowance**

This allowance is first included in gross salary under allowances and then deduction is given to only central and state government employees under Section 16 (ii).

**Special Allowances for meeting official expenditure**

Certain allowances are given to the employees to meet expenses ncurred exclusively in performance of official duties and hence are exempt to the extent actually incurred for the purpose for which it is given. These include travelling allowance, daily allowance, conveyance allowance,

helper allowance, research allowance and uniform allowance.

**Special meet personal expenses:**

There are certain allowances given to the employees for specific personal purposes and the amount of exemption is fixed.

i. **Children Education Allowance**: This allowance is exempt to the extent of Rs.100 per month per child for maximum of 2 children (grand children are not considered).

ii. **Children Hostel Allowance**: Any allowance granted to an employee to meet the hostel expenditure on his child is exempt to the extent of Rs.300 per month per child for maximum of 2 children.

iii. **Transport Allowance**: This allowance is generally given to overnment employees to compensate the cost incurred in commuting between place of residence and place of work. An amount uptoRs.800 per month paid is exempt. However, in case of blind and orthopedically

handicapped persons, it is exempt up to Rs. 1600 p.m.

iv. **Running Allowance** (Out of station allowance ): An allowance granted to an employee working in a transport system to meet his personal expenses in performance of his duty in the course of running of such transport from one place to another is exempt up to 70% of such

allowance or Rs.10000 per month, whichever is less.

**v.) Tribal area allowance:** Exemption is available as Rs: 200 p.m.

**vi) Under ground allowance** : Exempted up to Rs:800 p.m.

**Fully Exempt Allowances**

(i)Foreign allowance: This allowance is usually paid by the government to its employees being Indian citizen posted out of India for rendering services abroad. It is fully exempt from tax.

(ii)Allowance to High Court and Supreme Court Judges of whatever nature are exempt from tax.

(iii) Allowances from UNO organization to its employees are fully exempt from tax.

**Perquisites**

Perquisites are defined as any casual emolument or benefit attached to an office or position in addition to salary or wages. . Perquisites are taxable and included in gross salary only if they are (i) allowed by an employer to an employee, (ii) Allowed during the continuation of employment,

(iii) directly dependent on service, (iv) resulting in the nature of personal advantage to the employee and (v) derived by virtue of employer’s authority.

As per Section 17 (2) of the Act, perquisites include:

1.Value of rent free accommodation provided to the employee by the employer.

2. Value of concession in the matter of rent in respect of accommodation provided to the employee by his employer.

3. Value of any benefit or amenity granted free of cost or at a concessional rate in any of the following cases:

a) by a company to an employee who is a director thereof b) by a company to an employee who has substantial interest in the company

c) by any employer to an employee who is neither a director, nor has substantial interest in the company, but his monetary emoluments under the head ‘Salaries’ exceeds Rs.50, 000.

4. Any sum paid by the employer towards any obligation of the employee.

5. Any sum payable by employer to effect an assurance on the life.

6. The value of any other fringe benefit given to the employee as may be prescribed

**Classification of Perquisites**

For tax purposes, perquisites specified under Section 17 (2) of the Act may be classified as follows:

(1) Perquisites that are taxable in case of every employee, whether specified or not

(2) Perquisites that is taxable in case of specified employees only.

(3) Perquisites that is exempt from tax for all employees

**Perquisites Taxable in case of all Employees**

The following perquisites are taxable in case of every employee, whether specified or not:

1. Rent free house provided by employer

2. House provided at concessional rate

3.Any obligation of employee discharged by employer e.g. payment of club or hotel bills of employee, salary to domestic servants engaged by employee, payment of school fees of employees’ children etc.

4. Any sum paid by employer in respect of insurance premium on the life of employee

5. Notified fringe benefits (on which fringe benefit tax is not applicable) – it includes interest free or concessional loans to employees, use of movable assets, transfer of moveable assets.

**Perquisites taxable in case of Specified Employees only**

Specified Employee:

An Individual will be considered as a Specified Employee if:

• He is a director of a company, or

• He holds 20% or more of equity voting power in the company,

• Monetary salary in excess of 50,000: His income under the head salaries, (from any employer including a company) excluding non-monetary payments exceeds 50,000. For the above purpose,salary, should be arrived at after making the following deductions:

(a) Entertainment Allowance

(b) Professional Tax.

The following perquisites are taxable in case of such employees:

1. Free supply of gas, electricity or water supply for household consumption

2. Free or concessional educational facilities to the members of employees household

3. Free or concessional transport facilities

4. Sweeper, watchman, gardener and personal attendant

5. Any other benefit or amenity

**Perquisites which are tax free for all the employees**

This category includes perquisites which are tax free for the employees and also other perquisites on which employer has to pay a tax (called Fringe Benefit Tax) if they are given to the employees and so are not taxable for them.

The following perquisites are exempt from tax in all cases and hence not includible for the purpose of tax deduction at source under section 192 during the financial year 2008-09:

1. Provision for medical facilities subject to limit

2. Tea or snacks provided during working hours

3. Free meals provided during working hours in a remote area or an offshore installation

4. Perquisites allowed outside India by the Government to a citizen of India for rendering service

outside India.

5. Sum payable by an employer through a recognized provident fund or an approved superannuation or deposit-linked insurance fund established under the Coal Mines Provident Fund or the Employees Provident Fund.

6. Employer’s contribution to staff group insurance scheme.

7. Leave travel concession subject to Sec.10 (5)

8. Payment of annual premium by employer on personal accident policy effected by him on his employee

9. Free educational facility provided in an institute owned/maintained by employer to children of employee provided cost/value does not exceed ` 1,000 per month per child (no limit on no. of children)

10. Interest-free/concessional loan of an amount not exceeding 20,000

11. Computer/laptop given (not transferred) to an employee for official/personal use.

12. Transfer without consideration to an employee of a movable asset (other than computer,electronic items or car) by the employer after using it for a period of 10 years or more.

13. Traveling facility to employees of railways or airlines.

14. Rent-free furnished residence (including maintenance thereof) provided to an Official of Parliament, a Union Minister or a Leader of Opposition in Parliament.

15. Conveyance facility provided to High Court Judges u/s22B of the High Court Judges (Conditions of Service) Act, 1954 and Supreme Court Judges u/s 23A of the Supreme Court Judges (Conditions of Service) Act, 1958.

16. Conveyance facility provided to an employee to cover the journey between office and residence.

17. Accommodation provided in a remote area to an employee working at a mining site or an onshore oil exploration site, or a project execution site or an accommodation provided in an offshore site of similar nature.

18. Accommodation provided on transfer of an employee in a hotel for not exceeding 15 days in aggregate.

19. Interest free loan for medical treatment of the nature given in Rule 3A.

20. Periodicals and journals required for discharge of work.

21. Tax on perquisite paid by employer [Sec.10 (10CC)]

22. Other Exempted Payments:

i. Bonus paid to a football player after the World Cup victory to mark an exceptional event

ii. Payment made as a gift in appreciation of the personal qualities of the employee.

iii. Payment of proceeds of a benefit cricket match to a great cricket player after he retired from test match.

iv. Trust for the benefit of employee’s children

**Valuation of Perquisites**

**Valuation of Medical Facilities**

Medical facilities provided to employee are exempt from tax.

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

a) Medical treatment provided to an employee or any member of his family in hospital maintained by the employer.

b)Any sum paid by the employer in respect of any expenditure incurred by the employee on medical treatment of himself and members of his family :

(i) In a hospital maintained by government or local authority or approved by the government for medical treatment of its employees.

(ii) In respect of the prescribed diseases or ailments in any hospital approved by the Chief Commissioner.

(iii) Premium paid by the employer on health insurance of the employee under an approved

scheme.

c) Premium on insurance of health of an employee or his family members paid by employer Limited Exemption: If the ordinary medical treatment of the employee or any member of his family is done at any private hospital, nursing home or clinic, the exemption is restricted to Rs.15, 000.

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

a)Any expenditure incurred by employer on the medical treatment of the employee or any member of his family outside India.

b)Any expenditure incurred by employer on travel and stay abroad of the patient (employee or member of his family) and one attendant who accompanies the patient in connection with such treatment, shall be exempt to the following extent :

(i)The expenditure on medical treatment and stay abroad shall be exempt to the extent permitted by the Reserve Bank of India.

(ii)The expenditure on travel shall be exempt in full provided the gross total income of the employee (including this expenditure) does not exceed Rs.2, 00,000.

**Valuation of rent free accommodation**

For the purpose of valuation of house, employees are divided into 2 categories:

**a) Central and State Government employees:** If accommodation is provided by the State or Central Government to their employees, the value of such accommodation is simply the amount fixed by the government (called the licence fees) in this regard.

**b): Other Employees:**The valuation of accommodation for this category of non government employees depends upon whether the accommodation given to the employee is owned by the

employer or taken on lease.

**1. Accommodation owned by employer**

In cities having population exceeding 25 lakhs as per 2001 census : 15% of Salary Less Rent actually paid by employee In cities having population exceeding 10 lakhs but not exceeding 25 lakhs as per 2001 census

: 10% of Salary Less Rent actually paid by employee In other places:

7.5% of Salary Less Rent actually paid by employee

**2. Accommodation is taken on lease / rent by the employer**

Rent paid by the employer or 15% of Salary whichever is lower Less Rent recovered from employee

**3. Accommodation in a hotel**

24% of salary paid/payable or actual charges paid/payable whichever is lower Less Amount paid or payable by the employee

**4. Valuation of accommodation in case of Employees on transfer:**

(a) For the first 90 days of transfer: Where accommodation is provided both at existing place of work and in new place, the accommodation, which has lower value, shall be taxable.

(b) After 90 days : Both accommodations shall be taxable.

Valuation of furnished accommodation where the accommodation is furnished, 10% per annum of the original cost of furniture given to the employee shall be added to the value of unfurnished accommodation. If the furniture is taken on rent by employer, then actual hire charges are to be added to the value.

**Definition of salary for rent free accommodation:**

Basic Salary + Taxable cash allowances + Bonus or Commission + any other monetary payment.

(It does not include dearness allowance if it is not forming part of basic salary for retirement benefit, allowances which are exempt from tax, value of perquisites specified under Section 17(2),employer’s contribution to provident fund account of employees).

**Sweeper, gardener or watchman provided by the employer**

The value of benefit of provision of services of sweeper, watchman, gardener or personal attendant to the employee or any member of his household shall be the actual cost to the employer. The actual cost in such a case is the total amount of salary paid or payable by the employer or any other person on his behalf for such services as reduced by any amount paid by the employee for such services. If the above servants are engaged by the employer and facility of such servants are provided to the employees, it will be a perquisite for specified employees only.

On the other hand, if these servants are employed by the employee and wages of such servants are paid / reimbursed by the employer, it will be taxable perquisite for all classes of employees.

**Free Supply of Gas, Electricity or Water**

The value of these benefits is taxable in the hands of specified employees, if the connection is taken in the name of the employer, and is determined according to the following rules:

a) If the employer provides the supply of gas, electricity, and water from its own sources, the manufacturing cost per unit incurred by the employer shall be the value of perquisite.

b) If the supply is from any other outside agency, the value of perquisite shall be the amount paid by the employer to the agency supplying these facilities.

c) Where the employee is paying any amount in respect of such services, the amount so paid shall be deducted from the value of perquisite calculated under (a) or (b).

d) Where the connection for gas, electricity, water supply is in the name of employee and the bills are paid or reimbursed by the employer, it is an obligation of the employee discharged by the employer. Such payment is taxable in case of all employees under Section 17 (2) (iv).

**Free Education**

a) Cost of free education to any member of employees’ family provided in an educational institution owned and maintained by the employer shall be determined with reference to reasonable cost of such education in a similar institution in a nearby locality. For education facilities provided to the children of employee (excluding any other member of house hold),the value shall be nil, if the cost of such education per child does not exceed Rs.1, 000 per month.

b)Where free education facilities are allowed to any member of employees’ family in any other educational institution by reason of his being in employment of that employer, the value of perquisite shall be determined as in (a).

c)In any other case: The value of benefit of providing free or oncessional educational facilities for any member of the house hold (including children) of the employee shall be the amount of expenditure incurred by the employer.

d) While calculating the amount of perquisite in all in above cases, any amount paid or recovered from the employee in this connection, shall be deducted

**Free Transport**

The value of any benefit provided by any undertaking engaged in the carriage of passengers or goods to any employee or to any member of his household for private journey free of cost or at concessional rate in any conveyance owned or leased by it shall be taken to be the value at which such benefit is offered by such undertaking to the public as reduced by the amount, if any, paid by or recovered from the employee for such benefit. In case of employees of the Railways and airlines, the value of transport facility shall be exempt.

**Use of any movable asset other than computer or laptops or other assets already mentioned**

10% of Actual Cost if owned by the employer; or Actual rental charge paid/payable by the employer less Amount recovered from employee.

**Leave Travel Concession (LTC)**

Leave Travel Concession is a non-taxable perquisite available for salaried class. An Employee with his dependent family members can avail of this facility to travel anywhere in India / native place. Exemption is limited to the amount actually spent. The amount exempt is the value of any

travel concession or assistance received or due to the assessee.

1. **Journey by Air:** Economy Class Airfare of India Airlines by the shortest route or the actual amount spent, whichever is lower.

2. **Journey by Rail:** A/C 1st Class rail fare by the shortest route or actual amount spent,whichever is lower.

3. Where the place of destination is connected by Rail: Air-conditioned first class Rail fare by the shortest route or the actual amount spent for the journey performed by road whichever is lower.

4. Where the place of destination is NOT connected by Rail :

1*. If Recognized public transport exists:* First Class or Deluxe Class fare by the shortest route or the actual amount spent whichever is lower.

2. *If No recognized public transport exists:* Air-conditioned first Class Rail fare by the shortest route or the actual amount spent whichever is lower.

These exemptions is available only for 2 journeys performed in a block of 4 calendar years.

Family of an Individual means:

• Spouse and children of the individual, and

• Parents, brothers and sisters of the individual or any of them, wholly or mainly dependent on the Individual

**Free meals during office hours**

Actual cost to the employer in excess of Rs 50 per meal less: amount recovered from the employee. Tea or non-alcoholic beverages and snacks during working hours is not taxable.

**Gifts**

Value of any gift or voucher or taken other than gifts made in cash or convertible into money (e.g. gift cheques) on ceremonial occasion. In this case if the aggregate value of gift during the previous year is less than Rs 5,000, then it is not a taxable perquisite.

**Profit in lieu of salary**

Profit in lieu of salary means any amount received by the employee from the employer due to its employee employer relationship other than normal compensation what he receive from employer.

The amount of any compensation due to or received by an assessee from his employer or former employer at or in connection with the termination of his employment or modification of his term of employment

Any payment from Unrecognized Provident Fund( URPF) or such other fund to the extent to which it does not consist of contribution by the assessee or interest on such contribution.

Any sum received undera keyman insurance policy including the sum allocated by way of bonus on such policy.

Any other amount from employer except the following:

Gratuity exempted u/s 10(10)

House rent allowance

Retrenchment compensation

Superannuation fund

Statutory provident fund or public provident fund

Recognized provident fund, if does not include contribution of assessee and interest

thereon

Keyman insurance policy and bonus

Any amount received prior to employment or after the cession of employment

Any received from ex-employer

**Illustraton:7**

Mr. Sajad is now working in a private company at Chennai and he gets a monthly salary of Rs:9,000. He is provided with a rent free unfurnished accommodation for which he pays a monthly rent of Rs:300. Calculate taxable perquisite.

**Solution:**

15% of salary: 108000 x 15/100 =16,200

Less rent paid by the employee = 3,600

Therefore, Value of unfurnished accommodation **= 12,600**

**Provident Fund**

Provident Fund Scheme is a welfare scheme for the benefit of employees. Under this scheme,certain amount is deducted by the employer from the employee’s salary as his contribution to Provident Fund every month. The employer also contributes certain percentage of the salary of the employee to the Fund. The contributions are invested outside in securities. The interest earned on it is also credited to the Provident Fund Account. At the time of retirement, the accumulated

balance is given to the employee.

**(i)Statutory Provident Fund**

This is set up under the provisions of Provident Fund Act, 1925.

Contribution is made by Employer and Employee.

Assesse’s Contribution: will get Deduction u/s 80C

Employer’s Contribution- Not taxable

Interest credited- Fully exempted

Withdrawal at the time of retirement/resignation/termination, etc- Exempted u/s 10(11)

**(ii)Recognized Provident Fund**

This is set up under the Employee’s Provident Fund and Miscellaneous Provisions Act, 1952 (PF Act, 1952) and is maintained by private sector employees.

Assessee’s Contribution- will get Deduction u/s 80C

Employer’s Contribution-Amount exceeding 12% of salary is taxable

Interest credited-Exempted up to 9.5% p.a. Any excess is taxable.

Withdrawal at the time of retirement/ resignation/termination, etc-Exempted u/s 10(12) Subject to conditions.

**(iii)Unrecognized Provident Fund**

If a provident fund is not recognized by the Commissioner of Income Tax, it is known as unrecognized PF.

Assesse’s Contribution: will not get Deduction u/s 80C. No Income Tax Benefit

Employer’s Contribution- Not taxable at the time of contribution

Interest credited- On Employee’s contribution taxable under the head Other Sources” and, on Employer’s contribution not taxable at the time of credit.

Withdrawal at the time of retirement/resignation/termination, etc- employee’s contribution thereon is not taxable. Interest on employees share ias taxable under the head income from other sources.

Employer’s contribution and interest thereon is taxable as Profits in lieu of Salary, under “Salaries”

**iv) Public Provident Fund**

The Central Government has established the Public Provident Fund for the benefits of general public to mobilize personal savings. Any member of general public (whether salaried or self employed) can participate in this fund by opening a Provident Fund Account at the State Bank of India or its subsidiaries or other nationalized banks. A salaried employee can simultaneously become member of employees provident fund whether statutory, recognized or unrecognized) and public provident fund. Any amount may be deposited (subject to minimum oRs.500 and maximum of Rs.70, 000 per annum) under this account. The accumulated sum is repayable after 15 years.

Assesse’s Contribution: will get Deduction u/s 80C

Interest credited- Fully exempted

Withdrawal at the time of retirement/resignation/termination, etc-Exempted u/s 10(11)

**Deductions:**

The income chargeable under the head salaries is computed after making the following deductions under Section 16:

amounts:

(i)Rs.5000

(ii)20% of basic salary

(iii)Amount of Entertainment Allowance actually received during the year.

2.Professional Tax [Section 16(iii)] of the Act.

Professional tax or tax on employment levied by a State under Article 276 of the Constitution is allowed as a deduction only in the year when it is actually paid. If the professional tax is paid by the employer on behalf of the employee, it is first included in gross salary as a perquisite (since it is an obligation of employee fulfilled by employer) and then the same amount is allowed as deduction on account of professional tax from gross salary.

**Illustration:8**

Mr. Abhijith is getting a salary of Rs 12,000 p.m. w.e.f. 1.4.2011. He is promoted w.e.f. 31.12.2011 and got arrears of Rs75,000. Bonus for the year 2012-13 is Rs15, 000 remains outstanding but bonus of Rs 12,000 for the year 2011-12 was paid on 1st January 2013. In March 2013, he got two months salary i.e. April and May 2013 in advance. Compute the

gross salary for the assessment year 2013-14.

**Solution:**

**Computation of Gross Salary for the Assessment Year 2013-14**

Salary : Rs 12,000 × 12 1,44,000

Arrears of Salary 75,000

Bonus for the year 2012-13 : (Receivable) ---

Bonus for the year 2011-12 : (Received) 12,000

Advance of Salary: April & May 2013 (12,000 × 2) 24,000

Gross Salary 2,55,000

**Illustration:9**

Following particulars are furnished by Muhammed Labeeb, a citizen and resident in India:

Basic salary after deduction of contribution to RPF Rs: 2,40,000

Own contribution to RPF Rs:20,000

Interest credited to RPF @9.5% Rs:3,600

HRA (house is at Kolar and rent paid amount to Rs:30,000) Rs: 14,400

Unit-linked insurance plan contribution paid by employer Rs: 2,000.

Compute taxable income from salary of Muhammed Labeeb for the A.Y.2013-14.

**Solution:**

Computation of Income from Salary for the assessment year 2013-14

Basic salary ( 2,40,000+20,000) 2,60,000

HRA (14,400-4,000) 10,400

Ulip paid by employer 2,000

Gross Salary 2,72,400

**Less:** Deductions Nil

Taxable Salary 2,72,400

**Notes: Least of the following is exempt:**

**Actual HRA Rs:14,400**

**Excess of rent paid over 10% of salary (30000-26000) Rs:4,000**

**40% of salary Rs: 1,04,000**

**Illustration :10**

Mr. Varun furnished the following particulars of his income for the financial year 2013-13:

Salary 15000 p.m.

D A 1250 p.m.

Entertainment Allowance 1000 p.m.

Employer’s and employee’s contribution to RPF 24000 each

Interest from PF @ 9.5% p.a. 19000

City compensatory allowances 200 p.m.

Medical allowances 10000

He has been provided with the facility of unfurnished house by the employer in a town (population less than 10 lakhs) for which the employer charge Rs:500 per month. The fair rent of the house is Rs: 30,000 p.a. The house is owned by the employer.

The employer has employed for him a sweeper @ Rs:200 p.m. and a

servant a2 Rs:750 p.m.

Compute taxable income under the head ‘salary’ for the AY 2013-14

**Solution:**

**Computation of Income from Salary for the assessment year 2019-2020**

Salary 180000

DA 15000

Entertainment allowance 12000

CCA 2400

Medical allowance 10000

Employer’s contribution to RPF in excess of 12% of salary 2400

Sweeper 2400

Servant 9000

Concession in rent 9330

Gross Salary 242530

Less: Deductions nil

Taxable salary 2,42,530

**Notes:** Concession in Rent:

7.5% of Salary ( 180000+12000+2400+10000) Rs: 15,330

Less : Rent Charged Rs: 6,000

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Rs: 9,330

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**Illustration:11**

Mr. Justin Kuriakose retired on 31-10-2019 after serving 20 years. He received Rs;96,000 as

leave encashment for 12 months. His average salary at the time of retirement amounted to

Rs:7,400. He had 2 months leave at his credit. Find out the taxable amount of Leave encashment.

**Solution:**

The exempted amount of leave salary is least of the following:

10 months average salary ( 7400 x10 ) Rs:74000

Actual amount of leave encashment received Rs:96,000

Amount of leave salary at his credit (7400x2) **Rs:14,800**

Maximum limit Rs:3,00,000

Computation of taxable Amount of Leave Salary

Amount of leave salary received 96,000

Less: amount exempted 14,800

Taxable amount of leave salary 81,200

**Illustration:12**

From the following particulars calculate the salary income of Mr. Reshin for the assessment year

2019-2020:

Basic pay Rs: 5500 p.m.

HRA Rs:2400 p.m.

DA Rs: 5,000 p.m.

Entertainment Allowance Rs:1,200 p.m.

CCA Rs: 600 p.m.

Education allowance for 2 children (total) Rs: 800 p.m.

Reshin and his employer (a private company) contribute to RPF @ 14% of salary. He lives in a rented house at Alleppy on amonthky rent f Rs: 3000.

**Solution:**

Computation of income from salary of Mr. Reshin for the Assessment Year 2019-20

Basic pay 66000

HRA (28800-26400) 2400

D A 60000

Entertainment allowance 14400

CCA 7200

Education allowance ( 9600-2400) 7200

Employer’s contribution toRPF in excess of 12% 1320

Income from Salary 1,58,520

COMPREHENSIVE PROBLEM

**Illustration:13**

Mr. Akhildas is employed as an engineer in Indian railways. He is getting Rs:7,000 p.m. as basic pay; Rs:2,500 p.m. as D.A.and Rs:2,500 p.m. as dearness pay. During the year 2012-13, he received the ollowing allowances also:

Rs: 16,500 as running allowance p.m.

Rs; 200 p.m. per child as educational allowance for his 2 children

One of his son is staying in a hostel on which Akhildas is spending Rs:800 p.m. He is getting Rs:500 p.m. for his as hostel allowance for meeting their expenditure.

Rs: 250 p.m. as CCA.

Rs:400 p.m. as uniform allowance , fully spent for employment purposes.

Rs: 1250 p.m. as HRA. He pays Rs:1500 p.m. as rent to house owner. He contributes 10% of his basic pay and DA to SPF and the Indian railway contributes a similar amount.

Compute his taxable salary for the AY 2019-2020

**Solution**

Computation of taxable salary of Mr.Akhildas for the A Y 2013-14

Basic pay (7500 x 12) 90,000

D A (2500 x 12) 30,000

D P (2500 x 12) 30,000

House Rent Allowance:HRA received (1250 x 12) 15,000

Less: exempted 6,000 9,000

Running Allowance:

Running allowance received 16,500

Less: 70% of allowance or Rs:10,000 p.m, whichever is less)

Education allowance (200x12x2) 4,800

Less: exemption for 2 children

(100x12x2) 2,400

Hostel allowance (500x12) 6,000

Less: exempted (300x12) 3,600 2,400

Uniform Allowance (400x12) 4,800

Less: exempted 4,800 ...........

CCA (250 x12) 3,000

Gross Salary 1,73,300

Less : Deduction u/s 80C (PF) 12,000

Income from Salaries 1,61,300

Calculation of exempted amount of HRA:

Least of the following is exempted:

HRA received (Rs:1,250 x12) = 15,000

Excess of rent paid over 10% 0f salary (18,000-12,000) = **6,000**

40% of salary (1,20,000x40%) = 48,000

**Illustration :14**

Mr.Suhil is a government employee. He draws a monthly salary of Rs;20,000 and Rs: 500 p.m. as entertainment allowance. Find out the amount of deduction for the entertainment allowance.

**Solution:**

Least of the following is exempted:

Actual Entertainment Allowance received (500x12) = 6,000

Statutory Limit = Rs: 5,000

20% of Salary 2,40,000 x 20%) = Rs: 48,000

Therefore the amount of deduction for the entertainment allowance is Rs: 5,000.

**UNIT 3**

**INCOME FROM HOUSE PROPERTY**

The annual value of a property, consisting of any buildings or lands oppurtenant thereto, of which the assessee is the owner, is chargeable to tax under the head ‘Income from house property’. However, if a house property, or any portion thereof, is occupied by the assessee, for the purpose of any business or profession, carried on by him, the profits of which are chargeable to income-tax, the value of such property is not chargeable to tax under this head.

Thus, three conditions are to be satisfied for property income to be taxable under this head:

1. The property should consist of buildings or lands appurtenant thereto.

2. The assessee should be the owner of the property.

3. The property should not be used by the owner for the purpose of any

**DETERMINATION OF ANNUAL VALUE**

The basis of calculating Income from House property is the ‘annual value’. This is the inherent capacity of the property to earn income and it has been defined as the amount for which the property may reasonably be ,the expected to be let out from year to year. It is not necessary that the property should actually be let out. The municipal value of the property, the cost of construction standard rent, if any, under the Rent Control Act, the rent of similar properties in the same locality, are all pointers to the determination of annual value.

**Gross Annual value**

The Gross Annual Value is the municipal value, the actual rent (whether received or receivable) or the fair rental value, whichever is highest. If, however, the Rent Control Act applies to the property, the gross annual value Fair rental value or municipal value whichever is higher or

Standard rental value whichever is less. If the property is let out but remains vacant during any part or whole of the year and due to such vacancy, the rent received is less than the reasonable expected rent, such lesser amount shall be the Annual value.

**The principle of determining GAV is :**

Expected Rental Value OR

Actual Rent received for full year,Whichever is more.

Here, Expected Rental Value is calculated as follows:

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

FRV or MRV whichever is higher.

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

FRV or MRV whichever is higher

OR

Standard Rental Value ,Whichever is less.

**Municipal Tax**

Municipal Tax includes services tax like Water Tax and Sewerage Tax levied by any local authority. It can be claimed as a deduction from the Gross Annual Value of the Property.

**Conditions:**

(a) Paid by Owner. The tax shall be borne by the owner and tie same was paid by him during the previous year.

(b) Property let out: Municipal Tax can be claimed as a deduction only in respect of let out or deemed to be let out properties (i.e. more than one property self occupied).

(c) Year of payment: Municipal Tax relating to earlier previous years, but paid during the current previous year can be claimed as deduction only in the year of payment.

(d) Advance Taxes: Advance Municipal Tax paid shall not be allowed as deduction in the year of payment, but can be claimed in the year in which it falls due.

(e) Borne by Tenant: Municipal taxes met by tenant are not allowed as deduction.

**Unrealized Rent**

Unrealized Rent means the rent not paid by the tenant to the owner and the same shall be deducted from the Actual Rent Receivable from the property before computing income from that property, provided the following conditions are satisfied:

1. The tenancy is bonafide

2. The defaulting tenant should have vacated the property

3. The assessee has taken steps to compel the defaulting tenant to vacate the property

4. The defaulting tenant is not in occupation of any other property owned by the assessee

5. The assessee has taken all reasonable steps for recovery of unrealized rent or satisfies the Assessing Officer that such steps would be useless.

**Deduction from Net Annual Value**

**A.Standard Deduction u/s 24(a):** Standard deduction of 30% of NAV (Net Annual Value) shall be allowed to the assessee.

**B. Interest on Loan u/s 24(b):**

1. Purpose of loan: The loan shall be borrowed for the purpose of acquisition, construction, repairs, renewal or reconstruction of the house property.

2. Accrual basis: The interest will be allowed as a deduction on accrual basis, even though it is not paid during the financial year.

3. Interest on interest: Interest on unpaid interest shall not be allowed as a deduction.

4. Brokerage: Any brokerage or commission paid for acquiring the loan will not be allowed as a deduction.

5. Prior period interest: Prior Period Interest shall be allowed in five equal installments commencing from the financial year in which the property was acquired or construction was completed.

6. Interest on fresh loan to repay existing loan: Interest on any fresh loan taken to repay the

existing loan shall be allowed as a deduction.

7. Inadmissible interest: Interest payable outside India without deduction of tax at source and in respect of which no person in India is treated as an agent u/s 163 shall not be an allowable expenditure. [Section25]

8. Certificate: The assessee should furnish a certificate from the person from whom the amount is borrowed.

**Income From Self – Occupied House Property**

The annual value of one self-occupied house property is taken as ‘Nil’. From the annual value, only the interest on borrowed capital is allowed as a deduction under section 24. The amount of deduction will be:

1. Either the actual amount accrued or Rs.30,000/- whichever is less

2. When borrowal of money or acquisition of the property is after 31.3.1999 - deduction is

Rs.1,50,000/- applicable to A.Y 2002-03 and onwards.

However, if the borrowal is for repairs, renewals or reconstruction, the deduction is restricted to

Rs.30, 000. If the borrowal is for construction/acquisition, higher deduction as noted above is available. If a person owns more than one house property, using all of them for self-occupation,he is entitled to exercise an option in terms of which, the annual value of one house property as specified by him will be taken at Nil. The other self occupied house property/is will be deemed to be let-out and their annual value will be determined on notional basis as if they had been let out.

Annual Value of a house property which is partly self – occupied and partly let out: If a house property consists of two or more independent residential units, one of which is self – occupied and the other unit(s) are let out, the income from the different units is to be calculated separately.

**Illustration:1**

Compute Gross annual value:

Actual rent Rs: 24,000 p.a.

Fair rent Rs:28,000 p.a.

Standard rent Rs: 20,000 p.a.

**Solution:**

Gross Annual Value = ERV or Actual Rent Received for full year, whichever is higher.

Here Rent Control Act is applicable.

FRV =Rs: 28,000 ; SRV = 20,000

Therefore, ERV = 20,000.

Actual Rent = 24,000

So, GAV = 24,000.

**Illustration:2**

Calculate annual rental value from the following particulars for the assessment year 2013-14.Actual rent Rs: 14,000 p.m.; MRV Rs: 1,20,000 p.a.; FRV Rs:1,32,000 p.a. Standard rent Rs:1,38,000. During the P.Y. the assessee is not able to realise two months rent.

**Solution:**

Expected Rental Value = 1,32,000

Actual rent for the full year (14,000x12) = 1,68,000

Therefore, GAV = 1,68,000.

Annual Value = 1,68,000 – unrealised rent

= 1,68,000 -- 28,000 = 1.40,000.

========

**Illustration:3**

Compute gross annual value for the AY

FRV Rs: 1,32,000 p.a.; Actual rent Rs:12,000 p.m.; MRV Rs:1,20,000 p.a., Standard rent Rs:1,30,000.

**Solution:**

Expected Rental Value = Rs: 1,30,000

Actual rent for full year (12,000 x 12) = Rs:1,44,000

Therefore, GAV = Rs: 1,44,000.

==========

**Illustration:4**

Rinju is the owner of 2 houses. From the following, find out annual value of the houses:

**House-1 House-2**

Municipal value 30,000 35,000

Actual rent 40,000 32,000

FRV 36,000 30,000

SRV 30,000 36,000

Municipal tax paid 4,000 3,500

**Solution**:

MRV or FRV (higher) 36,000 35,000

SRV 30,000 36,000

ERV (Lesser of the above 2) 30,000 35,000

Actual Rent 40,000 32,000

**GAV** (higher of 3 and 4) **40,000 35,000**

Less : Municipal Taxes 4,000 3,500

Annual Value 36,000 31500

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**Illustration:5**

Mr. Abhinand constructed one house in 2010. Half of the portion is let out and the remaining half is used for his residence. The following particulars are available:

MRV Rs: 12,500; Rent received Rs:10,000 ; Municipal taxes Rs:2,500 ; Ground rent Rs;250 ;

Repairs Rs:2,000 ; Interest on loan taken for construction Rs: 2,500.

Compute income from house property of Mr. Abhinand for the AY 2013-14.

**Solution:**

Computation of Income from house property

Let out portion:

GAV (MRV =6250 or Rent received, whichever is higher) : 10,000

Less : municipal rent ( ½ ) : 1,250

Net Annual Value : 8,750

Deductions:

30% of annual value : 2,625

Interest on loan taken for construction : 1,250

Income from let out portion 4,875

Self-occupied portion:

Net Annual Value : Nil

Deductions:

Interest on loan taken for construction : 1,250

Income from self occupied portion --1,250

Income from House Property **3,625**

**Illustration:6**

The following information is available in respect of two houses of owned by Neeraj.

He let out the first house for a yearly rent of Rs: 11,000. He paid Rs:1,000 as interest on borrowings. He paid Rs: 100 as insurance premium. He let out his second house at a monthly rent of Rs:1,200. It is not rented out for 3 months. The unreaqlised rent for the past 5 years was Rs:13,000. Compute the income from house property of Mr. Neeraj for the AY

**Solution:**

**Computation of Income from house property for AY**

First House:

Annual Value : 11,000

Less : Deductions:

Standard deduction (30%) : 3,300

Interest on loan : 1,000 : 4,300 6,700

Second House:

Annual Value : 14,400

Less : Loss for vacancy period : 3,600

Unrealised rent : 13,000 16,600 --2,200

Income from House Property = 4,500.

**UNIT 4**

**Income from Business and Other sources**

**Business : Sec 2 (13)**

Business includes any trade, commerce, or manufacture or any adventure or concern in the nature of trade, commerce, or manufacture. Or practical purpose business means the purchase and sale or manufacture of a commodity with a view to make profit. Business includes banking, transport business or any other adventure. Profit of an isolated transaction is also taxable under this head.

**Profession**

A profession is a vocation founded upon specialized educational training, the purpose of which is to supply objective counsel and service to others, for a direct and definite compensation, wholly apart from expectation of other business gain. For example the work of lawyer, doctor auditor engineer and so on. Vocation means activities which are performed in order to earn livelihood.

**llustration: 1** The net profit of business of Mr. Baveesh as disclosed by its P&L account was Rs:3,25,000 after charging the following:

Municipal taxes on house property let out Rs:3,000

Bad debt written off Rs:15,000

Provision for bad and doubtful debts Rs: 16,000

Provision for taxation Rs: 15,000

Depreciation Rs: 25,000

Depreciation allowance as per rule is Rs:20,000.

Compute taxable business profit.

**Solution:**

Computation of income from busines

Particulars Rs Rs

Net profit 3,25,000

Add: Municipal taxes 30000

Provision for bad debts 16000

Provision for taxation 15000

Excess epreciation 5000 39,000

Business Profit 3,64,000

**Illustration:2**

From the following P&L account, compute income from business:

PROFIT AND LOSS ACCOUNT

To Salaries 14,600 By G/p 1,35,000

To household expense 2000

To income tax 900

To Gifts 900

To business expense 2,200

To LIC premium 2,100

To bad debt reserve 800

To N/P 1,11,500

1,35,000 **1,35,000**

**Solution:**

Computation of income from business for the A Y

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

Add : Expenses Disallowed:

Household expenses 2,000

Income tax 900

Gift 900

LIC Premium 2,100

Bad debt reserve 800 6,700

Income from business 1,18,200

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**Illustration:3**

Dr. Biju is a medical practitioner in Mahe. From the following, calculate his income from

profession for the AY 2019-20:

gross receipt from dispensary 2,35,000

Gross receipt from consultation 1,65,000

Operation fee 2,50,000

Visiting fee 50,000

Gifts from patients 30,000

Medicines purchased 1,25,000

Closing stock of medicines 35,000

Salaries paid to employees 1,50,000

Surgical equipments purchased 48,000

Dr. Biju wanted to attend a medical seminar in Australia to update

the knowledge and spent an amount of

25,000

Medical books purchased 20,000

He owns a house whose MRV is Rs:50,000. Half portion of the

house is used for profession. Expenses paid on house are

municipal tax=30% of MRV ; Repairs Rs:10,000 ; and renovation

expenses Rs:30,000.

**Solution:**

Computation of income from profession for the AY 2019-20

Gross receipts from dispensary 2,35,000

Gross receipts from consultation 1,65,000

Operation fee 2,50,000

Visiting fee 50,000

Gifts from patients 30,000 7,30,000

Less : Expenses :

Medicines ( 1,25,000—35,000) 90,000

Salaries to employees 1,50,000

Surgical equipments ( Depreciation :

15% )

7,200

Visit to Australia to attend a medical

seminar

25,000

Medical Books ( Depreciation : 60% ) 12,000

Expenses on house used for profession:

Municipal tax (50,000 x 10% x ½

)

2,500

Repairs ( 10,000 x ½ ) 5,000

Total 2,91,700

Income from profession 4,38,300

**Illustration:4**

The following is the Receipts and Payments account of Mr. Akhilesh, a practicing Chartered

Accountant for the year ended 31-03-2020:

Receipts Rs: Payments Rs:

Audit fee 19,210 Office expenses 10,000

Consultation 10,000 Office rent 5,000

Tribunal appearance 15,000 Salaries and wages 12,050

Miscellaneous 20,000 Printing and Stationeries 1,000

Interest on Govt. security 10,000 subscription 3,000

Rent received 10,000 Purchase of books(annual

publication)

1,300

Presents from clients 10,000 Travelling expenses 5,800

Interest on bank loan 3,000

Donation to National Defence

Fund

5,000

Loan from bank was taken for the construction of the house in which he lives. MRV of the house

is Rs: 8,000 and the local taxes Rs: 800 p.a. One-fourth of travelling expenses are not allowable.

Compute income from profession for the A Y 201020.

**Solution:**

Computation of income from business for the AY 2019-20

Particulars Rs: Rs:

Audit Fees 19,210

Consultation Fee 10,000

Tribunal appearance 15,000

Miscellaneous 20,000

Presents from clients 10,000 74,210

Less: Allowable Expenses:

Office expenses 10,000

Office rent 5,000

Salaries and wages 12,050

Printing and stationery 1,000

Subscription 3,000

Purchase of books (100% depreciation) 1,300

Travelling expenses (5,800 x ¾ ) 4,350 36,700

Income from Profession 37,510

**Illustration:5**

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

Factory building W.D.V. on 01-04-2012 Rs: 14,00,000

Additions made on 01-06-2012 Rs: 6,00,000

Rate of depreciation 10%

The part of factory building which was destroyed by fire, for which the insurance company

accepted the claim for Rs: 60,000 and scrap value realised amounted to Rs:10,000.

**Solution:**

**Computation of Depreciation**

Factory building : W.D.V on 1-4-2012 Rs: 14,00,000

Additions made on 1-6-2012 Rs: 6,00,000

Rs: 20,00,000

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

Amountb received from the sale of scrap Rs:10,000 Rs: 70,000

Written Down Value of factory building for the AY 2013-14 Rs: 19,30,000

Therefore, Depreciation @ 10% **Rs: 1,93,000**

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**Illustration:6**

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

Plant & Machinery(Rs:) Building(Rs:)

W.D.V. at the beginning of the year 3,75,000 15,00,000

Purchased during the year 4,50,000 Nil

Sales during the year 7,75,000 3,00,000

**Solution:**

Computation of Depreciation

Particulars Plant & Machinery Building

Rate = 15% Rate = 10%

W.D.V at the beginning of the year 3,75,000 15,00,000

Add: Purchase 4,50,000 Nil

Total 8,25,000 15,00,000

Less: sales 7,75,000 3,00,000

W.D.V. 50,000 12,00,000

Depreciation 7,500 1,20,000

**Capital Gains**

Profits or gains arising from the transfer of a capital asset made in a previous year are taxable as

capital gains under the head “Capital Gains”. The capital gain is chargeable to income tax if the

following conditions are satisfied:

1. There is a capital asset.

2. Assessee should transfer the capital asset.

3. Transfer of capital assets should take place during the previous year.

4. There should be gain or loss on account of such transfer of capital asset.

**Capital Asset:** Sec. 2(14): Capital Asset means property of any kind (Fixed, Circulating,

movable, immovable, tangible or intangible) whether or not connected with business or

profession.

Exclusions —

a. Stock-in-trade

b. Personal effects of the assessee i.e., personal use excluding jewellery, costly stones, silver,

gold

c. Agricultural land in a rural area i.e., an area with population more than 10,000.

d. 6½% Gold Bonds, 1977 or 7% Gold Bonds, 1980 or National Defence Bonds, 1980 issued by

the Central Government

e. Special Bearer Bonds, 1991 issued by the Central Government.

f. Gold Deposit Bonds issued under Gold Deposit Scheme 2000

**Kinds of capital assets**

There are two kinds of capital assets

**Short-term capital asset: Sec. 2(42A):** means a capital asset held by an assessee for not more

than thirty six months immediately preceding the date of its transfer. However, in the following

cases, an asset, held for not more than twelve months, is treated as short-term capital asset—

a. Quoted or unquoted equity or preference shares in a company

b. Quoted Securities

c. Quoted or unquoted Units of UTI

d. Quoted or unquoted Units of Mutual Funds specified u/s. 10(23D)

e. Quoted or unquoted zero coupon bonds

**Long-term capital asset: Sec. 2(29A):** means a capital asset which is not a short-term capital

asset. Under the existing law, profits and gains arising from the transfer of capital asset made in a

previous year is taxable as capital gains. A capital asset is distinguished on the basis of the period

of holding. A capital asset, which is held for more than three years, is categorized as a long-term

capital asset. However, if the capital asset is in the nature of equity, it is categorized as a longterm

capital asset if it is held for more than one year. All capital assets other than long-term

capital asset are termed as a short-term capital asset.

Transfer includes:

• Sale of asset

• Exchange of asset

• Relinquishment of asset (means surrender of asset)

• Extinguishments of any right on asset (means reducing any right on asset)

• Compulsory acquisition of asset.

The definition of transfer is inclusive, thus transfer includes only above said five ways. In other

words, transfer can take place only on these five ways. If there is any other way where an asset is

given to other such as by way of gift, inheritance etc. it will not be termed as transfer.

**Year of chargeability to tax**

Capital gains are generally charged to tax in the year in which ‘transfer’ takes place.

**Long term capital gains**

Long term Capital gains, if the assets like shares and securities, are held by the assessee for a period exceeding 12 months or 36 months in the case of other assets. Units of UTI and specified mutual funds will now be eligible for treatment as long term capital assets if they are

held for a period exceeding 12 months.

Long term Capital gains are computed by deducting from the full value of consideration for the

**Differences between Long term capital gains and Short term capital gains**

**Illustration:1**

Mr. Vishal sold his residential house for Rs:4,50,000 in November, 2012. Indexed cost of this

house was Rs: 1,80,000. He paid 3 % of sale as commission to broker. He purchased another

house on 26th January, 2013 for Rs:2,00,000. Compute his capital gains for the AY 2019-20

**Solution:**

**Computation of capital gains for the AY 2019-20**

Particulars Rs: Rs:

Selling price of the house 4,50,000

Less: Brokerage 13,500

Indexed cost 1,80,000 1,93,500

Long terrm capital gain 2,56,500

Less: Cost of new house 2,00,000

Taxable Capital Gain 56,500

**Illustration:2**

Mr. Irfan provides you the following information to the sale of residential house. Calculate his

capital gain for the AY 2013-14.

House purchased in January, 1989 Rs:4,83,000

Sold the house in August, 2018 Rs:30,00,000

Purchased another residential house in November, 2012 Rs:2,00,000

Invested in bond issued by NHAI Bonds u/s 54EC Rs:1,00,000

The Cost Inflation Index in 1988-89 was 161 and for 2018-193 was852.

**Solution:**

**computation of capital gains for the AY 2019-20**

Particulars Rs: Rs:

Sale of asset in August,2018 30,00,000

Less: Indexed cost of acquisition(483000x 852/161 ) 25,56,000

Capital Gain 4,44,000

Less: Exemption u/s 54 being cost of house

purchased within one year

2,00,000

Exemption u/s 54EC 1,00,000 3,00,000

Taxable Capital Gain 1,44,000

**Illustration:3**

Mr. Anandamurthy showed his block of assets as on 1-4-2019 at a WDV of Rs:1,50,000. He purchased another asset within the block during the year 2019-20 for Rs:40,000.The entire block of assets is sold during the previous year for Rs:2,00,000. Calculate capital gain for the

assessment year 2019-20.

**solution**:

**Computation of capital gains for the AY 2019-20**

Particulars Rs:

W.D.V. of assets as on 01-04-2012 1,50,000

Add: Assets purchased during P.Y. 40,000

1,90,000

Less: Selling Price 2,00,000

Short Term Capital Gain 10,000

**Illustration:4**

Mr. Varma purchased a plot in 1986-87 for Rs: 1,40,000. It was sold on 15-1-2018 for Rs:15,80,000 and he paid Rs:1,00,000 as brokerage. He invested Rs:2,00,000 in NHAI bonds on 31-3-2013 and Rs: 3,10,000 in bonds issued by Rural Electrification Corporation Ltd. on 1-8- 2013. Compute his taxable capital gain, if the CII for 1986-87 was 140 and for 2019-20 is 852.

**Solution:**

**Computation of capital gains for the AY 2019-20**

Particulars Rs: Rs:

Selling price of plot 15,80,000

Less: Brokerage 1,00,000

Indexed cost (1,40,000 x 853/140) 8,52,000 9,52,000

L T C G 6,28,000

Less: Exempt u/s 54EC : NHAI Bonds purchased

within 6 months from the date of transfer of LTCA

2,00,000

Taxable Capital Gains 4,28,000

***Note:*** *Bonds of Rural Electrification Corporation Ltd. not purchased within 6 months from the date of transfer of LTCA, hence, not entitled to exemption.*

agri. land 7,20,000

Less: Indexed Cost (75,000 x 852/125) 5,11,200

LTCG 2,08.800

Less: Cost of new agri. land 80,000

Deposit in Capital Gains Account 50,000 1,30,000

Taxable Capital Gains 78,800

Less: Cost of new house 8,00,000

Taxable Capital Gains Nil

**DEDUCTIONS AGAINST INCOME FROM OTHER SOURCE U/S 57**

a. commission or remuneration for realising dividend or interest on securities – Section 57(i)

b. Repairs, depreciation in case of letting out of plant, machinery, furniture, building etc.

c. Standard deduction in case of family pension – 57(iia)

d. Any other expenditure of revenue nature [57(iii)]

e. Interest on borrowed capital [loan taken to invest in shares/ debentures etc.]

**Illustration:1**

Mr. S.B.Singh, a College Professor, furnished the following particulars. You are required to

compute income from other sources:

Examination remuneration Rs: 7,000

Royalty from books and articles Rs: 25,000

Winnings from card games Rs: 6,700

Winnings from State lottery Rs: 30,000

Expenditure on purchase of lottery tickets Rs: 12,000.

**Solution:**

**Computation of Income from Other Sources For the AY 2019-2020**

Particulars Rs:

Examination remuneration 7,000

Royalty from books and articles 25,000

Winnings from card games 6,700

Winnings from State lottery 30,000

Income from other sources 68,700

**Illustration :2**

Compute income from other sources:

Dividend (Gross) Rs:9,600

Expenses incurred for its collection Rs: 500

Receipts from letting of plant and machinery Rs: 10,000

Repairs of Plant and Machinery Rs: 4,000

Insurance premium in respect of plant and machinery Rs: 2,000

Depreciation allowed for letting Rs:4,000

**Solution:**

**Computation of Income from Other Sources For the AY 2019-2020**

Particulars Rs: Rs:

Receipts from letting of P&M 10,000

Less: Admissible expenses:

Repairs of P&M 4,000

Insurance premium in respect of P&M 2,000

Depreciation allowed for letting 4,000 10,000

Income from other sources Nil

**Illustration:3**

From the following particulars submitted by Sri. Mani Shankar Iyer, compute his income from other sources for the AY 2019-2020 :

As Director of ABC Ltd. he received Rs: 12,000 p.m. as salary and Rs:1,200 p.m. as entertainment allowance. The company provides him a car for both official and personal use. The personal use is estimated to be 50%. The company incurs an expenditure of Rs:16,000 on running and maintenance of the car {for both official and personal use) and depreciation of the car may be taken as Rs: 14,000.

He was also a Director in another company from which he received Rs: 13,000 as

Director’s fee.

Interest received on deposits with a Co-operative bank limited Rs:2,000.

Dividend received from a foreign company Rs: 6,000.

Received winnings from lottery Rs: 24,500

Income from agricultural land in England Rs: 78,000.

Honorarium for delivering lectures in a registered society Rs:1,200.

**Solution:**

**Computation of Income from Other Sources For the AY 2019-2020**

Particulars Rs:

Director’s fee 13,000

Interest on deposits with Co-operative Bank 2,000

Dividend from a foreign company 6,000

Winnings from lottery ( 24500 X 100/70) 35,000

Agri. Income from England 78,000

Honorarium for Lectures 1,200

Income from other sources 1,35,200

**Illustration**:4

Compute income from other sources of Mr. Ajayakumar for the AY 2019-2020. His investments are :

5% govt. securities Rs: 70,000

7.5% Agra Municipal Bond Rs: 50,000

9% debentures of a company Rs:30,000

7% Capital Investment Bond Rs: 20,000

**Solution:**

**Computation of Income from Other Sources For the AY 2019-2020**

Particulars Rs:

Interest on Govt. Securities (70,000 x 5%) 3,500

Interest on Agra Municipal Bond (5,000 x 7.5 %) 3750

Interest on debentures (30,000 x 9%) 2,700

Interest on Capital Investment Bond Exempt

Income from Other Sources 9,950

**Illustration:5**

The following are the details relating to Mr. Siddharth for the P.Y. 2018-19. Compute income from other sources:

Income from agriculture in Pakistan Rs: 5,000

Interest on post office savings bank Rs: 1,000

Dividend from foreign company Rs: 700

Dividend from Indian company Rs:1,000

Rent from sub-letting house Rs: 26,250

Expenses for sub-letting house Rs: 1,000

Winning from lottery (Net) Rs: 14,000

**Solution:**

**Computation of Income from Other Sources For the AY 2019-20**

Particulars Rs:

Income from agriculture 5,000

Interest on P.O.S.B. Exempt

Dividend from foreign company 700

Dividend from Indian company Exempt

Rent from sub-letting house 26,250

Less: Expenses 1,000 25,250

Winnings from lottery (14,000 x 100/70) 20,000

Income from Other Sources 50,950

Unit V

Capital Gain

What Is Capital Gains Tax?

Capital gains tax is a levy assessed on the positive difference between the sale price of the asset and its original purchase price. Long-term capital gains tax is a levy on the profits from the sale of assets held for more than a year. The rates are 0%, 15%, or 20%, depending on your tax bracket. [Short-term capital gains](https://www.investopedia.com/terms/s/short-term-gain.asp) tax applies to assets held for a year or less, and is taxed as ordinary income.1﻿

## Types of Capital Assets

The two types of capital assets are mentioned below:

* **long term capital asset:** In case individuals own an asset for a duration of more than 36 months, the asset is a long term capital asset. Debt-oriented mutual funds, jewellery, etc., that are held for a duration of more than 36 months will come under this category and there is no 24-month reduction period under such circumstances.

The below-mentioned assets are considered as long term assets if they are held for a duration of more than 12 months:

* + Zero coupon bonds (not dependent on whether they are quoted or not)
  + Unit Trust of India (UTI) units (not dependent on whether they are quoted or not)
  + Equity-based mutual funds units (not dependent on whether they are quoted or not)
  + Securities that are listed on a stock exchange that is recognised in India. Examples of such securities are government securities, bonds, and debentures.
  + Preference shares or equities that are held in a company that is listed on a stock exchange that is recognised in India.
* **short term capital asset:** In case assets are held for a duration of 36 months or less, it can be defined as a short term capital asset. However, for immovable assets such as house property, building, and land, the duration has been reduced from 36 months to 24 months.

Therefore, if an individual wishes to sell a land or house after holding it for a duration of 24 months, the profit that the individual makes from it comes under long term capital gain.

In case the property has been inherited or given as a gift, the amount of time the property was held by the previous owner is also considered when determining whether the property can be considered as a short term capital asset or a long term capital asset.

The date on which the bonus shares were allotted is considered when determining the category under which bonus shares or right shares fall.

## How to Calculate Capital Gains?

Depending on the amount of time that the asset has been held, the [calculation of Capital Gains](https://www.bankbazaar.com/tax/how-calculate-capital-gains.html) will vary. Some of the important points that individuals should know when calculating capital gains are mentioned below:

* **Cost of improvement:** If there are any expenses that have been incurred by the seller because of any alterations or additions that have been made to the property. However, any improvements made before 1 April 2001 cannot be considered.
* **Acquisition cost:** The amount of money that the seller paid in order to acquire the property.
* **Full value consideration:** The amount of money that the seller will receive because of the property transfer. Capital gains are charged from the year the transaction was made even if the money was not received in that particular year.

In certain cases where the capital asset is also the property of the taxpayer, the acquisition cost and the improvement cost of the previous owner will also be included.

## How to Calculate Long Term Capital Gains?

The procedure to calculate [long term Capital Gains](https://www.bankbazaar.com/tax/long-term-capital-gains.html) is mentioned below:

* First, the individual must consider the full value of the asset.
* Next, the individual must make the below-mentioned deductions:
  + The costs that have been incurred due to the transfer.
  + The amount of money that is spent on the acquisition.
  + The amount of money that is spent on improvement.
* From the number that has been calculated by following the above steps, the individual must subtract any exemptions that are provided under Section 54B, Section 54F, [Section 54EC](https://www.bankbazaar.com/tax/section-54ec.html), and Section 54.

### Example to Calculate long term Capital Gains

Given below is an example to calculate long term Capital Gains:

**Assumptions:**

Price house was purchased for: Rs.30 lakh

Financial Year house was purchased: 2010-2011

Financial Year house was sold: 2018-2019

Amount house was sold for: Rs.50.5 lakh

Inflation adjusted cost: (280/167) x 30 = 50.29 lakh

long term Capital Gains: 50.50 lakh – 50.29 lakh = Rs.21,000 (approx)

## How to Calculate Short Term Capital Gains?

The below-mentioned procedure must be followed by individuals in order to calculate [short term capital gains](https://www.bankbazaar.com/tax/short-term-capital-gain.html):

* First, the individual must consider the full value of the property.
* Next, the below-mentioned points must be deducted:
  + Expenses that have been incurred for the improvement of the property.
  + The expenses incurred for acquiring the property.
  + Any expenses that have been incurred for the transfer of the property.
* The amount that is calculated after the deduction is the short term capital gain.

The formula for the calculation of short term capital gain is the full value consideration minus the expenses that have incurred for the transfer minus the cost for improving and acquiring the property.

### Example for Calculation of short term Capital Gains

Given below is an example of how short term Capital Gains is calculated:

**Assumptions:**

Price the house was sold for: Rs.55 lakh

Expenses for brokerage, commissions etc: Rs.30,000

Net sale consideration: Rs.54,70,000

Price the house was bought for: Rs.35 lakh

Amount spend for the improvement of house: Rs.3 lakh

Gross short term Capital Gain: Rs.16,70,000

Tax exemptions under Sections 54, 54B, 54D, 54EC, 54ED, 54F, 54G: Nil

Net short term Capital Gain: Rs.16,70,000

Short Term Capital Gains: 30% of Rs.16,70,000: Rs.5,01.000

## Long term Gain Tax Rate

|  |  |
| --- | --- |
| **Condition** | **Tax Rate** |
| Sale of equity shares | 10% of the amount which is more than Rs.1 lakh |
| Except for sale of equity shares | 20% |

## Short Term Gains Tax Rate

|  |  |
| --- | --- |
| **Condition** | **Tax Rate** |
| When the transaction tax is based on securities | 15% |
| When transaction tax is not based on securities | The gain is added to the [income tax returns](https://www.bankbazaar.com/tax/income-tax-return.html) that must be filed, and the amount will be based on the [income tax slab](https://www.bankbazaar.com/tax/income-tax-slabs.html) |

## Cost Inflation Index Number

Given in the table below is the CII Number from the financial year 2001-2002 to FY 2019-2020:

|  |  |  |
| --- | --- | --- |
| **Financial Year** | **Assessment Year** | **CII Number** |
| 2001-2002 | 2002-2003 | 100 |
| 2002-2003 | 2003-2004 | 105 |
| 2003-2004 | 2004-2005 | 109 |
| 2004-2005 | 2005-2006 | 113 |
| 2005-2006 | 2006-2007 | 117 |
| 2006-2007 | 2007-2008 | 122 |
| 2007-2008 | 2008-2009 | 129 |
| 2008-2009 | 2009-2010 | 137 |
| 2009-2010 | 2010-2011 | 148 |
| 2010-2011 | 2011-2012 | 167 |
| 2011-2012 | 2012-2013 | 184 |
| 2012-2013 | 2013-2014 | 200 |
| 2013-2014 | 2014-2015 | 220 |
| 2014-2015 | 2015-2016 | 240 |
| 2015-2016 | 2016-2017 | 254 |
| 2016-2017 | 2017-2018 | 264 |
| 2017-2018 | 2018-2019 | 272 |
| 2018-2019 | 2019-2020 | 280 |
| 2019-2020 | 2020-2021 | 289 |

**Incomes which are charged to tax under the head “Income from other sources”**

“Income from other sources” is the residual head of income. Hence, any income which is not specifically taxed under any other head of income will be taxed under this head.

Further, there are certain incomes which are always taxed under this head. These incomes are as follows:

* As per section 56(2)(*i*), dividends are always taxed under this head. However, dividends from domestic company other than those covered by section 2(*22*)(*e*) are exempt from tax under section 10(*34*).
* Winnings from lotteries, crossword puzzles, races including horse races, card game and other game of any sort, gambling or betting of any form whatsoever, are always taxed under this head.
* Income by way of interest received on compensation or on enhanced compensation shall be chargeable to tax under the head “Income from other sources”, and such income shall be deemed to be the income of the year in which it is received, irrespective of the method of accounting followed by the However, a deduction of a sum equal to 50% of such income shall be allowed from such income. Apart from this, no other deduction shall be allowed from such an income.
* Gifts received by an individual or HUF (which are chargeable to tax) are also taxed under this head.
* In addition to above, following incomes are charged to tax under this head, if not taxed under the head “Profits and gains of business or profession”.
  + Any contribution to a fund for welfare of employees received by the *[Section 56(2)(*ic*)].*
  + Income by way of interest on securities. *[Section 56(2)(*id*)].*
  + Income from letting out or hiring of plant, machinery or furniture. *[Section 56(2)(*ii*)].*
  + Income from letting out of plant, machinery or furniture along with building; both the lettings are inseparable. *[Section 56(2)(*iii*)].*
  + Any sum received under a Keyman Insurance Policy including bonus. *[Section 56(2) (*iv)].

***Relevance of method of accounting***

Income chargeable to tax under the head “Income from other sources” is to be computed in accordance with the method of accounting regularly employed by the assessee. Hence, if the assessee follows mercantile system, then income will be computed on accrual basis. If assessee follows cash system, then income will be computed on cash basis. However, method of accounting does not affect the basis of charge in case of dividend income and income by way of interest received on compensation or on enhanced compensation.

***Illustration***

Ascertain the head of taxability of the incomes given below:

|  |  |
| --- | --- |
| ***Nature of income*** | ***Head of taxability*** |
| Dividend of Rs. 84,000 received by Mr. Kapoor from an Indian company. | Dividend is always charged to tax under the head “Income from other sources”. However, dividends from domestic company except dividends covered by section 2(*22*)(*e*) are exempt from tax under section 10(*34*). |
| Dividend of Rs. 1,84,000 received by Mr. Sunil from a foreign company. | Dividend is always charged to tax under the head “Income from other sources”. Dividends from foreign company do not qualify for exemption under section 10(34) and, hence, will be fully charged to tax. |
| Rs. 25,200 won by Mr. Soham from a game show. | Income by way of winnings from lotteries,      crossword    puzzles,    races including horse races, card game and other game of any sort, gambling or betting of any form whatsoever, are always charged to tax under the head “Income from other sources”. Hence, Rs. 25,200 won from a game show will be charged to tax under the head “Income from other sources”. |
| Rs. 84,000 received by Mr. Kumar  from his friend on his birthday. | Gifts received by an individual or HUF (which are charged to tax) are taxed under the head “Income from other sources”. In this case, gift is received from        a        friend            and              it   exceeds         Rs. 50,000. Hence, entire amount will be charged to tax under the head “Income from other sources”. |
| Rent of a plot of land of Rs. 20,000 received by Mr. Jagdish. | Rent from plot of land will be charged to tax under the head “Income from other sources”. Rent of plot of land is not charged to tax under the head “Income from house property” |
| Rent of a shop amounting to Rs. 1,00,000 per month received by Mr. Sohil. | Rent     of    shop    (being   building)    is charged to tax under the head “Income from house property”. |
| Interest of Rs. 50,000 from bank fixed deposits received by a salaried employee. | Interest    on   bank   fixed   deposits   is charged to tax under the head “Income from other sources”. |

***Taxation of sum of money or property received without consideration or without adequate consideration***

From the taxation angle, sum of money or property received by an individual or HUF without consideration or without adequate consideration can be classified in following different categories :

* Sum of money received without consideration (commonly known as monetary gift).
* Specified movable property received without consideration (commonly known as non-monetary gift).
* Specified movable property received without adequate consideration.
* Immovable property received without consideration.
* Immovable property received without adequate consideration.

***Sum of money received without consideration (commonly known as monetary gift) by an individual or HUF***

The provisions relating to taxability of monetary gift received by an individual or HUF are as follows :

On satisfaction of following conditions any sum of money (i.e., generally known as monetary gift) received by an individual/HUF without consideration will be charged to tax :

(i) The sum of money is received by an individual or HUF on or after 1-10-2009.

(ii) Such sum of money is received without consideration.

(iii) The aggregate value of such sum received during the previous year exceeds Rs. 50,000.

The aforesaid provisions will not apply in the following cases :

* Money received from relatives (see note 1 below).
* Money received by a HUF from its members.
* Money received on occasion of the marriage of the individual.
* Money received under Will/ by way of inheritance.
* Money received in contemplation of death of the payer or donor.
* Money received from a local authority.
* Money received from any fund, foundation, university, other educational institution, hospital or other medical institution, any trust or institution referred to in section 10(*23C*).
* Money received from a trust or institution registered under section 12AA.

***Note 1 :***Relative for this purpose means:

|  |  |  |
| --- | --- | --- |
| (a)Spouse of the individual;(b)    Brother or sister of the individual; | (c) Brother or sister of the spouse of the individual;(d) Brother or sister of either of the parents of the individual; | (e)Any lineal ascendant or descendent of the individual;(f)    Any lineal ascendant or descendent of the spouse of the individual;  (g) Spouse of the person referred to in (b) to (f) above |

***Illustration***

During the year 2012-13, Mr. Kumar received following gifts. Ascertain the total amount of gift charged to tax.

* Gift of Rs. 84,000 from his father.
* Gift of Rs. 25,200 received from his friend on his birthday.
* 2,52,000 received on account of will of his grandfather.
* 30,000 received from his friends on the occasion of marriage anniversary.

Gift received in following situations will not be charged to tax.

* Money received from relatives (meaning of relative is already discussed above).
* Money received by a HUF from its members.
* Money received on occasion of the marriage of the individual.
* Money received under Will/ by way of inheritance.
* Money received in contemplation of death of the payer or donor.
* Money received from a local authority.
* Money received from any fund, foundation, university, other educational institution, hospital or other medical institution, any trust or institution referred to in section 10(*23C*).
* Money received from a trust or institution registered under section 12AA.

Considering above, the tax treatment of various items in the hands of Mr. Kumar will be as follows :

* Gift received from father will not he charged to tax (since father is covered in the definition of relative), hence, Rs. 84,000 will not be charged to tax.
* Gift received from the friends is not covered in any of the above discussed exemptions and, hence, Rs. 25,200 received from his friend on his birthday will be charged to tax.
* Money received on account of Will is covered in the above discussed exemptions and, hence, nothing will be charged to tax on account of Rs. 2,52,000 received on account of Will of his grandfather.
* Money received on account of marriage of an individual in covered in above discussed exemptions. However, the benefit is not available in respect of money received on marriage anniversary. Hence, Rs. 30,000 received from his friends on account of marriage anniversary will be charged to tax.

Considering above discussion, the total amount of gift not covered in any of the specified exemptions will come to Rs. 55,200 (i.e., Rs. 25,200 + Rs. 30,000). If the gift not covered in specified exemptions exceeds Rs. 50,000 then the entire amount of such gift is charged to tax. Hence, taxable amount of gift will come to Rs. 55,200.

***Specified movable property received without consideration (commonly known as non-monetary gift) by an individual or HUF***

Any specified movable property received without consideration (i.e., received by way of a gift) by an individual/HUF is charged to tax, if the following conditions are satisfied :

(i) Any specified movable property is received by an individual or HUF on or after 1-10-2009.

(ii) Such property is received without consideration.

(*iii)*The aggregate fair market value of such properties received by the assessee during the previous year exceeds Rs. 50,000.

Specified movable property means shares/securities, jewellery, archaeological collections, drawings, paintings, sculptures or any work of art and with effect from 1-6-2010 bullion, being capital asset of the assessee.

In above case, the fair market value of the specified movable property will be treated as income of the receiver.

The aforesaid provisions will not apply in the following cases :

* Property received from relatives (see note 1).
* Property received by a HUF from its members.
* Property received on occasion of the marriage of the individual.
* Property received under Will/ by way of inheritance.
* Property received in contemplation of death of the payer or donor.
* Property received from a local authority.
* Property received from any fund, foundation, university, other educational institution, hospital or other medical institution, any trust or institution referred to in section 10(*23C*).
* Property received from a trust or institution registered under section 12AA.

***Note 1 :***Relative for this purpose means:

|  |  |  |
| --- | --- | --- |
| (a)Spouse of the individual;(b)    Brother or sister of the individual; | (c) Brother or sister of the spouse of the individual;(d) Brother or sister of either of the parents of the individual; | (e) Any lineal ascendant or descendent of the individual;(f)    Any lineal ascendant or descendent of the spouse of the individual;  (g) Spouse of the person referred to in (b) to (f) |

***Illustration***

From the following information provided by Mr. Kapoor, ascertain the tax treatment of various items.

* Gift of gold received from his mother. The value of gold amounted to Rs. 1,84,000.
* Shares valuing Rs. 40,000 received by way of gift from his brother.
* Gift of diamond jewellery amounting to Rs. 2,50,000 received from his friends on the occasion of his marriage.
* Gift of diamond jewellery amounting to Rs. 30,000 received from his friends on the occasion of his friend’s marriage.

\*\*

Gift received in following situations will not be charged to tax in the hands of an individual or HUF :

* Property received from relatives (meaning of relative is already discussed above).
* Property received by a HUF from its members.
* Property received on occasion of the marriage of the individual.
* Property received under Will/ by way of inheritance.
* Property received in contemplation of death of the payer or donor.
* Property received from a local authority.
* Property received from any fund, foundation, university, other educational institution, hospital or other medical institution, any trust or institution referred to in section 10(*23C*).
* Property received from a trust or institution registered under section 12AA.

Considering the above provisions, the tax treatment of various items in the hands of Mr. Kapoor will be as follows :

* Gift received from mother will not be charged to tax (since mother is covered in the definition of relatives). Hence, gift of gold amounting to Rs. 1,84,000 received from his mother will not be charged to tax.
* Gift received from brother will not be charged to tax (since brother is covered in the definition of relatives). Hence, gift of shares amounting to Rs. 40,000 received from his brother will not be charged to tax.
* Gift received on account of marriage of an individual is covered in above discussed exemptions. Hence gift of diamond jewellery amounting to Rs. 2,50,000 received from his friends on the occasion of his marriage will not be charged to tax.
* Gift received on account of marriage of an individual is not charged to tax. In this case the gift is received on the occasion of marriage of the friend (not the marriage of Mr. Kapoor). Hence, gift of diamond jewellery amounting to Rs. 30,000 received from his friends on the occasion of his friend’s marriage will not be covered in the exemptions prescribed above.

Considering above discussion, the total amount of gift not covered in any of the specified exemptions will come to Rs. 30,000. If the gift not covered in specified exemptions does not exceed Rs. 50,000 then nothing is charged to tax. In this case, the amount of gift not covered in the exemptions comes to Rs. 30,000 (which is less than Rs. 50,000), hence, nothing will be charged to tax.

***Specified movable property received without adequate consideration by an individual or HUF***

Any specified movable property acquired for less than its fair market value by an individual/HUF is charged to tax if the following conditions are satisfied :

(i) Any specified movable property is received by an individual or HUF on or after 1-10-2009.

(ii) Such property is received for a consideration, but aggregate fair market value of such properties received by the assessee during the previous year exceeds the consideration of these properties by Rs. 50,000. In other words, the aggregate fair market value of all such properties is higher than the consideration and the aggregate gap is more than Rs. 50,000.

specified movable property means shares/securities, jewellery, archaeological collections, drawings, paintings, sculptures or any work of art and with effect from 1-6-2010 bullion, being capital asset of the assessee.

In above case, aggregate fair market value in excess of aggregate consideration of such properties will be charged to tax.

The aforesaid provisions will not apply in the following cases :

* Property received from relatives (see note 1).
* Property received by a HUF from its members.
* Property received on occasion of the marriage of the individual.
* Property received under Will/ by way of inheritance.
* Property received in contemplation of death of the payer or donor.
* Property received from a local authority.
* Property received from any fund, foundation, university, other educational institution, hospital or other medical institution, any trust or institution referred to in section 10(23C).
* Property received from a trust or institution registered under section 12AA.

***Illustration***

During the year 2012-13, Mr. Kamal a salaried employee purchased the following items:

* Gold jewellery purchased for Rs. 84,000; the fair market value of gold jewellery is Rs. 1,84,000.
* Bullion purchased for Rs. 6,00,000; the fair market value of the bullion is Rs. 5,50,000.
* A car television purchased for Rs. 25,000, the fair market value of television is Rs. 1,00,000.

What will be the tax treatment of above items in the hands of Mr. Kamal? **\*\***

Any prescribed movable property acquired for less than its fair market value by an individual/HUF is charged to tax in the hands of an individual or HUF. However, in following cases nothing will be charged to tax.

* Property received from relatives (meaning already discussed above).
* Property received by a HUF from its members.
* Property received on occasion of the marriage of the individual.
* Property received under Will/ by way of inheritance.
* Property received in contemplation of death of the payer or donor.
* Property received from a local authority.
* Property received from any fund, foundation, university, other educational institution, hospital or other medical institution, any trust or institution referred to in section 10(23C).
* Property received from a trust or institution registered under section 12AA.

Considering above provisions, the tax treatment of various items received by Mr. Kamal will be as follows :

* The fair market value of gold jewellery is Rs. 1,84,000 and the purchase price is Rs. 84,000. The excess of fair market value over the purchase price will amount to Rs. 1,00,000 (i.e., Rs. 1,84,000 – Rs. 84,000). Hence, Rs. 1,00,000 will be charged to tax in respect of purchase of gold jewellery.
* The fair market value of bullion is Rs. 5,50,000. However, the same is purchased for Rs. 6,00,000 which is more than the fair market value. In other words, in this case the purchase price is more than the fair market value and, hence, nothing will be charged to tax.
* Television does not come under the definition of specified movable property, hence, nothing will be taxed in respect of purchase of television.

***Immovable property received without consideration by an individual or HUF***

Any immovable property received without consideration (i.e., received by way of a gift) by an individual/HUF is charged to tax, if the following conditions are satisfied :

* Any immovable property is received by an individual or HUF on or after 1- 10-2009.
* Such property is received without consideration. (*iii)*The stamp duty value of such property exceeds Rs. 50,000.

In above case, the stamp duty value of the property adopted by the Stamp Valuation Authority for charging stamp duty will be treated as income of the receiver.

Nothing contained in aforesaid provisions will apply in the following cases :

* Property received from relatives (see note 1).
* Property received by a HUF from its members.
* Property received on occasion of the marriage of the individual.
* Property received under Will/ by way of inheritance.
* Property received in contemplation of death of the payer or donor.
* Property received from a local authority.
* Property received from any fund, foundation, university, other educational institution, hospital or other medical institution, any trust or institution referred to in section 10(*23C*).
* Property received from a trust or institution registered under section 12AA.

***Note 1 :***Relative for this purpose means:

|  |  |  |
| --- | --- | --- |
| (a)Spouse of the individual;(b)    Brother or sister of the individual; | (c) Brother or sister of the spouse of the individual;(d) Brother or sister of either of the parents of the individual; | (e) Any lineal ascendant or descendent of the individual;(f)    Any lineal ascendant or descendent of the spouse of the individual;  (g) Spouse of the person referred to in (b) to (f) |

***Illustration :***

On 25-2-2013, Mr. Kaushal gifted his personal building to his friend Mr. Lala. The market value of the building was Rs. 18,40,000 and the value of the building adopted by the Stamp Valuation Authority for charging stamp duty was Rs. 19,00,000. What will be the tax implications of the above items in the hands of Mr. Kaushal?

\*\*

There is no question of taxing the value of building in the hands of Mr. Kaushal since he has gifted the same to his friend. In other words, the question of taxability of gift arises when gift is received by an individual/HUF and not when the gift is given by the individual/HUF. However, in this case the taxability will arise in the hands of the receiver, i.e., his friend and Rs. 19,00,000 (i.e., the value adopted to charge stamp duty) will be taxed in the hands of his friend since he has received the building without any consideration.

***Immovable property received by an individual or HUF for a consideration which is less then its fair market value***

Where in case of an individual or HUF, if any immovable property is received without adequate consideration (*i.e.*a case where the property is received for a consideration which is less than the stamp duty value of the property by an amount exceeding Rs. 50,000), then, the stamp duty value of the property as exceeds such consideration will be treated as income of such individual or HUF.

Nothing contained in aforesaid provisions will apply in the following cases :

* Property received from relatives (see note 1).
* Property received by a HUF from its members.
* Property received on occasion of the marriage of the individual.
* Property received under Will/ by way of inheritance.
* Property received in contemplation of death of the payer or donor.
* Property received from a local authority.
* Property received from any fund, foundation, university, other educational institution, hospital or other medical institution, any trust or institution referred to in section 10(*23C*).
* Property received from a trust or institution registered under section 12AA.

***Note 1 :***Relative for this purpose means:

|  |  |  |
| --- | --- | --- |
| (a)Spouse of the individual;(b)    Brother or sister of the individual; | (c) Brother or sister of the spouse of the individual;(d) Brother or sister of either of the parents of the individual; | (e) Any lineal ascendant or descendent of the individual;(f)    Any lineal ascendant or descendent of the spouse of the individual;  (g) Spouse of the person referred to in (b) to (f) |

***Illustration :***

On 25-2-2019, Mr. Kaushal purchased a building from his friend for Rs. 8,40,000. The value of the building adopted by the Stamp Valuation Authority for charging stamp duty is Rs. 18,40,000. What will be the tax implications of the above transition in the hands of Mr. Kaushal?

\*\*

In this case the property is acquired by Mr. Kaushal for inadequate consideration and stamp duty value of the property exceeds the purchase price by an amount exceeding Rs. 50,000 (by Rs. 10,00,000 *i.e.*Rs. 18,40,000 – Rs. 8,40,000), hence, Rs. 10,00,000 will be charged to tax in the hands of Mr. Kaushal as income from other sources.

***Tax treatment of amount received from life insurance policy***

Any amount received under a life insurance policy, including bonus is exempt from tax under section 10(10D). However, following points should be noted in this regard:

* Exemption is available only in respect of amount received from life insurance policy.
* Exemption under section 10(10D) is unconditionally available in respect of sum received for a policy which is issued on or before March 31st, 2003, however, in respect of policies issued on or after April 1st, 2003, the exemption is available only if the amount of premium paid on such policy in any financial year does not exceed 20% (10% in respect of policy taken on or after April 1st, 2012) of the actual capital sum assured. It should be noted that amount received on death of the person will continue to be exempt without any
* Value of premium agreed to be returned or of any benefit by way of bonus (or otherwise), over and above the sum actually assured, which is received under the policy by any person, shall not be taken into account while calculating the actual capital sum assured.

***Illustration***

Mr. Kumar had taken following life insurance policies.

* Policy 1 : It was taken on 2-10-2000; sum assured is Rs. 1,00,000 and annual premium is Rs. 18,400. The policy will mature in 2024. Maturity value will be 90,000.
* Policy 2: It was taken on 2-3-2000, sum assured is Rs. 10,00,000 and annual premium is Rs. 35,000. The policy will mature in 2015. Maturity value will be 8,00,000.
* Policy 3: It was taken on 10-12-2013, sum assured is Rs. 50,00,000 and annual premium was Rs. 84,000. The policy will mature in 2025. Maturity value will be Rs. 10,00,000.

Advice him regarding the tax treatment of amount to be received from above policies.

***\*\****

* Policy 1 was taken before 1-4-2003 and, hence, no conditions/limitations will apply in respect of this policy. The amount received from such policy in any case, i.e., on account of death of Mr. Kumar or on account of pre-maturity of the policy or on account of maturity will be exempt from tax.
* Policy 2 was taken after 1-4-2003 and, hence, tax treatment will be as follows :
* Nothing will be charged to tax in respect of amount received on death of Kumar.
* In any other case, the amount received from policy will be exempt, if the annual premium of any financial year does not exceed 20% of the capital sum assured. The capital sum assured in case of policy 2 is Rs. 10,00,000. 20% of Rs 10,00,000 works out to be Rs. 2,00,000. The annual premium of the policy is only Rs. 35,000, hence, nothing will be taxed on account of amount received otherwise than on death.
* Policy 3 is taken after 1-4-2012 and, hence, tax treatment will be as follows :
* Nothing will be charged to tax in respect of amount received on death of Kumar.
* In any other case, the amount received from policy will be exempt, if the annual premium of any financial year does not exceed 10% of the capital sum assured. The capital sum assured in case of policy 3 is Rs. 50,00,000. 10% of 50,00,000 works out to be Rs. 5,00,000. The annual premium of the policy is only Rs. 84,000, hence, nothing will be taxed on account of amount received otherwise than on death.

***Expenses allowed as deductions while computing income chargeable to tax under the head “Income from other sources***

Following major deductions are available from income chargeable to tax under the head “Income from other sources” :

(a) Commission or remuneration for realising dividends (if not covered under section 115-O which is exempt) or interest on securities *[Section 57(i)].*

(b) Any sum received by an employer from employees as contribution towards any welfare fund of such employees is first included as income of the employee, and if the employer credits such sum to the employee’s account under the relevant fund on or before the due date (of such fund), then such amount (i.e., employee’s contribution) is deductible from the income of the employer *[Section 57(ia)].*

(c) Current (not capital) repairs, insurance premium and depreciation in respect of plant, machinery, furniture and buildings are deductible from rent income earned by letting out of plant, machinery, furniture and building, which are chargeable to tax under section 56(2)(*ii*)/(*iii*).

(d) A deduction of lower of Rs. 15,000 or 33 1/3% of such income is available in case of income in the nature of family pension (i.e., regular monthly amount payable by the employer to the family members of the deceased employee) *[Section 57(iia)].*

(*e*) Under *section 57(iii),*deduction is available in respect of any other expenditure (not being in the nature of capital expenditure) laid out or expended wholly and exclusively for the purpose of making or earning such income during the relevant previous year.

***Expenses not allowed as deductions while computing income chargeable to tax under the head “Income from other sources”***

Under section 58, following expenditures are not deductible while computing income chargeable to tax under the head “Income from other sources” :

* Personal expenditure *[Section 58(1)(a)(i)].*
* Any interest chargeable under the Act which is payable outside India on which tax has not been paid or deducted at source *[Section 58(1)(a)(ii)].*
* Any amount paid which is taxable under the head “Salaries” and payable outside India on which tax has not been paid or deducted at source *[Section 58(1) (a) (iii)].*
* Sum paid on account of wealth-tax is not deductible under section 58(1A).
* Amount specified under section 40A is not deductible *[Section 58(2)].*

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