



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



STUDY MATERIAL FOR B.COM.,
INCOME TAX LAW & PRACTICE
SEMESTER – V



ACADEMIC YEAR 2023-24

PREPARED BY

COMMERCE DEPARTMENT



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



INDEX

UNIT	CONTENT	PAGE NO
I	Basic concepts, meaning and definition	4-9
II	Salary	10-22
III	Income from house property	23-30
IV	Income from business or profession	31-59
V	Set off and carry forward of losses	60-77



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



Income Tax, Law and Practices

Unit I

Basic concepts - Definition - Previous year - Assessment year - Person - Assesse Income - Total Income - Casual income - Capital and Revenue - Residential status and incidence of tax incomes exempt under Section - 10

Unit II

Salary - Basis of charge - Different forms of salary - allowances - gratuity - pension perquisites and their valuation - deduction from salary - computation of taxable salary .

Unit III

House property - basis of charge - determination of GAV and NAV - income from let out property - deductions - computation of House property income

Unit IV

Profits and gains of business and profession - basis of charge - methods of accounting deductions - allowable expenses and disallowable expenses - computation of taxable income from Capital Gains - Income from other sources

Unit V

Income of other persons included in assesses total income - Aggregation of income; Set off or carry forward and set off of losses - Deductions from gross total income - Computation of total income and tax payable; Rebates and relief's - Provisions concerning advance tax and tax deducted at source - Provisions for filing of return of income.



UNIT – 1

BASIC CONCEPTS, MEANING AND DEFINITION

Meaning of tax

The tax is a compulsory payment that has to be made by individual or other persons to central government, state government or local government. Tax is based on certain will establishment rules or criteria such as income earned, property owned or expenditure made.

Direct and indirect tax

Direct tax is a payment directly made to the state by the person who bears it.

Indirect tax is a tax which is paid by one person and borne by another person.

Income tax act

The income tax act of 1961 has been in effect from the first day of April 1962 (sec 1). It contains 298 sec, sub sections, schedules etc. the income tax rules of 1962 was framed by central board of Direct Taxes (CBDT)

Assessment year (sec 2(9))

Assessment year may be defined as a year in which the income tax of the previous year is to be assessed. It is a period of twelve months starting from April 1 of every year and ending on March 31 of the next year.

Previous year (sec 3)

For the purposes of this Act, the term “previous year” means that the financial year immediately preceding the assessment year Under Income Tax, the returns are filed by assessee after end of the year/ period during which earnings are made and that period is called as previous year/ financial year.

Definition of 'Assessee'

Section 2(7) of Income Tax Act. As per S. 2(7) of the Income Tax Act, 1961, unless the context otherwise requires, the term “Assessee” means a person who is responsible for payment of any tax or any other sum of money under this Act, and includes.

Person 2(31)

It includes an individual and Hindu Undivided Family (HUF), Company, Firm, Association of Person (AOP), Body of Individual (BOI) Local Authority & Artificial Juridical Persons.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



Income Exempted From Tax

Meaning and importance of residential status

The taxability of an individual in India depends upon his residential status in India for any particular financial year. The term residential status has been coined under the income tax laws of India and must not be confused with an individual's citizenship of India. An individual may be a citizen of India but may end up being a non-resident for a particular year. Similarly, a foreign citizen may end up being a resident of India for income tax purposes for a particular year.

Also to note that the residential status of different types of persons via an individual, a firm, a company etc is determined differently in this article, we have discussed about how the residential status of an individual taxpayer can be determined for any particular financial year

How to determine residential status?

For the purpose of income tax in India, the income tax laws in India classify taxable persons as:

- A resident
- A resident not ordinarily resident (RNOR)
- A non-resident (NR)

The taxability differs for each of the above categories of taxpayers. Before we get into taxability, let us first understand how a taxpayer becomes a resident, an RNOR or and NR.

Resident

A taxpayer would be qualified as a resident of India if he satisfies any one of the following 2 conditions:

- Stay in India for a year is 182 days or more
- Stay in India for the immediately 4 preceding years is 365 days or more and 60 days or more in the relevant financial year

In the event an individual leaves India for employment during an FY, he will be qualified as a resident of India only if he stays in India for 182 days or more. Else the condition (b) above 60 days will not apply to him

Resident Not Ordinarily Resident

If an individual qualifies as a resident, the next step is to determine if he/she is a Resident ordinarily resident (ROR) or an RNOR. He will be a ROR if he meets both the following conditions:

- Has been a resident of India For at least 2 out of 10 years immediately, For the previous years
- Has stayed in India for at least 730 days in 7 immediately after the preceding years



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



Therefore, if any individual fails to satisfy even one of the above conditions, he would be an RNOR.

Non-resident

An individual satisfying neither of the conditions stated in (a) or (b) above would be an NR for the year.

Taxability Resident:

A resident will be charged to tax in India on his global income i.e. income earned in India as well as the income earned outside India.

NR and RNOR:

Their tax liability in India is restricted to the income they earn in India. They are not in need to pay any tax in India on their foreign income.

Also note that in case of double taxation of income where the same income is getting taxed in India as well as in abroad, one may resort to the Double Taxation Avoidance Agreement (DTAA) that India would have entered into with the other country in order to eliminate the possibility of paying taxes twice.

Scope of total income

Section -5 of Income Tax Act, 1961 provides Scope of total Income in case a person who is a resident, not an ordinarily resident in India and person who is a non-resident which includes. Income can be Income from any source which (a) is received or is deemed to be received in India in such year by or on behalf of such person; or (b) accrues or arises or is deemed to accrue or arise to him in India during such year; or (c) accrues or arises to him outside India during such year.

Table explaining Scope of total Income under section 5 of Income Tax Act, 1961

Sr. No	Particulars	Resident Ordinary Resident (ROR)	Resident Not Ordinary Resident (RNOR) – 5(1)	Non Resident (NR)– 5(2)
1	Income received in India	Taxed	Taxed	Taxed
2	Income Deemed to be receive in India	Taxed	Taxed	Taxed
3	Income accrues or arises in India	Taxed	Taxed	Taxed
4	Income deemed to accrues or arises in India	Taxed	Taxed	Taxed



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



5	Income accrues or arises outside India	Taxed	NO	NO
6	Income accrues or arises outside India from business/profession controlled/set up in India	Taxed	Taxed	NO
7	Income Other than Above (No Relation In India)	Taxed	NO	NO

Exercise Problems

1. Mr. Rajan left India for the first time on 15th December 2018 and returned back to India on 2nd February 2019. Identify his residential status for the assessment year 2019-20.

Solution:

Mr. Rajan Singh will get the status “Ordinary Resident”, since he satisfies the first basic condition and both the additional conditions

2. Mr. Williams is an Indian citizen who lives, in India since 1984. During the previous year 2018-2019 he went to Arabia for 325 days. Identify the residential status.

Solution:

Mr. Williams will get the status “Non-Resident”, since he not satisfy the basic conditions itself as he had stayed only for 40 days in the previous year 2018-2019.

3. From the following details calculate the total income of Mr. Raja, if he is OR, NOR and NR

- i. dividend from Indian company rs 1,00,000
- ii. dividend from foreign company rs 1,50,000, received in India
- iii. income from business in Kenya but controlled from India rs, 2,00,000
- iv. income accrued in Switzerland rs, 2,50,000, 2/5th received in India
- v. income from business in Indonesia but controlled from Bangladesh rs, 5,00,000



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



Solution:

Calculation of taxable income of Mr. Raja

S.No	Income	O.R	N.O.R	N.R.
1	Dividend from Indian company	-	-	-
2	Dividend from foreign company, received in India	1,50,000	1,50,000	1,50,000
3	Income from business in Kenya but controlled from India	2,00,000	2,00,000	2,00,000
4	income accrued in Switzerland 2/5 received in India {2,50,000*2/5} Balance 1,50,000	1,00,000 1,50,000	1,00,000 -	1,00,000 -
5	Income from business in Indonesia but controlled from Bangladesh	5,00,000	-	-
	Total income	11,00,000	4,50,000	2,50,000

4. Mr.Sunil earns the following income during the previous year 2018-19

- i. Interest from an Indian company received in Germany rs, 1,00,000
- ii. Pension from former employer in India received in U.K. Rs, 2,00,000
- iii. Income from companies in USA and received in India 1,00,000
- iv. Income from agriculture in USA and received in India 10,000
- v. Income from employment in Japan received there rs, 20,000
- vi. Past untaxed profits brought to India rs, 50,000



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



Compute GTI of Sunil for the assessment year 2019-20 if he is,

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

Solution:

Calculation of taxable income of Mr.Sunil

Sr	Income	O.R	N.O.R	N.R.
1	Interest from an Indian company received in Germany	1,00,000	1,00,000	1,00,000
2	Pension from former employer in India received in U.K	2,00,000	2,00,000	2,00,000
3	Income from companies in USA and received in India	1,00,000	1,00,000	1,00,000
4	Income from agriculture in USA and received in India	10,000	10,000	10,000
5	Income from employment in Japan received there	20,000	-	-
6	Past untaxed profits brought to India Rs, 50,000	-	-	-
	Total income	4,30,000	4,10,000	4,10,000



UNIT - II

INCOME FROM SALARY

Salary

Salary comes into existence as a result of employer-employee relationship. In an employer - employee relationship, employee performs his duties and the employer provides him salary.

Allowances

Allowances are part of salary given to employees to meet some particular requirements such as house rent, conveyance, etc. Allowances may be fully taxable, partially taxable or fully exempt.

House Rent Allowance [S. 10(13A) & Rule 2A]

The least of the following is exempt from tax:

- 50% of salary, (residential house situated at Mumbai, Kolkata, Delhi or Chennai) and 40% of salary where residential house is situated at any other place;
- Actual house rent allowance received by the employee;
- Excess of rent paid over 10% of salary

Leave Encashment [S. 10(10AA)]

Encashment of earned leave while in service will be treated as income. S. 17(1)(v)(a).

Encashment of earned leave on retirement would however, be exempt to the extent of least of:

- 10 months' salary calculated on the basis of last 10 months average salary or Rs. 3,00,000
- Amount equivalent to earned leave
- Actual amount paid by the employer

Entitlement of earned leave should not exceed 30 days for every year of actual service. Limits provided for aggregate maximum from any number of employers. Encashment of earned leave on retirement would be wholly exempt for employees of Central/State Government.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



Special Allowances [S. 10(14)]

Following prescribed special allowances are exempt:

- Allowance, not in the nature of perquisite, granted to meet expenses wholly, necessarily and exclusively incurred in the performance of duties, to the extent to which actually incurred.
- Allowance granted to meet personal expense at the place where duties of his office are ordinarily performed or at the place where he ordinarily resides or to compensate for increased cost of living as may be prescribed in Rule 2BB.

Nature of allowance prescribed under Rule 2BB

- For cost of travel on tour or on transfer,
- For ordinary daily charges on account of absence from normal place of duty on tour or for journey in connection with transfer,
- For conveyance in performance of duties, where free conveyance is not provided,
- For expenditure on helper engaged for performance of office duties,
- For encouraging academic, research and training pursuits in educational and research institutions,
- For purchase or maintenance of uniform,
- Special Compensatory Allowance in specified areas to extent specified,
- Tribal Area Allowances in specified states up to Rs. 200 p.m.
- For meeting personal expenditure of employee of transport system running transport vehicle, up to 70% of allowance, maximum of Rs. 6,000 p.m., provided no daily allowance for the said duty is received.
- Children educational allowance @ Rs. 100 p.m. per child, maximum of two children,
- Children hostel allowance @ Rs. 300 p.m. per child, maximum of two children,
- Compensatory Field Area Allowance in specified areas, @ Rs. 2,600 p.m.
- Compensatory modified field area allowance @ Rs. 1,000 p.m.
- Counter insurgency allowance @ Rs. 3,900 p.m. to members of armed forces.
- Transport allowance (TA) granted to meet expenses for commuting between place of residence and place of duty is exempt up to Rs. 800 per month and TA received by blind or orthopedically handicapped is exempt up to Rs. 1,600 per month.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



- Underground allowance granted to employee of underground coal mines: Rs. 800 per month.
- Special allowance in the nature of high altitude to members of armed forces: Rs. 1,060 per month for altitude of 9,000 to 15,000 ft. or Rs. 1,600 per month for altitude above 15,000 ft.
- Special compensatory highly active field area allowance to members of armed forces Rs. 4,200 per month.
- Island (duty) allowance to members of armed forces – Rs. 3,250/- per month.
- Perquisites
- Perquisites are benefits such as rent free accommodation, company's car, etc
- Perquisites may be provided in cash or in kind.
- Reimbursement of expenses incurred during office work is not a part of perquisites.
- Unauthorized benefits obtained do not form part of Perquisites
- Perquisites may be fully taxable, partially taxable or fully exempt.
- Fully and Partially Taxable Perquisites

Perquisites not taxable in all cases

The following perquisites are not taxable under CBDT instructions or by virtue of the Act/Rules:

- The provision of medical facilities as per Para 4(i).
- Free meals provided to all employees in office up to Rs. 50 per employee provided by the employer through paid vouchers usable at eating joints.
- Telephone including mobile phone provided to the employee.
- Perquisites allowed outside India by the Government to a citizen of India for rendering services outside India.
- Sum payable by an employer to pension or deferred annuity scheme.
- Employer's contribution to staff group insurance scheme.
- Actual travelling expenses paid/reimbursed for journeys undertaken for business purposes.
- Payment of annual premium on personal accident policy, if such policy is taken to safeguard the employer's interest. See CIT vs. Lala Shri Dhar (1922) 84 ITR 192 (Delhi).



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



- Rent-free official residence to a High Court or Supreme Court Judge.
- Rent-free furnished residence to official of Parliament.
- Conveyance facility to High Court/Supreme Court Judges.

Perquisites taxable in hands of all employees:

- Value of rent-free accommodation.
- Value of concession in rent.
- Amount paid by employer in respect of any obligation which otherwise would have been payable by employee.
- Value of any security or sweat equity shares allotted or transferred by employer/former employer as free or concessional cost.
- An amount of contribution to an approved superannuation fund by the employer, to an extent it excess Rs. 1, 00,000/-.
- Any sum payable either directly or through a fund by employer (other than recognized PF, approved superannuation fund etc.) to effect an assurance on the life of the employee or to affect a contract for an annuity.

Determination of the value of prescribed fringe benefit or amenity Interest free or concessional loan

Value of perquisite w.e.f. 1-4-2000, of the loan given to the employee or any member of his household shall be at the rates charged by State Bank of India in respect of the loans for the same purpose advanced by the employer, on the maximum outstanding monthly balance as reduced by interest actually paid by employee – However, perquisite value for loans (net of amount reimbursed under medical insurance scheme) given for medical treatment of specified disease or petty loans up to Rs. 20,000 is not taxable.

Use of movable assets

Value of benefit shall be 10% p.a. of the actual cost of asset or the rent charges paid by the employer as reduced by amount paid by the employee.

Transfer of movable assets

Value of benefit on transfer of movable asset shall be the actual cost of the asset to the employer as reduced by the amount calculated at 10% of such cost for each completed year of use by the employer and further reduced by the payments made by the employee. The normal wear and tear would be computed at 50% in case of computers and electronic items, and 20% in case of motor cars on the reducing balance method.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



Perquisites taxable only in hands of specified employees

Other perquisites are taxable only in the hands of the following specified employees; i.e.,

- Director-employee
- Employee having substantial interest in employer-company
- Employee drawing salary in excess of Rs. 50,000

Rent free accommodation:

The rent free accommodation provided to employees by their employer is taxable. Since the employees are provided rent free accommodation, the amount of income accruing to them cannot be determined by them. Accordingly, there is prescribed manner for calculating income chargeable to tax as perquisite. The manner of calculating income chargeable to tax as perquisite for rent free accommodation is as follows:

Category of Employees	Income	
	Unfurnished Accommodation	Furnished Accommodation
1) Provided to a Judge of High Court, Supreme Court 2) Provided to an Officer of Parliament	In case of Rent free Official Residence: Nil	In case of Rent Free Official Residence: Nil
Provided to Central/ State Government employees	(a) License fees determined by the Central/ State Government	(a) Same as Unfurnished Accommodation (b) 10% p.a. Of the cost of furniture If such furniture is hired, then hire charges payable.
Provided to any other employee		
1) Where the accommodation is owned by the employer	(i) 15% of salary in cities having population exceeding 25,00,000 (ii) 10% of salary in cities having population between 10,00,000 and 25,00,000 (iii) 7.5% of salary in other areas	(a) Same as Unfurnished Accommodation (b) 10% p.a. Of the cost of furniture If such furniture is hired, then hire charges payable.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



2) Where the accommodation is taken on rent by the employer	Lower of the following:(i) Rent Payable Or(ii) 15% of salary	(a) Same as Unfurnished Accommodation (b) 10% p.a. Of the cost of furniture If such furniture is hired, then hire charges payable.
Accommodation provided in a hotel	Not Applicable since Hotel is presumed to be furnished.	Lower of the following:(i) 24% of salary (ii) Rent (Room Fare/ Charges) Payable

Concession in rent:

Some employers provide the employees with accommodation at rates lower than normal market rates. This reduction in rates is known as concession in rent.

Payment by the employer in respect of an obligation of employee:

In this case, the amount is liable to be paid by the employee and the employer pays the same.

Example:

Self-Assessment Tax of the employee is paid by the Employer.

Note: If the employer pays taxes on behalf of employees on non-monetary perquisites provided to them, then such taxes are exempt in the hands of the employee.

Valuation of benefit of provision of domestic servants

If the employee or any member of his household is provided with domestic servants such as sweeper, gardener, watchman or personal assistant then the benefits so received by the employee are taxable as perquisites in the hands of the employee.

Utility such as gas, electricity or water supplied by employer

If the employer pays to the utility provider on behalf of the employee or if the employer himself provides such utilities then the benefits so received by the employee are taxable as perquisites in the hands of the employee.

Free or concessional educational facilities

If the employer provides free or concessional educational facilities from the educational institutions maintained and owned by the employer or if free educational facilities are allowed in any other educational institution then the benefits so received by the employee are taxable as perquisites in the hands of the employee.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



However, if the educational institution is maintained and owned by the employer and the employer provides free or concessional education facilities to the employee himself or his children and the benefits so received by the employee does not exceed Rs. 1,000/- per month then such amount shall not be taxable in the hands of the employee as perquisite.

Interest-free or concessional loan

The value of the benefit to the employee as a result of interest-free loan or concessional loan for any purpose provided to the employee or any member of his household is a taxable perquisite.

However, this perquisite will be not being chargeable to tax in any of the following cases:

- If such loan is provided for the purpose of treatment of diseases such as cancer, tuberculosis, etc. However, out of the amount of loan provided, if the employee receives reimbursement from any medical insurance scheme, then such amount shall not be exempt.
- Amount of loans made to an employee does not exceed Rs. 20,000/-.

Free or concessional food and non-alcoholic beverages

If the employer provides free or concessional food and/ or beverages such as tea, coffee etc., then the benefits so received by the employee are taxable as perquisites in the hands of the employee. However, if the following are provided by the employer then they are not taxable in the hands of employees as perquisites:

- Free food and beverages such as tea, coffee etc. provided by the employer to an employee during working hours at office or business premises less than Rs. 50/- per meal.
- Vouchers provided having value less than Rs. 50/- per meal
- Tea or Snacks provided during working hours
- Free food and beverages such as tea, coffee etc. provided during working hours provided in a remote area or an offshore installation.

Gifts or Vouchers

Gift or vouchers received by employees or by member of his household on ceremonies or occasions are taxable perquisites in the hands of the employees. However, if the value of such gifts in totality does not exceed Rs. 5,000/- then such gifts are not taxable as perquisite in the hands of the employees.

Reimbursement of credit card expenses

If the employer reimburses expenses incurred by the employee or any member of his household using a Credit card then the benefits so received by the employee are taxable as perquisites in the hands of the employee.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



However, if such expenses are made by the employee exclusively for official purposes and the employer has documented the expenses incurred using the credit card then such reimbursements are not taxable as perquisite in the hands of the employees.

Club expenditure

If the employer pays or reimburses for the periodic subscription of a club for the employee or any member of his household then the benefits so received by the employee are taxable as perquisites in the hands of the employee.

However, if the following are provided by the employer then they are not taxable in the hands of employees as perquisites:

- If the use of health club, sports and such facilities are provided uniformly to all employees by the employer.
- Such expenditure is incurred wholly and exclusively for business purposes and if the expenditure is properly documented by the employer.

Gratuity

Gratuity is a payment received by an employee by his employer as a gratitude for the employee's services to the organization. It is over & above normal salary & other retirement benefits received by an employee.

Taxability of Gratuity Pension

Pension means the employer provides to the employee a fixed monthly amount after his retirement in consideration of past services. Pension can also be called as annuity. There are 2 types of pension:

Uncommuted Pension:

The employer provides the employee with monthly pension till the lifetime of the employee starting post retirement.

Example: Manish worked for a company for past 20 years. After retirement the company pays him Rs. 5,000/- per month in appreciation of his past services to the company.

Commuted Pension:

The employee may request his employer to pay him a lump sum amount of money on retirement rather than providing a monthly amount. The employee can even request that out of the monthly pension, a certain part let's say 50% be given to him on retirement as a lump sum amount and receive the balance part monthly post retirement. This is known as commuted pension.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



Example: Manish worked for a company for past 20 years. After retirement the company pays him Rs. 5,000/- per month in appreciation of his past services to the company. Now, Manish request the Company that instead of Rs. 5,000/- per month, he requires the entire amount post his retirement itself. This is a case of commuted pension.

Provident Fund

It is a savings scheme wherein a person saves a certain amount of money every year and receives the cumulative amount of money on retirement. There are various types of Provident Funds. They are as follows:

Public Provident Fund (PPF):

It is an account which may be opened from a nationalized bank. Only individual can open such PPF Accounts with annual contributions as low as Rs. 500/-.

Statutory Provident Fund:

This is applicable only to individuals employed with the Government, railways or all recognized educational institutions. The Government and the employee contribute a certain portion of the employee's salary to this fund monthly.

Recognized Provident Fund:

If the Provident Fund is approved by the Commissioner of Income-tax, it is known as Recognized Provident Fund. In recognized provident fund the employer and the employee contribute a certain portion of the salary of the employee to the fund.

Unrecognized Provident Fund:

A fund, which is not recognized by Income Tax Authorities, in which the employer and the employee contribute a certain portion of the salary of the employee, is an Unrecognized Provident Fund.

Taxability of Provident Fund

Public Provident Fund:

The amount of Contribution made to PPF in a Financial Year is allowed as Deduction U/s 80C subject to specified conditions. The amount of interest accrued is exempt from tax. If the amounts are withdrawn from PPF in specified manner then such withdrawals are also exempt from tax.

Statutory Provident Fund:

The amount of Contribution made by the Government is exempt from tax. Employee's contribution to Statutory Provident Fund is allowed as Deduction U/s 80C subject to specified



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



conditions. The amount of interest accrued is exempt from tax. The amount received on retirement out of such fund is exempt from tax.

Recognized Provident Fund:

It is a fund, which is recognized by the commissioner of income tax. This type of fund is maintained by business houses, industrial undertakings and banks. Under this fund both employee and employer will contribute. Employee's contribution qualifies for deduction u/s 80C. Employer's contribution over 12% of mentioned salary is taxable. Interest is exempted up to 9.5%

Unrecognized Provident Fund:

The amount of contribution made by the employer is not taxable in the hands of the employee during the years when such amounts are being contributed. Employee's contribution to Unrecognized Provident Fund is not allowed as deduction. The amount of interest accrued is not taxable in the year of accrual. The amount received on retirement out of such fund is required to be bifurcated in 4 categories in order to understand its taxability.

Simple Format To Compute Salary Income

Basic items		***
Basic salary/wages/remuneration/pay		***
Special pay		***
Bonus		***
Fees		***
Commission		***
Advance salary		***
Arrear salary		***
Allowances		
Fully taxable allowance		***
Partly taxable/partly exempted allowances		***
Fully exempted allowances		Nil
Perquisites		
Taxable for all (specified and unspecified)		***
Taxable for specified employees only		***
Exempted for all (specified and unspecified)		Nil



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



Special items		
Gratuity		***
Pension		***
Leave encashment		***
Provident fund		
Gross salary		***
Deduction u/s 16		
Standard deduction-(limit 40,000)	***	
Entertainment allowance	***	
Professional/employment tax	***	***
Income from salary		***

EXERCISES

House rent allowance

Problem: 1

Mr. Ram resides in Chennai and gets Rs.10, 000 per month as basic salary Rs. 8,000 per month as DA (entering service benefits), Rs.12, 000 per month as HRA. He pays Rs. 10,000 per month as rent. Calculate taxable HRA.

Solution:

Calculation taxable HRA

Actual HRA	1,44,000
Less: Exempted	98,000
Taxable HRA	45,600



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



Workings

Calculation of exempted HRA

Actual HRA	=	1, 44,000
Rent paid-10% of salary	=	98,400
50% of salary	=	1, 08,000

Whichever less is exempted	=	98,400
----------------------------	---	--------

Problem: 2

The Following are the particulars of Mr.Priyan who is employed in Chennai.

- i. Basic Salary Rs.4000 p.m
- ii. DA (60% of Basic Salary)
- iii. CCA Rs.250 p.m
- iv. House Rent Allowance Rs.450 p.m (Rent paid Rs.500 p.m)
- v. During the year he paid professional tax Rs.550
- vi. Education allowances Rs.150 p.m (Per Child) Calculate Salary Income.

Solution:

Computation of income from salary for the A.Y-_____

Particulars	Amount	Amount
(i) Basic salary (4000*12)		48,000
(ii) DA (48,000*60/100)		28,800
(iii) CCA (250*12)		3,000
(iv) Actual HRA	5400	
Less: Exempted	Nil	5,400
(v) Educational allowance (150*1*12)	1800	
Less: Exempted (100*1*12)	1200	600
Gross salary		85,800
Deduction U/S 16		
(i) Standard deduction	40,000	
(ii) Professional tax	550	40,550
Taxable salary		45,250



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



Problem: 3

The Following are the particulars of income of Mr.Ramesh (an employee of an Individual) for the previous year ended on 31 March2017.

- i. Salary Rs.4500p.m
- ii. Bonus equal to two month spay
- iii. Dog allowance – Rs.75p.m
- iv. Special Allowance – Rs.60 p.m
- v. Employee's contribution to a recognized provident fund @ 15% of salary
- vi. Employer's contribution to the fund @ 15% of the salary
- vii. Interest credited to the provident fund @ 9.5% p.a. is Rs.2,800
- viii. He is provided with free lunch in office. The cost per meals Rs.30
- ix. The employer has given him the use of small car which he uses for personal and official purpose. He meets the expenses for personal purpose from out of his pocket.

Compute the income of Mr.Ramesh from salaries for the A.Y. 2019-2020.

Solution:

Computation of income from salary for the A.Y _____

Particulars	Amount	Amount
(i) Basic salary (4,500*12)		54,000
(ii) Bonus (4,500*2)		9,000
(iii) Dog allowance (75*12)		900
(iv) Special allowance (60*12)		720
(v) Employer contribution to provident fund (54,000*15/100)	8,100	
Less: Exempted up to 12%	6,480	1,620
(vi) Interest on EPF 9.5 %	2,800	
Less: Exempted up to 9.5%	2,800	Nil



UNIT – III

INCOME FROM HOUSE PROPERTY

Basis of Charge

Annual value of any property is assessable under this head it,

- Assessee is the owner of the property.
- Property is building and attached land.
- Property should not be used by the owner for his business or profession.

Incomes - Exempted from 'House Property Income'

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

Agricultural House Property [Section 2(1)(c)].

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

Income from Property held under Trust Wholly for Charitable or Religious Purposes [Section 11(1)(a)]:

Income derived from property held under trust, wholly for charitable and religious purposes, shall be exempt. To the extent such income is applied in India for such purposes; and where any such income is accumulated or set apart for application to such purposes in India, to the extent to which the income so accumulated or set apart is not in excess of 15% of the income from such property.

Income from Property held under trust which is applied in part only for Charitable or Religious purposes [Section 11(1)(b)]:

Income derived from property held under trust in part only for such purpose, shall be exempt: To the extent such income is applied in India for such purposes, provided, the trust in question is created before the commencement of Income-tax Act, 1961 i.e. before 1.4.1962; and Where any such income is finally set apart for application to such purposes in India, to the extent to which the income so accumulated or set apart is not in excess of 15% of the income from such property.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



Income from Property held under trust which is applied for Charitable Purposes outside India [Section 11(1)(c)]:

Income derived from property held under trust, created on or after 1.4.1952 for charitable purpose which tends to promote international welfare in which India is interested, shall be exempt to the extent to which such income is applied to such purpose outside India. Religious trusts are not covered here.

Income derived from property held under a trust for charitable or religious purposes, created before 1.4.1952, shall be exempt to the extent to which such income is applied to such purposes outside India.

In the above two cases, it is necessary that the Board, by general or special order, has directed in either case that it shall not be included in the total income of the person in receipt of such income.

Self-Occupied but Vacant House [Section 23(3)]

In case an assessed keeps one of his own houses reserved for self-occupation but is living in a rented house elsewhere due to his employment or profession the income from such house is taken to be NIL.

The annual value of self-occupied house shall not be NIL:

If such house or part of the house is actually let during the whole or any part of the previous year; or any other benefit there from is derived by the owner from such house.

In the above cases, the annual value shall be determined as per provisions applicable for let out properties i.e. under clause (a), (b) or (c) of section 23(1).

House used for Own Business or Profession.

There is no income chargeable to tax under this head from such house property. Property held by Registered Trade Union [Section 10(24)].

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

Income from House Property held by following shall be exempted:

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



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



- It is income from a farmhouse.

One House Property (a palace) owned by a former ruler of Indian states.

Ex-rulers of Indian states may own many palaces but only one palace of their choice shall be treated as a self-occupied house and shall be exempted.

One Self-Occupied House

In case assessed owns one residential house, the net annual value of the same shall be taken as nil but in case he owns more than one house, then only one of his choice but normally of higher value shall be treated as a self-occupied one and other/others are treated as deemed to be let out.

Income from house property specimen / important provisions for self-occupied:

Gross Annual Value(GAV)/ Annual Rental Value(ARV)		Nil
Less: Municipal tax paid during the year by the owner		Nil
Net Annual Value(NAV)		Nil
Less: Deduction u/s 24		
Standard deduction-not applicable		
Interest on loan of pre-construction	***	***
Loss from house property		***

Overall chart for computation of house property income For let-out property:

Municipal value (or)		
Fair Rent (whichever is higher)		
Expected Rent (or) Standard Rent (whichever is lower)		
Expected Rent (or)		
Actual Rent (whichever is higher)		

Gross Annual Value		***



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



Less:		
Local taxes (or) Municipal taxes paid by the Owner during the previous year	***	
Unrealized rent conditions of rule 4 are satisfied	***	***
Annual value		***
Less: Deduction u/s 24		
30% of Annual value	***	
Interest on borrowed capital-paid or due	***	***
Income from House Property		***

Problem: 1

From the following calculate Gross Annual Value, assuming that there is no vacant period.

Particulars	House 1	House 2
MRV	1,05,000	1,05,000
FRV	1,07,000	1,07,000
SR under rent control act	1,35,000	1,35,000
Actual Rent (AR)	1,12,000	98,000
Period in the previous year	12 months	12 months

Solution:

Computation of Gross Annual Value

Particulars	Amount	Amount
MRV	1,05,000	1,05,000
FRV	1,07,000	1,07,000
Whichever is higher	1,07,000	1,07,000
SR	1,35,000	1,35,000



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



ER (Whichever is higher)	1,07,000	1,07,000
AR	1,12,000	98,000
GROSS ANNUAL VALUE	1,12,000	1,07,000

Problem: 2

Mr. Ganesh owns two house properties at Madurai the first house is self-occupied and the second house is let out for residential purpose. The other details of the properties given below.

Particulars	First House (Rs)	Second House (Rs)
Municipal value	5,000	6,000
Municipal Tax	600	800
Rental Income	-	7,200
Land revenue	100	125
Fire insurance premium	150	200
Interest on mortgage	-	300
Collection charges	-	100

The second house remained vacant for a period 2 months during the year. Compute the income from house property.

Solution:

Computation of self-occupied house property (HOUSE-1)

Particulars	Amount	Amount
Gross annual value of the house		Nil
Less: Municipal tax paid by owner		Nil
Annual value		Nil
Less: standard deduction of annual value	Nil	
Interest on loan for self-occupied house	Nil	Nil
Loss from self-occupied house		Nil



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



Computation of Income From House Property for the A.Y _____ (HOUSE-2)

Particulars	Amount	Amount
Municipal value	6,000	
Actual Rent(7,200-2 months vacant(600*2)		
whichever is higher	6,000	6,000
Gross Annual Value		6,000
Less:		
Municipal tax paid by Owner Unrealized Rent	600	
	Nil	600
Annual value		5,200
Less: Deduction U/S 24		
(i) 30% of annual value (5,200*30/100)		
(ii) Interest on loan	1,560	
	300	1,860
Income From House Property		3,340

Problem: 3

Mr.Senthil is the owner following house Property particulars in respect of which for the year ended 31/03/2019.

Particulars	House A	House B	House C
Actual Rent	12,000	2,000	Twilling of the House
Standard rent	8,000	2,400	Nil
Municipal Tax	900	200	3,800
Municipal Value	900	2,000	40,000
Municipal Tax paid by Senthil	900	100	Nil
Municipal Tax paid by Tenant	Nil	100	Nil
Repairs	600	2,000	3,000



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



Vacancy Period	1 Month	Nil	Nil
Interest on Loan for repairs loans	600	900	16,000

House A

Unrealized rent allowed in assessment year 2015-16 received during the year for the House in Rs.5, 000

Solution:

Computation of self-occupied house property (HOUSE-1)

Particulars	Amount	Amount
Gross annual value of the house		Nil
Less: Municipal tax paid by owner		Nil
Annual value		Nil
Less: standard deduction of annual value	Nil	
Interest on loan for self-occupied house	16,000	-16,000
Loss from self-occupied house		-16,000

Computation of Income From House Property for the A.Y ____ (HOUSE-2)

Particulars	Amount	Amount
Municipal value	90,000	
Standard rent (Whichever is higher)	8,000	
Expected rent	8,000	
Actual rent(12,000-one month vacant) (Whichever if higher)	11,000	
Gross Annual Value		11,000
Less:		
Municipal tax paid by Owner	900	
Unrealized Rent	Nil	900



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



Annual value		10,100
Less: Deduction U/S 24		
(i) 30% of annual value (10,100*30/100)	3,030	
(ii) Interest on loan	600	3,630
		6,470
Add: unrealized rent		5,000
Income From House Property		11,470

Computation of Income From House Property for the A.Y. ----- (HOUSE-2)

Particulars	Amount	Amount
Municipal value	2,000	
Standard rent	2,400	
(Whichever is lower)		
Expected rent	2,000	
Actual rent	2,000	
(Whichever is higher)		
Gross Annual Value		2,000
Less:		
Municipal tax paid by Owner Unrealized Rent	100	
	Nil	100
Annual value		1,900
Less: Deduction U/S 24		
(i) 30% of annual value (1,900*30/100)	570	
(ii) Interest on loan	900	1,470
Income From House Property		11,470



UNIT - IV

INCOME FROM BUSINESS OR PROFESSION

Introduction

Provision regarding calculation of profits and gains of business or profession is dealt under section 28 to 44 of income tax act 1961. This head of the act is a major source of revenue to the government.

Business [section 2(13)]

Definition of “Business” includes any trade, commerce or manufacture or any venture or concern in the nature of trade, commerce or manufacture.

Profession [section 2(36)]

Profession involves an exercise of intellect and skill based on learning and experience. Vocation refers to any work performed on the strength of one’s natural ability for the work. Regularity and profit motive are not necessary for an activity to be called a vocation.

OVER ALL CHAT FOR CALCULATION OF INCOME FROM BUSINESS

Particulars	Amount	Amount
Net profit as per P & L A/c		****
Add:		
1.Disallowed Expenses		****
2.Business Income not credited in P & L A/c		****
3.Under valuation of closing stock		****
4.Over valuation of opening stock		****
Less:		
1.Non business income credited in P & L A/c	****	
2.Allowed expenses not debited in P & L A/c	****	
3.Over valuation of closing stock	****	
4.Under valuation of opening stock	****	****
Income From Business		****



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



Problem: 1

From the following P&L A/c calculate Income from Business

Particulars	Amount	Particulars	Amount
To Rent	40,000	By gross profit	2,50,000
To Salary to employees	25,000	By house property income	
To Depreciation	10,000	By income from other sources	1,50,000
To Donation	8,000		2,00,000
To Net profit	5,17,000		
	6,00,000		6,00,000

Adjustments:

- Depreciation to be allowed as per income tax provision Rs. 8,000.
- Business income of Rs. 12,000 is not shown in the P&L A/c.
- Rs. 8,000 of the rent is of personal nature.

Solution:

Calculation of Income from Business

Date	Particulars	Amount	Amount
	N\P as per P&L A/c		5,17,000
	Add:		
	Donations	8,000	
	Depreciation	10,000	
	Business income not shown P&L A/c	12,000	
	Rent	8,000	38,000
	Less:		5,55,000
	H/P Income		
	IFOS	1,50,000	
	Depreciation	2,00,000	
		8,000	3,58,000
	Income from Business		1,97,000



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



Problem: 2

From the following P&L A/c calculate Income from Business

Particulars	Amount	Particulars	Amount
To General expenses	20,000	By Gross profit	5,00,000
To Bad debts	25,000	By Sundry receipt	
To Advance income tax	24,000	By Bad debts recovered	50,000
To Salary to staff	40,000	(earlier allowed as	
To Drawings	40,000	deduction)	12,500
To Interest on capital	24,000	By Interest on debentures	40,000
To Advertisement	9,000	By Interest on deposit with a	
To Excise duty	12,000	company	25,000
To Expenditure on			
acquisition of patent right (in			
2016)	10,000		
To Net profit	4,23,000		
	6,27,500		6,27,500

Adjustments

- General expenses include Rs. 2,300 spent as marriage expenses by the proprietor.
- Advertise an expense was spent on 31st august 2018.
- Income of Rs. 12,000 accrued during the PY 2018-19 is nit recorded in the P&L A/c.
- An expenditure of Rs, 1,000 relating to business is not show in P&L A/c.
- The proprietor owns two houses from which he gets the income of Rs, 1,80,00



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



Solution:

Calculation of Income from Business

Date	Particulars	Amount	Amount
	N\P as per P&L A/c		4,23,000
	Add:		
	Advance income tax Drawings	24,000	
	Interest on own capital General expenses	40,000	
	Income accrued during 2018-19 Patents	24,000	
	Less:	2,300	
	Depreciation for patents (10,000*25%) Expenditure relating to business Interest on debentures	12,000	
	Interest on deposit with a company	10,000	1,12,300
			5,35,800
		2,500	
		1,000	
		40,000	
		25,000	
			68,500
	Income from Business		4,67,300



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



Format for Professionals like Doctors, Lawyers, Accountants, Tax Consultants.

Particulars	Amount	Amount
PROFESSIONAL INCOMES:		
1.Fees [for all professional]		****
2.Operation fees, Visiting fees [for doctors]		****
3.Institute fees [for accountants]		****
4.Legal fee, practicing fees [for lawyers]		****
5.Gift from clients [for all professionals]		****
6.Gift from patients [for doctors]		****
7.Examiner fees [for all professional]		****
8.All other professional receipts		****
Less:		
PROFESSIONAL EXPENSES:		
1.Office and administrative expenses [for all professionals]	****	
2.Clinic expenses and dispensary expenses [for doctors]	****	
3.Cost of books for professional purposes. [for all professionals]	****	
4.Subscription for journals. [for all professionals]	****	
5.Depreciation	****	
a) For office equipments (for all professional)		****
b) For surgical equipments (for doctors)		****
6.Any membership fee (for all professionals)		
7.Cost of medicine [for doctors]		
[opening stock +purchases-closing stock]		
8.All other professional payments		

Income From Profession		****



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



Problem :3

From the following receipts and payments A/c of Mr.Vasanth, a tax consultant, calculate income from profession.

Receipts	Amount	Payments	Amount
To balance	3,50,000	By office and admin expenses By salary to staff:	60,000
To fees from clients			
2019-20 1,00,000		2019-20 40,000	
2018-19 50,000	1,50,000	2018-19 30,000	
		By repairs	70,000
To presents from clients	40,000	By interest on loan for business By income tax	8,000
To winning from lotteries	28,000	By purchase of car(purchased during January 2019)	12,000
To rent from let out property	75,000	By balance	6,000
To share of income from firm	12,500		
			1,50,000
			3,49,500
	6,55,500		6,55,500

Solution:

Calculation of Income from Profession of Mr. Vasanth

Date	Particulars	Amount	Amount
	Professional receipts:		
	i) Fess 2019-20 1,00,000		
	2018-19 50,000		1,50,000
	Presents from client		40,000
	Less: Professional payments	60,000	1,90,000
	Office and admin expenses	70,000	



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



Staff salary: 2019-20	40,000	2018-19	30,000	8,000	
Repairs				12,000	
Interest on loan for business					
Depreciation on car purchased during January 2019 (1, 50,000*15%=22,500*50%)				11,250	1,61,250
Income from Profession					28,750

Problem: 4

From the following income and expenditure A/c of Ramana & Co, chartered accountants, calculate income from profession from the details below.

Expenditure	Amount	Incomes	Amount
To charity and donation	1,00,000	By audit fee	3,00,000
To subscription to journals	2,000	By examiner fee	25,000
To institute fee	4,000	By fee for other accounts work	40,000
To office rent	5,000	By dividend from UTI	
To drawings	50,000		35,000
To electricity bill	9,000		
To salary to trainee	20,000		
To net income	2,10,000		
	4,00,000		4,00,000



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



Solution:

Calculation of Income from Profession of Ramana & Co

Date	Particulars	Amount	Amount
	Professional Receipts:		
	i) Audit fees		3,00,000
	ii) Examiner fees		25,000
	iii) Fees for other accounting work		40,000
	Less: Professional Payments		
	i) Subscription to journal		3,65,000
	ii) Institute fee	2,000	
	iii) Office rent	4,000	
	iv) Bill of electricity	5,000	
	v) Salary to trainee	9,000	
	vi) Depreciation as per provisions	20,000	
		5,000	
			45,000
	Income from Profession		3,20,000

Capital Gains

Simply put, any profit or gain that arises from the sale of a 'capital asset' is a capital gain. This gain or profit comes under the category 'income', and hence you will need to pay tax for that amount in the year in which the transfer of the capital asset takes place. This is called capital gains tax, which can be short-term or long-term. Capital gains are not applicable to an inherited property as there is no sale, but only a transfer of ownership. The Income Tax Act has specifically exempted assets received as gifts by way of an inheritance or will. However, if the person who inherited the asset decides to sell it, capital gains tax will be applicable.

Defining Capital Assets

Land, building, house property, vehicles, patents, trademarks, leasehold rights, machinery, and jewellery are a few examples of capital assets. This includes having rights in or in relation to



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



an Indian company. It also includes the rights of management or control or any other legal right. The following do not come under the category of capital asset:

- i. Any stock, consumables or raw material, held for the purpose of business or profession
- ii. Personal goods such as clothes and furniture held for personal use
- iii. Agricultural land in rural (*) India
 - a. 6½% gold bonds (1977) or 7% gold bonds (1980) or National Defence gold bonds (1980) issued by the central government
- iv. Special bearer bonds (1991)
 - a. Gold deposit bond issued under the gold deposit scheme (1999) or deposit certificates issued under the Gold Monetisation Scheme, 2015

Types of Capital Assets?

1. STCG (Short-term capital asset):

An asset held for a period of 36 months or less is a short-term capital asset.

The criteria is 24 months for immovable properties such as land, building and house property. For instance, if you sell house property after holding it for a period of 24 months, any income arising will be treated as a long-term capital gain, provided that property is sold after 31st March 2017.

The reduced period of the aforementioned 24 months is not applicable to movable property such as jewellery, debt-oriented mutual funds etc.

Some assets are considered short-term capital assets when these are held for 12 months or less. This rule is applicable if the date of transfer is after 10th July 2014 (irrespective of what the date of purchase is). These assets are:

- Equity or preference shares in a company listed on a recognized stock exchange in India
- Securities (like debentures, bonds, govt securities etc.) listed on a recognized stock exchange in India
- Units of UTI, whether quoted or not
- Units of equity oriented mutual fund, whether quoted or not
- Zero coupon bonds, whether quoted or not



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



2. LTCG (Long-term capital asset):

An asset held for more than 36 months is a long-term capital asset. They will be classified as a long-term capital asset if held for more than 36 months as earlier.

Capital assets such as land, building and house property shall be considered as long-term capital asset if the owner holds it for a period of 24 months or more (from FY 2017-18).

Whereas, below-listed assets if held for a period of more than 12 months, shall be considered as long-term capital asset.

- Equity or preference shares in a company listed on a recognized stock exchange in India
- Securities (like debentures, bonds, govt securities etc.) listed on a recognized stock exchange in India
- Units of UTI, whether quoted or not
- Units of equity oriented mutual fund, whether quoted or not
- Zero coupon bonds, whether quoted or not

Classification of Inherited Capital Asset

In case an asset is acquired by gift, will, succession or inheritance, the period for which the asset was held by the previous owner is also included when determining whether it's a short term or a long-term capital asset. In the case of bonus shares or rights shares, the period of holding is counted from the date of allotment of bonus shares or rights shares respectively.

Tax Rates – Long-Term Capital Gains and Short-Term Capital Gains

Tax Type	Condition	Applicable Tax
Long-term capital gains tax (LTCG)	On sale of Equity shares/ units of equity oriented fund	10% over and above Rs 1 lakh
Long-term capital gains tax (LTCG)	Except on sale of equity shares/ units of equity oriented fund	20%
Short-term capital gains tax (STCG)	When Securities Transaction Tax (STT) is not applicable	The short-term capital gain is added to your income tax return and the taxpayer is taxed according to income tax slab rates.
Short-term capital gains tax (STCG)	When STT is applicable	15%.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



Tax on Equity and Debt Mutual Funds

Funds	Effective 11 July 2014		On or before 10 July 2014	
	Short-Term Gains	Long-Term Gains	Short-Term Gains	Long-Term Gains
Debt Funds	At tax slab rates of the individual	At 20% with indexation	At tax slab rates of the individual	10% without indexation or 20% with indexation whichever is lower
Equity Funds	15%	10% over and above ₹ 1 lakh without indexation.	15%	Nil

Tax Rules for Debt Mutual Funds

Debt mutual funds have to be held for more than 36 months to qualify as a long-term capital asset. It means you need to remain invested in these funds for at least three years to get the benefit of long-term capital gains tax. If redeemed within three years, the capital gains will be added to your income and will be taxed as per your income tax slab rate.

Calculating Capital Gains

Capital gains are calculated differently for assets held for a longer period and for those held over a shorter period.

Terms You Need to Know:

Full value consideration: The consideration received or to be received by the seller as a result of transfer of his capital assets. Capital gains are chargeable to tax in the year of transfer, even if no consideration has been received.

Cost of acquisition: The value for which the capital asset was acquired by the seller.

Cost of improvement: Expenses of a capital nature incurred in making any additions or alterations to the capital asset by the seller.

Note:

- i) In certain cases where the capital asset becomes the property of the taxpayer otherwise than by an outright purchase by the taxpayer, the cost of acquisition and cost of improvement incurred by the previous owner would also be included.
- ii) Improvements made before April 1, 2001, is never taken into consideration.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



How to calculate Short-Term Capital Gains?

Step 1: Start with the full value of consideration

Step 2: Deduct the following:

- Expenditure incurred wholly and exclusively in connection with such transfer
- Cost of acquisition
- Cost of improvement

Step 3: This amount is a short-term capital gain

How to Calculate Long-Term Capital Gains?

Step 1: Start with the full value of consideration

Step 2: Deduct the following:

- Expenditure incurred wholly and exclusively in connection with such transfer
- Indexed cost of acquisition
- Indexed cost of improvement

Step 3: This amount is a long-term capital gain

Deductible Expenses

Sale of house property: These expenses are deductible from the total sale price:

- Brokerage or commission paid for securing a purchaser
- Cost of stamp papers
- Travelling expenses in connection with the transfer – these may be incurred after the transfer has been affected
- Where property has been inherited, expenditure incurred with respect to procedures associated with the will and inheritance, obtaining succession certificate, costs of the executor, may also be allowed in some cases

Sale of shares: You may be allowed to deduct these expenses:

- Broker's commission related to the shares sold
- STT or securities transaction tax is not allowed as a deductible expense

C. Where jewellery is sold: In case of sale of broker's jewellery and where a broker's services were involved in securing a buyer, the cost of these services can be deducted. Note, that expenses deducted from the sale price of assets for calculating capital gains are not allowed as a deduction under any other head of income, and you can claim them only once.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



Indexed Cost of Acquisition/Improvement

The cost of acquisition and improvement is indexed by applying CII (cost inflation index). It is done to adjust for inflation over the years of holding the asset. This increases one's cost base and lowers the capital gains.

Exemption on Capital Gains

Example: Many a bought a house in July 2004 for ₹ 50 lakh, and the full value of consideration received in FY 2016- 17 is ₹ 1.8 crore.

Capital asset type: Since this property has been held for over 3 years, this would be a long-term capital asset.

Cost of acquisition: The cost price is adjusted for inflation and indexed cost of acquisition is taken. Using the indexed cost of acquisition formula, the adjusted cost of the house is ₹ 1.17 crore.

Capital gain: Hence, the net capital gain is ₹ 63, 00,000.

Tax: Long-term capital gains on sale of house property are taxed at 20%. For a net capital gain of ₹ 63, 00,000, the total tax outgo will be ₹ 12,97,800.

This is a significant amount of money to be paid out in taxes. This can be lowered by taking benefit of exemptions provided by the Income Tax Act on capital gains when profit from the sale is reinvested into buying another asset.

Section 54: Exemption on Sale of House Property on Purchase of another House Property

Capital gains exemption under Section 54:

Taxpayers can get an exemption from long-term capital gain from the sale of house property by investing in up to two house properties against the earlier provision of one house property with same conditions. However, the capital gain on the sale of house property must not exceed ₹ 2 crores.

The exemption under Section 54 is available when the capital gains from the sale of house property are reinvested into buying or constructing two another house properties (prior to Budget 2019, the exemption of the capital gains was limited to only 1 house property).

The exemption on two house properties will be allowed once in the lifetime of a taxpayer, provided the capital gains do not exceed ₹. 2 crores. The taxpayer has to invest the amount of capital gains and not the entire sale proceeds. If the purchase price of the new property is higher than the amount of capital gains, the exemption shall be limited to the total capital gain on sale.

Conditions for availing this benefit:

- The new property can be purchased either 1 year before the sale or 2 years after the sale of the property.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



- The gains can also be invested in the construction of a property, but construction must be completed within three years from the date of sale.
- In the Budget for 2014-15, it has been clarified that only 1 house property can be purchased or constructed from the capital gains to claim this exemption.
- Please note that this exemption can be taken back if this new property is sold within 3 years of its purchase/completion of construction.

Section 54F: Exemption on capital gains on sale of any asset other than a house property

Exemption under Section 54F is available when there are capital gains from the sale of a long-term asset other than a house property. You must invest the entire sale consideration and not only capital gain to buy a new residential house property to claim this exemption. Purchase the new property either one year before the sale or 2 years after the sale of the property. You can also use the gains to invest in the construction of a property. However, the construction must be completed within 3 years from the date of sale.

In Budget 2014-15, it has been clarified that only 1 house property can be purchased or constructed from the sale consideration to claim this exemption. This exemption can be taken back, if this new property is sold within 3 years of its purchase. If the entire sale proceeds are invested towards the new house, the entire capital gain will be exempt from taxes if you meet the above-said conditions.

However, if you invest a portion of the sale proceeds, the capital gains exemption will be in the proportion of the invested amount to the sale price $\text{LTCG exemption} = \frac{\text{Capital gains} \times \text{Cost of new house}}{\text{Net consideration}}$.

Section 54EC: Exemption on Sale of House Property on Reinvesting in specific bonds

Exemption is available under Section 54EC when capital gains from sale of the first property are reinvested into specific bonds.

- If you are not keen to reinvest your profit from the sale of your first property into another one, then you can invest them in bonds for up to ₹. 50 lakhs issued by National Highway Authority of India (NHAI) or Rural Electrification Corporation (REC).
- The money invested can be redeemed after 5 years, but they cannot be sold before the lapse of 5 years from the date of sale.
- The homeowner has six month's time to invest the profit in these bonds. But to be able to claim this
- exemption, you will have to invest before the tax filing deadline.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



When can you invest in Capital Gains Account Scheme?

Finding a suitable seller, arranging the requisite funds and getting the paperwork in place for a new property is one time-consuming process. Fortunately, the Income Tax Department agrees with these limitations. If capital gains have not been invested until the due date of filing of return (usually 31 July) of the financial year in which the property is sold, the gains can be deposited in a PSU bank or other banks as per the Capital Gains Account Scheme, 1988.

This deposit can then be claimed as an exemption from capital gains, and no tax has to be paid on it. However, if the money is not invested, the deposit shall be treated as a short-term capital gain in the year in which the specified period lapses.

Saving Tax on Sale of Agricultural Land

In some cases, capital gains made from the sale of agricultural land may be entirely exempt from income tax or it may not be taxed under the head capital gains. See below:

Agricultural land in a rural area in India is not considered a capital asset and therefore any gains from its sale are not chargeable to tax. For details on what defines an agricultural land in a rural area, see above. Do you hold agricultural land as stock-in-trade? If you are into buying and selling land regularly or in the course of your business, in such a case, any gains from its sale are taxable under the head Business and Profession. Capital gains on compensation received for compulsory acquisition of urban agricultural land are tax exempt under Section 10(37) of the Income Tax Act.

ILLUSTRATION: 1

How will you calculate the period of holding in case of the following assets?

1. Shares held in a company in liquidation
2. Bonus shares
3. Flat in a co-operative society

Solution:

- 1) Shares held in a company in liquidation - The period after the date on which the company goes into liquidation shall be excluded while calculating the period of holding. Therefore, the period of holding shall commence from the date of acquisition and end with the date on which the company goes into liquidation.
- 2) Bonus shares - The period of holding shall be reckoned from the date of allotment of bonus shares and will end with the date of transfer.
- 3) Flat in a co-operative society - The period of holding shall be reckoned from the date of allotment of shares in the society and will end with the date of transfer.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



Note – Any transaction whether by way of becoming a member of, or acquiring shares in, a co-operative society or by way of any agreement or any arrangement or in any other manner whatsoever which has the effect of transferring, or enabling enjoyment of, any immovable property is a transfer as per section 2(47)(vi).

Hence, it is possible to take a view that any date from which such right is obtained may be taken as the date of acquisition.

ILLUSTRATION: 2

A is the owner of a car. On 1-4-2021, he starts a business of purchase and sale of motor car. He treats the above car as part of the stock-in-trade of his new business. He sells the same on 31-3-2022 and gets a profit of ₹ 1 lakh. Discuss the tax implication in his hands under the head “Capital gains”.

Solution:

Since car is a personal asset, conversion or treatment of the same as the stock-in-trade of his business will not be trapped by the provisions of section 45(2). Hence, A is not liable to capital gains tax.

ILLUSTRATION: 3

X converts his capital asset (acquired on June 10, 2003 for ₹ 60,000) into stock-in-trade on March 10, 2021. The fair market value on the date of the above conversion was ₹ 5,50,000. He subsequently sells the stock-in-trade so converted for ₹ 6,00,000 on June 10, 2021. Discuss the year of chargeability of capital gain and business income.

Solution:

Since the capital asset is converted into stock-in-trade during the previous year 2020-21 relevant to the A.Y. 2021-22, it will be a transfer under section 2(47) during the P.Y. 2020-21. However, the profits or gains arising from the above conversion will be chargeable to tax during the A.Y. 2022-23, since the stock-in-trade has been sold only on June 10, 2021. For this purpose, the fair market value on the date of such conversion (i.e. 10th March, 2021) will be the full value of consideration for computation of capital gains. The business income of ₹ 50,000 (i.e., ₹ 6,00,000



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



ILLUSTRATION: 4

M held 2000 shares in a company ABC Ltd., an Indian company. This company amalgamated with another Indian company XYZ Ltd. during the previous year ending 31-3-2022. Under the scheme of amalgamation, M was allotted 1000 shares in the new company. The market value of shares allotted is higher by ₹ 50,000 than the value of holding in ABC Ltd. The Assessing Officer proposes to treat the transaction as an exchange and to tax ₹ 50,000 as capital gain. Is he justified?

Solution:

In the above example, the transaction is squarely covered by the exemption explained above and the proposal of the Assessing Officer to treat the transaction as a transfer is not justified.

ILLUSTRATION: 5

In which of the following situations capital gains tax liability does not arise?

- (i) Mr. A purchased gold in 1970 for ₹ 25,000. In the P.Y. 2021-22, he gifted it to his son at the time of marriage. Fair market value (FMV) of the gold on the day the gift was made was ₹ 1,00,000.
- (ii) A house property is purchased by a Hindu undivided family in 1945 for ₹ 20,000. It is given to one of the family members in the P.Y. 2021-22 at the time of partition of the family. FMV on the date of partition was ₹ 12,00,000.
- (iii) Mr. B purchased 50 convertible debentures for ₹ 40,000 in 1995 which are converted into 500 shares worth ₹ 85,000 in November 2021 by the company.

Solution:

We know that capital gains arises only when we transfer a capital asset. The liability of capital gains tax in the situations given above is discussed as follows:

- i. As per the provisions of section 47(iii), transfer of a capital asset under a gift is not regarded as transfer for the purpose of capital gains. Therefore, capital gains tax liability does not arise in the given situation.
- ii. As per the provisions of section 47(i), transfer of a capital asset (being in kind) on the total or partial partition of Hindu undivided family is not regarded as transfer for the purpose of capital gains. Therefore, capital gains tax liability does not arise in the given situation.
- iii. As per the provisions of section 47(x), transfer by way of conversion of bonds or debentures, debenture stock or deposit certificates in any form of a company into shares



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



or debentures of that company is not regarded as transfer for the purpose of capital gains. Therefore, capital gains tax liability does not arise in the given situation.

ILLUSTRATION: 6

Mr. Abhishek a senior citizen, mortgaged his residential house with a bank, under a notified reverse mortgage scheme. He was getting loan from bank in monthly instalments. Mr. Abhishek did not repay the loan on maturity and hence gave possession of the house to the bank, to discharge his loan. How will the treatment of long-term capital gain be on such reverse mortgage transaction?

Solution:

Section 47(xvi) provides that any transfer of a capital asset in a transaction of reverse mortgage under a scheme made and notified by the Central Government shall not be considered as a transfer for the purpose of capital gain.

Accordingly, the mortgaging of residential house with bank by Mr. Abhishek will not be regarded as a transfer. Therefore, no capital gain will be charged on such transaction.

Further, section 10(43) provides that the amount received by the senior citizen as a loan, either in lump sum or in installment, in a transaction of reverse mortgage would be exempt from income-tax. Therefore, the monthly installment amounts received by Mr. Abhishek would not be taxable.

ILLUSTRATION: 7

Singhanian & Co., a sole proprietorship owns six machines, put in use for business in March, 2021. The depreciation on these machines is charged @15%. The opening balance of these machines after providing depreciation for P.Y. 2021-22 was Rs.8,50,000. Three of the old machines were sold on 10th June, 2022 for Rs.11,00,000. A second hand plant was bought for Rs.8,50,000 on 30th November, 2022. You are required to:

- i. determine the claim of depreciation for Assessment Year 2023-24.
- ii. compute the capital gains liable to tax for Assessment Year 2023-24.
- iii. If Singhanian & Co. had sold the three machines in June, 2021 for ₹ 21,00,000, will there be any

Difference in your above workings? Explain.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



Solution:

(i) Computation of depreciation for A.Y.2023-24

Particulars	Rs.
Opening balance of the block as on 1.4.2021 [i.e., W.D.V. as on 31.3.2021 after providing depreciation for P.Y. 2020-21]	8,50,000
Add: Purchase of second hand plant during the year	8,50,000
	17,00,000
Less: Sale consideration of old machinery during the year	11,00,000
W.D.V of the block as on 31.03.2022	6,00,000

INCOME FROM OTHER SOURCES:

Heads of Income

The Income Tax Department breaks down income into five heads of income for the purpose of income tax reporting:

- Income from Salary
- Income from House Property
- Income from Capital Gains/Loss
- Income from Business and Profession
- Income from Other Sources
- Income from Other Sources covers income that does not fall under any of the other heads of income.

Savings Bank Account – Interest Income

Interest that gets accumulated in your savings bank account must be declared in your tax return under income from other sources. Do note that bank does not deduct TDS on savings bank interest. Interest from both fixed deposit and recurring deposits is taxable while interest from savings bank account and post office deposits are tax-deductible to a certain extent. But they are shown under income from other sources. Interest income from a savings bank account or a fixed deposit or from a post office savings account are all shown under this head.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



Deduction on Interest Income Under Section 80TTA

- For a residential individual (age of 60 years or less) or HUF, interest earned upto ₹ 10,000 in a financial year is exempt from tax. The deduction is allowed on interest income earned from:
 - savings account with a bank;
 - savings account with a co-operative society carrying on the business banking or
 - savings account with a post office
- Senior citizens are not entitled to benefits under section 80TTA.

Tax on Fixed Deposits

Fixed deposit interest that you receive is added along with other income that you have such as salary or professional income, and you'll have to pay tax on that income at a tax rate that's applicable to you. TDS is deducted on interest income when it is earned, though it may not have been paid.

Example: The bank will deduct TDS on interest accrued each year on a FD for 5 years. Therefore, it is advisable to pay your taxes on an annual basis instead of doing it only when the FD matures. Senior citizens, with effect from 1 April 2018, will enjoy an income tax exemption upto Rs. 50,000 on the interest income they receive from fixed deposits with banks, post offices etc under Section 80 TTB.

Avoiding TDS on Fixed Deposits

Banks are required to deduct tax when interest income from deposits held in all the bank branches put together is more than ₹ 40,000 in a year (Prior to FY 2019-20, it was ₹ 10,000). A 10% TDS is deducted if PAN details are available. It is 20% if the bank does not have your PAN details. The details of TDS deducted on Fixed Deposit Interest is in the Form 26AS. If your total income is below the taxable limit, you can avoid tax deduction on fixed deposits by submitting Form 15G and Form 15H to the bank requesting them not to deduct any TDS. Form 15H is for senior citizens (60 years or older); Form 15G is for everybody else. These forms are for residents only and for those whose taxes add up to zero. These forms must be submitted at the start of the financial year. If you missed submitting them, then you can claim a refund by filing an income tax return. These forms are valid for one year only. Therefore, they must be submitted each year to keep banks from deducting tax.

Reporting Fixed Deposit and Recurring Deposits in Your Tax Return Reporting Fixed Deposits

If you have three FDs open, then add up all the interest income and enter it under 'Other interest income'.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



Reporting recurring deposit

Starting June 2015, when interest income from all the branches of the bank including from recurring deposits, exceeds Rs. 10,000 in a financial year, a 10% tax on interest earned will be deducted. The interest earned should be shown in 'income from other sources'.

Exempt Income

The PPF and EPF amount you withdraw after maturity is exempt from tax and must be declared as exempt income from income from other sources. Note that: The EPF is only tax exempt after five years of continuous service. Read in detail the rules of EPF withdrawal and taxability thereof.

Family Pension

If you are collecting pension on behalf of someone who is deceased, then you must show this income under income from other sources. There is a deduction of Rs. 15,000 or one-third of the family pension received whichever is lower from the Family Pension Income. This will be added to the taxpayer's income and tax must be paid at the tax rate that is applicable.

Taxation of Winnings from Lottery, Game Shows, Puzzles

If you receive money from winning the lottery, Online/TV game shows etc., it will be taxable under the head Income from other Sources. The income will be taxable at the flat rate of 30% which after adding cess will amount to 31.2%

Expenses allowed to be deducted from certain income sources

Similar to freelancers and business who can deduct certain expenses from their income, a taxpayer earning income from other sources can claim deductions for expenses as given below:

- Commission or remuneration for realising dividends (if not covered under Section 115-O which is exempt) or interest on securities. If any money or commission has been paid for realising a dividend, such expenses are allowed to be deducted from the dividend income which is taxed as income from other sources.
- Expenses (not capital expenses) such as repairs, insurance premium, and depreciation in respect of plant, machinery, furniture and buildings are deductible from rental income earned by letting out of plant, machinery, furniture and building.
- The rental income from the plant and machinery is chargeable to tax under income from other sources. The expenses incurred in respect of such plant and machinery are allowed to be deducted.
- A standard deduction is allowed on family pension, i.e. a deduction which is the lower of ₹.15,000 and one-third of such income is available in case of income in the nature of family pension which is paid monthly to the family members of a deceased employee.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



- In case, interest on compensation or enhanced compensation is received, 50% of the interest is allowed to be deducted (applicable starting from the assessment year 2010-11).
- As per Section 57(iii), a deduction is allowed for any other expense (which is not a capital expense) which has been spent wholly and exclusively for making or earning such income.

ILLUSTRATION: 1

Rahul, a resident Indian, holding 28% of equity shares in a company, took a loan of Rs. 5,00,000 from the same company. On the date of granting the loan, the company had accumulated profit of Rs. 4,00,000. The company is engaged in some manufacturing activity.

- (i) Is the amount of loan taxable as deemed dividend, if the company is a company in which the public are substantially interested?
- (ii) What would be your answer, if the lending company is a private limited company (i.e. which is not a company in which the public are substantially interested)?

Solution:

Any payment by a company, other than a company in which the public are substantially interested, of any sum by way of advance or loan to an equity shareholder, being a person who is the beneficial owner of shares holding not less than 10% of the voting power, is deemed as dividend under section 2(22)(e), to the extent the company possesses accumulated profits.

- (i) The provisions of section 2(22)(e), however, will not apply where the loan is given by a company in which public are substantially interested. In such a case, the loan would not be taxable as deemed dividend.
- (ii) However, if the loan is taken from a private company (i.e. a company in which the public are not substantially interested), which is a manufacturing company and not a company where lending of money is a substantial part of the business of the company, then, the provisions of section 2(22)(e) would be attracted, since Rahul holds more than 10% of the equity shares in the company. The amount chargeable as deemed dividend cannot, however, exceed the accumulated profits held by the company on the date of giving the loan. Therefore, the amount taxable as deemed dividend would be limited to the accumulated profit i.e., Rs. 4,00,000 and not the amount of loan which is Rs. 5,00,000.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



ILLUSTRATION: 2

Mr. A, a dealer in shares, received the following without consideration during the P.Y. 2022-23 from his friend Mr. B,

- 1) Cash gift of Rs. 75,000 on his anniversary, 15th April, 2022.
- 2) Bullion, the fair market value of which was Rs. 60,000, on his birthday, 19th June, 2022.
- 3) A plot of land at Faridabad on 1st July, 2022, the stamp value of which is Rs. 5 lakh on that date. Mr. B had purchased the land in April, 2010.

Mr. A purchased from his friend Mr. C, who is also a dealer in shares, 1000 shares of X Ltd. @ Rs. 400 each on 19th June, 2022, the fair market value of which was ₹ 600 each on that date. Mr. A sold these shares in the course of his business on 23rd June, 2022.

Further, on 1st November, 2022, Mr. A took possession of property (office building) booked by him two years back at Rs. 20 lakh. The stamp duty value of the property as on 1st November, 2022 was Rs. 32 lakh and on the date of booking was Rs. 23 lakh. He had paid Rs. 1 lakh by account payee cheque as down payment on the date of booking.

On 1st March, 2023, he sold the plot of land at Faridabad for Rs. 7 lakh. Compute the income of Mr. A chargeable under the head “Income from other sources” and “Capital Gains” for A.Y. 2023-24.

Solution:

Computation of “Income from other sources” of Mr. A for the A.Y. 2023-24

S.No	Particulars	₹
1	Cash gift is taxable under section 56(2)(x), since it exceeds ₹ 50,000	75,000
2	Since bullion is included in the definition of property, therefore, when bullion is received without consideration, the same is taxable, since the aggregate fair market value exceeds ₹ 50,000	60,000
3	Stamp value of plot of land at Faridabad, received without consideration, is taxable under section 56(2)(x)	
	Difference of ₹ 2 lakh in the value of shares of X Ltd. purchased from Mr.	5,00,000
4	C, a dealer in shares, is not taxable as it represents the stock-in-trade of Mr.	
	A. Since Mr. A is a dealer in shares and it has been mentioned that the	



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



5	<p>shares were subsequently sold in the course of his business, such shares represent the stock-in-trade of Mr. A.</p> <p>Difference between the stamp duty value of ₹ 23 lakh on the date of booking and the actual consideration of ₹ 20 lakh paid is taxable under section 56(2)(x) since the difference exceeds ₹ 2,00,000, being the higher of</p> <p>₹ 50,000 and 10% of consideration</p>	3,00,000
Income from Other Sources		9,35,000

Computation of “Capital Gains” of Mr. A for the A.Y.2023-24

Particulars	₹
Sale Consideration	7,00,000
Less: Cost of acquisition [deemed to be the stamp value charged to tax under section 56(2)(x) as per section 49(4)]	5,00,000
Short-term capital gains	2,00,000

ILLUSTRATION: 3

Discuss the taxability or otherwise of the following in the hands of the recipient under section 56(2)(x) the Income-tax Act, 1961 -

- (i) Akhil HUF received Rs. 75,000 in cash from niece of Akhil (i.e., daughter of Akhil's sister). Akhil is the Karta of the HUF.
- (ii) Nitisha, a member of her father's HUF, transferred a house property to the HUF without consideration. The stamp duty value of the house property is Rs. 9,00,000.
- (iii) Mr. Akshat received 100 shares of A Ltd. from his friend as a gift on occasion of his 25th marriage anniversary. The fair market value on that date was Rs. 100 per share. He also received jewellery worth Rs. 45,000 (FMV) from his nephew on the same day.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



Solution:

S.No	Taxable/Non-taxable	Amount liable to tax (₹)	Reason
i	Taxable	75,000	Sum of money exceeding ₹ 50,000 received without consideration from a non-relative is taxable under section 56(2)(x). Daughter of Mr. Akhil's sister is not a relative of Akhil HUF, since she is not a member of Akhil HUF.
ii	Non-taxable	Nil	Immovable property received without consideration by a HUF from its relative is not taxable under section 56(2)(x). Since Nitisha is a member of the HUF, she is a relative of the HUF. However, income from such asset would be included in the hands of Nitisha under 64(2).
iii	Taxable	55,000	As per provisions of section 56(2)(x), in case the aggregate fair market value of property, other than immovable property, received without consideration exceeds ₹ 50,000, the whole of the aggregate value shall be taxable. In this case, the aggregate fair market value of shares (₹ 10,000) and jewellery (₹ 45,000) exceeds ₹50,000. Hence, the entire amount of ₹ 55,000 shall be taxable.
iv	Non-taxable	Nil	Car is not included in the definition of property for the purpose of section 56(2)(x), therefore, the same shall not be taxable.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



ILLUSTRATION: 4

- (i) Examine under which heads the following incomes are taxable:
- (ii) Rental income in case property held as stock-in-trade for 3 years
- (iii) Dividend on shares in case of a dealer in shares
- (iv) Salary received by a partner from his partnership firm
- (v) Rental income of machinery Winnings from lotteries by a person having the same as business activity
- (vi) Salaries payable to a Member of Parliament
- (vii) Receipts without consideration
- (viii) In case of retirement, interest on employee's contribution if provident fund is unrecognized.
- (ix) Rental income in case of a person engaged in the business of letting out of properties.

Solution:

S.No	Particulars	Head of Income
1	Rental income in case property held as stock-in trade for 3 years	Income from house property
2	Dividend on shares in case of a dealer in shares	Income from other sources
3	Salary by partner from his partnership firm	Profits and gains of business or Profession
4	Rental income of machinery (See Note below)	Profits and gains of business or profession/Income from other sources
5	Winnings from lotteries by a person having the same as business activity	Income from other sources
6	Salaries payable to a Member of Parliament	Income from other sources
7	Receipts without consideration	Income from other sources



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



8	In case of retirement, interest on employee's contribution if provident fund is unrecognized	Income from other sources
9	Rental income in case of a person engaged in the business of letting out of properties	Profits and gains from business or profession

ILLUSTRATION: 5

Examine whether the following are chargeable to tax and the amount liable to tax :

- (i) A sum of Rs. 1,20,000 was received as gift from non-relatives by Raj on the occasion of the marriage of his son Pravin.
- (ii) Interest on enhanced compensation of Rs. 96,000 received on 12-3-2023 for acquisition of urban land, of which 40% relates to P.Y.2021-22.

Solution:

S.No	Taxable/Not Taxable	AnswerAmount liable to tax (₹)	Reason
1	Taxable	1,20,000	The exemption from applicability of section 56(2)(x) would be available if, inter alia, gift is received from a relative or gift is received on the occasion of marriage of the individual himself. In this case, since gift is received by Mr. Raj from a non-relative on the occasion of marriage of his son, it would be taxable in his hands under section 56(2)(x). As per section 145B(1), interest received by the assessee on enhanced



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



2	Taxable	48,000	compensation shall be deemed to be the income of the year in which it is received, irrespective of the method of accounting followed by the assessee. Interest of ₹ 96,000 on enhanced compensation is chargeable to tax in the year of receipt i.e. P.Y. 2021-22 under section 56(2) (viii) after providing deduction of 50% under section 57(iv). Therefore, ₹ 48,000 is chargeable to tax under the head “Income from other sources”.
---	---------	--------	--

ILLUSTRATION: 6

On 10.10.2022, Mr. Govind (a bank employee) received ₹ 5,00,000 towards interest on enhanced compensation from State Government in respect of compulsory acquisition of his land effected during the financial year 2015-16.

Out of this interest, Rs. 1,50,000 relates to the financial year 2016-17; Rs. 1,65,000 to the financial year 2017-18; and Rs. 1,85,000 to the financial year 2018-19. He incurred Rs. 50,000 by way of legal expenses to receive the interest on such enhanced compensation.

How much of interest on enhanced compensation would be chargeable to tax for the assessment year 2032-24

Solution:

Section 145B provides that interest received by the assessee on enhanced compensation shall be deemed to be the income of the assessee of the year in which it is received, irrespective of the method of accounting followed by the assessee and irrespective of the financial year to which it relates.

Section 56(2)(viii) states that such income shall be taxable as ‘Income from other sources’. 50% of such income shall be allowed as deduction by virtue of section 57(iv) and no other deduction shall be permissible from such Income.

Therefore, legal expenses incurred to receive the interest on enhanced compensation would not be allowed as deduction from such income.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



Computation of interest on enhanced compensation taxable as “Income from other sources” for the A.Y 2022-23:

Particulars	Rs.
Interest on enhanced compensation taxable u/s 56(2)(viii)	5,00,000
Less: Deduction under section 57(iv) (50% x ₹ 5,00,000)	2,50,000
Taxable interest on enhanced compensation	2,50,000



UNIT - 5

SET OFF AND CARRY FORWARD OF LOSSES

Set off of losses

Set off of losses means adjusting the losses against the profit or income of that particular year. Losses that are not set off against income in the same year can be carried forward to the subsequent years for set off against income of those years. A set-off could be an intra-head set-off or an inter-head set-off.

Intra-head Set Off

The losses from one source of income can be set off against income from another source under the same head of income.

For eg: Loss from Business A can be set off against profit from Business B, where Business A is one source and Business B is another source and the common head of income is "Business".

Exceptions to an intra-head set off:

- Losses from a Speculative business will only be set off against the profit of the speculative business. One cannot adjust the losses of speculative business with the income from any other business or profession.
- Loss from an activity of owning and maintaining race-horses will be set off only against the profit from an activity of owning and maintaining race-horses.
- Long-term capital loss will only be adjusted towards long-term capital gains. However, a short-term capital loss can be set off against both long-term capital gains and short-term capital gain.
- Losses from a specified business will be set off only against profit of specified businesses. But the losses from any other businesses or profession can be set off against profits from the specified businesses.

Inter-head Set Off

After the intra-head adjustments, the taxpayers can set off remaining losses against income from other heads. Eg. Loss from house property can be set off against salary income.

Given below are few more such instances of an inter-head set off of losses:

- Loss from House property can be set off against income under any head
- Business loss other than speculative business can be set off against any head of income except income from salary.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



- One needs to also note that the following losses can't be set off against any other head of income:
 - Speculative Business loss
 - Specified business loss
 - Capital Losses
 - Losses from an activity of owning and maintaining race-horses
 - Carry forward of losses

After making the appropriate and permissible intra-head and inter-head adjustments, there could still be unadjusted losses. These unadjusted losses can be carried forward to future years for adjustments against income of these years. The rules as regards carry forward differ slightly for different heads of income.

Losses from House Property:

- Can be carry forward up to next 8 assessment years from the assessment year in which the loss was incurred
- Can be adjusted only against Income from house property
- Can be carried forward even if the return of income for the loss year is belatedly filed.

Losses from Non-speculative Business (Regular Business) Loss

- Can be carry forward up to next 8 assessment years from the assessment year in which the loss was incurred
- Can be adjusted only against Income from business or profession
- Not necessary to continue the business at the time of set off in future years
- Cannot be carried forward if the return is not filed within the original due date.

Speculative Business Loss

- Can be carry forward up to next 4 assessment years from the assessment year in which the loss was incurred
- Can be adjusted only against Income from speculative business
- Cannot be carried forward if the return is not filed within the original due date.
- Not necessary to continue the business at the time of set off in future years



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



Specified Business Loss under 35AD

- No time limit to carry forward the losses from the specified business under 35AD
- Not necessary to continue the business at the time of set off in future years
- Cannot be carried forward if the return is not filed within the original due date
- Can be adjusted only against Income from specified business under 35AD

Capital Losses

- Can be carry forward up to next 8 assessment years from the assessment year in which the loss was incurred
- Long-term capital losses can be adjusted only against long-term capital gains.
- Short-term capital losses can be set off against long-term capital gains as well as short-term capital gains
- Cannot be carried forward if the return is not filed within the original due date

Let us understand with an example-

Mr P has invested in equity shares. Below are the details related to his capital gain/loss transactions for different years.

A.Y	STCL during the year	LTCL during the year	STCG during the year	LTCG during the year	STCG taxable	LTCG taxable	Balance STCL and LTCL to be c/f
2016	3,000	1,000	-	-	-	-	STCL- 3,000 LTCL- 1,000
2017	-	1,300	5,600	-	2,600 (5,600- 3,000) Set-off against LTCL	-	STCL- Nil LTCL- 2,300



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



2018	800	-	-	7,000	-	4,700 (7,000- 2,300- 800) Set-off against STCL and LTCL	STCL- Nil LTCL- Nil
2019	1,200	4,000	3,000	9,000	3,000*	3,800* (9,000- 4,000- 1,200) Set-off against STCL and LTCL	STCL- Nil LTCL- Nil

Losses from owning and maintaining race-horses

- Can be carry forward up to next 4 assessment years from the assessment year in which the loss was incurred
- Cannot be carried forward if the return is not filed within the original due date
- Can only be set off against income from owning and maintaining race-horses only

Section	Losses to be carried forward	Can set off against Income	Time upto which losses can be carried forward	Mandatory to file return in the year of loss
32(2)	Unabsorbed depreciation	Any income (other than salary)	No time limit	No
71B	Loss from House property	Income from house property	8 years	No



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



72	Loss from Normal business	Income from business	8 years	Yes
73	Loss from speculative business	Income from speculative business	4 years	Yes
73A	Loss from specified business	Income from specified business	No time limit	Yes
74	Short term capital loss (STCL)	Short term capital gain (STCG) and long term capital gain (LTCG)	8 years	Yes
	Long term capital loss (LTCL)	LTCG	8 years	Yes
74A	Loss from owning and maintaining horse races	Income from owning and maintaining horse races	4 years	Yes

Points to note:

- A taxpayer incurring a loss from a source, income from which is otherwise exempt from tax, cannot set off these losses against profit from any taxable source of Income
- Losses cannot be set off against casual income i.e. crossword puzzles, winning from lotteries, races, card games, betting etc.

DEDUCTION FROM GROSS TOTAL INCOME [SECTION 80C TO 80U]

Introduction

The aggregate of income computed under each head, after giving effect to the provisions for clubbing of income and set off of losses, is known as "Gross Total Income". In computing the total income of an assessee, certain deductions are permissible under sections 80C to 80U from Gross Total Income.

DEDUCTION UNDER CHAPTER VI-A IN RESPECT OF 'PAYMENTS'		
Section	Nature of Payment	Who can Claim
80C	Life Insurance Premium, Provident Fund Contribution (Maximum : Rs. 1,50,000)	Individuals
80CCC	Pension Fund [Maximum : Rs. 1,50,000	Individuals



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



80CCD(1)	Deduction available in respect of Employee's / Assesses Contribution to National Pension Scheme (NPS) [Section 80CCD(1)]	Individuals
80CCD(1B)	Additional Deduction of Rs. 50,000 is available in respect of Employee's / Assesses Contribution to National Pension Scheme (NPS) [Section 80CCD(1B)]	Individuals
80CCD(2)	Deduction available in respect of Employer's Contribution to National Pension Scheme (NPS) [Section 80CCD(2)]	Employees
80D	Deduction in respect of Health or Medical Insurance Premium	Individual/HUF
80DD	Deduction in respect of Maintenance Including Medical Treatment of a Dependent who is a Person with Disability	Resident Individual/ Resident HUF
80DDB	Deduction in respect of Medical Treatment , etc.	Resident Individual/ Resident HUF
80E	Payment of interest of Loan taken for higher studies	Individual
80EE	Deduction in respect of Interest on Loan taken for Residential House Property	Individual
80G	Deduction in respect of Donations to certain Funds, Charitable Institutions , etc. [Section 80G]	All Assesse
80GG	Deduction in respect of Rents Paid [Section 80GG]	Individual
80GGA	Deduction in respect of certain Donations for Scientific Research or Rural Development [Section 80GGA]	All assesses not having any income chargeable under the head 'Profits and gains of business or profession'
80GGB/GGC	Contribution to Political Parties	



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



PROBLEM: 1

Mr. Vasanth previous year's gross total income is Rs. 5, 00,000. He has made the following donations. Calculate the net income.

- National foundation for communal harmony Rs. 10,000
- National children's fund Rs. 20,000
- National defence fund Rs. 25,000

Solution

Date	Particulars	Amount	Amount
	Gross Total Income		5,00,000
	Less: deduction u/s 80G	10,000	
	NFGH-100%-No limit	20,000	
	NCF-100%-No limit	25,000	55,000
	NDF-100%-No limit		
	Net income		4,45,000

Problem: 2

Calculate the deduction allowable under section 80GG to an Assessee having the following incomes for the assessment year 2013-24:

Particulars	Amount
Business income	55,000
Interest from bank	5,000
Total income	60,000

Rent paid by him for a house occupied by him for the purpose of his residence is Rs. 1,250 per month



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



Solution

Computation of taxable income

Particulars	Amount	Amount
Less: standard deduction u/s: 16(i)	40,000	90,000
Capital gain:		
Long-term capital gain		
Short-term capital gain	40,000	50,000
Income from other sources:	10,000	
Interest on bank savings		
Interest on Govt. securities		
Winning from lotteries	15,000	
Less: deductions:	4,000	39,000
(i) U/S 80C: PPF	20,000	
NSC		1,79,000
(ii) U/S 80U in respect of handicapped assessee		
(iii) U/S 80TTA: savings bank deposits	40,000	
interest(least of Rs. 10,000 or 15,000)	20,000	
	60,000	
	75,000	



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



	10,000	
		1,45,000
Taxable income		34,000

Types of Assessment

Under Income Tax Act, 1961, there are four types of assessment as mentioned below:

- Self-assessment –u/s 140A
- Summary assessment –u/s 143(1)
- Scrutiny assessment –u/s 143(3)
- Best Judgment Assessment –u/s 144
- Protective assessment
- Re-assessment or Income escaping assessment –u/s 147
- Assessment in case of search –u/s 153A

Self- assessment

Submitting returns assessee is find whether he is liable for any tax or interest. For this purpose this section has been introduced in Income tax act.

Where any tax is payable on the basis of any return required to be furnished under section 139 or section 142 or section 148 or section 153A, after deducting:

- Advance tax Paid, if any
- TDS/TCS
- Relief
- MAT credit

Then assessee shall pay tax & interest before furnishing return and proof of such payment will be accompanied with the return of income.

Summary assessment

Assessment under section 143(1) is like preliminary checking of the return of income. Under this section, Income tax department sent intimation u/s 143(1) in which comparative Income Tax computation [i.e. as provided by Tax payer in Return of Income and as computed u/s 143(1)] is sent by Income Tax Department. At this stage no detailed scrutiny of the Return of



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



Income is carried out. At this stage, the total income or loss is computed after making the following adjustment (if any), namely:

- Any arithmetical error in the return.
- An incorrect claim, if such incorrect claim is apparent from any information in the return.
- Disallowance of loss claimed, if return of the previous year for which set off of loss is claimed was furnished beyond the due date specified under section 139(1).
- Disallowance of expenditure indicated in the audit report but not taken into account in computing the total income in the return.

Assessment u/s 143(1) can be made within a period of one year from the end of financial year in which the return of income is filled.

Scrutiny Assessment

Scrutiny assessment refer to the examination of a return of income by giving opportunity to the assessee to substantiate the income declared and the expenses, deduction, losses, exemptions, etc. claimed in the return with the help of evidence. During the course of scrutiny, the assessing officer gets opportunity to conduct enquiry as he deemed fit from the assessee and from third parties. The exercise is aimed at ascertaining whether the income in the return is correctly shown by the assessee and whether the claims for deductions, exemptions etc. are factually and legally correct. If any omission, discrepancies, inaccuracies, etc. comes light to as a result of examination, the assessing officer makes his own assessment of the assessee's taxable income after taking into consideration all the relevant facts. These assessments are made under section 143(3) of the income tax act.

The case selected for Scrutiny Assessment can be of by two types - i.e.

- Manual scrutiny cases
- Compulsory Scrutiny cases.

Manual scrutiny cases

Following can be reason for manual scrutiny case:

- Not filing Income Tax Return
- Declaring lesser income compared to earlier year or Declaring more loss compared to earlier year.
- Mismatch in TDS credit between claim and 26AS.
- Non declaration of exempt income.
- Claiming large refunds in return of Income.
- Taking double benefit due to change in Job.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



- High Value Transaction (as reflected in AIR).

Compulsory Scrutiny cases

The following cases are compulsorily selected for scrutiny:

- Cases involving addition in the earlier assessment year in excess of Rs. 10 lakhs on a substantial and recurring question of law or fact which is confirmed in appeal or is pending before an appellate authority may come under compulsory scrutiny.
- Cases involving addition in an earlier year on the issue of transfer pricing in excess of Rs. 10 crore or more on a substantial and recurring question of law or fact which is confirmed in appeal or is pending before an appellate authority.
- Computer Added Scrutiny Selection (CASS): cases are also being selected under CASS on the basis of broad based selection filters. List of such cases shall be separately intimated in due course by DGIT (system) to the jurisdictional concerned. The cases for this purpose are mostly selected through the process of computer assisted scrutiny selection (CASS) and there is no element of subjectivity in this process.
- Cases in respect of which specific and verifiable information pointing out tax evasion is given by Government Department/ Authorities. The Assessing Officer shall record reasons and take prior approval from Pr. CCIT/CCIT/Pr. DGIT/DGIT concern before selecting such a case for scrutiny.
- Cases where order denying the approval u/s 10 (23C) of the Act or withdrawing the approval already granted has been passed by the competent authority, yet the assessee found claiming tax exemption under the aforesaid provision of the Act.

Types of scrutiny assessment

- 1) Limited scrutiny assessment
- 2) Complete Scrutiny Assessment.

When case is selected for Limited scrutiny assessment, assessing officer can ask only the details regarding the reason behind the selection of any specific matter. However, in case of Complete Scrutiny Assessment, Assessing officer can ask complete details of transaction reflecting in the return of the income.

Best Judgment Assessment

Section 144 of Income tax act, 1961 speaks about Best Judgment Assessment. In the best judgment assessment, an assessing officer makes an assessment based on his best reasoning. Assessee should neither be dishonest in his assessment nor have a vindictive attitude.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



There are two types of Best Judgment Assessment

Compulsory best judgment assessment: It is done when assessing officer finds that there is an act amounting to non-co-operation by the assessee or where assessee is found to be a defaulter in supplying information to the department.

Discretionary best judgment assessment: It is done in cases where assessing officer is dissatisfied with the authenticity of the accounts given by the assessee or where no regular method of accounting has been followed by the assessee.

The process of Best Judgment Assessment is applied in conformity with the Principle of Natural justice. As per the provision of Section 144 of the Income Tax Act, 1961, the Assessing officer is supposed to make an assessment of the income of an assessee to the best of his Judgment in the following cases:

- If the person fails to make return u/s as required 139(1) and has not made a return or a revised return under sub-section (4) or (5) of that section; or
- If any person fails to comply with all the terms of a notice under section 142(1) or fails to comply with the direction requiring him to get his account audited in terms of section 142(2A); or
- If any person after having filed a return fails to comply with all the terms of a notice under section 143(2) requiring his presence or production of evidence and documents; or
- If the Assessing officer is not satisfied about the correctness or the completeness of the accounts of assessee or if no method of accounting has been regularly employed by the assessee.

In the case of best judgment assessment, an assessee has a right to file an appeal u/s 246 or to make an application for revision u/s 264 to the commissioner.

One should also keep in view the following

The best judgment assessment can only be made after giving the assessee an opportunity of being heard. Such opportunity shall be given by issue of a notice to the assessee to show because why the assessment should not be completed to the best of his Judgment and that opportunity for hearing will not be necessary where notice u/s 142(1) already been issued.

Protective assessment

Though there is no provision in the income tax act authorizing the levy of income tax on a person other than whom the income tax is payable, yet it is open to the authorities to make a protective or alternative assessment if it is not ascertainable who is really liable to pay the tax among a few possible persons.

In making a protective assessment, the authorities are merely making an assessment and leaving it as a paper assessment until the matter is decided (as to whom the asset owned by) one



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



way or another. Furthermore, a protective order of assessment can be passed but not a protective order of penalty must, however be noted that while protective assessment is permissible, a protective order for recovery is not permissible.

Re-Assessment (or) Income escaping assessment

Re-assessment is carried out if the Assessing officer has reason to believe that any income chargeable to tax has escaped assessment for any assessment year

Points to keep in mind while filing a revised return:

- ITR form can be changed while revising of return.
- No penalty can be levied by the department for bonafide mistakes (unintentional)
- If the assessing officer discovers that the error/omission were intentional/fraudulent return revision of return is not allowed and penalty may be levied.
- Interest under section 234B and 234C will be recalculated under every revised return.
- If the taxpayer has revised return after the survey/search and it was found that the mistake in the original return was not bonafide then levy of penalty is justified

Assessment of Individuals

Introduction

Assessment of individuals include calculation of taxable income and the tax liability of an assessee after giving effect to all rules and regulations that are incorporated by the Income Tax authorities from time to time. Rules prevailing for the current financial year should be applied to assess the tax liability of an individual. The following lines deal with the procedure of assessment on income of an individual.

How income should be assessed?

The sum total of all the sources of income after giving effect to set-off and carry-forward of losses reduced with sections 80 and rebate u/s 87A and 88 E should be considered as the taxable income. The taxable income should be rounded-off to the nearest Rs.10 (rounding off) tax rates, surcharge and education cess as applicable should be applied on the taxable income or net income to identify the tax liability of an individual.

How to calculate Income Tax?

Date	Particulars	Amount	Amount
	Income from salary		*****
	Income from house property		*****
	Income from business or profession		*****
	Income from capital gain		*****



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



	Income from other sources		***** *****
	Gross total income		
	Less: deduction u/s 80		***** *****
	Total income		*****

How to calculate tax liability?

Particulars	Amount	Amount
Total amount of tax		*****
[total income rate of tax prescribed by the act]		
Less: Rebate u/s 87 A		
[for resident individual whose income does not exceed Rs. 5 lakhs]		*****
Add: surcharge		*****

Add: Education cess-2%	*****	
Secondary and higher education cess[SHEC]-1%	*****	*****
Less: Advanced paid tax [if any]	*****	
Tax deducted at source[TDS][if any]	*****	*****
Net amount to be paid as Tax/Tax Liability		*****



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



Tax Rates

1. In case of an **Individual** (resident or non-resident) or HUF or Association of Person or Body of Individual or any other artificial juridical person

Taxable Income	Rate
Up to Rs. 2,50,000	Nil
Rs. 2,50,000 to Rs 5,00,000	5%
Rs. 5,00,000 to Rs. 10,00,000	20%
Above Rs. 10,00,000	30%

2. In case of a resident **senior citizen** (who is 60 years or more at any time during the previous year but less than 80 years on the last day of the previous year)

Taxable income	Tax rate
Up to Rs. 3,00,000	Nil
Rs. 3,00,000 to Rs 5,00,000	5%

Rs. 5,00,000 to Rs. 10,00,000 20%

Above Rs. 10,00,000 30%

3. In case of a resident super senior citizen (who is 80 years or more at any time during the previous year)

Assessment Year 2023-24

Taxable Income	Tax
-----------------------	------------

Up to Rs. 5,00,000	Nil
--------------------	-----

Rs. 5,00,000 to Rs. 10,00,000	20%
-------------------------------	-----

Above Rs. 10,00,000	30%
---------------------	-----

Add: Surcharge and Education Cess [see Note]

Assessment Year 2022-23

Taxable Income	Tax
-----------------------	------------

Rate

Up to Rs. 5,00,000	Nil
--------------------	-----

Rs. 5,00,000 to Rs. 10,00,000	20%
-------------------------------	-----



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



Above Rs. 10,00,000 30%

Add: Surcharge and Health & Education Cess [see Note]

Surcharge:

Surcharge is levied on the amount of income-tax at the following rates if total income of an Assessee exceeds specified limits:

Nature of Income	Range of income		
	Up to Rs. 50 lakh	More than Rs. 50 lakh but up to Rs. 1 crore	More than Rs. 1 crore
Any Income	Nil	10%	15%

The surcharge shall be subject to marginal relief:

- Where income exceeds Rs. 50 lakhs, the total amount payable as income-tax and surcharge shall not exceed total amount payable as income-tax on total income of Rs. 50 lakhs by more than the amount of income that exceeds Rs. 50 lakhs
- Where income exceeds Rs. 1 crore, the total amount payable as income-tax and surcharge shall not exceed total amount payable as income-tax on total income of Rs. 1 crore by more than the amount of income that exceeds Rs. 1 crore.
- Health and Education Cess: The amount of income-tax and the applicable surcharge shall be further increased by health and education cess calculated at the rate of four percent of such income-tax and surcharge.
- Rebate under Section 87A: The rebate is available to a resident individual if his total income does not exceed Rs. 3, 50,000. The amount of rebate shall be 100% of income- tax or Rs. 2,500, whichever is less.



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



Problem: 1

Calculate the tax liability of Mr. Alok for the assessment year for the particulars given below.
Income from salary Rs. 3,00,000 [computed] Income from house property Rs. 74,000 Income from other sources Rs. 1,50,000 Donation to national defense fund Rs. 8,000

Solution

Computation of taxable income

Date	Particulars	Amount	Amount
	Income from salary		3,00,000
	Income from house property		74,000
	Income from other sources		1,50,000
			5,24,000
	Gross total income Less: Deduction u/s 80G -100% for NDF		8,000
	Taxable income		5,16,000

Computation of Tax Liability

Date	Particulars	Amount	Amount
	(i) Upto Rs. 2,50,000		Nil
	(ii) Rs. 2,50,000 to Rs. 5,00,000		
	[2,50,000*5%]		12,500
	(iii) Balance Rs. 16,000		
	[5,16,000-5,00,000]		
	[16,000*20/100]		3,200
	Total Tax on income		15,200
	Add: Education cess @ 4%		
	[15,200*4/100]		628
	Surcharge		Nil
	Tax Liability		16,328



ACADEMIC YEAR 2023-2024, SEMESTER – V
STUDY MATERIAL FOR B.COM
INCOME TAX LAW & PRACTICE



Problem: 2

Calculate tax liability of Shri.Anand assuming he is a very senior citizen [81 years old] for the assessment year from the following information.

- a) Income from business Rs. 12,00,000
- b) Half share of profit from business Rs. 45,000
- c) Share of income from AOP Rs. 22,000
- d) Share of loss from firm Rs. 16,500

Solution

Computation of Taxable Income

Date	Particulars	Amount	Amount
	Income from business		12,00,000
	Taxable income		12,00,000

Computation of Tax Liability

Date	Particulars	Amount	Amount
	(i) UptoRs. 5,00,000		Nil
	(ii) Rs. 5,00,000 to Rs. 10,00,000 [5,00,000*20%]		1,00,000
	(iii) Balance Rs. 2,00,000 [12,00,000-10,00,000] [2,00,000*30/100]		60,000
	Total Tax on income		1,60,000
	Add: Education cess @ 4% [1,60,000*4/100]		6,400
	Surcharge		Nil
	Tax Liability		1,66,400