SYLLABUS

B.Com V SEM (Tax)

Subject – Income Tax Law And Practice

UNIT-I	General introduction of Indian income tax act, 1961. Basic concepts: income, agriculture income, casual income previous year, assessment year, gross total income, total income, person assessee, residential status and tax liability, exempted income.
Unit-II	Income from salary, income from house property.
Unit-III	Income from business and profession, capital gains, income from other sources.
Unit-IV	Set off and carry forward of losses, deductions from gross total income, clubbing of income, computation of total income and tax liability of an individual.
Unit-V	Assessment procedure, tax deducted at source. Advance payment of tax. Income tax authorities. Appeal, revision and penalties.

Unit – 1
Basic concepts of Income Tax

Meaning of Income Tax

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

Salient Features of Income Tax-

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

Income [Section 2(24)]

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

Definition of Income [Section 2(24)]

Income Includes:-

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

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

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

(A) any rent or revenue derived from land which is situated in India and is used for agricultural purposes,

(B) any income derived from such land by agriculture or by the process employed to render the produce fit for the market or by sale of such produce by a cultivator or receiver of rent in kind,

(C) Any income derived from any building provided the following conditions are satisfied (i) The Building is immediate vicinity of the agriculture land (ii) it is occupied by the cultivator or received of rent or revenue (iii) It is used as a dwelling house or store house/out house. (iv) The land is assessed to land revenue or a local rate.

(D) Any income derived from saplings/seedling grown in a nursery shall be deemed to be agricultural income.

Partly Agricultural Income Shown by Chart

S.No.	Partly Agricultural Income	Agricultural Income	Non Agricultural Income
1	Growing & manufacturing tea in India	60%	40%
2	Growing & cured coffee in India by the seller	75%	25%
3	Sale of Coffee grown, cured, roasted and grounded	60%	40%
4	Sale of centrifuged latex or cenex manufactured from rubber	65%	35%
5	Other Agricultural produce grown by the manufacturer and used for own product.	Market value of agricultural produce used in production	Remaining Business income will be taxable.

Income connected with land but not agricultural income –

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

Agricultural Income and Tax Liability –

Though agricultural income is exempt and it is not included in computation of total income of an assessee but from tax calculation point of view it is added to total income. The agricultural income is integrated with non-agricultural income in those cases where assessee has both incomes. Such integration is done only in the case of individual, HUF, AOP/BOI and Artificial juridical person.

Condition for Integration -

When the following two conditions are satisfied-

(i) Non agricultural income of the assessee exceeds the maximum exemption limit which for the assessment year 2015-16 is Rs. 2.5 lakh in the case of an individual, Women and HUF in case of Senior citizen it will be Rs. 3,00,000 and Super senior citizen Rs. 5,00,000 instead of Rs. 2,50,000/-.

(ii) Net agricultural income exceed Rs. 5,000

Procedure for computation of Tax-payable an non-agricultural income after Integration-

1. Aggregate the Agricultural income with non Agricultural income and determine the tax payable on such amount.
2. Aggregate the Agricultural income with basis exemption limit and determine the tax payable on such amount.
3. The difference between the tax computed in step (a) and step (b) will be the tax payable in respect of non-agricultural income.

CASUAL INCOME

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

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

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

4. ASSESSMENT YEAR : (2015-2016)

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

5. PREVIOUS YEAR (Section 3)(2014-2015)

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

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

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

Exception to the rule of Previous Year:

These exceptions are:

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

PERSON [SECTION-2 (31)]

The term 'person' includes:

(1) An individual
(2) A Hindu undivided family
(3) A Company;
(4) A Firm;
(5) An association of persons or a body of individuals, whether incorporated or not;
(6) A local authority like Municipalities, Panchayats, Cantonment Boards, Port Trusts etc.

(7) Every artificial juridical person Like Life Insurance Corporation, University etc.

ASSESSEE [SECTION-2 (7)]

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

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

(a) **Every person**:
- (i) Who is liable to pay any tax; or
- (ii) Who is liable to pay any other sum of money under this Act (e.g. interest, penalty, etc); or
- (iii) In respect of whom any proceeding under this Act has been taken for the assessment of the income; or
- (iv) In respect of whom any proceeding under this Act has been taken for the assessment of the income of any other person in respect of which he is assessable; or
- (v) In respect of whom any proceeding under this Act has been taken for the assessment for the loss sustained by him or by such other person; or
- (vi) In respect of whom any proceeding under this Act has been taken for the amount of refund due to him or to such other person;

(b) **A Deemed Assessee**:

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

(c) **Who is deemed to be an assessee in default**?

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

GROSS TOTAL INCOME

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

In Simple words, the aggregate amount of the following heads of income is called Gross Total Income –
- (i) Salaries (Cash receipts and perquisites from the employer),
- (ii) Income from House Property (Rental income)
- (iii) Profits an Gains of Business or Profession,
- (iv) Capital Gains from transfer of movable and immovable assets,
- (v) Income from other Sources i.e. interest, royalty, lottery etc.

TOTAL INCOME

The following are the current rates of taxation for an individual, Hindu, Undivided Family, firm, company and co-operative society for the assessment year 2015-16.

BASIS OF CHARGE (TAX RATE)

Tax Rates –

Applicable tax rates for the Assessment
Year 2015-16 (Previous year 2014-2015)
are as follows –

1. Tax rates applicable on individual and HUF (less than 60 years)–

Income	Tax Rate
On First Rs. 250000	NIL

On Next Rs. 250001 to 5,00,000	10%
On Next Rs. 5,00,001 to 1000000	20%
On above 10,00,000	30%

2. **Resident senior citizen Assessee** (Whose age is 60 year or more but less than 80 years) Male or Female

Income	Tax Rate
On First Rs. 3,00,000	-
On Next Rs. 3,00,001 to 5,00,000	10%
On Next Rs. 5,00,001 to 10,00,000	20%
On above 10,00,000	30%

3. **Super Senior Citizen Assessee** (80 years or more)

Income	Tax Rate
On First Rs. 5,00,000	-
On Next Rs. 5,00,001 to 10,00,000	20%
On above 10,00,000	30%

4. **Partnership firm** - 30% flat Rate on Income of firm.

5. **Domestic Company** –Domestic Company 30% flat rate on income if income is more than Rs. 1 Crore then 5% Surcharge & 10% surcharge in case exceed of 10 Crore is also applicable on tax payable.

6. **Foreign Company** –Foreign Company 40% flat rate on income if income is more than Rs. 1 Crore then 5% Surcharge & 10% surcharge in case exceed of 10 Crore is also applicable on tax payable.

7. **Co-operative Society** –

Income	Tax Rate
On First Rs. 10,000	10%
On Next Rs. 10,000	20%
On remaining balance	30%

8. **Tax Rate on special income-**

a. Long term capital gain	20% (Flat)
b. Short term capital gain (U/s 111A)	15% (Flat)
c. Income on lottery, horse race, Cross word Puzzle etc.	30% (Flat)

9. **Education Cess** – 3% Education Cess is applicable on taxable Income of all type of assessee but in case of company education cess is applicable after adding of surcharge (if any).

INCOME WHICH DOES NOT FROM PART OF TOTAL INCOME

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

A. EXEMPTED INCOME FOR ALL ASSESES

1. Agricultural Income Sec. 10(1)
2. Share of income from partnership firm Sec. 10 (2A)
3. Share of HUF Income Sec. 10(2)

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

B. EXEMPTED INCOME FOR EMPLOYEES

1. House Rent Exempted upto a certain limit Sec.10(13A)
2. a) Gratuity, Commuted pension, leave encashment to Government employees is fully exempted Sec. 10(10)
   b) Gratuity, leave encashment, commuted pension to non-government, employees is exempted up to a certain limit.
3. a) Commutation of pension received by an employees pension for government employees, fully exempted Sec. 10(10A)
   b) Pension for non-government employee exempted upto certain limit.
4. Leave travel concession in India Sec. 10(5)

   Actual Amount Received or
   Amount Prescribed or
   Amount Actual Spent } Which ever is less
5. Amount received as leave encashment on retirement Sec.-10 (10AA)
   a) Central/State Government Employee – Fully Exempted
   b) Other Employee exempted upto certain limit
6. Compensation on retrenchment Exempted upto certain limit.Sec.10(10 B)
7. Allowance or perquisite outside India Sec 10(7)
8. Allowance/perquisite paid outside India by Indian Government is exempted.
9. Provident fund Sec. 10(11)
   a) P.F. received from Recognised P.F. fully exempted
   b) P.F. received from unrecognised P.F. Taxable
10. Superannuation fund Sec. 10(13)
11. Voluntary retirement Scheme Sec. 10(10c) (Amount received by this scheme is exempted upto 5 lakh.)
12. Tax on perquisite paid by the employer is exempted Sec. 10 (10 CC)
13. Special Allowance Sec. 10 (14) (performing duty & compensatory allow).

1	Travel/Tour Allowance	Actual or Actual Expanses (Whichever is less)
2	Education Allowance	100/- Per month Per Child (for 2 child)

3	Hostel Allowance	300/- Per month Per Child (for 2 child)
4	Transfer Allowance	70% of Allowance Or 6,000 Rs. Per month — Whichever is less
5	Conveyance Allowance	Up to 800/- Per month
6	Uniform Allowance	Tax Free
7	Helper Allowance	Actual Expenditure exempted
8	Tribal Area Allowance	Up to 200 Rs. Per month
9	Field Area Allowance	Rs. 2,600 Per month
10	Composite Hill Compensatory Allowance	From 300 Rs. to 7000 Rs. Per month. according to place
11	Border/Remote area allowance	200 to Rs. 1,300 Per month. according to place
12	Allowance to workers of coal mines	Rs. 500 Per month
13	High Attitude allowance	Rs. 1060 to Rs. 1600 Per month
14	Highly Active field area allowance	Rs. 4,200 Per month
15	Modified field area allowance	Rs. 1,000 per month.
16	Counter Insurgency Allowance	Rs. 3,900 per month.
17	Transport Allowance	Rs. 800 per month (Rs. 1600 per month in the case of handicapped, blind or disabled employee) w.e.f. 01.04.15 Rs. 1,600 and Rs. 3,200 respectively.
18	Island (Duty) Allowance	Rs. 3,250 per month.

C. EXEMPTED INCOME FOR INSTITUTIONS

1. Income of scientific research association Sec. 10(21)
2. Income of employee's welfare fund Sec. 10 (23AAA)
3. Venture capital fund/Company Sec. 10 (23F)
4. Income of news Agency Sec. 10 (22B)
5. Income of Professional institutions Sec. 10 (23A)
6. Income of Regimental Fund of the Armed forces Sec. 10(23AA)
7. Income of Khadi/Village industrial Sec. 10(23B)
8. Income of Khadi Board Sec. 10(23BB)
9. Income of the European Economic Community Sec. 10 (23BBB)
10. Income of statutory bodies Sec. 10 (23 BBA)
11. Income of pension fund (Set up by LIC) Sec. 10 (23AAB)
12. Income from mutual fund Sec. 10 (23D)
13. Income of Registered Trade unions Sec. 10 (24)
14. Income of local authorities Sec. 10(20)
15. Income of Co-operative Societies for Scheduled castes/Tribes Sec. 10 (27)
16. Income of political party Sec. 13 (A)
17. Income of the SAARC fund for regional Project Sec. 10(23BBC)
18. Income of a corporation promoting the interest of a minority community Sec. 10 (26BB)
19. Income of certain national funds Sec. 23 (c)
20. Income of Hospitals and Educational Institution association Sec. 10 (23C)
21. Exemption of income of Investor Protection Fund – Sec. 10 (23EA)
22. Income of Swachh Bharat Kosh and Clean Ganga Fund – Sec. 10 (23C)

D. EXEMPTIONS FOR NON-RESIDENT /FOREIGN CITIZEN

1. Interest received on securities.
2. Interest received by "non-resident(External) Account"
3. Interest from notified central Government if such certificates are subscribed in foreign currency.
4. Remuneration received by foreign diplomats.

5. Salary received by foreign citizen in India/by non-resident foreign citizen/by an employee being a foreign national.
6. Tax paid by Government/Indian concern in case of non-resident/Foreign company.
7. Income arising to notified foreign companies projects connected with security of India.
8. Foreign allowance granted by the Indian government to its employee posted abroad.
9. Remuneration received from foreign government by an individual who is in India in connection with any sponsored Co-operative technical assistance programme.
10. Remuneration received by non-resident consultants and their foreign employers.

E. EXEMPTIONS FOR OTHERS

1. Exemptions for newly established industrial undertaking in free trade zones Sec. 10 (A)
2. Exemptions for newly established industrial undertaking in special Economic Zone Sec. 10 (AA) after 31st March, 2005
3. Exemptions for newly established industrial undertaking Hundred percent export oriented undertakings Sec. 10(B)
4. Deduction in respect of export of artistic hand made wooden articles section 10 (BA)
5. Income exempted of charitable/Religions trusts Sec.-11

RESIDENTIAL STATUS AND TAX LIABILITIES

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

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

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

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

Individual Assessee

1) **Resident / Ordinary Resident : -** If an individual wants to become resident in India, then he has to fulfill the basic condition as well as two additional conditions:

i) **Basic conditions:** In the basic conditions, there are two conditions. On satisfying any one of these, it will be assumed that the basic condition is satisfied.

   a) The assessee must have lived for at least 182 days in India during the previous year.

   OR

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

EXCEPTIONS TO THE BASIC CONDITIONS

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

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

ii) **Additional Conditions**

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

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

AND

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

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

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

Hindu Undivided Family (H.U.F.)

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

   AND

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

   BUT

   b) Karta of HUF does not satisfy the two additional conditions.

3) **Non Resident:** An HUF will be assessed as non resident if control and management of the HUF is wholly situated outside in India.

FIRM OR ASSOCIATION OF PERSONS

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

COMPANY

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

   OR

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

RESIDENTIAL STATUS AND TAX INCIDENCE (LIABILITIES)

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

a) Tax liability of **Resident**
   i) Income received or deemed to be received in India.
   ii) Income accrued or deemed to be accrued in India.
   iii) Income received or accrued outside the India

b) Tax liability of **Not ordinarily resident:**
   i) Income received or deemed to be received in India.
   ii) Income occurred or deemed to be accrued in India.
   iii) Income business situated outside India but controlled and managed from India
c) Tax liability of **non residents:**
   i) Income received or deemed to be received in India
   ii) Income occurred or deemed to be accrued in India.

UNIT-II

Income from Salary
Computation of Income from Salary
Assessment Year 2014-15

(A) Cash Receipts :-	
Salary	-------------
Bonus	-------------
Commission	-------------
Allowances	-------------
Advance Salary	-------------
Arrears of Salary	
(B) (i) Employer's Contribution in R.P.F. (Recognized provident fund) in excess of 12% of salary	-------------
(ii) Interest on R.P.F. in excess of 9.5%	-------------
C) Perquisites:-	
Rent free house	-------------
Medical facility	-------------
Motor car	-------------
Education facility	-------------
Gross Salary	-------------
Less:- Deduction u/s 16 (ii)	
Entertainment allowance	
Less:- Deduction u/s 16 (iii)	
Professional tax	(---------)
Taxable Salary	....

Deduction form Gross Salary

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

Salary = Basic Salary :-

(i) Allowance received
(ii) 20% of Salary
(iii) Rs. 5000

Whichever is less

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

Actual Payment will be deductible.

Allowances		
Fully Taxable Allowance	**Fully Tax free allowance**	**Partly Taxable allowance**
(1) City compensatory allowance (2) Dearness Allowance (3) Deputation Allowance (4) Entertainment Allowance (5) Family allowance (6) High cost of living allowance (7) Medical Allowance (8) Non-practicing allowance (9) Overtime allowance (10) Project allowance (11) Rural area allowance (12) Servant allowance (13) Tiffin allowance (14) Warden and proctor allowance	1) Conveyance allowance 2) Travelling allowance 3) Tour allowance 4) Helper or assistant allowance 5) Academic and research allowance 6) Uniform allowance 7) Special allowance for performing duty. Above allowances will be fully exempted if :- (i) Whole amount is spent (ii) Amount is spent for office use only	1) Education allowance 2) Hostel allowance 3) Tribal area allowance 4) Transport allowance 5) Composite hill compensatory allowance 6) Running allowance to the employees of transport undertakings 7) House rent allowance 8) Under Ground Allowance

Rules regarding partly taxable allowance

1) **Education allowance :-** Exempted to Rs.100/- P.M. per child for maximum 2 children i.e. 100 × 2 × 12 = Rs. 2,400/-
2) **Hostel allowance :-** Exempted up to Rs. 300/- P.M. per child for maximum 2 children i.e. 300 × 2 × 12 = Rs. 7,200
3) **Tribal area allowance:-** Exempted up to Rs. 200/- P.M.
4) **Transport allowance:-** Allowance for going to office and coming back to home is exempted up to Rs. 800 P.M.
5) **Composite hill compensatory allowance:-**
   (i) Manipur skim, u.p., H.P. and J & K where height is 9000 ft. and above Rs. 800 P.M. exempted
   (ii) In Siachin area Rs. 7000 P.M. exempted.
   (iii) Places located at a height of 1,000 meter or more above the sea level Rs. 300 per month.
6) **Running allowance for employees of Transport undertakings**

   70% of allowance received
   or
   Rs. 10,000/- P.M.
   } Whichever is less is exempted

7) **House Rent allowance:-**
   Salary = Basic Salary + D.A. Under the terms + Commission at fixed percentage

Allowance received Less:- 1) Allowance received 2) Rent paid – 10% of salary 3) 40% or 50% of salary } Whichever is less will be exempted	 ---------------- ---------------- ----------------	---------------- ----------------
Taxable H.R.A.		----------------

8) **Under Ground Allowance : - Exempted upto Rs. 800 Per Month**

Perquisites

Tax free perquisites	Taxable perquisites	
1) Refreshment facility	**For all class of employers**	**For Specified employers**
2) Telephone facility	1) Rent free house	1) Servant facility

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

Rules Regarding Retirement

1. **Monthly Pension -** Fully Taxable
2. **Computation of Pension –**
   (A) Government employee – Fully exempted
   (B) Other employee
   (i) If employee is getting Gratuity – 1/3rd of total pension will be exempted
   (ii) If gratuity employee is not getting gratuity – ½th of total pension will be exempted.

3. Gratuity –

(A) Government employee – fully exempted
(B) Employee covered under gratuity payment 1972

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

Gratuity received	------------
Less :-	
1. Gratuity received ---------- 2. $\frac{\text{Salary last drawn x Service Year x 15}}{26}$ ---------- 3. Maximum limit Rs. 10,00,000 ---------- Whichever is less	(-) -----------
Taxable Gratuity	------------

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

(C) Employee not covered under Gratuity payment Act 1972

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

Gratuity received	------------
Less :-	
1. Gratuity received ----------	
2. No. of Completed year x Preceding 10 month average salary / 2 --------- Whichever is less	(-) ----------
3. Maximum limit Rs. 10,00,000 ----------	
Taxable Gratuity	------------

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

(4) Earned Leave Salary:-

(A) Government employee – Fully exempted

(B) Non Govt. employee –

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

Salary received for earned leave	------------
Less :-	
1) Salary received for earned leave -----------	
2) Salary of approval period -----------	
3) Salary of 10 months ----------- Whichever is less will be exempted	(-) -----------
4) Maximum limit Rs. 3,00,000 -----------	
Taxable earned leave Salary	------------

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

(5) Compensation on Retrenchment

Salary = Basic salary + Allowances Taxable + All taxable perquisites

Compensation received	------------
Less :-	
1) Compensation received -----------	
2) Salary of 15/30 days on the completed year of service (under industrial dispute act 1947) ----------- Whichever is less	(-) -----------
3) Maximum limit Rs. 5,00,000 -----------	
Taxable Amount	------------

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

(6) Amount received from provident fund:-

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

(i) Employer's share with interest will be taxable in the head of salary

(ii) Interest on employee's share will be taxable in the head of other sources.

INCOME FROM HOUSE PROPERTY

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

1. Income from staff-quarters.
2. House used by the assessee for his own business or profession.
3. House Let out to government authorities for police station, fire brigade, bank, insurance company etc. for taking assistance in the business.
   Similarly, income from subletting house or sub-tenancy will not be the part of this head.

Exempted Income from house properties:

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

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

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

1. **Self-Residential House:**

Computation of Income from House Property
Assessment year 2015-16

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

2. **Let-Out House:**

Computation of Income from House Property
Assessment year 2015-16

Gross Annual Value		--------
Less: Municipal Taxes [Paid by owner on or before 31st march, 2013].		(-) --------
Net Annual Value		--------
Less: Deduction u/s 24:		
(i) Standard deduction (30% of N.A.V.)	--------	
(ii) Interest on loan	--------	(-)--------
Income from House Property (Taxable)		--------

3. **Partly let-out & Partly self-occupied House:**

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

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

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

While doing valuation in this case, actual rent will be calculated of the whole house for the let-out period only. But, fair-rent and municipal-valuation will be taken for the whole year

Rules regarding valuation:

1. **Gross Annual Value (G.A.V.)/Actual Rental Value**
   It is been calculated on 2 basis:
   (a) Self-occupied house: NIL
   (b) Let-out house:

i. If the house is not covered under Rent control Act:

Actual Rent
Or
Municipal Valuation
Or
Fair Rent

Whichever is higher

ii. If the house is covered under Rent control Act:

Actual Rent
Or
Municipal Valuation
Or
Fair Rent

Whichever is higher ------------

Actual Rent
Or
Standard Rent

Whichever is higher -------------

Whichever is less

NOTES:

1. If the let-out house has remained vacant fro some period during the previous year, then actual rent for such vacancy period will be deducted in the calculation of gross annual value.
2. If amount of approved unrealized rent is given in the question then such amount will also be deducted in the calculation of G.A.V.
3. If owner of the house has provided some facilities to the tenant, free of cost as per agreement or Rent-deed during the previous year, then the value of such facilities firstly be deducted from the rent received and remaining actual rent will be compared with other rents.
4. If an assessee has kept more than one house for his own residence, then only one house will be valued as **self-occupied house** and other self-residential houses will be valued as **"deemed to be rental".**

2. **Municipal Taxes/ Local Taxes:**
   Municipal taxes are deducted on "Payment Basis". It means that the whole amount of taxes paid during the previous year 2014-15 will be fully deductible, doesn't matter to which year they belongs to. To get the deduction of these taxes, it is necessary that the assessee should fulfill the following 2 conditions:
   a. Taxes must be paid by the owner only.
   b. Taxes must be paid on or before last day of the previous year i.e. 31st March, 2015
3. **Standard Deduction:** 30% of Net Annual Value
4. **Interest on Loan:**
   This deduction is allowed on "Due basis". It means that whether the amount of interest is paid or not by the assessee, on claiming the deduction by him he will get the deduction.

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

Deduction of interest of loan is given in 2 parts:

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

Construction period will be calculated from the date of taking loan upto 31st March immediately preceding the date of completion of construction of house.
Deduction of interest on loan will be allowed as under:

a. Let-out house: The whole amount of interest will be deductible.
b. Self-Residential house:

$$\left.\begin{array}{c}\text{Amount of due interest during 2014-15}\\ \text{Or}\\ \text{Maximum Rs. 30,000 or Rs. 2,00,000}\end{array}\right\} \text{Whichever is less}$$

NOTE:
If loan is taken before April 1st, 1999, then maximum deductible amount will be Rs. 30,000 otherwise it will be Rs. 2,00,000
If the loan is taken for repairs or renewal of the house, then in each case maximum deductible amount will be Rs. 30,000

More than one house/houses for self residence –
Where the person has occupied more than one house for his own residential purposes, only one house (according to his own choice) is treated as self-occupied and all other houses will be deemed to be let out. Except one house (on the choice of the assessee) remaining house or houses will be computed as let out. So, annual value of such deemed let house/houses is determined u/s 23(1) (a) on the basis of reasonable expected rent and entitled for the deduction of municipal taxes, standard deduction (30% of NAV) and interest on loan like out property.

Only one house owned and kept vacant – Section 23 (2) (b)
In the case of an assessee who owns only one house property which is kept vacant as he has to reside at some other place in a building not belonging to him due to his employment, profession or business, the annual value will be taken as nil. Deduction u/s 24 shall be allowed only in respect of interest on loan borrowed upto Rs. 30000. Where the property is acquired or constructed out of loan borrowed on or after 1-4-99, interest in respect of such property shall be allowed upto Rs. 2 Lacs.

House acquired or transferred during the year
If the house is acquired or completed during the year then annual rental value will be determined from the date of completion or acquisition to 31st March. For example a house is completed on 1.8.2011 and let out. In this situation the annual rental value will be computed for 8 months (1.8.2011 to 31.3.2012). On the contrary a house which is sold or transferred during the year, will be valued from 1st April to date of transfer.

Rent received after deduction of Tax
If the assessee lets out his property to a company or firm or trust or bank etc. (other than Individual or H.U.F.) and gross annual rent is more than Rs. 180000 then the tenant would pay rent after deduction of tax @10%. In such position at the time of determination of annual rental value gross rent should be kept in view instead of net rent. If the net rent is given then it will be grossed up as under:-

$$\frac{\text{Net Rent x 100}}{90}$$

Arrears of rent received during the year – Sec. 25B

If the assessee received any amount, by way of arrears of rent from such property, not charged to income-tax for any previous year, the amount so receivable (after deducting a sum equal to 30% of on account of standard deduction such amount) shall be deemed to be the income chargeable under the head "Income from House Property". It is taxable in the previous year in which it is received. It is taxable even if the assessee is not the owner of that property in that year.

Recovery of Unrealized rent – Sec. 25A & 25AA

If the assessee has claimed deduction for unrealized rent in preceding year (before previous year) and subsequently realized or recovered any such amount during the previous year, then it will be taxable and included in the income from house property. The following points should be noted in this reference :-

i) The amount so recovered is taxable in the previous year in which it is recovered.

ii) No deduction whatsoever will be allowed to the assessee for any expenses for recovery of such unrealized rent.

iii) Recovered amount is taxable even if the house is not owned by the assessee in the year of recovery.

iv) If the deduction for unrealized rent was not allowed and claimed in past, then such recovered amount is not taxable in the previous year because the assessee has paid tax on such amount in past.

v) If the partial deduction was allowed for unrealized rent in past then such part of recovered amount was not taxable during the previous year which was not deducted as unrealized rent at the time of assessment.

UNIT-III

Income from Business/Profession

Third important head of the income is 'Profit and gains of business or profession. Major part of the revenue is collected by income tax department from the tax payees engaged in business activities.

Meaning of Business- Sec. 2 (13)

Business includes any trade, commerce or manufacture or any adventure or concern in the nature of trade, commerce or manufacture.

"Profession" includes 'Vocation' Sec. 2 (36)

Profession- The expression Profession involves the idea of an occupation requiring Purely intellectual skill or manual Skill controlled by the operator as distinguished from an occupation or business which is substantially the production/ sale/ arrangements for the production or sale of commodities.

Vocation: In the act, It implies natural ability of person for some particular work. In the other words by the way in which a man passes his life.

Profits and Gains of business/ Profession include-

1. Profit From trading activities
2. Compensation
3. Receipts from Profession
4. Profit from speculation business
5. Brokerage
6. Commission
7. Import-export Incentives
8. Income of trade Associations
9. Royalty etc.

Traders, Manufactures, Suppliers, banks, insurance Companies transporters, lawyers, doctors, engineers, singers, insurance agents, trade Associations, money lenders etc. are covered under this head.

The following conditions should be fulfilled for allowing deduction under the Section-

1. Expenditure must be in revenue nature, capital expenditure is not allowed.
2. Expenditure must be related to business/profession.
3. Expenditure must be actually made reserve/provision made for any expenses is not allowed.
4. Expenditure must not be personal/Domestic
5. Expenditure must be paid/ payable during the year.

Computation of income from business assessment year 2015-16

Net profit as per P & L a/c or surplus as per income & exp. a/c Add- Disallowed expenses & Losses debited to P&L A/c: 1. Household expenses/ Personal expenses 2. Life insurance premium 3. Int. on capital 4. Income tax & wealth tax 5. capital expenditures & capital losses/ Speculations 6. Fees & penalties (except penalty in the form of interest for late payment of sales tax) 7. Reserves & provisions (except prov. For payment of excise duty) 8. Capital expenditure on advertisement expenses new sign board. 9. Adv. In souverior of political party. 10. Donation to political parties 11. Charities & donation (except compulsory subscription for business) 12. Personal gifts & presents 13. Cash payment exceeding Rs. 20,000 of the whole amt. will be disallowed. 14. Payment outside India without TDS 15. Excess payment to relatives 16. Excess dep. Charged in P & L a/c 17. Irrelative exp. Of business 18. Fringe benefit tax (FBT) 19. Securities transaction tax (STT) 20. Income tax on perquisites 21. valuation of closing stock 22. Exp. On intangible assets like patents copyright, know how etc. (25% dep allowed on it) 23. Preliminary expenses (4/5 th disallowed) 24. Exp. On prospecting of minerals (9//10 disallowed) 25. Exp. On family planning program 26. Provision for Gratuity [u/s 40 A (7)]	(+) –
Total	-
Less- Allowed expenses and allowances which are not debited to P&L A/c wholly/partly for instance depreciation: 1. Allowed bad debts 2. Allowed depreciation 3. Any other allowed expenses 4. Banking cash transaction tax	(-) -
Less : Income not related to business but credited to P&L A/c: 1. Rent from house property. 2. Selling price/profit from sale of assets. 3. Interest and dividend 4. Int. on post office savings a/c 5. Income tax refund 6. Agricultural income 7. Bad debts recovered which were previously disallowed as bad debts 8. Personal/ Family Gift	- (-) –
Add : Add- deemed income which are not recorded in the books:	(+) –

Taxable Income from Business/ Profession	-------

Deductions expressly allowed in respect to expenses and allowances (sec. 30 – 37)

1. Rent, taxes, insurance, repairs etc. of the building: If an assess is running his business in a rental house, then rent and all other expenses will be fully allowed. But if the business is running in own house, then rent will be fully disallowed and other expenses will be allowed proportionately. (Sec. 30)
2. Repairs & insurance of other assets: If an assessee has taken insurance of plant & machinery, furniture, motor car etc. or spent on repairs of these assets, then the whole amount will be fully allowed. (Sec. 31)
3. Depreciation: (sec. 32) depreciation will be allowed on all those assets at prescribed rates, which are allowed by the assessee and are used in business of profession

Dep. On leasehold assets will not be allowed and also on foreign cars.

Dep. Will be allowed on any asset only when it is existing the business on the last day of the previous year Mar'31, 10. If an asset has been sold or destroyed before this date, then dep. Won't be allowed on such asset.

If an asset is used for a period. of 180 days or more in an year, then only dep. Will be allowed for the whole year. But, if an asset is used for less than 180 days in a year, then dep. will be allowed at prescribed rate for the half year.

Dep. is to be calculated on the WDV of the asset which will be calculated As under:

WDV on 1st Apr. 09			………
(+)	Cost of new asset purchased	(+)	………
	Total		……….
(-)	Sales Price of the asset sold	(-)	………
	WDV on 31st Mar.010		………

Following are the prescribed rates of depreciation on some of the important Assets.

i.	Residential Building	5%
ii.	Commercial Building	10%
iii.	Furniture	10%
iv.	Motor Car	15%
v.	Scooter, motorcycle	15%
vi.	Plant & Machinery	15%
vii.	Intangible assets like patent, copyright, know how etc	25%
viii.	Computer	60%
ix.	Professional books :	
a)	Books annually published	100%
b)	Other books	60%

20% additional dep. will be allowed on assets purchased during the previous year. But assets use for less than 180 days rate of additional depreciation will be 10%

4. Expenditure on scientific research: Every amount of such expenditure, whether it is capital or revenue, will be fully allowed. (Sec. 35)
5. Contribution to national laboratory: Weighted deduction of 200% will be allowed. [Sec. 35(2AA)]
6. Patents, copyright, technical know how: Exp. On them exp. On various intangible assets like patent, copyright license, trademark, know how etc. will be treated as capital expenditure hence it all be disallowed if it is written in P & L a/c (Sec. 35 A & 35 AB) Being a capital expenditure, 25% dep. Will be allowed on it. (If intangible assets acquired after 31/3/98). In case of Patent/ copyright acquired before 1/4/1998 it would be allowed in 14 years equal installments.

7. Preliminary Expenses: They are allowable in 5 equal annual installments. It means that every year, 1/5th will be allowed & 4/5 disallowed. (Sec. 35 D)
8. Expenditure on prospecting of minerals: Allowable in 10 equal annual installments i.e. every year 1/10th allowed and 9/10th disallowed. (Sec. 35 E)
9. Exp. On family planning programs: If some amount is spent by the assessee on family planning programs of employees, allowed fully capital expenditure is allowed 1/5 portion and revenue expenditure whether it is capital or revenue expenses will be fully disallowed. [Sec. 36 (i) (ix)]
10. Payment for rural development program: This expense will be allowed fully only when the payment is made to an approved institution. (Sec. 35 CCA)
11. Security, transaction Tax
12. Other deduction (Sec 36) Insurance Premium, Bonus Bad Debts, Commission, Interest on capital, Contribution to P.F./ Gratuity fund
13. Tea, coffee & rubber Development Account (Sec. 33AB)
14. **Examples of expenditure allowable as a deduction u/s 37 (1)**
    I. Expenses relating to sale- purchase/ Manufacturing
    II. General expenses for running business.
    III. Remuneration to employees
    IV. Compensation/ damages
    V. Legal expenses
    VI. Indirect Taxes
    VII. Expenditure on raising loans
    VIII. Expenditure on advertisement
    IX. Other expenses are allowed as per business needs

a. Guest house Expenses, Entertainment expenses, advertisement, travelling etc.
b. Telephone deposit and installation changes.
c. Expenditure on labour welfare
d. Subscription/ contribution/ fees paid to any institution in the interest of business.
e. Office expenses, Royalty, Commission, brokerage etc.
f. Civil defence expenses
g. Expenditure on training of employees/ apprentices
h. Rebate or discount allowed to customers
i. Professional tax levied by state Govt.
j. Express incurred on the occasion of Diwali Muhurat, Business anniversary/ exhibition, festival etc.
k. Interest paid for delay payment of sales tax etc.
l. Fees/ Remuneration to tax consultant/ Advocate
m. Expenses related to tax procedure/ registration of trade mark to promote family planning among the employees.
n. Some losses are allowed like- destruction of stock due to fire, theft or war, embezzlement by employee etc. Any other expenses/ losses related to business which is in the revenue nature
o. Audit fees
p. Taxes imposed by local authority

Allowable losses: following items of losses are allowable in the head of business or profession.

a) Lost of cash or stock due to embezzlements by employees
b) Lost of cash or stock due to theft or robbery.
c) Lost of stock due to war or natural calamity
d) Lost of lapsation of advance

Deductible expenses on actual payment: Following expenses will be deductible if it is paid before due date of filing income tax return. These expenses are issued. [Sec. 43 (b)]

a) Govt. dues- (Tax/ duty etc.)
b) Bonus, comm. etc. payable to employees
c) Interest on intuitional loan.
d) Contribution to P.F.

Deemed Profits (Sec 41)

It is deemed to be income from business under Income tax Act

1. Remission of liability/ Recoupment of Loss/ Expenditure
2. Amount realised on transfer of an asset used for scientific research
3. Recovery of Bad Debts
4. Amount withdrawn from special reserve by financial institution
5. Receipts after discontinuance of business

Methods of Accounting (Sec. 145)

Accounting system adopted by the assessee should be considered while computing income from Business. Books of account may be maintained either mercantile system or cash system-

a. **Mercantile System-** If an assessee keeps his books of account on the basis of mercantile system then net profit / loss of business will be determined after making necessary adjustments (any income/ expenditure will be taken in computation which is related to the previous year either it is paid/ unpaid, received/ receivable)

Income- Income received during the year
Add- Accrued income
Less- Unaccrued income
= Net income related to previous year.

Expenditure- paid during the year
Add- Due but outstanding
Less- Prepaid/ Advance Expenses
= Net expenditure related to previous year.

b. **Cash system-** In this system all revenue receipts will be included in the income which are received during the year on the other hand all revenue expenses which are paid during the year will be deducted from gross receipts. In cash system no adjustment in respect of accrued, unaccrued income/ outstanding, prepaid expenses will be considered.

Computation of Income Relating to specific Business

Ascertainment of taxable income is typical in case of some business activities like retail trade, small transports and contractors, therefore. Special provisions have been made to assess the taxable income of such specific business an estimation basis under the Income tax act. These provisions are optional. If the assessee does not want to assess his income related to specific Business under these Provision,- he must to maintain regular accounts and gets audited them.

I. **Special Provisions for Computing Profits and gains of small business of civil construction, etc. [Sec. 44AD]**

1. Gross receipts not more than Rs. 1 Crore (Paid/ Payable)
2. Deemed profit equal to 8% of the gross receipts paid/payable in previous year
3. Deductions of business head not allowed
4. Maintenance of books and audit is not compulsory

5. In case if the profit is less than 8% provisions of sec. 44AD shall not apply where the assessee claims and produces evidence to prove this then the Assessing officer shall proceed to make an Assessment of the total income/loss and determine the sum payable by the assessee. Assessee has to keeps and maintains such accounts Books and other documents as required u/s 44 AA & furnishes a report of such audit as required u/s 44AB.
6. The Assessee will entitle for deductions u/s 80 c to 80 u against GTI.
7. If the assessee is a firm the salary and interest paid to its partners shall be deducted from their income computed u/s 40 (b)

II. Special Provisions for Computing Profits and gains of business of plying, hiring or leasing goods carriages [Sec- 44AE]

1. In case of an assessee who owns not more than 10 (at any time in the Previous year) goods Carriages
2. Estimated profit on heavy goods vehicle or light vehicle shall be an amount equal to Rs. 7,500 (A.Y. 2015-16) for per month or part of a month.
3. Further deductions are not allowed.
4. Maintenance of books and audit is not compulsory.
5. If assessee shows income lower than a foresaid limit sec. 44AF shall not apply where the assessee claims and produces evidence to prove this then the assessing officer shall proceed to make an assessment of the total income/loss and determine the sum payable by the assessee. Sec 143 (3) Assessee has to keeps and maintains such accounts Books and other documents as required u/s 44 AA & furnishes a report of such audit as required u/s 44A
6. If the assessee is a firm the salary and interest paid to its partners shall be deducted from their income computed u/s 40 (b)

III. Expenses deductible from commission earned by insurance agents etc.

Adhoc deduction from commission earned by insurance agents, UTI agents, Mutual funds agents and Govt. securities agents are allowed as under when given 2 conditions are fullfil by assessee-

1. If agent who do not maintain detailed accounts for expenses incurred of Agency
2. If gross aggregate commission should be less then Rs. 60000 during previous year.

Commission	Adhoc Deduction
1. Agent of LIC of	50% of commission
• First year's commission	
• Renewal commission	15% of renewed commission OR maximum limit 20000, whichever is less.
• When first year and renewal commission separate figures are not available	33 1/3% earned during the Previous Year
• Bonus commission	No Deduction allowed
2. Commission received by authorized agents of **unit trust of India**	50% of commission
3. Commission received by authorized agents of **Govt. & Post office securities**	50% of commission
4. Commission received by authorized agents of **notified mutual fund**	50% of commission

Income from Capital Gain

Meaning of capital gains (Sec. 45)

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

Definition of Capital Asset Sec-2 (14) -

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

Exception –

1. Though Property of any kind held by an assessee whether or not connected with his business/profession is included in the definition of 'Capital Assets' it does not include –

1. Stock in trade
2. Personal effect Assets (which is personally used by assessee and family member)
3. Agricultural land in rural area
4. Gold Bonds
5. Special Bearer Bonds — **Which is issued by Central Government**
6. Gold deposit bonds

2. Items included under capital gains Sec. -45

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

Types of Capital Gains

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

Short term capital asset

(i) Shares, securities, bonds, units are held by the assessee for not more than 12 months before transfer.

(ii) Assets on which deprecation has been allowed under the Income Tax Act, whether depreciable asset held by the assessee more or less 36 months.

(iii) Any other asset which is held by the assessee for not more than 36 months, e.g., land, building, precious metals, jewellery etc.

Long term capital asset

(i) Shares, securities, bonds, units held by the assessee for more than 12 months.

(ii) Other assets like building, gold, plot, land, jewellery etc. held by the assessee for more than36 months.

Computation of Short term capital gain/loss (For the Assessment Year 2015-16)

Sales consideration				....
Less – Aggregate amount of the following:				
(a)	Transfer Expenses (Advertisement). Brokerage, legal exp. etc)	....		
(b)	Cost of acquisition of the asset	....		
(c)	Cost of improvement	....	(-)........	
			Short term capital gain/less	....

Computation Of Long Term Capital Gain/Loss (For the Assessment Year 2015-16)

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

Formula:-

1. Calculation of Index cost of acquisition

(i) If assets acquired before 01.04.1981 by the Assessee

$$\text{Index Cost} = \frac{\text{Original Cost or fair market value on 1.4.1981 (which ever is more)} \times \text{Index for the transfer year 2014-15(1024)}}{\text{Cost inflation Index for 1981-82 (100)}}$$

(ii) If assets acquired on 01.04.1981 by the Assessee

$$\text{Index Cost} = \frac{\text{Cost of acquisition} \times \text{Index for the transfer year 2014-15(1024)}}{\text{Cost Inflation Index for the year in which the assets is acquired by the assessee}}$$

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

2. Calculation of Indexed cost of improvement

Formula:-

$$= \frac{\text{Cost of Improvement} \times \text{Cost Inflation index for the year in which the asset is transferred year 2014-15(1024)}}{\text{Cost Inflation Index for the year in which Improvement to the asset took place.}}$$

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

Exemption of Capital Gains

Exemptions are of two types

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

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

B. Capital gains exempt from tax – Under section 54 to 54H

(i) Residential property converted in new residential property (Sec.54) within 3 years or before 1 year or after 2 years	Cost of new land **or** capital gain (which ever is less)
(ii) Agricultural land transferred and another agricultural land purchased within 2 year (Sec. 54B)	Cost of new land **or** capital gain (which ever is less)
(iii) Compulsory acquisition of land and building of industrial undertaking (Sec. 54D)	Cost of new land building **or** capital gain (which ever is less.)
(iv) Capital gain is invested in notified bonds (Sec. 54EC) NABARD, Rural Electrification Corporation Bonds, National Highway Authority of India etc.	Invested amount within 6 months
(v) Other capital gains invested in residential property (Sec. 54F) $= \frac{\text{Capital gain x Cost of new house}}{\text{Net consideration}}$	Proportionate Exemption
(vi) Shifting of industrial undertaking from urban area to other area (Sec. 54G) or SEZ (Sec. 54GA)	Upto the cost of new industrial assets.
(vii) Capital gain on transfer of residential house property (sec.54GB)- w.e.f. of A.Y. 2014-15 a new exemption is available to an individual or a HUF in respect of LTCG gain. If assessee invest net consideration or part in equity shares before due date of furnishing the return, in eligible company it least 5 year he shall entitled exemption as under_ $\frac{\text{Invested amt in new equity share}}{\text{Net consideration}} = \text{*capital gain}$	Calculated Amount

Tax on Capital Gains

- Long-term capital gains are taxable at special rates for each type of assessee –
  a. 10% tax on long-term capital gain arising from transfer of securities. bonds, units, debent
  b. 20% on other long term capital gains.
- Short-term capital gains are taxable at normal rates but Short term capital gain ce transfer of equity shares or units sold through Stock Exchange and Securities transaction tax paid, it will be taxable at concessional rate 15%.
  Add : Education cess @ 3% on tax payable.

Important points should be kept in view

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

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

such property will be determined from the date of property acquired by the previous owner not the date of gift.

- Though the period of holding is determined on the basis of the date of acquiring the property by the previous owner but when we calculate the indexed cost of the asset then index will be taken for the year in which the assessee became the owner of the said property.

Calculation of cost of Original Shares & Bonus Shares

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

1. **<u>If original shares acquired before 1 April, 1981</u>**
   The cost of actualisation will be taken-
   Actual Cost of original shares
   or
   market value on 1.4.81, whichever higher is cost
2. **<u>If the original shares acquired after 1 April, 1981</u>**
   Cost of actualisation will be actual cost
3. **<u>If the bonus shares acquired before 1st April, 1981</u>**
   Cost of Bonus Shares – Market value on 1 April, 1981
4. **<u>If the Bonus shares acquired after 1 April, 1981</u>**
   cost of Bonus Shares – Nil

Income from other sources

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

<u>COMPUTATION OF INCOME FROM OTHER SOURCES</u>

S.No.	Items	Taxability
1.	Dividend on shares	
	(i.) Dividend from domestic company (ii.) Dividend from units (iii.) Dividend from non domestic company or co-operative society	Exempt Exempt Taxable as it is
2.	Interest on securities	
	(i.) Interest on tax free Govt. securities (ii.) Interest on less tax Govt. securities (iii.) Interest on commercial securities	Exempt Taxable as it is
	(a) If gross interest is given (b) If interest is given net and amount is more than Rs. 5,000 on listed debentures (c) Interest on tax free commercial securities (i) Listed debentures of a company	Taxable as it is <u>Int. x 100</u> Gross 90 <u>Int. x 100</u>

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

Calculation of Income from Sub-tenant

Rent received from sub-tenant Less – Expenses allowed : (i) Rent paid by the assessee for the part which is sub let out (ii) Repairs and other expenses paid by the assessee	 ……………	……………

regarding such part	…………	(-)………….
Income from sub tenant		……………..

Interest on National Saving Certificate

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

Income of minor

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

Income of cricketers

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

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

Receipts of gifts without consideration

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

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

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

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

Government Securities

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

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

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

Exempted Income

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

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

Unit – IV
Set Off and Carry Forward of Losses

Income tax is levied on the total income of any assesee of previous year, Gross total income is calculated by aggregation the income of the assessee under different sources of income falling under one head of income and then all the heads of income are put together to find out the net result in the shape of cross total income. It is not necessary that every source shall result into a profit every year. The provisions regarding set off and carry forward can be discussed under two categories below-

1. Set off of losses
2. Carry forward and set off of losses

Set off of losses

Computation of total income is to lump together all sums of income falling under one head and then all heads are pooled to find the net result in gross total income. It, therefore, follows that where the net result in respect of any source is a loss, it can be set off against profit in respect of another source of income under the same head. The provisions regarding set off and carry forward one discussed below-

1. **Set off under the same head (Sec-70) –** Set off loss from one source against income from other sources under the same head of income is first step of set off of losses. It is called inter source adjustment. Inter source adjustment is allowed only in case of loss from income from house property, loss from normal business, loss in respect of interest income.

   Exceptions- In the following cases loss from one source of income although it falls under the same head-

   i. Loss from speculation business
   ii. Long term capital loss
   iii. Loss from the activity of owing and maintaining race houses (sec 74 A)
   iv. Loss cannot be set off against winnings from lotteries, cross word puzzles etc.
   v. Loss from a source which is exempt.

2. **Set off against income other heads (Sec. 71) –** Set off loss from one head against the income of another head in the same assessment year. Inter-head adjustment is discussed under sec -71. Where the net result of the computation under any head of income in respect of nay accounting year is a loss, the assesee shall be entitled to have such amount of loss set off against his income assessable for this assessment year under any other head of income.

Exemptions- The following losses cannot be set off against the income of other heads or a particular head-

i. Loss of normal business
ii. Loss in a speculation business
iii. Loss from the activity of owing and maintaining race horses.
iv. Loss under the head "capital Gain"

Carry forward and set off of losses

If it is not possible to set off the losses in the same assessment year in which they accurred so much at the loss as has not been so set off out of the following losses can be carried forward for being set off against his income in the succeeding years. All losses are not allowed to be carried forward. The following losses are only allowed to be carried forward and set off in the subsequent assessment years-

1. Loss under the head :income from house property" (Sec 71) B
2. Loss of non-speculation business or profession (Sec 72)
3. Loss of speculation business (Sec 73)
4. Short term capital loss/ long term capital loss. (Sec 74)
5. Loss from activity of owing and maintaining race horses. (sec 74 A)

6. Unabsorbed Depreciation (Sec 32 (2))

Submission of return for losses (Sec 80)
It is necessary for the assessee to file the return of loss voluntarily if he desires to have the benefit of carry forward.
Order in which current and brought forward losses are to be adjusted-
As per Sec. 72 business loss does not include unabsorbed depreciation, unabsorbed Capital expenditure on scientific research and family planning. Therefore they can also be carried forward. The current years business loss should be set off before setting off unabsorbed depreciation etc. such carries forward business loss will be set off against business head only after the current year's depreciation current capital expenditure on scientific research and capital expenditure on family planning have been claimed. Therefore, the order of set off will be as under-

1. Current year capital expenditure on scientific research and capital expenditure on family planning to the extent allowed
2. Current year depreciation
3. Carried forward business or profession losses
4. Unabsorbed expenditure on family planning
5. Unabsorbed depreciation
6. Unabsorbed capital expenditure on scientific research.

Chart shows the rules for set off and Carry forward of losses

Heads of Income	Set off Losses during current previous year	Carried forward and set off in subsequent years.
1. Loss from house property (Whether self occupied or rented)	Firstly setting off against another house property income and if required, from another heads of income.	Any income under the head Income from House property upto 8 subsequent assessment years.
2. Non speculation business loss	Firstly setting off against another business income and if business income is not sufficient then another heads of income, except income from salary	Any income under the head "Income from Business or profession" upto 8 subsequent assessment years.
3. Speculative business loss	Only against another speculating profit, if any	Only against speculative income under the head "Income from business or profession" upto subsequent 4 assessment years.
4. Short term-capital loss	Any Income under the head "Capital gain" either short-term or long-term.	Any income under the head 'Capital gains" upto subsequent 8 assessment years
5. Long term capital loss	Only against long-term capital gain	Only against long-term 'Capital gains' upto subsequent 8 assessment years.
6. Loss from the activity of owing and maintaining race horses	Only against income from the activity of owing and maintaining race horses.	Only against income from the activity of owing and maintaining race horses upto subsequent 4 assessment years.
7. Unabsorbed depreciation of any period		Unabsorbed depreciation can be set off against income of any head (except salary income) there is no time limit for set off

Income	**Salary**	**House Property**	**Business/Profession Income**		**Capital Gains**		**Other sources**		
			Non-Speculative	Speculative	Long term	Short term	Owing and maintenance of race horses	Winnings from lotteries crossword puzzles, cards etc.	others

Loss from house Property

Income									
Loss under the head house property	✓	✓	✓	✓	✓	✓	✓	✓	✓

Loss from business/professional income

Income									
Speculative business loss	x	x	x	✓	x	x	x	x	x
Other business or professional loss	x	✓	✓	✓	✓	✓	✓	x	✓

Loss from capital gain

Income									
Long term capital loss	x	x	x	x	✓	x	x	x	x
Short term capital loss	x	x	x	x	✓	✓	x	x	x

Loss from other source

Income									
Loss from owing and maintenance of race horses	x	x	x	x	x	x	✓	x	x
Loss from card games etc.	x	x	x	x	x	x	x	✓	x

Step 3 - Carry forward of losses:
If still the losses cannot be set-off fully through inter head adjustment, they can be carried forward to the next years. However, the loss so carried forward can be set-off only against same head of income, i.e. the benefit of "inter-source'

Adjustment is lost.

Nature of Loss	Number of years	To be set-off against
Loss from house property	8	Income from house property
Business loss (non-speculative)	8	Income from business/profession (non speculative)
Speculative business loss	4	Income from speculative business
Loss from activity of owning and maintaining of race horses	4	Income from same activity
Short term capital loss	8	Short term or long term capital gains
Long term capital loss	8	Long term capital gains

Clubbing of Income and deemed incomes

In addition to the general provisions which are applicable to the computation of total income and assessment of an assessee, there are special provisions in the income tax Act which are designed to counteract the various attempts which an individual may make for avoiding/ reducing his liability to tax by transferring his assets/ income to other person/ persons while at the same time retaining certain power over, or interest in the property or its income. These provisions are under sec-60 to 69 of the income Tax Act.

Clubbing of Income-

Clubbing of Income mean income of other persons included in assessee's total income under same special circumstances provisions related to clubbing of income aggregation of income are as under-

1. Transfer of Income where there is no transfer of assets (Sec. 60)
2. Revocable transfer of assets (Sec. 61)
3. Transfer irrevocable for a specified period (Sec. 62)
4. (a) Income of spouse (Sec 64) (i) (ii)
   i. Income to spouse from a concern in which such individual has substantial interest
   ii. Where husband and wife both have a substantial interest

   (b) Income to spouse from the assets transferred Sec. 64 (i) (iv)
5. Clubbing of income of minor child Sec 64 (1A)
   i. Minor's income will not be included
   ii. Exemption in respect of the income of minor (Actual income OR Rs. 1500 each child, whichever is less)
6. Income to son's wife Sec 64 (i) (vi)
7. Transfer for immediate or deferred benefit of son's wife sec 64 (I) (viii)
8. Income to spouse through a third person Sec. 64 (i) (vii)
9. Income from the converted property Sec 64 (2)

Note –

1. Income from capital property to spouse after partition shall be included in the income of the individual and this income shall be excluded from the total income of the family/ spouse as the case may be.
2. Clubbed income will be included under same head.
3. The tax on the income of the other person which has been included in the income of the assessee can either be recovered from the assessee or from the other person. The liability of other person is limited to the portion of tax leived on the assessee which is attributable to the income so included. His liability arises after the service of a notice of demand by the assessing officer in this behalf.

Certain Amounts deemed as income (69c)
Under section 68, 69, 69 A, 69 B, 69 D. Certain amounts are treated as the income of the assessee. Hence, while computing the total income of the assessee. Such amount shall be included in his income for income tax purposes.

1. Cash Credits (sec. 68)
2. Unexplained Investment (Sec. 69)
3. Unexplained money etc. (Sec. 69 A)
4. Under valued Investment or valuables (Sec. 69 B)
5. Unexplained expenditure (Sec. 69 C)
6. Amount borrowed or repaid on Hundi (Sec. 69 D)

DEDUCTIONS FROM GROSS TOTAL INCOME

(1) **80 C Deduction in respect of investment in LIP provided funds, NSC etc.:-** This deduction is provided to individual and HUF assesses **maximum** upto **Rs. 1.5 Lac** on their investments following items will be entitled for the deductions under this section:-

(i) LIP of spouse and children [upto 20% of sum assured]
(ii) Employees contribution in statutory PF.(SPF)
(iii) Employees contribution in Recognized PF (RPF)
(iv) Deposit in Public provided fund.(PPF)
(v) Exempted contribution Super annulations fund.(SAF)
(vi) NSC's and accrued interest or it.
(vii) Contribution to "ULIP" of UTI
(viii) Amount deposited in Public sector finance companies or housing Board.
(ix) Payment of principle value of housing loan.
(x) Investment in shares or debentures of infrastructure companies.
(xi) Amount deposited in National Housing Bank.
(xii) Education expenses paid for children.
(xiii) Amount deposited in fixed deposit for a period of 5 years or more in a scheduled bank.
(xiv) Contribution to employees insurance scheme of central government by an employee of central government.
(xv) Investment in Notified Bonds of NABARD
(xvi) Senior Citizen saving Scheme

Deduction:-

Total of above mentioned items
Or
Whichever is less

[If assessee is also entitled for the deduction of 80CCC and 80CCD, then, he'll get a maximum deduction of Rs. 1.5 lac in all these 3 deduction]

(2) **80 CCC Deduction in respect of contribution to pension fund set up by LIC or any other insurer:** Only **individual assessee** is entitled for this deduction upto Rs. 1 Lac.

(3) **80 CCD Deduction in respect of contribution on to pension scheme of central government:-** If a person **individual** is appointed as an employee of Central government on 1st Jan 04 or there the amount of gross salary for pension scheme and the same amount will be contributed by the central government also. Amount contributed by central government will be taxable under the head of salary but from the gross total income deduction will be allowed equal to the amount contributed by employer & employee u/s 80 CCD.

(4) **Deduction in respect of investment made under any equity saving scheme (Sec. 80 CCG)**
Amount of deduction –
The amount of deduction under section 80 CCG shall be –
   a. 50% of amount invested in equity share
      Or
   b. Maximum Rs. 25,000 which ever is less.

(5) **80 D Deduction in respect of medical insurance premium:-** This deduction is allowed upto Rs. 15,000 for premium paid by **individual and HUF assesses** but if premium is paid for a person aged 60 years and above, an additional deduction of Rs. 5000 will be allowed, it means that maximum deduction will be Rs. 20,000.

(6) **80 DD Deduction is respect of expense of deposit for maintenance of handicapped dependent:-** Under this section**, individual & HUF assesses** will be entitled for a standard Deduction Rs. 50,000. In case of server disability, [More than 80%] SD will be Rs. 100,000.

(7) **80 DDB Deduction in respect of medical treatment of specified diseases:-** This deduction will be allowed to **individual & HUF assesses** upto Rs. 40,000 (In case of persons aged 60 years or above, Rs. 60,000)

(8) **80 E Deduction in respect of payment of interest of higher education loan for individual :- Actual amount of interest is deductible.**

(9) **80 G Deduction in respect of donation given to recognized charitable institutions and funds:-** This deduction is allowed to **assesses to all categories** for such donation given by them to charitable institution funds situated in India which are given in monetary form only.
This deduction can be divided into 4 categories:-

(a) Without Limit 100%
- (i) P.M. National relief fund
- (ii) Armenia earth quake relief fund
- (iii) Africa Fund
- (iv) National foundation for communal harmony.
- (v) Recognised education institutions and universities
- (vi) Maharastra C.M earthquake relief fund.
- (vii) Andhra Pradesh CM cyclone relief fund.
- (viii) C.M. or governor relief fund.
- (ix) District literacy committee
- (x) Army welfare fund
- (xi) National defence fund

(b) **Without limit 50%**
- (i) P.M. Draught Relief fund
- (ii) National children fund
- (iii) J.L. N Memory fund
- (iv) Indira Gandhi Memorial fund
- (v) Rajeev Gandhi foundation.

(c) Under Limit 100% [100% of Qualifying Amount]
- (i) Donation to central or state government for family planning programs

(d) Under Limit 50% [50% of Qualifying Amount]
(i) Donation to Approved charitable institutions.

(ii) Donation to any notified temple,mosque,gurudwara,church or other place for renovation or repair
(iii) Donation by a company to the Indian Olympic association or any other notified games and sports institution.
(iv) Donation to an authority for the purpose of housing accommodation or planning development of towns & villages.

Here, the terms under limit means the Qualifying amount (Q.A.) which will be calculated as under :-

Q.A. ➔

10% of adjusted gross total income
or
Actual donation

Whichever is less

Adjusted gross total income = GTI – LTCG - deduction u/s 80c to 80u (except Sec. 80G)

(10) **80 GG Deduction in respect of rent paid for house:-** This deduction is provided to such individual assesses who are living in a rental house and who are not getting accommodation facility/House rent allowance from their employer. Deduction is calculated as :-

(i) 25%of adjusted Gross total income
(ii) Rent paid – 10% of adjusted total Gross income
Or
(iii) Rs. 2000 P.M.

Whichever is less

(10) 80 GGA Deduction in respect of donation toScientific research:- Every person who has no income from business
is intitled for 100% this type of donation.

(11) 80 GGB/80 GGC Deduction in respect of donation to political parties:- Company assessee are entitled under Sec.
80 GGB and other assesses u/s 80 GGC for deduction in respect of donations given to PP.amount of donation is **deductible**

(12) 80 IA Deduction in respect of profits of industrial undertakings engaged in infra – structure industry:- As such this deduction is allowed for all the assesses but here we are going to discuss the provisions regarding assessee other than company assessee.

(i)	Telecommunication Services :- 1st five years	-	100%
	Next five years	-	30%
(ii)	Inquisitorial Park :- Consecutive any 10 years out of first 15 years	-	100%
(iii)	Power undertakings engaged in generation and distribution consecutive any 10 years out of first 15 years	-	100%
(iv)	Undertakings engaged in infra structure development	-	not entitled

(13) 80 IB :- Deduction in respect of profits of newly established industry, hotels etc.:

Table: Eligible undertakings and Rates of deduction under section 80 – IB

Undertaking	Period in which production started or starts	Company (Rate and period of deduction on profits)	Other assessee (Rate and period of deduction on profits)
1. Industrial undertaking in J & K state	1.4.93 to 31.3.12	First 5 years 100% next 5 years- 30%	First 5 years 100% next 5 years 25%
2. Cold chain facility for agricultural produce	1.4.99 to 31.3.2004	First 5 years 100% next 5 years 30%	First 5 years 100% next 5 years 25%
3. Scientific research and development company	3. 1.4.2000 to 31.3.2007	First 10 years 100%	N.A.
4. Production or refining of mineral oil	1.4.1997 or onwards	100% for 7 years	100% for 7 years
5. Housing project	1.10.98 to 31.3.2007	100% of profit	100% of profit
6. Integrated business of handling, storage and transportation of food grains	on or after 1.4.2001	5 years - 100% next 5 years 30%	first 5 years 100% next 5 years 25%
7. Multiflex Theatres and of Convention Centres	1.4.2002 to 31.3.2005	5 years 50% of profit	5 years 50% of profit
8. Hospital in rural area (capacity minimum 100 beds)	1.10.2004 to 31.102008	5 years 100% of profit	5 years 100% of profit
9. Agro processing industry	From the A.Y. 2005-06 and onwards	5 years 100%	5 years 100%
10. Hospital located anywhere	1.4.08 to 31.3.13	First 5 years 100%	First 5 years 100%

Attention Please- Deduction for profits of undertakings covered u/s 80-1A and 80-1B set up or started before 1.4.04 is not allowable for the assessment year 2014-15, because period of deduction (10 years) is expired before 1.4.2013.

(14) 80 IC Deduction in respect of undertakings established
in H.P., Sikkim, uttarakhand, and North eastern state:- upto first 10 years 100%

(15) 80 QQB Deduction in respect of royalty income of authors:-
Max Rs. 3,00,000.or actual royalty income (which ever is lower)

(16) 80 RRB Deduction in respect of royalty income on patents :-
Max Rs. 3,00,000.or actual royalty income (which ever is lower)

(!7) 80 U: - Deduction in case of a person with disability :–
Standard Deduction of Rs. 50,000. (if disability up to 80%)
Higher Deduction of Rs 75,000. (if disability over 80%)

UNIT-V

Assessment of Individuals

Computation of Total Income of an Individuals

[Assessment Year 2015-16]

1) Income from Salaries		
(a) Basic salary, bonus, commission, D.A. And	-------------	
(b) Taxable perquisites (House, Gas-electric, Servents etc.)	-------------	
(c) Any other receipt from employer	-------------	
Gross salary		
Less-Deduction u/s 16		
(1) Entertainment allowance (Govt. employee up to 5000, Non Govt.-Nil) ---------------		
(2) Professional Tax (Actual amount) ---------------	(-)-----------	
Income from Salary (Taxable)	-------------	----------------
2) Income from House Property		
A) **Self occupied House** :-	Nil	
Gross Annual Value		
Less-Interest on loan [if the loan is obtained]		
(i) Before 1.4.99 Actual interest or Rs.30000 ,whichever is less		
(ii) After 31.3.99 Actual interest or Rs.200000 ,whichever is less		
(iii)Loan for repair or renovation- Actual interest or Rs.30000 whichever is less	(-) ----------	
Income from S.O. House (Loss)		
B) **Let out House :-**	----------	
Gross Annual Value (municipal value or fair rent or actual rent- whichever is more)	(-) ---------	
Less - Municipal Taxes	--------------	
Net Annual Value		
Less - Deductions u/s 24		
(i) Standard deduction (30% of NAV) -----------	(-) ---------	
(ii) Interest on Loan -----------	-----------	
Income form L.O. House	-------------	----------------
Income from House property (Taxable)		
	(+) ---------	
3) Income from Business	(-) ---------	
Net profit as per P & L A/c	(-) ---------	
Add - Disallowed Expences recorded in P&L a/c	(+) ---------	

Less - Allowed Expenses but not debited in P & L A/c		
Less - Other Income not taxable under business head	--------------	
Add - Allowed income but not credited in in P&L a/c		

Income from Business (Taxable)		
4) Income from Capital Gains:-		
A) Short – Term :-		
Sale Consideration	----------	
Less - Selling Expenses ----------		
Cost of Acquisition ----------		
Cost of Improvement ----------		
S.T.C.G.	(-) ----------	
B) Long Term :-	----------	
Sales Consideration		
Less - Selling Expenses ----------	----------	
Indexed Acq. Cost ----------		
Indexed Imp. Cost ----------		
L.T.C.G.	(-) ---------	
Income from Capital Gains (Taxable)	----------	
5) Income from other sources:-		--------------
(i) Dividend [Exempted u/s 10(34)]		
(ii) Interest on Government Securities		
(iii) Director's fees or remuneration	-(+)---------	
[If appointed due to holding of HUF]	(+)---------	
(iv) Lottery [If ticket is purchased in the	(+)---------	
name of HUF]		
(v) Royalty	(+)---------	
(vi) Subtenant income		
	(+)---------	
	(+)---------	
Income from O.S. (Taxable)		
Gross Total Income	----------	-------------
Less:-		
Deduction u/s 80 C		--------------
Deduction u/s 80 D		
Deduction u/s 80 DD	--------------	
Deduction u/s 80 DDB	--------------	
Deduction u/s 80 E	-------------	
Deduction u/s 80 G	-------------	
Deduction u/s 80 GGC	-------------	
Deduction u/s 80 I-A	-------------	
Deduction u/s 80 I-B	-------------	

Total Income	-------------	(-)---------

Tax rates for Individual (Assessment Year 2015 – 16)

(A) Tax @ 20% on LTCG			----------
(B) Tax @ 30% on casual Income			----------
(C) Tax on other incomes			
→ Up to Rs. 2,50,000	Nil		
→ On Next Rs 2,50,000	10%	------	
→ On Next Rs. 5,00,000	20%	------	
→ Above Rs 10,00,000	30%	------	----------

Add:- 3% Educational Cess		**Total Tax**	(+)---------
Less:- T.D.S.			**(-)----------**
	Total Tax Payable		------------

Note:-

1. Special procedure for tax calculation if an individual assessee is -

(a) Senior citizen (60 years or more)-

Up to Rs. 3,00,000 Tax liability will be Nil, thereafter tax calculated at normal rates.

(b) Super senior citizen (80 years or more)-

Up to Rs. 5,00,000 Tax liability will be Nil, thereafter tax calculated at normal rates.

If the assessee has agricultural income exceeding Rs.5000, tax will be calculated in a special manner.

RATE OF TAX DEDUCED AT SOURCE
Effective from 1.4.2014 to the date on which new TDS
Rates applicable as per new Budget (2014-15) passed
(In case of payment to Individuals, HUF, Firms, Companies etc.)

S.No	Items of Income	Rate of TDS
1.	Rent (if gross rent is more then Rs 1,80,000)	10%
2.	Interest on securities other then Govt. Securities	10%
3.	Interest on company debentures listed or unlisted (amount exceeding Rs. 5,000)	10%
4.	Other interest (if amount is over Rs. 5,000)	10%
5.	Lottery (if the prize is more then Rs. 10,000)	30%
6.	Horse Race (if winning amount is more then Rs. 5,000)	30%
7.	Payment to contractors (Individuals)	1%
8.	Payment to contractors (Other then individual)	2%
9.	Insurance commission (If the commission is more then 20,000)	10%
10.	Commission on sale of lottery tickets	10%
11.	Interest on bank deposits (if total interest credited or paid is more then Rs. 10,000)	10%
12.	Professional fees (if the fees is in excess of Rs. 30,000)	10%
13.	Commission and brokerage (more then Rs. 5,000)	10%

Other important points regarding TDS

The following points should be kept in view in respect of deduction of tax at source-

1. Certificate for tax deducted at source shall be furnished to the concerned payee within the time. Form No. 16 applies in respect of salaries and Form No. 16A applies in other cases.
2. Once deduction is made, the amount deducted shall be remitted to the credit of the Central Government as required u/s 200. Otherwise, prosecution u/s. 276B shall lie.
3. If any person responsible to deduct tax at source does not deduct or after deducting fails to pay the tax as required, he shall be liable to pay simple interest at 1.5% per month on the amount of such tax from the date on which tax was deductible to the date on which such tax is actually paid.
4. Every person deducting tax shall apply to the assessing officer for allotment of tax deduction account number.
5. Persons deducting tax are required to quarter prescribed returns in prescribed time after the end of each quarter year. Various forms numbered as Form No. 21 to Form No. 27 prescribed apply in this regard.

ADVANCE PAYMENT OF TAX

MEANING: 'Pay as you earn' scheme means that assessee has to pay tax simultaneously along with the earning of his income. This tax is paid on the current year's income in the same year. In fact, it is paid as advance and it is called 'Advance payment of tax'.

PROVISION OF ADVANCE PAYMENT OF TAX

1. Liability for payment of advance (Section 207): Advance tax shall be payable during any financial year in respect of the total income of the assessee which would be chargeable to tax for the assessment year immediately following that financial year, and it shall be called 'Current Income'.

2. Conditions of liability to pay advance tax (Section 208): Advance tax shall be payable during the financial year in every case where the amount of such tax payable by the assessee during that year is Rs. 10,000 or more.

3. Computation and payment of advance tax by the assessee (Sec.209):
The amount of Advance Tax will be computed on current year's income as under

COMPUTATION OF TOTAL INCOME
ASSESSMENT YEAR 2015-16 (FINANCIAL YEAR 2014-15)

Income from Salary	----------------
Income from House Property	----------------
Income from Business/ Profession	----------------
Income from Capital Gain	----------------
Income from Other Sources	----------------
Gross Total Income	----------------
Less: Deduction u/s 80 (C) to 80 (U)	----------------
Total Income	----------------

Note: - For the current financial year (2014-15) agricultural income in India shall be considered at the time of tax computation. If such income is more than Rs. 5000 and Total Income of the assessee is more than exempted limit.

COMPUTATION OF TAX LIABILITY

(a) 20% Tax on Long term Capital Gain			
(b) 30% Tax on Income from Lottery Ticket, Horse Race			xxxx
(c) Tax Slab applicable on Remaining Income			xxxx
(i) In the case of an individual or HUF or AOP or BOI:-			xxxx
On Rs. 2,50,000	Nil	xxxx	
Next on Rs. 2,50,000	@ 10%	xxxx	
Next on Rs. 5,00,000	@ 20%	xxxx	
Next - Balance	@ 30%	xxxx	
(ii) Individual - Senior citizen whose age above 60 year during P.Y.			xxxx
On Rs. 3,00,000	Nil	xxxx	
Next on Rs. 2,00,000	@ 10%	xxxx	
Next on Rs. 5,00,000	@ 20%	xxxx	
Next - Balance	@ 30%	xxxx	
(iii) Individual super Senior citizen whose age above 80 year during P.Y.			xxxx
On Rs. 5,00,000	Nil	xxxx	
Next on Rs. 5,00,000	@ 20%	xxxx	
Next - Balance	@ 30%	xxxx	
Add: 3% Education cess			xxxx
Gross Tax Liability			xxxx
Less: Tax Deducted at Sources			xxxx
			xxxx
Net Tax Liability			xxxx

4. Computation by Assessing Officer(Sec. 210) : The Assessing Officer will take the total income of the latest assessed previous year or the total income returned by the assessee for any subsequent previous year, whichever is higher. On such income, income tax will be calculated at the rates in force in the F.Y.

5. Due dates for payment of advance tax: (Sec. 211)

(a) For all other assessees (other than corporate assessees) - The installments are indicated below:

Due date of installments	Amount payable
On or before	
(1) 15th September	Not less than 30% of such advance tax.
(2) 15th December	Not less than 60% of such advance tax, as reduced by 30% the amount, if any, paid in the earlier installments.
(3) 15th March	The whole amount of such advance tax as reduced by installment or installments.

(b) In the case of corporate (company) assessees

Due date of installments	Amount payable
On or before	
(1) 15th June	Not less than 15% of such advance tax.

(2) 15th September	Not less than 45% of such advance tax, as reduced by the amount, if any, paid in the earlier instalments.
(3) 15th December	Not less than 75% of such advance tax, as reduced by the amount, if any, paid in the earlier instalments.
(4) 15th March	The whole amount of such advance tax as reduced by the amount or amount or amounts, if any, paid in the earlier instalments or instalments.

6. Payment of Advance tax in case of capital gains/Casual income –
Generally it is unexpected income. So, If any such income arises after the due date of any instalment then the entire amount of tax payable (After TDS) on such capital gain/casual income should be pain with the remaining instalments of advance tax.
7. Increases or Reduce the amount of Advance tax –
If the amount of advance tax is changes at the end of the year than assessee should be adjust the tax amount with the remaining instalments of Advance tax..
8. Interest for defaults in payment of advance tax- Sec. 234 B: An assessee who is liable to pay advance tax has failed to pay such tax, or where the advance tax paid u/s 210 is less than 90% of the assessed tax, he shall be liable to pay simple interest @ 1% for every month or part of a month.
9. Interest for deferment of advance tax - (Sec. 234C) :
If an assessee has not paid advance tax or under estimated instalments of advance tad, interest is to be computed on the following basis-

In case of a non-corporate-assessee, interest under section 234 C is payable as follows-

(a) If advance tax paid upto 15th Sept. is less than 30% - Simple interest @ 1% on difference amount (30% of total tax - tax deposited) for 3 months.
(b) If advance tax paid upto 15th Dec. is less than 60% - Simple interest @1% on difference amount (60% of total tax & tax deposited) for 3 months.

1	Association of Person	Principal officer/any authorised member

PERMANENT ACCOUNT NUMBER (PAN) [Sec. 139A1

Income Tax department issues Permanent Account Number to every assessee and other persons who are requires to get PAN under Income Tax Act. It is a ten Digit Number who identify the person. The provisions of section 139A are given below-

Allotment of permanent account number

The provisions regarding allotment of permanent account number are given below-

Who has to obtain a permanent Account Number

The following persons are required to obtain a permanent account number –

1. If income exceeds exemption limit or turnover exceeds 5,00,000 – Every person, if his total income assessable during the previous year exceed the maximum amount which is not charegable to tax or any person carrying on business or profession whose total sales, turnover or gross receipts are or is likely to exceed Rs. 5,00,000 in any previous year.
2. Charitable Trust – A person who is required to furnish return of income under section 139(4A) (i.e., charitable trust) is required to obtain permanent account number.
3. Employer – Every employer, who is required to furnish a return of fringe benefits under section 115WD and who has not been allotted a permanent account number, shall apply to the Assessing Officer for allotment of a permanent account number.
4. Person Specified by the Central Government- The Central Government has specified the following persons who shall apply to the Assessing Officer for the allotment of a permanent account number –

S.No.		Time limit for application
1.	Exporters and importers who are required to obtain an importer exporter port code.	Before making any export of import
2.	Assesses as defined the Central Excise Rules	Before making any application for registration under the Central Excise Rules
3.	Persons who issue invoice requiring registration under the Central Excise Rules	As given above
4.	Assessees relating to service tax	Before making an application for registration under the Service Tax Rules

Where the Permanent Account Number should be Quoted

Every person shall quote his Permanent Account Number in all documents pertaining to the transactions specified below, namely –

1. Sale or purchase of any immovable property valued at Rs. 5 lakhs or more.
2. Sale or purchase of a motor vehicle or vechicle, which requires registration by a registering authority.
3. A time deposit, exceeding Rs. 50,000, with a banking company applies;
4. A deposit exceeding Rs.50.000 in any account with Post Office Saving Bank.
5. A contract of a value exceeding Rs. 1 lakh for sale or purchase of securities
6. Opening an account with a banking company applies (but other then time deposit account) ;
7. Making an application for instalation of a telephone connection (including a cellular telephone connection).

8. Payment to hotels and restaurants against their bills for an amount exceeding Rs. 25,000 at any ont time.
9. Payment in cash for purchase of bank drafts or pay orders or banker's cheques from a bank for an amount aggregating Rs. 50,000 or more during any one day.
10. Deposit in cash aggregating Rs. 50.000 or more during any one day, with a bank.
11. Payment in cash in connection with travel to any foreign country of an amount exceeding Rs. 25,000 at any one time.
12. Making an application to any banking company or to any other company or institution, for issue of a credit card.
13. Payment of an amount of Rs. 50,000 or more to a Mutual Fund for purchase of its units.
14. Payment of an amount of Rs. 50.000 or more to a company for acquiring shares issued by it.
15. Payment of an amount of Rs. 50.000 or more to a company or an institution for acquiring debentures or bonds issued by it.
16. Payment of an amount of Rs. 50.000 or more to the Reserve Bank of India, for acquiring bonds issued by it.

TYPES OF ASSESSMENT

1. Self Assessment [Sec. 140 (A)]
On the basis of return is being filed u/s 139/in response to notice u/s-142 (1)/ u/s-148/ u/s-158 BC, The Assessee is required to compute the tax payable by him after considering TDS or advance tax. Interest payable for delay in filling return/default in advance tax payment and the proof of payment shall be attached thereto.

2. Summary Assessment (Sec. 143 (1)]
An assessing officer can complete the assessment without calling the assessee and without passing a regular assessment order on the basis of return filed by the assessee.
(i) Acknowledgement of the return shall be deemed to be the intimation u/s 143 (1) where either no sum is payable/no refund is due.
(ii) If any tax or interest is found due on basis of return filed after adjustment then intimation shall be sent to the assessee specifying the sum. So payable with in 2 years.
(iii) If any refund is due on the basis of such return, it shall be granted.

3. Assessment on the basis of evidence (u/s 143 (3))
On the day specified in the notice issued or as soon afterwards as may be, after hearing such evidence as assessee may produce or on such evidence as assessing officer may require on specified points and after taking into accounts all relevant material which he has gathered, the assessing officer shall, by an order in writing, make an assessment of the total income or loss of the assessee and determine the sum payable by him on the basis of such assessment.

4. Best Judgments Assessment (Sec.-144)
If the assessee does not submit return of income or does not furnish the accounts etc. then assessing officer is assess the tax without any compliance by assessee on his notice and done by him on the basis of information available with him about assessee, using the best of his judgement. This is known as expertly assessment.

Two types of this assessment-
(a) Compulsory best judgements assessment.

(b) Discretionary best judgement assessment.

(a) Compulsory Assessment-
This type of assessment shall be made by the assessing officer in case of non co-operation of assessee or when assessee is in default as regards supplying information. The following circumstances shall be made for compulsory assessment.

- Fails to file my return u/s 139 (1)/belated/revisal return.
- Fails to comply with all the terms and conditions of notice issued by assessing officer u/s 142.
- Falls to get the accounts audited by an accountant nominated by commissioner/fails to submit a report within time.
- Having filed a return but fails to comply with all terms & conditions of notice.

(b) Discretionary Assessment-
The assessing officer to make this type of assessment in case where he is not satisfied-

(i) Where no method of accounting has been regularly and consistently employed by the assessee.

In above condition, computation of total income shall be made by A.O. on such basis & in such manner as the A.O. may determine.

Important Points-

- Assessee becomes liable to penalties/fine u/s -271/u/s 276cc/276D.
- Assessee is prevented from bringing or record any new facts before the appellate authorities.
- This assessment can only be made after giving an opportunity of being heard to assessee.
- A refund cannot be granted u/s 144.
- In this assessment, assessee has a right to file an appeal u/s-246 for revision.
- Assessing officer should work honestly.

5. Re-Assessment (Sec-147)/Income escaping assessment - It the assessing officer has reasons to believe that any income chargeable to tax has escaped assessment for any assessment year. He may reassess the income/loss/depreciation allowed in following cases-

(1) No return of income has been furnished.
(2) An assessee already taken or claim for excessive loss, deduction etc., in return
(3) Income chargeable to tax has been under assessed/at too low rate.
(4) Excessive relief was taken in return.
(5) Notice is issued by assessing officer to an assessee where income has escaped assessment (Sec. 148).
(6) Time limit for notice issued is within 4 years from the end of A.Y. when escaped any income is less than Rs. 10000 otherwise within 6 years when escaped income is more than Rs. 100000.

Within 30 days of giving notice assessee have to submit a return of income & Assessing officer have to maintain record for the reason of notice.

Rectification of Mistake (Sec. 154)
After the assessment of tax by assessing officer, he found any mistake in assessment, he can rectify in assessment with in 4 years after A.Y. in two conditions -

1. Rectify the assessment on his own motion.
2. Rectify when assessee intimate or give notice to assessing officer.

3. If assessment is in Appeal and when appellate officer of income tax.
4. Order of rectification given by whose officer who given order already in previous lowest or highest authorites cannot give order for rectification.
5. After the rectification of error if any liability of assessee in increase or decrease of refund; then officer have to intimate to an assessee for tax liability and give an opportunity for hearing of an assessee.
6. u/s-154 an officer can rectify the mistake when the mistake shown separately & clearly and there is no need of investigation, checking & discussion.
7. In the following case an tax officer must be rectify mistakes - u/s 155
   (a) Remuneration paid to partner u/s 40(b).
   (b) Correction in Assessment of AOP.
   (c) Re-Computation of business loss/depreciation.
   (d) Withdrawal of investment allowance.
   (e) Withdrawal of development rebate
   (f) Expenditure on scientific research u/s 35 & assessee fails to furnish a certificate (2b).
   (g) Order levying additional income tax on a closely held company.
   (h) Withdrawal of Capital gain.
   (i) Exemption for capital gain u/s 54 (E) & 54 (f).

<u>TAX ADMINISTRATION: INCOME TAX AUTHORITIES</u>

Income tax is a direct tax levied by the Central Govt. of India. There is a large chain of Income tax authorities for assessment, collection and recovery of tax. I discussion about the appointment, powers, functions and jurisdiction of various income tax authorities is given as under-

INCOME TAX AUTHORITIES

The Income Tax Act has constituted the following classes of Income-tax authorities to ensure effective administration and discharge of executive and administrative functions-

1. The Central Board of Direct Taxes,
2. Directors-General of Income-tax or Chief Commissioners of Income-tax,
3. Directors of Income-tax or Commissioners of Income-tax or Commissioners Income-tax (Appeals),
4. Additional Directors of Income-tax or Additional Commissioners of Income-tax or Additional Commissioners of Income-tax (Appeals),
5. Joint Directors of Income-tax or Joint Commissioners of Income tax,
6. Deputy Directors of Income-tax or Deputy Commissioners of Income-tax or Deputy Commissioners or Income-tax (Appeals),
7. Assistant Directors of Income-tax or Assistant Commissioners of Income-tax,
8. Income-tax Officers,
9. Tax Recovery Officers,
10. Inspectors of Income-tax.

Appointment of Income-tax authorities

(1) The Central Government may appoint such persons as it thinks fit to be income-tax authorities.

(2) The Central Government may authorise the Board, or a Director-General, a Chief Commissioner or a Director or a Commissioner to appoint income-tax authorities below the rank of an Assistant Commissioner or Deputy Commissioner.

(3) An income-tax authority authorised in this behalf by the Board may appoint such executive or ministerial staff as may be necessary to assist it in the execution of its functions.

Central Board of Direct Taxes

In the administrative set up of the Income-tax department highest authority is the Central Board of Direct Taxes, constituted under the provisions of Central Board of Revenue Act, 1963. The Board functions under the control of Ministry of Finance, Government of India. Its jurisdiction is the whole of India.

The Central Government is empowered to appoint its members and the Government can increase the number upto a maximum of five. At present there are four members besides the Chairman. One of the members of the Board is appointed as its Chairman.

Powers of the CBDT

The whole of income-tax department is to be looked after by the Board. The Income Tax Act provides the following specific powers to the Board -

1. Delegation of powers
2. Formation of Rules
3. Issuing circulars and orders
4. Declare any association as a company
5. Determination of Jurisdiction
6. Issuing directions for the exercise of powers
7. Appointing income tax authorities
8. Authorisation for search and seizure
9. Obtaining information
10. Authorisation for appointment

ASSESSING OFFICER (ASSISTANT COMMISSIONER/INCOME TAX OFFICER)

The Assessing Officer is the most important authority in the organisation f Income-tax department. He is the primary authority to initiate proceeding and make assessment, He is the only authority to collect tax. He is the authority which comes into contact with the public.

Assessing officer shall exercise the following powers :

1. Power of Assessment- An Assessing Officer shall have the following powers while performing his functions:

(a) Power regarding self-assessment
(b) Power of making regular assessment and best judgement assessment under Section 144.
(c) Power to reopen an assessment in case income has escaped assessment/any fault.
(d) Power to treat a person as an agent
(e) Power to assess a person leaving India and income of person trying to alienate his assets.

2. Power to call for Information - The Assessing officer has the power to call for necessary information from a firm and H.U.F. The Assessing ask any points or matters for furnish statements of accounts and affairs verified in the prescribed manner.

3. Power of Search and Seizure - Assessing officer shall have the power of searching any building, place, vessel, vehicles or aircraft and seize books of accounts, other documents, money, bullion, jewellery or other valuable articles or things.

4. Power of Survey- An Income-tax authority may enter any place where business or profession.

5. Power of Checking- The Income-tax authority may require the person attending the business or profession to afford necessary facilities to inspect books of accounts or documents, and to check and verify the cash, stocks or other valuables which may be available at the place.

6. Power to Inspect Registers of Companies

7. Power of Civil Court- under the code of Civil Procedure 1908.

POWERS OF THE DIRECTOR-GENERAL, CHIEF COMMISSIONER AND COMMISSIONER

(1) Can issue orders that the powers and functions assigned to the Assessing Officer.
(2) May transfer any case from one or more Assessing Officers subordinate.
(3) May order requisition of books of authority under any other law.
(4) The Director- General or the Chief Commissioner or Commissioner or Joint Commissioner shall be competent to make any enquiry under this Act.
(5) Is authorised to sanction issue of a notice for re-assessment u/s 148 after the expiry of four years from the end of the relevant assessment year.
(6) The order of the Assessing Officer to withhold refund in certain cases is to be approved by the Chief Commissioner or Commissioner.
(7) May order the set-off the sum to be refunded against the sum, if any, remaining payable to him under this Act.
(8) The Chief Commissioner or Director-General has the power to approve the order of reduction or waiver of penalty imposed u/s 271(l)(c), issued by the Commissioner, the amount of me concealed or amount of inaccurate income furnished exceeds Rs. 5,00,000
(9) If authorised by the Central Government they may appoint income tax authorities below the rank of an Assistant Commissioner or Deputy Commissioner.
(10) If authorised by the Board, they may appoint any executive or ministerial staff as may necessary to assist them in the execution of their functions.

POWERS OF COMMISSIONER (APPEALS)

(1) The Commissioner (Appeals) shall have the same the Code of Civil Procedure, 1908, when trying a suit under this Act.
(2) The Commissioner (Appeals) shall have all powers to call for information u/s 133.
(3) The Commissioner (Appeals) may inspect or take copies of any register of members, debenture holders or mortgagees of any company.
(4) The Commissioner (Appeals) while disposing of an appeal shall have the following powers:
(a) In an appeal against an order of assessment, he the assessment;
(b) In an appeal against an order imposing a penalty, he may confirm, or cancel such order or vary it so as either to enhance or to reduce the penalty;
(c) In any other case, he may pass such order in the appeal as he thinks fit.

APPEALS AND REVISION

Income Tax Act 1961 provides a remedial measure to an aggrieved assessee in the form of appeal against the order issued by different Income Tax Authorities.

Appeal to the commissioner (Appeals)

Any assessee aggrieved by any order of a officer may appeal to the commissioner (Appeals) against such order provision of it –

1. **Appeasable order -**
   a. When assesses denies his liability
   b. An order imposing a five for alleged failure to attend in response to summons or give any evidence/documents.
   c. An order In relation to the assessed loss in self assessment /Best judgment assessment.
   d. An order for after rectification liability of tax is increased
   e. An order related to reassessment/Recalculation u/s 147 or 150.
   f. An order treating the assessee as the agent of non-resident
   g. An order an question of partition of a HUF.
   h. An order under which a person is treated as assessee in default for his failure to deduct TDS.
   i. An order relating to interest, payable by assessee for wrongful deferment of payment of advance tax.

j. Against an order imposing penalties for default in paying tax on self assessment./ Accounting/Auditing/information/signature/deny for checking to A.O.

2. **Form of appeal and limitation –**
   a. Every appeal shall be in form no. 35
   b. Appeal shall be presented within 30 days of order of penalty/ TDS/any other reasons.
   c. All due Tax should be paid before Appeal is filled.
   d. Reasons must be give in the appeal form.
   e. Assessee may admit an appeal to commissioner (Appeals)
   f. The appeal must be accompanied by a fees-
   In respect of income assessed by A.O.

S.No.	Amount of Total Income	Fees
1	If assessed incase is -	
	(i) Rs. 10000 or less	Rs. 250
	(ii) Above Rs. 1 Lac but less than Rs. 2 lac	Rs. 500
	(iii) More than Rs. 2 lac	Rs. 1,000
2	In other cases -	-
	T.D.S. and delay in filling of Return	Rs. 250.

3. **Procedure in Appeal-**
   a. Commissioner Appeals shall fix a day & place for hearing appeal.
   b. Intimate to assessing officer & Assessee (Appellant) for hearing date & place.
   c. Appellant or his authorised representative and assessing officer or his authorized representation shall have right to be heard at the hearing of appeal.
   d. Commissioner can adjourn the hearing
   e. Commissioner may make further inquiries before disposing of appeal.
   f. Commissioner may at the hearing of appeal, allow the appellant to go into any ground of appeal.
   g. Commissioner may disposed an appeal within 1 year from filling it.
   h. Order of disposing of appeal shall be in writing and point out the reason for decision.

4. **Power of commissioner (Appeals) (Sec-251)**
   a. Power to confirm, reduce, enhance or annual the assessment.
   b. Power to confirm, cancel, enhance or reduce the penalty imposed.
   c. To set aside the assessment refer to assessing officer for reassessment/further inquires as he may consider necessary.

Appeals to the appellate Tribunal

The Central government shall constitute an Appellate tribunal consisting of as many judicial and accountant member as it think fit, to exercise. The powers and discharge the functions conferred on the Appellate Tribunal by this Act. This tribunal is constituted and works under the ministry of law and has nothing to do with the CBDT.

1. **Appealable order –** Any assessee aggrieved by any of the following order may appeal to the appellate tribunal against order may appeal to the Appellate tribunal against such order -
   a. An order passed by a Commissioner (Appeals) ordering rectification/disposal of appeal/imposing a penalty.
   b. An order passed by an Assessing Officer for search initiated/ books of accounts/documents/ any assets.
   c. An order passed by commissioner revision of orders prejudicial to revenue penalty for failure to answer question, sign statement etc.
   d. An order passed by chief commissioner/Director General/A Director

2. **Form, fees & Time of Appeal –** The Appeal should be filled in form No. 36 to Appellate Tribunal it should be verified in the prescribed manner with in 60 days of the date of order, Assessment officer/Assessee must be filed the appeal. Appeal must be accompanied by a fee where the total income of the assessee as computed by the assessing officer is upto-

S.No.	Amount of Total Income	Fees
1	(i) Upto Rs. 100000 –	Rs. 500
	(ii) Between Rs. 1 lac to Rs. 2 lacks	Rs. 1500
	(iii) More than Rs. 2 lakhs	1% of assessed income or maximum 10000 Rs. (Whichever is less)
2	In other cases	Rs. 500

3. **Documents to be filed –** In mailing an appeal to the Tribunal, the following documents shall be sent in triplicate-
   i. Memorandum of appeal
   ii. Grounds of appeal
   iii. Copy of (Deputy Commissioner (Appeals) /Commissioner's (Appeals) order)
   iv. Copy of grounds of appeal and statement of facts before the (Deputy Commissioner (Appeals) /Commissioner's (Appeals) order)
   v. Copy of order of the assessing officer.
   vi. Challan for payment of fees prescribed rate.

4. **Order of Appellate Tribunal –** The Appellate tribunal may after giving both parties an opportunity of being heard, pass such orders thereon as it think fit. It may at any time within four years from the date of its order. A copy of order shall be sent to the assessee a well as the commissioner. If no point of law is involved in the orders of the Tribunal, its orders are final.

Appeal to high court (National Tax Tribunal) (Sec. 260-A)

The following main points should be kept in mind in respect of Appeal to high court/National tax Tribunal-

1. The Chief commission/commissioner/an assessee aggrieved by any order passed by the appellate Tribunal may file an appeal to the high court (NTT) and such appeal shall be -
   a) Filed within 120 days from the date on which the order appealed against is received by the assessee/ chief commissioner/commissioner
   b) IN the form of a memorandum of appeal precisely stating therein the substantial question of law involved.
2. Fees should be submitted with the memorandum of appeal.
3. If assessee wants to Appeal against the order then he should be payment of Tax duties 25% of Total Amount before appeal.
4. An assessee can represent their side by himself or may a appoint as a authorised person to CA/ Lawyer for representation of case.
5. High court shall decide the question of law so formulated and deliver such judgment there on containing the grounds on which such decision is founded any may award such cost as it deems fit.
6. High court may determine any issue which –
   - Has not been determined by the appellate Tribunal or .
   - Has been wrongly determined by the appellate tribunal by reason of a decision on such question of law.
7. Any civil court has no right to deal or action on order/decision of high court.

<u>Appeal to Supreme Court</u>

Appeal to supreme court from any judgment of the high (NTT) delivered on a reference made u/s 256 in any case which high court certifies to be a fit one for appeal to the supreme court.

The cost of the appeal shall be in the discretion of the supreme court. Where the judgment of the high court is varied/reversed in the appeal, effect shall be given to the order of the supreme court in the manner provided in section 260 in the case of a judgment of the high court.

Revision by the commissioner

Revision may be in the following two situations-

1. **Revision of orders prejudicial to Govt. revenue – Sec. 263-** The commissioner may call for examine the record of any proceeding under Act and if the considers that any order passed by Assessing officer is erroneous in so for as it is prejudicial to the interests of revenue, he may after giving an opportunity to assessee of being heared & causing to be made such inquiry as he deems necessary. No order shall be made after the expiry of two years from the end of financial year. Order/decision of revision by commissioner shall be given within 2 year from the ending of financial year of Appeal.
2. **Revision of other order – Sec-264) for assessee-** In the case of any order passed by an authority subordinate to him. Commissioner/his own motion/an application by the assessee for revision. Call for the record of any proceeding under Act in which any such order has been passed and make such inquiry/cause to be made & may pass such order prejudicial to the assessee, as he think fit. Every application shall be accompanied by a fee of Rs. 500 Assessee can apply for revision within in one year from the end of financial year. Order/decision of revision by commissioner shall be given within 1 year from the ending of financial year of Appeal.

PENALTIES AND PROSECUTION

The various defaults in respect of which penalty can be imposed are discussed below

S.No.	Various defaults	Section	Penalty
1	Failure to furnish return of income	271 (F)	Rs. 5000
2	Failure to pay tax/Interest	221	Mini –Amount imposed by A. Officer Maxi – Arrears Tax
3	Failure to furnish in time return in case of search	158 BFA	Mini – amount of tax leviable Maxi – 300% of Tax leaviable
4	Non payment of tax with in time	221(i)	Mini – amount imposed by A.O. Maxi – Tax arrears
5	Failure to present Account, document etc.	271(i)(b)	Rs. 10,000 for each default
6	Failure to answer the question	272(A-1)	Rs. 10,000 for each default
7	Failure to sign the statement	272 A(1-b)	Rs. 10,000 for each default.
8	Failure to produce evidence and books of accounts	271 (1)(b)	Rs. 10,000 for each default.
9	Concealment of particulars	271(1)(c)	Mini. – 100% Maxi. – 300% of Tax Amount
10	Wrong Distribution of profit by firm	271(4)	150% of saving tax
11	Failure to maintain books of accounts	271(A)	Rs. 25,000
12	Failure to keep information in respect of international transaction	-	2% of each interest transaction
13	Failure to get account audited	271(B)	Mini – ½% of Total Sales Maxi – Rs. 1,00,000
14	Failure to furnish report	92F	Rs. 1,00,000
15	Failure to deduct tax at source/collection of sources	271(C) /271(CA)	Equal to the amount of Tax in both conditions,
16	Undisclosed income in the case of search	271 (AAA)	10% on that income
17	Accepting and repaying of loan without crossed cheque/draft	271 (E)	Up to the amount of loan

18	Failure to furnish information	272 (AA)	Rs. 1000
19	Failure to comply with the provision of tax collection account no.	206(CA)	Rs. 10,000
20	Failure to comply with the provision in respect of PAN	272(b)	Rs. 10,000
21	Penalty for other defaults	272(A-2)	Rs. 100 for per day
22	Penalty for various failures regarding fringe benefits tax	271, 271FB, 272A, 273B	Amount imposed by A.O.

OFFENCES AND PROSECUTIONS

S.No.	Nature of offence	Minimum and Maximum period of rigorous imprisonment
275A	Dealing with seized assets in contravention of the order made under section 132 (3) by the officer conducting search	Minimum any period up to 2 years and fine Maximum 2 years and fine
275B	Failure to afford facility for inspection of records maintained on electronic media.	Minimum Any period up to 2 years and fine Maximum 2 years and fine
276	Removal, concealment, transfer or delivery of property to thwart tax recovery	Minimum Any period upto to 2 years and fine Maximum 2 years and fine
276A	Failure to comply with the provisions of sections 178(1), (3) by liquidator of a company	Minimum Any period upto 2 years which will not be less than 6 months Maximum 2 years
276AB	Failure to comply with the provisions of sections 269UC, 269UE & 269UL relating to acquisition of immovable property	Minimum 6 months Maximum 2 years and fine
276B	Failure to pay tax to the Government's treasury deducted or tax payable under section 115-O (2) or section proviso to section 194B	Minimum 3 months and fine Maximum 7 years and fine
276BB	Failure to pay to the credit of Central Government tax, collected under section 206C	Minimum 3 months and fine Maximum 7 years and fine
276C (1)	Wilful attempt to evade tax, penalty or interest imposable under the Act.	Minimum If tax evaded exceeds Rs. 1,000; 6 months; otherwise 3 months and fine Maximum If tax evaded exceeds Rs. 1,00,000; 7 years; otherwise 3 years and fine.
276C (2)	Wilful attempt to evade the payment of any tax, penalty or interest	Minimum 3 months and fine Maximum 3 years and fine
276CC	Wilful failure to file return of income in time under section 139 (1), or in response to notice under section 142 (1) or section 148	Minimum If tax evaded exceeds Rs. 1,00,000; 6 months and fine. In any other case, 3 months and fine. Maximum If tax evaded exceeds Rs. 1,00,000; 7 years and fine. In any other case 3 years and fine.
276CCC	Wilful failure to furnish in due time the return of total income which is required to be furnished u/s 158BC.	Minimum 3 months and fine. Maximum 3 years and fine.
276D	Wilful failure to produce books of account and documents u/s 142(i) or wilful failure to comply with a direction to get the accounts audited u/s 142 (2A)	Minimum Any period upto 1 year and fine of Rs. 4 for every day during which default continues. Maximum 1 year and fine of Rs. 10 every day during which default continues.
277	Making a false statement in verification or delivering a false account or statement.	Minimum If tax evaded exceeds Rs. 1,00,000; 6 months; otherwise 3 months

		and fine Maximum If tax evaded exceeds Rs. 1,00,000; 7 years; otherwise 3 years and fine.
278	Abetment to make a false statement or declaration.	Minimum If tax evaded exceeds Rs. 1,00,000; 6 months: otherwise 3 months and fine Maximum If tax evaded exceeds Rs. 1,00,000; 7 years; otherwise 3 years and fine.
278A	Punishment for second and subsequent offences under section 276B,76C(l),276CC,277or278	Minimum 6 months for every offence Maximum 7 years for every offence
278B Or 278C	Offences committed by companies/firms or HUFs-Criminal liability of managing director, managing partner, karta or any such officer, who wilfully committed the offence for the company/firm or HUF	Minimum Same as in the case of the company/firm/HUF Maximum Same as in the case of company/firm/HUF.
280(1)	Disclosure of particulars by public servants in contravention of Section 138 (2) (prosecution to be instituted with the approval of Central Government)	Minimum Up to 6 months and fine Maximum 6 months and fine

PAYMENT OF TAX

Any amount otherwise than by way of advance tax, shall be payable within 30 days of service of the notice of demand. All the assesses who are severed with such notices much deposit such amount which is written in the notice and at the place and to the person mentioned in the notice.

Payment of Interest – If the amount specified in the notice is not paid within the specified time, the assessee shall be liable to pay simple interest @ 1% per month from the day commencing after the end of the period mentioned in the notice.

Extension of date – The Assessing Officer is empowered to extend the date of payment of tax if he is approached by the assessee with an application before the due date.

Assessee in default- The assessee shall be considered to be an assessee in default if he fails to pay tax within the time allowed originally or extended and to the person and place mentioned in the notice.

Payment of tax in instalments-

Modes of Recovery

I. **Recovery by Tax Recovery Officer**
   (a) Attachment and sale of the assessee's movable property.
   (b) Attachment and sale of the assessee's immovable property.
   (c) Arrest of the assesses and his detention in prison.
   (d) Appointing a receiver for the management of the assessee's movable and immovable properties.

II. **Other modes**
   1. Salary
   2. Debtors of the assessee
   3. Money in custody of the court
   4. Distraint and Sale of Movable Property
   5. Recovery through State Government
   6. Recovery of tax in pursuance of Agreements with Foreign
   7. Recovery by suit etc

Refunds

lf, in any assessment year an assessee pays the tax which is more than the amount for which he is actually chargeable and if the assessee proves excess payment before the Assessing Officer, Section 237 empowers the assessee to claim i refund of the excess

1. How does a refund arise?
(a) The tax deducted at source from salary, interest on securities or debentures dividends or any other payment is higher than the amount of tax payment as determined on regular assessment.
(b) The amount of advance tax paid on the basis of self-assessment exceeds the tax payable as determined on regular assessment.
(c) The tax originally determined and on the basis of regular assessment gets j reduced as a result of rectification of a mistake which has crept in the assessment or through appellate or revision orders of higher authorities.
(d) The same income is taxed both in India and in a foreign country with which the Government of India has entered into an agreement for avoidance of double taxation.
(e) Refund on appeal.

2. Who is Allowed to Claim Refund?- Where the income of one person is included in the total income of any other person, *the later* alone shall be entitled tc refund in case of excess payment of tax in this case

3. Procedure for Claim of Refund-
A claim for refund shall be made in Form No. 30. In case the claimant of refund has not filed the return of his income, the form for refund shall be accompanied by a return of his interest income.

4. Interest on Refunds -
Where refund of any amount becomes due to the assessee under this Act, he shall be entitled to receive in addition to the said amount, simple interest thereon calculated in the following manner:
(a) Interest on Refund is 1/2% for every month or part of the month from 1st April till the date on which refund is granted.
No interest shall be payable if the amount of refund is less than 10% of tax determined u/s 143(1).
(b) Refund is due in any other case the interest @ 1/2% per month or part of the month thereof, shall be calculated from the date of payment of such tax or penalty till the date refund is made.

5. Set-of Refund against Tax Remaining Payable (Section 245)- If in an assessment year, a refund is due to an assessee, the same may be adjusted against the payment of tax due against the same assessee in another assessment year. If a part of the refund is utilised in setting off against tax remaining payable by the assessee, the balance shall be refunded, Wherever this type of adjustment is made, the assessee is duly intimated in writing of the action proposed to be taken under this section.

INCOME TAX ASSESSMENT PROCEDURE

Before paying a Tax a Assessee person should have to Assess the Income. So person should know the procedure of Assessment. Tax Assessment procedure contains two steps-first “filing of return of Income” and second “Assessment”.
I. Filling a Return of Income -
Every person, If (Assess) his total Income under the Act of Previous year exceeded the maximum amount which is not chargeable to income tax, shall furnish a return of income within the due dates.

1. Voluntary return (See 139(1)) for following person

a) If an individual/HUF assessee’s gross total income for the A.Y. 2014-15 is more than exemption limit Rs. 2 lakh (In case of senior citizen Rs. 250000 and super senior citizen Rs. 500000) He/She must file the return.

b) Every company will have to file a return of income on or before the due date in prescribed from whether or not it has taxable income.
c) Other assessee like firm, co-operative society, associations of persons should file return of income, If such assessee has any taxable income.

2. Prescribed Return Forms (Sec. 139(6))-
Under the Rule 12 Central Board of Direct Taxes has notified the new return form of Income Tax for the A.Y. 2014-2015 -

NEW ITR FORMS	SUBJECT
ITR - 1	For individual having income from salary and interest.
ITR – 2	For individual and HUFS not having business. Professional income
ITR – 3	For individuals/ HUFS being partners in firms and not carryng out business or profession under any proprietorship.
ITR – 4	For individual & HUF having income from a proprietary business or profession.
ITR – 5	For firms, AOPS and BOIS.
ITR – 6	For companies other than companies claiming exemption under section 11
ITR – 7	For persons including companies required to furnish return under section 139 (4a/ 4b) (4c) (4d)
ITR – 8	Return for fringe benefits
ITR - V	Where the data of the return of income/ fringe benefits in form ITR – 1, ITR – 2, ITR – 3, ITR – 4, ITR – 5, ITR – 6, & ITR – 8 Transmitted electronically without digital signature.

3. Due dates for filing of returns- Due date for A.Y. 2010-11

S.No.	Particular	Due Date
1	A company.	30th September
2	A person. (other a company)	30th September
3	A working partner of A firm.	30th September
4	A person whose income is not taxable but who have house, car, telephone, club, foreign tour or credit card.	30th September
5	Income of any other assessee.	31st July

4. Electronic from (Return in E-form-u/s 139 D)
Central Board of Direct Taxes can make rules for filing a return in E-form -
(i) Which category can submit E-Return.
(ii) Which method & which form can use for E-Return.
(iii) Which & How many documents, receipts, certificates and audit report enclosed with E-Return.
(iv) By which computer resource/Electronic record assessee can file with E-Return form.

5. Return of loss- [u/s 139 (3)]
If any assessee has sustained a loss in any previous year under the head of business/profession or capital gain and wants to claims for loss & its carried forward then he should file a return of loss in prescribed form.

6. Belated Return [u/s-139 (4)]
Any person who has not furnished a return within the time u/s-139 (1) or within the time allowed in notice issued by Tax authority u/s-142 (1) may furnish the return for any P.Y. at any time before the expiry of one year from the end of A.Y. or before completion of A.Y. (which ever is earlier) If assessee submit the return after belated time then he have to pay interest with return for excess time.

7. Revisal Return [u/s 139 (s)]

If any person, having furnished a return discovers any omission or any wrong statement therein, he may furnish a revised return at any time before the expiry of one year from end of A.Y. or before completion of A.Y. (whichever is earlier).

8. Defective return [u/s 139 (9)]
Where the Assessing officer considers. That the return of income filed by the assessee is defective, he may intimate to assessee for it, and give him an opportunity to rectify the defect with in 15 days from the date of intimation. Such time may be extended by the officer (If any Reason).

9. Signing of Return (u/s-140) -

S.No.	Assessee	Signatory
2.	Individual	Himself/His Guardian/any authorised person.
3.	HUF	Karta/Any adult member of family.
4.	Company	Managing director/any director of company.
5.	Partnership Firm	Managing partner/Any other partner of firm.
6.	Local Authority	Principal officer.
7.	Political Party	Chief Executive officer.