UPDATED ON 20-03-2024

MKG CA EDUCATION

PITAM PURA/ LAXMI NAGAR

9811429230 / 9212011367

Pitampura (Near Pitampura Metro Station): Building no. FD - 1, 2nd floor, Pitampura, Near Gate - 3 Metro Station (opposite Pitampura Metro Station) (Pillar No. PTP - 8), Delhi – 110034
Laxmi Nagar: Surana Bhawan, Main Laxmi Nagar Red Light, Opposite Metro Pillar No.28, Laxmi Nagar, New Delhi -110092.

INCOME TAX MAY 2024 EXAMINATION

158 PAGES

INCOME TAX

COMPUTATION OF TOTAL INCOME AND TAX LIABILITY

BASIS OF CHARGE AND RATES OF TAXES

Question 1: Write a note on Computation of Total Income.

Answer: Computation of Total Income

If the income is taxable, it will be further divided into five different categories of income which are called heads of income i.e. if the income is received from the employer, it will be considered to be income under the head salary; if the income is in connection with letting out of house property, income is taxable under the head house property; if the income is from any business or profession, it is taxable under the head profits and gains of business/profession; if any capital asset (gold, land, house etc.) has been transferred, income is taxable under the head capital gains; if there is any other income like interest or winnings from a lottery etc, it is covered under the head other sources.

Income shall be computed under each head i.e. expenses incurred shall be deducted from the gross receipt as per the provisions of the relevant head.

Income computed under each head shall be added up to compute the gross total income.

Certain concessions are allowed from the gross total income which are called deduction from gross total income under chapter VI-A.

After permitting the deductions, remaining income is called total income.

Computation of total income can be shown mathematically in the manner given below:

Total Income of an assessee shall be computed in the following steps:

Compute the income of the assessee under all the five heads, permitting exemption/deductions of each head.

	₹
(i) Income from Salaries (Section 15 to 17)	……..
(ii) Income from House Property (Section 22 to 27)	……..
(iii) Profits and gains of Business or Profession (Section 28 to 44DB)	……..
(iv) Capital Gains (Section 45 to 55A)	……..
(v) Income from Other Sources (Section 56 to 59)	……..
Gross Total Income	……..
Deductions from gross total income [under chapter VI-A]	……..
Total Income	……..

Total Income shall be rounded off u/s 288A in the multiples of 10 and for this purpose, any paisa shall be ignored and if the last digit is 5 or more, it will be rounded off to the higher multiple otherwise it will be rounded off to the lower multiple.

Example

(i) ₹6,28,456 shall be rounded off as 6,28,460
(ii) ₹6,28,455 shall be rounded off as 6,28,460
(iii) ₹6,28,454 shall be rounded off as 6,28,450
(iv) ₹6,28,455.99 shall be rounded off as 6,28,460
(v) ₹6,28,454.99 shall be rounded off as 6,28,450

Question 2: Write a note on Computation of Tax Liability of individual.

Answer: Computation of Tax Liability

Default Tax Regime Section 115BAC

Tax liability of an individual shall be computed at the slab rates given in the relevant Finance Act i.e. Finance Act, 2023 and the rates are as given below:

If total Income upto ₹3,00,000 Nil

On next ₹3,00,000	5%
On next ₹3,00,000	10%
On next ₹3,00,000	15%
On next ₹3,00,000	20%
On Balance amount	30%

Example

(i) Mr. X has total income of ₹9,00,000
(ii) Mr. X has total income of ₹8,00,000
(iii) Mr. X has total income of ₹10,00,000
(iv) Mr. X has total income of ₹15,00,000
(v) Mr. X has total income of ₹20,00,000

Solution:

(i)

Total income	9,00,000
On first ₹3,00,000	Nil
On next ₹3,00,000 @ 5%	15,000
On next ₹3,00,000 @ 10%	30,000
Tax before health and education cess	45,000
Add: health & education cess @ 4%	1,800
Tax Liability	46,800

(ii)

Total income	8,00,000
On first ₹3,00,000	Nil
On next ₹3,00,000 @ 5%	15,000
On next ₹2,00,000 @ 10%	20,000
Tax before health and education cess	35,000
Add: health & education cess @ 4%	1,400
Tax Liability	36,400

(iii)

Total income	10,00,000
On first ₹3,00,000	Nil
On next ₹3,00,000 @ 5%	15,000
On next ₹3,00,000 @ 10%	30,000
On balance ₹1,00,000 @ 15%	15,000
Tax before health and education cess	60,000
Add: health & education cess @ 4%	2,400
Tax Liability	62,400

(iv)

Total income	15,00,000
On first ₹3,00,000	Nil
On next ₹3,00,000 @ 5%	15,000
On next ₹3,00,000 @ 10%	30,000
On next ₹3,00,000 @ 15%	45,000
On next ₹3,00,000 @ 20%	60,000
Tax before health and education cess	1,50,000
Add: health & education cess @ 4%	6,000
Tax Liability	1,56,000

(v)

Total income	20,00,000
On first ₹3,00,000	Nil
On next ₹3,00,000 @ 5%	15,000
On next ₹3,00,000 @ 10%	30,000

On next ₹3,00,000 @ 15%	45,000
On next ₹3,00,000 @ 20%	60,000
On balance ₹5,00,000 @ 30%	1,50,000
Tax before health and education cess	3,00,000
Add: health & education cess @ 4%	12,000
Tax Liability	3,12,000

Question 3: Explain Health and Education Cess

Answer: Health and Education Cess

If any tax is charged for any specific purpose, it is called Cess. Health and Education Cess shall be charged @ 4% on the amount of income tax.

Rounding off of Tax Section 288B

Any amount payable, and the amount of refund due, shall be rounded off in the multiples of ₹10 in the similar manner as in case of total income under section 288A.

Question 4: Explain Previous Year and Assessment Year

Answer: Every person has to pay tax on Income of a particular financial year and such year is called previous year. Further computation of income and tax liability is computed in the subsequent year and it is called assessment year, e.g. if income is to be computed for financial year 2023-24, it will be called previous year and subsequent year i.e. 2024-25 shall be called assessment year. The term previous year is defined u/s 3 and assessment year is defined u/s 2(9).

Question 5: Explain Budget / Finance Bill / Finance Act

Answer: Budget / Finance Bill / Finance Act

Every year budget is presented in general in February and all the amendments are given in general in the budget e.g. Budget presented in 2023 shall be called budget 2023 and subsequently it will be called Finance Bill 2023 and after it has been passed by the parliament and signed by the President, it will be called Finance Act 2023 and its provisions shall be applicable from previous year 2023-24/ assessment year 2024-25.

For the students appearing in May/Nov-2024, previous year shall be 2023-24 and assessment year shall be 2024-25.

Question 6: Explain surcharge in case of individual.

Answer: Surcharge shall be applicable

Default Tax Regime Section 115BAC

- ***@ 10% provided total income is exceeding ₹ 50 lakhs but it is upto ₹ 100 lakhs.***
- ***@ 15% provided total income is exceeding ₹ 100 lakhs but it is upto ₹ 200 lakh.***
- ***@ 25% provided total income is exceeding ₹ 200 lakhs.***

Health & education cess shall be charged on the total of tax plus surcharge.

Marginal Relief

If there is marginal increase in income over ***₹50 lakhs/ ₹100 lakhs/ ₹200 lakhs***, surcharge is applicable on entire amount of income tax and as a result increase in tax is more than the increase in income. In order to remove this defect, assessee shall be allowed relief to the extent increase in tax is more than the increase in income and it is called marginal relief and it can be shown in the manner given below:

e.g.

(i) If Mr. X has total income of ₹51,00,000, his tax liability shall be computed in the manner given below:

Total Income	51,00,000.00
Tax on ₹51,00,000 at slab rate	12,30,000.00
Add: Surcharge @ 10%	1,23,000.00
Tax before marginal relief	13,53,000.00
Less: Marginal Relief	(53,000.00)

Working Note:	
Tax + surcharge @10% on income of ₹51,00,000	13,53,000
Tax on income of ₹50,00,000	(12,00,000)
Increase in tax	1,53,000
Increase in income	1,00,000
Marginal Relief (1,53,000 – 1,00,000)	53,000

Tax after marginal relief	13,00,000.00
Add: HEC @ 4%	52,000.00
Tax Liability	13,52,000.00

(ii) If Mr. X has total income of ₹102,00,000, his tax liability shall be computed in the manner given below:

Total Income	102,00,000.00
Tax on ₹102,00,000 at slab rate	27,60,000.00
Add: Surcharge @ 15%	4,14,000.00
Tax before marginal relief	31,74,000.00
Less: Marginal Relief	(4,000.00)

Working Note:	
Tax + surcharge @15% on income of ₹102,00,000	31,74,000
Tax + surcharge @10% on income of ₹100,00,000	(29,70,000)
Increase in tax	2,04,000
Increase in income	2,00,000
Marginal Relief (2,04,000 – 2,00,000)	4,000

Tax after marginal relief	31,70,000.00
Add: HEC @ 4%	1,26,800.00
Tax Liability	32,96,800.00

(iii) If Mr. X has total income of ₹101,80,000, his tax liability shall be computed in the manner given below:

Total Income	101,80,000.00
Tax on ₹101,80,000 at slab rate	27,54,000.00
Add: Surcharge @ 15%	4,13,100.00
Tax before marginal relief	31,67,100.00
Less: Marginal Relief	(17,100.00)

Working Note:	
Tax + surcharge @15% on income of ₹101,80,000	31,67,100
Tax + surcharge @10% on income of ₹100,00,000	(29,70,000)
Increase in tax	1,97,100
Increase in income	1,80,000
Marginal Relief (1,97,100 – 1,80,000)	17,100

Tax after marginal relief	31,50,000.00
Add: HEC @ 4%	1,26,000.00
Tax Liability	32,76,000.00

Limit for marginal relief

A person having total income from ₹50 lakhs to ₹100 lakhs shall be eligible for marginal relief upto total income of ₹51,79,100 and afterwards he will not be eligible for marginal relief.
A person having total income from ₹100 lakhs to ₹200 lakhs shall be eligible for marginal relief upto total income of ₹102,06,100 and afterwards he will not be eligible for marginal relief.
A person having total income from ₹200 lakhs to ₹500 lakhs shall be eligible for marginal relief upto total income of ₹209,12,000 and afterwards he will not be eligible for marginal relief.

Question 7: Write a note on Rebate under section 87A.

Answer:

Rebate in case of Resident Individual Section 87A

Default Tax Regime Section 115BAC

- Rebate i.e. concession from income tax shall be allowed only to **RESIDENT INDIVIDUAL** (not to non-resident individual or any other person).
- Rebate shall be allowed only if total income is upto ***₹7,00,000***
- Rebate shall be allowed upto ***₹25,000***.
- Health & education cess shall be applied only after permitting rebate under section 87A.

Marginal Relief

If income is exceeding ₹7,00,000 and increase in tax is more than increase in income in comparison to ₹7,00,000, relief shall be allowed equal to the amount of tax which is exceeding the amount of income.

e.g. Mr. X has income of ₹7,05,000, in this case his tax liability shall be

Tax on ₹7,05,000	25,500
Less : Marginal relief	20,500

Working Note:	
Tax on ₹7,05,000	25,500
Tax on ₹7,00,000	Nil
Increase in tax	25,500
Increase in income	5,000
Marginal Relief (25,500 – 5,000)	20,500

Tax after marginal relief	5,000
Add: HEC @ 4%	200
Tax Liability	5,200

e.g. Mr. X has income of ₹7,10,000, in this case his tax liability shall be

Tax on ₹7,10,000	26,000
Less : Marginal relief	16,000

Working Note:	
Tax on ₹7,10,000	26,000
Tax on ₹7,00,000	Nil
Increase in tax	26,000
Increase in income	10,000
Marginal Relief (26,000 – 10,000)	16,000

Tax after marginal relief	10,000
Add: HEC @ 4%	400
Tax Liability	10,400

e.g. Mr. X has income of ₹7,22,000, in this case his tax liability shall be

Tax on ₹7,22,000	27,200
Less : Marginal relief	5,200

Working Note:	
Tax on ₹7,22,000	27,200
Tax on ₹7,00,000	Nil
Increase in tax	27,200
Increase in income	22,000
Marginal Relief (27,200 – 22,000)	5,200

Tax after marginal relief	22,000
Add: HEC @ 4%	880
Tax Liability	22,880

Limit for Marginal Relief

Marginal relief shall be allowed upto **7,27,770**

Question 8: Explain taxability of Casual Income.

Answer: As per section 115BB, casual income shall be taxable @ 30%.

As per section 2(24)(ix), casual income means any winnings from lotteries, crossword puzzles, races including horse races, card games and other games of any sort or from gambling or betting of any form or nature whatsoever.

Lottery includes winnings from prizes awarded to any person by draw of lots or by chance or in any other manner whatsoever, under any scheme or arrangement by whatever name called.

Card game and other game of any sort includes any game show, an entertainment programme on television or electronic mode, in which people compete to win prizes or any other similar game.

Casual income shall be taxable under the head Other Sources and it will be included in the gross total income and also total income but while computing tax liability, casual income shall be separated from total income and shall be taxable @ 30%.

If assessee has incurred any expenditure in connection with earning of casual income, such expenditure shall not be allowed to be deducted, eg. Mr. X purchased lottery tickets of ₹10,000 and he had a winning of

₹1,00,000, in this case expenditure of ₹10,000 shall not be allowed to be deducted and income of ₹1,00,000 shall be taxable @ 30%.
As per section 58(4), deduction under chapter VI-A shall not be allowed from casual income however as per section 87A, rebate shall be allowed.

Question 9: Explain taxability of Capital Gains.

Answer: If any capital asset has been transferred like land, building, gold etc. profit shall be called capital gains and if the asset has been transferred within a period of three years, capital gains shall be short term and shall be taxable at the normal rate and if asset is sold after 3 years, it will be long term capital gain and as per section 112, it shall be taxable @ 20% and also deductions under chapter VI-A, shall not be allowed from long term capital gains.
In case of listed shares or units of equity oriented mutual fund etc., period of three years shall be taken as one year.
If any person has transferred listed equity shares or listed units of equity oriented mutual funds and has paid securities transaction tax, in such cases long term capital gain shall be taxable @ 10% u/s 112A but only amount in excess of ₹1,00,000 and short term capital gains shall be covered under section 111A and shall be taxable @ 15% and deductions under chapter VI-A, shall not be allowed from such long term or short term capital gains.
Rebate u/s 87A shall be allowed from tax on LTCG or STCG 111A. (No Rebate u/s 87A from LTCG 112A)

Special provision for resident individual

In case of a resident individual if total income excluding long term capital gains 112/112A and short term capital gain covered under section 111A and casual income, is below the amount which is exempt from income tax (i.e.3,00,000), in such cases deficiency in the exemption shall be allowed from long term capital gains 112 or short term capital gain under section 111A or long term capital gains under section 112A, in that order. Such benefit is not allowed to a non-resident.

Special Provision of Surcharge for short term 111A , Long term 112, Long term 112A and Dividend Income

Surcharge @ 25% shall never be applicable on short term capital gain 111A, Long term capital gains 112 and Long term capital gains 112A and dividend income i.e. surcharge of 25% shall be applicable only if total income excluding short term capital gain under section 111A, long term capital gain section 112, long term capital gain under section 112A and dividend income is exceeding ₹ 200 Lakhs.

The calculations shall be done in the manner given below:

(i) Compute total income taking into consideration all the taxable incomes and if such total income is upto ₹50,00,000, no surcharge is applicable but if it is more than ₹50,00,000 but upto ₹100,00,000, surcharge is applicable @ 10% and if it is more than ₹100,00,000, surcharge is applicable @ 15%.
(ii) Surcharge of 25% shall be applicable only if total income minus specified income (i.e. short term capital gain 111A, Long term capital gains 112 and Long term capital gains 112A and dividend income) is exceeding ₹200,00,000.

Question 10: Write a note on taxability of income of Partnership Firm/Limited Liability Partnership Firm.

Answer: Partnership firm/LLP

Long term capital gains are taxable @ **20%**, STCG u/s 111A shall be taxable @ **15%** , LTCG u/s 112A shall be taxable in excess of 1,00,000 @ **10%** and casual income @ **30%** and other incomes are also taxable @ **30%**.
Surcharge shall be applicable @ **12%** provided total income is exceeding **₹ 1 crore**.

Marginal Relief

Marginal relief shall be allowed if income has exceeded ₹100 lakhs.
Health & education cess is applicable @ **4%**
Deductions under chapter VI-A shall be allowed in the normal manner.
Partnership firm is regulated through Partnership Act,1932 and Limited Liability Partnership firm is regulated through Limited Liability Partnership Act, 2008.

Question 11: Write a note on taxability of income of domestic company.

Answer: Domestic Company

Long term capital gains are taxable @ **20%,** STCG u/s 111A shall be taxable @ **15%** , LTCG u/s 112A shall be taxable in excess of 1,00,000 @ **10%** and casual income @ **30%** and other incomes are also taxable @ **30%**.

Surcharge shall be applicable

- @ **7%** provided total income is exceeding **₹100 lakhs but it is upto ₹1000 lakhs**
- @ **12%** provided total income is exceeding **₹1000 lakhs**.

Marginal relief shall be allowed if income has exceeded ₹100 lakhs / 1000 lakhs

Health & education cess is applicable @ **4%**

Deductions under chapter VI-A shall be allowed in the normal manner.

Example

Compute the tax liability of X Ltd., a domestic company, assuming that the total income of X Ltd. is ₹1,01,00,000 and the total income does not include any income in the nature of capital gains.

Answer

Total income	1,01,00,000
Tax on @ 30%	30,30,000
Add: Surcharge @ 7%	2,12,100
Tax before marginal relief	32,42,100
Less: Marginal Relief	(1,42,100)

Working Note:	
Tax + surcharge on income of ₹101,00,000	32,42,100
Tax on income of ₹100,00,000	(30,00,000)
Increase in tax	2,42,100
Increase in income	1,00,000
Marginal Relief (2,42,100 – 1,00,000)	1,42,100

Tax after marginal relief	31,00,000
Add: HEC @ 4%	1,24,000
Tax Liability	32,24,000

Example

Compute the tax liability of X Ltd., a domestic company, assuming that the total income of X Ltd. is ₹10,01,00,000 and the total income does not include any income in the nature of capital gains.

Answer:

Total income	10,01,00,000
Tax on @ 30%	300,30,000
Add: Surcharge @ 12%	36,03,600
Tax before marginal relief	336,33,600
Less: Marginal Relief	(14,33,600)

Working Note:	
Tax + surcharge @ 12% on income of ₹10,01,00,000	336,33,600
Tax + surcharge @ 7% on income of ₹1000,00,000	(321,00,000)
Increase in tax	15,33,600
Increase in income	1,00,000
Marginal Relief (15,33,600 – 1,00,000)	14,33,600

Tax after marginal relief	322,00,000
Add: HEC @ 4%	12,88,000
Tax Liability	334,88,000

Question 12: Write a note on taxability of income of Foreign company.

Answer: Foreign Company

Long term capital gains are taxable @ **20%,** STCG u/s 111A shall be taxable @ **15%,** LTCG u/s 112A shall be taxable in excess of 1,00,000 @ **10%** and casual income @ **30%** and other incomes are taxable @ **40%**.

Surcharge shall be applicable

- @ **2%** provided total income is exceeding **₹100 lakhs but it is upto ₹1000 lakhs.**

- @ **5%** provided total income is exceeding **₹1000 lakhs**

Marginal relief shall be allowed if income has exceeded ₹100 lakhs / 1000 lakhs
Health & education cess is applicable @ **4%**
Deductions under chapter VI-A shall be allowed in the normal manner.

Question 13: Explain meaning of domestic company.

Answer: Meaning of domestic company

As per section 2(22A), "Domestic company" means an Indian company. Any other company i.e. foreign company shall also be considered to be domestic company if it has complied with all the three conditions given below:
(1) The share-register of the company for all shareholders shall be regularly maintained at its principal place of business within India throughout the year.
(2) The Annual General meeting is held in India.
(3) The dividends declared, if any, shall be payable only within India to all shareholders.

If any foreign company has complied with all the above conditions, it will be considered to be domestic company otherwise it will be considered to be foreign company.

Question 14: Write a note on Computation of Tax Liability of HUF.

Answer: Tax liability of Hindu undivided family

Hindu undivided family means any family which is Hindu by religion and its senior most male member is called karta and karta is responsible for control and management of HUF. Parental property / business etc received by karta shall be considered to be common property and taxability shall be as given below: Normal income of Hindu undivided family shall be computed at the normal slab rate as given below:
Income shall be taxable at the slab rates given below:

If total Income upto ₹3,00,000	Nil
On next ₹3,00,000	5%
On next ₹3,00,000	10%
On next ₹3,00,000	15%
On next ₹3,00,000	20%
On Balance amount	30%

Surcharge shall be applicable
@ 10% if total income has exceeded ₹50 lakhs but upto ₹100 lakhs.
@ 15% if total income has exceeded ₹100 lakhs but upto ₹200 lakhs.
@ 25% if total income has exceeded ₹200 lakhs.

Surcharge of 25% shall be applicable only if total income excluding short term capital gain under section 111A and long term capital gain under section 112 and long term capital gain under section 112A and dividend income, is exceeding ₹ 200 Lakhs
All other provisions shall be similar to individual but rebate under section 87A is not allowed. Tax rates for LTCG /LTCG 112A/ STCG u/s 111A and casual income are the same for all the persons.
If normal income of resident HUF is less than the exemption limit, the difference of the amount shall be allowed to be deducted from long term capital gain and if long term capital gains are not sufficient, it will be allowed to be adjusted from short term capital gains under section 111A or long term capital gains u/s 112A but it will not be allowed to be adjusted from casual income.
(What is HUF is given in the Hindu Law and it is not covered in the syllabus)

Example

XY HUF has income under the head business/profession ₹20 lakhs and its Karta Mr. X has individual income ₹12 lakhs, in this case tax liability of HUF and that of Karta shall be

Tax liability of HUF ₹20 lakhs at slab rate	3,00,000
Add: HEC @ 4%	12,000
Tax Liability	3,12,000
Tax Liability of Karta ₹12 lakhs at slab rate	90,000
Add: HEC @ 4%	3,600
Tax Liability	93,600

Question 15: Write a note on Computation of Tax Liability of Body of Individuals/Association of Persons.

Answer: Tax liability of BOI/AOP

Body of individual means a group of individuals which is neither a company nor a partnership firm. If it is registered in some other Act, it will be called incorporated BOI. E.g. Trust etc. If such a group includes persons other than individual also, it will be called AOP.

In general normal income shall be taxable at normal slab rate but rate may change as per provisions of section 167B. (NOT COVERED IN SYLLABUS)

Surcharge shall be applicable

@ 10% if total income has exceeded ₹50 lakhs but upto ₹100 lakhs.

@ 15% if total income has exceeded ₹100 lakhs but upto ₹200 lakhs.

@ 25% if total income has exceeded ₹200 lakhs.

Surcharge of 25% shall be applicable only if total income excluding short term capital gain under section 111A and long term capital gains under section 112 and long term capital gain under section 112A and dividend income, is exceeding ₹ 200 Lakhs.

Deductions under section 80C to 80U shall be allowed in the normal manner.

Question 16: Write a note on Computation of Tax Liability of Local Authority.

Answer: Tax liability of local authority

In order to maintain any town or city, there is always some authority responsible and such authority is called local authority e.g. MCD in Delhi. Such authority is allowed to collect house tax with regard to every type of house property and also some other tax are collected by such authority. In general income of such authority is exempt from income tax under section 10(20) but if such authority is doing any business, its income is taxable just like a partnership firm. Deductions under section 80C to 80U shall be allowed in the normal manner.

Question 17: Explain meaning of Person Section 2(31).

Answer: Meaning of Person Section 2(31)

"Person" includes—

(*i*) an individual,

(*ii*) a Hindu undivided family,

(*iii*) a company,

(*iv*) a firm,

(*v*) an association of persons or a body of individuals, whether incorporated or not,

(*vi*) a local authority,

(*vii*) every artificial juridical person, not covered above and income is taxable as slab rate (juridical means legal) e.g. ICAI or Delhi University etc.

Question 18 [V. Imp.]: Discuss Partial Integration of Agricultural Income?

Or

Discuss Indirect Taxing of Agricultural Income?

Or

Under the Constitution, the power to levy a tax on agricultural income vests in the States. However, Parliament has also levied a tax on such income. Explain how this has been achieved?

Answer:

Agricultural Income Section 10(1)

Under section 10(1), any **agricultural income in India is fully exempt** from income tax but if the agricultural income is from outside India, it is chargeable to tax. (As per entry no. 82 of Union List, Central Government has the power to levy income tax on income except agricultural income and power to levy tax on agricultural income has been given to the State Government vide entry no. 46 of State List)

Indirect taxing of agricultural income or partial integration of agricultural income (Under the constitution, the power to levy a tax on agricultural income vests in the states. However, parliament has also levied a tax on such income. Explain how this has been achieved?)

If any person has agricultural income as well as non-agricultural income, his tax liability shall be computed in the manner given below:

1. Compute tax on the total of agricultural income and non- agricultural income considering it to be total income of the assessee.
2. Compute tax on exemption limit (₹3,00,000) and agricultural income considering it to be total income.
3. Deduct tax computed under Step 2 from Step 1 and apply surcharge if any and allow rebate if any and health & education cess.
4. Long term capital gain, casual income and short term capital gain u/s 111A shall not be taken into consideration for the purpose of partial integration
5. If Agricultural income is upto ₹5,000, or non-agricultural income is upto the limit not chargeable to tax (₹3,00,000), partial integration is not applicable.
6. Partial integration is not applicable in case of a partnership firm or a company.

Rebate u/s 87A

Rebate shall be allowed if total income is upto ₹5,00,000 (instead of ₹7,00,000). Maximum amount of rebate shall be ₹ 12,500 (instead of ₹25,000)

Surcharge

- ***@ 10% provided total income is exceeding ₹ 50 lakhs but it is upto ₹ 100 lakhs.***
- ***@ 15% provided total income is exceeding ₹ 100 lakhs but it is upto ₹ 200 lakh.***
- ***@ 25% provided total income is exceeding ₹ 200 lakhs but it is upto ₹ 500 lakh.***
- **@ 37%** provided total income is exceeding **₹ 500 Lakhs.**

TAXABILITY OF GIFT SECTION 56

TAXABILITY OF GIFT
SECTION 56(2)*(x)*

Question 1: Explain taxability of gift.
Answer:
Gift received by ***any person*** shall be taxable and the gifts shall be divided into 3 parts.
1. Gift of sum of money
2. Gift of any property other than immovable property
3. Gift of immovable property
Taxability is as given below:

1. Gift of sum of money

If any ***person*** has received any **sum of money** from one or more persons without consideration and the aggregate value of all such gifts received during the year exceeds fifty thousand rupees, the whole of the aggregate value of such sum shall be taxable under the head Other Sources but if the aggregate value is upto ₹50,000, entire amount shall be exempt from income tax. E.g. Mr. X has received 3 gifts of ₹15,000 each from his 3 friends, entire amount of ₹45,000 is exempt from income tax but if he has received 3 gifts of ₹20,000 each, entire amount of ₹60,000 shall be taxable. Further it will be considered to be normal income.

2. Gift of any property other than immovable property

If any ***person*** has received gift of any property other than immovable property without consideration and the aggregate fair market value of such properties received during a particular year exceeds ₹50,000, it will be taxable under the head Other Sources but if aggregate value of all such properties is upto ₹50,000, it will be exempt from income tax.

If the consideration is less than the aggregate fair market value of such properties by an amount exceeding ₹50,000, aggregate fair market value as exceeds such consideration shall be taxable under the head Other Sources. Further it will be considered to be normal income.

3. Gift of immovable property

If any ***person*** has received any **immovable property** without consideration, it will be exempt if stamp duty value is upto ₹50,000 but if the stamp duty value exceeds fifty thousand rupees, entire stamp duty value shall be taxable under the head Other Sources. Value of individual immovable property shall be taken into consideration instead of aggregate value of all such properties.
(If any person is selling immovable property, its **Conveyance Deed** shall be prepared in the office of Registrar and some tax has to be paid to the State Government for transferring the property and it is called stamp duty and the value on which such duty is charged is called stamp duty value (also called circle rate). A person may not disclose the right value hence the value is determined by State Government.)
If immovable property has been received for a consideration which is less than the stamp duty value of the property by an amount exceeding fifty thousand rupees and also stamp duty value is exceeding by more than ***10% of the actual consideration***, in such cases taxable amount shall be the stamp duty value of such property as exceeds such consideration.
Example
(i) Mr. X purchased immovable property for ₹3,00,000 but stamp duty value is ₹5,00,000, taxable amount shall be ₹2,00,000
(ii) Mr. X has sold immovable property to Mr. Y for ₹100,00,000 but stamp duty value is ₹110,00,000, in this taxable amount shall be Nil because stamp duty value is not exceeding the actual consideration by more

than 10% but if stamp duty value is ₹ 111,00,000, taxable amount shall be ₹ 11,00,000 because stamp duty is exceeding by more than 10% of actual consideration.

If the date of the agreement fixing the amount of consideration for the transfer of immovable property and the date of registration are not the same and in such cases, the stamp duty value on the date of the agreement shall be taken into consideration but part of consideration should have been paid by account payee cheque, an account payee bank draft or by use of electronic clearing system through a bank account or through such other electronic modes as may be prescribed. (Other electronic mode means Credit Card, Debit Card, Net Banking, IMPS (Immediate Payment Service), UPI (Unified Payment Interface), RTGS (Real Time Gross Settlement), NEFT (National Electronic Funds Transfer), and BHIM (Bharat Interface for Money) Aadhaar Pay) on or before the date of agreement. E.g. Mr. X has entered into agreement with a builder ABC Limited on 01.07.2016 for purchase of one building for ₹20,00,000 but stamp duty value was ₹27,00,000 and advance of ₹3,00,000 was given by account payee cheque but property was transferred in his name on 01.07.2023 and on that date stamp duty value was ₹35,00,000, in this case amount of gift shall be ₹7,00,000 (27,00,000 – 20,00,000). (Difference amount is more than ₹50,000 and more than 10% of the consideration). Similarly, it will also be considered to be normal income.

The gift is exempt in the following cases

(a) If any individual has received any gift from any of his relative, it will be exempt from income tax. The term relative shall include

(a) spouse of the individual;
(b) brother or sister of the individual;
(c) brother or sister of the spouse of the individual;
(d) brother or sister of either of the parents of the individual;
(e) any lineal ascendant or descendant of the individual; (ascendant means mother/ father/ grand mother / grand father and so on: Descendant means son / daughter / grand son / grand daughter etc.
(f) any lineal ascendant or descendant of the spouse of the individual;
(g) spouse of the person referred to in items (b) to (f)

Whether mother's parents shall be included in lineal ascended is a question of law.

(b) If any individual has received any gift from any person of any amount on the occasion of his/her marriage. If gift is received by the parents of such individual, in that case it will be taxable. If any individual has received gift on the occasion of anniversary, it will be taxable.
(c) If any person has received any gift under a will/ inheritance, it will be exempt from income tax.
(d) in contemplation of death of the payer or donor (Contemplation of Death means the apprehension of an individual that his life will end in the immediate future by a particular illness etc.)
(e) from any local authority or charitable hospital or charitable educational institution or charitable trust or other similar organisation.
(f) **Payment received for treatment of COVID-19**
If any individual has received any amount from any person for treatment of illness related to COVID-19, it will be exempt from income tax. Payment may be received even for the treatment of family member of such individual. The individual must have a record of the COVID-19 positive report and should also mention all necessary documents of treatment of the disease upto a period of 6 months from the date of declaring COVID-19 positive.
The details of the amount so received in any financial year has to be furnished in the prescribed form to the Income-tax Department within 9 months from the end of such financial year or 31.12.2022, whichever is later.
(g) **Payment in connection with death from COVID-19**
If a member of the family of a deceased person has received,—
(A) from the employer of the deceased person (any amount); or
(B) from any other person or persons to the extent that such sum or aggregate of such sums does not exceed ten lakh rupees,
where the cause of death of such person is illness related to COVID-19, it will be exempt from income tax but the payment is received within twelve months from the date of death of such person; and death should be

within 6 months from the date of testing positive. The person should mention detail of COVID positive report and also he should retain death certificate in which it is mentioned reason of death is COVID-19.
The details of the amount so received in any financial year has to be furnished in the prescribed form to the Income-tax Department within 9 months from the end of such financial year or 31.12.2022, whichever is later.

Question 2: Explain meaning of property.

Answer:

"PROPERTY" means the following capital asset of the assessee, namely:—
(*i*) immovable property being land or building or both;
(*ii*) shares and securities;
(*iii*) jewellery;
(*iv*) archaeological collections (relating to past/ ancient)
(*v*) drawings (a picture or diagram made with a pencil, pen, or crayon without paint.)
(*vi*) paintings;
(*vii*) sculptures;
(*viii*) any work of art; or
(*ix*) bullion (Gold and silver in the form of biscuits / bricks / bars)

If *any person* has received gift of any other property, it will not be taxable e.g. motor car or plant and machinery or a watch or a mobile phone etc.

E.g. Mr. X received a mobile phone valued ₹70,000 from his friend, in this case, it will be exempt from income tax.

Question 3: Write a note on Taxability of gift received by HUF from its members.

Answer:

If any **Hindu undivided family** has received any gift from any of its members, it will be exempt from income tax. E.g. One HUF has received cash gift of ₹10,00,000 from one of its members, it will be exempt from income tax.
If HUF has given gift to its member, it will be taxable.

Question 4: Write a note on Taxability of stock-in-trade.

Answer:

If any person has received any asset as stock-in-trade, it will not be taxable as gift e.g. Mr. X is a dealer in gold and he has purchased gold for ₹20 lakhs but market value is ₹ 27 lakhs, in this case it will not be taxable as gift (because cost will be shown in the books as ₹20 lakhs and entire profit on sale shall be taxable under the head business/profession.)

Question 5: Explain taxability of gift received from employer.

Answer: <u>Gifts to the Employees</u> <u>Section 17(2)(viii) Rule 3(7)(iv)

Gift given by the employer in kind upto ₹5,000 in aggregate during a particular year is exempt and excess over it is taxable. If the employer has given any voucher or token in lieu of which such gift may be received, it will also be exempt in the similar manner.

Gifts in cash or gifts convertible into cash i.e. gift cheques etc. shall be fully chargeable to tax.

E.g. Mr. X is employed in ABC Ltd. and he has received a cash gift of ₹11,000 from his employer, in this case taxable amount shall be ₹11,000 and it will be income under the head Salary and shall be taxable at the normal rate but if Mr. X has received one wrist watch of ₹11,000 from his employer, taxable amount shall be ₹6,000.

Question 6: Explain Taxability of gift received in connection with business/profession.

Answer: <u>Gifts or Perquisites from Clients</u> <u>Section 28</u>

The value of any benefit or perquisite, whether convertible into money or not, arising from business or the exercise of a profession, shall be taxable under the head business profession.
If any person has received any gift or perquisite or benefit either in cash or in kind from any of his clients, it will be considered to be business receipt and shall be taken into consideration while computing income under the head business/profession.

Example: A Doctor has received a gift of ₹ 40,000 from one of his clients, in this case it will be considered to be income under the head business/profession.

Question 7: Explain taxability of scholarship/ award / reward.

Answer: Scholarship Section 10(16)

Any scholarship received by a person for meeting the cost of education shall be exempt from income tax.

Award/ Reward Section 10(17A)

Any award or reward whether in cash or in kind instituted by the Central Government or the State Government shall be exempt from income tax. Similarly any private award or reward shall be exempt from income tax if approved by the Central Government.

ADVANCE PAYMENT OF TAX
OR
PAY AS YOU EARN SCHEME

SECTION 207 TO 219

Question 1: Write a note on advance payment of income tax.

Answer: **As per section 207,** every person shall pay tax in advance as per the provisions of advance tax i.e. in general every person should estimate his income and pay tax however exact amount of income tax shall be calculated at the end of the year.

As per section 208, advance tax shall be payable during a financial year in every case where the amount of such tax payable by the assessee during that year, is ten thousand rupees or more.

As per section 211, all assessee have to pay advance tax in the manner given below:

Due date of installment	Amount payable
Upto 15th June of P.Y.	15% of tax payable
Upto 15th September of P.Y.	45% of tax payable
Upto 15th December of P.Y.	75% of tax payable
Upto 15th March of P.Y.	100% of tax payable

Example

For the previous year 2023-24, ABC Ltd. has estimated its tax payable to be ₹2,00,000, in this case advance tax shall be paid by the company as given below:

Upto 15.06.2023	30,000
Upto 15.09.2023	90,000
Upto 15.12.2023	1,50,000
Upto 15.03.2024	2,00,000

If the last day for payment of any installment of advance tax is a day on which the receiving bank is closed, the assessee can make the payment on the next immediately following working day.

Question 2: Write a note on payment of interest for late payment of income tax

Answer: **As per section 234C,** if any person has defaulted in payment of advance tax, interest shall be charged @ 1% per month for a period of 3 months on the amount of default in each installment, but for the last installment, interest shall be charged only for one month.

Income tax paid upto 31st March of previous year is also called advance tax.

As per section 234B, if advance tax paid is less than 90% of actual tax liability, assessee shall be required to pay interest @ 1% per month or part of a month from 1st April of assessment year upto the date of payment.

If advance tax paid is 90% or more of actual tax liability, no interest is payable.

As per section 234A, if any person has paid income tax after expiry of the last date of filing of return of income, interest shall be payable @ 1% p.m. or part of the month for the period subsequent to the last date of filing of return of income.

A senior citizen who do not have income under the head business/profession shall be exempt from payment of advance tax. **In this case, interest u/s 234B & 234C shall not be payable but Interest u/s 234A shall be payable.**

Question 4: Explain Payment of advance tax in case of capital gains/casual income/ newly setup business/ profession/*dividend income*.

Answer: Payment of advance tax in case of capital gains/casual income/newly setup business/ profession/ *dividend income* Section 234C

In case of capital gains, casual income and ***dividend income***, no advance tax is payable on estimated basis but if there is actual accrual of casual income or capital gains or ***dividend income***, advance tax is to be paid in the subsequent installments and if such accrual is after 15th March, advance tax is to be paid upto 31st March of previous year otherwise interest shall be charged under section 234C.

Similar provision shall be applicable in case of a newly setup Business/Profession

If any Assessee has started Business/Profession in the current year, assessee shall be exempt from payment of advance tax prior to commencement of Business/Profession i.e. advance tax has to be paid in installments subsequent to commencement of Business/Profession.

If Business/Profession has been started after 15th March, advance tax should be paid upto 31st March otherwise Interest shall be charged under section 234C for one month @ 1%.

Example: Mr. X started his business on 01.10.2023 and had income ₹10,00,000 upto 31.03.2024, In this case, he will be required to pay advance tax in the manner given below:

	₹
Income under the head Business/ Profession	10,00,000
Gross Total Income/Total Income	10,00,000
Computation of Tax Liability	
Tax on 10,00,000 at slab rate	60,000
Add: HEC @ 4%	2,400
Tax Liability	62,400

Advance Tax Payment

15.06.2023		Nil
15.09.2023		Nil
15.12.2023	(62,400 x 75%)	46,800.00
15.03.2024	(62,400 x 100%)	62,400.00

Rounding off for the purpose of calculating Interest Rule 119A

As per rule 119A, the principal amount shall be rounded off in the multiples of ₹100 and for this purpose any fraction of ₹100 shall be ignored. E.g. ₹1,60,275 shall be rounded off as 1,60,200.

Due date for filing the return of income Section 139(1)

Return is to be filed in general upto 31st July of the assessment year, however, in the following cases, the last date shall be 31st October of the assessment year.

1. Every company assessee

Example

For the previous year 2023-24, ABC Ltd. has to file its return of income upto 31.10.2024.

2. Any other person who is required to get his accounts audited either under Income Tax Act or under any other Act.

Example

Mr. X has his own business and his turnover for previous year 2023-24 is ₹102 lakhs. In this case, the last date of filing the return of income shall be 31.10.2024, but if turnover is ₹97 lakhs, the last date shall be 31.07.2024.

Similarly if a partnership firm XY has turnover of its business ₹ 65 lakhs for previous year 2023-24, in this case, the last date of filing of return of income shall be 31.07.2024.

Audit u/s 44AB

1. As per Section 44AB, Audit is compulsory for every person carrying on business and sales turnover or gross receipts exceeds ₹ 1 crore during the previous year and every person carrying on profession and gross receipts is exceeding ₹50 lakh during the previous year. In case of business audit is not required is gross receipt is upto 10 crore but the following conditions should be fulfilled

(a) aggregate of all amounts received including amount received for sales, turnover or gross receipts during the previous year, in cash, does not exceed five per cent. of the said amount. and

(b) aggregate of all payments made including amount incurred for expenditure, in cash, during the previous

year does not exceed five per cent. of the said payment.
If turnover is exceeding 10 crores, audit is required under all circumstances.

If tax liability is less than ₹ 10,000 then interest u/s 234B & 234C shall not be payable but Interest u/s 234A shall be payable.
Eg. Mr. X has Income under LTCG 112A is ₹ 4,50,000 and he paid income tax on 10/12/2024. Compute Interest u/s 234A,234B & 234C. In this case, His Tax Liability shall be :

	₹
Income under the head Capital Gains	4,50,000
Gross Total Income/Total Income	4,50,000
Computation of Tax Liability	
Tax on ₹50,000 (4,50,000-1,00,000-3,00,000) @ 10% u/s 112A	5,000
Add: HEC @ 4%	200
Tax Liability	5,200

Since Tax Liability is less than ₹ 10,000 hence Interest u/s 234B & 234C is not payable.
Interest u/s 234A = 5,200 x 1% x 5 = ₹260

Question 5: Explain Powers of Assessing officer to direct the Assessee to pay Advance Tax.

Answer: Powers of Assessing Officer to direct the Assessee to pay Advance Tax Section 209, 210

If any person has not paid advance tax and Assessing Officer is of the opinion that such person has to pay advance tax, in such cases Assessing Officer may issue him a notice in Form No.28 directing such person to pay advance tax but notice can be given only if such person has already been assessed through regular assessment in any of the earlier years. Regular assessment shall include scrutiny assessment under section 143(3) or Best judgement assessment under section 144. If Assessing Officer has issue notice, estimated income for such year shall be the income of the latest previous year in respect of which the assessee has been assessed by way of regular assessment but if assessee has filed any return subsequently and income reported in such return is higher than the income selected above, in that case income reported by the assessee shall be considered to be estimated income of current year.

If the assessee do not pay the advance tax even after receiving such notice, he will be considered to be assessee in-default as per section 218 and penalty can be imposed equal to the amount not paid as per section 221.

If the assessee finds that his tax liability shall be less than the amount computed by the Assessing Officer, assessee may give a reply in Form No.28A and can pay tax as per his own estimate.

Example

For the previous year 2023-24, ABC Ltd. has not paid any advance tax till 10.10.2023 and in the earlier years the company was assessed in the manner given below:

2020-21	143(3) (Scrutiny Assessment)	7,00,000
2021-22	144 (Best Judgement Assessment)	10,00,000
2022-23	ROI	8,00,000

In this case Assessing officer shall have the powers to give notice to the assessee and its estimated income shall be considered to be ₹10,00,000. If any assessee has received a notice in form no. 28 but he finds that his tax liability shall be less than the amount computed by the Assessing Officer, in that case he can give a reply in form no. 28A and can pay tax as per his own estimate.

RESIDENTIAL STATUS
&
SCOPE OF TOTAL INCOME
SECTION 5 TO 9

Question 1: How to determine Residential status of individuals Section 6(1)/6(6)(a)

Answer: Under section 6(1), an individual is said to be resident in India in any previous year, if he satisfies any one of the following conditions:

(i) He stays in India for 182 days or more during the relevant previous year

(ii) He stays in India for 60 days or more and also for 365 days or more during 4 years preceding the relevant previous year.

If the individual satisfies any one of the conditions mentioned above, he is a resident, otherwise the individual is a non-resident.

e.g. Mr. X stayed in India for 200 days in previous year 2023-24, in this case he will be considered to be resident in India.

If Mr. X stayed in India for 100 days in previous year 2023-24 and also for 365 days during 4 years preceding the previous year 2023-24, he will be considered to be resident in India.

If Mr. X stayed in India during previous year 2023-24 for 59 days, he will be considered to be non-resident in previous year 2023-24.

<u>Meaning of Not-ordinarily resident Section 6(6)(a)</u>

An individual who is resident of India shall be considered to be NOR if he has complied with at least one of the conditions given below:

(i) If such individual has during the 7 previous years preceding the relevant previous year been in India for a period of 729 days or less or

(ii) If such individual has been non-resident in India in 9 years out of 10 previous years preceding the relevant previous year

If he has not complied with even a single condition, he will be considered to be ROR.

Income Tax Act has defined NOR but we can define ROR in the manner given below:

An individual is said to be a resident and ordinarily resident if he satisfies both the following conditions:

(i) He is a resident in any 2 out of the last 10 years preceding the relevant previous year, and

(ii) His total stay in India in the last 7 years preceding the relevant previous year is 730 days or more.

If the individual satisfies both the conditions mentioned above, he is a resident and ordinarily resident but if only one or none of the conditions are satisfied, the individual is a resident but not ordinarily resident.

For the purpose of counting the number of days stayed in India, both the date of departure as well as the date of arrival are considered to be in India.

It is not necessary that the period of stay must be continuous nor is it essential that the stay should be at the usual place of residence, business or employment of the individual.

The term "stay in India" includes stay in the territorial waters of India (i.e. 12 nautical miles into the sea from the Indian coastline). Even the stay in a ship or boat in the territorial waters of India shall be considered to be stay in India. (1 nautical mile = 1.1515 miles = 1.852 Kms).

Question 2: Write a note on determination of residential status of Individual covered in special category.

Answer: <u>Special category: explanation to section 6(1)</u>

Certain individuals are covered in the special category and they will be considered to be resident only if they stay in India for 182 days or more i.e. second condition of 60 plus 365 days shall not be applicable and such individuals are:

1. Any individual who is a citizen of India and has left India for taking up any business or profession or employment outside India e.g. Mr. X is a citizen of India and has left India on 01.09.2023 for taking up an employment in Germany, in this case he will be covered in the special category and his status shall be non-resident. If any such person is employed in India and he has been transferred outside India, he will also be covered in the special category. E.g. Mr. X is employed in Punjab National Bank in India and he has been transferred to the London branch, in this case he will be covered in the special category. If any person has business or profession in India and he is going out of India in connection with business or profession, he will not be covered in special category.

2. Any individual who is a citizen of India or is a person of Indian origin and is having business/profession/employment outside India and has come to India on a visit shall also be covered in the special category e.g. Mr. X is a citizen of India and is settled as a doctor in USA and has come to India on a visit for 181 days, he will be covered in the special category and his status shall be non-resident.

A person is said to be of Indian origin if he or either of his parents or either of his grandparents (including parents of mother) were born in undivided India. e.g. Mr. X has taken birth in UK and is a citizen of UK but his grand father has taken birth in India in 1942, in this case Mr. X will be considered to be person of Indian origin.

Further in case of citizen of India or person of Indian origin having total income other than income from foreign sources, exceeding 15 lakhs during the year, such individual shall be resident in India if he stays for 120 days during the year and also for 365 days during 4 years preceding the relevant previous year. Further as per section 6 (6)(c), he will be considered to be NOR, if his stay is maximum upto 181 days. If stay is 182 days or more, he will be ROR/NOR as per section 6(6)(a) i.e. such person can stay in India for maximum 119 days to maintain his status of Non Resident. e.g. Mr. X is a citizen of India and is settled outside India. (he has total income other than income from foreign sources exceeding 15 lakhs) He visits India 120 days and earlier 4 years, he was in India for 365 days, now he will be NOR but earlier he was NR and impact shall be his income accruing / arising abroad and received abroad but from a business controlled from India or from a profession setup in India shall be taxable. If his total income other than income from foreign sources is upto 15 lakhs, he will be non resident. E.g. Mr. X is a citizen of India and is a doctor having practice in India but in the year 2015 he opened a hospital outside India also and closed the hospital in India on 31.03.2018 and left India on 01.04.2018 he visits India every year for 100 days but in the previous year 2023-24 he visited India for 120 days. He has income from hospital outside India ₹500 lakhs, in this case his status shall be NOR because he visited for 120 days and also for 365 days or more during 4 years preceding the relevant previous year. He income accruing/arising abroad but from a profession setup in India shall be taxable but if he has visited for maximum 119 days, he will be Non-resident and his income shall not be taxable.

"income from foreign sources" means income which accrues or arises outside India (except income derived from a business controlled in or a profession set up in India).

Example

Mr. X has income accruing/arising abroad ₹ 25 lakh, out of which income from a business controlled from India or profession set up in India is ₹ 18 lakh. He has income accruing/arising in India 13 lakh, in this case income from foreign sources is ₹ 7 lakh (25-18) and income other than income from foreign sources is ₹ 31 lakh (18+13)

3. Any individual who is a citizen of India and has left India as a member of crew of an Indian ship, shall also be covered in special category. The time period mentioned in Continuous Discharge Certificate shall be considered to be the period of stay outside India and remaining time period shall be considered to be stay in India.

4. Deemed Resident Section 6(1A)

As per section 6(1A), If any individual is a citizen of India and has total income other than the income from foreign sources, exceeding 15 lakhs during the previous year, he shall be considered to be resident in India if he is not liable to tax in any other country or territory by reason of his domicile or residence or any other criteria of similar nature. Further as per section 6 (6)(d), he will be NOR. This clause shall not apply in case

of an individual who is resident in India in the previous year under section 6(1) E.g. Mr. X is a citizen of India and is settled in a country where he is not liable to tax (he has total income other than income from foreign sources exceeding 15 lakhs) and he has not visited India during the current year, in this case he will be considered to be resident and further as per section 6(6)(d), he will be considered to be NOR. (purpose is to tax stateless persons in India provided they are Indian citizens) If his total income other than income from foreign sources is upto 15 lakhs, he will be non resident.

Example

Mr. Anand is an Indian citizen and a member of the crew of a Singapore bound Indian ship engaged in international traffic departing from Chennai port on 6th June, 2023. From the following details for the P.Y.2023-24, determine the residential status of Mr. Anand for A.Y.2024-25, assuming that his stay in India in the last 4 previous years (preceding P.Y.2023-24) is 400 days and last seven previous years (preceding P.Y.2023-24) is 750 days:

Particulars	Date
Date entered into the Continuous Discharge Certificate in respect of joining the ship by Mr. Anand	6th June, 2023
Date entered into the Continuous Discharge Certificate in respect of signing off the ship by Mr. Anand	9th December, 2023

Answer.

In this case, the voyage is undertaken by an Indian ship engaged in international traffic, originating from a port in India (i.e., the Chennai port) and having its destination at a port outside India (i.e., the Singapore port). Hence, the voyage is an eligible voyage for the purposes of section 6(1). Therefore, the period beginning from 6th June, 2023 and ending on 9th December, 2023, being the dates entered into the Continuous Discharge Certificate in respect of joining the ship and signing off from the ship by Mr. Anand, an Indian citizen who is a member of the crew of the ship, has to be excluded for computing the period of his stay in India. Accordingly, 187 days [25+31+31+30+31+30+9] have to be excluded from the period of his stay in India. Consequently, Mr. Anand's period of stay in India during the P.Y.2023-24 would be 178 days [i.e., 365 days – 187 days]. Since his period of stay in India during the P.Y.2023-24 is less than 182 days, he is a non-resident for A.Y.2024-25.

Note - Since the residential status of Mr. Anand is "non-resident" for A.Y.2024-25 consequent to his number of days of stay in P.Y.2023-24 being less than 182 days, his period of stay in the earlier previous years become irrelevant.

Question 3: Explain how to determine residential status of HUF Section 6(2)/6(6)(b).

Answer: **As per section 6(2),** an HUF would be resident in India if the control and management of its affairs is situated wholly or partly in India. If the control and management of the affairs is situated wholly outside India it will be considered to be non-resident. Since control and management of HUF is in the hands of its Karta hence place of stay of Karta shall be taken into consideration i.e. if Karta is out of India throughout the year, HUF shall be Non-resident but if Karta has come to India for a few days, HUF shall be resident.

The expression 'control and management' refers to the central control and management and not to the carrying on of day-to-day business by servants, employees or agents.

Meaning of Not-ordinarily resident Section 6(6)(b)

If an HUF is resident, as per section 6(6)(b), it will be considered to be NOR if its Karta has complied with at least one of the conditions given below:

(i) If the karta is in India during the 7 previous years preceding the relevant previous year for a period of 729 days or less.

(ii) If the karta is non-resident in India in any 9 out of the 10 previous years preceding the relevant previous year, or

If karta has not complied with even a single condition, HUF shall be ROR.

Question 4: Explain how to determine residential status of partnership firm or Body of Individual or Association of Persons.

Answer:

Firms and Association of Persons Section 6(2)

A firm and an AOP would be resident in India if the control and management of its affairs is situated wholly or partly in India. Where the control and management of the affairs is situated wholly outside India, the firm and AOP would become a non-resident. There are no ROR or NOR in case of persons other than individual or HUF. E.g. XY partnership firm has two partners Mr. X and Mr. Y and Mr. X is working partner and is in USA throughout the year and Mr. Y is a dormant partner and is in India throughout the year, in this case partnership firm shall be non-resident but if Mr. X has come to India for a few days, partnership firm shall be resident.

Question 5: Explain how to determine residential status of a Company.

Answer:

Companies Section 6(3)

An Indian company is always resident in India even if its control and management is outside India or its business is outside India.

A foreign company shall be resident in India if its place of effective management, at any time in that year, is in India.

"Place of effective management" means a place where key management and commercial decisions are made for the conduct of the business of an entity.

e.g. Micromax Informatics Ltd. was incorporated in India and it has business in many countries outside India, in this case company shall be considered to be resident.

e.g. HCL Technologies Ltd. was incorporated in India and it has its control and management outside India also, in this case company shall be considered to be resident.

e.g. ABC Ltd. was incorporated outside India and place of effective management is in India, in this case company shall be considered to be resident.

e.g. Videocon Industries Ltd. was incorporated in India, in this case company shall be considered to be resident.

e.g. Samsung Electronics Co., Ltd. was incorporated in South Korea and place of effective management is also in South Korea , in this case company shall be considered to be non-resident.

e.g. BlackBerry Ltd. was incorporated in Canada and place of effective management is also in Canada, in this case company shall be considered to be non-resident.

Question 6: Explain how to determine residential status of other persons.

Answer:

Local Authorities and Artificial Juridical Persons Section 6(4)

Local authorities and artificial juridical persons would be resident in India if the control and management of its affairs is situated wholly or partly in India. Where the control and management of the affairs is situated wholly outside India, they would become non-residents.

TAX INCIDENCE / SCOPE OF TOTAL INCOME

Question 7: Write a note on scope of total income or tax incidence.

Answer: As per section 5, scope of total income or tax incidence in various status shall be as given below:

(1) Resident and ordinarily resident – In case of ROR, the following incomes shall be taxable.

(i) income accruing / arising in India.

(ii) income received or deemed to be received in India even if accruing /arising abroad.

(iii) income accruing / arising aboard and received aboard.

In simpler terms, ROR has to pay tax on his world income in India.

(2) Resident but not ordinarily resident – The following incomes shall be taxable.

(i) income accruing / arising in India.

(ii) income received or deemed to be received in India even if accruing /arising abroad.

(iii) income accruing / arising aboard and received aboard but from a business controlled from India or from a profession which was set up in India.

Meaning of profession setup in India

Profession set up in India means that it was originally setup in India and subsequently there was an expansion outside India. E.g. Mr. X started his profession of an advocate in Delhi and subsequently he opened his branch outside India, it will be called profession setup in India.

(3) Non-resident –The following incomes shall be taxable.

(i) income accruing /arising in India.

(ii) income received or deemed to be received in India even if accruing /arising abroad.

Meaning of income received in India

Income shall be considered to be received in India if it has been received directly in India from its source i.e. if the income has been received outside India and after that it was transferred to India, it will not be considered to be income received in India rather it is income received abroad.

Therefore, when once an amount is received as income, remittance or transmission of that amount from one place or person to another does not constitute receipt of income in the hands of the subsequent recipient or at the place of subsequent receipt.

Example

Mr. X has one house in USA and rent has been received directly in India. It will be considered to be income received in India and it is chargeable to tax in case of all the three status, but if Mr. X has one bank account with Bank of America, New York and rent has been deposited in that account and subsequently the bank has transferred the amount to Mr. X in India, it will be considered to be income received outside India, because income has already been received outside India and subsequently it was remitted to India.

Similarly, if Mr. X has income in Nepal and it was deposited in the branch of an Indian bank in Nepal, subsequently the amount was remitted in India, it will be considered to be income received outside India.

Question 8: Explain meaning of income deemed to accrue or arise in India Section 9.

Answer:

Income deemed to the accruing/arising in India shall be taxable in all the three status i.e. ROR/NOR/NR.

As per section 9, the following incomes shall be deemed to be accruing / arising in India.

1. If any income has its source in India, such income shall be considered to be accruing / arising in India i.e. employment/house property/business/profession/capital asset or any other source of income is in India but if source is partly in India and partly outside India, income shall be accruing / arising in India only to the extent the source is in India e.g. Mr. X is employed in Punjab National Bank and is posted in Delhi branch on a salary of ₹1,00,000 p.m. In this case, his income shall be deemed to be accruing/arising in India but if he is transferred to the London branch w.e.f 01.01.2024, his income accruing/arising in India shall be ₹9,00,000 i.e. salary upto 31.12.2023 and the income which is accruing/arising abroad shall be ₹3,00,000 (i.e. salary from 01.01.2024 to 31.03.2024)

2. Business connection

If any person has business in India as well as outside India, it will be called business connection and in case of such business, the income of the business deemed to accrue or arise in India shall be only such part of the income as is reasonably attributable to the operations carried out in India and as per rule 10, assessing officer shall have the powers to determine the extent upto which income is accruing/arising in India.

There will be a business connection if any non-resident has business outside India but has agent in India who

(a) habitually **secures orders in India**, for the non-resident.

(b) habitually **maintains in India a stock of goods** from which he regularly delivers goods on behalf of the non-resident or

(c) habitually **concludes contracts on behalf of the non-resident** or plays the principal role leading to conclusion of contracts and the contracts are in the name of non - resident or the contracts are for the transfer of ownership or for granting of right to use property owned by that non- resident or the provision of services by the non - resident.

Significant economic presence

Significant economic presence of a non-resident in India shall also constitute business connection in India.

Significant economic presence means-

(a) in respect of any goods, services or property carried out by a non-resident with any person in India including provision of download of data or software in India and aggregate of payments arising from such transaction or transactions during the previous year is exceeding ₹ 2 crores.

OR

(b) systematic and continuous soliciting of business activities or engaging in interaction with users in India and the number of users should be atleast 3 lakhs.

Further, the above transactions or activities shall constitute significant economic presence in India, whether or not,—

(i) the agreement for such transactions or activities is entered in India;
(ii) the non-resident has a residence or place of business in India; or
(iii) the non-resident renders services in India:

Business connection shall also include

The income attributable to the operations carried out in India for the purpose of business connection, shall include income from—

(i) such advertisement which targets a customer who resides in India or a customer who accesses the advertisement through internet protocol address located in India;

(ii) sale of data collected from a person who resides in India or from a person who uses internet protocol address located in India; and

(iii) sale of goods or services using data collected from a person who resides in India or from a person who uses internet protocol address located in India."

There is **no business connection in the following three cases:**

(a) If any non-resident has business outside India but such person is purchasing goods from India and do not have any other activity in India, in this case there is no business connection but if such person has any other activity in India, it will be considered to be business connection. e.g. Mr. X a non-resident has one shop in New York for selling Indian goods and all these goods are purchased from India. In this case, there is no business connection. However, if assessee is carrying out any other activity in India, it will be considered to be business connection.

If in the above case the assessee has manufacturing unit in India, it will be considered to be a business connection.

(b) If any non-resident has the **business of running a news agency or of publishing newspapers, magazines or journals etc.** outside India, no income shall be deemed to accrue or arise in India to him from activities which are confined to the collection of news and views in India for transmission out of India but if newspaper etc. is being sold in India, there will be business connection or if there is telecasting or broadcasting of such news/views etc. in India, there will be business connection and income shall be taxable to that extent.

(c) If any non-resident is doing shooting of any **cinematograph film in India**, there is no business connection but if such film is being shown in India, there will be business connection.

2. If any person is holding shares of any Indian company, any capital gain on transfer of such shares shall be considered to be income accruing/arising in India even if shares were sold outside India.

In case of shares of a foreign company, capital gains shall be accruing / arising in India if the value of the shares is because of the assets located in India or because of business in India (the amendment is to overrule the judgment in Vodafone case).

3. If any individual is a citizen of India and is an employee of the government and is posted outside India, his salary income shall be accruing / arising in India e.g. Mr. X is citizen of India and is an IFS. He is posted in Indian embassy in USA, in this case, his salary income shall be accruing/arising in India.

4. If any loan has been taken by the government from outside India, interest paid by the government shall be considered to be income of the person who has received such interest and it is accruing / arising in India and it do not matter whether loan was used in India or outside India. e.g. If Central Government has taken a loan from an agency in USA, equivalent to Indian ₹1,000 lakh @ 10%, in this case, interest of ₹100 lakhs paid by the Government to such agency shall be considered to be the income of such agency accruing/arising in India.

If such loan has been taken by a person who is resident in India, interest income shall be accruing / arising in India only if loan amount has been used in India but if loan amount has been utilized outside India it will be accruing / arising abroad. E.g. ABC Ltd. an Indian company has taken a loan from an agency in USA and the amount was utilized in USA. In this case, interest income shall be accruing/arising in USA but if loan

amount is used in India in any source, it will be accruing / arising in India

If such loan has been taken by a non-resident, interest income shall be accruing / arising in India only if loan amount has been utilised in India in business/profession but if loan amount is utilised in any other source in India or it has been used outside India, interest income shall be accruing / arising abroad. E.g. X Ltd. a non-resident company has taken a loan from outside India and loan amount was utilized in India in house property. In this case, interest paid by the company shall be income of the recipient accruing/arising abroad but if loan amount was utilised in India in business/profession, interest income shall be considered to be accruing/arising in India. The person receiving interest shall be liable to pay income tax on such income even if such person do not have any Territorial Nexus with India i.e. such non-resident do not have a residence or place of business or business connection in India

5. If government has taken any patent right or any technical services from outside India and has paid royalty or technical fee for such patent right etc., it will be considered to be income of the person who has received it and it is accruing / arising in India even if the patent right etc. has been used outside India.

If such payment is being given by any resident or non-resident, it will be income of the recipient accruing / arising in India only if such patent right etc. has been used in India otherwise it will be accruing / arising abroad.

Royalty means amount payable in connection with patent, invention, model, design, formula, process, trade marks etc.

Fees for Technical Services means any consideration for the rendering of Managerial, Technical or Consultancy Services.

If any income is accruing and arising in India relating to royalty or technical fees etc., it will be taxable in India even if the person receiving income is non-resident and even if such non-resident do not have any Territorial Nexus with India i.e. such non-resident do not have a residence or place of business or business connection in India and also the non-resident has not rendered services in India.

6. If any person has received pension, it will be deemed to be accruing/arising in India if the employer is in India. E.g. Mr. X is settled in Canada and is getting a pension of ₹30,000 p.m. from Punjab National Bank, in this case his pension income shall be accruing/arising in India.

7. Income arising outside India shall be taxable if it is a gift of sum of money covered u/s 56(2)(x) and it is given by a person resident in India to any person who is NOR or non-resident.

Question 9: Explain income deemed to be received in India.

Answer: Such incomes is taxable in all the three status. Under section 7, employer's contribution to Recognised Provident Fund in excess of 12% of salary of the employee shall be considered to be income deemed to be received in India. Similarly, interest on the provident fund balance in excess of 9.5% p.a. shall be considered to be income deemed to be received in India.

Any past untaxed profits shall not be considered to be the income of the current year in any status i.e. ROR, NOR, NR.

Example

Mr. X had income of ₹3,00,000 in the year 2020-21 but he has not disclosed the income. It was detected in the previous year 2023-24. In this case, it will not be considered to be income of 2023-24 in any status, rather it will be considered to be income of the year 2020-21.

INCOME UNDER THE HEAD HOUSE PROPERTY

SECTION 22 TO 27

Question 1: Explain chargeability of income under the head house property.
Answer: <u>Chargeability of income under the head house property</u> <u>Section 22</u>
Income from letting out of house property is chargeable to tax under the head House Property. If the income is from sale or purchase of house property, it will be taxable under the head Capital Gains, however if the sale or purchase is part of a business, income is taxable under the head Business/Profession.
House property shall include all types of house properties i.e. residential houses, shops, godowns, cinema building, workshop building, hotel buildings etc.
The term house property shall include not only the buildings but also the lands appurtenant thereto i.e. the term house property shall include even any open land which is part and parcel of the building. E.g. Mr. X has one big house and it includes vast open area within its boundaries. The house has been let out at a rent of ₹1,00,000 p.m., out of which rent of ₹25,000 p.m. is attributable to the open land. In this case, entire rental income is taxable under the head house property.
If any person has let out only land, which is not essential part of any building, income is taxable under the head other sources. E.g. Mr. X has one big piece of land which is let out for arranging exhibitions or for the purpose of marriage parties etc., rent received or receivable is taxable under the head other sources (It is also called vacant site lease rent). If any person has business of letting out of open land, income shall be taxable under the head business profession

<u>Income from property held as stock-in-trade/ from business of letting out house property</u>
If any person is holding house property as stock-in-trade i.e. for sale/purchase of house property, income shall be taxable under the head Business/Profession. Similarly if any person has business of letting out of house property, income shall be taxable under the head Business/Profession. E.g. ABC Ltd. is holding 500 flats for the purpose of letting out, income shall be taxable under the head business/profession.
If any person is holding house property for the purpose of sale/purchase but it has been let out for some time, income shall be taxable under the head House Property.

<u>Computation of Income under the head House Property</u>	
Gross Annual Value (GAV)	**₹…….**
Less: Municipal Taxes	**₹……**
Net Annual Value (NAV)	**₹……..**
Less:	
Deduction allowed under section 24	
- Statutory deduction / standard deduction @ 30% of NAV [Section 24(a)]	**₹……..……**
- Interest on borrowed capital for construction etc. [Section 24(b)]	**₹……..**
Income under the head "House Property"	**₹……..**

Question 1: Write a note on computation of income of a house property which is let out throughout the year.
Answer: As per section 23(1)(a)/(b), gross annual value i.e. reasonable rental value shall be computed in the manner given below:
1. Compare Fair Rent and Municipal Valuation and select the higher.
2. Compare the rent so selected with Standard Rent and the lower of the two shall be considered to be Expected Rent. (It is also called Annual Letting Value)
3. Compare Expected Rent with Rent Received or Receivable and the higher shall be considered to be Gross

Annual Value.
Fair rent i.e. the rent of similar types of buildings in the same locality.
Municipal valuation i.e. rental value determined by the municipality for the purpose of charging municipal tax. It is also called rateable value.
Standard rent i.e. the highest possible rent as per Rent Control Act.
Rent received or receivable

Question 2: Explain deductibility of property taxes (municipal taxes).

Answer: Property Taxes (municipal taxes) Proviso to Section 23(1)

In order to maintain any particular town or city, there is always some authority and it is called local authority e.g. MCD in Delhi and such authority is allowed to charge certain tax in connection with house property and such tax are called municipal tax or house tax or property tax. If an assessee has paid such tax, deduction shall be allowed for the tax so paid from GAV but if tax is due but not paid, deduction is not allowed.
If tax has been paid by the tenant, in that case tax shall not be allowed to be deducted.

Example

During the previous year 2023-24 municipality has levied taxes ₹20,000, but the assessee has paid ₹15,000. In this case, amount allowed to be deducted is ₹15,000. In the next year, municipality has levied taxes of ₹45,000 but the assessee has paid ₹ 55,000 which includes ₹5,000 for the earlier year and ₹5,000 for the subsequent year. In this case, amount allowed to be deducted in previous year 2024-25 shall be ₹55,000.

Question 3: Write a note on computation of income of house lying vacant for some period.

Answer: House lying vacant for some period Section 23(1)(c)

If the house is partly let out and partly vacant, in such cases expected rent shall be computed for 12 months but while computing rent received /receivable, rent for the period for which the house was vacant shall be excluded and GAV shall be higher of expected rent and rent received/receivable but if the rent received/receivable is less than the expected rent owing to vacancy, in that case rent received/receivable shall be gross annual value. e.g. If expected rent is ₹20,000 p.m. and rent received/receivable is ₹15,000 p.m. and there is vacancy for 5 months, in this case GAV shall be the expected rent because even if there was no vacancy, still rent received/receivable was less than expected rent.
If in this case rent received/receivable is ₹25,000 p.m. and it is vacant for 5 months, gross annual value shall be the rent received/receivable because if there was no vacancy, rent R/R would have been higher than expected rent accordingly in the given case, R/R is lower than expected rent owing to vacancy.

Question 4: Write a note on House lying vacant for full year.

Answer: As per section 23(1)(c), if any House Property is lying vacant throughout the year, it will be considered to be deemed to be let out and income shall be computed in the similar manner as in case of a let out house. Expected Rent shall be considered to be Gross annual value.
As per section 23 (5), Where the property consisting of any building or land appurtenant thereto is held as stock-in trade and the property or any part of the property is not let during the whole of the previous year, the annual value of such property or part of the property, for the period up to two year from the end of the financial year in which the certificate of completion of construction of the property is obtained from the competent authority, shall be taken to be nil.

Question 5: Write a note on unrealized rent.

Answer: Treatment of unrealised rent Explanation to Section 23(1)/Rule 4

Unrealised rent means such rent which is irrecoverable and is considered to be lost i.e. bad debt and in such cases, expected rent shall be computed for full year and while computing rent received or receivable, such unrealised rent shall be excluded and GAV shall be higher of expected rent and rent received/receivable (no special treatment like vacancy).
e.g. Mr. X has let out one house ₹50,000 p.m. , fair rent ₹45,000 p.m., municipal valuation ₹40,000 p.m. standard rent ₹70,000 p.m. and there was unrealized rent for 3 months, in this case GAV of the house shall be

Expected rent (45,000 x 12)	5,40,000
Rent received /receivable (50,000 x 9)	4,50,000
GAV	5,40,000

Rent shall be considered to be unrealised rent only if all the conditions of Rule 4 have been complied with and such conditions are:

(a) the assessee should take legal steps to get the house property vacated from the tenant including any other property of the assessee occupied by the same tenant.

(b) the assessee has taken legal steps for recovery of rent or satisfies the Assessing Officer that legal proceedings would be useless.

(c) the tenancy is bona fide (genuine)

Recovery of unrealised rent Section 25A

If any assessee has recovered unrealized rent in subsequent years, rent so recovered shall be considered to be income of the assessee under the head house property and it do not matter whether the assessee has any house property in his name in that year or not. If assessee has received any interest, it will be considered to be income of the assessee under the head other sources. If assessee has incurred any expenses on legal proceedings, it will not be allowed to be deducted.

A sum equal to thirty per cent of the unrealised rent shall be allowed as deduction.

Question 6: Write a note on Statutory Deduction or Standard Deduction.

Answer: Statutory Deduction or Standard Deduction Section 24(a)

Under section 24(a), every assessee shall be allowed a notional expenditure equal to thirty per cent of the net annual value of the house for the various expenditures incurred by him.

Actual expenditure incurred by the assessee shall not be taken into consideration.

Example

Net annual value of one house is ₹3,00,000 and actual expenditure incurred on repairs are ₹75,000, deduction allowed under section 24(a) shall be ₹90,000.

Question 7: Write a note on deduction for interest on the capital borrowed.

Answer: Interest on borrowed capital is allowed as deduction under section 24(b)

If any assessee has taken a loan or advance for purchase/ construction / renovation / addition / alteration / substitution or repair etc. of the house property, interest on such loan shall be allowed to be deducted under section 24(b) from NAV and interest is allowed on due basis but only simple interest is allowed i.e. interest on interest is not allowed. The assessee can take any number of loan. Interest for the year for which income is being computed shall be allowed in the same year and shall be called current period interest. Interest for the period prior to the year in which the house was purchased or constructed shall be called prior period interest and such interest shall be allowed in 5 annual equal instalments starting from the year in which the house was purchased or constructed. E.g. If Mr. X had taken a loan of ₹5,00,000 for construction of property on 01.10.2022 and interest is payable @ 10% p.a. and the construction was completed on 30.06.2023, in this case interest allowed under section 24(b) shall be:

Interest for the year (01.04.2023 to 31.03.2024) = 10% of ₹ 5,00,000 = ₹ 50,000

Prior period interest =10% of ₹ 5,00,000 for 6 months (from 01.10.2022 to 31.03.2023)=₹ 25,000

Prior period interest to be allowed in 5 equal annual installments of ₹ 5,000 from the year of completion of construction i.e. in this case, P.Y.2023-24.

Therefore, total interest deduction under section 24(b) = 50,000 + 5000 = ₹ 55,000.

If any assessee has taken a new loan to repay the original loan, in such cases interest for such new loan shall be allowed in the similar manner.

Unpaid purchase price would be considered as capital borrowed:

Where a buyer enters into an arrangement with a seller to pay the sale price in installments along with interest due thereon, the seller becomes the lender in relation to the unpaid purchase price and the buyer becomes the borrower. In such a case, unpaid purchase price can be treated as capital borrowed for acquiring property and interest paid thereon can be allowed as deduction under section 24.

Question 8: Write a note on house which is self-occupied.

Answer: House which is self-occupied Section 23(2)(a)

If any person has house which is self-occupied (maximum two house), its GAV shall be nil and municipal tax are not allowed to be deducted and NAV shall also be nil and deduction under section 24(a) is not allowed and deduction under section 24(b) is also not allowed.

If the house is self occupied as well as vacant, its income shall be computed as if it is self occupied house. E.g. Mr. X has one house which is vacant for 3 months and self occupied for 9 months, its income shall be computed considering it to be self occupied house.

Question 9: Write a note on more than two house which are self-occupied (deemed to be let out property).

Answer: <u>More than two house which are self-occupied (deemed to be let out property)</u> <u>Section 23(4)

If any assessee has more than two house which are self-occupied, in such cases only two of these houses shall be considered to be self-occupied and income shall be nil under section 23(2) and all other houses shall be deemed to be let out and income shall be computed in the similar manner as in case of let out house. Expected rent shall be considered to be GAV of the house.

Question 10: Write a note on computation of Income of Unoccupied House.

Answer: <u>Income of unoccupied house section 23(2)(b)</u>

As per section 23(2)(b),if any house cannot actually be occupied by the owner by reason of the fact that owing to his employment, business or profession carried on at any other place, he has to reside at that other place in a building not belonging to him, in such cases assessee shall have the option to compute income of such house as if it is self-occupied.

Question 11: Write a note on house property which is divided into different portions/units.

Answer: If any house property is divided into different portions, every portion shall be considered to be a separate house and income shall be computed accordingly. There is no need to treat the whole property as a single unit for computation of income from house property.

Municipal valuation/fair rent/standard rent, if not given separately, shall be apportioned between the let-out portion and self-occupied portion either on plinth area or built-up floor space or on such other reasonable basis.

Property taxes, if given on a consolidated basis can be bifurcated as attributable to each portion or floor on a reasonable basis.

Question 12: Write a note on house property owned by the assessee and used for own business/profession.

Answer: <u>House property owned by the assessee and used for own business/profession</u> <u>Section 22/section 30</u>

If any person owns any house property and it is being used by him in his own business/profession, income of such building shall not be computed under the head house property rather income shall be computed under the head business/profession and as per section 30, for this purpose, while computing the income under the head business/profession, no rent shall be allowed to be debited to the profit & loss account in connection with such building. All the expenses of the house property shall be debited to the profit and loss account and deduction under section 24(a) is not allowed rather actual expenditure shall be debited to the profit and loss account. Such expenditure may be municipal tax, repairs, depreciation, land revenue, ground rent etc.

Question 13: Write a note on a house property which is let-out for part of the year and self-occupied for part of the year and may or may not be vacant.

Answer: <u>A house property which is let-out for part of the year and self-occupied for part of the year and may or may not be vacant</u> <u>Section 23(3)</u>

If any house property is let out as well as self-occupied, in such cases expected rent (also called annual letting value) shall be computed for full year but Rent received/receivable shall be only for the period the house was let out and GAV shall be the higher. There will not be any such adjustment as in case of vacancy.

Question 14: Write a note on composite rent.

Answer: <u>Composite Rent</u>

A person may let out a house property alongwith some facilities like generator or security etc. and rent may be charged combined for the house property as well as facility, such rent is called composite rent and in such cases rent for house property shall be taxable under the head house property and rent for facilities shall be taxable under the head other sources but after deducting all the expenses relating to such facility.

If there are so many facilities and bifurcation is not possible, income shall be taxable under the head business/profession or other sources e.g. in case of hotel business/paying guest accommodation/warehousing or auditorium etc., income is taxable under the head business/profession.

Question 15: Write a note on letting out of building which is supplementary to the business.

Answer: Letting out of building which is supplementary to the business

If any person has let out any house property for any purpose which is supplementary to the business of the assessee, in such cases rental income shall be taxable under the head business/profession and all expenses of such house property shall be debited to the profit and loss account. E.g. If a Public school has let out a part of its building to a Bank, in this case rent received shall be considered to be income under the head Business/Profession and all expenses of such house property shall be debited to profit and loss account. Similarly, if any company has constructed houses for the employees in their premises and it is let out to the employees, rental income is taxable under the head Business/Profession.

Question 16: Write a note on tax liability in respect of arrears of rent.

Answer: Tax liability in respect of arrears of rent Section 25A

Sometimes rent of a house property may be increased from retrospective effect i.e. from back date and the assessee may receive arrear of rent, such arrears are taxable in the year in which arrears have been received, however deduction shall be allowed @ 30% of such arrears and only the balance amount shall be taxable. It do not matter that the assessee do not have any house property in his name in that year.

There is no specific provision given in the Income Tax Act relating to advance payment of rent.

Question 17: Write a note on sub-letting of house property.

Answer: Sub-letting of house property Section 56

If any person has let out any house property and the tenant has further given the same house property on rent, it is called sub-letting and in this case, income of the person who has sub-let the house property, shall be computed under the head Other Sources and income shall be equal to gross rent received – expenses incurred for such house property.

Example

Mr. X has let out one house to Mr. Y at a rent of ₹1,00,000 p.m. and has paid municipal tax of ₹1,00,000. Mr. Y has sub-let 50% of the house property to Mr. Z at a rent of ₹70,000 p.m., in this case income of Mr. X and Mr. Y shall be computed in the manner given below:

Income of Mr. X shall be computed under the head House Property	
GAV (1,00,000 x 12)	12,00,000
Less: Municipal Tax	(1,00,000)
NAV	11,00,000
Less: Deduction u/s 24(a)	(3,30,000)
Income under the head House Property	7,70,000
Income of Mr. Y shall be computed under the head Other Sources	
Gross Rent received (70,000 x 12)	8,40,000
Less: Rent paid by him (1,00,000 x 50% x 12)	(6,00,000)
Income under the head Other Sources	2,40,000

Question 18: Write a note on computation of income from house property situated outside India.

Answer:

Income of house property situated outside India shall be computed in the similar manner as in case of house property situated in India and such income shall be taxable in the case of ROR. In case of NR or NOR such income is exempt provided income is received outside India i.e. if income is received in India, it will be taxable in case of NR/NOR also.

Question 19: Write a note on treatment of income from co-owned property.

Answer: Treatment of income from co-owned property Section 26

If any house property is owned by co-owners and their shares are given, in such cases each such co-owner has to pay tax on his share in the income of house property but if shares are not given, it will be considered to be income of co-owners (BOI/AOP) e.g. Mr. X and Mr. Y are co-owners of a house property and their shares are not given and income is ₹20 lakhs, in this case it will be taxable as income of co-owners but if

share of each one is 50%, Mr. X will pay tax on income of ₹10 lakh and Mr. Y will pay tax on income of ₹10 lakh.

If any house property is owned by a partnership firm or company, it will be considered to be income of partnership firm or company and not that of partners or shareholders.

Where the house property owned by co-owners is self occupied by each of the co-owners and share of individual co-owner is not given, income shall be nil of the BOI and if the share is given, income shall be nil for each of the co-owner.

Question 20: Write a note on owner / deemed owner.

Answer: Owner / deemed owner Section 22 / 27

As per section 22, the owner of house property shall be liable to pay income tax and if the title of the ownership of the property is under dispute in a court of law, the decision as to who will be the owner chargeable to income-tax under section 22 will be of the Income-tax Department till the court gives its decision to the suit filed in respect of such property. E.g. Ownership of a house property is disputed among two brothers Mr. X and Mr. Y and rent is being received by Mr. X, in this case Mr. X shall be considered to be the owner of the house property till decision is given by the Court and after that amount of tax shall be adjusted as per court decision.

As per section 27, the following persons, are deemed to be the owners.

(i) Transfer of a house property to spouse – In case of transfer of house property by an individual to his or her spouse otherwise than for adequate consideration, the transferor is deemed to be the owner of the transferred property. In case of transfer to spouse in connection with an agreement to live apart, the transferor will not be deemed to be the owner. The transferee will be the owner of the house property. In case of transfer of house property by an individual to his or her minor child, the transferor is deemed to be the owner of the house property transferred. In case of transfer to a minor married daughter, the transferor is not deemed to be the owner. E.g. Mr. X has two house property each having income of ₹10 lakh and Mr. X has gifted one house property to Mrs. X, in this case income from such house property shall be taxable in the hands of Mr. X but if Mr. X has sold the house property to Mrs. X and has taken full payment, in that case income from house property shall be taxable in the hands of Mrs. X.

(ii) Person in possession of a property – If any person has given possession of house property and has taken full payment but ownership in documents has not yet been transferred, in such cases the proposed buyer is the deemed owner and shall be liable to pay income tax and it is called part performance of a contract of the nature referred to in section 53A of the Transfer of Property Act. E.g. Mr. X has sold his house property to Mr. Y for ₹50 lakhs and has taken full payment and possession has been given to Mr. Y but conveyance deed is not prepared in the name of Mr. Y, in this case Mr. Y is the deemed owner.

(iii) Member of a co-operative society etc. – A member of a co-operative society, company or other association of persons to whom a building or part thereof is allotted or leased under a House Building Scheme of a society/company/association, shall be deemed to be owner of that building or part thereof allotted to him although the co-operative society/company/ association is the legal owner of that building.

(iv) Holder of an impartible estate – The impartible estate is a property which is not divisible. The holder of an impartible estate shall be deemed to be the individual owner of all properties comprised in the estate.

DEDUCTION FROM GROSS TOTAL INCOME
CHAPTER VI-A
SECTION 80C TO 80U

Under default regime all the deductions are allowed but under optional regime u/s 115BAC, only three deductions shall be allowed under Chapter VI-A.
1. Section 80JJAA
2. Section 80CCD(2)
3. Section 80CCH(2)

Default regime

Deductions under section 80C to 80U are allowed from gross total income to compute total income however such deduction is allowed only from normal income.

- As per section 112, such deductions are not allowed from long term capital gains.
- As per section 58(4), such deductions are not allowed from casual income.
- As per section 111A, such deduction are not allowed from short term capital gains on the sale of short term equity shares or short term units of equity oriented mutual funds provided securities transaction tax has been paid.
- As per section 112A, such deduction are not allowed from long term capital gains on the sale of long term equity shares or long term units of equity oriented mutual funds provided securities transaction tax has been paid.

Example

Mr. X has income under the head salary ₹75,000, income from long term capital gains ₹2,10,000 and casual income ₹35,000, in this case maximum amount of deductions allowed shall be ₹75,000.

Section 80C

Deduction under section 80C shall be allowed only to (i) an individual (ii) Hindu Undivided Family to the extent of the investment given below:

1. **Investment in NSC:** Deduction shall be allowed if amount has been invested in **National Saving Certificate (NSC)** and NSC are just like a fixed deposit with a bank. Amount can be invested in the name of self, spouse or minor children and HUF can invest the amount in the name of any of its members. Deduction shall be allowed equal to the amount invested and amount received on maturity shall be exempt from income tax but interest shall be taxable every year on accrual basis but payment of interest shall be received on maturity. Deduction under section 80C shall also be allowed for such accrued interest but no deduction shall be allowed for accrued interest of the year in which assessee has received payment. NSC are issued for 5 years.

   Example

   Mr. X has income under the head House Property ₹10 lakh and he invested ₹50,000 in NSC on 01.10.2023. He has invested ₹40,000 in previous year 2022-23 also and there is accrued interest of ₹4,000 in previous year 2023-24. He has also received ₹1,00,000 on maturity of NSC which were invested in the earlier year and original amount is ₹60,000 and interest for current year is ₹8,000, in this case his tax liability shall be

Income under the head House Property		10,00,000
Income under the head Other Sources (4,000+ 8,000)		12,000
Gross Total Income		10,12,000
Less: Deduction u/s 80C		
Investment in current year	50,000	
Accrued interest	4,000	(54,000)

   (no deduction shall be allowed for interest received on maturity)

Total Income	9,58,000
Tax on ₹9,58,000 at slab rate	1,04,100
Add: HEC @ 4%	4,164
Tax Liability	1,08,264
Rounded off u/s 288B	1,08,260

2. **Investment in Public provident fund:** Public provident fund is a deposit scheme run by Central Government and account can be opened in the bank or post office and maturity shall be after 15 years and the account can be opened in the name of **self, spouse or children. HUF can open the account in the name of any of its members.** Amount received on maturity shall be exempt from income tax and also interest is exempt from income tax. No deduction is allowed under section 80C for interest.
3. **Investment in Five Year Post Office Time Deposit Account:** An assessee is allowed to invest the amount in **five year post office time deposit** account and deduction shall be allowed equal to the amount invested. **Interest shall be paid on annual basis** and it will be taxable and deduction under section 80C is not allowed. **Amount received on maturity shall be exempt**. Individual can invest the amount in his name and HUF can invest the amount in the name of any of its member.
   Pre-mature payment is allowed but **amount received on pre-mature payment shall be taxable**.
4. **Investment in fixed deposit for a period of 5 years or more with scheduled banks: Investment in fixed deposit for a period of 5 years or more with scheduled banks,** provided the term deposit are issued in accordance with a scheme notified by the Central Government. (Bank Term Deposit Scheme, 2006 – depositor can be **individual or Hindu Undivided Family**. The deposit should be for a **minimum period of 5 years**. Interest income shall be taxable on accrual basis and it will not qualify for deduction under section 80C.) Principal amount received on maturity shall be exempt. Individual can deposit the amount only in his own name and HUF can deposit the amount in the name of any of its member.
5. **Repayment of loan taken for purchase or construction of house:** If an assessee has taken a loan from a notified organization like banks or financial institution etc. for purchase or construction of a residential house, in such cases deduction shall be allowed equal to the amount re-paid by the assessee towards principal (not towards interest).

   If loan has been taken for **Addition, Alteration, or Repairs etc** of the house property, no deduction is allowed.
   If the assessee has transferred the house property **before the expiry of 5 years** from the end of the financial year in which possession of such properties was taken by him, no deduction shall be allowable in the previous year in which the house property has been transferred. The deduction allowed in the past years shall be considered to be income of the assessee of the previous year in which the house property is transferred.

   Deduction shall also be allowed for stamp duty , registration fee and other expenses for the purpose of transfer of such house property to the assessee.
6. **Payment of premium for life insurance policy:** If any individual or HUF has taken life policy, deduction shall be allowed for the premium paid for such life policy and individual can take the policy in the name of **self, spouse and children and Hindu Undivided Family can take the policy in the name of any of its members.** (Children may be dependant or independent or may be married or unmarried or step or adopted.)
   Deduction is allowed equal to the premium paid but maximum upto **10% of capital sum assured**, i.e. if premium paid is more than 10% of capital sum assured, deduction shall be allowed only for 10% of sum assured. (In respect of policy issued before 01.04.2012, 10% shall be taken as 20%)
   If LIC policy has been taken in the name of a person who is suffering from disability given under section 80U or from a specified disease given under section 80DDB, 10% shall be taken as 15% but it is applicable for the policies taken w.e.f 01.4.2013 onwards.
   If an assessee has discontinued a life insurance policy before paying premium for a period of atleast **2 years**, deduction allowed in the earlier years shall be considered to be income of the year in which policy has been discontinued.

As per section 10(10D), any payment received on maturity of insurance policy shall be exempt from income tax i.e. even the amount of bonus received shall be exempt from income tax. **If the policy holder has paid premium of more than the specified limit (10% / 15% / 20%) in any of the years, amount received on maturity shall be chargeable to tax** but if the amount has been received on the death of the policy holder, it will be exempt from income tax.

e.g. Mr. X has paid premium of one life policy ₹25,000 and sum assured is ₹ 1,00,000 and policy was taken on 01.04.2012 onwards, in this case deduction allowed shall be ₹10,000 but if policy was taken before 01.04.2012, deduction allowed shall be ₹20,000. If Mr. X is a handicapped person and policy was taken w.e.f 01.04.2013 onwards, deduction allowed shall be ₹15,000

7. **Payment of tuition fees to School, College, University or any other Educational Institution in India: Payment of tuition fees to School, College, University or any other Educational Institution in India** provided the fees has been paid in connection with the **children of the assessee** and further for **maximum two children** and it should be **whole time education**. Children shall include even adopted and step children also. Deduction is not allowed to HUF. If payment is made outside India, deduction is not allowed. Similarly if payment is given for part time education or correspondence course, deduction is not allowed.
8. **Employees contribution to recognised provident fund**
9. **Employees contribution to statutory provident fund**
10. **Investment in Units of Mutual Fund/ Unit trust of India.**
11. **Subscription to Notified Deposit Schemes of National Housing Bank**
12. **Investment in equity shares or debentures etc. of Infrastructure Development Companies**
13. **Investment in notified bonds issued by the National Bank for Agriculture and Rural Development.**
14. **Investment in Senior Citizens Savings Scheme: Senior Citizens Savings Scheme**. Amount should be invested in the name of self and amount received on maturity shall be exempt and interest shall be payable on quarterly basis and interest received is taxable. Deduction under section 80C for interest is not allowed.
15. **Investment in Sukanya Samridhi Account:** Investment in **Sukanya Samridhi Account** and amount can be invested by an individual as guardian in the name of girl child who is of the age of 10 years or less. Interest received is exempt. Amount received on maturity is exempt. Account can be closed after the completion of 21 years of age. In case of marriage, payment is allowed after completion of 18 years of age.
16. **Contribution to additional account under NPS**

Deduction shall be allowed to the extent of the investments listed above but as per section 80CCE, maximum deduction allowed shall be ₹1,50,000 (Including deduction under section 80CCC and section 80CCD(1)).

Contribution to Pension Fund Section 80CCC

In general in case of life insurance, lump sum amount is paid to the policyholder but in some of the life policies pension is given instead of lump sum amount e.g. Jeevan Suraksha policy. If any person has paid premium for such policy, deduction is allowed under section 80CCC instead of section 80C. Deduction is allowed only to an individual and individual can take the policy only in his name (and not in name of spouse or children). Any pension received shall be taxable under the head Other Sources. If the assessee has surrendered the policy, amount received shall be taxable under the head Other Sources.

Deduction in case of contribution to notified Pension scheme section 80CCD

Shall be discussed under the head Salary

Deduction in respect of contribution to *Agnipath* Scheme Section 80CCH

(1) Where an assessee, being an individual enrolled in the Agnipath Scheme and subscribing to the Agniveer Corpus Fund on or after the 1st day of November, 2022, has in the previous year paid or deposited any amount in his account in the said Fund, he shall be allowed a deduction in the computation of his total income, of the whole of the amount so paid or deposited.

(2) Where the Central Government makes any contribution to the account of an assessee in the Agniveer Corpus Fund referred to in sub-section (1), the assessee shall be allowed a deduction in the computation of his total income of the whole of the amount so contributed.

Explanation.—For the purposes of this section,—

(a) "Agnipath Scheme" means the scheme for enrolment in Indian Armed Forces introduced vide letter No.1(23)2022/D(Pay/Services), dated the 29th December, 2022 of the Government of India in the Ministry of Defence;

(b) "Agniveer Corpus Fund" means a fund in which consolidated contributions of all the Agniveers and matching contributions of the Central Government along with interest on both these contributions are held.

Under default regime only deduction u/s 80CCH(2) shall be allowed.

Section 80D

1. Deduction shall be allowed only to an individual or Hindu Undivided Family.
2. Deduction shall be allowed if the assessee has made payment towards
   - **(i)** Medical Insurance or
   - **(ii)** Central Government Health Scheme or such other scheme as may be notified by the Central Government in this behalf
   - **(iii)** Preventive Health Check-up
3. Individual can make payment for wife or husband or dependent children and deduction shall be allowed equal to the amount paid but subject to a maximum of ₹25,000 but in case of senior citizen deduction shall be allowed upto ₹50,000.

   If the individual has taken policy in the name of parents (dependent or independent), additional deduction shall be allowed to the extent of the premium paid but maximum ₹25,000, however, if the policy has been taken in the name of senior citizen, deduction shall be allowed to the extent of ₹50,000.

   Deduction for Preventive Health Check up shall be maximum ₹5,000 in aggregate for self, spouse, dependant children and parents. Parents may be dependant or independant

   Hindu Undivided Family can take the policy in the name of any of its members and deduction shall be allowed in the similar manner.

   Payment should be made otherwise than in cash but payment for preventive health check-up can be made in any manner.

   In case of a senior citizen, in general medi-claim policy is not issued hence expenditure can be incurred on their medical treatment and deduction for such expenditure shall also be allowed but limit shall be the same as given above.

e.g. (i) Mr. X has taken medi claim policy in his name and paid premium ₹27,000 by cheque, in this case deduction allowed shall be ₹25,000 but if Mr. X is a senior citizen, deduction allowed shall be ₹27,000

(ii) Mr. X has paid ₹7,000 for self for preventive health checkup and ₹7,000 for preventive health checkup of his father, in this case deduction allowed shall be ₹5,000

(iii) Mr. X paid premium of medi claim policy by cheque for self, spouse and children ₹22,000 and for parents ₹28,000, in this case deduction allowed shall be ₹47,000

(iv) Mr. X paid premium of medi claim policy ₹15,000 in cash, deduction allowed shall be Nil

(v) Mr. X paid premium of medi claim policy by cheque ₹18,000 in the name of his father who is not dependant on Mr. X, deduction allowed shall be ₹18,000

In case premium is paid for more than one year, proportionate deduction shall be allowed e.g. Mr. X paid premium of ₹ 30,000 for 2 years, in this case deduction allowed shall be 15,000 for each of the year.

Section 80DD

1. Deduction is allowed only to a resident individual and a resident Hindu Undivided Family.
2. Deduction is allowed if the assessee has incurred any expenditure for the medical treatment, training and rehabilitation etc. of a dependant disabled person, or has deposited any amount with LIC or any other insurer for the benefit of such dependant.
3. "Dependant" in the case of an individual, means the spouse, children, parents, brothers and sisters who are dependant on the individual and in the case of Hindu Undivided Family means any member of the

Hindu Undivided Family who is dependant on such Hindu Undivided Family.

4. Deduction allowed shall be ₹75,000 irrespective of the expenditure incurred by the assessee and in case of severe disability, deduction allowed shall be ₹1,25,000.
5. The assessee should enclose a certificate with the return from prescribed medical authority.
6. The beneficiary should received the amount after the death of the person who has deposited the amount or when the person depositing the amount has completed the age of 60 years or more

Section 80U

(1) Deduction shall be allowed only to a resident individual who is a disabled person and deduction allowed shall be ₹75,000 but in case of severe disability, deduction allowed shall be ₹1,25,000.

(2) The assessee should enclose a certificate with the return from prescribed medical authority.

e.g. (i) Mr. X is suffering from a disability and has income under the head salary ₹10,00,000 and he has invested ₹1,00,000 in NSC, in this case deduction allowed under section 80C shall be ₹1,00,000 and under section 80U shall be ₹75,000

(ii) Mr. X is suffering from a severe disability and has income under the head salary ₹10,00,000 and he has invested ₹2,00,000 in NSC, in this case deduction allowed under section 80C shall be ₹1,50,000 and under section 80U shall be ₹1,25,000.

Section 80DDB

1. Deduction is allowed only to a resident individual or resident Hindu Undivided Family.
2. Deduction is allowed if the assessee has incurred any amount for treatment of such disease as are specified in the rule 11DD.
3. The expenditure can be incurred for himself or a dependant person, and in case of an individual, such person may be spouse, children, parents, brothers or sisters who are dependant on such individual and in case of Hindu Undivided Family such person may be any member of the Hindu Undivided Family who is dependant on the Hindu Undivided Family.
4. Deduction allowed shall be the amount incurred or ₹40,000 whichever is less and if the amount has been paid with regard to a Senior Citizen, deduction allowed shall be upto ₹1,00,000.
5. Deduction allowed shall be reduced by the amount received under medi claim insurance and also by the amount which has been paid by the employer.
6. The assessee should enclose a certificate with the return from prescribed medical authority.

Example

Mr. X has incurred ₹1,25,000 on the treatment of a specified disease for himself, in this case deduction allowed shall be ₹40,000 but if a claim of ₹10,000 has been received under medi-claim policy, deduction allowed shall be ₹30,000. If Mr. X is a senior citizen, deduction allowed shall be 1,00,000 – 10,000 = 90,000

Section 80E

1. Deduction is allowed only to an individual.
2. Deduction is allowed if the assessee has paid interest on loan taken by him from any financial institutions or any approved charitable institution.
3. The loan should have been taken for pursuing higher education which means any course of study pursued after passing the Senior Secondary Examination or its equivalent.
4. Education can be either of self or spouse or children or any person for whom the assessee is legal guardian.
5. The entire amount of interest paid by an individual is allowed as deduction.
6. No deduction shall be allowed for repayment of the principal loan amount.
7. Deduction is allowed for a maximum period of 8 years starting from the year in which first payment of interest was given.
8. Approved charitable institution means the institution notified by the Central Government.
   Financial institution means banking company or other financial institution notified by the Government.
9. No deduction is allowed after the period of 8 years.

Example

Mr. X has taken a loan of ₹2,00,000 from State Bank on 01.10.2016 for pursuing MBBS course & after becoming a doctor he has given payment of interest of ₹45,000 on 01.10.2023, in this case deduction allowed shall be ₹45,000.

Section 80G

Deduction is allowed to all the assessees if they have given any donation or contribution to any of the below mentioned institutions or funds and deduction allowed shall be in the manner given below:

Category A Deduction is allowed equal to 100% of donation

1. The Prime Minister's National Relief Fund
2. The Prime Minister's Armenia Earthquake Relief Fund
3. The National Foundation for Communal Harmony
4. The National Defence Fund
5. The National Children's Fund
6. The Africa Fund
7. A University or any educational institution of national eminence as may be approved by the prescribed authority in this behalf
8. The Chief Minister's Earthquake Relief Fund, Maharashtra
9. The Andhra Pradesh Chief Minister's Cyclone Relief Fund, 1996
10. Any fund set up by the State Government of Gujarat for providing relief to the victims of earthquake
11. The Chief Minister's Relief Fund
12. The Lieutenant Governor's Relief Fund in respect of any Union territory
13. Zila Saksharta Samiti.
14. The National Blood Transfusion Council
15. The State Blood Transfusion Council.
16. The National Illness Assistance Fund
17. The Army Central Welfare Fund
18. The Air Force Central Welfare Fund
19. The Indian Naval Benevolent Fund
20. The National Sports Fund
21. The National Cultural Fund
22. The Fund for Technology Development and Application
23. Any fund set up by a State Government to provide medical relief to the poor
24. The National Trust for Welfare of Persons suffering with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities.
25. Swachh Bharat Kosh
26. Clean Ganga Fund
27. National Fund for Control of Drugs
28. The Prime Minister's Citizen Assistance and Relief in Emergency Situations Fund (PM CARES FUND)

Category B Deduction shall be allowed equal to 50% of Donation

1. The Prime Minister's Drought Relief Fund

Category C Deduction shall be allowed equal to 50% of Qualifying amount (Not Donation)

Donation can be given to any institution or fund which is notified by the government and such institution may be social, religious, charitable or other similar organisations including local authority.

Category D Deduction shall be allowed equal to 100% of Qualifying amount (Not Donation)

Donation can be given to government or to any local authority (e.g. MCD), Institution or association as may be approved by the central government for the purpose of promoting family planning. Similarly deduction shall be allowed to a company for donation to the Indian Olympic Association or to any other association or institution established in India notified by the government.

Qualifying amount = 10% of the adjusted gross total income or the donation (except donation to the above mentioned 28+1 funds) given, whichever is less.

Adjusted gross total income = Gross Total Income – Long term capital Gains (including LTCG u/s 112A) – Short term capital gains u/s 111A – All Deduction under section 80C to 80U except section 80G

No deduction shall be allowed under this section in respect of any donation unless such donation is of a sum

of money i.e. if donation is given in kind, deduction is not allowed.
Donation can be given in cash upto ₹2,000.

Section 80GG

1. Deduction is allowed only to an individual.
2. He should not be getting any house rent allowance and also he is not being provided with Rent Free Accommodation by his employer.
3. He should not have any house in his name or in the name of the spouse or in the name of minor child or in the name of Hindu Undivided Family of which he is a member, at a place where he ordinarily resides or performs duties of his office or carries on his business or profession.
4. The assessee may have house at any other place but it should not be self occupied i.e. it may be let out or vacant.
5. He has paid rent for the accommodation taken by him for his residence.
6. Deduction shall be allowed to such individual in case of payment of rent and deduction shall be allowed to the extent of the least of the following:
   (i) Rent paid over 10% of the adjusted gross total income
   (ii) ₹5,000 p.m.
   (iii) 25% of the adjusted gross total income

Adjusted Gross Total Income = Gross Total Income – Long term capital gains (including LTCG u/s 112A) – Short term capital gains u/s 111A – All Deduction of section 80C to 80U except section 80GG.

- Deduction can be allowed even where the assessee is not an employee i.e. the persons having business/profession can also avail deduction under section 80GG.

Section 80GGA

Deduction is allowed to all the assessees except the assessees whose gross total income includes income which is chargeable under the head "Profits and gains of business or profession". (because such assesses is allowed to debit the amount to profit and loss account of business/profession)

Deduction is allowed in case of donation or contributions to any of the below mentioned institutions. Deduction allowed is equal to the amount of donations.

(i) Donation given to an institution notified under section 35 for scientific research / research in social science or statistical research.
(ii) Donation given to an institution notified under section 35AC for eligible project i.e. the projects of social or economic importance like construction of houses for the poor person or taking up drinking water project or other similar projects.
(iii) Donation given to an institution notified under section 35CCA for rural development including donation to Rural Development Fund setup by central Government or donation to National Urban Poverty Eradication Fund.

Donation can be given in cash upto ₹2,000.

Example:

(i) Mr. X has donated ₹2,00,000 by cheque to an institution notified under section 35AC for eligible projects and Mr. X do not have any business/profession, in this case he will be allowed deduction under section 80GGA for ₹2,00,000 provided the payee has filed the statement but if he has business/profession, he will not be allowed deduction under section 80GGA rather he will be allowed to debit the amount to profit and loss account.

(ii) ABC Ltd. has donated ₹2,00,000 by cheque to an institution notified under section 35CCA for rural development and company has business/profession, in this case deduction under section 80GGA is not allowed but company can debit the amount to profit and loss account.

Donation to Political Party Section 80GGB

Deduction shall be allowed to an Indian Company in case of donation or contribution to a political party or electoral trust and deduction is allowed equal to the amount of donation or contribution. Donation is not allowed in cash. The word "contribute" has the same meaning as given in section 182 of the Companies Act, 2013, which provides that a donation or subscription or payment given by a company to a person for carrying on any activity which is likely to effect public support for a political party shall also be deemed to be contribution for a political purpose. The expenditure incurred, directly or indirectly, by a company on

advertisement in any publication (being a publication in the nature of a souvenir, brochure, tract, pamphlet or the like) by or on behalf of a political party or for its advantage shall also be deemed to be a contribution to such political party or a contribution for a political purpose to the person publishing it.

Donation to Political Party Section 80GGC

If any other person has given donation/contribution to a political party/electoral trust, deduction shall be allowed equal to the amount of donation but donation in cash is not allowed.

Deduction in case of new employment Section 80JJAA

1. Deduction is allowed **to all assessee** whose accounts are required to be audited.
2. Deduction shall be allowed equal to **30% of the salary paid to the employees employed in the first year. In the second year or third year deduction shall be allowed @ 30% of salary but only for those employees whose employment has effect of increasing the number of employees employed as on the last day of the preceding year.** E.g. ABC Ltd. commenced business in the year 2023-24 and has given employment to 100 employees, in this case deduction shall be allowed @ 30% of the salary of the employees. In P.Y. 2024-25, 20 employees have left the job and 70 new have joined, in this case net increase is of 50 employees, they will be called additional employees and 30% of their salary shall be allowed as deduction and in third year also deduction shall be allowed in the similar manner.
3. Deduction is allowed for **3 assessment years** including the assessment year in which such employment is provided.
4. It should be a new business.
5. **Emoluments should be paid through** account payee cheque, an account payee bank draft or by use of electronic clearing system through a bank account or through such other electronic modes as may be prescribed. (Other electronic mode means Credit Card, Debit Card, Net Banking, IMPS (Immediate Payment Service), UPI (Unified Payment Interface), RTGS (Real Time Gross Settlement), NEFT (National Electronic Funds Transfer), and BHIM (Bharat Interface for Money) Aadhaar Pay)

7. No deduction shall be allowed with regard to the employees given below:

(a) an employee whose total emoluments are more than twenty-five thousand rupees per month; or

(b) an employee employed for a period of less than two hundred and forty days during the previous year.

In the case of an assessee who is engaged in the business of manufacturing of apparel or footwear or leather products, 240 days shall be taken as 150 days.

Where an employee is employed during the previous year for a period of less than two hundred and forty days or one hundred and fifty days, as the case may be, but is employed for a period of two hundred and forty days or one hundred and fifty days, as the case may be, in the immediately succeeding year, he shall be deemed to have been employed in the succeeding year and the provisions of this section shall apply accordingly.

The Assessee shall be required to submit a certificate from a Chartered Accountant in form No. 10DA certifying the amount of deduction claimed.

Section 80QQB

1. Deduction is allowed only to a resident individual who is an author.
2. He should have income through his copyright in a book which is a work of literary, artistic or scientific nature but such should not be text-books for schools/colleges etc. and also it should not be any help book or guide etc. or any newspaper or magazine etc.
3. Deduction allowed shall be equal to the amount of royalty income or ₹3,00,000 whichever is less.
4. Royalty received by the author in excess of 15% of the value of such books sold during the previous year shall be ignored.
5. In respect of any income earned from any source outside India, so much of the income shall be taken into account for the purpose of this section as is brought into India by the assessee in convertible foreign exchange within a period of six months from the end of the previous year in which such income is earned or within such further period as the competent authority may allow in this behalf. E.g. Mr. X received a royalty of ₹4,00,000 from outside India in connection with a book of literary nature but amount brought in India within 6 months from the end of relevant previous year is ₹2,30,000, in this case amount to be added to income shall be ₹4,00,000 but deduction allowed shall be ₹2,30,000.

6. The Assessee should retain information with him in form no. 10CCD and it should be produced when demanded by the department.

Example 1: Mr. X received royalty of ₹2,00,000 from abroad for a book authored by him which is a work of artistic nature. The rate of royalty is 20% of value of books and expenditure made for earning this royalty was ₹50,000. The amount remitted to India till 30th September, 2024 is ₹1,20,000. Compute deduction u/s 80QQB and also compute income to be added in Gross Total Income.

Solution:

Amount to be added in Income (2,00,000-50,000)	1,50,000

Deduction allowed u/s 80QQB

Deductions u/s 80QQB	70,000

15% of value of books (2,00,000/20% x 15%)	1,50,000
but cannot exceed amount brought in India within 6 months from the end of the previous year i.e. 1,20,000	
Allowed	1,20,000
Less: Expenses	(50,000)
Deduction allowed	70,000

Section 80RRB

1. Deduction is allowed only to resident individual.
2. His gross total income should include royalty in respect of a patent.
3. Deduction allowed shall be equal to the amount of royalty or ₹3,00,000 whichever is less.
4. In respect of any income earned from any source outside India, so much of the income, shall be taken into account for the purpose of this section as is brought into India by the assessee in convertible foreign exchange within a period of six months from the end of the previous year in which such income is earned or within such further period as the competent authority may allow in this behalf.
5. The Assessee should retain information with him in form no. 10CCE and it should be produced when demanded by the department.

Section 80TTA

1. Deduction is allowed only to an individual or HUF. (Other than those covered in 80TTB)
2. Deduction is allowed is the assessee has interest income on saving bank accounts with any bank/ Post Office.
3. No deduction is allowed from interest on time deposit/ fixed deposit.
4. Deduction is allowed to the extent of ₹10,000.

E.g. Mr. X has interest income ₹8,000 from savings bank account with State Bank and interest income of ₹13,000 from fixed deposit with State Bank, deduction allowed under section 80TTA shall be ₹8,000.

> As per section 10(15), Interest on Post Office Savings Bank Account to the extent of ₹3,500 per year shall be exempt from income tax and in the case of joint account, exemption shall be allowed upto ₹7,000 per year.

Example: Mr. X has Income under the head salary ₹7,00,000 and interest on post office savings bank account ₹7,000 and interest on savings bank account with State Bank ₹9,000, in this case tax liability of Mr. X shall be (Optional Regime)

		₹
Income under the head Salary		7,00,000
Income under the head Other sources		
Interest on Post office Saving Bank Account	7,000	
Less: Exemption u/s 10(15)	(3,500)	3,500
Interest on Saving Bank Account with SBI		9,000
Income under the head other sources		12,500
Gross Total Income		7,12,500
Less: Deduction u/s 80TTA		(10,000)

Total Income	7,02,500
Computation of Tax Liability	
Tax on ₹ 7,02,500 at slab rate	53,000
Add: HEC @ 4%	2,120
Tax Liability	55,120

Section 80TTB

Deduction shall be allowed only to a senior citizen with regard to interest income from banks/cooperative bank/ cooperative society/post office and further it may be in connection with time deposits/saving bank account or any other deposits.

Deduction shall be allowed upto such income but maximum ₹ 50,000.

(Deduction 80TTA not allowed)

Section 10AA

Units established in Special Economic Zone

1. Deduction shall be allowed to all the assessees, may be individual, firm, company etc. provided the assessee has its unit in Special Economic Zone and it is engaged in manufacturing or in providing services including computer software

2. Quantum of deduction:

Deduction shall be allowed to the units in the Special Economic Zone for a continuous period of 15 years in the manner given below:

For first 5 Years	100% of export profits
For next 5 Years	50% of export profits
For next 5 Years	50% of export profit provided such profits have been credited to the Special Economic Zone Re-investment Reserve Account.

3. The amount credited to the Special Economic Zone Reinvestment Reserve Account should be utilised for acquiring a new plant and machinery within a period of 3 years. The period of 3 years shall be determined from the end of the previous year in which the reserve was created e.g. If amount has been transferred in reserve account in the previous year 2023-24, amount should be utilized for purchasing plant and machinery upto 31.03.2027.

If the amount credited to the Special Economic Zone Reinvestment Reserve Account is not utilised within 3 years, it will be taxable in the 4th year. Till the acquisition of plant and machinery amount will be utilized for the purpose of business/profession but it should not be used for distribution as dividends or for remittance out of India or for creation of asset out of India. After the assessee has purchased plant and machinery, information should be retained in form no.56FF

If the amount is misutilised within the period of 3 years, it will be taxable in the year in which it was misutilised.

4. Export profits = $\frac{\text{Profits of Business x Export Turnover}}{\text{Total Turnover}}$

5. Export turnover means the consideration in respect of export by the undertaking, being the Unit of articles or things or services received in, or brought into, India by the assessee in convertible foreign exchange within a period of 6 months from the end of the previous year or within the time allowed by the competent authority, but does not include freight, telecommunication charges or insurance attributable to the delivery of the articles or things outside India or expenses, if any, incurred in foreign exchange in rendering of services (including computer software) outside India.

6. No deduction shall be allowed to an assessee who does not furnish the return of income within the time allowed u/s 139(1).

AGRICULTURAL INCOME

Question 1. [V. Imp.] Explain meaning of agricultural income.

Answer: Meaning of Agricultural Income Section 2(1A)

The term Agricultural Income is defined in three parts under Income Tax Act under section 2(1A) (a), 2(1A) (b), 2(1A) (c) as given below:

Income from leasing out of agricultural land Section 2(1A) (a)

If any person has given any agricultural land on rent, rent so received shall be considered to be agricultural income and shall be exempt from income tax e.g. Mr. X has ten acres of agricultural land in India which is given on lease at a rent of ₹ 2,00,000. It will be considered to be agricultural income.

If rent is received in kind, still it will be considered to be agricultural income e.g. Mr. X has leased out ten acres of agricultural land and has received wheat crop and it was sold for ₹2,00,000. In this case, ₹2,00,000 shall be considered to be his agricultural income.

The rent can either be received by the owner of the land or by the original tenant from the sub-tenant. It implies that ownership of land is not necessary. Thus, the rent received by the original tenant from sub-tenant would also be agricultural income.

If rent to be received has not been received in time and accordingly interest has been received, such interest shall not be considered to be agricultural income, rather it is his income under the head other sources.

If the agricultural land is situated outside India, income from agricultural land is taxable as income from other sources.

Rent received for letting out agricultural land for a movie shooting shall not be considered to be agricultural income.

Income from Agricultural Operations Section 2(1A)(b)

If any person is engaged in agricultural activities, income derived from such agricultural operations shall be considered to be agricultural income. If any company is doing agriculture, its income shall also be exempt.

Dividends received by a shareholder from the company having agricultural income

If any shareholder has received dividend from a company having income from agricultural activities, such income shall not be considered to be agricultural income rather it will be considered to be dividend income.

E.g. ABC Ltd. an Indian company has agricultural income of ₹500 lakhs and company has distributed dividend of ₹50 lakh and one of the shareholder Mr. X has received dividend of ₹8 lakh, in this case tax treatment shall be: Tax liability of ABC Ltd. Shall be nil as per section 10(1) and dividend received by Mr. X shall be taxable.

If any foreign company is doing agriculture, its agricultural income in India shall also be exempt and if the company has paid dividend, it will be taxable in the hands of the shareholder e.g. If in the above case it is a foreign company, its tax liability shall be nil and tax liability of shareholder shall be as given below:

Tax on ₹8,00,000 at slab rate	35,000
Add: HEC @ 4%	1,400
Tax Liability	36,400

Payments received by a partner from the partnership firm

If any partnership firm has agricultural income, it will be exempt from income tax and if partnership firm has paid any salary or interest to the partners, it will be considered to be agricultural income to the partners as decided in **R.M. Chidambaram Pillai v CIT (SC)**

If any partner has received any share out of profits of partnership firm, it will be exempt under section 10(2A) and it do not matter whether partnership firm has agricultural income or non-agricultural income.

If partnership firm has non-agricultural income, salary or interest received by a partner from the partnership firm shall be considered to be their income under the head business/profession as per section 28 and shall be taxable in the hands of partner e.g. XY partnership firm has two partners Mr. X and Mr. Y and profit sharing ratio is 1:1 and the firm has agricultural income ₹300 lakhs without debiting salary or interest to the partners. The firm has paid salary of ₹8 lakh to each of the partner and interest of ₹4 lakh to each of the partner. Mr. X has income under the head house property ₹6 lakh and Mr. Y has income under the head

house property ₹7 lakh. Compute tax liability of the firm and also that of partners.

Solution:

Since partnership firm has agricultural income, it is exempt from income tax under section 10(1).

Tax liability of Mr. X shall be

Income under the head House Property	6,00,000
Agricultural income (₹8,00,000 + ₹4,00,000)	
12,00,000	
Partial integration	
Step 1. ₹6,00,000 + ₹12,00,000 = ₹18,00,000 at slab rate	2,40,000
Step 2. ₹3,00,000 + ₹12,00,000 = ₹15,00,000 at slab rate	(1,50,000)
Step 3. (₹2,40,000 – ₹1,50,000)	90,000
Less: Rebate u/s 87A	(25,000)
Tax before health & education cess	65,000
Add: HEC @ 4%	2,600
Tax Liability	67,600

Tax liability of Mr. Y shall be

Income under the head House Property	7,00,000
Agricultural income (8,00,000 + 4,00,000)	12,00,000
Partial integration	
7,00,000 + 12,00,000 = 19,00,000 at slab rate	2,70,000
3,00,000 + 12,00,000 = 15,00,000 at slab rate	(1,50,000)
(2,70,000 – 1,50,000)	1,20,000
Less: Rebate u/s 87A	(25,000)
Tax before health & education cess	95,000
Add: HEC @ 4%	3,800
Tax Liability	98,800

Share received out of profits is exempt under section 10(2A).

Presume in the above case partnership firm has income from business and not agricultural income.

Solution:

Tax Liability of partnership firm shall be as given below:

Profits before debiting salary and interest	300,00,000
Less: Salary and Interest	24,00,000
Income under the head Business/Profession	276,00,000
Gross Total Income/Total Income	276,00,000
Tax Liability 276,00,000 x 30%	82,80,000
Add: Surcharge @ 12%	9,93,600
Tax before health & education cess	92,73,600
Add: HEC @ 4%	3,70,944
Tax Liability	96,44,544
Rounded off u/s 288B	96,44,540
Tax Liability of Mr. X	
Income under the head Business/Profession (salary + interest)	12,00,000
Income under the head House Property	6,00,000
Gross Total Income/Total Income	18,00,000
Tax on ₹18,00,000 at slab rate	2,40,000
Add: HEC @ 4%	9,600
Tax Liability	2,49,600
Tax Liability of Mr. Y	
Income under the head Business/Profession (salary + interest)	12,00,000
Income under the head House Property	7,00,000
Gross Total Income/Total Income	19,00,000

Tax on ₹19,00,000 at slab rate	2,70,000
Add: HEC @ 4%	10,800
Tax Liability	2,80,800

Meaning of Agriculture: The term agriculture and agricultural purposes has not been defined under Income Tax Act, accordingly its meaning has been explained in **Raja Benoy Kumar Sahas Roy v CIT (SC).** If any person has performed the following two operations, it will be called agriculture.

1. Basic Operations:

In order to constitute agriculture, there must be basic operations like ploughing of land, sowing of seeds, planting and similar kind of operations on the land.

2. Subsequent Operations:

After carrying out basic operations, there must be subsequent operations like **weeding, digging the soil around the growth, watering of the plant at regular intervals, using pesticides and insecticides to protect the crop and it will also include pruning, cutting, harvesting** etc.

(**Pruning** means to trim (a tree, shrub, or bush) by cutting away dead or overgrown branches or stems, especially to encourage growth.)

If there are basic and subsequent operations, it will be considered to be agricultural income even if what is produced is not food grains, example:

(i) If a person is growing betel, coffee, tea, spices etc. through basic and subsequent operations, it will be agricultural income.
(ii) If a person is growing commercial crops like cotton, flax, jute, indigo etc. through basic and subsequent operations, it will be considered to be agricultural income.
(iii) If a person is growing trees like Sal, Seesam, Sangwan etc. for obtaining timber, it will be considered to be agricultural income, provided there are basic and subsequent operations.

Income which is partially agricultural and partially from business Rule 7

If any person is engaged in growing as well as manufacturing activity, in such cases it will be presumed that he has transferred his agricultural produce to his industrial undertaking at the market price and expenses on agriculture shall be deducted from such amount and balance shall be agricultural income. While computing income of business, such market price is allowed to be deducted as cost of raw material. E.g. Mr. X is engaged in growing of sugarcane and also has a sugar factory. He has incurred expenses of ₹3,00,000 in connection with growing of sugarcane crop. Entire sugarcane crop was transferred to the industrial unit when market price of sugarcane was ₹ 10,00,000. In this case, agricultural income of Mr. X shall be ₹ 7,00,000. While computing income of sugar factory, ₹ 10,00,000 shall be debited to profit and loss account as the cost of raw material.

Example

Mr. X grows sugarcane and uses the same for the purpose of manufacturing sugar in his factory.
50% of sugarcane produce is sold for ₹10 lacs, and the cost of cultivation of such sugarcane is ₹3 lacs.
The cost of cultivation of the balance sugarcane (50%) is 3 lacs and the market value of the same is ₹10 lacs.
After incurring ₹1.5 lacs in the manufacturing process on the balance sugarcane, the sugar was sold for ₹25 lacs.
Compute Mr. X's business income and agricultural income. Compute his Tax Liability.

Solution:

Agricultural income = Actual sale of sugarcane + Market value of sugarcane transferred to the manufacturing unit – Cost of cultivation
= [₹10 lacs + ₹10 lacs] – [₹3 lacs + ₹3 lacs]
= ₹20 lacs – ₹6 lacs
= ₹14 lacs

Business income = Sales – Market value of 50% of sugarcane produce – Manufacturing expenses
= ₹25 lacs – 10 lacs – 1.5 lacs
= ₹13.5 lacs

Computation of tax liability

Step 1: Tax on (₹14,00,000 + ₹ 13,50,000 = ₹ 27,50,000)	5,25,000
Step 2: Tax on (₹ 3,00,000 + ₹ 14,00,000) = ₹ 17,00,000)	(2,10,000)

Step 3: ₹ 5,25,000 – ₹ 2,10,000	3,15,000
Tax before health & education cess	3,15,000
Add : HEC @ 4%	12,600
Tax Liability	3,27,600

Computation of income in case of growing and manufacturing of Rubber Rule 7A

If any person is engaged in growing and manufacturing of rubber, income shall be computed combined for agriculture as well as business and 35% of such income shall be business income and balance shall be agricultural income e.g. If income from growing + manufacturing is ₹100 lakhs, income from business shall be ₹35 lakhs and income from agriculture shall be ₹65 lakhs.

Computation of income from the growing and manufacturing of Coffee Rule 7B

If any person is engaged in growing and manufacturing of coffee, income shall be computed combined for agriculture as well as business and 40% of such income shall be business income and balance shall be agricultural income e.g. If income from growing + manufacturing is ₹100 lakhs, income from business shall be ₹40 lakhs and income from agriculture shall be ₹60 lakhs.

If any person is engaged in growing and curing of coffee, 25% of such income shall be business income and balance shall be agricultural income.

Computation of income in case of persons Growing and Manufacturing Tea Rule 8

If any person is engaged in growing and manufacturing of tea, income shall be computed combined for agriculture as well as business and 40% of such income shall be business income and balance shall be agricultural income e.g. If income from growing + manufacturing is ₹100 lakhs, income from business shall be ₹40 lakhs and income from agriculture shall be ₹60 lakhs.

Marketing operations /Marketing process

Process ordinarily employed to render the produce fit to be taken to the market: Sometimes, to make the agricultural produce a saleable commodity, it becomes necessary to perform some kind of process on the produce. The income from the process employed to render the produce fit to be taken to the market would be agricultural income.

However, it must be a process ordinarily employed by the cultivator or receiver of rent in kind and the process must be applied to make the produce fit to be taken to the market.

The ordinary process employed to render the produce fit to be taken to market includes threshing, winnowing, cleaning, drying, crushing etc.

For example, the process ordinarily employed by the cultivator to obtain the rice from paddy is to first remove the hay from the basic grain, and thereafter to remove the chaff from the grain. The grain has to be properly filtered to remove stones etc. and finally the rice has to be packed in gunny bags for sale in the market.

After such process, the rice can be taken to the market for sale. This process of making the rice ready for the market may involve manual operations or mechanical operations. All these operations constitute the process ordinarily employed to make the product fit for the market.

Example: Threshing is done in case of wheat crop to render it fit for sale, similarly, tobacco leaves are dried to make them fit for sale. In all such cases, it will continue to be agricultural income.

- **Income derived from animal husbandry, fisheries, poultry farming, dairy farming etc. shall not be considered to be agricultural income.**
- **Income derived from saplings or seedlings growing in a nursery shall be considered to be agricultural income. (whether basic and subsequent operations have been carried out or not)**
- **Income from sale of agricultural land shall not be considered to be agricultural income rather it will be considered to be capital gain.**

Income from a Farm Building Section 2(1A)(c)

If any building is in the agricultural field or is very near to the agricultural field and it is being used for **storing agricultural produce** or **for storing agricultural implements** or **it is being used as dwelling unit** by the farmer himself, such building is called farm building and its income shall be computed as per provisions given under the head house property and income shall be considered to be agricultural income however such land should be in the rural area. If it is in the urban area, its classification should be agricultural land.

If the rural area is very near to the urban area, it will be considered to be urban area in the manner given below:

(i) If population of urban area is more than 10,000 but upto 1,00,000, rural area within distance of 2 kms shall be considered to be urban area

(ii) If population of urban area is more than 1,00,000 but upto 10,00,000, rural area within distance of 6 kms shall be considered to be urban area

(iii) If population of urban area is more than 10,00,000, rural area within distance of 8 kms shall be considered to be urban area

CLUBBING OF INCOME
(INCOME OF OTHER PERSONS INCLUDED IN ASSESSEE'S TOTAL INCOME)

SECTION 60 TO 65

In general a person has to pay tax only on his own income but sometimes incomes of other persons is added to his income to charge tax from him, it is called 'clubbing of income'. Clubbing provision are applicable to check tax evasion.
Clubbing provision are applicable in the following cases: -

1. Transfer of income without transferring the asset Section 60
If any person has transferred any income without transferring the asset, in such cases clubbing provision shall be applicable.
Example
Mr. X has two deposits of ₹50 lakhs each and interest income of each deposit is ₹15 lakhs. He has transferred income of one of the deposit to his brother Mr. Y. In this case, clubbing provision shall be applicable and income shall be taxable in the hands of Mr. X.

2. Transfer of asset through revocable transfer Section 61
If any person has transferred any asset through revocable transfer, income from that asset shall be clubbed in the income of transferor.
Example
Mr. X has transferred a deposit of ₹10 lakhs to his friend Mr. Y with the condition that the deposit can be taken back by him at any time. In this case, clubbing provision shall be applicable.

3. Transfer of an asset through irrevocable transfer Section 62
If any person has transferred any asset through irrevocable transfer, in this case clubbing provision shall not apply. Similarly If any person has transferred any asset through a transfer which is not revocable during the life time of the beneficiary, clubbing provision shall not apply.
Example: Mr. X has transferred one asset to Mr. Y with the condition that the asset shall be retained by Mr. Y as long as he is alive and after that the asset shall be taken back by Mr. X. In this case, clubbing provision shall not apply.
Provided that the transferor derives no direct or indirect benefit from such income in either case.
All income arising to any person by virtue of any such transfer shall be chargeable to income-tax as the income of the transferor as and when the power to revoke the transfer arises, and shall then be included in his total income

Meaning of revocable transfer Section 63
For the purposes of sections 60, 61 and 62 and of this section,—
A transfer shall be deemed to be revocable if—
(i) it contains any provision for the re-transfer directly or indirectly of the whole or any part of the income or assets to the transferor, or
(ii) it, in any way, gives the transferor a right to re-assume power directly or indirectly over the whole or any part of the income or assets

4. TRANSFER OF ASSETS TO SPOUSE SECTION 64(1)[V. IMP.]
(i) If any person has transferred any asset, other than a house property to his or her spouse directly or indirectly without adequate consideration, in such cases, income of the asset shall be clubbed in the income of transferor.

(ii) If the asset is transferred for adequate consideration, clubbing provisions are not applicable. Similarly if the asset is transferred under an agreement to live apart, clubbing provision shall not apply.

Example

Mr. X has transferred one deposit to his wife Mrs. X by charging full consideration of ₹10,00,000. In this case, interest income shall not be clubbed in the income of Mr. X.

(iii) If there is inadequate consideration, clubbing provisions shall be applicable only with regard to the income relating to that part of the consideration which is considered to be inadequate.

Example

Mr. X has transferred one deposit of ₹10,00,000 for a consideration of ₹7,00,000 and there is interest income of ₹1,00,000 from the said deposit, in this case income of ₹30,000 shall be clubbed.

(iv) In order to apply clubbing provision relationship of husband and wife must exist on the date of transfer of the asset and also on the date of accrual of income otherwise clubbing provision shall not be apply, as decided in **Philip Johan Plasket Thomas v. CIT (SC).**

Example

Mr. X has transferred certain assets on 01.01.2024 to his would be wife. He got married on 10.01.2024, in this case clubbing provision shall not apply.

(v) If any person has transferred the asset to the spouse and there is accretion to the asset, income from such accretion shall not be clubbed, as decided in case of **M. P. Birla (HC).**e.g. Mr. X gifted certain shares to Mrs. X and Mrs. X has received bonus shares. In this case dividend or capital gains from original shares shall be clubbed in the hands of Mr. X but dividend or capital gains from bonus shares shall not be clubbed rather Mrs. X herself has to pay tax.

Similarly if any asset has been transferred to spouse, income from the asset shall be clubbed but if same income is invested further, income from such income shall not be clubbed e.g. Mr. X has gifted one fixed deposit to Mrs. X, interest income from such fixed deposit shall be clubbed but if interest income is invested further, any fresh income from such income shall not be clubbed.

(vi) Where the asset transferred directly or indirectly by an individual to the spouse has been invested by the transferee in any business, the income arising out of the business to the transferee in any previous year shall be clubbed in the income of transferor but for this purpose capital as on first day of relevant previous year shall be taken into consideration.

Example

(a) Mr. X has gifted ₹5,00,000 to Mrs. X on 01.04.2023 and She invested it in the proprietary business on the same date and there were profits of ₹2,00,000. In this case, entire income of ₹2,00,000 shall be clubbed in the income of Mr. X.

(b) Mrs. X has one business on 01.04.2023 with capital of ₹5 lakh and Mr. X has gifted ₹5,00,000 to Mrs. X on 01.04.2023 and She invested it in the proprietary business on the same date and there were profits of ₹2,00,000. In this case, income of ₹1,00,000 shall be clubbed in the income of Mr. X.

(c) Mrs. X has one business on 01.04.2023 with capital of ₹5 lakh and Mr. X has gifted ₹5,00,000 to Mrs. X on 20.04.2023 and She invested it in the proprietary business on the same date and there were profits of ₹2,00,000. In this case, income from business shall not be clubbed in the income of Mr. X because amount was transferred in business after first day of previous year .

(vii) If any person has transferred the asset to the spouse and the spouse has invested it in some partnership firm as capital contribution or otherwise, in this case interest received from the partnership firm shall be clubbed in the income of the transferor and capital as on first day of relevant previous year shall be taken into consideration.

If any salary has been received from partnership firm, it will not be clubbed.

If any share has been received from the profits of partnership firm, such shares shall be exempt under section 10(2A).

(viii). If any person has transferred any asset to the spouse and spouse has further transferred this asset, in this case, capital gain shall be considered to be the income of the transferor.

(ix) Cross-transfers are also covered

The Supreme Court, in case of Keshavji Morarji, observed that clubbing provisions shall be applicable in case of cross transfers also e.g. A making gift of ₹ 50,000 to the wife of his brother B for the purchase of a house by her and a simultaneous gift by B to A's minor son of shares in a foreign company worth ₹ 50,000 owned by him, in the case, the income arising to Mrs. B from the house property should be included in the total income of B and the dividend from shares transferred to A's minor son would be taxable in the hands of A.

Example: Mr. Vasudevan gifted a sum of ₹6 lakhs to his brother's wife on 14-6-2023. On 12-7-2023, his brother gifted a sum of ₹5 lakhs to Mr. Vasudevan's wife. The gifted amounts were invested as fixed deposits in banks by Mrs. Vasudevan and wife of Mr. Vasudevan's brother on 01-8-2023 at 9% interest. Examine the consequences of the above under the provisions of the Income-tax Act, 1961 in the hands of Mr. Vasudevan and his brother.

Answer: In the given case, Mr. Vasudevan gifted a sum of ₹6 lakhs to his brother's wife on 14.06.2023 and simultaneously, his brother gifted a sum of ₹5 lakhs to Mr. Vasudevan's wife on 12.07.2023. The gifted amounts were invested as fixed deposits in banks by Mrs. Vasudevan and his brother's wife. These transfers are in the nature of cross transfers.

Accordingly, the income from the assets transferred would be assessed in the hands of the deemed transferor because the transfers are so intimately connected to form part of a single transaction and each transfer constitutes consideration for the other by being mutual or otherwise.

If two transactions are inter-connected and are part of the same transaction in such a way that it can be said that the circuitous method was adopted as a device to evade tax, the implication of clubbing provisions would be attracted. It was so held by the Apex Court in CIT vs. Keshavji Morarji (1967) 66 ITR 142. Accordingly, the interest income arising to Mrs. Vasudevan in the form of interest on fixed deposits would be included in the total income of Mr. Vasudevan and interest income arising in the hands of his brother's wife would be taxable in the hands of Mr. Vasudevan's brother as per section 64(1), to the extent of amount of cross transfers i.e., ₹5 lakhs.

This is because both Mr. Vasudevan and his brother are the indirect transferors of the income to their respective spouses with an intention to reduce their burden of taxation However, the interest income earned by his spouse on fixed deposit of ₹5 lakhs alone would be included in the hands of Mr. Vasudevan's brother and not the interest income on the entire fixed deposit of ₹6 lakhs, since the cross transfer is only to the extent of ₹5 lakhs.

(x) If there is indirect transfer, clubbing provisions shall be applicable in that case also e.g. Mr. X gifted certain cash/ asset to his major son and son gifted the same asset to mother, in this case it will be considered transfer and income shall be clubbed in the income of Mr. X.

(xi) If any person has given loan to the spouse, income from such loan shall not be clubbed.

Transfer of house property: In the case of transfer of house property, the provisions are contained in section 27. If an individual transfers a house property to his spouse, without adequate consideration or otherwise than in connection with an agreement to live apart, the transferor shall be deemed to be the owner of the house property and its annual value will be taxed in his hands.

5. Transfer of the asset to the son's wife Section 64(1)

If any person has transferred the asset to the son's wife, in this case, clubbing provision shall apply in the similar manner as in the case of transfer of the assets to the spouse.

Such clubbing provisions are applicable from 01.06.1973.

6. Transfer of assets to any other person Section 64(1)

If any person has transferred the asset to any other person, clubbing provision shall not be applicable, but if the transferor has any right to receive any benefit from the asset or the benefit shall be received by the spouse of the transferor or by the son's wife of the transferor, in that case, clubbing provision shall be applicable.

7. Salary/commission/fee etc. from a concern in which the spouse has substantial interest Section 64(1)

(i) If any person is getting salary, commission, fee or any other remuneration whether in cash or in kind from a concern in which his or her spouse has substantial interest and further salary etc. is being received **without any technical or professional qualification**, in such case, salary etc. so received shall be

clubbed in the income of the spouse having substantial interest. However clubbing shall not be applicable in relation to any income arising to the spouse where the spouse possesses technical or professional qualifications and the income is solely attributable to the application of his or her technical or professional knowledge and experience.

If the spouse has substantial interest along with his relative, even in that case clubbing provisions are applicable.

Example

Mr. X is holding 11% shares of ABC Ltd. and his father is holding 10% shares in ABC Ltd. and his wife Mrs. X is employed in ABC Ltd. without any technical or professional qualification, in this case, salary income of Mrs. X shall be clubbed in the income of Mr. X.

(ii) Technical and professional qualification shall include not only degree or membership but also any experience or expertise or any natural talent also, as decided in **Batta Kalyani v. CIT, (HC).**

(iii) As per section 2(41), Relative, means the husband, wife, brother or sister or any lineal ascendant or descendant.

(iv) As per section 2(32), Substantial Interest means having 20% or more of the equity shares in a company or having 20% of more of the shares in profits in any other concern.

(v) Both husband and wife have substantial interest in a concern: Where both husband and wife have substantial interest in a concern and both are in receipt of income by way of salary etc. from the said concern, such income will be includible in the hands of that spouse, whose total income, excluding such income is higher. E.g. Mr. X has 12% shares in ABC limited and Mrs. X has 13% shares in ABC limited and both are getting salary of 13,00,000 and 10,00,000 from ABC limited without any technical or professional qualification. Mr. X has income under the head house property 6,00,000 and Mrs. X has income under the head house property 7,00,000, in this case salary income of both of them shall be clubbed in the income of Mrs. X. Tax liability of each one of them shall be:

Mr. X	
Income under the head house property	6,00,000
Gross Total Income	6,00,000
Less: Deductions under Chapter VI-A	Nil
Total Income	6,00,000
Computation of Tax Liability	
Tax on 6,00,000 at slab rate	15,000
Less: Rebate u/s 87A	(15,000)
Tax Liability	Nil
Mrs. X	
Income under the head house property	7,00,000
Income under the head salary	
Salary of Mr. X	13,00,000
Salary of Mrs. X	10,00,000
Gross salary	23,00,000
Less: Standard Deduction u/s 16(ia)	(50,000)
Income under the head salary	22,50,000
Gross Total Income	29,50,000
Less: Deductions under Chapter VI-A	Nil
Total Income	29,50,000
Computation of Tax Liability	
Tax on 29,50,000 at slab rate	5,85,000
Add: HEC @ 4%	23,400
Tax Liability	6,08,400

8. Asset held by Minor Child Section 64(1A) [V. IMP.]

(i) If any income accrues or arises to a minor child, such income shall be clubbed in the income of mother or **father whosoever has higher income before** taking into consideration the income to be clubbed.

(ii) If the marriage of mother, father doesn't subsist, in that case, income shall be clubbed in the income

of mother or father whosoever maintains the minor child.

(iii) Minor child for this purpose shall include even an adopted child and also step child, however, **it will not include the minor child suffering from a disability mentioned under section 80U.** e.g. Minor son of Mr. X has interest income of ₹2,00,000 and the minor child is suffering from a disability, in this case, clubbing provisions shall not be applicable.

(iv) If any minor child has **income through**

(i) **Manual labour or**

(ii) **has income through activity involving application of his skill, talent or specialized knowledge and experience**,

in this case, clubbing provision shall not apply, rather it will be considered to be the income of minor child and his tax liability shall be computed separately but the return shall be filed by his father as his guardian.

(v) If any person has transferred any asset to minor married daughter, clubbing provision shall applicable in that case also e.g. Minor married daughter of Mr. X has interest income of ₹1,00,000 from bank deposit, in this case income shall be clubbed in the income of mother or father whosoever has higher income.

(vi) If any minor child has income from manual labour or through activity involving application of his skill, talent or specialized knowledge and experience, such income shall not be clubbed but if such income has been invested further, any new income shall be clubbed in the income of mother or father.

Example

Minor son of Mr. X is a child actor. He has income of ₹5,00,000 from stage acting, this income will not be clubbed but if this amount was invested by him in a bank as fixed deposit, interest received by him shall be clubbed.

9. Transfer of the asset by the member of Hindu Undivided Family to the Hindu undivided family Section 64(2)(Conversion of self-acquired property into common property of HUF)

If any member of HUF has gifted any asset to the HUF, income from such asset shall be clubbed in the income of such member but if partition has been taken place, in that case clubbing provision shall not be applicable however income from that part of asset which has been received by the spouse of such person, shall be clubbed in the income of such member.

Rules for Clubbing of Income

Clubbing of income will also include clubbing of loss and income shall be clubbed in the following manner:

Step 1: Calculate the income/loss on the hands of recipient as if it is the income of recipient.

Step 2: The income or loss calculated as above will then be clubbed with the income of the transferor under the same head (i.e. the head to which such income belongs).

Step 3: Such clubbed income is the income of the transferor and provisions relating to set off and carry forward of losses shall apply in the normal manner.

Optional Regime

Under optional regime, exemption shall be allowed u/s 10(32) upto ₹1,500 per minor child while doing clubbing of income. E.g. Minor son of Mr. X has interest income of ₹3,00,000 from fixed deposit, in this case amount to be clubbed shall be ₹2,98,500.

INCOME UNDER THE HEAD OTHER SOURCES

SECTION 56 TO 59

Question 1: What are the incomes taxable under the head Other Sources.
Answer: Incomes taxable under the head Other Sources Section 56
If any income cannot be taxed under first 4 heads, such income shall be taxable under the head other sources and such income may be
1. Interest income
2. Dividend income
3. Casual income
4. Gift
5. Family pension
6. Payment received under keyman insurance policy to a person who is not an employee
7. Income from owning and maintaining of race horses
8. Forfeiture of advance money
9. Any other income which is not taxable under first four heads.

Question 2 [Imp.]: Discuss the deductions allowable under section 57 of the Income Tax Act, 1961, in respect of Income from Other Sources.
Answer:
Deductions allowable under Section 57
While computing income under the head other sources, expenses incurred in connection with earning of such income shall be allowed to be deducted. ***However, in case of dividend income or income in respect of units of mutual fund specified u/s 10(23D) or units of UTI, deduction shall be allowed only for the interest expenses and that too shall also be restricted to 20% of the such income.*** Mr. X has taken a loan of ₹10 Lakh and paid interest ₹1 lakh and amount was invested in shares of a company and dividend received is ₹ 2 lakh, in this case ₹1 lakh shall not be allowed to be deducted rather amount allowed to be deducted shall be ₹40,000 and income shall be considered to be ₹1,60,000.
Amounts not deductible Section 58
While computing income, any personal expense shall not be allowed to be deducted and also in case of capital expenditure only depreciation shall be allowed.
As per section 58(4), no deduction in respect of any expenditure or allowance shall be allowed in computing the income by way of any winnings from lotteries, crossword puzzles, races including horse races, card games and other games of any sort or from gambling or betting of any form or nature, whatsoever.
e.g. Mr. X purchased lottery tickets of ₹10,000 and he had a winning of ₹1,00,000, in this case, his income shall be considered to be ₹1,00,000 and expenditure of ₹10,000 shall not be allowed.
Profits chargeable to tax Section 59
If the assessee has claimed any expenditure while computing income and subsequently he has recovered the same amount, the amount so recovered shall be considered to be income of the year in which amount has been recovered, e.g. Mr. X has received a cheque of ₹ 1,00,000 being interest from ABC Ltd. and cheque was deposited in his bank account and bank has deducted ₹ 1,000 being collection charge. His income was considered to be ₹ 99,000. In the next year bank has refunded ₹ 500 being excess charges collected, in this case ₹ 500 shall be considered to be income of the year in which the amount has been received.

Question 3: Write a note on Family Pension.
Answer: Family Pension
Regular payments given by the employer to the employee after retirement is called pension and it is taxable under the head Salary and standard deduction is allowed under section 16(ia), e.g. Mr. X is retired from ABC Ltd. and is getting pension ₹ 40,000 per month, in this case taxable amount under the head salary shall be 40,000 X 12 – 50,000 = 4,30,000.
After the death of the employee, employer may pay some pension to the family member of the employee and it is called family pension. It is taxable under the head Other Sources but as per section 57 deduction is allowed equal to 1/3rd of such pension but maximum ₹15,000 E.g. Mrs. X is getting family pension of ₹5,000 p.m., in this case taxable amount shall be (5,000 x 12)minus 1/3 of ₹60,000 or ₹15,000 whichever is less i.e. taxable amount shall be ₹45,000. If family pension is ₹ 3,000 per month, taxable amount shall be 36,000 – 12,000 = 24,000

Question 4: Write a note on taxability of interest received on payment of compensation from the government.
Answer:
As per section 145B, interest received for payment of compensation from the Government or other similar agency in connection with compulsory acquisition of land or building shall be taxable in the year in which it has been received and it will be taxable under the head other sources however, **as per section 57 deduction shall be allowed @ 50% of such interest.** e.g. Government has acquired one land of Mr. X in Noida in 2013 and payment was given by the Government in the year 2023-24 and has also paid interest of ₹1,00,000, in this case, taxable amount shall be ₹1,00,000 – ₹50,000 = ₹50,000.
Question 5 [V. Imp.]: Write a note on taxability of Dividend Income.
Answer: Dividend Income Section 56
Dividend income from the domestic company shall be ***Taxable*** in the hands of the shareholder. Dividends from a foreign company shall also be taxable in the hands of the shareholder.
If any such person is engaged in the business of sale purchase of shares , even in that case dividend income shall be taxable under the head other sources.
As per section 57, in case of dividend income, deduction shall be allowed only for the interest expenses and that too shall also be restricted to 20% of the dividend income.

MEANING OF DIVIDEND SECTION 2(22)

The term dividend has a very limited meaning under Companies Act but it has a very wide meaning under Income Tax Act and is called deemed dividend and it is divided into 5 parts:
(i) Distribution in cash or as assets Section 2(22)(a)
(ii) Issue of bonus shares etc. Section 2(22)(b)
(iii) Distribution on liquidation Section 2(22)(c)
(iv) Distribution on reduction of share capital Section 2(22)(d)
(v) Loan and advance by a closely held company Section 2(22)(e)

(i) Distribution in cash or as assets Section 2(22)(a)
If any company has distributed any amount to its shareholders either in cash or in kind, it will be considered to be dividend but only to the extent of accumulated profits including capitalized profit.
Example
Balance sheet of ABC limited.

Liability	Amount	Assets	Amount
Share Capital (includes Bonus shares of ₹ 2 Lacs)	17,00,000	Assets	25,00,000
Reserve and Surplus	3,00,000		
Liability	5,00,000		
Total	**25,00,000**	Total	**25,00,000**

Company distributed assets having Book value of ₹3,00,000 to is shareholders. Calculate the Deemed Dividend u/s 2(22)(a) having market Value-

1. 5,00,000
2. 7,00,000

Solution:

Accumulated Profit of the Company (whether Capitalised or Not)
- Reserves and Surplus + Bonus Shares
- 3,00,000 + 2,00,000 = 5,00,000

Deemed Dividend u/s 2(22)(a) shall be as follows-

Market Value	Deemed Dividend
5,00,000	5,00,000
7,00,000	5,00,000

(ii) Issue of bonus shares etc. Section 2(22)(b)

If any company has issued bonus shares to the equity shareholders, it will not be considered to be dividend but if the bonus shares have been issued to the preference shareholders, it will be considered to be dividend but to the extent of accumulated profits whether capitalised or not. Further, market value of the bonus shares shall be taken into consideration.

Example

Mr. X is holding 100 preference share in ABC Ltd. The company has issued him 100 bonus shares and their market value is ₹1,200. In this case, it will be considered to be dividend but only to the extent of accumulated profits whether capitalized or not.

(iii) Distribution on liquidation Section 2(22)(c)

If any company has distributed any amount to its shareholders in connection with its liquidation, it will be considered to be dividend but only to the extent of accumulated profits and any excess over it shall be considered to be full value of consideration as per section 46 and capital gains shall be computed accordingly.

Example

ABC Ltd. has 1,00,000 equity shares of ₹10 each and the company goes into liquidation on 31.07.2023 and company has net distributable amount of ₹60 lakhs after discharging all the liabilities including income tax and it includes accumulated profits of ₹20 lakhs and the entire amount was distributed among the shareholders and Mr. X is holding 10,000 equity shares which were purchased by him on 01.03.2022 for ₹1,10,000, in this case, tax treatment shall be as given below:

	₹
Net Distributable Amount	60,00,000
Share of Mr. X (10%)	6,00,000
Share of Mr. X out of accumulated profits which is considered dividend u/s 2(22)(c)	(2,00,000)
Balance to be considered full value of consideration	4,00,000
Less: Cost of acquisition of shares	(1,10,000)
Short term Capital Gain	2,90,000
Dividend u/s 2(22)(c)	2,00,000
Tax liability on ₹ 4,90,000 at slab rate	9,500
Less: Rebate u/s 87A	(9,500)
Tax Liability	Nil

(iv) Distribution on reduction of share capital Section 2(22)(d)

Any distribution to its shareholders by a company on the reduction of its capital, to the extent to which the company possesses accumulated profits e.g. Mr. X is holding 100 shares in ABC Ltd. of ₹10 each and company has paid ₹5 per share in connection with reduction of share capital, in this case amount so received shall be considered to be dividend but only to the extent of accumulated profits including capitalized profits.

Example

Mr. X is holding 1000 shares of ABC Ltd. of ₹10 each and company has reduced its share capital and has refunded ₹5 per share to the shareholders, the amount so received by the shareholders shall be considered to be dividend to the extent of accumulated profit.

ABC Ltd. has share capital 50,00,000 and Reserve and Surplus ₹ 10,00,000 and company has distributed ₹15,00,000 in correction with reduction of share capital, in this case dividend under section 2(22)(d) shall be

₹ 10,00,000.

(v) Loan and advance by a closely held company Section 2(22)(e)

If any closely held company (also called company in which public are not substantially interested) has given any loan or advance to an equity shareholder who is holding not less than 10% of the voting power of the company, in such cases such loan or advance shall be considered to be dividend in the hands of such shareholder but only to the extent of accumulated profits excluding capitalized profits e.g. ABC Pvt. Ltd. a closely held company has general reserves of ₹7,00,000 and current profits of ₹2,00,000. The company has given a loan of ₹3,00,000 to one such shareholder Mr. X. in this case, it will be considered to be dividend in the hands of Mr. X. If loan given by the company is ₹10,00,000, the amount of dividend shall be ₹9,00,000.

If the loan or advance has been given to any concern (Partnership firm, company, AOP, BOI etc.) in which such a shareholder has substantial interest, such loan or advance shall also be considered to be dividend in the hands of such concern but only to the extent of accumulated profits excluding capitalized profits .

Example

(i) Mr. X is the beneficial owner of 10% equity shares in ABC Pvt. Ltd. (A closely held company) and the company has general reserve of ₹10,00,000 and has given a loan of ₹6,00,000 to a partnership firm XY in which Mr. X is holding 20% shares. In this case, the loan so given shall be considered to be dividend in the hands of partnership firm .

(ii) Mr. X is a shareholder in a Company A (A Closely held company) as well as Company B. He has 10% shareholding in Company A and 20% shareholding in Company B. The accumulated profits of Company A = ₹10 lakh. A loan of ₹12 lakh is given by Company A to Company B.

This loan up to the extent of accumulated profits of ₹ 10 lakh is treated as dividend and is taxable in the hands of Company B.

If the loan or advance has been given to any person on behalf of such a shareholder, it will also be considered to be dividend.

Where a loan had been treated as dividend and subsequently, the company declares and distributes dividend to all its shareholders including the borrowing shareholder, and the dividend so paid is set off by the company against the previous borrowing, the adjusted amount will not be again treated as a dividend.

E.g. Mr. X is holding 10% shares in ABC private limited a closely held company and has taken a loan of 10,00,000 and it was considered to be dividend under section 2(22)(e) and in subsequent year the company has declared dividend of 10,00,000 which was deposited in the loan account of Mr. X, in this case it will not be considered to be dividend.

If any such company has the business of lending as substantial part of its business, in such cases the above provisions shall not apply e.g. ABC Pvt. Ltd. is a closely held company and is engaged in banking business (lending of money), in this case section 2(22)(e) is not applicable for ABC Pvt. Ltd.

As per section 2(22)(e), if any trade advance is given to the shareholder covered under section 2(22)(e), it will not be considered to be dividend, eg. Mr. X is holding 10% share in XYZ private limited a closely held company and Mr. X is supplying certain goods to the company and has received some advance, it will not be considered to be dividend.

Question 6 [V. Imp.]: Write a note on taxability of Casual Income.

Answer: Casual Income Section 56

Under section 2(24)(ix), casual income shall include **card games, cross word puzzles, betting, races including horse races, any game show on electronic media or any other gambling.**

While computing income from casual income, as per section 58(4) no expenditure or allowance or deductions shall be allowed and accordingly the gross receipt itself shall be considered to be income.

Example

Mr. X purchased one lottery ticket of ₹10,000 and there was a winning of ₹1,20,000. Deductions allowed under chapter VI-A ₹ 1,00,000. He has loss under the head house property ₹ 50,000, In this case, his taxable income shall be ₹1,20,000 and tax liability shall be

Tax on ₹1,20,000 @ 30%	36,000
Less: Rebate u/s 87A	(25,000)
Tax before HEC	11,000

Add: HEC @ 4%	440
Tax Liability	11,440

Note: No expenditure or deduction or loss is allowed to be adjusted from casual income however rebate is allowed from tax of casual income

Question 7. Write a note on taxability of income from Owning and Maintaining of Race Horses.

Answer: Income from Owning and Maintaining of Race Horses Section 56

If any person has income from owning and maintaining of race horses, such income shall be **taxable under the head other sources** and income shall be computed in the **normal manner** and will be taxed at the **normal rates**.

As per Section 74A, If any person has any loss from the activities of owning and maintaining race horse, such loss is not allowed to be set off from any income under any head. However, if the assessee has any other business of owning and maintaining race horses, loss of one such business can be set off from the income of other such business.

If the loss can not be set off, it will be allowed to be carried forward, but such carry forward is allowed for a maximum period of **four years** and brought forward loss can be set off only from the income of owning and maintaining race horses.

Income from owning and maintaining of any other animal

If the assessee is engaged in the business of owning and maintaining any other animal, his income shall be computed **under the head business/profession** because section 56 includes only income from owning and maintaining race horses. E.g. Mr. X has income from owning and maintaining of race camels, in this case income shall be taxable under the head business/profession.

E.g. (i) Mr. X has loss of ₹5,00,000 from owning and maintaining of race horses and income under the head house property ₹5,00,000, in this case loss is not allowed to be setoff, however its carry forward is allowed for a period of 4 years.

(ii) Mr. X has loss of ₹2,00,000 from house property and income from owning and maintaining of race horses ₹2,00,000, in this case loss is not allowed to be setoff.

(iii) Mr. X has loss of ₹5,00,000 from business/profession and income from owning and maintaining of race horses ₹5,00,000, in this case loss is allowed to be setoff.

(iv) Mr. X has loss of ₹5,00,000 from owning and maintaining of race horses and income under the head capital gains ₹5,00,000, in this case loss is not allowed to be setoff, however its carry forward is allowed for a period of 4 years.

Question 8 [Imp.]: Write a note on taxability of interest income.

Answer: Taxability of interest income Section 56

Any Interest income shall be taxable under the head Other Sources however some of the interest incomes shall be exempt from income tax under section 10(15) and are as given below:

1. Interest on Capital Investment Bonds issued by the Government.
2. Interest on Relief Bonds issued by RBI.
3. Interest on Post Office Savings Bank Account to the extent of ₹3,500 per year and in the case of joint account, exemption shall be allowed upto ₹7,000 per year.
4. Interest on Public Provident Fund Account
5. Any other interest income notified under section 10(15).

Question 9: Explain taxability of income from letting out of building alongwith furniture, fixtures etc.

Answer: If any person has let out any building alongwith plant and machinery and furniture, fixtures etc. and it is not a case of composite rent and also income is not taxable under the head business/profession, in such cases income shall be taxable under the head Other sources and while computing income all expenses incurred shall be allowed to be deducted e.g. Mr. X has one factory building along with machines and furniture in Bombay which has been let out @ ₹50,000 p.m. Repair charges of the building is ₹7,000 and that of furniture fixtures are ₹4,000, insurance premium paid ₹3,000 and depreciation is ₹27,000, in this case income shall be computed in the manner given below:

Solution:	**₹**
Gross Rent (50,000 x 12)	6,00,000

Less: Repair of building	(7,000)
Less: Repair of Furniture and fixtures	(4,000)
Less: Insurance premium	(3,000)
Less: Depreciation	(27,000)
Income under the head Other Sources	5,59,000

Question 10: Write a note on Books of Accounts.
Answer: Books of Accounts Section 145
A person is not required to maintain any books of accounts under the head salary or house property or capital gains and income has to be computed as per the procedure given in the relevant head.
Books of accounts are required under the head Business/Profession and under the head Other Sources. An assessee has the option to maintain books of accounts either on the basis of mercantile system of accounting or on cash basis. Any system of accounting once adopted has to be followed consistently, however it can be changed with the permission of Assessing Officer.
Example
Mr. X has deposited ₹10,00,000 in ABC Ltd. @ 10% p.a. and interest income is due on yearly basis on 31st March every year. Interest income which was due on 31.03.2024 was received on 01.04.2024. In this case, if the assessee is maintaining books of account on the basis of mercantile system of accounting, income is taxable in previous year 2023-24, and if the books are maintained on cash basis, income is taxable in the previous year 2024-25

Question 11: Write a note on payment under keyman insurance policy.
Answer: Payment under Keyman Insurance Policy
Sometimes employer may take a life policy in the name of any of his employees who are considered to be very important for business or profession and such policy is called keyman insurance policy and premium is paid by employer and employer is allowed to debit it to profit and loss account and amount received on maturity shall be considered to be income of employer as per section 28.
If any payment has been received by the employee, it will be considered to be income under the head salary.
Similarly a policy may be taken in the name of any other person who is considered to be very important for the business of the employer, such policy is also called keyman insurance policy. If payment has been received by such other person, it will be considered to be his income under the head other sources as per section 56.

Question 12: Write a note on forfeiture of advance money.
Answer: Forfeiture of advance money
If any person has entered into an agreement to sell any capital asset and some advance money was received but the buyer refused to purchase the capital asset and advance money was forfeited, in such cases the amount so forfeited shall be considered to be income under the head Other Sources. e.g. Mr. X has entered into agreement to sell a house property for ₹50 lakh to Mr. Y and advance money of ₹5,00,000 was received but Mr. Y refused to purchase the property and advance money was forfeited, in this case ₹5,00,000 shall be considered to be income of Mr. X under the head Other Sources.

Question 13 [Imp.]: Write short note on Set Off and Carry Forward of loss arising under the head "Income from Other Sources".
Answer: Set Off and Carry Forward of Losses under the head "Income from Other Sources"
As per section 70, if there is loss in one source under the head other sources, such loss can be set off from income of any other source under the same head.
However, as per section 58(4), no deduction or set off shall be allowed from the income by way of any winnings from lotteries, crossword puzzles, races including horse races, card games, and other games of any sort or from gambling or betting of any form whatsoever.
As per section 71, if the loss can not be set off under the same head, it can be set off from the incomes of other heads.
If the loss can not be set off even from the incomes of other heads, its carry forward is not allowed.

e.g. (i) Mr. X has loss under the head other sources ₹2,00,000 and income under the head other sources ₹5,00,000, in this case loss is allowed to be setoff.
(ii) Mr. X has loss under the head other sources ₹2,00,000 and income under the head house property ₹5,00,000, in this case loss is allowed to be setoff.
(iii) Mr. X has loss under the head other sources ₹2,00,000 and income from owning and maintaining of race horses ₹5,00,000, in this case loss is allowed to be setoff.
(iv) Mr. X has loss under the head other sources ₹2,00,000 but do not have income under any other head, in this case carry forward of loss is not allowed.

Question 14: Write a note on income of closely held company by issue of Shares.
Answer:
As per section 56 (2) (viib), where a company, not being a company in which the public are substantially interested, receives, in any previous year, ***from any person***, any consideration for issue of shares that exceeds the face value of such shares, the aggregate consideration received for such shares as exceeds the fair market value of the shares. In other words if shares are issued at a price which is higher than the market value and also higher than the face value, in that case taxable amount shall be the issue price less market price. E.g. ABC Pvt. Ltd. a closely held company has submitted information as given below:

1. Face value ₹ 100 per share, Market value ₹ 120 per share and issue price ₹ 150 per share, in this case taxable amount shall be ₹ 30 per share.
2. Face value ₹ 100 per share, Market value ₹ 80 per share and issue price ₹ 95 per share, in this case taxable amount shall be Nil because issue price is not exceeding the face value.
3. Face value ₹ 100 per share, Market value ₹ 80 per share and issue price ₹ 110 per share, in this case taxable amount shall be 110 – 80 = 30 because issue price is exceeding the face value and also market value.

Question 15: Write a note on Bond Washing Transactions.
Answer: Bond Washing Transactions Section 94
If any person has transferred any security in the name of any other person sometimes before the due date and has reacquired it sometimes after the due date in order to evade tax, it will be considered to be a bond washing transaction and income shall be considered to be of the person who has manipulated in this manner.
Example
Mr. Yuvraj Arora has purchased security of ₹10,00,000 in ABC Ltd. on 01.04.2023 @ 10% and interest is due on half yearly basis i.e. on 30th Sept and 31st March of every year. If Mr. Yuvraj Arora has transferred this security just before the due date in the name of any other person through a fictitious sale transaction and has re-transferred it in his name after the due date through a fictitious purchase transaction so that he can evade tax, it will be called bond washing transaction and in such cases interest income is taxable in the hands of Mr. Yuvraj Arora.
[This practice is generally adopted by high-income class assessees to evade the tax by transferring securities to low income class assessee on the eve of due date of payment of interest.]
Question 16: Explain taxability of amount received on maturity of LIC policy.
Answer:
As per section 10(10D), amount received on maturity of life policy including bonus shall be exempt from income tax provided premium paid is not exceeding 10% of sum assured. Prior to 01.04.2012 it was 20% of sum assured. If payment has been received after the death of the policy holder, it will be exempt from income tax.
New Provision w.e.f. 01.04.2023
If life policy have been taken w.e.f. 01.04.2023, in that case if aggregate of premium paid for one or more policy is exceeding ₹5 lakh in any of the years during the term of such policy, amount received in excess of the premium paid shall be taxable but if amount is received after the death of the policy holder, it will be exempt. Further if any deduction was claimed for the premium paid, it will also be taxable
Example 1. Mr. X has taken one policy on 01.04.2023 for 10 years and premium paid is ₹5,00,000 p.a. and amount received on maturity is ₹60,00,000, in this case entire amount is exempt.
Example 2. Mr. X has taken one policy on 01.04.2023 for 10 years and premium paid is ₹6,00,000 p.a. and amount received on maturity is ₹75,00,000, in this case taxable amount shall be ₹75,00,000 – 60,00,000 =

₹15,00,000. If deduction was allowed under section 80C for the premium paid ₹1,50,000 x 10 = ₹15,00,000, taxable amount shall be ₹30,00,000.

Example 3.

LIP	A	B	C	D
Date of issue	1.4.2023	1.4.2023	1.4.2024	1.4.2024
Annual premium	2,00,000	2,00,000	3,00,000	6,00,000
Sum assured	20,00,000	20,00,000	30,00,000	60,00,000
Consideration received on surrender as on 31.03.2029	12,00,000			
Consideration received as on 31.03.2033 on maturity		24,00,000		
Consideration received as on 31.03.2034 on maturity			36,00,000	70,00,000

In this case assessee can take exemption in the manner given below:
(i) Take exemption for A & B
(ii) Take exemption for B & C
(iii) Take exemption for A & C
No exemption shall be allowed for LIP D i.e. amount received in excess of premium paid shall be taxable.

Clarification on GST Component: It is also clarified by the CBDT that the premium payable/ aggregate premium payable for a life insurance policy/policies, would be exclusive of the amount of GST payable on such premium.

Clarification on premium of Term life insurance policy: It is further clarified by the CBDT that the limit of ₹ 5,00,000 of amount of premium payable would not be applicable in case of **a term life insurance policy** i.e. where sum under a life insurance policy is only paid to the nominee in case of the death of the person insured during the term of the policy and no amount is paid to anyone if the insured person survives the policy tenure.

Hence, any sum received under a term insurance policy shall continue to be exempt under section 10(10D), irrespective of the amount of the premium payable in respect of such policy. Further the premium paid for such policies would not be counted for checking the limit of ₹ 5,00,000 of amount of premium payable.

DEDUCTION OF TAX AT SOURCE/ TAX COLLECTION AT SOURCE

SECTION 190 TO 206CCA

Deduction at Source and Advance Payment Section 190

Every person shall be required to pay tax through TDS/TCS and advance tax and exact tax shall be computed in the assessment year and balance if any shall be paid in the assessment year and it is called self assessment tax.

Direct Payment Section 191

If tax is not to be deducted at source with regard to any income, assessee shall pay advance tax. Similarly if tax was to be deducted at source but it has not been deducted at source, in such cases also the assessee is required to pay advance tax.

Question 1: Write a note on Deduction of Tax at Source with regard to Salary Income.

Answer: Deduction of Tax at Source with regard to Salary Income Section 192

1. Every person (including individual and HUF even if limit prescribed under section 44AB has not exceeded in the preceding year) making payment of salary income to resident or non-resident shall deduct tax at source and for this purpose the employer shall estimate tax liability of the employee and tax so estimated shall be deducted in 12 monthly equal installments. While estimating tax liability, deduction under section 80C to 80U shall be allowed. It can be shown in the manner given below:

Mr. X is employed in ABC Ltd. and salary is ₹70,000 p.m. and he has invested ₹50,000 in NSC. In this case, tax to be deducted at source at the time of payment of salary shall be:

	₹
Gross Salary (70,000 x 12)	8,40,000.00
Less: Standard Deduction u/s 16(ia)	(50,000.00)
Income under the head Salary	7,90,000.00
Gross Total Income	7,90,000.00
Less: Deduction under Chapter VI-A	Nil
Total Income	7,90,000.00
Tax on ₹7,90,000 at slab rate	34,000.00
Add: HEC @ 4%	1,360.00
Tax Liability	35,360.00
Monthly installment shall be 35,360 / 12	2,946.67

If employer has deducted tax at source for the month of April and May and salary was increased to ₹80,000 p.m. w.e.f. 01.06.2023, tax to be deducted in subsequent installments shall be

Gross Salary (70,000 x 2) + (80,000 x 10)	9,40,000.00
Less: Standard Deduction u/s 16(ia)	(50,000.00)
Income under the head Salary	8,90,000.00
Gross Total Income	8,90,000.00
Less: Deduction under Chapter VI-A	Nil
Total Income	8,90,000.00
Tax at slab rate including HEC	45,760.00
Tax deducted at source in April and May (2,946.67 x 2)	(5,893.34)
Balance amount of tax	39,866.66
Tax to be deducted in subsequent installments (39,866.66 / 10)	3,986.67

Rule 26C requires furnishing of evidence of the following claims by an employee to the person responsible for making payment in Form No.12BB for the purpose of estimating his income or computing the tax

deduction of tax at source:

2. If any person is working with two or more employers, in that case he should submit the particulars of his salary income from all the employers to one of the employer who will deduct tax at source taking into consideration income from all employers. (Information has to be given in Form 12B)

Example

Mr. X is working with two employer A Ltd. and B Ltd. and is getting basic pay of ₹30,000 p.m. from each of the employer. In this case, he must inform one of the employer regarding his salary income from other employer and such employer shall deduct tax at source taking into consideration income from other employer.

3. If any employee has income under any other head, the employee shall be allowed even to report such incomes to the employer and the employer shall take it into consideration. If employee has loss under the head house property, he shall be allowed to report such loss to the employer. The employee shall be required to give proof.

Question 2: Write a note on deduction of tax at source in case of payment from recognized provident fund.

Answer: Deduction of tax at source in case of payment from recognized provident fund Section 192A

The person responsible for making **payment of recognized provident fund** to any person shall deduct tax at source if the amount to be paid is taxable and tax shall be deducted at source @ **10%** provided the amount paid or payable during a particular year is **₹50,000 or more**.

Question 3: Write a note on TDS in case of interest on securities.

Answer: TDS in case of interest on securities Section 193

Every person responsible for making payment of interest on securities to any resident shall deduct tax at source @ 10%.

No tax shall be deducted at source in the following cases:

1. In case of, any interest payable to an individual or a Hindu undivided family, who is resident in India, on any debenture issued by a company in which the public are substantially interested, if the aggregate amount of such interest paid or likely to be paid on such debenture during the financial year by the company to such individual or Hindu undivided family does not exceed five thousand rupees; and such interest is paid by the company by an account payee cheque;]

2. Any interest payable on any security of the **Central Government or a State Government**.

3. Any interest being paid to Bank/LIC or other notified financial organizations.

4. Interest payable by a company in connection with **security held in dematerialised form.**

"Interest on securities" as per section 2(28B), interest on securities means interest on bond / debenture etc. issued by Government / local authority / company or statutory corporation etc.

Example

(i) ABC Ltd. has to pay interest of ₹2,00,000 to Mr. X in connection with listed debentures, amount of TDS shall be ₹ 20,000.

(ii) ABC Ltd. has to pay interest of ₹12,00,000 to Mr. X in connection with listed debentures, amount of TDS shall be ₹1,20,000

(iii) ABC Ltd. has to pay interest of ₹5,000 to Mr. X, no tax shall be deducted at source in this case.

Question 4: Write a note on TDS in case of "Dividends".

Answer: TDS in case of "Dividends" Section 194

Every company making payment of dividends to any resident shareholder shall deduct tax at source @ 10%, however, no tax shall be deducted at source if the following conditions have been satisfied:

(i) dividend has been paid to an individual, and
(ii) payment is made by any mode other than cash, and
(iii) the amount being paid or payable during a particular year to such individual does not exceed ₹5,000.

No tax shall be deducted at source in case of payment of dividend to Life Insurance Corporation of India, General Insurance Corporation of India, or any other insurer

Question 5: Write a note on TDS in case of Interest other than "Interest on Securities".

Answer: TDS in case of Interest other than "Interest on Securities" Section 194A

Every person making payment of interest other than interest on securities to any resident shall deduct tax at source @ 10% provided the amount being paid or payable during a particular year to a particular person is exceeding ₹5,000 but if payment is being made by bank or post office or ***Co-Operative Society***, tax shall be deducted only if interest being paid or payable is exceeding ***₹40,000***, however if the payee is senior citizen, ***₹40,000*** shall be taken as ₹50,000 .

Further TDS shall be only on time deposit including recurring deposit. Limit of ***₹40,000*** (₹50,000 for senior citizen) shall be per branch of the bank but if the bank has core banking solution, limit shall be per bank and not per branch.

An Individual or Hindu Undivided Family shall be required to deduct tax at source only if the turnover in case of business has exceeded ₹ 1 crore and gross receipts in case of profession has exceeded ₹ 50 lakhs, during the financial year immediately preceding the relevant year.

Example

(i) Punjab National Bank has to pay interest of ₹1,00,000 to Mr. X. In this case, amount of TDS shall be ₹10,000.

(ii) Punjab National Bank has to pay interest of ₹10,00,000 to Mr. X. In this case, amount of TDS shall be ₹1,00,000.

(iii) Punjab National Bank has to pay interest of ₹1,00,000 to X Ltd. In this case, amount of TDS shall be ₹10,000.

(iv) Punjab National Bank has to pay interest of ₹1,00,000 to an Hindu Undivided Family. In this case, amount of TDS shall be ₹10,000.

(v) Punjab National Bank has to pay interest of ₹1,000 to a Hindu Undivided Family. In this case, amount of TDS shall be Nil.

(vi) Punjab National Bank has to pay interest of ₹39,900 to Mr. X. In this case, amount of TDS shall be Nil.

No tax shall be deducted at source in the following cases:

(1) Interest paid by a firm to a partner of the firm;

(2) Any interest being paid to Bank/LIC or other notified financial organizations

(3) Interest on income tax refund or wealth tax refund etc.

(4) Income paid in relation to a Zero Coupon Bond.

(5) Interest paid in respect of deposits under any scheme notified by the government.

"Zero Coupon Bond" Section 2(48)

means a bond which are issued by the specified companies and which are issued for minimum 10 years and maximum 20 years and in respect of which no payment and benefit is received before maturity or redemption from such specified company and further such bonds shall be notified by the Central Government.

Additional amount received on redemption shall be considered to be capital gain.

"Interest" Section 2(28A) means interest payable in any manner in respect of any moneys borrowed or debt incurred (including a deposit, claim or other similar right or obligation) and includes any service fee or other charge in respect of the moneys borrowed or debt incurred or in respect of any credit facility which has not been utilized

Question 6: Write a note on TDS in case of Winnings from Lottery or Crossword Puzzle etc.

Answer: TDS in case of Winnings from Lottery or Crossword Puzzle etc. Section 194B

Every person (including individual and HUF) responsible for paying to any resident or non-resident, any income by way of **winnings from any lottery** or **crossword puzzle** or **card game** and **other game of any sort** ***or from gambling or betting of any form or nature whatsoever*** shall deduct tax at source @ 30% provided the **amount or aggregate of amounts being paid or payable during a particular to a particular person is exceeding ₹10,000.** e.g. If ABC Ltd. has to pay ₹7,000 being winning of a lottery, no tax shall be deducted at source but if amount being paid is ₹7,000 and ₹8,000, tax to be deducted at source shall be ₹15,000 x 30% = ₹4,500.

similarly if amount being paid is ₹10 lakh, tax to be deducted at source shall be ₹10,00,000 x 30% = ₹3,00,000

If any such winning is in kind, winning shall be released only after collecting the amount of tax e.g. Mr. X has won a motor car valued ₹5,00,000, in this case the organizer should collect tax of ₹1,50,000 and only

after that motor car shall be released.

Question 7: Write a note on TDS in case of Winnings from Online Games.

Answer: <u>TDS in case of Winnings from Online Games</u> <u>Section 194BA</u>

Every person responsible for making payment of any income from online game shall deduct tax at source @ 30% and tax shall be deducted at the end of the year but if winning are withdrawn during the year, tax shall be deducted at the time of withdrawal of such income. Also tax shall be deducted at source on the remaining amount of net winnings.

Guidelines to remove difficulties arising in implementation of the provisions of section 194BA [Circular No. 5/2023 dated 22.5.2023]

New section 194BA has been inserted by the Finance Act, 2023 requiring to deduct tax at source by any person responsible for paying to any person (whether resident or non-resident) any income by way of winnings from any online game during the financial year on the net winnings in his user account, computed in the manner as may be prescribed, at the end of the financial year at the rates in force i.e., 30%.

Such net winnings from online games during the previous year would be chargeable to tax @ 30% under section 115BBJ. The tax would be calculated on net winnings from such online games computed in the prescribed manner.

If any difficulty arises in giving effect to the provisions of section 194BA, the CBDT may, with the previous approval of the Central Government, issue guidelines for the purposes of removing the difficulty.

Accordingly, the CBDT has, vide this circular, issued the following guidelines:

Question 1: There are a large number of gamers who play with very insignificant amount and withdraw also very small amount. Deducting tax at source under section 194BA for each insignificant withdrawal would increase compliance for tax deductor. Can there be relaxation to ease compliance?

Answer: Tax may not be deducted on withdrawal on satisfaction of all of the following conditions, namely:-

(i) net winnings comprised in the amount withdrawn does not exceed ₹ 100 in a month;

(ii) tax not deducted on account of this concession is deducted at a time when the net winnings comprised in withdrawal exceeds ₹ 100 in the same month or subsequent month or if there is no such withdrawal, at the end of the financial year; and

(iii) the deductor undertakes responsibility of paying the difference if the balance in the user account at the time of tax deduction under section 194BA is not sufficient to discharge the tax deduction liability.

Question 2: When the net winnings is in kind how will tax deduction under section 194BA operate?

Answer: At the outset, it may be clarified that where money in user account is used to buy an item in kind and given to user then it is net winnings in cash only and the deductor is required to deduct tax at source under section 194BA accordingly.

However, there could be a situation where the winning of the game is a prize in kind. In that situation provision of section 194BA(2) will operate.

According to this where the net winnings are wholly in kind or partly in cash, and partly in kind but the part in cash is not sufficient to meet the liability of deduction of tax in respect of whole of the net winnings. In these situations, the person responsible for paying, shall, before releasing the winnings, ensure that tax has been paid in respect of the net winnings. In the above situation, the deductor will release the net winnings in kind after the deductee provides proof of payment of such tax (e.g., Challan details etc.).

In the alternative, as an option to remove difficulty if any, the deductor may deduct the tax under section 194BA and pay to the Government.

Question 3: How will the valuation of winnings in kind required to be carried out?

Answer: The valuation would be based on fair market value of the winnings in kind except in following cases:-

(i) The online game intermediary has purchased the winnings before providing it to the user. In that case the purchase price shall be the value for winnings.

(ii) The online game intermediary manufactures such items given as winnings. In that case, the price that it charges to its customers for such items shall be the value for such winnings.

It is further clarified that **GST will not be included for the purposes of valuation** of winnings for TDS under section 194BA.

Question 8: Write a note on TDS in case of Winnings from Horse Race.
Answer: TDS in case of Winnings from Horse Race Section 194BB
Every person (including individual and HUF), responsible for paying to any resident or non-resident, shall be required to deduct tax at source @ 30% in case of payment of winning from horse races but tax shall be deducted at source only if amount ***or aggregate of amounts*** paid or payable during a particular year to a particular person is exceeding ₹10,000.
Example
ABC Ltd. has to pay winnings of horse race ₹3,00,000 to Mr. X, amount of TDS shall be ₹90,000 but if the amount to be paid is ₹2,000, amount of TDS shall be Nil.
Question 9: Write a note on TDS in case of Payments to Contractors.
Answer: TDS in case of Payments to Contractors Section 194C
1. Every person responsible for making payment to a **resident contractor** in connection with any work shall deduct tax at source @ **2%** and in case of payment to individual or Hindu Undivided Family, the rate of TDS shall be **1%.** Tax shall be deducted at source only if the amount being paid is exceeding **₹30,000** or the amount paid or payable during a particular financial year to a particular person exceeds **₹1,00,000**.
Example
ABC Ltd. makes the following payments to Mr. X, a contractor, for contract work during the P.Y.2023-24 –
₹ 15,000 on 01.05.2023
₹ 25,000 on 01.08.2023
₹ 30,000 on 01.12.2023
On 01.03.2024, a payment of ₹ 48,000 is due to Mr. X on account of a contract work.
Discuss whether ABC Ltd. is liable to deduct tax at source under section 194C from payments made to Mr. X.
Solution:
In this case, the individual contract payments made to Mr. X does not exceed ₹ 30,000. However, since the aggregate amount paid to Mr. X during the P.Y.2023-24 exceeds ₹ 1,00,000 (on account of the last payment of ₹48,000, due on 01.03.2024, taking the total from ₹ 70,000 to ₹ 1,18,000), the TDS provisions under section 194C would get attracted. Tax has to be deducted @ 1% on the entire amount of 1,18,000 from the last payment of ₹ 48,000 and the balance of ₹ 46,820 (i.e. ₹ 48,000 – ₹ 1,180) has to be paid to Mr. X.
Example
(i) If DDA has to pay a sum of ₹5,00,000 to Mr. X in connection with a particular contract, amount of TDS shall be ₹5,000.
(ii) If in the above case amount is to be paid to X Ltd. An Indian company, amount of TDS shall be ₹10,000.

2. An Individual or Hindu Undivided Family shall be required to deduct tax at source only if the turnover in case of business has exceeded ₹ 1 crore and gross receipts in case of profession has exceeded ₹ 50 lakhs, during the financial year immediately preceding the relevant year.
Example
If Mr. X is engaged in a business and turnover of business is ₹41,00,000 in the previous year 2022-23 and he has to pay ₹1,10,000 to Mr. Y in the previous year 2023-24 in connection with a contract, amount of TDS shall be Nil but if his turnover in previous year 2022-23 was ₹110,00,000, amount of TDS shall be ₹1,100 but if payment is to given to Y Ltd., amount of TDS shall be ₹2,200.
3. No individual or HUF shall deduct tax at source under this section, if the amount is paid for **personal purpose** of such **individual or HUF**.
Example
If in the above case, Mr. X has to pay ₹1,10,000 to Mr. Y in connection with a contract which is for personal purpose of Mr. X, TDS under section 194C, shall be Nil.
4. Contract for this purpose shall include every type of contract e.g. Advertising contract/Broadcasting and telecasting contract / Carriage of passenger by any mode of transport / Catering contract / Contract for construction / Contract for courier services / Contract of maintenance of plant and machinery etc.
5. If any person making payment for purchase of goods, no tax shall be deducted at source but TDS shall be applicable in case of manufacturing or supplying a product according to the requirement or specification of a

customer by using material purchased from such customer or its associate, i.e. a person covered u/s 40A(2)(b), but does not include manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from a person, other than such customer or associate of such customer.

Further tax shall be deducted at source on the invoice value excluding the value of material, if such value is mention separately in the invoice. If value is not mention separately, tax shall be deducted at source on whole of the invoice value.

Example

ABC Ltd. has given orders to Mr. X to stitch uniform for their employees and Mr. X purchased material from the market and has stitched uniform for ABC Ltd. and has charged ₹7,00,000, in this case amount of TDS shall be nil but if material is supplied by ABC Ltd. or its associates and Mr. X has charged ₹1,10,000 as labour charge, tax shall be deducted at source @ 1% i.e. ₹1,100. If value of material and amount for labour is not shown separately, tax shall be deducted at source on the entire amount.

6. No tax shall be deducted at source in case of payment to a contractor in connection with **transportation of goods** ***where such contractor do not own more than 10 goods carriages at any time during the year and also submitted a declaration in this regard and has also furnished permanent account number.***

Example

ABC Ltd. has paid ₹5,00,000 to Mr. X for transportation of goods and Mr. X do not have more than 10 goods carriages and he has furnished a declaration in this regard and has submitted permanent account number, in this case no tax shall be deducted at source but if PAN has not been provided, tax shall be deducted at source @ 20%.

Question 10: Write a note on TDS in case of payment of Insurance Commission.

Answer: TDS in case of payment of Insurance Commission Section 194D

Every person responsible for making payment for insurance commission to a resident insurance agent shall deduct tax at source @ **5%** (but if payment is made to a domestic company, it will be 10%) provided the amount paid or payable during a particular year to a particular agent is exceeding **₹15,000** e.g. If LIC has to pay commission of ₹5,00,000 to one of the agent Mr. X, amount of TDS shall be ₹5,00,000 x 5% = 25,000

Question 11: Write a note on Payment on maturity of life insurance policy.

Answer: Payment on maturity of life insurance policy Section 194DA

In general payment on maturity of Life policy is exempt from income tax under section 10(10D) however sometimes the amount is taxable (if premium paid has exceeded the prescribed percentage (i.e. 10% / 15% / 20%)) and in that case tax has to deducted at source ***@ 5% on the amount of income*** provided the amount paid or payable to any resident during a particular financial year is ₹1,00,000 or more.

Example

Examine the applicability of the provisions for tax deduction at source under section 194DA in the following cases -

(i) Mr. X, a resident, is due to receive ₹ 4.50 lakhs on 31.03.2024, towards maturity proceeds of LIC policy taken on 01.4.2021, for which the sum assured is ₹ 3.75 lakhs and the annual premium is ₹ 1,25,000.

(ii) Mr. Y, a resident, is due to receive ₹ 4.50 lakhs on 31.03.2024 on LIC policy taken on 01.04.2013, for which the sum assured is ₹ 3.50 lakhs and the annual premium is ₹35,000.

(iii) Mr. Z, a resident, is due to receive ₹95,000 on 31.03.2024 towards maturity proceeds of LIC policy taken on 01.04.2020 for which the sum assured is ₹ 80,000 and the annual premium was ₹ 20,000.

Answer

(i) Since the annual premium exceeds 10% of sum assured in respect of a policy taken on 01.04.2021, the maturity proceeds of ₹ 4.50 lakhs are not exempt under section 10(10D) in the hands of Mr. X. Therefore, tax is required to be deducted @ 5% under section 194DA on the amount of income of ₹75,000 (₹4,50,000-3,75,000).

(ii) Since the annual premium is 10% of sum assured in respect of a policy taken w.e.f. 01.04.2012, the sum of ₹4.50 lakhs due to Mr. Y would be exempt under section 10(10D) in his hands. Hence, no tax is required to be deducted at source under section 194DA on such sum payable to Mr. Y.

(iii) Even though the annual premium exceeds 10% of sum assured in respect of a policy taken after 31.03.2012, and consequently, the maturity proceeds of ₹95,000 due on 31.03.2024 would be taxable under

section 10(10D) in the hands of Mr. Z, the tax deduction provisions under section 194DA are not attracted since the maturity proceeds are less than ₹ 1 lakh.

Question 12: Write a note on TDS in case of Commission, etc., on the Sale of Lottery Tickets.

Answer: TDS in case of Commission, etc., on the Sale of Lottery Tickets Section 194G

Every person (including individual and HUF) making payment of commission for sale of lottery tickets to any person resident or non-resident, shall deduct tax at source **@ 5%** provided the amount paid or payable to a particular person during a particular year is exceeding **₹15,000.**

Question 13: Write a note on TDS on payment of Commission or Brokerage.

Answer: TDS on payment of Commission or Brokerage Section 194H

Every person making payment of any **commission or brokerage** to a resident shall, deduct income-tax at the rate of **5%**, provided amount paid or payable during a particular year to a particular person is exceeding **₹15,000**.

An Individual or Hindu Undivided Family shall be required to deduct tax at source only if the turnover in case of business has exceeded ₹ 1 crore and gross receipts in case of profession has exceeded ₹ 50 lakhs, during the financial year immediately preceding the relevant year.

Example

Manoj trading limited rendered services in relation to sale of mustard oil to Ashish oils limited and commission charged is ₹7,00,000, in this case, tax to be deducted at source by Ashish oils limited shall be 7,00,000 x 5% = ₹35,000 and amount payable to Manoj trading limited shall be

Commission	7,00,000
Less: TDS(7,00,000 x 5%)	(35,000)
Amount Payable	6,65,000

Question 14: Write a note on TDS in case of payment of rent.

Answer: TDS in case of payment of rent Section 194-I

Every person making payment of rent to a resident shall deduct tax at source provided the amount paid or payable during a particular year is exceeding ***₹2,40,000***. Tax shall be deducted at source @ 2% if rent is for plant and machinery but @ 10% if rent is for land/building / furniture / fixture etc.

An Individual or Hindu Undivided Family shall be required to deduct tax at source only if the turnover in case of business has exceeded ₹ 1 crore and gross receipts in case of profession has exceeded ₹ 50 lakhs, during the financial year immediately preceding the relevant year.

Example 1.

XYZ Ltd. raised an invoice of ₹3,00,000/- to ABC Limited for renting of commercial building. The above figure includes ₹50,000/- of parking charges. The bill is raised on 30th June, 2023 and ABC Limited made the payment on the same date.

Compute the Amount of TDS required to be deducted by ABC Limited and the due date of deposit of TDS amount and last date of filing of quarterly Statement?

Solution:

Rent	3,00,000
Less: TDS(3,00,000 x 10%)	(30,000)
Amount payable	2,70,000

Last date of deposit = 7th July, 2023.

Last date of filing of quarterly Statement = 31st July, 2023.

Example 2

ABC limited has let out one commercial building to Idea cellular limited at Gurgaon and rent charged is ₹2,50,000 per month, in this case, tax to be deducted at source by Idea cellular limited shall be as given below:

Solution:

Rent (2,50,000 x 12)	30,00,000
Less: TDS(30,00,000 x 10%)	(3,00,000)
Amount payable	27,00,000

Question 15: Write a note on TDS in case of Payment for purchase of immovable property.

Answer: TDS in case of Payment for purchase of immovable property Section 194-IA

1. Every person (including individual and HUF) making **payment to a resident** for purchase of **immovable property and stamp duty value of ₹50 lakhs** or more shall deduct tax at source **@ 1%** of such sum ***or the stamp duty value of such property, whichever is higher.***
2. Consideration for immovable property" shall include all charges of the nature of club membership fee, car parking fee, electricity or water facility fee, maintenance fee, advance fee or any other charges of similar nature, which are incidental to transfer of the immovable property.
3. No tax shall be deducted at source in case of payment for purchase of **agricultural land which is situated in the rural area.**
E.g. Mr. X has purchased one building for ₹65 lakhs, in this case amount of TDS shall be 65,00,000 x 1% = ₹65,000 but if building was purchased for ₹47 lakhs, amount of TDS shall be nil.
4. The person deducting tax at source shall not be required to obtain Tax Deduction Account Number as per section 203A.
Example: Mr. X sold his house property in Chennai for a consideration of ₹75 lakh to Mr. Y on 31.01.2024, in this case, Mr. Y is required to deduct tax at source under section 194-IA @ 1% of ₹75 lakh and tax deductible under section 194-IA shall be ₹ 75 lakh × 1% = ₹ 75,000

Question 16: Write a note on TDS in case of Payment of Rent by Certain Individual and HUF.
Answer: TDS in case of Payment of Rent by Certain Individual and HUF Section 194-IB
(1) Any person, being an individual or a Hindu undivided family ***not covered under section 194-I***, responsible for paying to a resident any income by way of rent exceeding **₹50,000** for a month or part of a month during the previous year, shall deduct tax @ 5%.
(2) Tax shall be deducted at the time of making payment of rent for the last month of the previous year or the last month of tenancy whichever is earlier.
(3) No requirement to take tax deduction account number.
(4) If the person receiving payment of rent has not submitted PAN, tax shall be deducted @ 20% but maximum rent payable for the last month.
Example: Mr. X has taken a house on rent ₹60,000 p.m. not required to deduct tax at source under section 194-I, in this case he will be required to deduct tax at source @ 5% but tax is to be deducted in the last month instead of every month. While paying rent of ₹ 60,000 for March 2024 he should deduct tax at source ₹ 7,20,000 x 5% = 36,000 but if person receiving payment has not submitted PAN, amount of TDS shall be 7,20,000 x 20% = 1,44,000 but maximum ₹ 60,000.

Question 17: Write a note on TDS in case of Fees for Professional or Technical Services.
Answer: TDS in case of Fees for Professional or Technical Services Section 194J
1. Every person, who is responsible for paying to a **resident** any sum by way of –
(i) fees for Professional services
(ii) any Remuneration or fees or commission to a director of a company (in case salary is being paid to a director, tax shall be deducted at source under section 192).
(iii) Royalty
(iv) Non-compete fee referred to in section 28
shall deduct tax at source at the rate of 10%, *however rate of TDS shall be 2% in the following cases*
(i) in case of Fees for Technical Services.
(ii) royalty where such royalty is in the nature of consideration for sale, distribution or exhibition of cinematographic films
(iii) in case of a payee engaged only in the business of operation of a call centre.
An Individual or Hindu Undivided Family shall be required to deduct tax at source only if the turnover in case of business has exceeded ₹ 1 crore and gross receipts in case of profession has exceeded ₹ 50 lakhs, during the financial year immediately preceding the relevant year.

2. No tax shall be deducted at source where the amount paid or payable during the year do not exceed **₹30,000**. (limit of ₹30,000 is applicable separately for each of the above payments). There is no such limit in case of payment to a director i.e. tax has to be deducted at source in case of payment to a director irrespective of the amount to be paid.

Example: X Ltd. paid retainership fees of ₹25,000 to its Director, Mr. Ram Sharma, on 30.01.2024, as per section 194J, the company shall be liable to deduct tax at source @ 10% on any remuneration or fees or commission paid to a director, on which the tax is not deductible under section 192. **The limit of ₹30,000 under section 194J is not applicable on any remuneration or fees or commission payable to director of a company.**

Tax deductible under section 194J = ₹ 25,000 x 10% = ₹ 2,500

Example

(i) If ABC Ltd. has to pay a sum of ₹2,00,000 to an architect, amount of TDS shall be ₹20,000.

(ii) If ABC Ltd. has to pay ₹10,00,000 to a Chartered Accountant, amount of TDS shall be ₹1,00,000.

(iii) If Mr. X has to pay ₹50,000 to an advocate, amount of TDS shall be Nil and if Turnover of Mr. X was exceeded the prescribed limit during 2022-23, amount of TDS shall be ₹5,000.

(iv) If Z Ltd. has to pay ₹15,000 in connection with technical services, amount of TDS shall be Nil.

3. If individual or HUF is making payment for **professional services** and it is for personal purpose, no tax shall be deducted at source.

4. Meaning of "Professional services"

As per section 44AA, rule 6F, "Professional services" means:

(a) Legal profession

(b) Medical Profession

(c) engineering Profession

(d) architectural profession

(e) profession of accountancy

(f) technical consultancy

(g) interior decoration

(h) advertising

(i) Profession of "authorised representatives";

(j) Profession of "film artist";

(k) Profession of "company secretary";

(l) Profession of "information technology".

The CBDT has notified the services also as professional services

(a) Sports Persons,

(b) Umpires and Referees,

(c) Coaches and Trainers,

(d) Team Physicians and Physiotherapists,

(e) Event Managers,

(f) Commentators,

(g) Anchors and

(h) Sports Columnists.

Accordingly, the requirement of TDS as per section 194J would apply to all the aforesaid professions. The term "profession", as such, is of a very wide import. However, the term has been defined in this section exhaustively. For the purposes of TDS, therefore, all other professions would be outside the scope of section 194J. For example, this section will not apply to professions of teaching, sculpture, painting etc. unless they are notified.

Meaning of "Fees for technical services"

The term 'fees for technical services' means any consideration (including any lump sum consideration) for rendering of any of the following services:
(i) Managerial services;
(ii) Technical services;
(iii) Consultancy services;
(iv) Provision of services of technical or other personnel.
It is expressly provided that the term 'fees for technical services' will not include following types of consideration:
(i) Consideration for any construction, assembly, mining or like project, or
(ii) Consideration which is chargeable under the head 'Salaries'.

Question 18: Write a note on TDS in case of "Income on units of Mutual Fund".

Answer: TDS in case of "Income on units of Mutual Fund" Section 194K

Any person making payment of Income on units of Mutual Fund to **a resident** shall **deduct tax at source @ 10%,** provided the amount being paid or payable during a particular year to a particular person is exceeding ₹5,000. Also TDS shall not be deducted, if the income is of the nature of capital gains.

Question 19: Write a note on TDS in case of Payment of Compensation on Acquisition of certain Immovable Property.

Answer: TDS in case of Payment of Compensation on Acquisition of certain Immovable Property Section 194LA

If any land or building has been acquired by the government or other similar agency, tax shall be deducted at source @ 10% provided the amount paid or payable to any resident is exceeding **₹2,50,000**. No tax shall be deducted at source if the payment relates to acquisition of agricultural land.

Example: If ₹3,00,000 is to be paid to Mr. X on 05.05.2023 by State Government on compulsory acquisition of his urban land, amount of TDS shall be 3,00,000 x 10% = 30,000.

Question 20: Write a note on TDS in case of Payment of certain sums by certain individuals or Hindu undivided family.

Answer: TDS in case of Payment of certain sums by certain individuals or Hindu undivided family Section 194M

Any person, being an individual or a Hindu undivided family (other than those who are required to deduct income-tax as per the provisions of section 194C or section 194H or section 194J) responsible for paying any sum to any resident for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract or by way of fees for professional services during the financial year, shall, at the time of credit of such sum or at the time of payment of such sum in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct an amount equal to five per cent. of such sum as income -tax thereon:

Provided that no such deduction under this section shall be made if such sum or, as the case may be, aggregate of such sums, credited or paid to a resident during a financial year does not exceed fifty lakh rupees.

The provisions of section 203A shall not apply to a person required to deduct tax in accordance with the provisions of this section.

Question 21: Write a note on TDS in case of Payment of certain amounts in cash.

Answer: TDS in case of Payment of certain amounts in cash Section 194N

Every person, being,—
(i) a banking company to which the Banking Regulation Act, 1949 applies
(ii) a co-operative society engaged in carrying on the business of banking; or
(iii) a post office,
who is responsible for paying any sum, being the amount or the aggregate of amounts, as the case may be, in cash exceeding **one crore** rupees during the previous year, to any person (herein referred to as the recipient) from one or more accounts maintained by the recipient with it shall, at the time of payment of such sum, deduct an amount **equal to two per cent** of such sum, as income-tax:

Provided that in case of a recipient who has not filed the returns of income for all of the three previous years, for which the time limit to file return of income under sub-section (1) of section 139 has expired, in the year

immediately preceding the previous year in which the payment of the sum is made to him, the provision of this section shall apply with the modification that-

(i) the sum shall be the amount or the aggregate of amounts, as the case may be, in cash exceeding twenty lakh rupees during the previous year; and
(ii) the deduction shall be—
  (a) an amount equal to two per cent. of the sum where the amount or aggregate of amounts, as the case may be, being paid in cash exceeds twenty lakh rupees during the previous year but does not exceed one crore rupees; or
  (b) an amount equal to five per cent. of the sum where the amount or aggregate of amounts, as the case may be, being paid in cash exceeds one crore rupees during the previous year:

Provided also that nothing contained in this section shall apply to any payment made to,—
(i) the Government;

(ii) bank or post office;

(iii) any teller machine operator of a banking company, maintaining a separate bank account from which withdrawal is made only for the purposes of replenishing cash in the Automated Teller Machines.

(iv) Commission agent or trader, operating under Agriculture Produce Market Committee (APMC).

(v) The authorised dealer or Money Changer licensed by the RBI.

Example

Mr. X has withdrawn ₹120 Lakh in F.Y. 2023-24 in cash, amount of TDS shall be 120 lakh x 2% = ₹2,40,000 but if he has not filing return for last three years and time limit has expired in the preceding year, amount of TDS shall be 100 lakh x 2% i.e. ₹2,00,000 and 20 lakh x 5% = 1,00,000. If amount withdrawn is ₹15 lakh, there is no TDS. If amount withdrawn is ₹70 lakh, there is no TDS but if return has not been filed for last three years, amount of TDS shall be 70 lakh x 2% = ₹1,40,000.

Question 22: Explain TDS in case of senior citizen.

Answer: TDS in case of specified senior citizen Section 194P

Section 194P shall be applicable only in case of senior citizen and senior citizen for this purpose means any resident individual who is of the age of 75 years or more. The individual should have only pension income or interest income and the incomes are received in the bank account held with a specified bank. The specified bank shall compute income and tax liability of such individual and same amount shall be deducted as tax at source. The senior citizen shall be exempt from filing the return of income.

Question 23: Write a note on Deduction of tax at source on payment of certain sum for purchase of goods.

Answer: TDS in case of payment of certain sum for purchase of goods Section 194Q

If any person is purchasing goods of aggregate value during a particular year exceeding ₹50 lakh, such person shall deduct tax at source @ 0.1% of the sum exceeding ₹50 lakh however such buyer should also be engaged in a business and turnover from such business should exceed ₹10 crores in financial year immediately preceding the year in which goods are being purchased. E.g. ABC Ltd. is engaged in the business of sale of generators and its turnover in F.Y. 2022-23 was ₹12 crore and company has purchased generators from the manufacturer in the year 2023-24 for ₹70 lakh, in this case amount of TDS shall be 0.1% of ₹20 lakh = ₹2,000. But if turnover of business in F.Y. 2022-23 is upto ₹10 crore, no tax shall be deducted at source.

If there is any transaction to which provisions of section 194Q is applicable and also provisions of some other section of TDS is applicable, in that case tax shall be deducted at source under the provisions of other section.

If any transaction is subject of tax collection at source and also TDS under section 194Q, in that case tax shall be collected at source and section 194Q shall not be applicable. E.g. ABC Ltd. is engaged in the sale of alcoholic liquor and it has sold alcoholic liquor of ₹70 lakh to XYZ Ltd. and XYZ Ltd. had turnover of ₹12 crore in P.Y. 2022-23, in this case ABC Ltd. shall collect tax from XYZ Ltd. @ 1% of ₹70 lakh and XYZ Ltd. shall not do any TDS under section 194Q.

If TCS provisions under section 206C(1H) are applicable and also 194Q is applicable, section 206C(1H) shall not apply rather section 194Q shall be applicable. E.g. ABC Ltd. has turnover of ₹12 crore and it has sold goods to XYZ Ltd. of the value of ₹70 lakh and XYZ Ltd. has turnover in P.Y. 2022-23 ₹12 crores, in this case XYZ Ltd. shall do TDS under section 194Q = 20 lakh x 0.1% = ₹2,000 and ABC Ltd. shall not collect tax at source.

Question 24: Write a note on Deduction of tax on benefit or perquisite in respect of business or profession

Answer: <u>TDS in case of payment of</u> <u>benefit or perquisite in respect of business or profession Section 194R</u>

Every person responsible for providing any benefit or perquisite to a resident person shall deduct tax at source @ 10% provided the aggregate amount during a particular year is exceeding ₹20,000 further turnover of the person providing such benefit should exceed 100 lakh in business or ₹50 lakh in profession in the immediately preceding year.

It is clarified that the provisions of sub-section shall apply to any benefit or perquisite, whether in cash or in kind or partly in cash and partly in kind.

E.g. Maruti Udyog Ltd. Has gifted one motor car value ₹5 lakh to one of its dealer for achieving the sales target, in this case gift has to be deducted at source @ 10%. Since the gift is in kind, it is a duty of Maruti Udyog Ltd. to ensure that tax has been deposited by the recipient.

Question 25: Write a note on TDS in case of Payment to Non-Resident or Foreign Company.

Answer: <u>TDS in case of Payment to Non-Resident or Foreign Company</u> <u>Section 195</u>

Every person making any payment to a non-resident or to a foreign company shall deduct tax at source at the prescribed rate.

Question 26: Explain TDS provision in case of payment to Government.

Answer: <u>Interest or dividend or other sums payable to Government, Reserve Bank or certain corporations. Section 196</u>

Notwithstanding anything contained in the foregoing provisions of this Chapter, no deduction of tax shall be made by any person from any sums payable to—

(i) the Government, or

(ii) the Reserve Bank of India, or

(iii) a corporation established by or under a Central Act which is, under any law for the time being in force, exempt from income-tax on its income, or

(iv) a Mutual Fund specified under clause (23D) of section 10, where such sum is payable to it by way of interest or dividend in respect of any securities or shares owned by it.

Question 27: Write a note on TDS in case of payment by individual or Hindu Undivided Family.

Answer: <u>TDS in case of payment by individual or Hindu Undivided Family</u>

An Individual or Hindu Undivided Family shall be required to deduct tax at source only if ***the turnover in case of business has exceeded ₹ 1 crore and gross receipts in case of profession has exceeded ₹ 50 lakhs, during the financial year immediately preceding the relevant year.***

The above provisions are applicable for TDS under section 194A, 194C, 194H, 194I, 194J.

The above provisions are not applicable for TDS under other sections like 192, 192A, 193, 194, 194B, 194BA, 194BB, 194D, 194DA, 194E, 194G, 194-IA**,**194-IB, 194LA, 194K, 194M, 194N, 194O**,** 195.

Question 28: Write a note on Deduction of tax at Lower Rate.

Answer: <u>Deduction of tax at Lower Rate</u> <u>Section 197</u>

If on income of any person, income-tax is required to be deducted at the time of payment under section 192, 193, 194, 194A, 194C, 194D, 194G, 194H, 194I, 194J, 194K, 194LA,194M, 194O and 195 and the Assessing Officer is satisfied that the total income of the recipient justifies the deduction of income-tax at any lower rates or no deduction of income-tax, as the case may be, the Assessing Officer shall, on an application made by the assessee in this behalf, give to him such certificate as may be appropriate.

Application should be given in Form No. 13.

(Section 197 is not applicable in case of TDS under section 192A, 194B, 194BA, 194BB, 194DA, 194E, 194-IA, 194-IC, 194N)

Question 29: Write a note on self declaration for not deducting tax at source.

Answer: Self declaration for not deducting tax at source Section 197A

As per section 197A, if any individual or Hindu Undivided Family has total income not exceeding the exemption limit and also his tax liability is nil, such individual or HUF can furnish a declaration in Form No. 15G to the person making payment and in that case no tax shall be deducted at source. A senior citizen can give a declaration in Form No 15H if his tax liability is nil.

The above provision shall be applicable in case of section 192A, 193, 194, 194A, 194D, 194DA & 194I.

Question 30: Write a note on time period for depositing tax deducted at source.

Answer: Time period for depositing tax deducted at source Section 200 / Rule 30

As per Rule 30, the payment is to be made in general within 7 days from the last day of the month in which the deduction is made.

If the tax has been deducted in the month of March, tax should be deposited on or before 30th April.

In certain cases, Assessing Officer may permit the payments on quarterly basis.

Question 31: Write a note on filing of quarterly statement of TDS.

Answer: Filing of quarterly statement of TDS Section 200 / Rule 31A

Every person deducting tax at source has to submit quarterly statement containing details of the tax deducted at source. The statement should be submitted latest by 31st of the month succeeding the relevant quarter but statement for the quarter ending March can be submitted upto 31st May. e.g. Statement for quarter ending March, 2024 can be submitted upto 31st May, 2024.

Question 32: Write a note on Consequences of Failure to Deduct or Pay.

Answer: Consequences of Failure to Deduct or Pay Section 201

1. If any person has failed to deduct tax at source, interest shall be charged **@ 1% p.m. or part of a month** for the period of delay. E.g. ABC Ltd. has made one payment on 03.01.2024 but tax was deducted at source on 20.01.2024, in this case interest shall be charged @ 1% for one month.

2. If person has deducted tax at source but tax was not deposited within the time allowed under section 200, interest shall be charged **@ 1.5% p.m. or part of a month** from date of deducting tax at source upto the date of depositing the amount

Example

Assessee deduct TDS on 10.10.2023 but pays TDS on 31.12.2023, Interest under section 201 shall be charged from 10.10.2023 to 31.12.2023 @ 1.5% per month i.e., for 3 months.

If in the above case assessee has not deducted tax at source on 10.10.2023 rather assessee deducted TDS on 31.12.2023 and assessee pays TDS on 17.01.2025, interest shall be charged in the manner given below:

(i) Interest under section 201 shall be charged for 3 months @ 1% for the period 10.10.2023 to 31.12.2023.

(ii) Interest under section 201 shall be charged @ 1.5% per month for one month from 31.12.2023 to 17.01.2024.

3. Assessee shall also be considered to be assessee in default and penalty may be imposed equal to the amount which he has failed to deduct or pay but in following two situations he will not be considered to be assessee in default

1. If there were sufficient reasons for not deducting tax at source

2. Payment was made to a ***payee*** and such ***payee*** has shown the amount in his income and has paid tax and also return has been filed and it has been confirmed by a Chartered Accountant.

In this case assessee shall pay interest from the date when tax was to be deducted upto the date of filing the return.

Example

ABC Ltd. paid certain amount on 05.01.2024 to Mr. X and tax was not deducted at source but Mr. X himself has paid his tax and return was filed on 31.07.2024, in this case interest shall be charged @ 1% p.m. for a period of 7 months i.e. from 05.01.2024 to 31.07.2024.

Question 33: Write a note on Certificate for Tax Deducted.

Answer: Certificate for Tax Deducted Section 203/ Rule 31

TDS Certificate

Every person deducting tax at source shall issue a certificate to the person with regard to whom tax has been deducted at source. In case of payment of salary, certificate shall be issued in Form No. 16 and in other

cases it will be in Form No. 16A.
The certificate in Form No. 16 should be given upto 31st May of the succeeding year in case of an employee and it will be an annual certificate.
In other cases certificate in Form No. 16A should be issued on quarterly basis and it should be issued within 15 days from the last date of submitting the quarterly statement under section 200.

Question 34: Write a note on Tax Deduction Account Number (TAN).
Answer: Tax Deduction Account Number (TAN) Section 203A
Every person, deducting tax at source shall apply for allotment of tax deduction account number and application has to be given **in Form No.49B within one month from the end of the month in which tax was deducted for the first time.**
Application for allotment of a tax deduction and collection account number.
114A. An application under section 203A for the allotment of a tax deduction account number shall be made in duplicate in Form No. 49B and application should be given within one month from the end of the month in which tax was deducted for the first time

Question 35: Write a note on Requirement to Furnish Permanent Account Number.
Answer: Requirement to Furnish Permanent Account Number Section 206AA
Every person on whose behalf, tax is being deducted at source shall submit his PAN to the person deducting tax at source otherwise rate of TDS shall be the actual rate or 20% whichever is higher. The person deducting tax at source has to mention such PAN in the quarterly statement. ***However, if the assessee, whose tax is required to be deducted under section 194-O or 194Q, does not submit his PAN or Aadhar, rate of TDS shall be 5% instead of 20%.***

Question 36: Write a note on Special provision for deduction of tax at source for non-filers of income-tax return.
Answer: Special provision for deduction of tax at source for non-filers of income-tax return Section 206AB
(1) Notwithstanding anything contained in any other provisions of this Act, where tax is required to be deducted at source under the provisions of Chapter XVIIB, other than sections 192, 192A, 194B, ***194BA***, 194BB, ***194-IA, 194-IB, 194M or 194N*** on any sum or income or amount paid, or payable or credited, by a person to a specified person, the tax shall be deducted at the higher of the following rates, namely:–

at twice the rate in force or at the rate of five per cent.

(2) If the provisions of section 206AA is applicable to a specified person, in addition to the provision of this section, the tax shall be deducted at higher of the two rates provided in this section and in section 206AA.
(3) For the purposes of this section "specified person" means a person who has not furnished the return of income for the assessment year relevant to the previous year immediately preceding the financial year in which tax is required to be deducted, for which the time limit for furnishing the return of income under sub-section (1) of section 139 has expired and the aggregate of tax deducted at source and tax collected at source in his case is rupees fifty thousand or more in the said previous year.

TDS shall be on the amount excluding GST

As per Circular No. 23/2017, Dated 19-7-2017, wherever in terms of the agreement/contract between the payer and the payee, the GST component comprised in the amount payable to a resident is indicated separately, tax shall be deducted at source on the amount paid/payable without including such GST component.

TAX COLLECTION AT SOURCE
206C

Question : Write a note on TCS under the Income- tax Act, 1961.
Answer:
If the person making the payment has deducted tax, it is called TDS but if the person collecting payment for goods or other purpose has also collected tax, it is called TCS and it is applicable in the following cases:
1. As per section 206C(1), every seller shall collected tax in the following cases:
(i) Alcoholic Liquor for human consumption 1%

(ii) Tendu leaves	5%
(iii) Timber obtained under a forest lease	2.5%
(iv) Timber obtained by any mode other than under a forest lease	2.5%
(v) Any other forest produce not being timber or tendu leaves	2.5%
(vi) Scrap	1%
(vii) Minerals, being coal or lignite or iron ore	1%

Buyer" means any person but does not include,— a public sector company, the Central Government, a State Government, and an embassy, a High Commission, and a club. It will also not include a buyer in the retail sale of such goods purchased by him for personal consumption;

"seller" means the Central Government, a State Government or any local authority or corporation or authority established by or under a Central, State or Provincial Act, or any company or firm or co-operative society and also includes an individual or a Hindu undivided family whose total sales, gross receipts or turnover from the business or profession carried on by him exceed *one crore rupees in case of business or fifty lakh rupees in case of profession* during the financial year immediately preceding the financial year.

2. As per section 206C(1C), every person giving license shall collect tax in the following cases:

(i) Parking lot	2%
(ii) Toll plaza	2%
(iii) Mining and quarrying	2%

3. As per section 206C(1F), every seller of motor vehicle shall collect tax at source in the following cases:

Motor vehicle exceeding value ₹ 10 lakh	1%

"Buyer" means any person but does not include,— the Central Government, a State Government and an embassy, a High Commission, a local authority, a public sector company which is engaged in the business of carrying passengers.]

It will also not include sale by manufacturer to dealers and distributors

"Seller" means the Central Government, a State Government or any local authority or corporation or authority established by or under a Central, State or Provincial Act, or any company or firm or co-operative society and also includes an individual or a Hindu undivided family whose total sales, gross receipts or turnover from the business or profession carried on by him exceed *one crore rupees in case of business or fifty lakh rupees in case of profession* during the financial year immediately preceding the financial year.

Q.1 Whether TCS @ 1% is on sale of motor vehicle at retail level or also on sale of motor vehicles by manufacturers to dealers/ distributors?

A. To bring high value transactions within the tax net, section 206C has been amended to provide that the seller shall collect the tax @ 1% from the purchaser on sale of motor vehicle of the value exceeding ₹ 10 lakhs. This is brought to cover all transactions of retail sales and accordingly, it **will not apply on sale of motor vehicles by manufacturers to dealers/distributors.**

Q.2 Whether TCS @ 1% on sale of motor vehicle is applicable only to luxury cars?

A. No, as per section 206C(1F), the seller shall collect tax@1% from the purchaser on sale of any motor vehicle of the value exceeding ₹ 10 lakhs.

Q.3 Whether TCS @ 1% is applicable in the case of sale to Government Departments, Embassies, Consulates and United Nation Institutions, of motor vehicle or any other goods or provision of services?

A. Government, institutions notified under United Nations (Privileges and Immunities) Act 1947, and Embassies, Consulates, High Commission, Legation, Commission and trade representation of a foreign State shall not be liable to levy of TCS.

Q.4 Whether TCS is applicable on each sale of motor vehicle or on aggregate value of sale during the year?

A. Tax is to be collected at source@1% on sale consideration of a motor vehicle exceeding ₹ 10 lakhs. It is applicable to each sale and not to aggregate value of sale made during the year.

Q.5 Whether TCS @ 1% on sale of motor vehicle is applicable in case of an individual?

A. An individual who is liable to audit as per the provisions of section 44AB during the financial year immediately preceding the financial year in which the motor vehicle is sold shall be liable for collection of tax at source on sale of motor vehicle by him.

Q.6 How would the provisions of TCS on sale of motor vehicle be applicable in a case where part of the payment is made in cash and part is made by cheque?

A. The provisions of TCS on sale of motor vehicle exceeding ₹ 10 lakhs is not dependent on mode of payment. Any sale of motor vehicle exceeding ₹ 10 lakhs would attract TCS @ 1%.

4. As per section 206C(1G), tax shall be collected at source in the following cases:

1. In case of remittance out of India, authorized dealer shall collect tax at source on the amount exceeding ₹7 lakh at the rates given below:
   (i) 20% on the amount exceeding 7 lakh
   (ii) 5% on the amount exceeding 7 lakh if remittance is for the purpose of education or for medical treatment.
   (iii) 0.5% on the amount exceeding 7 lakh if remittance is for the purpose of making repayment of education loan.

   (iv) TCS shall be applicable in case of overseas tour programme and for this purpose every seller who is selling overseas tour program package shall collect at source at a rate of **5%** upto 7,00,000 and 20% on the amount exceeding 7,00,000

"Overseas tour programme package" means any tour package which offers visit to a country or territories outside India and includes expenses for travel or hotel stay or boarding or lodging or any other expenditure of similar nature or in relation thereto.

The provisions of section 206C(1G) shall not apply if the buyer is the Central Government, a State Government, an embassy, a High Commission, a local authority or any other person as the Central Government may notify.

5. As per 206C(1H), every seller whose turnover in the preceding year was exceeding ₹ 10 crores shall collect tax at source from a buyer at a rate of 0.1% provided sale consideration is exceeding ₹ 50 lakh and TCS shall be only on the amount exceeding ₹ 50 lakhs.

"Buyer" means a person who purchases any goods, but does not include,—the Central Government, a State Government, an embassy, a High Commission, a local authority, a person importing goods into India or any other person as the Central Government may notify.

Tax collection Account Number Section 206CA

Every person collecting tax as per section 206C shall apply for allotment of tax collection account number in the similar manner as in case of tax deduction account number.

Requirement to furnish Permanent Account number by collectee Section 206 CC

(1) Notwithstanding anything contained in any other provisions of this Act, any person paying any sum or amount, on which tax is collectible at source under Chapter XVII-BB shall furnish his Permanent Account Number to the person responsible for collecting such tax, failing which tax shall be collected at the higher of the following rates, namely:—

(*i*) at twice the rate

(*ii*) at the rate of five per cent. (In case of TCS u/s 206C(1H), rate of tax shall be twice the rate or 1% whichever is higher.)

However the maximum rate of TCS can be 20%.

The provisions of this section shall not apply to a non-resident who does not have permanent establishment in India.

Special provision for collection of tax at source for non-filers of income-tax return Section 206CCA

(1) Notwithstanding anything contained in any other provisions of this Act, where tax is required to be collected at source under the provisions of Chapter XVII-BB, on any sum or amount received by a person (hereafter referred to as collectee) from a specified person, the tax shall be collected at the higher of the following two rates, namely:—

at twice the rate in force or at the rate of five per cent.

However the maximum rate of TCS can be 20%.

(2) If the provisions of section 206CC is applicable to a specified person, in addition to the provisions of this section, the tax shall be collected at higher of the two rates provided in this section and in section 206CC.

(3) For the purposes of this section "specified person" means a person who has not furnished the return of income for the previous year immediately preceding the financial year in which tax is required to be collected, for which the time limit for furnishing the return of income under sub-section (1) of section 139 has expired in the preceding previous year and the aggregate of tax deducted at source and tax collected at source in his case is rupees fifty thousand or more in the said previous year:

MISCELLANEOUS TOPICS

Assessee Section 2(7)

"Assessee" means

- Any person who is liable to pay income tax or interest or penalty or any other sum under Income Tax Act
- Any person with regard to whom any proceedings are pending under Income Tax Act for assessment of income or loss or refund or any other proceeding
- Any person who is assessable on behalf of any other assessee i.e. deemed assessee and any proceeding is pending with regard to such other person like assessment of income or loss or refund or any other proceeding e.g. Minor son of Mr. X has income from talent ₹5,00,000, in this case Mr. X shall be deemed to be an assessee.

Assessment year

As per section 2(9), assessment year means a period of 12 months starting from 01st April of every year ending with 31st March i.e. every financial year is an assessment year e.g. Financial year 2024-25 is one assessment year.

Previous year

As per section 3, previous year means financial year preceding the assessment year e.g. If financial year 2024-25 is one assessment year, financial year 2023-24 is the previous year for such assessment year. Income of previous year is taxable in its assessment year i.e. exact tax liability for previous year 2023-24 shall be determined in assessment year 2024-25 (however the person has to pay advance tax on estimated basis in previous year 2023-24.)

In general previous year shall be of full year but in case of a newly setup business or profession, first previous year will start from the date of commencement of business / profession e.g. If Mr. X started business on 01.07.2023, first previous year shall be from 01.07.2023 to 31.03.2024.

Income Section 2(24)

Every person shall be required to pay tax on his income as per section 4 and the term income is divided into 5 different categories which are called heads of income and such incomes shall include

1. Payment by employer to employee.
2. Rent received or receivable in connection with house property
3. Payments in connection with business/profession as per section 28
4. Profit and gains on the transfer of capital asset as per section 45(1)
5. Incomes under section 56 like, dividend, interest, casual income, gift etc.
6. Any other income given under section 2(24).

Charging section of Income-Tax Section 4

Every person shall be liable to pay income tax on his income. Normal income of every person shall be taxable at the rates given in the relevant Finance Act. Special incomes like Long term capital gains or Short term capital gains under section 111A or casual income shall be taxable at the rates given in the Income Tax Act. Tax shall be deducted at source as per the relevant provision also advance tax is to be paid as per the relevant provision.

Expenditure incurred in relation to income not includible in Total Income Section 14A

If any income is exempt from income tax, expenditure incurred in connection with such income shall not be allowed to be deducted either from same income or from some other income. If expenditure is incurred for taxable income as well as exempt income, only expenditure relating to taxable income shall be allowed to be deducted.

Question 1 [V. Imp.]: Discuss exceptions to the General Rule that the income of the Previous Year is taxed in the Assessment Year.

Answer: Exceptions to the General Rule that the income of the Previous Year is taxed in the Assessment Year

Generally the income of the Previous Year is taxable in the immediately succeeding year called the assessment year. But, in the following cases, the income of the current year may be brought to tax in the same year–being exception to the general rule that incomes earned in the previous year are taxed in its

assessment year following: -

1. Profits of non-resident from Shipping Business **Section 172:** If any ship owned by a non-resident has entered in India, the ship shall not be allowed to leave India unless tax has been paid and return has been filed

2. Assessment of persons Leaving India **Section 174:** If any person is leaving India with no present intention of returning to India, the total income of such individual up to the probable date of his departure from India shall be chargeable to tax in the previous year itself.

3. Assessment of association of persons or Body of Individuals or Artificial Juridical Person formed for a particular event or purpose **Section 174A:** If any association of persons or a body of individuals etc. has been incorporated for a particular event or purpose and it is likely to be dissolved in the same year in which it was formed, the total income of such association or body or juridical person for the period up to the date of its dissolution shall be chargeable to tax in that year itself.

4. Assessment of persons likely to transfer property to avoid tax **Section 175:** If it appears to the Assessing Officer that any person is likely to sell, transfer or otherwise part with any of his assets with a view to avoid payment of any liability under the provisions of this Act, the total income of such person shall be taxable in the same previous year.

5. Discontinued Business **Section 176:** If any person has closed down his business/profession, such person should inform Income Tax Department within 15 days of closing down such business/profession and the Department may direct such a person to pay tax and file return in the previous year itself.

10(2) Share received by a member of Hindu undivided family from income of Hindu Undivided Family

If any Hindu Undivided Family has paid income tax on the income of the family, such income shall not be taxable in the hands of its members. E.g. Mr. X is a member of one HUF and has received ₹3,00,000 from HUF as his share, it will be exempt from income tax under section 10(2).

10(10BC) Compensation received or receivable on account of any disaster

As per section 10(10BC), if any person has received any payment from government or other similar authority as compensation for loss or damage caused by any disaster whether natural calamity or any accident etc., such compensation shall be exempt from income tax.

10(26AAA) Exemption in case of Income of an Individual being Sikkimese

As per section 10(26AAA), income of an individual of Sikkim shall be exempt from income tax if such income is from Sikkim. If he has received dividend or interest on securities from any where, it will also be exempt from income tax.

Question 2: Explain the Treatment of Unexplained money, investments etc.

Answer: Unexplained money, investments etc. to attract tax @60% [Section 115BBE]

(i) In order to control laundering of unaccounted money by availing the benefit of basic exemption limit, the unexplained money, investment, expenditure, etc. deemed as income under section 68 or section 69 or section 69A or section 69B or section 69C would be taxed at the rate of 60% plus surcharge @25% of tax. Thus, the effective rate of tax (including surcharge @25% of tax and HEC @4% of tax and surcharge) is 78%.

(ii) No basic exemption or allowance or expenditure shall be allowed to the assessee under any provision of the Income-tax Act, 1961 in computing such deemed income.

(iii) Further, no set off of any loss shall be allowable against income brought to tax under sections 68 or section 69 or section 69A or section 69B or section 69C.

(i) Cash Credits [Section 68]: Where any sum is found credited in the books of the assessee and the assessee offers no explanation about the nature and source or the explanation offered is not satisfactory in the opinion of the Assessing Officer, the sum so credited may be charged as income of the assessee of that previous year.

(ii) Unexplained Investments [Section 69]: Where in the financial year immediately preceding the assessment year, the assessee has made investments which are not recorded in the books of account and the assessee offers no explanation about the nature and the source of investments or the explanation offered is not satisfactory in the opinion of the Assessing Officer, the value of the investments are taxed as deemed income of the assessee of such financial year.

(iii) Unexplained money etc. [Section 69A]: Where in any financial year the assessee is found to be the owner of any money, bullion, jewellery or other valuable article and the same is not recorded in the books of account and the assessee offers no explanation about the nature and source of acquisition of such money, bullion etc. or the explanation offered is not satisfactory in the opinion of the Assessing Officer, the money and the value of bullion etc. may be deemed to be the income of the assessee for such financial year.

(iv) Amount of investments etc., not fully disclosed in the books of account [Section 69B]: Where in any financial year the assessee has made investments or is found to be the owner of any bullion, jewellery or other valuable article and the Assessing Officer finds that the amount spent on making such investments or in acquiring such articles exceeds the amount recorded in the books of account maintained by the assessee and he offers no explanation for the difference or the explanation offered is unsatisfactory in the opinion of the Assessing Officer, such excess may be deemed to be the income of the assessee for such financial year.

Example: If the assessee is found to be the owner of say 300 gms of gold (market value of which is ₹15,00,000) during the financial year ending 31.3.2024 but he has recorded to have spent ₹10,00,000 in acquiring it, the Assessing Officer can add ₹5,00,000 as the income of the assessee, if the assessee offers no satisfactory explanation thereof

(v) Unexplained expenditure [Section 69C]: Where in any financial year an assessee has incurred any expenditure and he offers no explanation about the source of such expenditure or the explanation is unsatisfactory in the opinion of the Assessing Officer, Assessing Officer can treat such unexplained expenditure as the income of the assessee for such financial year. Such unexplained expenditure which is deemed to be the income of the assessee shall not be allowed as deduction under any head of income.

INCOME-TAX RULES, 1962

The administration of direct taxes is looked after by the Central Board of Direct Taxes (CBDT).

• The CBDT is empowered to make rules for carrying out the purposes of the Act.

• For the proper administration of the Income-tax Act, 1961, the CBDT frames rules from time to time.

These rules are collectively called **Income-tax Rules, 1962**.

• Rules also have sub-rules, provisos and *Explanation*s. The proviso to a Rule/Sub-rule spells out the exception/conditions, to the Rule/Sub-rule. The *Explanation* gives clarification for the purposes of the Rule.

CIRCULARS AND NOTIFICATIONS

Circulars

• Circulars are issued by the CBDT from time to time to deal with certain specific problems and to clarify doubts regarding the scope and meaning of certain provisions of the Act.

• Circulars are issued for the guidance of the officers and/or assessees.

Notifications

Notifications are issued by the Central Government to give effect to the provisions of the Act. The CBDT is also empowered to make and amend rules for the purposes of the Act by issue of notifications.

Case Laws

Case Laws refer to decision given by courts. The study of case laws is an important and unavoidable part of the study of Income-tax law. It is not possible for Parliament to conceive and provide for all possible issues that may arise in the implementation of any Act. Hence the judiciary will hear the disputes between the assessees and the department and give decisions on various issues.

SET OFF AND CARRY FORWARD OF LOSSES

SECTION 70 TO 80

Question 1: Write a note on set off and carry forward of losses under the head house property.
Answer: Set off and carry forward of losses under the head house property Section 70/71/71B
Inter Source adjustment Section 70
As per section 70, if any person has loss from any house property, such loss can be set off from income of any other house property and it is called inter-source adjustment or intra-head adjustment. E.g. Mr. X has two houses: there is loss of ₹5,00,000 from one house and income of ₹8,00,000 from the other house, in this case, loss of one source (house) can be set off from income of the other source (house).
Inter Head adjustment Section 71
As per section 71, unadjusted loss can not be set off from incomes of other heads. E.g. Mr. X has loss from house property ₹1,50,000 and income from business/profession ₹5,00,000, in this case, loss is not allowed to be set off.
Carry Forward and Set Off Section 71B
As per section 71B, unadjusted loss is allowed to be carried forward to the subsequent years but for a maximum period of 8 years starting from the year subsequent to the year in which the loss was incurred and in the subsequent years, loss can be set off only from income under the head house property. E.g. Mr. X has incurred loss under the head house property in the previous year 2023-24/assessment year 2024-25 and it could not be set off in the same year, it can be carried forward upto Previous Year 2031-32/Assessment Year 2032-33 (as shown below)

Year 1	Previous year 2024-25	Assessment Year 2025-26
Year 2	Previous year 2025-26	Assessment Year 2026-27
Year 3	Previous year 2026-27	Assessment Year 2027-28
Year 4	Previous year 2027-28	Assessment Year 2028-29
Year 5	Previous year 2028-29	Assessment Year 2029-30
Year 6	Previous year 2029-30	Assessment Year 2030-31
Year 7	Previous year 2030-31	Assessment Year 2031-32
Year 8	Previous year 2031-32	Assessment Year 2032-33

Question 2 [Imp.]: Write a note on Set Off and Carry Forward of Losses under the head Business/ Profession.
Answer: As per section 70, if any person has loss from any business/profession, such loss can be set off from income of any other business/profession and it is called inter-source adjustment or intra-head adjustment. E.g. Mr. X has two business: there is loss of ₹5,00,000 from one business and income of ₹10,00,000 from the other business, in this case, loss of one source (business) can be set off from income of the other source (business).
As per section 71, unadjusted loss can be set off from incomes of other heads except salary but as per section 58(4), such loss can not be set off from casual income and it is called inter-head adjustment. E.g. Mr. X has loss from business/profession ₹3,00,000 and income from house property ₹5,00,000, in this case, loss is allowed to be set off but if he has any casual income, loss can not be set off from casual income. Similarly it can not be set off from income under the head salary.
As per section 72, unadjusted loss is allowed to be carried forward to the subsequent years but for a maximum period of 8 years starting from the year subsequent to the year in which the loss was incurred and in the subsequent years, loss can be set off only from income under the head business/profession. E.g. Mr. X has incurred loss under the head business/profession in the previous year 2023-24/assessment year 2024-25 and it could not be set off in the same year, it can be carried forward upto previous year 2031-32/assessment

year 2032-33 (as shown below)

Year 1	Previous year 2024-25	Assessment Year 2025-26
Year 2	Previous year 2025-26	Assessment Year 2026-27
Year 3	Previous year 2026-27	Assessment Year 2027-28
Year 4	Previous year 2027-28	Assessment Year 2028-29
Year 5	Previous year 2028-29	Assessment Year 2029-30
Year 6	Previous year 2029-30	Assessment Year 2030-31
Year 7	Previous year 2030-31	Assessment Year 2031-32
Year 8	Previous year 2031-32	Assessment Year 2032-33

Question 3 [V. Imp.]: Write a note on Unabsorbed Depreciation.

Answer: Unabsorbed Depreciation Section 32(2)

An assessee having business or profession shall debit all expenditures of business/profession before debiting depreciation i.e. depreciation shall be debited at the end. If there is a loss by debiting other expenditure, it will be called loss under the head business/profession. Depreciation shall be debited only if income is available under the head business/profession and the depreciation which can not be debited shall be called unabsorbed depreciation and it will be allowed to be adjusted from any income under any head except casual income and salary.

If it can not be adjusted in the same year, its carry forward is allowed for unlimited period and in the subsequent years, it can be set off from any income under any head except salary income and casual income.

If any assessee has brought forward business loss as well as depreciation, business loss shall be adjusted first and depreciation afterwards.

E.g. Mr. X has income under the head business/profession ₹10,00,000 after debiting all expenditures except depreciation of ₹13,00,000, in this case, depreciation of only ₹10,00,000 can be debited to the profit and loss account and balance ₹3,00,000 shall be called unabsorbed depreciation and it can be set off from any income under any head except salary income and casual income and even in the subsequent years, it can be set off from any income under any head except salary income and casual income and such carry forward is allowed for unlimited periods.

The sequence of claiming losses and depreciation under the head business / profession shall be as given below:

1. Current year expenses
2. Current year depreciation
3. Brought forward business losses
4. Brought forward unabsorbed depreciation

Question 4 [V. Imp.]: Write a note on Set Off and Carry Forward of loss from Speculative Business.

Answer: As per section 28, income from speculative business shall be taxable under the head business/profession and such income shall be computed in the normal manner and shall be taxable at the normal rate i.e. it will not be considered to be causal income.

Meaning of speculative business Section 43(5)

"speculative transaction" means a transaction in which a contract for the purchase or sale of any commodity, including stocks and shares, is periodically or ultimately settled otherwise than by the actual delivery or transfer of the commodity or scrips:

e.g. Mr. X entered into a contact for purchase of one plot from Mr. A and same plot was sold by him to Mr. Y at a higher rate and he has directed Mr. Y to pay the amount directly to Mr. A and surplus amount to Mr. X and he directed Mr. A to transfer the plot directly in the name of Mr. Y, it will be called speculative transaction but if Mr. X has transferred the plot in his name and after that plot was transferred in the name of Mr. Y, it will be called normal business.

The following shall not be deemed to be a speculative transaction:

A contract in respect of raw materials or merchandise entered into by a person in the course of his manufacturing or merchanting business to guard against loss through future price fluctuations in respect of his contracts for actual delivery of goods manufactured by him or merchandise sold by him; or

Set Off and Carry forward of loss from Speculative Business Section 73

If any assessee has loss from speculative business, such loss can not be set off from any income under any head however, if the assessee has two or more similar business, loss of one such business can be set off from the income of other such business.

Unadjusted loss is allowed to be carried forward but for a maximum period of 4 years starting from the year subsequent to the year in which the loss was incurred. Even in the subsequent years, loss can be set off only from income of speculative business.

Loss from normal business, unabsorbed depreciation, loss under the head other sources can be set off from the income of speculative business.

e.g. Mr. X has loss from speculative business ₹5,00,000 and income from normal business ₹5,00,000, in this case, loss is not allowed to be set off however its carry forward is allowed but for a maximum period of 4 years and in the subsequent years its can be set off only from income of speculation business.

e.g. Mr. X has loss of speculative business ₹5,00,000 and income from some other speculative business ₹5,00,000, in this case, loss can be set off from income of such speculative business.

Question 5 [V. Imp.]: Write a note on Set Off and Carry Forward of losses under the head Capital Gains.

Answer: Set off and Carry forward of Loss under the head Capital Gain Section 70, 71 and 74

Set off of loss from one source against income from another source under the same head of income Section 70

If any person has short term loss, it can be set off either from short term or from long term gain but if any person has long term loss, it can be set off only from long term gains i.e. set off from short term is not allowed.

Example

Mr. X has long term loss of ₹50,00,000 and short term gain of ₹50,00,000, in this case, long term loss can not be set off from short term gains but if he has long term gain of ₹50,00,000 and short term loss of ₹50,00,000, in this case, set off is allowed.

e.g. If Mr. X has short term loss under section 111A and has long term gain, such loss can be set off from long term gain and also it can be set off from short term gain under section 111A or from normal short term gain.

Set off of loss from one head against income from another Section 71

Where in respect of any assessment year, the net result of the computation under the head "Capital gains" is a loss and the assessee has income assessable under any other head of income, the assessee shall not be entitled to have such loss set off against income under the other head.

Example

Mr. X has short term loss ₹50,00,000 and business income of ₹50,00,000, in this case set off is not allowed.

Carry forward of losses under the head "Capital Gains" Section 74

If any assessee has short term loss or long term loss which could not be set off, such losses shall be allowed to be carried forward but for a maximum period of 8 years starting from the year next to the year in which the loss was incurred.

Brought forward short term loss can be set off either from short term or from long term gain but brought forward long term loss can be set off only from long term gain and not from short term gain.

ADDITIONAL POINTS FOR SET-OFF AND CARRY FORWARD

1. Set off and carry forward is mandatory not voluntary.

2. Any loss has to be set off first within the same head and after that under some other heads and after that carry forward is allowed.

3. Loss of current year shall be set off first and only after that brought forward losses can be adjusted, e.g. Mr. X has income from one house ₹ 10,00,000 and loss from other house ₹ 10,00,000 in P.Y. 2023-24 and also unadjusted loss of ₹ 10,00,000 under the head house property of P.Y. 2015-16, in this case loss of current year is to be adjusted first.

4. In general losses incurred by any person are allowed to be set off and carry forward by such person but as per section 78, if any person has inherited any business or profession, losses of such business or profession can be carried forward by him.

5. Share of loss from a partnership firm cannot be set-off by the partner from his income rather it will be set-off only from income of partnership firm.

Question 6: Explain setoff and carry forward of loss from agriculture

Answer: Loss from Agriculture

Loss from Agriculture cannot be set off from incomes of other heads. Similarly loss of other heads cannot be set off from Agriculture Income.

Loss from agriculture can be set off only from agricultural income and carry forward is allowed for 8 years and in subsequent years also it can be set off from agriculture income.

Optional regime

In case of loss under the head house property, under optional regime this loss was allowed to be set off from the incomes of other heads except casual income but loss could be set off maximum upto ₹2,00,000 but under default scheme, loss cannot be set off from the income of other heads.

PROVISIONS FOR FILING OF RETURN OF INCOME

Question 1 [V. Imp.]: Write a note on filing of return of income. Section 139(1)
Answer:
Filing of return of income/ filing of voluntary return of income
Under section **139(1)**, a return of income is to be filed by the following persons:
(i) Every **company assessee** or **partnership firm** irrespective of their income or loss shall be required to file return of income e.g. ABC Ltd. has total income of ₹10,000,in this case, company shall be required to file the return.
(ii) Any other person like Individual, HUF etc. shall be required to file return of income if Gross total income**, before claiming the exemption under section 54, 54B, 54D, 54EC, 54F, 54G, 54GA, and 54GB**, is exceeding exemption limit e.g. If for previous year 2023-24 gross total income of Mrs. X is ₹3,55,000 and deductions allowed under Chapter VI-A are NIL and total income is ₹3,55,000 and tax liability shall be nil but still Mrs. X has to file her return of income.
(iii) Every person who is **assessable on behalf of any other person** and the person on whose behalf he is assessable has gross total income, **before claiming the exemption under section 54, 54B, 54D, 54EC, 54F, 54G, 54GA, and 54GB,** more than the income exempt from tax, in such cases also, the person is required to file a return of income on behalf of such person. E.g. Minor son of Mr. X has gross total income from film acting ₹5 lakhs. In this case, Mr. X has to file a return of income on behalf of his minor son.
(iv) If any individual/HUF is **resident and ordinarily resident** in India, such person shall be required to file return of income if at any time during the P.Y., such person holds any asset (including any financial interest in any entity)located outside India or has signing authority in any account located outside India; or
(v) The persons other than company and partnership firm are also required to furnish the return of income if they have

(i) **deposited** an amount or aggregate of the amounts exceeding **one crore rupees** in one or more **current accounts** maintained with a banking company or a co-operative bank; or
(ii) incurred **expenditure** of an amount or aggregate of the amounts exceeding **two lakh rupees** for himself or any other person for **travel to a foreign country**; or
(iii) incurred **expenditure** of an amount or aggregate of the amounts exceeding **one lakh rupees** towards consumption of **electricity**; or

(vi) The following persons shall also be required to file the return of income as per Rule 12AB
(a) If the turnover of business exceeds ₹60 lakh or gross receipt from profession exceeds ₹10 lakh
(b) If the person has deposited ₹50 lakh or more in one or more of his saving accounts
(c) If the amount of TDS / TCS collected in his case is ₹25,000 or more but in case of a senior citizen it is ₹50,000 or more

Due date for filing the return of income
Return is to be filed in general upto 31st July of the assessment year, however, in the following cases, the last date shall be ***31st October*** of the assessment year.
1. Every company assessee
Example
For the previous year 2023-24, ABC Ltd. has to file its return of income upto 31.10.2024.
2. Any other person who is required to get his accounts audited either under Income Tax Act or under any other Act.
Example
Mr. X has his own business and his turnover for previous year 2023-24 is ₹102 lakhs. In this case, the last

date of filing the return of income shall be 31.10.2024, but if turnover is ₹97 lakhs, the last date shall be 31.07.2024.

Similarly if a partnership firm XY has turnover of its business ₹ 65 lakhs for previous year 2023-24, in this case, the last date of filing of return of income shall be 31.07.2024.

3. Partner of a partnership firm whose accounts are required to be audited.

Question 2 [V. Imp.]: Write a note on Return of Loss Section 139(3).

Answer: Return of Loss Section 139(3)

If any person has sustained any loss under the head Business/Profession or under the head capital gains or the loss is from owning and maintaining of race horses and such person claims that the loss is to be carried forward, such person has to file a return of loss and such return shall be examined by the Assessing Officer and the loss computed by the assessee shall be confirmed by the Assessing Officer by sending an intimation under section 157 and only after that carry forward of loss shall be allowed to the assessee.

Return under section 139(3) has to be submitted within the time allowed under section 139(1).

Under section 80, if return of loss has been filed after the last date of filing of return of income, In that case carry forward of losses is not allowed. E.g. For previous year 2023-24 ABC Ltd. has incurred business loss of ₹90 lakhs. In this case, the company must file return of loss under section 139(3) maximum upto 31.10.2024, otherwise carry forward of the loss is not allowed.

The above provisions are not applicable with regard to loss under the head house property and also it is not applicable with regard to unabsorbed depreciation.

If any return is filed under section 139(3), it will be considered to be a return under section 139(1).

Question 3 [V. Imp.]: Write a note on Belated Return of Income Section 139(4).

Answer: Belated Return of Income Section 139(4)

Every person is required to file a return of income within the time allowed under section 139(1) however return of income can be filed even after the due date but upto ***the three months prior to*** **the end of relevant assessment year or before completion of assessment, whichever is earlier.** E.g. For previous year 2023-24 ABC Ltd. has to file its return of income upto 31.10.2024. However, belated return is allowed under section 139(4) but maximum upto 31.12.2024.

Question 4: Write a note on fee for default in furnishing return of income

Answer: Fee for default in furnishing return of income. Section 234F

where a person required to furnish a return of income under section 139, fails to do so within the time prescribed u/s 139(1), he shall pay, by way of fee, ***a sum of ₹ 5,000***

Provided that if the total income of the person does not exceed ₹5,00,000 the fee payable under this section shall not exceed ₹ 1,000.

Example: For the P.Y.23-24, Mr. X has Total Income ₹7,00,000 and he files his return on 10th August 2024, in this case Penalty of ₹5000 is payable but if his total income is upto ₹5,00,000, Penalty shall be ₹1000.

Question 5 [V. Imp.]: Write a note on Revised Return of Income Section 139(5).

Answer: Revised Return of Income Section 139(5)

If any person has furnished a return under section **139(1)** or **under section 139(4),** discovers any omission or any wrong statement, he may furnish a revised return at any time before ***three months prior to*** the end of the relevant assessment year e.g. If ABC Ltd. has filed its return of income on 31.10.2024 for previous year 2023-24 and subsequently the company has detected any bonafide error, in this case, the company is allowed to revise its return of income under section 139(5) but maximum upto 31.12.2024.

If the assessment on the return has already been completed, revision is not allowed after completion of assessment e.g. For the previous year 2023-24 ABC Ltd. has filed its return of income on 31.10.2024. This return was checked by the Assessing Officer on 01.12.2024 and the company wish to file a revised return on 15.12.2024. In this case, revised return shall not be accepted.

An assessee is allowed to revise the return of income any number of times, however, if the earlier return has already being assessed, revised return shall not be allowed.

Revision is allowed only with regard to a return, which was filed under section 139(1) or 139(4), i.e. if the return has been filed under any other section, its revision is not allowed.

However, the return filed under section 139(3) is considered to be return under section 139(1), its revision is allowed.

Question 6: Write a note updated Return as per section 139(8A).

Answer:

1. An updated return can be filed by any person who has filed a return under section 139(1) or 139(4) or 139(5) or has not filed any return but such updated return can be filed within 24 months from the end of relevant assessment year.

2. Updated return can not be filed if it is return of loss or it has the effect of decreasing the tax liability already reported under section 139(1), 139(4) or 139(5) or it results in refund or increasing of refund.

3. No updated return can be filed if an updated return has already been filed for the same assessment year.

4. Updated return can be filed if the original return is a return of loss and updated return is a return of income.

5. In case of updated return, additional income tax shall be payable as per section 140B

Additional Income Tax on Updated Return Section 140B

1. If any person has filed updated return under section 139(8A) and such person has not filed any return, such person shall pay tax plus interest and fee for late filing of return on the basis of updated return after adjusting advance tax and TDS etc.

2. If a return has already been filed under section 139(1), 139(4) or 139(5), in that case tax and interest payable shall be computed after adjusting the tax and interest already paid.

3. Additional income tax shall be payable @ 25% of tax plus interest if such return is filed after expiry of the time allowed under section 139(1) or 139(4) or 139(5) but before completion of period of 12 months from the end of the relevant assessment year.

4. Additional income tax shall be payable @ 50% of tax plus interest if such return is filed after expiry of the period of 12 months but before expiry of the period of 24 months from the end of the relevant assessment year.

E.g. Mr. X has filed his return of income for the previous year 2022-23 on 31st July 2023 and paid income tax and interest ₹2 lakh. Mr. X detected that some incomes have not been disclosed by him, in this case he can file updated return upto 31st March 2026. He filed the return on 01st March 2025 and his tax and interest has increased by ₹1,20,000, in this case he has to pay such tax and interest and also additional income 1,20,000 x 25% = 30,000 but if updated return is filed after 31st March 2025, additional income shall be 1,20,000 x 50% = 60,000.

Question 7 [V. Imp.]: Write a note on Defective Return of Income Section 139(9).

Answer: Defective Return Section 139(9)

(1) Under this section, the Assessing Officer has the power to call upon the assessee to rectify a defective return.

(2) Where the Assessing Officer considers that the return of income furnished by the assessee is defective, he may intimate the defect to the assessee and give him an opportunity to rectify the defect within a period of 15 days from the date of such intimation. The Assessing Officer has the discretion to extend the time period beyond 15 days, on an application made by the assessee.

(3) If the defect is not rectified within the period of 15 days or such further extended period, then the return would be treated as an invalid return. The consequential effect would be the same as if the assessee had failed to furnish the return.

(4) Where, however, the assessee rectifies the defect after the expiry of the period of 15 days or the further extended period, but before assessment is made, the Assessing Officer can condone the delay and treat the return as a valid return.

(5) A return of income shall be regarded as defective in the following cases:

(a) If annexures, statements and columns in the return of income relating to computation of income have not been filled in properly and also the required documents have not been enclosed.

(b) The columns are filled wrongly or filled incompletely

(c) Where regular books of account are not maintained by the assessee, the return should be accompanied by –

(i) a statement indicating the amount of turnover or gross receipts, gross profit, expenses; and net profit of the business or profession;

(ii) the basis on which such amounts mentioned in (i) above have been computed,

(iii) the amounts of total sundry debtors, sundry creditors, stock-in-trade and cash balance as at the end of the previous year.

(d) the return is not accompanied by the proof of payment of tax as required under section 140B, if the return of income is a return furnished under section 139(8A).

Note – As per Rule 12, in general the documents are not to be enclosed with the return of income

Question 8 [V. Imp.]: Write a note on Permanent Account Number Section 139A.

Answer: Permanent Account Number Section 139A

The following persons have to apply for allotment of permanent account number

As per Section 139A. (1) Every person,—

(i) if his total income or the total income of any other person in respect of which he is assessable under this Act during any previous year exceeded the maximum amount which is not chargeable to income-tax. (As per rule 114, application should be given maximum upto 31st May of A.Y.) or

(ii) carrying on any business or profession whose total sales, turnover or gross receipts are or is likely to exceed five lakh rupees in any previous year; (As per rule 114, application should be given maximum upto the end of relevant F.Y.) or

(iii) being a resident, other than an individual, which enters into a financial transaction of an amount aggregating to two lakh fifty thousand rupees or more in a financial year. It will also include the managing director, director, partner, trustee, author, founder, *karta*, chief executive officer, principal officer or office bearer of such person or any person competent to act on behalf of such person. (As per rule 114, application should be given maximum upto 31st May of A.Y.) or

(iv) who intends to enter into such transaction as may be prescribed by the Board in the interest of revenue (As per Rule 114BA, any person depositing cash of ₹20 lakh or more in one or more account in a financial year or is withdrawing cash ₹ 20 lakh or more in a financial year with a banking company / co-operative bank / post office or is opening a current account or cash credit account with a banking company / co-operative bank / post office should apply for allotment of a PAN within 7 days before such transaction.)

(v) Any person notified by Central Government or directed by the Assessing Officer.

(vi) Any person, may apply to the Assessing Officer for the allotment of a permanent account number.

Question 9: Write a note on quoting of Aadhaar Number in place of PAN Number Section 139A(5E).

Answer:

Notwithstanding anything contained in this Act, every person who is required to furnish or intimate or quote his permanent account number under this Act, and who,—

(a) has not been allotted a permanent account number but possesses the Aadhaar number, may furnish or intimate or quote his Aadhaar number in lieu of the permanent account number, and such person shall be allotted a permanent account number i.e. such person need not apply separately for issue of PAN under rule 114.

(b) has been allotted a permanent account number, and who has linked his Aadhaar number to his PAN number, may furnish or intimate or quote his Aadhaar number in lieu of the permanent account number i.e. inter-changeability of PAN and Aadhar number shall be allowed.

Question 10: Write a note on quoting and authentication Aadhaar/ PAN.

Answer:

As per Section 139(6A) / (6B) / Rule 114BB, any person depositing cash of ₹20 lakh or more in one or more account in a financial year or is withdrawing cash ₹ 20 lakh or more in a financial year with a banking company / co-operative bank / post office or is opening a current account or cash credit account with a banking company / co-operative bank / post office shall mention his Aadhaar Number or PAN in such transaction and shall get it authenticated.

Question 11: Explain Application for allotment of a permanent account number. Rule 114

Answer: Application for allotment of a permanent account number. Rule 114

An application for allotment of a permanent account number shall be made in Form No. 49A or 49AA, as the case may be alongwith proof of identity, Proof of address, Proof of date of birth etc.

Question 12: Explain Transactions where PAN is to be mentioned Rule 114B.

Answer: Transactions where PAN is to be mentioned Rule 114B

Every person shall quote his permanent account number in all documents pertaining to the transactions specified below:—

1. Sale or purchase of a motor vehicle other than two wheeled vehicles.
2. Opening an account other than a time-deposit referred to at Sl. No.12 and a Basic Savings Bank Deposit Account with a banking company or a co-operative bank.
3. Making an application to any banking company or a co-operative bank for issue of a credit or debit card.
4. Opening of a demat account.
5. Payment to a hotel or restaurant against a bill or bills at any one time, if payment in cash exceeding ₹50,000.
6. Payment in connection with travel to any foreign country or payment for purchase of any foreign currency at any one time if cash exceeding ₹50,000.
7. Payment to a Mutual Fund for purchase of its units, if amount exceeding ₹50,000.
8. Payment to a company or an institution for acquiring debentures or bonds issued by it, if amount exceeding ₹50,000.
9. Payment to the Reserve Bank of India, for acquiring bonds issued by it, if amount exceeding fifty thousand rupees.
10. Cash Deposit with banking company or a co-operative bank or post office, if exceeding ₹50,000 during any one day
11. Purchase of bank drafts or pay orders or banker's cheques from a banking company or a co-operative bank, if payment in cash for an amount exceeding ₹50,000 during any one day.
12. A time deposit with, a banking company or a co-operative bank or post office or Nidhi (section 406 of the Companies Act, 2013) or non-banking financial company, if amount is exceeding ₹50,000 or aggregating to more than ₹5,00,000 during a financial year.
13. Payment for one or more pre-paid payment instruments, if payment in cash or by way of a bank draft or pay order or banker's cheque of an amount aggregating to more than ₹50,000 in a financial year.
14. Payment as life insurance premium, if amount is aggregating to more than ₹50,000 in a financial year.
15. A contract for sale or purchase of securities (other than shares) as defined in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956, if amount is exceeding ₹1,00,000 per transaction.
16. Sale or purchase, by any person, of shares of a company not listed in a recognised stock exchange, if amount is exceeding ₹1,00,000 per transaction.
17. Sale or purchase of any immovable property, if amount is exceeding ten lakh rupees.
18. Sale or purchase, by any person, of goods or services of any nature other than those specified at Sl. Nos. 1 to 17, if any, if amount exceeding two lakh rupees per transaction:

Transaction by Minor

where a person, entering into any transaction, is a minor and who does not have any income chargeable to income-tax, he shall quote the permanent account number of his father or mother or guardian, as the case may be.

Form 60

any person who does not have a permanent account number and who enters into any transaction specified in this rule, he shall make a declaration in Form No.60 giving therein the particulars of such transaction.

Question 13 [V. Imp.]: Write a note on Quoting of Aadhaar number.

Answer: Quoting of Aadhaar number. Section 139AA / Rule 114AAA

Quoting of Aadhaar number.

139AA. (1) Every person who is eligible to obtain Aadhaar number shall, on or after the 1st day of July, 2017, quote Aadhaar number—

(*i*) in the application form for allotment of permanent account number;

(*ii*) in the return of income (it is now compulsory w.e.f 01.04.2019 onwards)

Where the person does not possess the Aadhaar Number, the Enrolment ID of Aadhaar application form shall be quoted in the application for permanent account number or, in the return of income furnished by him.

(2) Every person who has been allotted permanent account number as on the 1st day of July, 2017, and who is eligible to obtain Aadhaar number, shall intimate his Aadhaar number on or before 30.06.2023 otherwise his PAN shall become inoperative.

(3) The provisions of this section shall not apply to an individual who does not possess the Aadhar number or Enrolment ID and is:

(i) residing in the States of Assam, Jammu & Kashmir and Meghalaya;

(ii) a non-resident as per Income-tax Act, 1961;

(iii) of the age of 80 years or more at any time during the previous year;

(iv) not a citizen of India

Where the person has intimated his Aadhaar number after 30.06.2023, his permanent account number shall become operative from the date of intimation of Aadhaar number.

Question 14: Write a note on fee for default relating to intimation of Aadhaar number.

Answer: Fee for default relating to intimation of Aadhaar number Section 234H

Where a person is required to intimate his Aadhaar number under section 139AA and such person fails to do so on or before 01.04.2022, he shall be liable to pay fee of ₹500 if intimation is given from 01.04.2022 upto 30.06.2022 and thereafter fee payable shall be ₹1,000. (Notification No.17/2022 dated 29.03.2022)

Question 15: [V. Imp.]: Write a note on submission of returns through Tax Return Preparers.

Answer: Scheme for submission of returns through Tax Return Preparers Section 139B

In order to help the persons having low income or tax liability, department has started scheme of Tax Return Preparer who will file return for such persons. For this purpose department shall select and appoint TRPs. The tax return preparer shall hold a graduation degree from a recognised Indian university or other specified qualifications but such persons should not be a Chartered Accountant or other specified persons.

A person may approach a TRP for filing the return of income but any person who is required to get his accounts audited shall not be allowed to file the return through the Tax Return Preparer.

Similarly any non-resident shall not be allowed to file return through Tax Return Preparer.

The department shall pay a commission of **3%** of the tax paid on the income declared in the return or **₹1,000 whichever is less**. A TRP shall be entitled for a minimum payment of **₹250** and if commission paid is less than ₹250, he can receive the difference amount from the assessee whose return is being filed.

e.g. A TRP has deposited tax of ₹60,000 on the basis of return filed by it, in this case commission payable shall be 60,000 x 3% = 1,800 but maximum ₹1,000. If tax paid is ₹20,000, commission payable shall be 20,000 x 3% = 600. If tax paid is ₹5,000, commission payable shall be ₹5,000 x 3% = 150 and TRP shall allowed to charge ₹100 from the assessee.

Question 16: Write a note on verifying of Return of Income.

Answer: Verifying of return of income

Return by whom to be verified Section 140

1. In the case of an individual, the return should be verified by the individual himself but if for any reason return cannot be verified by the individual, return can be verified by his agent and the agent should enclose copy of power of attorney with the return.

If any individual is mentally incapacitated from attending to his affairs, return should be verified by his guardian or any other person competent to act on his behalf.

2. In the case of a Hindu Undivided Family, by the karta, and, where the karta is absent from India or is mentally incapacitated from attending to his affairs, by any other adult member (male or female) of such family.

3. In the case of a company, by the managing director and if managing director is not available, return can be signed by any director.

In case of non-resident company, return can be signed by its agent.

If company is in liquidation, return can be signed by the official liquidator/ Resolution professional.

(Insolvency and Bankruptcy Code, 2016)
4. In the case of a firm, return can be signed by managing partner and if managing partner is not available, return can be signed by any partner.
5. In the case of a limited liability partnership, return can be signed by the designated partner and if designated partner is not available, return can be signed by any partner / Resolution professional. (Insolvency and Bankruptcy Code, 2016)
6. In the case of a local authority, return can be signed by the principal officer.
7. In the case of a political party, return can be signed by Chief Executive Officer.
8. In the case of any other association, return can be signed by the Principal Officer and if Principal Officer is not available, by any member.
9. In the case of any other person, by that person or by some person competent to act on his behalf.

Question 17: Write a note on Self-Assessment.

Answer: Self-Assessment Section 140A

(1) Payment of tax, interest and fee before furnishing return of income

Where any tax is payable on the basis of any return required to be furnished under section 139, after taking into account -
(i) the amount of tax, already paid, under any provision of the Income tax Act, 1961
(ii) the tax deducted or collected at source
the assessee shall be liable to pay such tax together with interest and fee payable before furnishing the return. The return shall be accompanied by the proof of payment of such tax, interest and fee.

Consequence of failure to pay tax, interest or fee

If any assessee fails to pay the whole or any part of such of tax or interest or fee, he shall be deemed to be an assessee in default in respect of such tax or interest or fee remaining unpaid and all the provisions of this Act shall apply accordingly.

(2) Order of adjustment of amount paid by the assessee

Where the amount paid by the assessee under section 140A falls short of the aggregate of the tax, interest and fee as aforesaid, the amount so paid shall first be adjusted towards the fee payable and thereafter towards interest and the balance, if any, shall be adjusted towards the tax payable.

(3) Interest under section 234A

For the above purpose, interest payable under section 234A shall be computed on the amount of tax on the total income as declared in the return, as reduced by the amount of-
(i) advance tax paid, if any;
(ii) any tax deducted or collected at source;

(4) Interest under section 234B

Interest payable under section 234B shall be computed on the assessed tax or on the amount by which the advance tax paid falls short of the assessed tax.
For this purpose "assessed tax" means the tax on total income declared in the return as reduced by the amount of tax deducted or collected at source on any income which forms part of the total income.

INCOME UNDER THE HEAD CAPITAL GAINS

SECTION 45 TO 55A

Question 1: Explain Chargeability of Capital Gains

Answer: Chargeability of capital Gains Section 45(1)

Any profits or gains arising from the transfer of a capital asset effected in the previous year shall be deemed to be the income of the previous year in which the transfer took place e.g. Mr. X transferred Gold on 25.03.2024 for ₹7,00,000 but payment was received on 10.04.2024, in this case capital gains shall be taxable in the previous year 2023-24 i.e. capital gains are taxable on due basis. No books of accounts are required.

Question 2: Differentiate Short Term Capital Asset and Long Term Capital Asset.

Answer: If any person has transferred short term capital asset, capital gain shall be short term and if capital asset transferred is long term, capital gain shall also be long term. As per **Section 2(42A), "Short-term capital asset"** means a capital asset held by an assessee for not more than thirty-six months, however in the following cases the period shall be twelve months instead of thirty-six months.

(i) **Shares Listed in Recognised Stock Exchange** shall be considered to be long term after one year but non-listed shares shall be long term after ***two years***. E.g. Mr. X purchased unlisted equity shares on 01.07.2022 and sold the shares on 01.08.2023, in this case shares are short term but if shares are listed, shares shall be long term.

(ii) A **unit of the Unit Trust of India**

(iii) A **unit of an equity oriented mutual fund**.

(iv) A **zero coupon bond**. **As per Section 2(48),** "Zero coupon bond" means a bond issued by notified company and in respect of which no benefit is received before maturity or redemption and which is notified by the Central Government such bonds are issued for a minimum period of ten years and maximum period of 20 years.

(v) **Any other security listed in a recognized stock exchange in India** i.e. securities which are listed in recognised stock exchange shall be long term after one year but if securities are not listed, it will be long term after three years. e.g. Mr. X purchased non-listed debentures of ABC Ltd. on 01.10.2021 and sold the debentures on 01.10.2023, in this case debentures shall be considered to be short term but if the debentures are listed in stock exchange, they will be considered to be long term.

Amendment previous year 2017-18: Land or Building shall be long term after 2 years.

Question 3: Write a note on computation of Short term Capital Gains.

Answer: Computation of Short term Capital Gains Section 48

Short term capital gain shall be computed in the manner given below:

Full Value of Consideration	xxx
Less:	
- Cost of Acquisition	xxx
- Cost of Improvement	xxx
- Selling Expenses	xxx
Short Term Capital Gain	xxx

Example: Mr. X purchased one house 01-07-2021 ₹10,00,000 and constructed its first floor 01-07-2022 by incurring ₹6,00,000 and sold the house on 01-05-2023 ₹70,00,000 and invested ₹2,00,000 in NSC. Compute Income and Tax Liability.

Answer: House is sold within 2 years from the date of purchase hence asset is a Short term capital asset and capital gain shall be computed in the manner given below:

₹

Full Value of Consideration	70,00,000.00
Less:	
- Cost of Acquisition	(10,00,000.00)
- Cost of Improvement	(6,00,000.00)
- Selling Expenses	Nil
Short Term Capital Gain	54,00,000.00
Gross Total Income	54,00,000.00
Less: Deduction Chapter VI-A	Nil
Total Income	54,00,000.00

Computation of Tax Liability

Tax on STCG ₹54,00,000 at slab rate	13,20,000.00
Add: Surcharge @ 10%	1,32,000.00
Tax before health & education cess	14,52,000.00
Add: HEC @ 4%	58,080.00
Tax liability	15,10,080.00

Question 4: Write a note on computation of Long term Capital Gains.

Answer: <u>Computation of Long term Capital Gains</u> <u>Section 48</u>

Long term capital Gain shall also be computed in the similar manner but instead of cost of acquisition and cost of improvement, indexed cost of acquisition and indexed cost of improvement shall be taken into consideration.

Long term capital Gain shall be computed in the manner given below:

Full Value of Consideration	xxx
Less:	
- Indexed Cost of Acquisition	xxx
- Indexed Cost of Improvement	xxx
- Selling Expenses	xxx
Long Term Capital Gain	xxx

❖ **<u>"Indexed cost of acquisition"</u>** means the cost adjusted as per cost inflation index i.e.

<u>Indexed Cost of acquisition</u> =

$$\textbf{Cost of acquisition} \times \frac{\textbf{Index of the year in which the asset was transferred}}{\textbf{Index of the year in which the asset was purchased}}$$

❖ **<u>"Indexed cost of any improvement"</u>** means the cost adjusted as per cost inflation index i.e.

<u>Indexed Cost of improvement</u> =

$$\textbf{Cost of improvement} \times \frac{\textbf{Index of the year in which the asset was transferred}}{\textbf{Index of the year in which cost was incurred}}$$

Provided *that the cost of acquisition of the asset or the cost of improvement thereto shall not include the deductions claimed on the amount of interest under clause (*b*) of section 24 or under the provisions of Chapter VIA.*

Example: Mr. X purchased one house 01-07-2017 ₹10,00,000 and constructed its first floor 01-07-2018 by incurring ₹6,00,000 and sold the house on 01-05-2023 ₹80,00,000 and invested ₹2,00,000 in NSC. Compute Income and Tax Liability.

Answer: House is sold after 2 years from the date of purchase hence asset is a Long term capital asset and capital gain shall be computed in the manner given below:

	₹
Full Value of Consideration	80,00,000.00
Less: Indexed cost of acquisition	
= 10,00,000 / Index of 17-18 x Index of 23-24	
= 10,00,000 / 272 x 348	(12,79,411.76)
Less: Indexed cost of improvement	

Cost of constructing first floor	
= 6,00,000 / Index of 18-19 x Index of 23-24	
= 6,00,000 / 280 x 348	(7,45,714.29)
Long Term Capital Gain	59,74,873.95
Gross Total Income	59,74,873.95
Less: Deduction under Chapter VI-A	Nil
Total Income	59,74,873.95
Rounded off u/s 288A	59,74,870.00

Computation of Tax Liability

Tax on LTCG ₹56,74,870 (₹59,74,870 – ₹3,00,000) @ 20%	11,34,974.00
Add: Surcharge @ 10%	1,13,497.40
Tax before health & education cess	12,48,471.40
Add: HEC @ 4%	49,938.86
Tax liability	12,98,410.26
Rounded off u/s 288B	12,98,410.00

Question 5: Explain Computation of Capital Gains in case of Assets purchased before 01-04-2001

Answer: Asset purchased before 01.04.2001

If any capital asset has been purchased or constructed before 01.04.2001, in that case cost shall be considered to be the cost incurred or fair market value of the asset as on 01.04.2001 whichever is higher and further index of 2001-02 shall be used instead of the index of the earlier year. Any cost of improvement prior to 01-04-2001 shall not be taken into consideration.

In case of land or building such market value cannot exceed stamp duty value as on 01.04.2001.

e.g. Mr. X purchased one house on 01.07.1998 for ₹2,00,000 and incurred ₹3,00,000 on its improvement on 01.10.2000 and its fair market value as on 01.04.2001 is ₹7,00,000 and stamp duty value is 9,00,000, in this case if the asset is sold, its cost of acquisition shall be taken to be ₹7,00,000 and index of 2001-02 shall be applied. But if stamp duty value is 5,00,000, cost of acquisition shall be taken to be 5,00,000 but if stamp duty value is 1,00,000, cost of acquisition shall be 2,00,000.

Example:

(a) Actual cost of acquisition		2,00,000
FMV as on 01-04-2001		4,00,000
SDV as on 01-04-2001		3,00,000
Cost of Acquisition is higher of		
(a) Actual Cost	2,00,000	
(b) Lower of FMV or SDV as on 1-04-2001	3,00,000	
Higher		3,00,000
(b) Actual cost of acquisition		2,00,000
FMV as on 01-04-2001		3,00,000
SDV as on 01-04-2001		4,00,000
Cost of Acquisition is higher of		
(a) Actual Cost	2,00,000	
(b) Lower of FMV or SDV as on 1-04-2001	3,00,000	
Higher		3,00,000
(c) Actual cost of acquisition		4,00,000
FMV as on 01-04-2001		3,00,000
SDV as on 01-04-2001		2,00,000
Cost of Acquisition is higher of		
(a) Actual Cost	4,00,000	
(b) Lower of FMV or SDV as on 1-04-2001	2,00,000	
Higher		4,00,000

Cost Inflation Index

Financial year	*Cost Inflation Index*

2001-2002	**100**
2002-2003	**105**
2003-2004	**109**
2004-2005	**113**
2005-2006	**117**
2006-2007	**122**
2007-2008	**129**
2008-2009	**137**
2009-2010	**148**
2010-2011	**167**
2011-2012	**184**
2012-2013	**200**
2013-2014	**220**
2014-2015	**240**
2015-2016	**254**
2016-2017	**264**
2017-2018	**272**
2018-2019	**280**
2019-2020	**289**
2020-2021	**301**
2021-2022	**317**
2022-2023	**331**
2023-2024	**348**

(Students need not learn the above index rather it will be given in the question paper)

Question 6: Write a note on computation of capital gains in case of transfer of shares, where no STT is paid.

Answer: <u>Capital gains in case of transfer of shares</u>

In case of original shares, cost of acquisition shall be the amount for which the asset was purchased but if it was purchased before 01.04.2001, cost of acquisition shall be the amount for which it was purchased or its market value as on 01.04.2001 whichever is higher. In case of bonus shares, cost of acquisition shall be nil but if bonus shares are issued before 01.04.2001, cost of acquisition shall be the market value as on 01.04.2001.

In case of right shares, cost of acquisition shall be the amount for which such shares have been purchased. If right to purchase right shares has been renounced, amount received shall be considered to be short term capital gains. Cost of acquisition for the right renouncee shall be the amount paid to the person renouncing the right and amount paid to the company.

Long term capital gain shall be taxable @ 20% but short term capital gain shall be taxable at normal rate.

In case of short term equity shares or the units where STT has been paid, capital gains shall be computed in the similar manner but as per section 111A, such capital gains shall be taxed @ 15%.

Question 7: Explain computation of capital gains on transfer of equity shares or units of equity oriented where STT has been paid u/s 112A

<u>Answer:</u> In case of long term equity shares or long term units of equity oriented mutual funds or units of business trust, capital gains shall be computed as per section 112A provided securities transaction tax has been paid, such capital gains shall be taxed @ 10% in excess of ₹ 1,00,000 and while computing capital gains u/s 112A indexation is not applicable. STT paid is not considered to be selling expense, hence not allowed to be deducted while computing capital gains.

Capital gains shall be computed in the normal manner however indexation shall not be applicable even if it is long term and also cost of acquisition shall be computed in the manner given below:

Section 55(2) (ac),

In case of equity shares or units of equity oriented mutual funds or units of business trust which have been sold w.e.f. 01.04.2018 onwards, cost of acquisition shall be higher of

1. Cost of acquisition
2. Lower of

(a) Fair market value of such asset on 31.01.2018

(b) Actual sale value

If there are more than one value as on 31.01.2018, the highest of such value shall be taken in to consideration. In case of mutual fund which is not listed, NAV i.e. Net asset value shall be taken into consideration.

Example

Mr. X purchased equity shares on 01.10.2015 for ₹ 1,00,000 and market value on 31.01.2018 is ₹ 5,00,000 and shares have been sold for ₹ 9,00,000 on 10.04.2023, in this case capital gains shall be computed in the manner given below:

Full value of consideration		9,00,000
Cost of acquisition		(5,00,000)
Higher of		
1. Cost of acquisition	1,00,000	
2. Lower of		
(a) Fair market value of such asset on 31.01.2018	5,00,000	
(b) Actual sale value	9,00,000	
LTCG u/s 112A		4,00,000
Tax Liability		Nil

The purpose is not to tax capital gains accrued upto 31.01.2018

Presume in the above question the shares have been sold for ₹ 3,00,000, in this case tax treatment shall be

Full value of consideration		3,00,000
Cost of acquisition		(3,00,000)
Higher of		
1. Cost of acquisition	1,00,000	
2. Lower of		
(a) Fair market value of such asset on 31.01.2018	5,00,000	
(b) Actual sale value	3,00,000	
LTCG u/s 112A		Nil
Tax Liability shall be		Nil

The purpose is not to compute any loss if there is decrease in value after 31.01.2018

Presume in the above case shares have been sold for ₹ 40,000, tax treatment shall be

Full value of consideration		40,000
Cost of acquisition		(1,00,000)
Higher of		
1. Cost of acquisition	1,00,000	
2. Lower of		
(a) Fair market value of such asset on 31.01.2018	5,00,000	
(b) Actual sale value	40,000	
Loss u/s 112A		(60,000)
Tax Liability shall be		Nil

The purpose is to allow loss with regard to original cost.

Question 8: write a note on capital gains in case of Depreciable Assets.

Answer: Capital gains in case of Depreciable Assets Section 50

If any person has transferred depreciable asset, gain or loss shall always be short term and indexation shall not be applicable and capital gains shall be computed in the manner given below:

Full value of consideration
Less:
(i) Written down value of the asset in the beginning of the year
(ii) Selling expenses
Short Term Capital Gains

Example

ABC Ltd. has one plant and machinery on 01.04.2023 with w.d.v ₹6,00,000 and it was acquired by the company on 01.04.2009 and the plant was sold on 01.01.2024 for ₹11,00,000 and selling expenses are ₹30,000, in this case, capital gains shall be computed in the manner given below:

	₹
Full value of consideration	11,00,000
Less:	
(i) Written down value of the asset in the beginning of the year	(6,00,000)
(ii) Selling expenses	(30,000)
Short Term Capital Gains	4,70,000

Question 9.[V. Imp.]: Explain the meaning of Capital Asset under Income Tax Act?

Answer: Meaning of Capital Asset

Capital assets Section 2(14)

capital asset" includes all assets but the following shall not be considered to be capital asset

1. any stock-in-trade, consumable stores or raw materials held by an assessee for the purposes of his business or profession shall not be considered to be capital asset.

Example

If Mr. X is engaged in the business of sale purchase of Jewellery, Income from such business shall be taxable under the head business / profession.

2. Personal movable effects i.e. movable items of personal use like **household furniture, utensils, TV, fridge, sofa, personal motor car etc. shall not be considered to be Capital Assets,** and no gain or loss shall be computed on their sale.

Example

(i) Mr. X purchased one motor car for his personal use and subsequently it was sold by him, in this case it will not be considered to be capital asset.

(ii) Mr. X purchased one fridge for his personal use but subsequently it was sold by him, it will not be considered to be capital asset.

The following shall be capital asset—

(a) Jewellery;
(b) archaeological collections;
(c) drawings;
(d) paintings;
(e) sculptures; or
(f) any work of art.

"Jewellery" includes—

(a) ornaments made of gold, silver, platinum or any other precious metal or any alloy containing one or more of such precious metals

(b) precious or semi-precious stones held in any manner.

Whether capital gain arise on the sale of silver utensils.

In Benarshilal v CIT, during the previous year 1976-77, the assessee sold 49.521 kgs. of silver utensils which were in the form of thalis, katoris, tumblers, etc. The assessee contended that the silver utensils were for personal use and they were not capital assets within the meaning of section 2(14) of the Income Tax Act, 1961 and thus the profit on sale of these utensils was not liable to capital gains tax. The ITO rejected the assessee's claim that the silver utensils were 'personal effects'. The high court held that silver utensils

constitute personal affects and no capital gains will arise on the sale of silver utensils.

Whether capital gain arise on the sale of gold/silver coins.

Maharaja Rana Hemant Singh v CIT

In this case the assessee sold 4825 gold sovereigns, 7,90,440 old silver rupee coins and silver bars weighing 2,54,174 tolas and claimed that no capital gains arose as the aforesaid items fell outside the definition of capital assets. The assessee claimed that these articles formed personal effects as they were used by the assessee and his family for personal use as it was evident that they were used for the purpose of Mahalaxmi Puja and other religious festivals in the family. The Supreme Court decided the case against the assessee as according to it, these articles did not constitute 'personal effects'.

If any person has movable items in his business or profession, these items shall be considered to be capital assets.

Example

Mr. X has one motor car in the use of his business and subsequently this motor car was sold by him, it will be considered to be capital asset and capital gains shall be computed.

If personal effects are immovable, they will be considered to be capital assets. e.g. A house meant for assessee's own residence shall be considered to be capital asset.

3. Agricultural land

Agricultural land in India in rural area shall not be considered to be capital asset. If the land is in the urban area, it will be considered to be capital asset.

Example

Mr. X has agricultural land in the rural area which was purchased by him for ₹5,00,000 and it was sold by him for ₹11,00,000, in this case capital gain shall not be computed, but if the land is in Delhi, in this case capital gains shall be computed.

Land in rural area shall be considered to be urban land in the following cases:

1. If rural area is within the distance of 2 kms from the limits of urban area having population more than 10000 but not exceeding 100000
2. If rural area is within the distance of 6 kms from the limits of urban area having population more than 100000 but not exceeding 1000000
3. If rural area is within the distance of 8 kms from the limits of urban area having population more than 1000000.

- If the agricultural land is in rural area outside India, it will be considered to be capital asset i.e. in other words agricultural land situated outside India is capital asset in all cases.

Example

(i) Mr. X has agricultural land in the rural area in India which was sold by him, in this case there are no capital gains.

(ii) Mr. X has one agricultural land in urban area in India which was sold by him, in this case capital gains shall be computed.

(iii) Mr. X who is resident and ordinarily resident has sold one agricultural land in rural area in Nepal, in this case it will be considered to be capital asset because the land is not situated in India.

4. Gold Deposit Bonds

Gold Deposit Bonds issued under the Gold Deposit Scheme, 1999 or deposit certificates issued under the Gold Monetisation Scheme 2015 notified by the Central Government.

Gold deposit bond means bond issued by various banks for deposit of gold with them. The assessee can sell the bond in the market and no capital gains shall be computed. Assessee shall earn interest also and it will be exempt from income tax. The Scheme seeks to provide depositors the opportunity to earn interest on their idle gold holdings along with the benefits of safety and security of holding gold without any cost. Individual banks will be free to fix the interest rates.

Question 10: Write a note on computation of capital gains in case of Insurance Claims.

Answer: Capital Gains in case of Insurance Claims Section 45(1A)

If any capital asset is destroyed because of fire or natural calamity etc. like flood/ earthquake etc. and assessee has received any insurance claim for such asset, in such cases capital gains shall be computed in the normal manner and such capital gains shall be taxable in the year in which insurance claim has been

received. Amount of insurance claim received shall be considered to be full value of consideration.

Example

ABC Ltd. has one plant and machinery on 01.04.2023 with written down value ₹20,00,000 the asset is destroyed due to natural calamity and the company has received insurance claim of ₹21,00,000, in this case there will be short term capital gain of ₹1,00,000.

Question 11 [Imp.]: Write a note on computation of capital gains in case of conversion of capital assets into Stock-In-Trade.

Answer: Capital Gains in case of conversion of capital assets into Stock-In-Trade Section 45(2)

If any person has converted any capital asset into stock-in-trade, it will be considered to be 'transfer' and capital gains shall be computed in the year of conversion and, market value shall be considered to be full value of consideration. Capital gains so computed shall be taxable in the year in which stock-in-trade has been sold. (Proportionately)

Question 12: Write a note on computation of capital gains in case of transfer of capital asset by a Depository.

Answer: Capital gains in case of transfer of capital asset by a depository Section 45(2A)

If any person has a demat account with the depository, profits or gains from transfer of shares or securities shall be considered to be that of beneficiary i.e. the account holder and not that of depository. The cost of acquisition and the period of holding of any securities shall be determined on the basis of the **first-in-first-out method**.

Question 13 [V. Imp.]: Write a note on computation of capital gains on compulsory acquisition of a Capital Asset.

Answer:

Computation of capital gains on compulsory acquisition of a capital asset Section 45(5)

If any capital asset has been acquired compulsorily by the Government or other similar agency, capital gains shall be computed in the year in which the asset was acquired but capital gains so computed shall be taxable in the year in which the compensation or the part of compensation is first received.

Enhanced Compensation

If the compensation is enhanced by the Court, Tribunal etc., such enhanced compensation shall be the capital gains of the year in which the enhanced compensation is received. The cost of acquisition and the cost of improvement shall be taken to be nil.

Death of the transferor- It is possible that the transferor may die before he receives the enhanced compensation. In that case, the enhanced compensation will be chargeable to tax in the hands of the person who receives the same.

Question 14: Write a note on capital gains on distribution of assets by a company on Liquidation.

Answer: Capital Gains on distribution of assets by companies in Liquidation Section 46

If any company is in liquidation and the company has distributed its assets to the shareholders in connection with liquidation, it will be exempt from capital gains.

If the same asset has been sold by the shareholder subsequently, its cost of acquisition shall be the amount for which the shareholder has received the asset from the company and capital gains shall be computed accordingly.

The amount received by the shareholder out of accumulated profits of the company shall be considered to be dividend under section 2(22)(c) and excess over it shall be considered to be full value of consideration for computing capital gains.

(Already discussed under the head Other Sources under section 2(22)(c))

Question 15: Explain capital gains in case of buy back of shares.

Answer:

Capital Gains on Buyback of shares or Specified Securities [Section 46A]

In case of buy back of securities and also buy back of shares of a company other than domestic company, capital gains shall be computed in the hands of its holder. Mr. X purchased 100 shares of ABC Ltd. on 01/10/2012 for ₹ 10,000 and these shares were bought back by the company on 01/10/2023 for ₹ 3,00,000, in this case capital gains shall be computed in the manner given below

FVC	3,00,000
Less: Indexed cost of acquisition 10,000/200 X 348	(17,400)
Long term capital gain	2,82,600

In case of buyback of shares (whether listed or unlisted) by domestic companies, no capital gain shall be computed in the hands of shareholder and shareholder shall be exempt u/s 10(34A) rather the company has to pay additional income tax @ 20% (plus surcharge @12% and cess@4%) is leviable in the hands of the company.

Taxation provisions in respect of buyback

(1)	(2)	(3)	(4)
Taxability in the hands of	**Buyback of shares by domestic companies**	**Buyback of shares by a company, other than a domestic company**	**Buyback of specified securities by any company**
Company	Subject to additional income-tax @ 23.296%.	Not subject to tax in the hands of the company.	Not subject to tax in the hands of the company.
Shareholder / holder of specified securities	Income arising to shareholders exempt under section 10(34A)	Income arising to shareholder taxable as capital gains u/s 46A.	Income arising to holder of specified securities taxable as capital gains u/s 46A.

Question 16 [V. Imp.]: Write a note on transactions not regarded as transfer.

Answer: Transactions not regarded as transfer Section 47

The following transactions will not be considered as transfer and therefore, no capital gains will arise:-

(1) No capital gain shall be computed in case of transfer of any **capital asset through gift or will or inheritance** etc.

(2) Any distribution of capital assets on the **partition of a Hindu Undivided Family**.

(3) Transfer of capital asset by **holding company to subsidiary company or by subsidiary company to holding company** provided company receiving capital asset is an Indian company and also 100% share capital of subsidiary company is held by holding company or its nominees.

(4) Transfer of any capital asset by the **amalgamating company to the amalgamated company** if the **amalgamated company is an Indian company**.

(5) Transfer of a capital asset by the **demerged company to the resulting company**, if the **resulting company is an Indian company**.

(6) **Receiving of shares from an amalgamated company** in lieu of shares held in amalgamating company provided the amalgamated company is an Indian company. E.g. Mr. X purchased 2000 shares in ABC Ltd. on 01.07.2023 @ ₹10 per share and ABC Ltd. was amalgamated with XYZ Ltd. on 01.12.2023 and Mr. X received 1000 shares in XYZ Ltd. and market value is ₹50 per share, in this case no capital gains shall be computed but if Mr. X has sold the shares, capital gains shall be computed and cost will be ₹20,000.

(7) Transfer or issue of shares by a resulting company in case of demerger.

(8) In case of **Conversion of bonds or debentures etc. into shares or conversion of preference shares** into equity shares, no capital gains shall be computed.

(9) Redemption by an individual of **Sovereign Gold Bonds issued by RBI under the Sovereign Gold Bond** Scheme, 2015.

(10) Any transfer of a capital asset in a **transaction of reverse mortgage.**

(11) Any transfer of any of the following capital asset to the Government or to the University or the National Museum, National Art Gallery, National Archives or any other public museum or institution notified by the Central Government to be of national importance or to be of renown throughout any State:

(i) work of art
(ii) archaeological, scientific or art collection
(iii) book
(iv) manuscript
(v) drawing

(vi) painting
(vii) photograph or
(viii) print.
(12) Any other transaction listed under section 47.

Question 17. Write a note on cost with reference to certain modes of Acquisition.

Answer: Cost with reference to certain modes of acquisition Section 49(1)

If any person has received an asset through the transaction section 47 and subsequently asset was sold by him, in such cases cost of acquisition and cost of improvement of previous owner shall be considered to be cost of acquisition/improvement of the assessee and also cost of improvement by assessee shall be taken into consideration.

As per section 2(42A), time period of previous owner shall also be taken into consideration.

E.g. Mr. X purchased house 01.04.2001 ₹2,00,000 and incurred ₹3,00,000 on improvement on 01.07.2002 and it was received by his son Mr. Y on 01.07.2011 and Mr. Y incurred ₹4,00,000 on improvement 01.07.2013 and house was sold by him on 01.07.2023 ₹100,00,000, in this case tax liability of Mr. Y shall be

Full value of consideration	100,00,000.00
Less: Indexed cost of acquisition	
= 2,00,000 / 100 x 348	(6,96,000.00)
Less: Indexed Cost of improvement	
= 3,00,000 / 105 x 348	(9,94,285.71)
Less: Indexed Cost of improvement	
= 4,00,000 / 220 x 348	(6,32,727.27)
Long term capital gains	76,76,987.02
Gross Total Income	76,76,987.02
Less: Deduction under Chapter VI-A	Nil
Total Income (rounded off u/s 288A)	76,76,990.00
Computation of Tax Liability	
Tax on LTCG ₹73,76,990 (76,76,990 – 3,00,000) @ 20%	14,75,398.00
Add: Surcharge @ 10%	1,47,539.80
Tax before health & education cess	16,22,937.80
Add: HEC @ 4%	64,917.51
Tax Liability	16,87,853.31
Rounded off u/s 288B	16,87,850.00

Cost of acquisition in case of assets received as gift Section 49(4) (applicable w.e.f 01.10.2009)

If any individual or HUF has received gift in kind and it was taxable under section 56, in such cases, at the time of sale, cost of acquisition of such asset shall be the value which has been taken into consideration for the purpose of computing taxable amount of gift.

Example

Mr. X purchased one house property on 01.07.2002 for ₹ 2,00,000 and it was gifted to Mr. Y on 01.11.2023 and value for the purpose of charging stamp duty was ₹5,00,000 and subsequently the house property was sold by Mr. Y on 01.01.2024 for ₹25,00,000, in this case tax liability of Mr. Y shall be computed in the manner given below:

	₹
Income under the head Other Sources	5,00,000.00
(Being the amount of gift under section 56)	
Income under the head capital gain	
Full value of consideration	25,00,000.00
Less: Cost of acquisition	(5,00,000.00)
Short term capital gain	20,00,000.00
Gross Total Income	25,00,000.00
Less: Deduction under Chapter VI-A	Nil
Total Income	25,00,000.00

Computation of Tax Liability

Tax on ₹25,00,000 at slab rate	4,50,000.00
Add: HEC @ 4%	18,000.00
Tax Liability	4,68,000.00

Question 18: Explain Reverse Mortgage.

Answer: As per section 47, reverse mortgage shall not be considered to be transfer for the purpose of capital gain.

Under reverse mortgage, an individual can mortgage his house property to the bank and the bank shall grant a loan against the security of house property and such loan shall be given in monthly/quarterly installments and the amount so received shall not be considered to be income of the mortgagor under section 10(43).

After the death of the mortgagor the bank shall have right to sell off the property and shall adjust loan and interest and shall compute capital gains for the deceased person and shall pay tax to the government.

The purpose of the scheme is to make available regular amount to the persons who do not have regular income but are the owners of the house property.

In general, the mortgagor repay the loan in installments but in this case mortgagee i.e. bank is paying installment to the mortgagor and hence it is called reverse mortgage.

Question 19: Write a note on computation of capital gains in case of market linked debentures [Section 50AA].

Answer:

Market Linked Debenture means such debentures where returns are linked to market returns on the other similar securities.

Specified Mutual Fund means a mutual fund where not more than 35% of the amount is invested in equity shares of domestic companies.

Capital gains on transfer of such securities shall always be short term. Also amount received on redemption or maturity shall be short term capital gains.

Question 20: Write a note on computation of capital gain in case of slump sale covered under section 50B.

Answer: Special provision for computation of capital gains in case of Slump Sale Section 50B

If any person has ***transferred by any means***, any unit/division for a lump sum consideration, it is called slump sale and capital gain shall be computed for the entire unit instead of individual asset and capital gains shall be computed in the manner given below:

- Net worth of the unit on the date of sale shall be deducted from full value of consideration to compute Capital Gains. Also expenses in connection with transfer shall be deducted
- Indexation is not applicable.

If unit is sold within 3 years, a capital gain is Short term otherwise Capital Gain is Long Term.

"Net worth" shall be the aggregate value of total assets of the undertaking or division as reduced by the value of liabilities of such undertaking or division as appearing in its books of account:

For computing the net worth, the aggregate value of total assets shall be,—

(*a*) in the case of depreciable assets, the written down value of the block of assets;

(b) in the case of capital asset being goodwill of a business or profession, which has not been acquired by the assessee by purchase from a previous owner, nil;

(c) in the case of capital assets in respect of which the whole of the expenditure has been allowed or is allowable as a deduction under section 35AD, *nil;* and

(d) in the case of other assets, the book value of such assets.

(e) While computing net worth, revaluation of asset shall be ignored.

FVC shall be considered to be the value for which the unit has been sold or Fair market value of the capital assets as on the date of transfer, calculated in the prescribed manner, whichever is higher

Example

ABC Ltd. has sold one of its division on 01.10.2023 for ₹35,00,000 and its net worth on 01.10.2023 was ₹20,00,000 and it was setup in 2003, in this case there is long term capital gain of ₹15,00,000.

Question 21 [Imp.]: Write a note on full value of consideration in certain cases.
Answer: Special provision for full value of consideration in certain cases Section 50C
If any person has transferred land or building and stamp duty value is upto ***110%*** of the FVC claimed by the assessee, in such cases FVC shall be the consideration claimed by the assessee but if stamp duty value is more than ***110%*** of the consideration claimed by the assessee, in that case FVC shall be the Stamp duty value.
If the assessee has disputed such amount, assessing officer may refer the matter to the Valuation Officer and value determined by Valuation Officer shall be taken into consideration but if the value determined by Valuation Officer is more than the stamp duty value, in that case stamp duty value shall be considered to be FVC and capital gains shall be computed accordingly. Valuation Officer means an expert employed by Income Tax Department to determine the value.
If the date of agreement and date of registration are different, in that case value on the date of agreement shall be taken into consideration provided some advance was given by account payee cheque, an account payee bank draft or by use of electronic clearing system through a bank account or through such other electronic modes as may be prescribed. (Other electronic mode means Credit Card, Debit Card, Net Banking, IMPS (Immediate Payment Service), UPI (Unified Payment Interface), RTGS (Real Time Gross Settlement), NEFT (National Electronic Funds Transfer), and BHIM (Bharat Interface for Money) Aadhaar Pay) on or before the date of agreement.
Example
Mr. X sold one house property for ₹ 60,00,000 but stamp duty value is ₹ 70,00,000, in this case FVC shall be taken to be ₹ 70,00,000. In case of dispute matter shall be referred to the Valuation Officer. If value determined by Valuation Officer is ₹ 65,00,000, FVC shall be ₹ 65,00,000 but if value determined is ₹75,00,000, FVC shall be ₹ 70,00,000.

Quetion 22: Write a note on full value of consideration for transfer of unlisted shares
Answer: full value of consideration for transfer of unlisted shares. Section 50CA
In order to ensure the full consideration is not understated in case of transfer of unlisted shares, a new section 50CA has been inserted to provide that where the consideration received or accruing as a result of transfer of a capital asset, being share of a company other than a quoted share, is less than the fair market value of such share determined in such manner as may be prescribed (given under rule 11UA which is not covered in syllabus), such fair market value shall be deemed to be the full value of consideration received or accruing as a result of such transfer.

The provisions of this section shall not apply to any consideration received or accruing as a result of transfer by such class of persons and subject to such conditions as may be prescribed.

Question 23: Write a note on fair market value deemed to be full value of consideration in certain cases covered under section 50D
Answer: Fair market value deemed to be full value of consideration in certain cases Section 50D
Where the consideration received or accruing as a result of the transfer of a capital asset by an assessee is not ascertainable or cannot be determined, then, for the purpose of computing income chargeable to tax as capital gains, the fair market value of the said asset on the date of transfer shall be deemed to be the full value of the consideration received or accruing as a result of such transfer.
Question 24 [V. Imp.]: Write a note on exemption under section 54.
Answer: Profit on sale of property used for residence Section 54

1. Assessee: The assessee should be **individual** or a **Hindu Undivided Family**. (i.e. exemption is not allowed to firm, company, association of person or body of individual etc.)

2. Asset: Capital asset transferred should be **buildings or lands appurtenant thereto**, being a **residential house**, the income of which is chargeable under the head "Income from house property".

3. Type of capital gain: Capital gain should be **long term**.

4. Investment: The assessee has within a period of **one year before or two years after the** date on which the transfer took place **purchased**, or has within **a period of three years after** that date constructed, one

residential house in India (no exemption for house outside India).

Exemption of two houses are allowed provided capital gains is upto ₹2 crores. further such option is allowed only once in the life time of the assessee i.e. afterwards benefit of only one house shall be allowed.

Where the cost of new asset exceeds ten crore rupees, the amount exceeding ten crore rupees shall not be taken into account.

5. Amount of exemption: Exemption shall be allowed to be the extent of investment.

6. Withdrawal of exemption: The house so purchased/constructed **must not be transferred within a period of three years** otherwise exemption given shall be withdrawn and for this purpose while computing capital gains, its cost of acquisition shall be reduced by the amount of the exemption earlier allowed.

7. Capital gains account Scheme 1988: The amount of capital gain has to be utilised till the last date of furnishing of return of income otherwise amount should be deposited in capital gains account scheme 1988 and proof of such deposit should be enclosed with the return of income. Subsequently the amount should be withdrawn from this scheme and should be utilised for the specified purpose otherwise it will be considered to be long term capital gain of the year in which the prescribed period has expired.

8. Extension of time for acquiring new asset or depositing or investing amount of capital gain section 54H: If the asset has been acquired compulsorily by the Government, period of investment shall be determined from the date of payment instead of the date of compulsory acquisition.

9. If any person has purchased a house and has deposited some amount in capital gain account scheme for construction on the same house, In that case exemption shall be allowed even for the amount so deposited as decided in **B.B. Sarkar vs Commissioner Of Income-Tax (CALCUTTA HC)**

Question 25 [V. Imp.]: Write a note on exemption under section 54B.

Answer: Capital gain on transfer of land used for agricultural purposes not to be charged in certain cases Section 54B

1. Assessee: The assessee should be **individual** or a **Hindu Undivided Family**. (i.e. exemption is not allowed to firm, company, association of person or body of individual etc.)

2. Asset: The asset transferred should be **land** which, in **the two years immediately** preceding the date on which the transfer took place, was being used by the **assessee or a parent** of his for **agricultural purposes**.

3. Type of capital gain: It may be **short term or long term.**

4. Investment: The assessee has, within a period of two years after that date, purchased any other land for being used for agricultural purposes.

5. Amount of exemption: Exemption allowed shall be equal to the amount invested.

6. Withdrawal of exemption: The land so **purchased must not be transferred within a period of three years** otherwise exemption given shall be withdrawn and for this purpose while computing capital gains on the transfer of new asset, its cost of acquisition shall be reduced by the amount of the exemption earlier allowed.

7. Capital gains account Scheme 1988: The amount of capital gain has to be utilised till the last date of furnishing of return of income otherwise amount should be deposited in capital gains account scheme 1988 and proof of such deposit should be enclosed with the return of income and subsequently the amount should be withdrawn from this scheme and should be utilised for the specified purpose otherwise it will be considered to be capital gain of the year in which the prescribed period has expired.

Capital gains in case of compulsory acquisition of agricultural land Section 10(37)

If any individual or Hindu Undivided Family has agricultural land and this land was being used by him for agricultural purposes for a period of at least 2 years when it was acquired by the government, in this case capital gains shall be exempt from income tax.

Question 26: Write a note on exemption under section 54D.

Answer: Capital gain on compulsory acquisition of lands and buildings not to be charged in certain cases Section 54D

1. Assessee: Exemption is allowed to **all the assessee.**

2. Asset: The asset should be **land or building** forming part of **an industrial undertaking** belonging to the assessee which, in the **two years immediately** preceding the date on which the transfer took place, was being used by the assessee for the purposes of the **business** of the said **undertaking** and further there should

be compulsory acquisition.
3. Type of capital gain: It can be **short term or long term.**
4. Investment: The assessee can invest the amount in **land or building** for the purpose of industrial undertaking within a period of **three years after** the date of payment by the Govt.
5. Amount of exemption: Exemption allowed is equal to investment.
6. Withdrawal of exemption: The land or building so purchased/constructed **must not be transferred within a period of three years** otherwise exemption given shall be withdrawn and for this purpose while computing capital gains on the transfer of new asset, its cost of acquisition shall be reduced by the amount of the exemption earlier allowed.
7. Capital gains account Scheme 1988: The amount of capital gain has to be utilised till the last date of furnishing of return of income otherwise amount should be deposited in capital gains account scheme 1988 and proof of such deposit should be enclosed with the return of income. Subsequently the amount should be withdrawn from this scheme and should be utilised for the specified purpose otherwise it will be considered to be capital gain of the year in which the prescribed period has expired.

Question 27 [V. Imp.]: Write a note on exemption under section 54EC.

Answer: Capital gain not to be charged on investment in certain bonds Section 54EC
1. Assessee: Exemption is allowed to **all the assessee.**
2. Asset: The assessee can transfer **any land or building.**
3. Type of capital gain: It should be only **long term capital gain.**
4. Investment: The assessee has, at any time within a period of **six months after** the date of such transfer, invested the **whole or any part** of capital gains in the **long-term specified asset**.
"Long-term specified asset" means any **bond redeemable after five years**, issued by,—
(i) Rural Electrification Corporation Limited
(ii) Power Finance Corporation Limited.
(iii) Indian Railway Finance Corporation Limited.
5. Amount of exemption: Maximum exemption allowed in a particular previous year shall be ₹50 lakh.
6. Withdrawal of exemption: If the long term specified asset is transferred or converted into cash within a period of 5 years, exemption earlier allowed shall be considered to be long term capital gains of the year in which such asset was transferred or converted into cash.
Converting into cash means taking a loan on the security of the specified asset.
7. Capital gains account scheme 1988: Capital gain account scheme shall not apply.
8. Extension of time for acquiring new asset or depositing or investing amount of capital gain section 54H: If the asset has been acquired compulsorily by the Government, period of investment shall be determined from the date of payment instead of the date of compulsory acquisition.

Question 28: Write a note on exemption under section 54EE.

Answer: Exemption in case of investment in units of mutual fund Section 54EE
1. Assessee: Exemption is allowed to **all the assessee.**
2. Asset: The assessee can transfer **any capital asset.**
3. Type of capital gain: It should be only **long term capital gain.**
4. Investment: Assessee can make investment within a period of **six months** after the date of transfer of original asset and investment should be in **Long-term specified asset**.
"Long-term specified asset" means units of such fund as may be notified by the Central Government.
5. Amount of exemption: Maximum exemption allowed in a particular previous year shall be ₹50 lakh.
6. Withdrawal of exemption: If the long term specified asset is transferred or converted into cash within a period of 3 years, exemption earlier allowed shall be considered to be long term capital gains of the year in which such asset was transferred or converted into cash.
Converting into cash means taking a loan on the security of the specified asset.
7. Capital gains account scheme 1988: Capital gain account scheme shall not apply.

Question 29 [V. Imp.]: Write a note on exemption under Section 54F.

Answer: Exemption from capital gains on transfer of any capital assets other than a Residential House Section 54F
1. Assessee: The assessee should be **individual** or **Hindu Undivided Family.**

2. Asset: Capital asset transferred can be any asset but it should **not be a residential house.**
3. Type of capital gain: Capital gain should be **long term.**
4. Investment: The assessee has within a period **of one year before or two years after** the date on which the transfer took place **purchased**, or has within a period of **three years after** that date **constructed**, **one residential house** and further the assessee should either **purchase** or **construct only one house** and also assessee should **not have more than one house in his name at the time of transfer of the asset** besides the house which is being purchased or constructed for availing exemption.
Provided further *that where the cost of new asset exceeds ten crore rupees, the amount exceeding ten crore rupees shall not be taken into account for the purposes of this sub-section*
5. Amount of exemption: Exemption allowed shall be that percentage of the capital gain as the amount invested bears to net consideration. i.e. **exemption = capital gain x investment / net consideration**.
Net consideration is equal to full value of consideration less selling expenses. i.e. **full value of consideration – selling expenses.**
6. Withdrawal of exemption: The house so **purchased** or **constructed** must not be transferred for a minimum period of **three years** otherwise exemption earlier allowed shall be considered to be the **long term capital gain** of the year in which the asset has been transferred (i.e. exemption shall be withdrawn in the similar manner as given under section 54EC).
Similarly if the assessee has purchased any other house within one year before or two years after or the assessee has constructed any other house within three years after the date of transfer of original asset, exemption given shall be withdrawn in that case also.
7. Capital gains account Scheme 1988: The assessee should invest the amount till the last date of furnishing of return of income otherwise amount should be deposited in capital gains account scheme 1988 and proof of such deposit should be enclosed with the return of income and subsequently the amount should be withdrawn from this scheme and should be utilised for the specified purpose otherwise exemption earlier allowed will be considered to be long term capital gain of the year in which the prescribed period has expired.
8. Extension of time for acquiring new asset or depositing or investing amount of capital gain section 54H: If the asset has been acquired compulsorily by the Government, period of investment shall be determined from the date of payment instead of the date of compulsory acquisition.

Question 30: Write a note on computation of capital gains on conversion of debentures etc. into shares.

Answer: Capital gains on conversion of debentures etc. into shares
As per section 47, no capital gain shall be computed in case of conversion of debenture etc. into shares, however if subsequently these shares have been sold, capital gains shall be computed in the manner given below:
1. As per section 49(2A), the cost of acquisition of the shares shall be the cost of acquisition of the debentures etc.
2. Period of holding shall start from the date of purchasing the debentures etc.

Question 31: Explain computation of capital gains on transfer of debentures or bonds.

Answer: While computing capital gains on transfer of debenture or bond, indexation shall not be applicable even if it is long term capital asset and LTCG shall be taxable at the rate of 10% instead of 20% e.g. Mr. X purchased listed debentures of ABC Ltd. on 01.07.2002 for ₹5,00,000 and sold it on 01.07.2023 for ₹15,00,000, in this case tax treatment shall be

Full Value of consideration	15,00,000.00
Less: Cost of acquisition	(5,00,000.00)
Long Term Capital Gain	10,00,000.00
Total Income	10,00,000.00
Tax Liability (10,00,000 – 3,00,000) x 10%	70,000.00
Add: HEC @ 4%	2,800.00
Tax Liability	72,800.00

Question 32 [Imp.]: Write a note on reference to Valuation Officer.

Answer: Reference to Valuation Officer Section 55A Rule 111AA

If the Assessing Officer is of the view that the fair market value of a capital asset computed by the assessee is not correct, Assessing Officer may refer the valuation to the Valuation Officer in the following circumstances:
(i) If the value in the opinion of the Assessing Officer is exceeding by more than 15% of the value computed by the assessee or it is exceeding by more than ₹25,000 of the value computed by the assessee.
Example
Mr. X has converted one capital asset into stock in trade and its market value computed by the assessee is ₹1,00,000 but in the opinion of the Assessing Officer, value should be ₹1,10,000, in this case valuation can not be referred to the Valuation Officer. But if the value in the opinion of the Assessing Officer is ₹1,20,000, in this case matter can be referred to the Valuation Officer.
Similarly, if the value computed by the assessee is ₹2,00,000 but in the opinion of the Assessing Officer value should be ₹2,27,000, matter can be referred to the Valuation Officer.
(ii) in a case where the value of the asset has been estimated by a registered valuer, if the Assessing Officer is of opinion that the value so claimed is at variance with its fair market value.
"Valuation Officer" means an expert employed by Income Tax Department to determine the value of various assets.
Question 33: Write a note on Cost of Improvement.
Answer: Cost of Improvement Section 55(1)
Cost of improvement means expenditure of capital nature incurred in connection with capital asset i.e. if any expenditure is of revenue nature and has been claimed as an expenditure while computing income under any head, it will not to be considered to be cost of improvement.
Example
If an additional floor has been constructed in an existing house, it will be considered to be cost of improvement but if it is a case of minor repairs or white washing, painting etc., it will not be considered to be cost of improvement.
Cost of improvement in different cases is determined in the manner given below:
1. If expenditure is incurred before 01.04.2001, it will not be taken into consideration.
2. If expenditure is incurred from 01.04.2001, actual expenditure incurred shall be taken into consideration.
3. In case of intangible assets like goodwill, right to manufacture, produce or process any article or thing (patent right), right to carry on any business ***or profession*** or any other right (Franchisee) etc., cost of improvement shall be nil.
Question 34: Write a note on Cost of Acquisition.
Answer: Cost of Acquisition Section 55(2)
Cost of acquisition means the actual expenditure incurred for acquiring an asset and it will be determined in the manner given below:
1. If the asset is acquired before 01.04.2001, cost of acquisition shall be the expenditure incurred by the assessee for acquiring the asset or its fair market value as on 01.04.2001, whichever is higher.
However, In case of land or building or both, the fair market value of such asset on the 1st day of April, 2001, shall not exceed the stamp duty value, wherever available, of such asset as on the 1st day of April, 2001.
2. If the asset has been acquired with effect from 01.04.2001 onwards, the cost of acquisition shall be the expenditure incurred by the assessee for acquiring the asset.
3. Intangible Assets
"Cost of acquisition" in relation to a capital asset, being goodwill of a business or profession, or a trade mark or brand name associated with a business or profession, or a right to manufacture, produce or process any article or thing, or right to carry on any business or profession, or tenancy rights, or stage carriage permits, or loom hours or any other intangible assets or any other right,-
(i) in the case of acquisition of such asset by the assessee by purchase, means the amount of the purchase price whether asset was purchased before 01.04.2001 or after 01.04.2001
(ii) in the case asset has been acquired through the transaction section 47, cost of previous owner shall be considered to be cost of assessee
(iii) in any other case, shall be taken to be nil:

In case of goodwill, depreciation was allowed upto previous year 2019-20 and after that no depreciation shall be allowed. Depreciation claimed upto previous year 2019-20 shall be deducted from the purchase price and balance shall be the cost of acquisition and period of holding shall start from 01.04.2020 e.g. Mr. X purchased goodwill on 01.04.2017 for ₹20 lakh and depreciation shall be allowed upto previous year 2019-20 was ₹5 lakh, in this case cost shall be considered to be ₹15 lakh and period of holding shall start from 01.04.2020

Question 35: What types of transactions are included in the term 'transfer' in relation to a capital asset?

Answer: Meaning of 'transfer' in relation to a capital asset

Transfer Section 2(47)

Capital gains shall be computed in case of transfer of capital asset and term transfer shall include

1. Sale of the asset
2. Compulsory acquisition of land or building
3. Conversion of capital asset into stock-in trade
4. The relinquishment of the asset e.g. Mr. X has received the right to purchase the right shares but he has relinquished his right to purchase the share in favour of some other person by charging ₹1,00,000, in this case, he has capital gain of ₹1,00,000.
5. The extinguishment of any rights/asset e.g. Mr. X was holding shares in ABC Ltd. The company has gone into liquidation and Mr. X has received ₹2,00,000 being the full value of consideration and the cost of acquisition was ₹1,50,000, in this case there is a capital gain of ₹50,000.
6. The maturity or redemption of a zero coupon bond.
7. If any person has given possession of immovable property and has taken full payment but ownership in documents has not yet been transferred. It will also be considered to be transfer and capital gains shall be computed e.g. Mr. X enters into an agreement for the sale of his house. The purchaser gives the entire sale consideration to Mr. X. Mr. X hands over complete rights of possession to the purchaser since he has realised the entire sales consideration. The above transaction is considered as transfer.

PROFITS AND GAINS
OF
BUSINESS OR PROFESSION
"PGBP"

SECTION 28 TO 44DB

Question 1 [Imp.]: What are the incomes chargeable to tax under the head Business/Profession?
Answer: <u>Incomes chargeable to tax under the head Business/ Profession</u> <u>Section 28</u>
As per section 28, income from any business/profession shall be taxable under the head Business/Profession and income shall be computed in the similar manner as in case of general practice of accountancy but incomes and expenditures shall be such as are given under Income Tax Act. The following incomes shall also be taxable under the head Business/Profession.
<u>(i) Income from Speculation Business</u> shall be taxable under the head business/profession.
<u>(ii) Gift in connection with business/profession</u>
Any gift or perquisite or benefit received in connection with business/profession. If any gift has been received from any client, it will be considered to be income under the head Business/Profession e.g. If a Chartered Accountant has received gift of ₹30,000 from one of his client, it will be considered to be his income under the head business/profession.
the value of any benefit or perquisite arising from business or the exercise of a profession, whether—
(a) convertible into money or not; or
(b) in cash or in kind or partly in cash and partly in kind;
Example
ABC Ltd. has engaged one Advocate with regard to its legal proceedings. The company has provided him facilities of free travelling, boarding/lodging and has incurred ₹25,000, it will be considered to be professional receipt of the Advocate.
<u>(iii) Payments for not pursuing any business activity or profession/non-compete fee</u>
If any person has received any payment from any other person for not pursuing any business activity ***or profession*** i.e. payment has been received for closing down the business ***or profession***, it will also be considered to be income under the head business/profession. Similarly if payment has been received for not using any patent right or technical know-how or other similar right, it will also be considered to be income under the head business/profession.
It is also called non-compete fee. The person making payment should deduct tax at source @ 10% as per section 194J.
Example
ABC Ltd. has received ₹30,00,000 for not carrying out a particular business activity, in this case, the amount so received shall be considered to be income of the assessee.
Example
ABC Ltd. has received ₹ 10,00,000 for not sharing a particular patent, in this case, it will be considered to be income under the head business/profession.
<u>(iv) Payment under Keyman Insurance Policy</u>
Sometimes employer may take a life policy in the name of any of his employees who are considered to be very important for business or profession and such policy is called keyman insurance policy and premium is paid by employer and employer is allowed to debit it to profit and loss account and amount received on

maturity shall be considered to be income of employer as per section 28.
If any payment has been received by the employee, it will be considered to be income under the head salary.
Similarly a policy may be taken in the name of any other person who is considered to be very important for the business of the employer, such policy is also called keyman insurance policy. If payment has been received by such other person, it will be considered to be his income under the head other sources as per section 56.

(v) Export Incentives

If any manufacturer is exporting the goods manufactured by him, in such cases he may be given certain incentives by the Govt. and such incentives are called export incentives and shall be considered to be income of the assessee under the head business/ profession and in general there are two types of incentives:

(i) GST paid by the assessee on inputs or other goods shall be refunded to assessee as an incentive and it will be called duty drawback i.e. drawing back the duty paid by the assessee.

(ii) The exporters are issued special licenses for importing goods without payment of custom duty and such licenses are called import entitlement licenses and an exporter is allowed to sell it in the market and profit on sale of import entitlement license shall be considered to be income under the head business/profession.

Example

ABC Ltd. has computed its income to be ₹20,00,000 and some of the entries noted from profit and loss account are as given below:

1. Company has debited the amount of opening stock ₹33,00,000 which is overvalued by 10%.
2. Company has received duty drawbacks of ₹7,00,000 but the amount has not been credited to the profit and loss account.
3. The company has received import entitlement license from the Government and it was sold it at a profit of ₹3,00,000. The amount has not been credited to the profit and loss account.

Solution:

In this case company's tax liability shall be:	₹
Net profit as per profit and loss account	20,00,000
Add:	
• Opening stock overvalued (33,00,000 /110 x 10)	3,00,000
• Duty drawback received	7,00,000
• Sale of import entitlement license	3,00,000
Income under the head business/profession	33,00,000
Total Income	33,00,000
Computation of Tax Liability	
Tax on ₹33,00,000 @ 30%	9,90,000
Add: HEC @ 4%	39,600
Tax Liability	10,29,600

(vi) If any person has received any amount in connection with termination or modification of terms and conditions of any contracts relating to his business, amount so received shall be considered to be income under the head business/profession.

(vii) If any person has converted any inventory or stock in trade in to a capital asset, in such cases business income shall be computed and for this purpose fair market value of the inventory on the date of conversion shall be taken into consideration, e.g. ABC limited is engaged in business of sale /purchase of generators but company has used one generator in its business premises which was purchased for ₹ 10,00,000 but market value is ₹ 11,00,000, in this case there will be business income of ₹1,00,000 and for the purpose of charging depreciation, value shall be taken to be ₹ 11,00,000.

Income from profits and gains of business or profession, how computed Section 29

The income referred to in section 28 shall be computed in accordance with the provisions contained in sections 30 to 43D.

Question 2: Write a note on deductibility of expenditures relating to Buildings.

Answer: Rent, Rates, Taxes, Repairs and Insurance for Buildings Section 30

If any assessee has any building in the use of business/profession, all expenses relating to the building shall be allowed to be debited to the profit and loss account and such expenses may be:

(i) Repairs expenses
(ii) Municipal tax or local tax or land revenue (but on payment basis as per section 43B)
(iii) Premium for insurance of house
(iv) Any other expenditure like depreciation etc.

If the building is owned by the assessee, he is not allowed to debit rent on notional basis
(No income shall be computed with regard to this house property under the head house property).

Question 3: Write a note on deductibility of expenditures relating to Plant and Machinery and Furniture and Fixtures.

Answer: As per section 31 if any assessee has any plant and machinery or furniture/fixture in his business/profession, assessee is allowed to debit all the expenses to the profit and loss account and such expenses may be like repairs or insurance or rent etc. If plant & machinery etc. are owned by the assessee, its notional rent is not allowed to be debited.

Question 4: Write a note on rates of Depreciation.

Answer: Depreciation Section 32

Depreciation under Income Tax Act is allowed on the basis of written down value method but in case of power generating unit, the assessee has the option to compute depreciation either on the basis of written down value method or on the basis of Straight Line Method. Rate of depreciation shall be as given below:

PART A TANGIBLE ASSETS

Buildings

Block 1.	Buildings which are used mainly for residential purposes except hotels and boarding houses	5%
Block 2.	Buildings which are not used mainly for residential purposes and not covered by Block (1) above and (3) below	10%
Block 3.	Purely temporary erections such as wooden structures	40%

Furniture and Fittings

Block 1.	Furniture and fittings including electrical fittings ["Electrical fittings" include electrical wiring, switches, sockets, other fittings and fans, etc.]	10%

Plant & Machinery

Block 1.	Motor cars	15%
Block 2.	Motors buses, motor lorries, motor taxis used in the business of running them on hire	30%
Block 3.	Computers including computer software	40%
Block 4.	Books	40%
Block 5.	Plant & machinery (General rate)	15%

INTANGIBLE ASSETS

Know-how, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of similar nature (no depreciation on goodwill w.e.f P.Y.2020-21)	25%

Question 5 [V. Imp.]: Write a note on computation of Depreciation.

Answer: Computation of Depreciation

If any particular asset is purchased during the year and it has been put to use for less than 180 days during the year, in that case, depreciation is allowed at half the normal rate. If it is purchased during the year and is not at all put to use, depreciation shall not be allowed. But in the subsequent year whenever the asset is put to use, full depreciation shall be allowed irrespective of period of use.

"Put to use" do not mean putting the asset to actual use rather it means making an asset ready for use.

Example

ABC Ltd. has purchased one plant and machinery on 01.07.2023 for ₹30,00,000, it was installed on 01.10.2023, but it was brought into actual use w.e.f. 01.03.2024, in this case, depreciation allowed shall be ₹4,50,000, because the asset was put to use for 180 days or more, but if the asset was installed on 10.10.2023, depreciation allowed shall be ₹2,25,000. If the asset was not at all installed in the year 2023-24, depreciation allowed in 2023-24 shall be nil. If the asset was installed on 31.03.2025, depreciation allowed in 2023-24 shall be nil, but the depreciation allowed in the year 2024-25, shall be ₹4,50,000.

If any asset has been sold at any time during the year, in that case, depreciation is not allowed for that year.

Example

ABC Ltd. purchased one plant and machinery on 01.10.2017, its written down value on 01.04.2023 is ₹20,00,000 but it was sold on 31.03.2024, in this case, no depreciation is allowed in the previous year 2023-24.

Question 6: Write a note on Computation of depreciation on the basis of block of assets.

Answer:

Under section 32, depreciation under income tax is allowed on the basis of written down value method. It is not computed on the basis of individual assets rather on the basis of a group of assets called Block of Assets which means a group of similar type of assets having same rate of depreciation and shall be computed in the manner given below:

1. Take opening written down value of the particular block of asset as on 1st day of April of the relevant year.
2. Add purchases during the year.
3. Deduct sale value in case of sale and amount of insurance claim in case of fire or theft etc. or scrap value in case of discarded assets.
4. Apply depreciation on the balance amount as on the last day of the year.
5. If any asset was put to use for less than 180 days, depreciation shall be allowed at half the normal rate and for this purpose its actual cost shall be separated from the total written down value of the block and if total written down value is less than the actual cost, depreciation shall be applied on the written down value of the block at half the normal rate.
6. If there is a negative balance at the end of the year, it will be considered to be short term capital gain as per section 50 and no depreciation is allowed.
7. If there is no asset at the end of the year but still there is some balance, it will be considered to be short term loss as per section 50 and no depreciation is allowed.

Block of Assets: A "block of assets" is defined in section 2(11), as a group of assets falling within a class of assets comprising—

(a) tangible assets, being buildings, machinery, plant or furniture;

(b) intangible assets, being know-how, patents, copyrights, trademarks, licenses, franchises or any other business or commercial rights of similar nature, ***not being goodwill of a business profession,***

in respect of which the same percentage of depreciation is prescribed.

Question 7: Write a note on depreciation in case of Amalgamation, Demerger, Conversion of Proprietary Concern or Partnership Firm into a Company or Conversion of Private Limited Company or Unlisted Public Company into Limited Liability Partnership Firm.

Answer: As per section 32, depreciation shall be computed considering that no such amalgamation etc. has taken place and the depreciation so computed shall be apportioned between the predecessor and successor in the ratio of number of days the asset was used by each one of them

Example

M/s XY & Co., a sole proprietary concern is converted into a company, XY Co. Ltd. with effect from December 29, 2023. The written down value of assets as on April 1st, 2023 is as follows:

Items	Rate of Dep.	WDV as on 1st April, 2023
Building	10%	₹3,50,000
Furniture	10%	₹ 50,000
Plant and Machinery	15%	₹2,00,000

Further, on October 15, 2023, M/s XY & Co. purchased a plant for ₹1,00,000 (rate of depreciation 15%) and it was put to use on the same date. After conversion, the company added another plant worth ₹50,000 (rate of depreciation 15%) on 01.01.2024 and put to use on the same date.

Compute the depreciation available to (i) M/s XY & Co. and (ii) XY Co. Ltd. for Assessment Year 2024-25.

Solution:

As per section 32, while determining depreciation, if there is change of ownership of assets because of conversion of sole proprietary concern into company, depreciation will be calculated in the manner given

below:	₹
Building	
Depreciated value on April 1st, 2023	3,50,000
Depreciation @ 10%	35,000
Furniture	
Depreciated value on April 1st, 2023	50,000
Depreciation @ 10%	5,000
Plant and Machinery	
Depreciated value on April 1st, 2023	2,00,000
Add: Cost of new plant and machinery	1,00,000
Written down value	3,00,000
Depreciation @ 7.5% on ₹1,00,000	7,500
Depreciation @ 15% on ₹2,00,000	30,000
Number of days when assets are used by	
Sole Proprietors	272 days
Company	94 days
Depreciation available to the sole proprietary Concern	
70,000 / 366 x 272	52,021.86
7,500 / 169 x 75	3,328.40
Depreciation available to the company	
70,000 / 366 x 94	17,978.14
7,500 / 169 x 94	4,171.60
Depreciation to the company on plant purchased for ₹50,000	
50,000 x 7.5%	3,750.00
Total depreciation allowed to the company	25,899.74

Question 8: Write a note on depreciation in case of Power Generating Units.

Answer: <u>Depreciation in case of Power Generating Units</u>

A power generating unit shall have the option to claim depreciation either on the basis of SLM or WDV and any option taken cannot be changed subsequently.

If the assessee has claimed depreciation on the basis of WDV, depreciation shall be allowed on the basis of block of the assets and if depreciation is claimed on SLM, depreciation shall be computed on the basis of individual asset however concept of 180 days shall be applicable. Rate of depreciation for SLM shall be as prescribed under Income Tax Act.

In case of sale of asset, tax treatment shall be as given below:

<u>Sale of asset</u>

<u>Terminal depreciation</u>

If the asset is sold, any loss on their sale shall be considered to be terminal depreciation and shall be allowed to be debited to the profit and loss account.

<u>Balancing Charge</u> <u>Section 41(2)</u>

If any asset has been sold or destroyed etc. and depreciation was claimed on SLM basis, any profit on sale shall be considered to be income under the head business/profession and shall be called balancing charge but only to the extent depreciation was debited to the profit and loss account.

If the amount is received after closing down of the business, still it will be considered to be income under the head business/profession i.e. it will be a case of having income under the head business/profession but without any business/ profession.

The excess over it shall be taxable as capital gains under section 50A.

Example

ABC Ltd. is a power generating unit and the company has purchased one plant and machinery on 01.07.2020 for ₹20 lakhs and it was put to use on 01.11.2020 and rate of depreciation is 7.8%, in this case depreciation allowed shall be

2020-21 20,00,000 x 7.8% x ½ = ₹ 78,000

2021-22 20,00,000 x 7.8% = ₹1,56,000

2022-23 20,00,000 x 7.8% = ₹1,56,000.

If this plant is sold on 01.10.2023

1. For ₹ 7,00,000
2. For ₹19,00,000
3. For ₹23,00,000

The tax treatment shall be as given below:

1. Written down value of the asset as on 01.04.2023 is ₹16,10,000 but it was sold for ₹7,00,000, in this case terminal depreciation is 7,00,000 – 16,10,000 = ₹9,10,000 and it will be allowed to be debited to profit and loss account.
2. If the asset is sold for ₹19,00,000, there will be profit of 19,00,000 – 16,10,000 = ₹2,90,000 and it will be called 'balancing charge' under section 41(2) and shall be considered to be deemed income under the head business/profession.
3. There will be gain of 23,00,000 – 16,10,000 = ₹6,90,000. There will be balancing charge to the extent depreciation has been debited i.e. 3,90,000 and balance amount i.e. ₹3,00,000 shall be short term capital gain as per section 50A.

Question 9: Is it Mandatory to Claim Depreciation?

Answer: As per section 32, depreciation has to be claimed compulsorily i.e. it is not voluntary e.g. Mr. X has income u/h house property ₹ 2.5 lakh and his depreciation in business profession is ₹ 2.5 lakh and Mr. X refuses to claim depreciation, in this case he can not do so and he has to claim depreciation and also it has to be set off from income of house property.

Question 10 [V. Imp.]: Write a note on expenditure on Scientific Research.

Answer: <u>Expenditure on Scientific Research</u> <u>Section 35 (1)(i)/(iv)</u>

If any person has incurred expenditure whether revenue or capital in connection with scientific research relating to business, such expenditure is allowed to be debited without any restriction however expenditure incurred on land is not allowed. If the assessee has incurred expenditure on purchase/construction of building, expenditure is allowed excluding the value of land.

Example

ABC Ltd. engaged in manufacturing of cement has incurred ₹3 lakhs on scientific research, in this case, expenditure is allowed, but if the research is not related to the business of the assessee, expenditure is not allowed.

Example

ABC Ltd. has purchased one plant and machinery on 01.07.2023 for the purpose of scientific research for ₹30 lakhs, in this case, entire amount is allowed to be debited to the profit and loss account in the year 2023-24. But if the company has purchased land for the purpose of scientific research, expenditure is not allowed.

Similarly if a building has been purchased for ₹40,00,000 and cost of land is ₹25,00,000, expenditure allowed shall be ₹15,00,000.

<u>Expenditure before commencement of business</u>

If expenditure is incurred before commencement of business but within 3 years prior to commencement, capital expenditure is allowed without any limit in the year of commencement of business but revenue expenditure is allowed only to the extent permitted by prescribed authority. Similarly payment of salary except perquisite (facilities) are allowed only to the extent permitted by the prescribed authority.

Example

ABC Ltd. has commenced its business on 01.07.2023, but before commencement, the company has incurred revenue expenditure of ₹2 lakhs on scientific research from 01.07.2020 onwards and the prescribed authority has certified expenditure of ₹1.5 lakhs, in this case ₹ 1.5 lakhs shall be allowed in the previous year 2023-24, but if any expenditure has been incurred prior to 01.07.2020, expenditure is not allowed.

<u>Sale of assets used for scientific research</u> <u>Section 41(3)</u>

If any assessee has acquired any capital asset for scientific research and amount was debited to profit and loss account and subsequently the asset was sold, amount received shall be considered to be income under the head business/profession but only to the extent amount was debited to profit and loss account. If the assessee has closed down his business/profession at that time, still it is income under the head business/profession.

Example

ABC Ltd. purchased one plant and machinery for ₹ 20 lakhs on 01.10.2022 for scientific research and entire amount was debited to the Profit and loss account, subsequently the asset was sold for ₹ 23 lakhs in the year 2023-24, in this case deemed income under section 41(3), shall be ₹20 lakhs i.e. the amount recovered on sale maximum to the extent of the amount debited and excess over it shall be capital gain.

Transfer of asset to the normal business

If any asset was used for scientific research and subsequently it was transferred to the normal business, in such cases, it will be entered in the respective block of assets and its w.d.v shall be taken to be nil.

Carry forward of unadjusted capital expenditure of scientific research

Un-adjusted capital expenditure of scientific research shall be allowed to be carried forward just like unabsorbed depreciation i.e. carry forward shall be allowed for unlimited period and brought forward expenditure can be adjusted from any income under any head except salary and casual income.

Example

(i) ABC Ltd. has incurred ₹2,00,000 on purchase of plant and machinery for the purpose of scientific research relating to his business, in this case entire expenditure can be debited to the profit and loss account instead of permitting depreciation but if the research is not related to the business of the assessee, expenditure is not allowed.

(ii) ABC Ltd. has purchased one building for ₹50,00,000 out of which value of land is ₹40,00,000. The building shall be used for the purpose of setting up a laboratory for the purpose of scientific research relating to the business of the assessee, in this case company can debit ₹10,00,000 to the profit and loss account being the cost of building. (Cost of land is not allowed)

(iii) ABC Ltd. has commenced its business on 01.06.2023 and the company has incurred expenses before commencement of business as given below:

(a) ₹5,00,000 during May 2020, being capital expenditure in connection with scientific research.

(b) ₹3,00,000 during May 2022, being capital expenditure in connection with scientific research.

(c) ₹1,00,000 during April 2020 on raw materials for scientific research.

(d) ₹1,00,000 during June 2020 on raw materials for scientific research. (amount permitted by the prescribed authority ₹75,000)

(e) ₹40,000 in connection with perquisites given to the staff engaged in the scientific research.

In this case, amount allowed to be debited shall be ₹3,75,000 (₹3,00,000 + ₹75,000) Expenditure incurred before the period of 3 years is not allowed.

(iv) ABC Ltd. has donated ₹1,00,000 to an approved scientific research association which is conducting research not connecting to the business of the company, in this case, amount allowed to be debited shall be Nil.

(v) ABC Ltd. has income under the head Business/Profession ₹3,00,000 before debiting capital expenditure of ₹5,00,000 relating to scientific research, in this case, amount allowed to be debited shall be ₹3,00,000 and unadjusted capital expenditure on scientific research shall be allowed to be set off and carried forward just like unabsorbed depreciation.

(vi) ABC Ltd. is engaged in manufacturing chemicals and its research programme has been approved by the prescribed authority and the company has incurred the following expenses in connection with scientific research.

(a) Expenditure on purchasing a land ₹10,00,000.

(b) Expenditure on construction of building on land ₹5,00,000.

(c) Plant and machinery ₹10,00,000.

(d) Raw materials ₹2,00,000.

In this case, company shall be allowed weighted deduction of 100% of 17,00,000 i.e. ₹17,00,000.

Question 11 [Imp.]: Explain briefly the provisions of amortisation of Preliminary Expenses.

Answer: Amortisation of certain Preliminary Expenses Section 35D

Expenditure incurred before commencement of business shall be called preliminary expenses and shall be allowed to be debited in 5 annual equal installments after commencement of business and such expenses are allowed to an Indian company and also to resident assessee i.e. it is not allowed to non-residents and to foreign company.

Only the notified expenditure incurred before commencement of business shall be allowed and such expenses may be

1. Expenditure in connection with—
   (i) preparation of feasibility report.
   (ii) preparation of project report.
   (iii) conducting market survey or any other survey necessary for the business of the assessee.
   (iv) engineering services relating to the business of the assessee.

Provided *that the assessee shall furnish a statement containing the particulars of expenditure specified in this clause within such period, to such income-tax authority, in such form and manner, as may be prescribed;*

2. Legal charges for drafting any agreement between the assessee and any other person for purpose of the business of the assessee.

3. Where the assessee is a company, also expenditure—
   (i) by way of legal charges for drafting the Memorandum and Articles of Association of the company.
   (ii) on printing of the Memorandum and Articles of Association.
   (iii) by way of fees for registering the company under the provisions of the Companies Act.
   (iv) in connection with the issue of shares or debentures of the company, being underwriting commission, brokerage and charges for drafting, typing, printing and advertisement of the prospectus.

Maximum expenditure allowed shall be upto **5% of the project cost** but an Indian company has the option to take **5% of the capital employed.**

Example

ABC Ltd. has incurred expenditure of ₹30,00,000 and its project cost is ₹100,00,000 and capital employed is ₹120,00,000, instalment allowed to the company shall be
₹30,00,000 but subject to a maximum of (120,00,000 x 5%) i.e. ₹6,00,000
Instalment allowed shall be = 6,00,000 / 5 = ₹1,20,000

"Cost of the project" means
in a case of **new business**, the actual cost of the fixed assets, being land, buildings, plant, machinery, furniture, fittings etc. as on the last day of the year in which the assessee has commenced the business.

"Capital employed" means
in a case of **new business**, the aggregate of the issued share capital, debentures and long-term borrowings as on the last day of the previous year in which the business of the company commences.

In case of an existing business if there is extension of such business, expenses incurred in connection with such extension shall also be allowed in the similar manner as in case of new business and project cost and capital employed shall be taken into consideration relating to extension of business.

Question 12: Write a note on amortization of expenditure under Voluntary Retirement Scheme.

Answer: Amortisation of expenditure incurred under Voluntary Retirement Scheme Section 35DDA

If any employer has given voluntary retirement to the employees and has paid any amount in connection with such voluntary retirement, it will be allowed to be debited in 5 annual equal installments e.g. ABC Ltd. has given voluntary retirement to 500 employees and has paid ₹4,00,000 to each of the employee and total payment made is ₹2000 lakhs, in this case expenditure is allowed in 5 annual equal installments.

Question 13: Explain deductibility of Insurance Premium.

Answer: Deductibility of insurance premium

Payment of premium for the insurance of stocks Section 36(1)(i)

If any assessee has paid premium for insurance of raw material or finished goods etc., such premium is allowed to be debited to profit and loss account.

Payment of premium in connection with medi claim policy Section 36(1)(ib)

If any assessee has paid premium for medi claim policy taken in the name of employees, such premium is allowed to be debited to profit and loss account provided premium was paid otherwise than in cash.

Question 14 [Imp.]: Write a note on payment of interest.

Answer: Payment of Interest Section 36(1)(iii)

If any assessee has taken a loan for the purpose of business/profession, interest on such loan is allowed.
No interest is allowed to the proprietor on his capital (similarly no salary or any other payment is allowed to

the proprietor).

Question 15: Explain deductibility of employer's contribution towards Recognised Provident Fund etc.

Answer: Employer's contribution to Recognised Provident Fund or Approved Superannuation Fund Section 36(1)(iv)

Employer contribution to **Recognised Provident Fund** and **Approved Superannuation Fund** shall be allowed to be debited only to the extent it has been permitted in the relevant Act / Rule. E.g. Employer contribution to recognized provident fund is allowed maximum @ 12% of employees salary.

Employer's contribution towards a Pension Scheme Section 36(1)(iva)

Employer contribution to notified pension scheme as per section 80CCD shall be allowed maximum to the extent prescribed for this purpose.

Employer's contribution towards approved Gratuity Fund Section 36(1)(v)

Employer contribution to approved gratuity fund shall be allowed to be debited to the extent allowed in the relevant Act / Rule.

Question 16: Explain deductibility of employee's contribution received by the employer.

Answer: As per section 36(1)(va), employees contribution shall be allowed to be debited only if employer has deposited the amount in the relevant account upto the time allowed in the relevant Act.

As per paragraph 38 of The Employees' Provident Funds Scheme, 1952, the employer should pay within 15 days of the subsequent month.

As per section 31 of Employees' State Insurance (General) Regulations, 1950, ESI contribution should be deposited maximum upto 15th of subsequent month.

Question 17 [Imp.]: Write note on deduction of Bad Debts of a Business.

Answer: Deduction for Bad Debts of a Business Section 36(1)(vii)

If any assessee has written off bad debts as irrecoverable in the books of accounts, he will be allowed to debit such bad debts to the profit and loss account. However provision for bad debts is not allowed (in general provision or reserve for any purpose is not allowed.)

Recovery of bad debts Section 41(4)

If any amount was debited as bad debts and subsequently it was recovered by the assessee, it will be considered to the income of the assessee under the head business /profession of the year in which it has been recovered and if the assessee do not have business or profession in that particular year, even then it will be considered to be income under the head business/profession. If debt was incurred by a person but it was recovered by his successor, in that case it will not be considered to be income of successor.

Example

Mr. X debited bad debts ₹ 4,00,000 in previous year 18-19 but recovered ₹ 1,00,000 in previous year 23-24, in this case as per section 41(4) it will be considered to be income under the head business profession of previous year 23-24. If amount was debited by his father and after his death, his son has inherited the business and has recovered ₹ 1,00,000, it will not be considered to be income of son i.e. successor.

If any amount of bad debt has been disallowed by the assessing officer and subsequently there is a recovery so such bad debts, it will not be considered to be income of the assessee e.g. Mr. X claim bad debts of ₹5,00,000 but assessing officer allowed bad debts of ₹3,00,000 and subsequently there is recovery of ₹2,00,000, it will not be considered to be income under the head Business/Profession but if there is recovery of ₹3,00,000, income shall be ₹1,00,000.

Question 18 [Imp.]: Write a brief note on deductibility of Family Planning Expenditure under section 36(1)(ix) of the Income Tax Act, 1961.

Answer: If any company has incurred expenditure in connection with promotion of family planning norms among the employees, the assessee shall be allowed to debit the expenditure to profit and loss account. Revenue expenditure can be debited in the same year and capital expenditure shall be allowed in 5 annual equal installment. Any other assessee is not allowed to debit any expenditure in connection with promotion of family planning.

Expenditure are allowed to debited only to the extent income is available under the head business/profession and unadjusted expenditure shall be allowed to be set off and carried forward just like unabsorbed depreciation.

Question 19: Write a note on Securities Transaction Tax.

Answer: Securities Transaction Tax Section 36(1)(xv)

If the assessee has paid securities transaction tax in connection with taxable securities transaction which are part of his business, STT shall be allowed to be debited to the profit and loss account. If it is a case of capital gain, it will not be allowed to be deducted e.g. Mr. X purchased shares of ₹ 4 lakh and sold for ₹ 10 lakh after 6 months and paid STT ₹ 1000 in this case capital gains u/s 111A shall be ₹ 6 lakh and shall be taxable @ 15% and if shares were sold after 1 year it will be long term capital gain u/s 112A and shall be taxable @ 10% and amount of capital gains shall be ₹ 6 lakh. If he has business of sale purchase of shares, STT shall be deducted and capital gain shall be ₹ 5,99,000 and shall be taxable at the normal rate.

Question 20: Write a note on Commodities Transaction Tax.

Answer: Commodities Transaction Tax Section 36(1)(xvi)

If the assessee has paid commodities transaction tax in connection with taxable commodities transaction which are part of his business, CTT shall be allowed to be debited to the profit and loss account. Such business is considered to be speculative business.

Question 21 [V. Imp.]: State the conditions to be satisfied for claiming deduction under section 37(1) of the Act.

Answer: As per section 37(1), if any expenditure is neither allowed nor disallowed specifically under any particular section, such expenditure is allowed to be debited if it is related to business or profession and is revenue in nature. If it is capital expenditure, depreciation is allowed. Personal expenditure is never allowed. Illegal expense is not allowed. Any fine or penalty for an offence is not allowed.

Various expenditure which may be allowed under section 37(1) are as given below:

1. Expenditure in connection with advertisement e.g. ABC Ltd. has incurred ₹20,000 on printing of diaries and calendars, the expenditure is allowed. Similarly if expenditure has been incurred on advertisement in newspaper/magazine/ radio / TV / Internet etc., it will be allowed. If the expenditure incurred is capital nature, depreciation is allowed.
2. Expenditure on travelling including the expenses of boarding and lodging in connection with business/profession.
3. Salary paid to the employees.
4. Expenditure in connection with entertainment/amusement of the employees or the customers.
5. Expenditure in connection with opening ceremony (Mahurat) of the business/profession. E.g. ABC Ltd. has incurred ₹50,000 in connection with 'shamiana' and refreshments on occasion of opening ceremony.
6. Expenditure on the occasion of various festivals like Diwali etc. for employees or customers.
7. Incentives given to the articled assistant by a Chartered Accountant.
8. Interest on late payment of GST.
9. Expenditure in connection with legal proceedings.
10. Professional tax paid by a person carrying on business or profession.
11. Expenditure on the filing of return of income, filing of appeal or audit fee etc. is allowed.
12. Any other expenditure which is revenue in nature and it is related to business or profession.

Any expenditure incurred by an assessee on the activities relating to corporate social responsibility referred to in section 135 of the Companies Act, 2013 shall not be deemed to be an expenditure incurred by the assessee for the purposes of the business or profession.

"Expenditure incurred by an assessee for any purpose which is an offence or which is prohibited by law" , shall include the expenditure incurred by an assessee,—

(i) to provide any benefit or perquisite, in whatever form, to a person, whether or not carrying on a business or exercising a profession, and acceptance of such benefit or perquisite by such person is in violation of any law or rule or regulation or guideline, as the case may be, for the time being in force, governing the conduct of such person; or

(ii) to compound an offence under any law, in India or outside India.

Question 22 [Imp.]: Explain deductibility of expenditure in connection with assets which are partly in business use and partly in personal use section 38.

Answer: Expenditure in connection with assets which are partly in business use and partly in personal use Section 38

If any person has any asset in business or profession as well as in personal use, expenditure is allowed only to the extent the asset is in the use of the business or profession.

Example

If Mr. X has one motor car which is used to the extent of 60% in business and 40% for personal use, all expenditures shall be allowed to be debited to the extent of 60%.

Question 23 [V. Imp.]: Write a note on deductibility of expenditure on which tax has not been deducted at source.

Answer: Tax deduction at source for payment of interest, royalty etc. outside India Section 40(a)(i)

If any person has paid any interest, royalty or technical fee or other sum chargeable to income tax and the amount is being paid outside India or it has been paid in India to a non-resident or to any foreign company, amount shall be allowed to be debited only if tax has been deducted at source upto the end of the year and also tax has been paid to the government upto the last date of filing of return of income otherwise expenditure is disallowed however it is allowed in the year in which tax has been paid to the government.

(As per section 195, every person has to deduct tax at source on every payment made outside India)

Example: ABC Ltd. has paid ₹20 lakhs as interest outside India on 03.01.2024 and tax was deducted at source on 10.03.2024 and it was paid to the Government on 31.10.2024, expenditure is allowed in previous year 2023-24 but if tax was deducted at source on 01.04.2023, expenditure is not allowed in previous year 2023-24 but it is allowed in previous year 2024-25. If tax was deducted at source on 10.03.2024 but it was paid to the Government on 01.11.2024, expenditure is not allowed in previous year 2023-24 however it is allowed in previous year 2024-25.

Tax deduction at source for payment of interest, commission, brokerage etc. in India Section 40(a)(ia)

If any person has to pay any sum to a resident on which tax is to be deducted at source, in that case such person must deduct tax at source upto the end of the relevant previous year and also payment should be made upto the last date of ROI otherwise 30% of such expenditure is disallowed however it is allowed in the year in which tax has been paid to the government.

Example: ABC Ltd. has paid rent of ₹10 lakhs to XYZ Ltd. in India on 31.12.2023 and tax was deducted at source on 31.03.2024 and was paid to the Government on 31.10.2024, expenditure is allowed in previous year 2023-24 but if tax is deducted at source after 31.03.2024 or payment is made to the Government after 31.10.2024, expenditure allowed in previous year 2023-24 shall be 10,00,000 x 70% = 7,00,000 and balance ₹3,00,000 is disallowed however it will be allowed in the year in which tax has been paid to the Government.

If any person has not deducted tax at source but person who received the payment has paid tax and filed return and it is confirmed by the Chartered Accountant, in that case it will be presumed that such person has deducted and paid tax on the date of filing of ROI by the person receiving payment. (applicable in section 40(a)(i)/40(a)(ia))

Example: ABC Ltd. has paid rent of ₹10 lakhs to XYZ Ltd. in India on 31.12.2023 and company has not deducted tax at source but XYZ Ltd. has deposited the tax and filed return on 31.10.2024, in this case it will be presumed that tax has been deducted on 31.10.2024 and paid to the Government on 31.10.2024 and 70% expenditure shall be allowed to ABC Ltd. in previous year 2023-24 and balance 30% in previous year 2024-25.

e.g. ABC Ltd. has paid ₹1,00,000 to XYZ Ltd. being the amount of rent and no tax has been deducted at source, in this case expenditure is allowed because as per section 194-I, TDS is not applicable if rent payable is upto ₹2,40,000.

Question 24 [V. Imp.]: Explain deductibility of Income Tax or Securities Transaction Tax.

Answer: Deductibility of Income Tax or Securities Transaction Tax

Under section 40(a)(ii) and (iia), payment of income tax (including surcharge and HEC) is not allowed because it is not considered to be liability of business/profession, however as per section 43B, composition tax under GST, Municipal tax, professional tax, licence fee, etc. is allowed.

If interest has been paid for late payment of income tax or additional income tax, such interest is not allowed but if interest has been paid for late payment of GST etc., interest is allowed.

If any interest has been paid for the loan taken for payment of income tax, interest is not allowed.

If interest has been paid for the loan taken for the payment of GST etc., interest is allowed under section 36(1)(iii).
If there is any income tax refund, it will not to be considered income but if there is refund of GST etc., it will be considered to be income.
If any interest has been received in connection with income tax refund or GST refund etc., it will be considered to be income. Interest on Income Tax Refund shall be taxable under the head other sources but interest on refund of GST etc. shall be taxable under the head business/profession.
If any person has paid any fine or penalty in connection with income tax, GST etc., it will not be allowed.
Under section 36(1)(xv), securities transaction tax shall be allowed to be debited.
If any person has sold equity shares or units of equity oriented mutual fund and has paid STT and the asset is long term, capital gain shall be taxable in excess of ₹1,00,000 u/s 112A and if it is short term, capital gains shall be taxable @ 15% under section 111A and assessee shall not be allowed to deduct STT paid by him as selling expense. If any person has business of sale purchase of shares or units and has paid STT, while computing income under the head Business/Profession, assessee shall be allowed to debit STT while computing income and such income shall be taxable at the normal rate.
Under section 36(1)(xvi), commodities transaction tax shall be allowed to be debited.
If any assessee has income from commodities transaction, assessee shall be allowed to debit CTT to Profit and loss account and income shall be taxable at the normal rate.
If employer has paid income tax on behalf of the employee, employer is allowed to debit such amount to profit and loss account and it will also be considered to be income of the employee.
e.g. Mr. X is employed in ABC Ltd. and is getting salary of ₹15,00,000 p.a. and employer has paid income tax of ₹1,00,000 on behalf of the employee besides salary of ₹15,00,000, in this case employer is allowed to debit ₹16,00,000 to profit and loss account and tax liability of the employee shall be computed in the manner given below:

Income from salary	16,00,000
Less: Standard deduction u/s 16(ia)	(50,000)
Income under the head salary	15,50,000
Tax at slab rate on ₹15,50,000	1,65,000
Add: HEC @ 4%	6,600
Tax Liability	1,71,600
Less: Tax paid by employer	(1,00,000)
Tax Payable	71,600

If income tax has been paid by the employer on behalf of the employee in connection with non-monetary perquisites, employer shall not be allowed to debit such amount to profit and loss account and also it will not be considered to be income of employee under the head salary under section 10(10CC).

Question 25: Write a note on payment of salary or interest to the partners.

Answer:

As per section 40(b), interest to the partner is allowed but maximum @ 12% p.a. simple interest.
Payment of salary, bonus, commission or any other remuneration is allowed but only to the working partner.
Maximum amount of salary, bonus, commission etc. allowed to a partner shall be computed in the manner given below:

Maximum amount of remuneration allowed shall be as given below:

* First ₹3,00,000 of the book profits	**90%** of the book profit or **₹1,50,000** whichever is more
* On **balance** amount of book profit	**60%** of book profit

Example

A partnership firm has book profits of ₹ 5 lakhs, in this case maximum amount of salary etc. allowed to all the partners shall be

Upto ₹3,00,000	90% of 3,00,000 or ₹1,50,000 whichever is more	2,70,000
Next ₹2,00,000	60% of 2,00,000	1,20,000
		3,90,000

Example

There is a partnership firm engaged in business and its book profits are ₹1,35,000, in this case maximum amount of remuneration allowed to all the partners shall be ₹1,50,000.

Meaning of Book Profits

Book profit means profit and gains of business profession but before charging any salary, bonus, commission etc. to the partners and further if the assessee has any brought forward depreciation, it will be adjusted while computing the book profits but if there are brought forward business loss, such business loss shall not be adjusted.

Share received by a partner from income of Partnership Firm Section 10(2A)

If any partner has received share out of the profits of the partnership firm, such share shall be exempt from income tax.

As per section 28, interest or salary received by a partner shall be taxable under the head business/profession.

Example

XY Partnership firm has computed net profit of ₹ 5,00,000 and some of the amount debited & credited given below :

Debited ₹1,00,000 being salary paid to one of the employees by crossed cheque
Debited ₹ 4,00,000 being the cost of motor car purchased and put to use 31.03.2024
Debited ₹3,00,000 being interest paid to Mr. X @ 15 % p.a.
Debited ₹ 4,50,000 being interest paid to Mr. Y @ 15 % p.a.
Debited salary of ₹10,00,000 Paid to Mr. X
Debited salary of ₹ 500,000 Paid to Mr. Y
Debited ₹80,000 being advance income tax
Credited ₹ 6,00,000 being long term capital gain (LTCG)
The firm has b/f business loss of ₹30,000
The firm has donated ₹ 40,000 by cheque to charitable institution notified u/s 80G
Compute tax liability of partners & partnership firm A.Y. 2024-25.

Solution:	**₹**
Net profit as per profit and loss account	5,00,000
Add : Salary paid by crossed cheque to employee	1,00,000
Add: Capital exp. Debited to P/L a/c	4,00,000
Less: Depreciation on motor car 400,000 x 7.5%	(30,000)
Add: Interest in excess to Mr. X 3,00,000 x 3%/15%	60,000
Add: Interest to Mr. Y 4,50,000 x 3% /15%	90,000
Add: Salary to Mr. X	10,00,000
Add: Salary to Mr. Y	500,000
Add: Advance income tax	80,000
Less: LTCG credited to P/L a/c	(6,00,000)
Books Profits	21,00,000
Salary allowed	
First 3,00,000 x 90 % = 2,70,000	
Bal. 18,00,000 x 60 % = 10,80,000	
Total Salary allowed = 13,50,000	
Salary to X (13,50,000 / 3 x 2)	(9,00,000)
Salary to Y (13,50,000 / 3 x 1)	(4,50,000)
Income under the head Business/Profession	7,50,000
Less: B/F business Loss	(30,000)
LTCG	6,00,000
Gross Total Income	13,20,000
Less: Deduction u/s 80G	(20,000)

Adjusted GTI = GTI -LTCG –STCG 111A- ALL deduction u/s 80C to 80U (except 80G)
= 13,20,000- 6,00,000 = 7,20,000

10% of ₹7,20,000 or 40,000 whichever is less

Qualifying amount 50% of ₹40,000	
Total Income	13,00,000
Computation of Tax Liability	
Tax on normal income ₹7,00,000 @ 30%	2,10,000
Tax on LTCG ₹6,00,000 @ 20%	1,20,000
Tax before health & education cess	3,30,000
Add: HEC @ 4%	13,200
Tax Liability	3,43,200

Mr. X	
Business/Profession – Interest	2,40,000
Business/Profession – Salary	9,00,000
Gross Total Income/ Total Income	11,40,000
Computation of Tax Liability	
Tax on normal income ₹11,40,000 @ slab rate	81,000
Add: HEC @ 4%	3,240
Tax Liability	84,240

Mr. Y	
Business/Profession – Interest	3,60,000
Business/Profession – Salary	4,50,000
Gross Total Income/Total Income	8,10,000

Computation of Tax Liability	
Tax on normal income ₹8,10,000 @ slab rate	36,000
Add: HEC @ 4%	1,440
Tax Liability	37,440

Question 26 [V. Imp.]: Write a note on payment to Relative/Related person.

Answer: <u>Payment to Relative/Related Person</u> <u>Section 40A(2)</u>

If the assessee incurs any expenditure and payment has been given to any person mentioned below and such expenditure is **<u>excessive</u>** or **<u>unreasonable</u>** having regard to the fair market value of the goods, services or facilities, so much of the expenditure as is so considered to be excessive or unreasonable shall not be allowed as a deduction. E.g. Mr. X has purchased raw material for his business from his brother and has paid ₹5,00,000 but market value is ₹3,00,000, in this case expenditure disallowed shall be ₹2,00,000.

<u>The persons covered in this category are –</u>

1. If any individual has made any payment to his relative. As per section 2(41) Relative, in relation to an individual, means the husband, wife, brother or sister or any lineal ascendant or descendant of that individual.
2. If the assessee is a company, firm, association of persons or Hindu Undivided Family etc. and it has made payment to any director of the company, partner of the firm, or member of the association or family, or any relative of such director, partner or member etc.
3. If any person made payment to any other person who has substantial interest in the business of the assessee e.g. ABC Ltd. has paid ₹5,00,000 to XYZ Ltd. and XYZ Ltd. is holding 20% shares of ABC Ltd., in this case excessive payment is disallowed.
4. Any other person covered under section 40A(2).

Question 27 [V. Imp.]. Discuss provisions relating to payments in excess of ₹10,000.

Answer: <u>Payment in excess of ₹10,000</u> <u>Section 40A(3) Rule 6DD</u>

If an assessee has incurred any expenditure and the payment or the aggregate of the payments made to a person with regard to such expenditure on any single day **<u>exceeds ₹10,000</u>** and payment was made otherwise than **<u>through account payee cheque or account payee bank draft or use of electronic clearing system through a bank account</u>** ***<u>or Credit Card, Debit Card, Net Banking, IMPS (Immediate Payment Service), UPI (Unified Payment Interface), RTGS (Real Time Gross Settlement), NEFT (National Electronic</u>***

Funds Transfer), and BHIM (Bharat Interface for Money) Aadhaar Pay, in such cases entire expenditure is disallowed.

In case of payment made for plying, hiring or leasing goods carriages, the ceiling of ten thousand rupees shall be enhanced to thirty-five thousand rupees.

Example

Mr. X has incurred an expenditure of ₹29,000. Mr. X makes separate payments of ₹9,000, ₹8,000 and ₹12,000 all by cash, to the person concerned in a single day. The aggregate amount of payment made to a person in a day, in this case, is ₹29,000. Since, the aggregate payment by cash exceeds ₹10,000, ₹29,000 will not be allowed as a deduction in computing the total income of Mr. X.

Example

(i) If ABC Ltd. has paid ₹65,000 in cash, expenditure disallowed shall be ₹65,000.
(ii) If Mr. X has paid ₹11,000 by a bearer cheque, amount disallowed shall be ₹11,000.
(iii) If ABC Ltd. has paid ₹10,050 by a crossed cheque, amount disallowed shall be ₹10,050.
(iv) ABC Ltd. has paid ₹35,000 by an account payee cheque, entire amount is allowed.
(v) Mr. X pays a salary to his employee ₹15,000 by crossed cheque, in this case entire expenditure is disallowed.
(vi) ABC Ltd. has paid ₹32,000 in cash to a goods transport agency for transportation of goods, expenditure is allowed.
(vii) Mr. X purchases goods worth ₹75,000 on 01.01.2024 and payment was made ₹60,000 on 03.01.2024 by account payee cheque and ₹8,000 in cash on 03.01.2024 and ₹7,000 in cash on 05.01.2024, in this case expenditure is allowed.
(viii) Mr. X purchases goods worth ₹8,000 and ₹5,000 against two bills from Mr. Y and makes the payment ₹13,000 in cash in a single day, in that case entire expenditure is allowed.
(ix) Mr. X purchases goods worth ₹15,000 from Mr. Y against one bill but makes payment of ₹7,500 and ₹7,500 at different times on the same date, in that case entire expenditure is disallowed.

Exceptions under rule 6DD

As per rule 6DD the above provisions are not applicable with regard to following payments:

1. Payment made to Reserve Bank of India, State Bank of India or other banking institutions, LIC, UTI / Central/State Government etc.
2. If the payment is made in a **village** or **town** and there is no bank at such place on the date of making the payment and payment is being given to any person who ordinarily resides at that place or has his business or profession at that place.
3. Where the payment is made for the purchase of
   (i) **agricultural or forest produce** ; or
   (ii) the produce of **animal husbandry** or **dairy** or **poultry farming** ; or
   (iii) **fish or fish products** ; or
   (iv) the products of **horticulture or apiculture (Honey making)**,
   to the **cultivator**, **grower or producer** of such articles, produce or products.
4. Where the payment is made for the purchase of the **products manufactured in a cottage industry**, to the producer of such products.
5. If payment is being made to an employee **after retirement** or to his family member **after the death** of the employee and payment is in connection with gratuity etc. and payment is **not exceeding ₹50,000**.
6. Any other situation given under Rule 6DD.

Question 28: Write a note on deductibility in respect of provision for Gratuity Fund.

Answer: Deductibility in respect of provision for Gratuity Fund Section 40A(7)

In general no provision is allowed under Income Tax Act however as a special case, provision for gratuity is allowed. The assessee can make provision for contribution towards approved gratuity fund but such provision should be actuarial provision i.e. it should not be hypothetical.

Question 29: Write a note on employer's contribution to various funds.

Answer: Employer's contribution to various funds Section 40A(9)

Employer's contribution to various funds is allowed only if such funds are notified under any Act. If the

employer has contributed to the recognised provident fund, approved superannuation fund, approved gratuity fund or any other similar fund required under any other Act, such contribution is allowed, but payment has to be made upto the last date of filing of return of income as per section 43B.
If the employer has contributed to any other fund like unrecognised provident fund, unapproved gratuity fund, unapproved superannuation fund etc., expenditure shall not be allowed.

Question 30: Explain incomes under section 41.

Answer: In general a person cannot have income under the head business/profession without business/ profession but as per section 41(1), 41(2), 41(3) and 41(4), such incomes shall be taxable under the head business/profession even if the assessee do not have any business/profession and are as under below:

As per section 41(1), if any assessee has debited any amount to the profit and loss account and subsequently it was recovered by him, it will be considered to be his income under the head business/profession of the year in which it has been recovered even if the assessee do not have any business or profession in that year. e.g. Mr. X has debited ₹20,000 to profit and loss account being the municipal tax paid but in the subsequent year there was refund of ₹3,000, in this case it will be considered to be income under the head business/profession in the year of recovery. If amount has been recovered by the successor of business, in that case, it will be considered to be income of such successor

"Successor in business" means, the amalgamated company / the resulting company / where a firm is succeeded by another firm, the other firm etc.

(Section 41(2), 41(3) and 41(4) have been discussed in the relevant questions.)

Question 31 [Imp.]: Write a note on actual cost. Sec 43(1)

Answer: Actual Cost Section 43(1)

In case of depreciable assets, depreciation is allowed on actual cost and as per section 43(1), actual cost means total expenses incurred upto the date of putting the asset to use.
If ABC Ltd. has taken a loan of ₹ 40 lakhs @ 10% p.a. on 01.04.2023 for purchasing a particular plant and machinery and the company has made additional payment asunder:

1. Transportation charges ₹2 lakh.
2. Loading and unloading expenses ₹25,000
3. Payments for the expert staff to install the plant and machinery ₹3 lakh.
4. Company has incurred ₹ 4 lakh for construction of a platform for installing the plant and machinery.

The asset was put to use on 01.01.2024, in this case actual cost of the asset shall be ₹52,25,000 (40,00,000 + interest 3,00,000 (40,00,000 x 10% x 9/12) + 2,00,000 + 25,000 + 3,00,000 + 4,00,000)
If the assessee has received any subsidy from the Government or other similar agency, the subsidy so received shall be deducted and only the balance amount shall be considered to be the actual cost.

Example

If in the above case, the assessee has received a subsidy of ₹ 2 lakh in connection with plant and machinery because it was a non-polluting plant, in this case, actual cost of asset shall be ₹50,25,000.

Treatment of interest subsequent to putting the asset to use

Any interest in connection with the acquisition of an asset relating to any period after such asset is first put to use shall not be included, in the actual cost of such asset, rather it is revenue expenditure and is allowed to be debited to profit and loss account but interest prior to putting the asset to use shall be added in the actual cost.

Buildings in personal use subsequently used in business/profession

Where a building previously the property of the assessee is brought into use for the purpose of the business or profession, the actual cost to the assessee shall be the actual cost of the building to the assessee, as reduced by an amount equal to the depreciation that would have been allowable had the building been used for the business/profession since the date of its acquisition.
Where the assessee incurs any expenditure for acquisition of any asset or part thereof in respect of which a payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque drawn on a bank or an account payee bank draft or use of electronic clearing system through a bank account ***or Credit Card, Debit Card, Net Banking, IMPS (Immediate Payment Service), UPI (Unified Payment Interface), RTGS (Real Time Gross Settlement), NEFT (National Electronic Funds Transfer), and BHIM***

(Bharat Interface for Money) Aadhaar Pay, exceeds ten thousand rupees, such expenditure shall be ignored for the purposes of determination of actual cost.

Where a stock in trade is converted into capital assets then fair market value of the stock shall be treated as actual cost of the asset.

Question 32: Write a note on the Method of Accounting as per Section 145.

Answer: Method of Accounting Section 145

Income chargeable under the head "Profits and gains of business or profession" or "Income from other sources" shall, be computed in accordance with either cash or mercantile system of accounting regularly employed by the assessee however any system of accounting once adopted has to be followed consistently but it can be changed with the permission of assessing officer.

Question 33 [V. Imp.]: Write a note on Section 43B.

Answer: Certain deductions to be only on actual payment Section 43B

If any assessee has maintained books of accounts on the basis of mercantile system of accounting, all the expenditures are allowed on due basis. But the expenditures listed under section 43B are allowed only on actual payment basis.

These expenditures are: -

(a) any sum payable by the assessee by way of **tax**, **duty**, **cess** or **fee**, by whatever name called, under any law like **Municipal Tax**, **Professional Tax** , **Composition Tax** etc.

(b) **Employer's contribution to any provident fund** or **superannuation fund** or **gratuity fund**, **Employees State Insurance (ESI)** or **any other fund** for the welfare of employees.

(c) **Bonus** or **commission** or **leave salary** to the employee.

(d) **Interest on any loan or borrowing from any Public Financial Institution or a State Financial Corporation or a State Industrial Investment Corporation or scheduled bank. Deposit taking non-banking financial company or systemically important non-deposit taking non-banking financial company.**

(e) Any sum payable by the assessee to the Indian Railways for the use of railway assets,

(f) Any sum payable by the assessee to a micro or small enterprise beyond the time limit specified in section 15 of the Micro, Small and Medium Enterprises Development Act, 2006

The assessee is allowed to make the payment till the last date of filing of return of income relating to the previous year in which the expenditure was incurred.

If the payment is made after the last date of filing of return of income, expenditure is allowed in the year in which the assessee has made the payment. *This clause is not applicable for payment to MSME.*

Example

ABC Ltd has debited bonus of ₹3,00,000 to the Profit/Loss A/c for the previous year 2023-24 and the company paid the bonus on 07.12.2024, in this case expenditure is not allowed in the previous year 2023-24. Rather expenditure is allowed in the previous year 2024-25. Similarly if the payment is made by the company on 07.05.2025, expenditure shall be allowed in the previous year 2025-26.

Question 34: Write a note on full value of consideration for transfer of assets other capital asset in certain cases.

Answer: Special provision for full value of consideration for transfer of assets other than capital assets in certain cases Section 43CA

If any person has sold land or building which was held as stock-in-trade and it was sold at a value less than the stamp duty value, in such cases sale value shall be considered to be stamp duty value but if the seller has entered into a agreement to sell the property at an earlier date and some advance was taken through account payee cheque or account payee draft or through electronic clearing system through a bank account, Credit Card, Debit Card, Net Banking, IMPS (Immediate Payment Service), UPI (Unified Payment Interface), RTGS (Real Time Gross Settlement), NEFT (National Electronic Funds Transfer), and BHIM (Bharat Interface for Money) Aadhaar Pay, in such cases stamp duty value on the date of agreement shall be taken into consideration.

If the stamp duty value is upto 110% of the actual consideration, the consideration so received shall be considered to be full value of consideration for the purpose of computing income under the head Business/ Profession.

Question 35 [V. Imp.]: Discuss the provisions of the Income Tax Act 1961, regarding compulsory maintenance of accounts.

Answer: Compulsory maintenance of accounts Section 44AA Rule 6F

Provisions regarding maintaining of books of accounts shall be as given below:

1. Persons having specified profession

The person having specified profession have to maintain any books of accounts as may enable the Assessing Officer to compute his total income, however they have to maintain prescribed books of accounts if gross receipt exceeds ₹1,50,000 in all the three years immediately preceding the previous year.

Example

Mr. X is engaged in medical profession and his gross receipt during the various years is asunder:

1. 2022-23 1,40,000
2. 2021-22 1,70,000
3. 2020-21 1,25,000

In this case, during the previous year 2023-24, Mr. X is not required to maintain prescribed books of accounts because gross receipt has not exceeded ₹1,50,000 during all the three years immediately preceding the relevant previous year. But if receipt during 2022-23 is ₹1,75,000 and during 2020-21 it is ₹1,55,000, he has to maintain prescribed books of accounts during 2023-24.

If profession has been newly setup in the previous year and gross receipt are likely to exceed ₹1,50,000, he should maintain prescribed books of accounts.

Specified Profession shall include

1. Legal profession 2. Medical profession 3. Engineering profession 4. Architectural profession 5. Profession of accountancy 6. Technical consultancy 7. Interior decoration 8. Authorised representatives 9. Film artists 10. Company Secretary 11. Information Technology.

Preservation of the books of accounts

The books of accounts are to be kept and maintained for the period of atleast **6 years** from the end of the relevant assessment year.

2. Persons carrying on business or any profession, not specified above

Such persons are not required to maintain accounts in general, however if their **income from business or profession exceeds one lakh twenty thousand rupees or their total sales turnover or gross receipts as the case may be, in business or profession exceeds ₹ 10 lakhs in any one of the three years immediately preceding the previous year, they will be required to maintain any books of accounts.**

In case of business or profession newly set up in any previous year, obligation to maintain accounts will arise if the income is likely to exceed ₹1,20,000 or total sales turnover or gross receipts as the case may be in business or profession are likely to exceed ₹10 lakhs during such previous year.

For Individual and HUF Limit of ₹2,50,000 instead of ₹1,20,000 and Limit of ₹25,00,000 instead of ₹10,00,000 shall be applicable.

3. Persons whose business income is to be computed on presumptive basis under section 44AD/44ADA/44AE

If income of any person is to be computed under section 44AD or 44ADA or 44AE on presumptive basis but such person has rejected presumptive income and his income is exceeding the maximum amount which is exempt from income tax, in such cases such person shall be required to maintain any books of accounts (also audit is required as per section 44AB), e.g. Mr. X has turnover of his business ₹20,00,000 but he has rejected presumptive income, books/ audit not required but if turnover is ₹50,00,000 and person has rejected presumptive income, books as well as audit is required.

Question 36 [V. Imp.]: Write short note on Compulsory Tax Audit.

Answer: Compulsory Tax Audit

Audit of accounts of certain persons carrying on business or profession Section 44AB

The following persons have to get their accounts audited.

1. Every person carrying on business, if his total sales turnover or gross receipts, in business exceeds **₹100 lakh** during the previous year.

2. Every person carrying on profession if his gross receipts in profession exceed ***₹50 lakh*** during the previous year.

3. If income of any person is to be computed under section 44AD or 44ADA or 44AE on presumptive basis but such person has rejected presumptive income, in such cases such person shall be required to get the accounts audited.

4. Every person carrying on business, if his total sales turnover or gross receipts, in business exceeds ₹1000 lakh during the previous year provided that in the case of a person whose—

(a) aggregate of all amounts received including amount received for sales, turnover or gross receipts during the previous year, in cash, does not exceed five per cent. of the said amount. and

(b) aggregate of all payments made including amount incurred for expenditure, in cash, during the previous year does not exceed five per cent. of the said payment.

Provided further that for the purposes of this clause, the payment or receipt, as the case may be, by a cheque drawn on a bank or by a bank draft, which is not account payee, shall be deemed to be the payment or receipt, as the case may be, in cash.

The accounts should be audited by a Chartered Accountant and audit report should be submitted latest by one month prior to the last date of filing of return of income

Provided *that this section shall not apply to a person, who declares profits and gains for the previous year in accordance with the provisions of sub-section (1) of section 44AD or sub-section (1) of section 44ADA:*

Penalty for violating provisions of Section 44AB Section 271B

If any person fails to get his accounts audited or fails to submit audit report in time, penalties may be imposed under section 271B equal to ½% of total turnover or gross receipt subject to a maximum of ₹1,50,000.

Example

Mr. X has turnover of his business ₹105 lakhs but he has failed to get his accounts audited, in this case penalties may be imposed amounting to ₹52,500 but if his turnover was ₹400 lakhs, penalties imposable shall be ₹2,00,000 but maximum ₹1,50,000.

Question 37 [V. Imp.]. Briefly describe provisions of income tax act for computing profit and gains of business on Presumptive Basis.

Answer: Special provision for computing profits and gains of business on presumptive basis. Section 44AD

1. If any assessee has turnover of his business **upto *₹200 lakhs***, such assessee is allowed to compute income on presumptive basis and income under the head business/profession shall be presumed to be **8% of the turnover** and no further deduction is allowed under section 30 to 38.

2. Such option is allowed only to an **Individual/ HUF / Firm** who are resident but not to LLP or Company.

3. Section 44AD is applicable only to business and not to specified profession and also it is not applicable for the persons having earning as commission or brokerage.

4. Such assessee shall be required to pay advance tax to the extent of 100% of tax liability on or before 15th March of the relevant previous year otherwise interest shall be charged @ 1% for one month on the amount of default.

5. Brought forward business loss is allowed to be adjusted from such income but brought forward depreciation is not allowed to be adjusted from such income.

6. The assessee shall be exempt from maintaining books of accounts or audit.

7. If an assessee has opted for presumptive income under section 44AD and in the subsequent 5 years he has rejected presumptive income, in that case he will not be allowed to opt for presumptive income for next 5 years. If assessee has rejected the presumptive income, he will be required to maintain any books of accounts and also audit is required. e.g. Mr. X has opted for presumptive income under section 44AD in the previous year 2023-24, in this case he cannot reject 44AD during the subsequent 5 previous years i.e. previous year 2024-25, 2025-26, 2026-27, 2027-28, 2028-29. If he has rejected 44AD in any of these 5 years, he will not be allowed to opt for 44AD in next 5 years. If he has rejected 44AD in previous year 2025-26, he cannot opt for 44AD during the previous year 2026-27, 2027-28,2028-29,2029-30, 2030-31.

Rate of 6% shall be applied instead of 8% if the amount of total turnover or gross receipts which is received by an account payee cheque or an account payee bank draft or use of electronic clearing system through a bank account or Credit Card, Debit Card, Net Banking, IMPS (Immediate Payment Service),

UPI (Unified Payment Interface), RTGS (Real Time Gross Settlement), NEFT (National Electronic Funds Transfer), and BHIM (Bharat Interface for Money) Aadhaar Pay during the previous year or before the due date specified in subsection (1) of section 139 in respect of that previous year.

Provided *that where the amount or aggregate of the amounts received during the previous year, in cash, does not exceed five per cent of the total turnover or gross receipts of such previous year, this sub-clause shall have effect as if for the words "two crore rupees", the words "three crore rupees" had been substituted:*

Provided further *that for the purposes of the first proviso, the receipt of amount or aggregate of amounts by a cheque drawn on a bank or by a bank draft, which is not account payee, shall be deemed to be the receipt in cash.*

Question 38. Explain Special provision for computing profits and gains of profession on presumptive basis. Section 44ADA

Answer: <u>Special provision for computing profits and gains of profession on presumptive basis Section 44ADA</u>

(1) An Assessee, ***being an individual or a partnership firm other than a limited liability partnership who is a resident in India***, having specified profession shall be allowed to have option to compute income on presumptive basis provided gross receipt is not exceeding ₹ 50 lakh during that year and income under the head Business/Profession shall be presumed to be 50% of gross receipt and no further deduction shall be allowed under the head Business/Profession.

(2) The assessee shall be exempt from maintaining books of accounts.

(3) Such Assessee has the option to reject presumptive income but in that case the assessee shall be required to maintain any books of accounts and also audit is required.

(4) Assessee can change the option on year to year basis.

(5) Brought forward business loss is allowed to be adjusted from such income but brought forward depreciation is not allowed to be adjusted from such income.

(6) Such assessee shall be required to pay advance tax to the extent of 100% of tax liability on or before 15th March of the relevant previous year otherwise interest shall be charged @ 1% for one month on the amount of deposit default.

Provided *that in case of an assessee where the amount or aggregate of the amounts received during the previous year, in cash, does not exceed five per cent of the total gross receipts of such previous year, this sub-section shall have effect as if for the words "fifty lakh rupees", the words "seventy-five lakh rupees" had been substituted:*

Provided further *that for the purposes of the first proviso, the receipt of amount or aggregate of amounts by a cheque drawn on a bank or by a bank draft, which is not account payee, shall be deemed to be the receipt in cash.*

Question 39 [V. Imp.]. Describe the provisions for computing profit and gains of business of Plying, Hiring or Leasing Goods Carriages.

Answer: <u>Special provision for computing profits and gains of business of plying, hiring or leasing goods carriages</u> <u>Section 44AE</u>

1. If any person is engaged in the business of plying, hiring or leasing goods carriages, he will have the option to compute income under the head business/profession on presumptive basis and it will be **<u>₹7,500 per month or part of the month per goods carriage</u>** provided it is not a heavy goods vehicle. Heavy goods vehicle means goods vehicle having gross weight more than 12 ton (12000 kg.) If it is a heavy goods vehicle income shall be presume to be ₹1000 per ton of gross weight, e.g. if weight of vehicle is 14 ton (14000 kg), income shall be ₹ 14,000 per month.

If actual income is more than the presumptive income, actual income shall be taken into consideration.

Assessee **<u>should not have more than 10 goods carriages</u>** at any time during the year otherwise such option is not allowed.

2. No further deduction is allowed under section 30 to 38 **<u>but in case of a firm interest and salary to partners is allowed as per section 40(b).</u>**

3. The assessee shall be exempt from maintaining books of accounts or audit.

4. The assessee has the option to reject presumptive income but in that case assessee should maintain any books of accounts and also audit is required.

5. An assessee, who is in possession of a goods carriage, whether taken on hire purchase or on instalments, shall be deemed to be the owner of such goods carriage.

6. Assessee can change the option on year to year basis.

7. Brought forward depreciation shall not be allowed to be adjusted but brought forward business loss shall be allowed to be adjusted.

ORDER OF SET-OFF OF LOSSES / DEPRECIATION

Order of set of losses and depreciation shall be as given below

(a) Current year expenses

(b) Current year depreciation / Current year capital expenditure on scientific research and current year expenditure on family planning, to the extent allowed.

(c) Brought forward loss from business/profession [Section 72(1)]

(d) Unabsorbed depreciation [Section 32(2)] / Unabsorbed capital expenditure on scientific research [Section 35(4)]/ Unabsorbed expenditure on family planning [Section 36(1)(ix)]

OPTIONAL TAX REGIME

Question 1: Write a note on Additional Depreciation.

Answer: Additional Depreciation Section 32

Additional depreciation shall be allowed @ 20% to all the assessee in connection with plant and machinery for the purpose of manufacturing and also to the assessee engaged in generation, **transmission** or distribution of electricity. Additional depreciation shall be allowed only in the year in which asset has been put to use. It is allowed only once i.e. it is not allowed every year.

Additional depreciation is not allowed in the following cases:

(i) Second hand plant and machinery i.e. plant and machinery should be brand new

(ii) Any **machinery or plant installed in any office premises or any residential accommodation**, including accommodation in the nature of a guest-house or

(iii) Any **office appliances** or **road transport vehicles** or **ships and aircraft**

(iv) Any **machinery** or **plant**, the **actual cost** of which has been debited to profit and loss account.

If the asset is purchased and put to use for less than 180 days, additional depreciation shall be allowed at 10% and remaining additional depreciation shall be allowed in the subsequent year.

Illustration: ABC Ltd. is engaged in manufacturing and has submitted information as given below:

1. Factory Building – Written down value on 01.04.2023 was ₹12,00,000.
2. Plant and Machinery (Rate 15%) – Written down value on 01.04.2023 is ₹8,70,000.
3. Purchase of new plant (eligible for additional depreciation) on 30.06.2023 (Put to use on 01.07.2023) ₹1,20,000.
4. Purchase of new plant (eligible for additional depreciation) on 31.12.2023 (Put to use on 01.01.2024) ₹1,10,000.
5. Sale of old Plant on 01.12.2023 ₹6,40,000.
6. Motor Car (Rate 15%) – Written down value on 01.04.2023 was ₹1,20,000.
7. Sale of Car on 30.09.2023 ₹1,50,000.

Compute depreciation allowed.

Solution:

	₹
Factory Building, Depreciation @ 10%	
Written down value on 01.04.2023	12,00,000
Depreciation @ 10%	1,20,000
Plant and Machinery, Depreciation @ 15%	
Written down value on 01.04.2023	8,70,000
Purchase on 30.06.2023, put to use on 01.07.2023	1,20,000
Purchase on 31.12.2023, put to use on 01.01.2024	1,10,000
Sale of old plant on 01.12.2023	(6,40,000)

Written down value on 31.03.2024	4,60,000
Depreciation @ 15% on ₹3,50,000	52,500
Depreciation @ 7.5% on ₹1,10,000	8,250

Additional depreciation

1,20,000 x 20%	24,000
1,10,000 x 10%	11,000

Motor Car, Depreciation @ 15%

Written down value on 01.04.2023	1,20,000
Sale on 30.09.2023	(1,50,000)
Short term capital gain	30,000

2. Donation/contribution to research association Section 35

If any assessee has given donation to the notified research association, assessee shall be allowed to debit the amount to the profit and loss account in the manner given below:

(i) As per section 35(1)(ii), an amount equal to the amount of donation given to an **approved scientific research association** or approved **university**, **college etc.** shall be allowed to be debited to profit and loss account. E.g. ABC Ltd. has donated ₹10,00,000 to an approved research association for scientific research, company is allowed to debit ₹10,00,000 to profit and loss account.

(ii) As per section 35(1)(iia), if donation is given to an **Indian company** approved by prescribed authority for the purpose of scientific research, deduction allowed **shall be equal** to the donation.

(iii) As per section 35(1)(iii), deduction allowed **shall be equal** to the donation if donation is given to any approved institution for the purpose of research in social science or statistical research.

(iv) As per section 35(2AA), an amount equal to the amount of donation given to **National Laboratory**, **University** or **Indian Institute of Technology with a specific direction that the said sum shall be used for scientific research undertaken.** shall be allowed to be debited to profit and loss account.

Further there is no condition that the research should be related to the business or profession of the assessee.

(If any assessee do not have business/profession, such assessee can claim deduction under section 80GGA.)

The Institution covered under section 35(1)(ii)/(iia)/(iii) shall give an intimation in prescribed manner to prescribed Income Tax Authority within 3 months from the date when FA,2020 comes into force otherwise their approval shall stand cancelled. Also any approval granted shall be valid for 5 years.

Question 3 : Write a note on specified business.

Answer: Deduction in respect of expenditure on Specified Business Section 35AD

In case of certain business, the assessee shall, **if he opts,** be allowed to debit even the capital expenditure to the profit and loss account and such business shall be called **specified business** and further amount allowed to be debited shall be **equal to the capital expenditure** incurred and such business are as given below:

01. Cold chain facility for storing agricultural produce, meat and meat products, poultry and dairy products etc.
02. Warehousing facility for storage of agricultural produce.
03. Hospitals with at least one hundred beds for patients.
04. Housing project under a scheme for affordable housing.
05. Production of fertilizer including increase in installed capacity of an existing plant.
06. Pipeline network for distribution of natural gas or petroleum products.
07. Pipeline network for the transportation of iron ore.
08. Hotel of two star or above category.
09. Housing project for slum development.
10. Inland container depot or a container freight station.
11. Bee-keeping and production of honey.
12. Warehousing facility for storage of sugar.
13. Semi-conductor wafer fabrication manufacturing unit.
14. Developing or maintaining or operating a new infrastructure facility.

The capital expenditure incurred before commencement of business shall also be allowed to be debited in the year in which the business has commenced.
The following capital expenditure shall not be allowed

- **Acquisition of any land; or**
- **Goodwill; or**
- **Financial instrument**

If any capital asset which was debited to profit and loss account, has been sold, amount received on sale shall be considered to be income under the head business/profession as per section 28.
If any capital asset was acquired for the said business and amount was debited to profit and loss account, it must be used for the said business for a period of atleast 8 years otherwise the amount debited shall be considered to be income of the assessee of the year in which the asset has been used for other purpose, however normal depreciation shall be deducted and only balance amount shall be considered to be income.
As per section 73A, loss of specified business can be set off only from profits and gains of any other specified business and carried forward is allowed for unlimited periods and in the subsequent years also, the loss can be set off only from income of specified business.
Loss from normal business and unadjusted depreciation can be adjusted from income of specified business. Similarly loss under the head house property or loss under the head other sources can be setoff from income of specified business.
Capital Expenditure shall not include any expenditure in respect of which the payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque drawn on a bank or an account payee bank draft or use of electronic clearing system through a bank account or Credit Card, Debit Card, Net Banking, IMPS (Immediate Payment Service), UPI (Unified Payment Interface), RTGS (Real Time Gross Settlement), NEFT (National Electronic Funds Transfer), and BHIM (Bharat Interface for Money) Aadhaar Pay, exceeds ₹10,000.
No deduction shall be allowed to the assessee under any other section in any previous year or under this section if the deduction has been claimed or opted by the assessee and allowed to him under this section.

4. ALTERNATE MINIMUM TAX Section 115JC to 115JF

Alternate Minimum Tax provisions shall be applicable in case of all the assesses except a company (in case of company minimum alternate tax is applicable).
Further such provisions shall not be applicable for individual, HUF, AOP, BOI and Artificial Juridical persons if adjusted total income does not exceed 20 lakhs.
"Alternate minimum tax" means the amount of tax computed on adjusted total income at a rate of eighteen and one-half per cent;
"Regular income-tax" means the income-tax payable for a previous year by a person on his total income computed in the normal manner.
Adjusted total income shall be the total income as increased by—
(i) deductions claimed, if any, under Chapter VI-A under the heading "C.—Deductions in respect of certain incomes" i.e. 80JJAA,80QQB, 80RRB etc.
(ii) deduction claimed, if any, under section 10AA and
(iii) deduction claimed, if any, under section 35AD as reduced by the amount of depreciation allowable in accordance with the provisions of section 32 as if no deduction under section 35AD was allowed in respect of the assets on which the deduction under that section is claimed.

If AMT is payable, tax credit is allowed which is AMT minus regular tax and it can be adjusted in the subsequent years whenever regular tax is more than AMT but to the extent excess of regular tax over AMT and carry forward is allowed for maximum 15 years starting from the year subsequent to the year to which tax credit relates.
Example: XY partnership firm has total income of ₹48,00,000 after claiming deduction u/s 10AA ₹32,00,000, in this case tax treatment shall be as given below:

Regular income tax	(₹48,00,000 x 30%)	14,40,000
Add: HEC @ 4%		57,600
Tax Payable		14,97,600

Alternate minimum tax 14,80,000
(₹48,00,000+₹32,00,000) x 18.5%
Add: HEC @ 4% 59,200
Tax payable 15,39,200
In the given case regular income tax payable is lower than alternate minimum tax payable hence tax shall be payable based on alternate minimum tax.
Tax credit allowed 15,39,200-14,97,600 = 41,600
If in previous year 2023-24, normal tax liability is 10,00,000 and AMT is 9,00,000, tax payable shall be 10,00,000-41,600 = 9,58,400
But if AMT is 11,00,000, tax payable shall be 11,00,000 and tax credit allowed shall be 1,00,000 + 41,600 = 1,41,600
Example: Compute tax payable and tax credit in the following cases

Previous year	Regular Income Tax	AMT	Tax Payable	Tax Credit
2023-2024	10,00,000	9,00,000	10,00,000	-
2024-2025	7,00,000	8,50,000	8,50,000	1,50,000
2025-2026	9,20,000	8,40,000	8,40,000 (9,20,000-80,000)	70,000 (1,50,000-80,000)
2026-2027	15,00,000	14,00,000	14,30,000 (15,00,000-70,000)	- (70,000-70,000)
2027-2028	12,00,000	14,00,000	14,00,000	2,00,000

If assessee has opted for section 115BAC, provisions of AMT shall not apply.
AMT provisions are not applicable if the person has not claimed any deduction under Chapter VI-A, section 10AA and section 35AD. Also the provisions are not applicable to an individual, HUF, AOP, BOI and artificial Juridical Person provided adjusted total income of such person does not exceed ₹20,00,000. However even in such cases, tax credit shall be allowed to be adjusted.

INCOME UNDER THE HEAD SALARY

SECTION 15 TO 17

Question 1: Explain Basic Pay/Dearness Allowance/ Bonus/Commission/Fees.
Answer: Basic Pay/Dearness Allowance/Bonus/Commission/Fees
Basic Pay: Basic Pay is the essential component of salary. It is given by employer to employee for his basic qualities like qualification, experience and expertise in particular field and it is generally given in the form of a pay scale 2,000 – 100 – 2,500 – 200 – 3,500 – 300 – 5,000 – 400 – 7,000. The pay scale has in general 20 increments. Basic pay is always fully taxable.
Dearness Allowance: Dearness Allowance is given to an employee to compensate him for increase in prices and it is generally allowed as certain percentage of basic pay and it is linked to consumer price index and it is revised on quarterly basis. Dearness allowance of an employee is always fully chargeable to tax.
As per Section 16 (ia), Standard Deduction of ₹50,000 or salary whichever is lower shall be allowed from the salary.
Bonus: It is the part of the profits of the employer, which is given to an employee and it is fully taxable.
Fees/Commission: Extra payment for extra work is called commission or fees and it is always fully taxable.
Question 2 [V. Imp.]: Discuss the provisions relating to taxability of recognised Provident Funds?
Answer: Recognised provident fund Part A of fourth schedule/ Section 10(12)
Employer's contribution **upto 12% of the employee's retirement benefit salary** shall be exempt from income tax.
Interest credited to the provident fund account **upto 9.5% p.a. shall be exempt from income tax**, but if employee contribution is exceeding ₹2,50,000, entire interest on the amount in excess of ₹2,50,000 shall be taxable and as per rule 9D, provident fund department shall maintain separate accounts.
Meaning of Retirement Benefit Salary
Retirement Benefit Salary shall include:
(i) Basic pay
(ii) Dearness allowance if the terms of employment so provided
(iii) Commission if it is paid as a fixed percentage of the turnover as decided in **Gestetner Duplicators Pvt. Ltd v CIT, (1979)(SC).**
Payments From Recognised Provident Funds
Payments received from recognised provident fund shall be exempt from income tax if the employee has complied with any of the conditions given below:
(i) If the employee has rendered continuous service for a period of **5 years** or more, or
(ii) If he has not rendered such continuous service, the service has been terminated by reason of the employee's ill-health, or by the contraction or discontinuance of the employer's business or other cause beyond the control of the employee, or
(iii) If the employee obtains employment with any other employer and the provident fund has been transferred to such employer and the total service with the former employer and the current employer is of 5 years or more.
If the employee has not complied with even a single condition, in that case amount received shall be taxable but only that part which was exempt earlier. Employer contribution and interest shall be taxable under the head Salary.
Example
Mr. X retired from ABC Ltd. and received RPF balance as given below-

Employer Contribution	5,00,000	- 15%
Employee contribution	5,00,000	- 15%
Interest	2,00,000	- 10% p.a.

The employee has not complied with even a single condition prescribed for this purpose, taxable amount shall be.
Employer contribution = 5,00,000 / 15% x 12% = 4,00,000 (Taxable under the head Salary)
Interest on employer contribution = (1,00,000 /10% x 9.5%) = 95,000 (Taxable under the head Salary)
Interest on employee contribution = (1,00,000 /10% x 9.5%)= 95,000 (Taxable under the head other sources)
Employee contribution 5,00,000 Exempt.

Question 3: Explain provisions relating to Unrecognised Provident Fund.

Answer: Employer contribution and interest on employee and employer contribution shall be exempt from income tax so long as the employee is in employment but at the time of leaving the job, employer contribution and interest on employer and employee contribution shall be taxable, however amount of employee contribution shall not be taxed at the time of receipt because it has already been taxed when the employee was in employment.
The employer's contribution and interest thereon is taxable under the head salary but interest on employee contribution shall be taxable under the head Other Sources.

Question 4: Explain taxability of Statutory provident fund. Section 10(11) (Provident Fund Act 1925)

Answer: Statutory provident fund (also called Government Provident Fund) is applicable in case of Government employees and is regulated through Provident Fund Act, 1925. The Employer donot contribute to this fund hence there is no tax treatment for employer contribution and interest on employer contribution. Interest on employee contribution is exempt from Income Tax but if employee contribution is exceeding ₹5,00,000, entire interest on the amount in excess of ₹5,00,000 shall be taxable and as per rule 9D, provident fund department shall maintain separate accounts.
Further, the lump sum payment from such provident fund at the time of retirement or termination of service is also exempt from tax.

Question 5 [V. Imp.]: Write a note on Taxability of Gratuity.

Answer: Taxability of Gratuity

Gratuity means a **gratuitous payment** made by the employer to the employee at the time of his leaving the job in recognition of the meritorious services and the association of the employee with the institution. With the enactment of **Payment of Gratuity Act 1972**, gratuity has become a statutory obligation on the part of the employer.
Gratuity is fully chargeable to tax if it is given during continuity of the job.

Death cum retirement gratuity Section 10(10)

Tax treatment of gratuity is asunder:

A –Employees of State Government/Central Government/Local Authority
B –Employees covered under payment of Gratuity Act 1972
C –Any other employee.

A – Employees of State Government/Central Government/Local Authority:

Any death cum retirement gratuity received by Central or State Government employees including employees of a local authority is fully exempt from tax.

B – Employees covered under payment of Gratuity Act 1972:

Any gratuity received by the employees covered under payment of Gratuity Act 1972, shall be exempt to the extent of the least of the following:
(i) Gratuity received
(ii) ₹ 20,00,000
(iii) 15 days salary for each completed year of service or part thereof in excess of six month.
In case of employees of a **seasonal establishment**, in place of 15 days, only **7 days** salary will be taken.
15 days or 7 days wages shall be calculated by considering number of days in a month to be 26.

Salary here means last drawn salary and includes only Basic Pay and Dearness Allowance

However, in case of piece rated employees, salary shall be computed on the basis of average of the total wages received by them for a period of three months immediately preceding the termination of their employment.

Example

Mr. X is the piece rated employee who is retired on 10.03.2024 and wages received by him from 11.12.2023

to 10.03.2024 are ₹33,000. In this case, one month salary shall be ₹33,000/3 = ₹11,000 and 15 days salary shall be = 11,000/26 x 15 = ₹6,346.15

C – Any other employee:

The least of the following will be exempt

(i) Gratuity received

(ii) ₹ 20,00,000

(iii) Half month's salary for each completed year of service.

Salary here means **average salary for ten months immediately preceding the month of retirement** and will consist of Basis pay + Dearness allowance (if provided) + Commission on sales turnover achieved by the employee and paid at fixed rate.

If an employee was retired earlier and has received gratuity and some exemption was allowed and same employee has taken up some other employment and is retired from the other employer also, in this case exemption shall be allowed again but maximum exemption allowed from all the employers cannot exceed ₹20 lakh.

If any employee is expired and gratuity has been received by the family members, exemption shall be allowed in the normal manner and balance amount shall be taxable as income of such member under the head other sources.

No exemption from gratuity is allowed if the relationship of employer and employee does not exist. e.g. Gratuity paid by LIC to its insurance agents is chargeable to tax.

Question 6 [V. Imp.]: Write a note on taxability of pension.

Answer: Taxability of Pension

Uncommuted pension

Pension is a periodical payment received by an employee after his retirement and is taxable as salary in case of all categories of employees.

Family pension Section 56

If any employee is expired and pension is being received by his family members, such pension shall be called family pension and **as per section 56, it is taxable under the head other sources** and the assessee **shall be allowed deduction under section 57 equal to 1/3 of gross pension or ₹15,000, whichever is less.**

Example

Mrs. X is getting family pension of ₹4,000 p.m. after the death of Mr. X. In this case, her taxable income shall be ₹33,000.

Commuted pension Section 10(10A)

1. Commuted Pension received by employees of Central Government, State Government, Local Authority or Statutory Corporation.

It is wholly exempt from tax under section 10(10A).

2. Commuted pension received by any other employee

(a) In case where any other employee receives gratuity, the commuted value of **1/3rd of the pension is exempt from tax.**

(b) If the employee has **not received gratuity**, the **commuted value of ½ of such pension is exempt from tax.**

Pension by winners of gallantry award Section 10(18)

Pension received by individuals who are winners of **Param Vir Chakra, Maha Vir Chakra or Vir Chakra** or such other gallantry awards shall be fully exempt from income tax.

Similarly, pension received by the family members of an individual mentioned above shall be exempt from income tax.

Family pension received by family members of the persons who died in the course of operational duties Section 10(19)

Any family pension received by the widow or children etc. of the members of armed forces including para-military forces of the union shall be exempt from income tax provided death of such member has occurred in the course of operational duties.

Question 7 [V. Imp.]: Write a note on taxability of Leave Salary/Encashment of Leave.

Answer: Taxability of Leave Salary/ Encashment of Leave

Sometimes an employee may surrender his leave and may get equivalent payment in cash, it is called leave salary.

Exemption in respect of encashment of leave salary Section 10(10AA)

(1) Any leave salary received by an employee while he is in service is fully taxable under section 17(1).

(2) If he gets encashment at the time of leaving the service (including resignation) he can avail the exemption under section 10(10AA).

The provisions of the exemption are as follows: -

(i) **In the case of Government employees:** Any amount received as leave salary at the time of retirement whether on superannuation or otherwise, is exempt from tax, in case of employees of State Government/Central Government. E.g. Mr. X is retired from Central Govt. and has received leave salary of ₹2,00,000, in this case it will be exempt from income tax.

(ii) **In case of other employees** including the employees of local authority and public sector undertakings:
Leave salary is exempt from tax to the extent of the least of the following:

(a) Leave salary received
(b) ₹ 25,00,000
(c) 10 months x average salary
(d) average salary x Leave at the credit

Leave at the credit = Leave entitlement
Less: (i) Leave availed during entire service
Less: (ii) Leave encashed during entire service

While computing leave entitlement, **maximum leave allowed shall be 30 days for each completed year of service (part of the year shall not be taken into consideration)**

'Salary' includes basic salary plus dearness allowance to the extent the terms of employment so provide plus fixed percentage of commission on the turnover achieved by the assessee.

Average salary is to be calculated on the basis of the average salary drawn by the employee during the period of 10 months immediately preceding his retirement.

If any employee has received leave salary from two or more employers, exemption for each of the employers shall be computed separately, however, total exemption allowed can not exceed ₹3,00,000.

Salary paid to legal heirs of the deceased employee in respect of privilege leave standing to the credit of such employee at the time of his/her death is not taxable.

Question 8: Are receipts in the nature of retrenchment compensation received by a person at the time of retrenchment of his service taxable? Discuss.

Answer: Retrenchment Compensation Section 10(10B)

Retrenchment in general means termination of employees because the employer is closing down his business or profession or there is substantial decline in business of employer and in such cases the employer has to pay compensation to the employees and it is called retrenchment compensation and it will be exempt to the extent of the least of the following:

(a) Retrenchment compensation received
(b) An amount calculated in accordance with the provisions of section 25F(b) of the Industrial Disputes Act, 1947 or
(c) The amount as specified by the Government (i.e. ₹5,00,000).

Section 25F(b) of the Industrial Disputes Act provides for payment of retrenchment compensation equivalent to 15 days' average pay for every year of continuous service or any part thereof in excess of six months. Average shall be taken for 3 months and salary shall include only basic pay and dearness allowance

Question 9: Write a note on voluntary retirement scheme.

Answer: Voluntary Retirement Scheme Section 10(10C) Rule 2BA

Sometimes the employer may offer some amount to the employee so that the employee himself submits his resignation and it is called voluntary retirement and in such cases amount paid by employer shall be exempt from income tax to the extent of the least of the following

(i) The amount receivable on voluntary retirement
(ii) ₹5,00,000
(iii) **three months' retirement benefit salary for each completed year of service**. (part of the year shall be

ignored)
(iv) retirement benefit salary at the time of retirement x the **balance months of service left before the date of his retirement on superannuation.**
(As per section 35DDA, employer shall be allowed to debit the amount to the profit and loss account in five annual equal installments)
e.g. Mr. X has taken voluntary retirement after completion of 18 years of service and at that time remaining service was 7 years and employer paid ₹6,00,000 on voluntary retirement and his retirement benefit salary at the time of voluntary retirement was ₹5,000 p.m., in this case taxable amount shall be
(i) ₹6,00,000
(ii) ₹5,00,000
(iii) 5,000 x 3 x 18 = 2,70,000
(iv) 5,000 x 12 x 7 = 4,20,000
Received = ₹6,00,000
Exempt = (₹2,70,000)
Taxable = ₹3,30,000
If in the above case employee has taken voluntary retirement after completion of 22 years of service, taxable amount shall be
(i) ₹6,00,000
(ii) ₹5,00,000
(iii) 5,000 x 3 x 22 = 3,30,000
(iv) 5,000 x 12 x 3 = 1,80,000
Received = ₹6,00,000
Exempt = (₹1,80,000)
Taxable = ₹4,20,000

TAXABILITY OF ALLOWANCES

(i) House Rent Allowance Section 10(13A) Rule 2A
Payment in cash by the employer to the employee for a specific purpose is called allowance e.g. If Mr. X is employed in ABC Ltd. and the employer has paid him ₹5,000 p.m. for taking a house on rent, it will be called house rent allowance. It will be fully taxable.

(ii) Special Allowance Section 10(14) Rule 2BB
Special allowances are divided into 2 parts:
(A) Personal allowance Section 10(14)
(B) Official allowance Section 10(14)
Personal allowance Section 10(14) Rule 2BB
Personal allowances are as given below:
(1) Children Education Allowance shall be fully taxable.
(2) Hostel Allowance shall be fully taxable
(3) Transport Allowance
Allowance given to an employee to meet his expenditure for the purpose of commuting between the place of his residence and the place of his duty is called transport allowance, but Transport allowance granted to an employee, who is blind or orthopaedically handicapped with disability of lower extremities, to meet his expenditure for the purpose of commuting between the place of his residence and the place of his duty is exempt upto **₹3,200 p.m**.
(4) Outstation Allowance
Any allowance granted to an employee working in any transport system to meet expenses of boarding and lodging during his duty performed in the course of running of such transport from one place to another place is called outstation allowance. Such allowance is given in lieu of daily allowance. It will be fully taxable.

(5) Underground Allowance

Sometimes the employer may pay some allowance to the employees who are working in the mines and such allowance is called underground allowance. It shall be fully taxable.
(6) Tribal Area Allowance

Sometimes an employee may be posted in the tribal area and employer may pay him some allowance, it is called tribal area allowance. It shall be fully taxable.

Official allowance Section 10(14) Rule 2BB

The allowances given by the employer for official purpose are called official allowance and taxability is as given below:

(1) Travelling Allowance means allowance given by the employer to meet the cost of traveling when the employee is on official tour and it is fully exempt but saving is taxable.

(2) Daily Allowance means allowance given by the employer to meet the cost of boarding and lodging when the employee is on official tour. Since it is given on per day basis, it is called daily allowance and it is fully exempt but saving is taxable.

(3) Conveyance Allowance: Any allowance granted to meet the expenditure incurred on **conveyance** is called conveyance allowance and it is fully exempt but saving is taxable.

(4) Helper Allowance: Any allowance granted to meet the expenditure incurred on a **helper** where such a helper is engaged for the performance of duties of office or employment and it is fully taxable.

(5) Academic Allowance: Any allowance granted for **encouraging academic research** and **training pursuits** in educational and research institutions and it is fully taxable.

(6) Uniform Allowance: Any allowance granted to meet the expenditure incurred on the purchase **or maintenance of uniforms** for wear during the performance of the duties of an office or employment and it is fully taxable.

If travelling allowance or daily allowance or conveyance allowance are given for personal purpose, it will be taxable e.g. If travelling allowance or conveyance allowance is given for personal purpose, it will be taxable.

Question 10: What is tax incidence on allowance and perquisites provided by the Govt. to its employees posted abroad? (Foreign allowance)

Answer: Allowances and perquisites provided by the government to its employees posted abroad Section 10(7)

Any allowances or perquisites paid or allowed as such outside India by the Government to a citizen of India for rendering service outside India are exempt from income tax.

Example

Mr. X is an I.F.S. and is a Citizen of India and is getting Medical Allowance, Servant Allowance, Education Allowance and some other allowance outside India, and is posted in U.S.A in Indian Embassy. All these allowances are fully exempt from income tax under section 10(7).

Similarly, any perquisite allowed to such employees shall be fully exempt from tax.

Question 11: Explain other allowances.

Answer: Other Allowances Section 17(1)

Any other allowance is fully chargeable to tax and such allowances may be:

- City Compensatory Allowance.
- Cash Allowance
- Overtime Allowance.
- Medical Allowance.
- Servant Allowance.
- Tiffin Allowance.
- Entertainment Allowance
- Similarly there may be any number of other personal allowances.

Question 12: Write a note on Standard Deduction.

Answer: As per Section 16 (*ia*) a deduction of ***fifty thousand rupees*** or the amount of the salary, whichever is less.

Question 13 [V. Imp.]: Write a note on chargeability of Salary.

Answer: Chargeability of Salary Section 15

Salary is taxable on due basis or receipt basis whichever is earlier i.e. if salary is due but not received, it is taxable in the year in which it is due. Similarly if salary has been received in advance, it is taxable in the year in which it has been received.

Example

Mr. X is employed in ABC Ltd. and is getting basic pay of ₹50,000 p.m. during the previous year 2023-24 and the employer has made the payment in time upto February 2024 but salary for the month of March 2024 was paid in April 2024, in this case his salary taxable in previous year 2023-24 shall be ₹6,00,000.

Example

Mr. X is employed in ABC Ltd. and is getting basic pay of ₹50,000 p.m. during the previous year 2023-24 and he has taken salary in advance for the month of April and May 2024 in the month of March 2024, in this case his salary taxable in previous year 2023-24 shall be ₹7,00,000.

Arrears of Salary

Sometimes salary of employee may be increased from retrospective effect i.e. from back date and employee may receive arrear of salary, such arrears are taxable in the year in which arrears have been received however relief shall be allowed under section 89.

Example

Mr. X is employed in ABC Ltd. getting basic pay ₹50,000 p.m. but the employer has increased his basic pay to ₹60,000 p.m. on 01.07.2023 but the increase is w.e.f 01.01.2023, in this case arrears of salary amounting to ₹30,000 shall be taxable in the year 2023-24 and accordingly his gross salary shall be considered to be ₹7,50,000.

Question 14: Write a note on relief under section 89.

Answer: Relief under Section 89

If any person has received arrears of salary or advance of salary and because of this reason his tax liability has increased, he may claim relief under section 89 in the manner given below:

1. Compute tax liability for the previous year in which the arrear or advance of salary has been received including the amount of such arrear or advance.
2. Compute tax liability for the previous year in which the arrear or advance has been received excluding such arrear or advance.
3. Tax at step no. 1 minus tax at step no. 2 shall be the tax on such arrear or advance.
4. Compute tax liability of the previous year to which the arrear or advance relates including such arrear or advance.
5. Compute tax liability of the previous year to which arrear or advance relates excluding such arrear or advance.
6. Tax at step no. 4 minus tax at step no. 5 shall be tax on the arrears or advance in the year to which such arrear or advance relates.
7. Tax at step no. 3 minus tax at step no. 6 shall be the relief under section 89.

If there is no excess, no relief is admissible.

Question 15: Explain when the salary becomes due.

Answer: When is salary due :

Last day of the month/first of the next month

Salary is due on the last day of the month or on the first day of the next month depending upon the agreement between the employee and the employer.

If salary is due on the last day of the month, salary from April to March shall be due during the particular year but if salary is due on the first of next month, salary from March to February shall be due during the relevant previous year.

e.g. Mr. X is employed in ABC Ltd. getting basic pay ₹50,000 p.m. but it was increased to ₹70,000 p.m. w.e.f. 1st July 2023. Compute his total income and tax liability in two situations

(i) Salary is due on last day of the month

(ii) Salary is due on first of next month

Solution:

(i) Salary is due on last day of the month

In this case salary shall be taxable from April to March and shall be as given below:

April to June 2023 (50,000 x 3)	1,50,000
July to March 2024 (70,000 x 9)	6,30,000
Gross Salary	7,80,000
Less: Standard Deduction u/s 16(ia)	(50,000)

Income under the head salary	7,30,000
Gross Total Income/Total Income	7,30,000
Computation of Tax Liability	
Tax on ₹7,30,000 at slab rate	28,000
Add: HEC @ 4%	1,120
Tax Liability	29,120

(ii) Salary is due on first of next month

In this case salary shall be taxable from March to February and shall be as given below:

March to June 2023 (50,000 x 4)	2,00,000
July to February 2024 (70,000 x 8)	5,60,000
Gross Salary	7,60,000
Less: Standard Deduction u/s 16(ia)	(50,000)
Income under the head salary	7,10,000
Gross Total Income/Total Income	7,10,000
Computation of Tax Liability	
Tax on ₹7,10,000 at slab rate	26,000
Less: Marginal Relief	(16,000)

Working Note:	
Tax on income of ₹7,10,000	26,000
Tax on income of ₹7,00,000	Nil
Increase in tax	26,000
Increase in income	10,000
Marginal Relief (26,000 – 10,000)	16,000

Tax after marginal relief	10,000
Add: HEC @ 4%	400
Tax Liability	10,400

Taxability of Perquisites

Meaning of Perquisite

Perquisite means facilities or perks given by employer and are as given below:

Question 16 [V. Imp.]: Discuss the taxability of rent free accommodation given to an employee by his employer?

Answer: Taxability of rent free accommodation given to an employee by his employer Section 17(2)(i) Rule 3(1)

If the employer has taken the accommodation on rent and given it to the employee free of rent, taxable amount shall be 10% of salary or rent paid or payable by the employer whichever is less e.g. If salary is ₹5,00,000 and rent paid by employer is ₹40,000, taxable amount shall be ₹40,000 but if rent paid by employer is ₹1,00,000, taxable amount shall be ₹50,000 i.e. 10% of ₹5,00,000

If furniture is also provided alongwith house

If employer has also provided furniture (including T.V., refrigerators, other household appliances, air conditioning plant or equipment), Perquisite value shall be **10% p.a. of original cost of furniture** and not WDV. If the employer has taken furniture on rent, rent paid by employer shall be considered to be perquisite value e.g. Mr. X is employed in ABC Ltd. and the employer has provided him facility of air-conditioner for 3 months and rent paid by employer is ₹3,000, in this case taxable amount shall be ₹3,000.

If the accommodation is owned by the employer, taxable amount shall be as given below:

(i) If the population is upto 15 lakhs	5% of rent free accommodation salary
(ii) If the population is more than 15 lakhs but upto 40 lakhs	7.5% of rent free accommodation salary
(iii) If the population is more than 40 lakhs	10% of rent free accommodation salary

Example

Compute perquisite value in the following situations:

(i) Mr. X is employed in ABC Ltd. getting basic pay ₹50,000 p.m. and the employer has provided him a rent free accommodation which is owned by the employer himself at a place with population of 2,00,000.

(ii) Mr. X is employed in ABC Ltd. getting basic pay ₹50,000 p.m. and the employer has provided him a

rent free accommodation which is owned by the employer himself at a place with population of 15,00,000.
(iii) Mr. X is employed in ABC Ltd. getting basic pay ₹50,000 p.m. and the employer has provided him a rent free accommodation which is owned by the employer himself at a place with population of 22,00,000.
(iv) Mr. X is employed in ABC Ltd. getting basic pay ₹50,000 p.m. and the employer has provided him a rent free accommodation which is owned by the employer himself at a place with population of 50,00,000 (accommodation was provided only for three months).

Solution:

(i) Computation of Perquisite value

5% of rent free accommodation salary
Rent free accommodation salary = 50,000 x 12 = 6,00,000
5% of ₹6,00,000 = 30,000
Perquisite value of rent free accommodation = ₹30,000

(ii) Computation of Perquisite value

5% of rent free accommodation salary
Rent free accommodation salary = 50,000 x 12 = 6,00,000
5% of ₹6,00,000 = 30,000
Perquisite value of rent free accommodation = ₹30,000

(iii) Computation of Perquisite value

7.5% of rent free accommodation salary
Rent free accommodation salary = 50,000 x 12 = 6,00,000
7.5% of ₹6,00,000 = 45,000
Perquisite value of rent free accommodation = ₹45,000

(iv) Computation of Perquisite value

10% of rent free accommodation salary
Rent free accommodation salary = 50,000 x 3 = 1,50,000
10% of ₹1,50,000 = 15,000
Perquisite value of rent free accommodation = ₹15,000

Meaning of Salary

Rent free accommodation salary shall include:

(i) Basic pay
(ii) Dearness Allowance/Dearness Pay. If it forms part of salary for retirement benefits as per service agreement.
(iii) Taxable portion of all allowances.
(iv) Bonus /Commission /Fees etc.
(v) Leave salary (when the employee is in employment)

It will not include

(i) Taxable portion of perquisites whether monetary or non-monetary
(ii) Taxable portion of provident fund
(iii) Any payment after retirement like gratuity/ commuted pension or provident fund etc.
(iv) Arrear of salary or advance salary

Salary only for the period for which rent free accommodation is provided shall be taken into consideration.

Example

If rent free accommodation is provided from 01.05.2023 to 31.12.2023, Salary only for this period shall taken into consideration.

Meaning of Monetary and Non- Monetary Perquisites

If any facility has been arranged by the employer for the employee and payments are also made by the employer, it will be called Non - monetary perquisite, eg. If employer has made arrangements of one servant for the employee and also payment is being made by the employer, it will be called non-monetary perquisite. If facility has been taken by the employee himself and employer has made the payments or employer has given reimbursement to the employee, it will be called monetary perquisite u/s 17(2)(iv). Similarly if employer has paid any amount on behalf of the employee, it will be called monetary perquisite, eg. Employer paid professional tax on behalf of the employee, it will be called monetary perquisite and is

covered u/s 17 (2) (iv).

Government Employees: In case Central or State Government provides the accommodation to their employees, perquisite value shall be the licence fee determined as per Government rules.

If furniture is also provided alongwith house

If employer has also provided furniture (including T.V., refrigerators, other household appliances, air conditioning plant or equipment), Perquisite value shall be **10% p.a. of original cost of furniture** and not WDV. If the employer has taken furniture on rent, rent paid by employer shall be considered to be perquisite value e.g. Mr. X is employed in Central Govt. and the employer has provided him facility of air-conditioner for 3 months and rent paid by employer is ₹3,000, in this case taxable amount shall be ₹3,000. (taxability of furniture in case of other employee is also the same).

Accommodation provided at two places

If any employee has been transferred and employer has provided him accommodation at the new place also, in such cases only one of the accommodation shall be taxable having lower perquisite value but only for a period of 90 days (three months) and thereafter both of the accommodations shall be taxable.

Example

Mr. X is employed in ABC Ltd. and is getting a basic pay of ₹30,000 p.m., dearness allowance ₹10,000 p.m. Employer has provided him a rent free accommodation at a place with population of 4,00,000 which is owned by the employer himself. The employee was transferred to some other place having population 13,00,000 w.e.f. 01.11.2023 and the employer has provided him accommodation at the new place also and for which rent paid by the employer is ₹2,000 p.m. Compute his Tax Liability for Assessment Year 2024-25.

Solution:	₹
Basic Pay (30,000 x 12)	3,60,000.00
Dearness Allowance (10,000 x 12)	1,20,000.00
Rent Free Accommodation {Sec 17(2)(i) Rule 3(1)}	22,000.00

Working Note:	₹
From 01.04.2023 to 31.10.2023	
5% of rent free accommodation salary	
Rent free accommodation salary	2,10,000
5% of rent free accommodation salary	10,500
Perquisite value of rent free accommodation	10,500
Computation of perquisite value for rent free accommodation in old place	
From 01.11.2023 to 31.01.2024	
5% of rent free accommodation salary	
Rent free accommodation salary	90,000
5% of rent free accommodation salary	4,500
(a) Perquisite value of rent free accommodation	4,500
Computation of perquisite value for rent free accommodation in new place	
From 01.11.2023 to 31.01.2024	
10% of rent free accommodation salary or rent paid whichever is less	
Rent free accommodation salary	90,000
10% of rent free accommodation salary	9,000
Rent paid (2,000 x 3)	6,000
(b) Perquisite value of rent free accommodation	6,000
Perquisite value of rent free accommodation from 01.11.2023 to 31.01.2024	
= Least of (a) or (b)	4,500
Computation of perquisite value for rent free accommodation in old place	
From 01.02.2024 to 31.03.2024	

5% of rent free accommodation salary	
Rent free accommodation salary	60,000
5% of rent free accommodation salary	3,000
Computation of perquisite value for rent free accommodation in new place	
From 01.02.2024 to 31.03.2024	
10% of rent free accommodation salary or rent paid whichever is less	
Rent free accommodation salary	60,000
10% of rent free accommodation salary	6,000
Rent paid (2,000 x 2)	4,000
Perquisite value of rent free accommodation	4,000
Total taxable amount = 10,500 + 4,500 + 3,000 + 4,000 = 22,000	

Gross Salary	5,02,000.00
Less: Standard Deduction u/s 16(ia)	(50,000.00)
Income under the head Salary	4,52,000.00
Gross Total Income	4,52,000.00
Less: Deduction under Chapter VI-A	Nil
Total Income	4,52,000.00
Computation of Tax Liability	
Tax on ₹4,52,000 at slab rate	7,600.00
Less: Rebate u/s 87A	(7,600.00)
Tax Liability	Nil

Accommodation provided in a hotel

Where accommodation is provided by the employer in a hotel except where the employee is provided such accommodation for a period not exceeding in aggregate **15 days on the transfer** from one place to another, in such a case perquisite value shall be **24% of salary or actual expenditure incurred whichever is less.**

Example

Mr. X is employed in ABC Ltd. and is getting basic pay of ₹50,000 p.m. and the employer has provided him accommodation in a hotel and expenditure incurred during the year is ₹1,60,000, in this case taxable amount shall be ₹1,44,000.

Question 17: Explain taxability of accommodation at concessional rent.

Answer: Accommodation at concessional rent Section 17(2)(ii) Rule 3(1)

If the employer has provided accommodation to the employee and has recovered some amount from the employee for the accommodation, in such cases perquisite value shall be computed in the similar manner as in case of rent free accommodation however amount recovered from the employee shall be deducted and only balance amount shall be taxable.

Question 18: Write a short note on perquisites in case of Specified Employee.

Answer: Perquisite in case of Specified Employee Section 17(2)(iii)

The perquisites covered under section 17(2)(iii) shall be taxable only in case of specified employees and such perquisites are

1. Motor car facility 17(2)(iii) Rule 3(2)
2. Gardener, Watchmen, Sweeper or Any other personal attendant [Sec. 17(2)(iii) Rule 3(3)].
3. Gas, Electricity or Water facility [Sec. 17(2)(iii) Rule3(4)].
4. Educational facility [Sec. 17(2)(iii) Rule 3(5)].
5. Transport facility [Sec. 17(2)(iii) Rule 3(6)].

Specified employee means any employee who has complied with atleast one the conditions given below:

(i) Any employee who is a director in a company whether full time or part time

(ii) Any employee who has a substantial interest in the company i.e. he is holding 20% or more of the voting power of the company.

(iii)Any employee whose monetary income under the head 'Salaries' exceeds ₹50,000.

If any employee is not a specified employee, he will be considered to be non-specified employee and the above perquisites shall be exempt from income tax.

Monetary income means income under the head salary but it will not include perquisite value of non monetary perquisites i.e. it will include:

(i) Basic Pay
(ii) Dearness Allowance/Dearness Pay
(iii) Bonus/commission/fees etc.
(iv) Taxable portion of all allowances
(v) Monetary perquisites
(vi) Any other payment in cash like gratuity, pension, leave salary etc. but it will not include contribution of employer to provident fund or interest of provident fund.

- Any arrears of salary or advance salary shall also be taken into consideration.
- Where salary is received from more than one employer during the relevant previous year, the aggregate salary from these employers is to be taken into account in determining the above ceiling limit of ₹ 50,000.
- Deduction under section ***16(ia),*** shall also be allowed.

Example

Mr. X is employed in ABC Ltd. getting basic pay ₹4,500 p.m., dearness allowance ₹500 p.m. Employer has paid children education allowance ₹300 p.m. for one child, entertainment allowance ₹35 p.m. Employer has also paid professional tax of ₹100 p.m. on behalf of the employee. Employer has provided him rent free accommodation with perquisite value ₹35,000 p.a.

The employee has received arrears of salary ₹4,000 and advance salary ₹3,000.

Compute employee's monetary income to determine whether he is the specified employee or non-specified employee.

Solution:

	₹
Computation of Monetary Income	
Basic Pay (4,500 x 12)	54,000
Dearness Allowance (500 x 12)	6,000
Children Education Allowance	3,600
Entertainment Allowance (35 x 12)	420
Professional Tax (100 x 12)	1,200
Arrears of Salary {Sec 15}	4,000
Advance Salary {Sec 15}	3,000
Gross Salary	72,220
Less: Standard Deduction u/s 16(ia)	(50,000)
Monetary Income	22,220

So, he is non-specified employee.

Question 19: Discuss the taxability of motor car facility given to an employee by his employer?

Answer:

As per Section 17(2)(iii), Rule 3(2), if the employer has provided motor car facility for personal use, it will be taxable and perquisite value shall be 10% per annum of actual cost plus expenses incurred by employer but facility shall be taxable only in case of specified employees and if employer has recovered any amount from the employee, it will be deducted and only balance amount shall be taxable. e.g. Mr. X is employed in ABC Ltd. and getting basic pay ₹50,000 p.m., dearness allowance ₹10,000 p.m. and employer has provided him one motor car for personal use with original cost ₹6,00,000 and expenditure on petrol ₹20,000, repairs ₹11,000, driver salary ₹10,000 p.m.

Employer has provided him rent free accommodation for which rent paid by employer is ₹15,000 p.m., in this case his income and tax liability shall be:

Basic Pay (50,000 x 12)	6,00,000
Dearness Allowance (10,000 x 12)	1,20,000
RFA (Sec 17(2)(i) Rule 3(1))	

RFA Salary = ₹6,00,000

6,00,000 x 10% or 15,000 x 12 whichever is less	60,000
Motor car (Sec 17(2)(iii) Rule 3(2))	2,11,000
(6,00,000 x 10%) + 20,000 + 11,000 + 1,20,000	
Gross Salary	9,91,000
Less: Standard Deduction u/s 16(ia)	(50,000)
Income under the head salary	9,41,000
Total Income	9,41,000
Tax on ₹9,41,000 at slab rate	51,150
Add: HEC @ 4%	2,046
Tax Liability	53,196
Rounded off u/s 288B	53,200

If in the above case employer has recovered ₹2,000 p.m. from the employee for use of motor car, taxable amount shall be 2,11,000 – 24,000 = 1,87,000

Car used partly for official and partly for personal purposes

If the employer has provided motor car facility for official as well as personal use, perquisite value shall be 600 p.m. if engine capacity of motor car is upto 1.6 litres otherwise it is ₹900 p.m.

If employer is incurring other expenses also except driver, taxable amount shall be 1,800 p.m. and 2,400 p.m. respectively. If employer has provided chauffeur (driver) also, there will be additional perquisite value of ₹900 p.m. Part of the month shall be ignored while computing perquisite value. E.g. Mr. X is employed in ABC Ltd. and employer has provided him one motor car for official/personal purpose with engine capacity 1.6 litres and all expenses are met by employer and driver is also provided, in this case taxable amount shall be (1,800 + 900) x 12 = 32,400 but if driver is not provided, taxable amount shall be 1,800 x 12 = 21,600.

More than one motor car is provided to the employee for official/personal use

If the employer has provided more than one motor car for official/personal use, in that case only one of the motor cars shall be considered to be for official/personal use and all other motor cars shall be considered to be for personal use and perquisite value shall be computed accordingly.

Motor car for going to office and coming back to residence is exempt from income tax.

Motor car owned by the employee and expenses are met or reimbursed by the employer Section 17(2)(iii) Rule 3(2)

Car used partly for official and partly for personal purposes – Value shall be amount paid by employer less **₹1,800 p.m.** where cubic capacity of engine does not exceed 1.6 litres or **₹2,400 p.m.** where cubic capacity of the engine exceeds 1.6 litres. It will be further reduced by **₹900 p.m.** if the employee has provided driver also. E.g. Mr. X is employed in ABC Ltd. and is getting basic pay ₹20,000 p.m. and he has one motor car with engine capacity 1.8 litres and it is being used for official purpose also and employee is getting ₹6,000 p.m. from the employer, in this case taxable amount shall be 6,000 – 2,400 = 3,600 p.m.

If the assessee has maintained records, deduction shall be allowed on the basis of such records.

If employee has any other automotive conveyance (two wheeler), amount to be deducted shall be ₹900 p.m.

If the assessee has maintained records, deduction shall be allowed on the basis of such records.

Personal purpose includes the benefit of **employee's household**, which means **spouse(s)**, **children** and **their spouses**, **parents**, **servants** and **dependants**.

Obligation of the employee met by the employer Section 17(2)(iv)

If motor car is owned by employee and it is used for his personal purpose and payment or reimbursement is given by employer, it is covered u/s 17(2)(iv) and entire amount paid or reimbursed is taxable in case of specified as well as non specified employees.

Question 20: Discuss the taxability of Gardener/ Watchman/Sweeper or Any Other Servant.

Answer: Taxability of gardener/watchman/ sweeper or any other servant Section 17(2)(iii) Rule 3(3)

If the employer has provided facilities of gardener/watchman / sweeper or any other servant, entire amount shall be taxable but only in case of specified employees. Any amount recovered from the employee shall be deducted and only balance amount shall be taxable.

Obligation of the employee met by the employer Section 17(2)(iv)

If the facility has been availed by the employee himself and payment or reimbursement has been given by

the employer, entire amount paid or reimbursed shall be taxable in case of specified as well as non-specified employees, as per section 17(2)(iv).

Question 21: Write a note on taxability of Gas/ Electricity or Water Facility.

Answer: Taxability of Gas/Electricity or Water Facility Section 17(2)(iii) Rule 3(4)

If the employer has provided facilities of gas, electricity or water, it will be taxable but only in case of specified employee and if the employer has his own business, perquisite value shall be the manufacturing cost to the employer. E.g. Mr. X is employed in Bisleri and the company has provided him free water facility for which manufacturing cost of the company is ₹1,000 and its market value is ₹1,100, in this case, perquisite value shall be ₹1,000.

If any amount has been recovered from the employee, it will be deducted and only balance amount shall be taxable.

Obligation of the employee met by the employer Section 17(2)(iv)

If the facility has been availed by the employee himself and payment or reimbursement has been given by the employer, entire amount paid or reimbursed shall be taxable in case of specified as well as non-specified employees, as per section 17(2)(iv).

Question 22: [V. Imp.] Write a note on taxability of educational facility.

Answer: Taxability of Educational Facility Section 17(2)(iii) Rule 3(5)

- If the employer has provided free education or training facility to the employee, there is no perquisite value.
- If education facility is provided to the children of the employee, it is exempt to the extent of ₹1,000 p.m. per child. (irrespective of the number of children)
- If education facility is provided in employer's own institution, Still it is taxable however normal exemption of ₹1,000 p.m. per child shall be allowed. Value for this purpose shall be the cost of similar type of education in a similar type of institution in the same locality.
- If any amount has been recovered from the employee, it will be deducted and only the balance amount shall be taxed.
- Since the facility is covered under section 17(2)(iii), it is taxable only in case of **specified employees**.

Note: It is controversial that amount in excess of 1,000 p.m. shall be taxable or if amount exceeds 1,000 p.m. then entire amount is taxable.

Obligation of the employee met by the employer Section 17(2)(iv)

If the facility has been availed by the employee for education of members of his household and payment or reimbursement has been given by the employer, entire amount paid or reimbursed shall be taxable in case of specified as well as non-specified employees as per section 17(2)(iv).

- If the employer has given children education allowance, it is exempt upto ₹100 p.m. per child for two children.

Example

Mr. X is employed in ABC Ltd. and is a specified employee. Compute perquisite value of educational facilities in the following situations:

(i) The employer has deputed him on one day seminar on Industrial Finance and Corporate Taxation and has paid participation fees of ₹3,000.

(ii) The employer has made arrangements for the education of his three childrens in his own school and has incurred ₹1,500 per month per child and has recovered ₹300 per month per child from the employee.

(iii) If the employee himself has made arrangements of the education of his three children in a public school and the employer has reimbursed ₹1,500 per month per child.

Solution:

(i) There is no perquisite value.

(ii) Perquisite value shall be ₹7,200.

(iii) Perquisite value shall be ₹54,000.

Example

Compute perquisite value in the following situations:

1. Mr. X is employed in ABC Ltd. and is getting salary of ₹4,000 p.m. The employer has incurred ₹1,500

p.m. on the education of his one son, perquisite value shall be _____.
2. Mr. X is employed in ABC Ltd. and is getting a salary of ₹7,600 p.m. and the employer has incurred ₹1,500 p.m. on the education of his one adopted son, perquisite value shall be _____.
3. Mr. X is employed in ABC Ltd. and is getting a salary of ₹10,000 p.m. and employer has spent ₹500 p.m. on the education of his daughter in law, perquisite value shall be _____.
4. Mr. X is employed in ABC Ltd. and is getting a salary of ₹4,000 p.m. and he has incurred ₹700 p.m. on the education of his one son, in this case perquisite value shall be _____.

Solution:
1. Nil
2. Nil
3. ₹6,000
4. Nil

Question 23: Write a note on taxability of Transport Facility.

Answer: Transport Facilities Section 17(2)(iii), Rule 3(6)

If the employer is **engaged in the business of carriage of goods or passengers** and the employer has provided facilities of free transport to the employee or to the members of his household, perquisite value shall be the amount charged by the employer from other person for similar facility.

If the employer has recovered any amount from the employee for such facility, it will be deducted and only balance amount shall be taxable.

The facility is exempt in case of employees of Airlines and Railways.

Since the facility is covered u/s 17(2)(iii), it is taxable only in case of specified employees.

Question 24: Write a note on obligation of the employee met by employer.

Answer: Obligation of the employee met by employer Section 17(2)(iv)

Any sum paid by the employer in respect of any obligation which, but for such payment, would have been payable by the assessee shall be taxable in the hands of the employee and shall be called monetary perquisite.

If the employer has paid any amount on behalf of the employee or has given any reimbursement to the employee i.e. obligation of the employee has been met by the employer, it will also be called monetary perquisites as per section 17(2)(iv) and entire amount paid or reimbursed by the employer shall be chargeable to tax.

Example

Mr. X is employed in ABC Ltd. and he has taken one electricity connection in his name and the electricity bill amounting to ₹ 5,000 has been paid by the employer on behalf of the employee, it will be called monetary perquisite and the amount so paid shall be added to the gross salary of the employee.

Similarly, if the employee has paid the bill but subsequently the employer has reimbursed the amount to him, it will also be called monetary perquisite.

Question 25: Explain taxability of payments of insurance premium by the employer on behalf of the employee.

Answer: Taxability of payments of insurance premium by the employer on behalf of the employee Section 17(2)(v)

If any employee has taken any policy in his name but premium has been paid by employer, the premium so paid shall be taxable however premium paid for personal accident policy, staff group insurance scheme shall be exempt.

Question 26: Explain taxability of issue of shares or securities by employer to employee.

Answer: As per section 17(2)(vi), if the employer has issued shares or securities to the employees, perquisite value shall be market value of such shares or securities and if employer has recovered some amount from the employee, it will be deducted and only difference amount shall be taxed. E.g. Mr. X is employed in ABC Ltd. and employer has issued 100 equity shares to the employee free of cost on 01.07.2023 and market value is ₹150 per share, in this case, taxable amount shall be 100 x 150 = ₹15,000 and if the shares have been sold by the employee, as per section 49(2AA), cost of acquisition shall be the market value which was taken into consideration under the head salary i.e. ₹15,000.

If the employee sold the above shares on 01.11.2023 for ₹270 per share, capital gains shall be computed in the manner given below:

Full value of consideration (100 x 270)	27,000
Less: Cost of acquisition	(15,000)
Short term capital gain	12,000

If shares were issued by the employer @ ₹40 per share, perquisite value under the head salary shall be (150 - 40 = 110) x 100 = 11,000 and capital gains shall be

Full value of consideration (100 x 270)	27,000
Less: Cost of acquisition	(15,000)
Short term capital gain	12,000

As per section 192(1C), A person, being an eligible start-up referred to in section 80-IAC, responsible for paying any income to the assessee being perquisite covered under section 17(2)(vi), shall deduct tax on such income within fourteen days—

(*i*) after the expiry of forty-eight months from the end of the assessment year in which shares were allotted; or

(*ii*) from the date of the sale of such specified security or sweat equity share by the assessee; or

(*iii*) from the date of the assessee ceasing to be the employee of the person,

whichever is the earliest, on the basis of rates in force for the financial year in which the said specified security or sweat equity share is allotted.

Question 27: Explain contribution to Recognised Provident fund or approved superannuation fund or notified pension fund by the employer in respect of an employee.

Any contribution to an approved superannuation fund by the employer in respect of an employee Section 17(2)(vii)

Employers contribution to recognized provident fund to the extent of 12% of salary shall be exempt. Employers contribution to NPS shall be eligible for deduction u/s 80CCD to the extent of 10% / 14% of salary. As per the new provision maximum exemption allowed for aggregate contribution to recognized provident fund and NPS and approved superannuation fund shall be ₹ 7,50,000 and excess over it shall be taxable. E.g. Mr. X employed ABC ltd. getting salary ₹ 100 lakhs and employer contributed 12% i.e. ₹ 12 lakh in this case ₹ 7.5 lakh shall be exempt and balance ₹ 4.5 lakh shall be taxable.

As per section 17(2)(viia), If any amount is taxable u/s 17(2)(vii), interest dividend etc. on such amount shall also be taxable. In the above case entire interest on ₹ 4.5 lakh shall be taxable. Taxable amount shall be computed as per rule 3B.

Example: Suppose X Pvt. Ltd. contributed ₹8,50,000 during the previous year 2023-24 towards recognized provident fund to the account of Mr. A. Mr. A had also made an equivalent contribution. Balance in his RPF A/c as on 1.4.2023 is ₹32,00,000. Interest accrued in his RPF during the previous year 2023-24 is ₹3,44,250. The taxable perquisite under section 17(2)(vii) for P.Y.2023-24 would be computed in the following manner:

Take the opening balance + closing balance and take the average

Opening balance	32,00,000
Closing balance = 32,00,000 + 17,00,000 + 3,44,250 =	52,44,250
Average balance = 32,00,000 + 52,44,250 = 84,44,250 / 2 =	42,22,125
Interest on average balance	3,44,250
Interest on Employer contribution 3,44,250 / 2	1,72,125
Interest on ₹1,00,000 = 1,72,125 / 42,22,125 x 1,00,000 =	4,076.73
Rounded off	4,077

Question 28 [V. Imp.]: Write a note on fringe benefits under Section 17(2)(viii) Rule 3(7).

Answer: Fringe Benefits under Section 17(2)(viii)

Fringe Benefits covered under section 17(2)(viii) are asunder:

(1) Interest free or concessional loans: Section 17(2)(viii) Rule 3(7)(i)

If the employer has given any loan to the employee or to the members of his household, it will be taxable and perquisite value shall be computed on the basis of interest rate charged by State Bank and interest rate taken by employer e.g. If employer has given a loan of ₹10 lakh to an employee on 01.04.2023 @ 4% p.a.

and interest rate charged by State Bank is 10% p.a., perquisite value shall be 10,00,000 x (10% – 4%) = 60,000. Further while computing perquisite value, balance outstanding at the end of each month shall be taken into consideration i.e. there is no calculation for part of the month.

Example

Mr. X is employed in ABC Ltd. and he has taken a loan of ₹10 lakh from employer on 20.04.2023 at a rate of 4% p.a. but SBI rate is 10% p.a. and loan was repaid in monthly installment of ₹2 lakh each starting from 10.07.2023, in this case, taxable amount shall be:

April' 2023	10,00,000 x 6% x 1/12	=	5,000
May' 2023	10,00,000 x 6% x 1/12	=	5,000
June' 2023	10,00,000 x 6% x 1/12	=	5,000
July' 2023	8,00,000 x 6% x 1/12	=	4,000
August' 2023	6,00,000 x 6% x 1/12	=	3,000
September' 2023	4,00,000 x 6% x 1/12	=	2,000
October' 2023	2,00,000 x 6% x 1/12	=	1,000
Taxable amount			25,000

If employer has given a petty loan, there is no perquisite value. Petty loan means one or more loan given by the employer where aggregate amount of all such loan during a particular year is upto ₹20,000.

(2) Facility of travelling, touring, accommodation (holiday home) etc. Section 17(2)(viii) Rule 3(7)(ii)

If the employer has provided facilities of travelling, touring or accommodation, it is taxable but it will not include leave travel concession under section 10(5)Rule 2B.

Perquisite value shall be actual expenditure incurred by the employer less amount recovered from the employee.

If the facility is maintained by the employer, perquisite value shall be the market value of the such facility.

If the employee is on official tour and any member of his household has accompanied him and the employer has incurred expenditure for such member, the amount so incurred shall be taxable.

If the employee is on official tour and the tour was extended for personal purpose, expenditure for the extended part of the tour shall be taxable.

(3) Free food or refreshment Section 17(2)(viii) Rule 3(7)(iii)

If the employer has provided free refreshments to the employees at the place of work during office hours, it will be exempt.

If the employer has provided free meals to the employees at the place of work during office hours, it will be exempt if the value per meal is upto ₹50. Excess over ₹50 shall be taxable e.g. Mr. X is employed in the office of Chartered Accountant and during the year he was given free lunch on many occasions and value per lunch is ₹125, in this case ₹75 per lunch is taxable.

(4) Gifts to the employees Section 17(2)(viii) Rule 3(7)(iv)

Gift given by the employer in kind upto ₹5,000 in aggregate during a particular year is exempt and excess over it is taxable. If the employer has given any voucher or token in lieu of which such gift may be received, it will also be exempt in the similar manner.

Gifts in cash or gifts convertible into cash i.e. gift cheques etc. shall be fully chargeable to tax.

E.g. Mr. X is employed in ABC Ltd. and employer has gifted him one mobile phone of value ₹26,000, in this case, taxable amount shall be ₹21,000 but if employer has given gift of ₹26,000 in cash, entire amount shall be taxable under the head salary.

Alternate View: The value of any gift or voucher received by the employee or by member of his household upto ₹5,000 in aggregate during the previous year would be exempt and if aggregate amount is exceeding ₹5,000 then entire amount is taxable.

(5) Credit card facility Section 17(2)(viii) Rule 3(7)(v)

The amount of expenses including membership fees and annual fees incurred by the employee or any member of his household, which is charged to a credit card (including any add-on-card) provided by the employer, or paid or reimbursed by such employer shall be taxable as reduced by the amount recovered from the employee.

However, expenses incurred wholly and exclusively for official purposes would not be treated as a perquisite if the following conditions are fulfilled.

(1) complete details in respect of such expenditure are maintained by the employer which may, inter alia, include the date of expenditure and the nature of expenditure;
(2) the employer gives a certificate for such expenditure to the effect that the same was incurred wholly and exclusively for the performance of official duties.

(6) Club facilities Section 17(2)(viii) Rule 3(7)(vi)

The value of benefit to the employee resulting from the payment or reimbursement by the employer of any expenditure incurred (including the amount of annual or periodical fee) in a club by him or by a member of his household shall be taxable. The amount so determined shall be reduced by the amount recovered from the employee. However, where the employer has obtained corporate membership of the club and the facility is enjoyed by the employee or any member of his household, the value of perquisite shall not include the initial fee paid for acquiring such corporate membership.

Further, if such expenditure is incurred wholly and exclusively for business purposes, it would not be taxable provided the following conditions are fulfilled:-

(1) complete details in respect of such expenditure are maintained by the employer which may, inter alia, include the date of expenditure, the nature of expenditure and its business expediency;

(2) the employer gives a certificate for such expenditure to the effect that the same was incurred wholly and exclusively for the performance of official duties.

There would be no perquisite for use of health club, sports and similar facilities provided uniformly to all employees by the employer

Facilities of health club, sports and similar facilities shall be exempt.

Example

ABC Ltd. has allowed membership of health club and sports club to their employees, in this case expenditure incurred by the company shall not be taxable in the hands of employees.

(7) Use of employer's assets by the employees Section 17(2)(viii) Rule 3(7)(vii)

If the employer has given any movable asset to the employee or to the members of his household for personal use, in such cases it will be taxable and perquisite value shall be 10% p.a. of actual cost of such asset less any amount recovered from the employee e.g. Mr. X is employed in ABC Ltd. and employer has given him one video camera with original cost ₹2,00,000 for 25 days, in this case taxable amount shall be 2,00,000 x 10% x 25/365 = 1,369.86. If employer has recovered ₹1,000 for such use, taxable amount shall be 1,369.86 – 1,000 = 369.86

If the employer has given any laptop or computer to the employee for personal use, it will not be taxable.

If the employer has provided a two wheeler to the employee, it will be taxable in the similar manner.

(8) Sale of assets by employer to the employee Section 17(2)(viii) Rule 3(7)(viii)

If employer has sold any movable asset to the employee, taxable amount shall be actual cost of such asset less 10% of actual cost per completed year of use of asset by the employer less amount paid by employee. In case of motor car, amount to be deducted shall be 20% of w.d.v. instead of 10% of actual cost and in case of computers, laptops, data storage devices, digital diaries and printers, it will be 50% of w.d.v.

Example

Asset	Furniture	Microwave oven	Motor car	Washing machine	Computer
Original cost	75,000	25,000	2,40,000	20,000	55,000
Date of purchase by the employer	07.03.2019	01.06.2021	10.07.2020	01.10.2013	01.01.2021
Date of putting to use	31.03.2019	01.06.2021	11.07.2020	01.11.2013	10.01.2021
Date of sale of asset to the employee	01.07.2023	01.04.2023	01.07.2023	31.12.2023	09.01.2024
Payment made by the employee	25,000	Gift to the employee	95,000	1,000	30,000

Solution: ₹

Computation of perquisite value of Furniture

Cost of the furniture	75,000
Less: Depreciation on straight line method @ 10% from 31.03.2019 to 30.03.2020	(7,500)

Less: Depreciation on straight line method @ 10% from 31.03.2020 to 30.03.2021	(7,500)
Less: Depreciation on straight line method @ 10% from 31.03.2021 to 30.03.2022	(7,500)
Less: Depreciation on straight line method @ 10% from 31.03.2022 to 30.03.2023	(7,500)
Written down value	45,000
Less: Amount paid by the assessee	(25,000)
Perquisite value of Furniture	20,000
Computation of perquisite value of Microwave oven	
Cost of Microwave oven	25,000
Less: Depreciation on straight line method @ 10% from 01.06.2021 to 31.05.2022	(2,500)
Written down value	22,500
Less: Gift to the employee	(5,000)
Perquisite value of microwave oven	17,500
Computation of perquisite value of Motor car	
Cost of the motor	2,40,000
Less: Depreciation on reducing balance method @ 20% from 11.07.2020 to 10.07.2021	(48,000)
Written down value	1,92,000
Less: Depreciation on reducing balance method @ 20% from 11.07.2021 to 10.07.2022	(38,400)
Written down value	1,53,600
Less: Amount paid by the assessee	(95,000)
Perquisite value of motor car	58,600
Computation of perquisite value of Washing Machine	
Cost of the washing machine	20,000
Less: Depreciation on straight line method @ 10% from 01.11.2013 to 31.10.2014	(2,000)
Written down value	18,000
Less: Depreciation on straight line method @ 10% from 01.11.2014 to 31.10.2015	(2,000)
Written down value	16,000
Less: Depreciation on straight line method @ 10% from 01.11.2015 to 31.10.2016	(2,000)
Written down value	14,000
Less: Depreciation on straight line method @ 10% from 01.11.2016 to 31.10.2017	(2,000)
Written down value	12,000
Less: Depreciation on straight line method @ 10% from 01.11.2017 to 31.10.2018	(2,000)
Written down value	10,000
Less: Depreciation on straight line method @ 10% from 01.11.2018 to 31.10.2019	(2,000)
Written down value	8,000
Less: Depreciation on straight line method @ 10% from 01.11.2019 to 31.10.2020	(2,000)
Written down value	6,000
Less: Depreciation on straight line method @ 10% from 01.11.2020 to 31.10.2021	(2,000)
Written down value	4,000
Less: Depreciation on straight line method @ 10% from 01.11.2021 to 31.10.2022	(2,000)
Written down value	2,000
Less: Depreciation on straight line method @ 10% from 01.11.2022 to 31.10.2023	(2,000)
Written down value	Nil
Less: Amount paid by the assessee	(1,000)
Perquisite value of washing machine	Nil
Computation of perquisite value of Computer	
Cost of the Computer	55,000
Less: Depreciation on reducing balance method @ 50% from 10.01.2021 to 09.01.2022	(27,500)
Written down value	27,500
Less: Depreciation on reducing balance method @ 50% from 10.01.2022 to 09.01.2023	(13,750)
Written down value	13,750
Less: Depreciation on reducing balance method @ 50% from 10.01.2023 to 09.01.2024	(6,875)
Written down value	6,875

Less: Amount paid by the assessee (30,000)
Perquisite value of computer Nil

(9) Any other benefit Section 17(2)(viii) Rule 3(7)(ix)

The value of any other benefit provided by the employer to the employee is chargeable to tax and its value shall be determined on the basis of cost to the employer.

If the employer has provided telephone facility including the mobile phone, it will be exempt. If the facility has been taken by the employee himself and the employer has made payment or reimbursement, still it is exempt from tax.

If the employer has given telephone allowance, it will be chargeable to tax.

Question 29. Write a note on Medical Facility.

Answer: Medical Facility Proviso to Section 17(2)

If the employer has provided medical facility to the employee or to his family members it will be exempt provided facility is given in any hospital owned by the Government / local authority / employer himself or it is any other private hospital approved by the Income Tax Department. E.g. Mr. X is employed in ABC Ltd. and employer has incurred ₹3,00,000 on his treatment in a private hospital approved by Income Tax Department, in this case it will be exempt from income tax. If treatment was taken by the employee himself in any such hospital (only above four hospitals) and employer has given reimbursement, in that case also it will be exempt from income tax.

If employer has incurred expenditure for treatment at any other place like private clinic or hospital etc., it will be taxable.

If the employer has paid premium for medi-claim policy taken in the name of employee or his family, it will be exempt from income tax.

If employer has paid medical allowance, it is always taxable.

"Family", shall include

(i) The spouse and children of the individual and

(ii) The parents, brothers and sisters of the individual provided they are dependent on the individual.

- If expenditure has been incurred by the employer on the treatment of any other person like mother in law, father in law, independent father etc., facility is taxable.

Medical facilities outside India

(i) If the employer has incurred expenditure on the treatment of the employee or any member of his family outside India, it is exempt to the extent permitted by Reserve Bank of India.

(ii) If the employer has incurred expenditure on the stay abroad of the patient including one attendant, it is exempt to the extent permitted by Reserve Bank of India.

(iii) If the employer has incurred expenditure on the travelling of the patient including one attendant, it is exempt provided gross total income of the employee do not exceed ₹2,00,000 before taking into consideration the expenditure incurred on travelling.

Payment for expenditure for treatment of COVID-19

If the employer has incurred any amount on the treatment of COVID-19 for employee or his family member, it will be exempt from income tax but the employee should retain the test report and the details of the treatment upto 6 months from the date of testing positive.

Question 30: Define 'Members of Employee's Household' and 'Family'.

Answer: 'Members of employee's Household' and 'Family'

"Member of household" shall include—

(a) spouse(s)

(b) children and their spouses

(c) parents

(d) any person dependant on the employee

(e) servants

"Family", in relation to an individual, means—

(i) the spouse and children of the individual and

(ii) the parents, brothers and sisters of the individual or any of them, wholly or mainly dependent on the individual.

Question 31: Explain the taxability of income tax paid by the employer on behalf of the employee in connection with non-monetary perquisites.

Answer:

Payment of income tax in connection with non-monetary perquisites Section 10(10CC)

If employer has paid income tax on behalf of the employee in connection with non- monetary perquisites, employer shall not be allowed to debit the amount so paid to the profit and loss account and also it will not be considered to be income of the employee as per section 10(10CC).

If income tax so paid is not in connection with non-monetary perquisites, employer shall be allowed to debit the amount to the profit and loss account and as per section 17(2)(iv), it will be considered to be income of the employee under the head salary.

Question 32: What is profit in lieu of salary and under what head it is chargeable to tax?

Answer:

Profit in lieu of Salary

As per section 17(3), certain payments given by the employer to the employee are called profit in lieu of salary because it is not appropriate to call such payments as salary and are as given below:

1. Taxable portion of Retrenchment Compensation or Voluntary Retirement.
2. Taxable portion of Gratuity, Commuted Pension and Provident Fund.
3. Amount received by the employee under Keymen Insurance Policy.
4. Amount received before taking up the employment or after termination of the employment.
5. Any other payment notified for this purpose.

Question 33: Define salary under section 17(1).

Answer: Meaning of Salary Section 17(1)

"Salary" includes— (i) wages; (ii) Bonus; (iii) Commission; (iv) Perquisites; (v) gratuity; (vi) pension; (vii) Profits in lieu of salary; (viii) leave salary; (ix) employer contribution to recognised provident fund in excess of 12% of salary of the employee; (x) amount contributed by employer to new pension system covered under section 80CCD; (xi) the contribution made by the Central Government in the previous year, to the Agniveer *Corpus Fund account of an individual enrolled in the* Agnipath *Scheme referred to in section 80CCH* .

Question 34: Distinguish between Foregoing of Salary and Surrender of Salary?

Answer: Foregoing of Salary / Surrender of Salary

Foregoing of Salary

If any salary has accrued to an employee, it is chargeable to tax even if he foregoes his salary. Waiver by an employee of his salary is foregoing of salary. Once salary accrues, subsequent waiver does not absolve him from liability to income tax.

Surrender of Salary

If any employee surrenders his salary to the **Central Government under the Voluntary Surrender of Salaries (Exemption from Taxation) Act, 1961**, the surrendered salary would not be included in computing his taxable income, whether he is a private sector/public sector or Government employee.

Question 35: The question whether a particular income is "Income from Salary". or is "Income from Business" depends upon whether the contracts is a 'Contract of Service' or is a 'Contract for Service'. Discuss.

Answer: Contract of Service / Contract for Service

Contract of service

Income is taxable under the head salary, if there is a 'contract of service' i.e. the relationship is that of employer–employee. In other words, the employee does the work for his master. Control and supervision vests in the master.

Contract for service

A 'contract for service', on the other hand, is one, in which a person offers his services to any person who is willing to pay the prescribed charges. He has discretion to do the work in his own way. He is entitled to the fruits of his labour and liable for its losses. Such receipts constitute income from business in his hands.

Question 36: What are the incomes taxable under the head Salary?

Answer: Incomes chargeable under the head Salary

Payments must be out of employer/employee relationship

The amount received by an individual shall be treated as salary only if the relationship between payer and payee is that of an employer and employee or master and servant. The employee may be a full time employee or part-time employee.

The important point is that payment received by an individual from a person other than his employer cannot be termed as salary. e.g. Commission received by a director from a company is salary if the director is an employee of the company and if the director is not an employee of the company, commission will be taxable under the head "Profits and gains of business or profession" or "Income from other sources."

Payments received by a college lecturer from a university

Emoluments received by a college lecturer from his college are salary, irrespective of the fact whether it is received for academic work or otherwise. If lecturer is paid for setting question paper by university, the remuneration is not salary, as it is not received from the employer and is taxable under the head "Income from other sources". The deciding factor is that what is not received from employer cannot be treated as salary.

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

OPTIONAL REGIME

Question 1: Write a note on deduction in case of contribution to New Pension Scheme of Central Government. (NPS).

Answer: Deduction in respect of New Pension System/ New Pension Scheme / Notified Pension Scheme (NPS) Section 80CCD

80CCD(1) If any employee has contributed to the NPS, deduction shall be allowed but maximum upto 10% of salary. If contribution has been made by an individual other than employee, deduction shall be allowed for the amount contributed but maximum upto 20% of gross total income.

80CCD(1B) An individual shall be allowed deduction upto ₹50,000 for his contribution in excess of the amount allowed under section 80CCD(1) e.g. If salary of the employee for a particular year is ₹10,00,000 and he has contributed @ 20% of the salary i.e. ₹2,00,000, in this case deduction of ₹1,00,000 shall be allowed under section 80CCD(1) and deduction of ₹50,000 u/s 80CCD(1B). Similarly if salary is ₹25,00,000 and he has contributed 10% i.e. ₹2,50,000, deduction allowed u/s 80CCD(1) shall be ₹1,50,000 and deduction allowed u/s 80CCD(1B) shall be ₹50,000.

80CCD(2) If employer is Central Government / State Government, deduction shall be allowed equal to the amount contributed but it cannot exceed 14% of salary and in case of other employers 10% of salary.

80CCD(3) If the employee has opted out of the scheme i.e. he has closed his account under this scheme, entire amount received shall be taxable but if amount has been received by the nominee after the death of the individual, it will be exempt from income tax.

Any pension received under this scheme shall be taxable.

If payment has been received after retirement, it will be exempt if amount received is upto 60% of the total amount.

ATAL PENSION YOJANA

Atal Pension Yojana (APY) is the Government Of India's social benefit pension program. Earlier when it was launched, there were no tax benefits. However, now APY is treated like NPS for tax benefits and eligible for deduction u/s 80CCD. Features of the scheme is as follows:

1. Any citizen of India whose age is between 18 years to 40 years can join this scheme.
2. You will start to receive the pension when you turn 60 years of age.
3. If the subscriber dies before the age of 60 years, his/her spouse would be given an option to continue contributing as usual, for the remaining period, till the original subscriber would have attained the age of 60 years.

4. If the spouse of the deceased not interested to continue the APY account, then he or she can close the account there itself and can claim the amount.
5. In case of death of subscriber, the same pension would be available to the spouse and on the death of both of them (subscriber and spouse), the pension wealth accumulated till age 60 of the subscriber would be returned to the nominee
6. Exit before age 60 would be permitted only in exceptional circumstances, i.e., in the event of the death of the beneficiary or terminal disease.

Question 2 [V. Imp.]: Discuss the taxability of house rent allowance given by the employer to his employee?

Answer: House Rent Allowance Section 10(13A) Rule 2A

Payment in cash by the employer to the employee for a specific purpose is called allowance e.g. If Mr. X is employed in ABC Ltd. and the employer has paid him ₹5,000 p.m. for taking a house on rent, it will be called house rent allowance.

House rent allowance is exempt to the extent of the least of the following:

(i) Rent paid over **10%** of retirement benefits salary due to the assessee for the relevant period.
(ii) **50%** of retirement benefit salary in case of **Bombay**, **Calcutta**, **Madras** or **Delhi**.
40% of retirement benefit salary in case of any other place.
(iii) House rent allowance received.

If there is any change in house rent allowance, rent paid, retirement benefits salary or the place of posting during the year, there will be separate calculation for each of such change.

Question 3 [V. Imp.]: Write a note on special allowances Section 10(14) Rule 2BB.

Answer: Special Allowance Section 10(14) Rule 2BB

Special allowances are divided into 2 parts:

(A) Personal allowance Section 10(14)
(B) Official allowance Section 10(14)

Personal allowance Section 10(14) Rule 2BB

Personal allowances are as given below:

(1) Children Education Allowance

Children education allowance is **exempt upto ₹100 p.m. per child upto two child.**

Example

Mr. X is employed in ABC Ltd. and the employer has paid him children education allowance of ₹175 p.m. per child for three children. In this case, taxable amount shall be

I	II	III
175	175	175
100	100	
75	75	175 = 325 x 12 = 3,900

Similarly, if the employer has paid children education allowance of ₹45 p.m. per child for three children, taxable amount shall be

I	II	III
45	45	45
45	45	
Nil	Nil	45 = 45 x 12 = 540

- **Exemption is allowed irrespective of the expenditure incurred.**

Example

Mr. X is employed in ABC Ltd. and is getting children education allowance of ₹400 p.m. per child for three children and Mr. X has incurred ₹500 p.m. on the education of each of the child, in this case taxable amount shall be

I	II	III
400	400	400
100	100	Nil
300	300	400 = 1000 x 12 = 12,000

(2) Hostel Allowance

Any allowance granted to an employee to meet the hostel expenditure on his child is exempt upto **₹300 p.m. per child upto two children**. Remaining provisions are similar to children education allowance.

(3) Transport Allowance

Allowance given to an employee to meet his expenditure for the purpose of commuting between the place of his residence and the place of his duty is called transport allowance, but Transport allowance granted to an employee, who is blind or orthopaedically handicapped with disability of lower extremities, to meet his expenditure for the purpose of commuting between the place of his residence and the place of his duty is exempt upto **₹3,200 p.m**.

(4) Outstation Allowance

Any allowance granted to an employee working in any transport system to meet his personal expenditure during his duty performed in the course of running of such transport from one place to another place is called outstation allowance. Such allowance is given in lieu of daily allowance. It is exempt to the extent of least of the following:

(i) **70% of the allowance**

(ii) **₹10,000 p.m.**

Example

Mr. X is employed in Indian Airlines and is getting outstation allowance of ₹10,000 p.m. In this case, exemption allowed shall be (10,000 x 12 x 70%) or (10,000 x 12) whichever is less i.e. ₹84,000 and taxable amount shall be ₹36,000

If the transport system has provided daily allowance as well as outstation allowance, in such cases, daily allowance is fully exempt and outstation allowance is fully taxable.

Transport system shall include Railways, Roadways, Shipping company etc. It will also include any other private transporter.

(5) Underground Allowance

Sometimes the employer may pay some allowance to the employees who are working in the mines and such allowance is called underground allowance and it is exempt upto ₹800 p.m.

(6) Tribal Area Allowance

Sometimes an employee may be posted in the tribal area and employer may pay him some allowance, it is called tribal area allowance and it is exempt upto ₹200 p.m.

Official allowance Section 10(14) Rule 2BB

The allowances given by the employer for official purpose are called official allowance and are exempt from income tax however saving is taxable and are as given below:

(1) Travelling Allowance means allowance given by the employer to meet the cost of traveling when the employee is on official tour.

(2) Daily Allowance means allowance given by the employer to meet the cost of boarding and lodging when the employee is on official tour. Since it is given on per day basis, it is called daily allowance.

(3) Conveyance Allowance: Any allowance granted to meet the expenditure incurred on **conveyance** is called conveyance allowance.

(4) Helper Allowance: Any allowance granted to meet the expenditure incurred on a **helper** where such a helper is engaged for the performance of duties of office or employment.

(5) Academic Allowance: Any allowance granted for **encouraging academic research** and **training pursuits** in educational and research institutions.

(6) Uniform Allowance: Any allowance granted to meet the expenditure incurred on the purchase **or maintenance of uniforms** for wear during the performance of the duties of an office or employment.

If the above allowances are given for personal purpose, it will be taxable e.g. If travelling allowance or conveyance allowance is given for personal purpose, it will be taxable.

Question 4: Write a note on entertainment allowance.

Answer: Entertainment allowance Section 16(ii) – Sometimes the employer may pay some amount to the employee to entertain the customers of the employer and it is called entertainment allowance and entire amount shall be added to the gross salary of the employee however deduction shall be allowed in case of government employees under section 16(ii) to the extent of the least of the following:

(i) 20% of basic salary
(ii) ₹ 5,000
(iii)The actual allowance received by the employee
Deduction is allowed only if the employee is State Government or Central Government employee i.e. in case of employees of Local Authority, Statutory Corporation, Public Sector Undertaking etc, deduction is not allowed.
If the employee has saved any amount, it will not be taken into consideration.
Question 5: Write a note on Professional Tax/Employment Tax.
Answer: Professional Tax/Employment Tax Section 16(iii)
As per article 276 of Indian constitution, state government is empowered to levy a tax on profession, business or employment and such tax shall be called professional tax or employment tax. If the person has business or profession, such tax can be debited to profit and loss account on actual payment basis and if the assessee is the employee he will be allowed to claim deduction from gross salary under section 16(iii) to compute income under the head salary. If the amount has been paid by the employer on behalf of the employee, it will be first included in gross salary under section 17(2)(iv) and subsequently deduction is allowed under section 16(iii). If the amount is due but not paid, deduction is not allowed.
Question 6 [V. Imp.]: Write a note on Leave Travel Concession.
Answer:
Leave Travel Concession Section 10(5) Rule 2B
Sometimes the employer may permit the employee or his family member to go to any place in India and travelling expenditure are incurred by the employer, such facility is called leave travel concession or leave fare concession.
Example
Mr. X is employed in ABC Ltd. and is posted in Delhi and the employer has allowed him to travel from Delhi to Goa and travelling expenditure has been incurred by the employer, in this case it will be called leave travel concession.
Taxability shall be as given below:
1. If the employee has travelled **by air**, exemption shall be allowed upto **air economy fare** of the national carrier. E.g. Mr. X travelled from place A to place B by air business class and employer paid ₹12,000 per ticket but economy class air fare is ₹7,000 per ticket, in this case taxable amount shall be ₹5,000.
2. If employee has not travelled by air, exemption shall be allowed upto first class AC fare of railways e.g. Mr. X travelled from place A to place B by railway first class AC and employer paid ₹6,000 per ticket, in this case entire amount is exempt but if employee has travelled by private tourist bus and employer paid ₹7,000 per ticket, taxable amount shall be ₹1,000 per ticket.
3. If the places are not connected by rail but there is some recognised transport system, exemption shall be allowed upto first class or deluxe class of such recognised transport system. Recognised transport system means govt. transport or private transport recognised by Govt.
4. If there is no rail connection and also there is **no recognised transport system**, exemption shall be allowed upto first class AC fare of railways (fare shall be determined on the basis of distance between the place travelled) E.g. Mr. X has travelled from place A to place B by a private bus (distance 50 kms) and employer has paid ₹ 600. There is no rail connection and also no recognised transport. First class AC fare of railway is ₹500, taxable amount shall be ₹100.
Ceiling on number of journeys
The exemption shall be available to an individual two times **in each block of four calendar years**.
Carry forward of leave travel concession
If the employee has not availed any leave travel concession or has availed only one leave travel concession during a particular block, carry forward shall be allowed but only for one leave travel concession and such LTC must be availed during very first year of the next block otherwise the LTC shall lapse.
Example: An employee does not avail any LTC for the block 2019-22. He avails one LTC during 2023. In this case, he will be eligible for exemption and two more journeys can be further availed.
"Family", shall include—
(i) the **spouse** and **children** of the individual however exemption shall be allowed maximum 2 children but

in case of multiple birth after the birth of one child, exemption is allowed for all the children e.g. Mr. X has one son aged 10 years and twin daughters aged 5 years, in this case exemption is allowed for all the 3 children.

(ii) the **parents**, **brothers** and **sisters** of the individual or any of them, wholly or mainly **dependent** on the individual.

- If the employer has paid leave travel allowance and employee has not travelled to any place, entire amount paid by the employer is taxable.
- The exemption is allowed only in respect of fare i.e. expenses incurred on conveyance from residence to the railway station/airport/ bus stand etc. and back shall be taxable.

Example

(i) Mr. X is employed in ABC Ltd. and the employer has allowed him to travel from Delhi to Bombay by air (business class) and has reimbursed ₹12,000 per ticket but economy class air fare is ₹7,000 per ticket, in this case taxable amount per ticket shall be ₹5,000.

If in the above case the employee has travelled alongwith Mrs. X, two children and one independent brother and the employer has reimbursed five tickets, taxable amount shall be ₹32,000.

(ii) Mr. Y is employed in ABC Ltd. and he has travelled from place 'A' to place 'B' by a private bus because there is no rail link and also there is no recognised transport and the employer has reimbursed him ₹3,000 per ticket but first class A/C fare of the railways is ₹2,800 per ticket, in this case taxable amount shall be ₹200 per ticket.

(iii) Mr. X has travelled from Delhi to Bombay by second class railways and the employer has paid him ₹5,000 per ticket being first class A/C fare. The employee has incurred ₹1,000 per ticket, in this case taxable amount shall be ₹4,000 per ticket.