

# 4 Incomes not part of Total Income

## Extra provisions for detailed and comprehensive study

*Note: Provisions already given in TaxBook+ are denoted with grey color. Extra provisions are denoted with black color.*

### 29. SPECIAL PROVISIONS IN RESPECT OF NEWLY ESTABLISHED UNITS IN SEZ [S. 10AA]

**Quantum of deduction:** Deduction in respect of the PY referred in Column 1 is allowed to the extent specified in Column 2 subject to fulfilment of conditions, if any, referred in Column 3 of the Table below.

Previous Year	Deduction u/s 10AA	Condition
First 5 years (from the year in which Unit begins MPS)	100% of profits derived from export	-
Next 5 years	50% of profits derived from export	-
Next 5 years	<b>Lower of:</b> (1) 50% of profits derived from export, or (2) Amount credited to Special Economic Zone Re-investment Reserve Account (SEZRRRA)	SEZRRRA should be used: (a) To acquire P&M which should be <b>first</b> put to use within 3 years post the year of creation of such reserve; and (b) Until such acquisition, for purposes of business of undertaking (but <b>not for</b> dividend, distribution of profits, remittance of profits outside India or creation of any asset outside India <sup>1</sup> )
<b>Deemed profits arise and are chargeable to tax in the following cases:</b>		
<b>If any amount credited to SEZRRRA is ↓</b>		<b>Deemed to be profits of which year?</b>
Utilized for a non-specified purpose		Year in which amount is misutilized
Not utilized within the 3-year period		Year following the 3-year period

As noted above, quantum of deduction is based on the profits derived from export. This is explained below.

*Profits derived from export =*

**Profits of business of SEZ Unit × (Export Turnover of SEZ Unit ÷ Total Turnover of business carried on by SEZ Unit)**

Following points should be noted in respect of receipt of export consideration in India as referred above:

- Proceeds are **deemed** to have been received in India where such export turnover is **credited** to a separate account maintained for that purpose by the assessee with any bank **outside** India with the **approval** of the RBI.
- While deduction u/s 10AA is not allowable for the AY if the export consideration is not repatriated within the time limit, it can be allowed subsequently by the Assessing Officer in terms of section 155(11A) once the export consideration is repatriated subsequently.

**Export:** It means taking goods or providing services **out of India** from a SEZ by land, sea, air, or by any other mode, whether physical or otherwise.

**Onsite development of computer software:** Profits from **onsite** development of computer **software** (including services for development of software) **outside** India is **deemed** to be profits derived from **export** of computer software outside India.<sup>2</sup>

<sup>1</sup> To ensure that exempted profits are recycled back in the business of Unit and not distributed away as profits or invested outside India.

<sup>2</sup> To ensure that onsite software services outside India are not denied benefit of 10AA on ground that there is no export.

*Switch over:* In case of amalgamation/demerger, unexpired deduction u/s 10AA is allowed to succeeding entity.

### 30. OTHER EXEMPTIONS [S. 10]

Additional exemptions are listed below:

Section	Eligible person	Exemption	Conditions
10(6)(ii)	Individual who is <b>not a citizen</b> of India	<b>Remuneration</b> received as an official of embassy, high commission, legation, commission, consulate or trade representation of a foreign State, or as staff of these officials.	Remuneration received by <b>corresponding</b> officials or staff of Indian Government, resident in such foreign countries, should be <b>exempt</b> . Staff members should be subjects of the country represented and not engaged in any other business or profession or employment <b>in India</b> .
10(6)(vi) <sup>3</sup>	Individual who is <b>not a citizen</b> of India	Remuneration received as an <b>employee</b> of a <b>foreign</b> enterprise for services rendered by him during his <b>stay in India</b> . This exemption is popularly called ' <b>Short Stay Exemption</b> '.	(a) The foreign enterprise is not engaged in any trade or business <b>in India</b> <sup>4</sup> ; (b) Stay in India <i>does not exceed 90 days</i> in the aggregate during the PY; <b>AND</b> (c) Remuneration is <b>not deductible</b> from the income of the <b>employer</b> chargeable under the Act. <sup>5</sup>
10(6)(viii) <sup>6</sup>	Individual who is <b>not a citizen</b> of India	<b>Salary</b> income for services rendered in connection with employment on a <b>foreign ship</b> .	(a) Individual is <b>non-resident</b> . (b) Total stay in India <i>does not exceed 90 days</i> in the aggregate during the PY.
10(6)(xi)	Individual who is <b>not a citizen</b> of India	Remuneration received as an <b>employee</b> of <b>foreign Government</b> during stay in India.	Stay should be in connection with <b>training</b> in any establishment or office of Government or connected entities.
10(18)	<b>CG/SG</b> employee	(a) <b>Pension</b> received by such person (b) <b>Family pension</b> received by any member of the family on death of the individual.	Should have been awarded Param Vir Chakra, Maha Vir Chakra, Vir Chakra or other notified <b>gallantry award</b> . <sup>7</sup>
10(19)	Family of member of <b>armed forces</b>	<b>Family pension</b> received by widow, children or heirs of member of armed forces (including para-military forces)	Death of member occurred in the course of operational duties in specified circumstances.
10(26AAA)	<b>Sikkimese</b> individual	Any income accruing or arising: (a) From any <b>source in Sikkim</b> ; or (b) By way of <b>dividend</b> or <b>interest</b> on securities (source can be anywhere)	-

<sup>3</sup> To promote short duration movement of expatriates.

<sup>4</sup> To exempt only insignificant or transient business presence of expatriates with low economic nexus with India.

<sup>5</sup> To avoid double non-taxation, first as deduction to the employer and secondly as exemption to the expatriate under this clause.

<sup>6</sup> To exempt insignificant or transient presence in India of such foreign nationals with low economic nexus with India.

<sup>7</sup> It has been clarified that exemption is available to **all** armed forces personnel (irrespective of rank; not just officers) who have been **invalided** for naval, military or air force service on account of bodily disability attributable to or aggravated by such service. Further, such exemption is available only to personnel who have been so invalided from service and **not** to personnel who have been retired on superannuation or otherwise. - *Circular 13/2019*.

**31. EXPENDITURE INCURRED IN RELATION TO INCOME NOT INCLUDIBLE IN TOTAL INCOME [S. 14A]**

*Formula of disallowance under Rule 8D:* Disallowance is computed in accordance with Rule 8D as given below.

Step	Method	Amount	
1	Expenditure <b>directly</b> relating to exempt income	<b>A</b>	....
2.1	Monthly average of opening and closing balances of the value of investment, income from which is exempt	B	
2.2	Annual average of B	C	
2.3	1% of C <sup>8</sup>	<b>D</b>	....
3	Disallowance ( <b>cannot exceed</b> total expenditure claimed by assessee)	<b>A + D</b>	....



<sup>8</sup> The #2 step basically targets exempt income arising out of investments like dividend. It seeks to disallow 1% of average value of investment over the PY.