

# EXTRA PROVISIONS FOR COMPREHENSIVE STUDY

TAXBOOK<sup>+</sup> - INCOME TAX (CONCEPTS) & TAXBOOK<sup>+</sup> - INCOME TAX (PRACTICE)

For May/September 2025 and January 2026 exams

## IMPORTANT NOTE

Certain provisions of the law are not important from the point of view of exams, although they are part of the syllabus. No question has ever been asked from these provisions. As per 'ABC' categorization, these provisions fall under Category C (least important). Hence, these provisions have not been printed in TaxBook<sup>+</sup>. This has been done to prevent the book from becoming unnecessarily bulky and burdensome.

However, exams are unpredictable and there is no guarantee that a question will never be asked from a provision. **Hence, although not necessary, I will recommend that you study these provisions from an overview perspective.** Accordingly, students with a meritorious outlook who wish to study comprehensively can study these provisions.

**This file contains not only Concepts but also Practice Questions on these provisions. Thus, you get the extra content for both TaxBook<sup>+</sup> (Concepts) and TaxBook<sup>+</sup> (Practice).**

**Provisions in this file are arranged as per Chapters and Para Numbers as given in the main TaxBook<sup>+</sup>. Thus, if a provision is not printed in the main Book but given in this file, you just need to go to the same Chapter and the Para number in this file as the main Book.**

### Tax With Sharad's TaxBook<sup>+</sup> (Income Tax) – Extra Provisions for Comprehensive Study

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## 1

# Basic Concepts

## 4.3 Accelerated assessment – Income of a PY assessed in that PY itself [EXTRA PROVISIONS]

Provision	Situation covered	How is income assessed?
Shipping business of non-residents [S. 172]	<ul style="list-style-type: none"> <li>• A ship belongs to or is chartered by a <b>non-resident</b>.</li> <li>• The ship carries passengers, livestock, mail or goods shipped at a port <b>in India</b>.</li> </ul>	<ul style="list-style-type: none"> <li>• 7.5% of the amount paid or payable on account of such carriage is <b>deemed</b> to be the income accruing in India.</li> <li>• <b>Before</b> the ship departs from the port in India, the master of the ship <i>should</i> furnish a return and either pay the tax assessed on such income or make satisfactory arrangements for its payment.</li> </ul> <p>7.5% is the deemed income and tax is computed thereon. 7.5% is not the amount of tax.</p>
AOP/BOI/AJP formed for a particular event or purpose [S. 174A]	It appears to the AO that any <b>AOP/BOI/AJP</b> (para 5), formed or established or incorporated in an AY for a particular event or purpose is likely to be <b>dissolved</b> in that AY or immediately after such AY.	The total income of such entity for the period from <b>1 April</b> of that AY up to the date of its <b>dissolution shall</b> be chargeable to tax in <b>that AY</b> .
Persons likely to transfer property to avoid tax [S. 175]	It appears to the AO during the current AY that any person is likely to charge, sell, transfer, dispose of or otherwise part with any of his <b>assets</b> with a view to <b>avoiding</b> payment of any liability under the Act.	The total income of such person for the period from <b>1 April</b> of that AY to the date when the AO <b>commences</b> proceedings under this section <i>shall</i> be chargeable to tax in <b>that AY</b> .

### BYC & MCQ

**M29.** U/s 172, tax can be demanded where a ship belonging to or chartered by a \_\_\_\_\_ leaves the Indian port.

**M30.** A ship carrying goods is going to leave from the Indian port. Which of the following actions of AO is valid?

- |  |   |
|--|---|
| (a) The ship belongs to an Indian company. AO has asked the Managing Director of company to pay 7.5% tax before it departs.                            | (b) The ship belongs to a US company. AO has asked the master of ship to pay or make arrangements to pay tax on 10% of total income, computed under the Act, before it departs. |
| (c) The ship belongs to a French company. AO has asked the master of ship to pay or make arrangements to pay tax on 7.5% of freight before it departs. | (d) The ship belongs to a German company. AO has allowed the ship to depart without any obligation to pay tax.  |

**M31.** On the basis of information received, the AO wants to make assessment in the relevant year itself in the following cases. Which of the following actions is valid?

- |   |   |
|---|---|
| (a) Mr. Sincere, estimating a huge tax demand, is going to sell one of his many properties, in the ordinary course of business. | (b) Three firms have joined together to conduct a mega entertainment event to be held after 2 months, post which the association will dissolve. |
| (c) None of the options is valid  | (d) Both options are valid  |

**M31a.** U/s 174A, income of which entity can be taxed in the current year itself and for the period up to which date?

- |  |   |
|--|---|
| (a) Company; up to the 31 March of the FY      | (b) Company; up to the date of dissolution                  |
| (c) AOP/BOI/AJP; up to the date of dissolution | (d) AOP/BOI; up to the date of event for which it is formed |

**M31b.** U/s 175, income of which person can be taxed in the current year itself and for the period up to which date?

- (a) Company; up to the date of payment of tax (b) AOP/BOI/AJP; up to the date of filing of return  
(c) Any person; up to the date of commencement of proceeding by AO (d) Any person; up to 31 March of the FY

**Answers:** M29 NR; M30 C; M31 B; M31a C; M31b C

**Hints: M30.** Relevant section is section 172. The ship belongs to a non-resident. 7.5% of freight will be deemed to be the income accruing in India and tax will need to be paid on this amount or satisfactory arrangements for its payment will need to be made before its departure. by the master of the ship.

**M31.** A: Not valid u/s 175 as he will sell property in the ordinary course of business, not to avoid payment of tax // B: Valid u/s 174A.

## 10. RELEVANT LAW

The provisions of Act are not static. They are amended from time to time. It is, therefore, important to identify the law which is relevant in computation of total income and tax liability and also for undertaking various compliances.

**Substantive provisions** - Total income and tax liability is computed based on provisions of the Act as on 1<sup>st</sup> April of the AY. Any amendment effective from a later date is not relevant for that AY.

**Procedural provisions** - Change in a procedure is applicable from the date the amendment is **effective**.

**ILLUS 10.1 to 10.2: 1:** Finance Act 2020 amended section 6 with effect from 1.4.2021 to change the rules for determining residential status of individuals. - It is a substantive provision. Law standing as on 1.4.2021 (i.e., the amended section 6) would be relevant for AY 2021-22.

**2:** Finance Act 2021 inserted a new section 194Q with effect from 1.7.2021 requiring deduction of tax at source on payment of certain sum for purchase of goods. – Change in procedural provision is applicable from date the amendment is effective. Tax is to be deducted under this provision from 1.7.2021.

## BYC & MCQ

**M56.** Rohit needs to compute his total income earned during the period 1.4.2024 to 31.3.2025 and tax liability thereon. He should base his computation based on provisions of the Act as they stand on which date?

- (a) 1.4.2024 (b) 1.4.2025  
(c) 31.3.2025 (d) Dates on which incomes were earned

**M57.** Through an amendment in the Rules, it was provided that application for an exemption needs to be made in Form X with effect from 1.9.2024. Before this date, the prescribed Form was Form Y. Through a further amendment, the Form was once again changed to Form Z with effect from 15.3.2025. Which Form will Mr. Z use if he wishes to make application for exemption on 15.9.2024?

- (a) Form X (b) Form Y  
(c) Form Z (d) Any of these Forms can be used

**Answers:** M56 B; M57 A

**Hints: M56.** Total income and tax liability is computed based on provisions of the Act as on 1<sup>st</sup> April of the AY, i.e., 1.4.2025 for FY 2025-26.

**M57.** Change in a procedure is applicable from the date the amendment is effective. Form X is effective as on 15.9.2024.



## 4

# Incomes not part of Total Income

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

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

**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> )
<i>Deemed profits arise and are chargeable to tax in the following cases:</i>		
<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.

<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.

**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>

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

### BYC & MCQ

**M28.** Amount credited to SEZRRRA is deemed to be profits chargeable to tax in which of the following situations?

- (a) Amount is distributed as dividend (b) Amount is not utilized within the specified period of 3 years  
(c) Amount is utilized for purpose of a DTA undertaking (d) All the above

**Answer:** M28 D

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

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.

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

<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.

Section	Eligible person	Exemption	Conditions
10(18)	CG/SG 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)	-

### BYC & MCQ

**B27-41. MASTER QUESTION** - Examine whether the following incomes are chargeable to tax in these independent cases

#	Income
12	Mike, a national of Denmark, worked in India as an official of the embassy of Denmark. He received a remuneration of Rs. 15 lakh during the PY. Officials of Indian embassy in Denmark were similarly exempted in Denmark. He did have any other source of income in India.
13	Jacky, a non-resident and a citizen of India, living in the US and employed with US Inc, a US based company, visited India during the PY for 35 days in connection with an assignment undertaken by US Inc. US Inc did not have any business in India and its income was not taxable in India. For this purpose, Jacky received a remuneration of Rs. 1 lakh.
14	Xavier, a 'Param Vir Chakra' awardee, who was formerly in the service of the Life Insurance Corporation, received a pension of Rs. 2,20,000 during the year.
15	Mrs. Bhutia, a Sikkimese, earned Rs. 2,40,000 as rent from house situated in Sikkim. She got married to Raktim, not a Sikkimese, on 1 June 2008. The couple stays in Mumbai.

■

#	Taxable?	Comment
12	No	Exempt u/s 10(6)(ii)
13	Yes	Income accrues/arises in India; not exempt 10(6)(vi) as Jacky is citizen of India.
14	Yes	Not exempt u/s 10(18), since not an employee of CG or SG
15	No	Exempt u/s 10(26AAA) as income is from a source in Sikkim.

**B42-45.** Examine with reasons in brief whether the following statements are true or false.

#	Statement
3	Exemption is available to a Sikkimese individual only in respect of income from any source in the State of Sikkim
4	Pension received by a recipient of gallantry award, who was a former employee of Central Government, is exempt.

■ Answer: 3. False - Also available u/s 10(26AAA) in respect of dividend or interest on securities; 4. True - Exempt u/s 10(18)

**M35.** Which of the below incomes is not exempt in case of an individual, not being a citizen of India?

- (a) Remuneration of official of foreign embassy if corresponding exemption is available in the foreign country and such official is not engaged in any other business, profession or employment in India
- (b) Salary for employment on a foreign ship if the individual is a non-resident and stay in India aggregates to 100 days during the PY
- (c) Remuneration of employee of foreign Government for training in an establishment of Indian Government
- (d) None of the above

<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.

**M36.** Jack, a foreign national, working with Mice Inc., a USA company, came to India during PY 2024-25 for rendering services on behalf of the employer in connection with a project. He wishes to claim his salary income earned during his stay in India as exempt. Which of the following conditions is not necessary to be fulfilled to claim exemption?

- (a) Mice Inc should not engage in any business activity in India (b) Jack should be an overseas citizen of India  
 (c) Jack's stay in India should not exceed 90 days during the PY (d) Remuneration should not be liable to be deducted from Mice Inc's income taxable in India

**M37.** During the PY 2024-25, JBL Inc, a foreign company, deputed Mr. Z, its employee and a citizen of Germany, to carry out an assignment in Mumbai. Mr. Z visited India for this purpose and stayed for 91 days. He received remuneration of Rs. 10 lakh in this respect. Total remuneration paid to him for PY 2024-25 was Rs. 50 lakh which was received outside India. Determine the amount liable to be included in the income of Mr. Z for taxation in India. JBL Inc does not have any business presence or taxable income in India. Mr. Z is a non-resident in India.

- (a) Nil (b) 10 lakh  
 (c) 40 lakh (d) 50 lakh

**M42.** Which of the following incomes is taxable?

- (a) Pension received from the Central Government by Mr. X, who was awarded Param Vir Chakra (b) Family pension received by widow of Mr. X, an army officer who died in a terrorist attack, while performing his duties  
 (c) Monthly pension received by Mr. X, a State Government employee, after retirement (d) All of the above

**M43.** Which of the following incomes is exempt in case of a Sikkimese individual?

- (a) Income of Mr. K, a Sikkimese, from letting out a house property in Sikkim (b) Dividend earned by Mr. K, a Sikkimese, from JKL Ltd., a company registered in Mumbai  
 (c) Interest on debentures earned by Mr. K, a Sikkimese, from JKL Ltd., a company registered in Mumbai (d) All the above

**Answers:** M35 B; M36 B; M37 B; M42 C; M43 D

**Hints:** **M35.** A: Exempt u/s 10(6)(ii); B: Not exempt u/s 10(6)(viii) as total stay in India should not exceed 90 days; C: Exempt u/s 10(6)(xi)

**M37.** Remuneration not exempt u/s 10(6)(vi) as stay exceeds 90 days. Rs. 10 lakh is taxable. Balance is not taxable as Mr. Z is a NR and amount is accrued/received outside India.

**M42.** A: Exempt u/s 10(18); B: Exempt u/s 10(19). C: Taxable under the head 'Salaries'

**M43.** Exempt = A: Income accruing/arising from source in Sikkim; B: Dividend; C: Interest on securities.

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

*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.





3. Employee whose income under the head 'Salaries' (*exclusive* of the value of all benefits or amenities not provided for by way of **monetary** payment) is > Rs. 50,000.

Following perquisites are taxable **only** in the hands of a **specified** employee:

1. Motor car (para 55)	2. Domestic servants (para 52)
3. Gas, electricity, water (para 51)	4. Education facility (para 59)
5. LTC (para 54)	6. Medical facility (para 47)
7. Transport facility by transporter (para 56)	

*Interplay with section 17(2)(iv):* If the above items are in the nature of an obligation of employee for which the employer pays (see para 70), perquisite will be taxable for all employees. Otherwise, it will be taxable only for a specified employee.

Concept of specified employee does not have much utility in the present times since practically all tax-paying employees can be classified as a specified employee. Thus, there would hardly be a case where the aforesaid perquisites are not taxable because the employee is not a specified employee.

### BYC & MCQ

**M78.** Gamma Ltd. provided rent free accommodation and motor car owned by it to Harsh, an employee. Which of the following is correct in respect of taxability of these perquisites in the hands of Harsh?

- (a) RFA and car Taxable (b) RFA and car taxable only if Harsh is a specified employee  
 (c) RFA taxable but car taxable only if Harsh is a specified employee (d) Car taxable but RFA taxable only if Harsh is a specified employee

**M79.** Who of the following is a not a specified employee?

- (a) Director of a company not being its employee (b) Employee holding 25% equity share in the employer company  
 (c) Employee whose salary (excluding non-monetary benefits) is Rs. 50,001 (d) Employee of a company being a director thereof

**M80.** Income-tax of employee paid by the employer is taxable only in case of specified employees.

- (a) True (b) False

**M81.** Free domestic servant facility provided by employer is taxable only in case of specified employees.

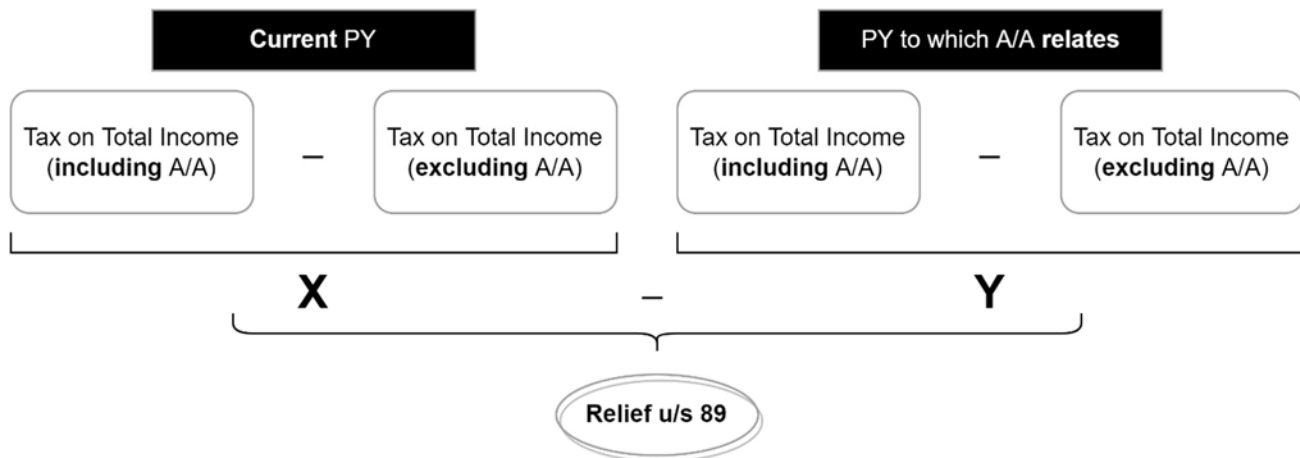
- (a) True (b) False

**Answer:** M78 C; M79 A; M80 B; M81 A

### 77. RELIEF U/S 89 [S. 89, R. 21A]

Relief from tax is available on receipt of arrears, advance, gratuity, compensation on termination, commuted pension, etc., due to which the assessee becomes taxable at a **rate higher** than that at which he would **otherwise** have been taxable. Formula for relief in case of **arrears or advance (A/A)** is depicted below:<sup>10</sup>

<sup>10</sup> Logic is to compare the tax attributable to the arrears/advance in the year of receipt and in the year it relates to and then give relief of tax so as to reduce the tax to that attributable in the year to which the arrears/advance relates.



In effect, tax on total income is computed (including and excluding A/A). This is done for the current PY (i.e., PY of receipt) as well as the PY to which A/A relates. The result can be denoted by 'X' and 'Y' as shown in the Chart above. Relief u/s 89 = X – Y. The tax on total income of the current year is then reduced by the amount of relief to arrive at the tax liability.

Relief is given after rebate u/s 87A, surcharge and HEC.

If X is not more than Y, there is no relief.

Tax for current PY and PY to which A/A relates is computed at the rates applicable for the respective PY.

Note: Formula for relief is given above only for arrears or advance. Other situations are not relevant for exams.

**ILLUS 77.1:** Mr. Heera, a resident, earned salary income (computed) for PY 2024-25 of Rs. 9,00,000 and arrears of salary received for PY 2015-16 of Rs. 2,50,000 (not included in Rs. 9,00,000). His income taxable under the head 'Salaries' for PY 2015-16 was Rs. 7,50,000. He celebrated his 62<sup>nd</sup> birthday on 1.12.2024. He does not have any source of income apart from salary. Compute the tax payable for AY 2025-26 after providing relief u/s 89 assuming that he is covered under the optional tax regime.

**Rates of tax for AY 2016-17 for resident individuals of age below 60 years at any time during the PY (assumed)**

Slab of total income	Rate
Up to 2,00,000	Nil
2,00,001 to 5,00,000	10%
5,00,001 to 10,00,000	20%
Above 10,00,000	30%
Education cess @2% and HEC @1%	

Step 1 - Computation of tax payable for AY 2025-26 before relief u/s 89 (at rates applicable for senior citizen)

Particulars	Including arrears	Excluding arrears
Salary (computed)	9,00,000	9,00,000
Arrears of salary	2,50,000	-
Taxable salary	11,50,000	9,00,000
Income-tax	1,55,000	90,000
HEC @4%	6,200	3,600
Total tax payable	1,61,200	93,600
Difference in tax (A)	67,600	

Step 2 - Computation of tax payable for AY 2016-17 (at regular rates)

Particulars	Including arrears	Excluding arrears
Salary (computed)	7,50,000	7,50,000
Arrears of salary	2,50,000	-
Taxable salary	10,00,000	7,50,000
Income-tax	1,30,000	80,000
HEC @3%	3,900	2,400
Total tax payable	1,33,900	82,400
Difference in tax (B)	51,500	

Step 3 – Computation of tax payable for AY 2025-26 after relief u/s 89

Particulars	Amount
Income-tax on total income including arrears	1,61,200
Less: Relief u/s 89 = 67,600 (A) – 51,500 (B)	(16,100)
Total tax payable after relief	1,45,100

### BYC & MCQ

**M87.** Relief from tax is available in which of the following cases?

- (a) When uncommuted pension is received post retirement
- (b) When arrears or advance salary is received and employee remains taxable at the same rate at which he would otherwise have been taxable
- (c) When arrears or advance salary is received due to which the employee becomes taxable at a rate higher than that at which he would otherwise have been taxable
- (d) When additional tax in current PY is less than additional tax in the PY to which arrears or advance relates

**M88.** Relief u/s 89 is allowed at what stage?

- (a) Before HEC but after rebate u/s 87
- (b) After surcharge but before HEC
- (c) Before rebate u/s 87
- (d) After rebate u/s 87, surcharge and HEC

**Answer:** M87 C; M88 D



## 6

# Income from House Property

## 87. STOCK IN TRADE [S. 23(5)]<sup>11</sup>

Special provision is made to provide relief to real estate developers holding properties as stock-in-trade which are not let out. Annual value of property (or part thereof) is taken to be **NIL** if the following conditions are satisfied:

1. Property is held as **stock-in-trade**; and
2. Property (or any part thereof) is **not let** during whole (or any part) of the PY.

This benefit is available for the period **up to 2 years** from the **end** of the **FY** in which certificate of **completion** (COC) of construction of the property is **obtained** from the competent authority.

The aforesaid benefit is available for the FY in which COC is obtained + 2 subsequent FYs.

Limit of deduction of Rs. 30,000 / 2 lakh for interest on borrowed capital is not applicable here.

**ILLUS 87.1:** DLF Ltd. constructed a flat for sale. Certificate of completion of construction was obtained on 1 May 2024. It sold the flat on 1 June 2025. Expected rent of the flat, which was not let out or used for any other purpose, was Rs. 3,60,000 p.a. Municipal taxes of Rs. 10,000 and maintenance expenses of Rs. 6,000 were incurred for the flat during the year. Interest on loan taken to construct the flat was Rs. 1,50,000 for the year. Compute IHP of DLF Ltd. for AY 2025-26.

■ Flat is for sale, hence, stock-in-trade. It is not let out during the whole of the PY. Value of flat will be taxable under the head IHP for PY 2024-25 and benefit u/s 23(5) of Nil annual value will be available for the period up to 2 years from the end of FY 2024-25, i.e., till 31.3.2027. IHP for AY 2025-26 will be computed as under:

Particulars	Rs.
Annual value	Nil
Less: Interest on loan	(1,50,000)
<b>Income from house property</b>	<b>(1,50,000)</b>

### BYC & MCQ

**M50.** Annual value of property held as stock-in-trade is taken as nil for a period of 2 years immediately succeeding the year in which certificate of completion of construction is obtained from the competent authority.

- (a) True (b) False

**M51.** Jagdamba Builders Ltd. has unsold stock of 10 flats lying vacant during the whole of PY 2024-25 Fair rent for each flat is Rs. 5,00,000 p.a. While certificate of completion of construction was obtained for 4 flats on 1 May 2022, certificate for remaining flats was obtained on 1 May 2024. Total interest on loan taken for constructing these flats payable during the PY 2024-25 is Rs. 5,00,000. IHP for AY 2025-26 will be:

- (a) Nil (b) (5,00,000)  
(c) (2,00,000) (d) 30,00,000

**Answer:** M50 B; M51 B

<sup>11</sup> Relief is provided by way of a special provision considering business exigencies of real estate developers in cases where stock-in-trade is lying unsold and it is not also let out but annual value of such property is liable to taxation as DLOP.

**Hint: M50.** Benefit is available for the period up to 2 years from the end of the FY in which certificate of completion (COC) is obtained. Thus, benefit is also available for the year of obtaining COC.

**M51.** Benefit of nil annual value for 4 flats is available till PY 2024-25 (up to 2 years from end of PY 2022-23) and for 6 flats till PY 2025-26 (up to 2 years from end of PY 2024-25). AV for all flats for PY 2024-25 is nil; no limit on deduction of interest.

### 88. DEEMED OWNER [S. 27] [EXTRA PROVISIONS]

Category	Situation	Who is deemed owner?	Points to note
3: Member of housing society	Member of a co-operative society, company or other AOP to whom a building (or part thereof) is <b>allotted</b> or <b>leased</b> under a <b>house building scheme</b> of the society, company or AOP, as the case may be.	Such member	-
4: Lease $\geq$ 12 years	A person who acquires any <b>rights</b> in respect of a building (or part thereof) on transfer by way of <b>lease</b> for <b>12 years or more</b> [S. 269UA(f)] <i>Exception</i> – Lease from month to month or for a period up to 1 year.	Such lessee	Lease for a term of less than 12 years but extendable beyond 12 years, is covered under this provision.
5: Impartible estate	Holder of an <b>impartible</b> estate.	Such holder	Such holder is deemed to be the individual owner of <b>all</b> the properties comprised in the estate.

**Cooperative housing society** – It is a membership-based legal entity where a person can become a member by acquiring its shares and in return, he gets a right to occupy a housing unit in the society (flat, house, etc.).

**Impartible estate** - Certain estates are held by one member of a family by virtue of ancient custom although belonging to a joint family. They are called impartible estates since they are not legally divisible or liable to partition.

**ILLUS 88.1 to 88.7:** In whose hands will income from house property be taxable in the following situations?

#	Situation	Taxable in whose hands?	Remarks
4	Raghav became a member of a co-operative housing society and was allotted a flat in the society under its house building scheme.	Raghav	Member of co-operative society to whom building is allotted under a house building scheme
5	Maharaja Scindia divided his princely properties amongst his four sons, except a temple which could not be divided as per family custom. It was, however, given to his eldest son, though all his sons could enjoy the property.	Eldest son	Holder of Impartible estate
6	Gaurav gives his house property on lease to Saurabh for a term of 8 years. Lease agreement provides for renewal of lease for a further period of 6 years.	Saurabh	Lease is for term of less than 12 years but extendable beyond 12 years
7	Saurabh acquired a house from the Ghaziabad Development Authority for a lease of 99 years.	Saurabh	Lease is for $\geq$ 12 years

**BYC & MCQ**

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**M54.** Heera entered into an agreement in writing to buy a building from Beera on 1 March 2025. He paid sales consideration on 10 March 2025 and took possession of the property on 15 March 2025. Sale deed was executed and property registered in his name on 1 May 2025. Income from house property will be taxable in his hands for the PY 2024-25.

- (a) True (b) False

**M55.** In which of the following cases will income from house property be taxed in the hands of Raj?

- (a) He acquires a building on lease of 10 years (b) He is allotted a flat in a group housing society of which he is a member  
(c) None of the above (d) Both of the above

**Answer:** M54 A; M55 B

**Hint:** **M54.** Deemed owner u/s 27 as Heera is allowed to take or retain possession of any building (or part thereof) in part performance of a contract of the nature referred u/s 53A of the Transfer of Property Act, 1882.

**M55.** A: Lease is not for  $\geq 12$  years. B: Deemed owner u/s 27 as Raj is a member of a co-operative society to whom a building (or part thereof) is allotted or leased under a house building scheme of the society.



## 7

# Profits and Gains of Business or Profession

## 93.7 Computation of depreciation for power undertaking following SLM method [S. 32(1), 41(2), R. 5(1A)]

As noted in para 93.2, in the case of assets of an undertaking engaged in generation or generation and distribution of **power**, depreciation is computed at the prescribed % on the actual cost of asset (**SLM method**). Total depreciation cannot exceed the actual cost of the asset. Further, the undertaking can also opt for computation of depreciation as per the normal WDV method in the specified manner.

$$\text{Depreciation} = \text{Actual cost of asset} \times \text{Rate (\%)} \text{ of depreciation}$$

Concept of Block of Assets does not apply in such case. Depreciation is computed separately for each asset on its actual cost, year on year.

Depreciation is calculated on actual cost, not on WDV.

Total depreciation cannot exceed actual cost of the asset.

Restriction of 50% depreciation in case the asset is put to use for < 180 days applies here as well [see para 93.4].

Additional depreciation is not allowed to power undertaking following SLM method (unless it opts for WDV method) [see para 93.6].

Following is the tax treatment if any building, machinery, plant or furniture is sold, discarded, demolished or destroyed (**other than** in the PY in which it is **first put to use**):

Moneys payable (together with scrap value, if any) is < WDV of the asset	Moneys payable (together with scrap value, if any) is > WDV of the asset
The shortfall referred above is deductible as <b>terminal depreciation</b> [S. 32(1)(iii)].	The excess referred above is treated as under: <b>A:</b> The excess referred above ( <i>not exceeding</i> the amount of depreciation claimed) is taxable as <b>balancing charge</b> . It is taxable in the PY in which moneys payable become due even if the business for the purpose of which the asset was being used is no longer in existence. [S. 41(2)] <b>B:</b> The remaining excess, if any, is taxable as <b>capital gains</b> [S. 50A]

**ILLUS 93.23 to 93.25:** BSES Ltd., an electricity company, is claiming depreciation on straight line method. It acquired a machine on 1.4.2022 at actual cost of Rs. 2,00,000. Rate of depreciation is 10%. Determine the tax treatment for AY 2025-26 if the machine was sold on 1.3.2025 for (A) Rs. 1,00,000, (B) Rs. 1,90,000, (C) Rs. 2,50,000.

Tax treatment for AY 2025-26

Particulars	A	B	C
Moneys payable	1,00,000	1,90,000	2,50,000
Less: Opening WDV (see note)	1,60,000	1,60,000	1,60,000
Shortfall in Case A and Excess in Cases B and C	(60,000)	30,000	90,000
Terminal depreciation u/s 32(1)(iii) = Shortfall	60,000		
Balancing charge u/s 41(2) = Excess (not exceeding amount of depreciation claimed of 40,000)		30,000	40,000
Capital gain = Remaining excess, if any.		-	50,000

Note: AY 2023-24: Closing WDV = Actual cost of machine of 2,00,000 – Depreciation @ 10% of 20,000 = 1,80,000.

AY 2024-25: Closing WDV = Opening WDV of 1,80,000 – Depreciation @ 10% of 20,000 = 1,60,000.

## BYC &amp; MCQ

**B62. S. 32 – SLM FOR POWER UNDERTAKING** – JJ Power, an electricity company, is claiming depreciation on straight line method. It acquired the machine on 1.6.2023 at actual cost of Rs. 5,00,000. Rate of depreciation is 10%. Determine the tax treatment for AY 2025-26 if the machinery was sold on 15.12.2024 for (A) Rs. 4,00,000, (B) Rs. 4,80,000, (C) Rs. 5,30,000.

Particulars	A	B	C
Moneys payable	4,00,000	4,80,000	5,30,000
Less: Opening WDV = Actual cost of 5,00,000 – Depreciation @ 10% of 50,000	(4,50,000)	(4,50,000)	(4,50,000)
Shortfall in Case A and Excess in Cases B and C	(50,000)	30,000	80,000
Terminal depreciation u/s 32(1)(iii) = Shortfall	50,000		
Balancing charge u/s 41(2) = Excess (not exceeding depreciation claimed of 50,000)		30,000	50,000
Capital gain = Remaining excess, if any.			30,000

**M38.** BSES Ltd., following SLM method of depreciation, purchased a machine on 15.3.2025 for use in the power production. What is the extent of depreciation that will be allowed for AY 2025-26?

- (a) 100% normal depreciation + 20% additional depreciation (b) 100% normal depreciation + Nil additional depreciation  
 (c) 50% normal depreciation + Nil additional depreciation (d) 50% normal depreciation + 20% additional depreciation

**M39.** An electricity company charging depreciation on straight line method on each asset separately, sold one of its machinery in April 2024 for Rs. 1,20,000. WDV of the machinery at the beginning of the year, i.e., on 1 April 2024 was Rs. 1,35,000. No new machinery was purchased during the year. The shortfall of Rs. 15,000 will be treated as:

- (a) Terminal depreciation (b) Short term capital loss  
 (c) Normal depreciation (d) Any of the above, at option of assessee

**Answer:** M38 C; M39 A

**Hint:** M38. 50% normal dep as put to use for < 180D; no addl dep for power undertaking following SLM method.

### 93.8 Change in foreign currency exchange rate [S. 43A]<sup>12</sup>

There may be a situation where an asset is acquired from outside India and subsequently, the liability increases or decreases at the time of payment on account of foreign exchange rate fluctuation. In such case, the change in liability is allowed to be adjusted from the actual cost of the asset. This aligns the amount of depreciation to the revised actual cost. This provision covers the following situation:

- The assessee has acquired any asset in the PY from a **foreign** country for the purposes of his business or profession.
- The asset is acquired through moneys **borrowed** from any person in any **foreign** currency or foreign supplier's credit.
- Due to a **change** in the rate of exchange during any PY **after** the acquisition of such asset, there is an increase or reduction in the liability of the assessee (expressed in INR) at the time of making **payment** (as compared to the liability existing at the time of **acquisition** of the asset).

*Adjustment:* If the above conditions are fulfilled, the amount by which the liability is increased or reduced and which is taken into account at the time of making the payment is *added* to or *deducted* from the **actual cost** of asset.<sup>13</sup>

Adjustment is made irrespective of the method of accounting adopted by the assessee.

<sup>12</sup> Objective is to mitigate hardship where the assessee becomes liable to a greater amount of cost of asset due to forex fluctuation post acquisition of asset. This provision allows depreciation on such additional cost. It also provides for the converse situation.

<sup>13</sup> This adjustment is also made to capital expenditure on scientific research [35(1)(iv), para 100], capital expenditure on family planning [36(1)(ix), para 99] and cost of acquisition of capital asset (not being an asset forming part of block on which depreciation is claimed) [for computing capital gain, para 137].



Adjustment is made only in the year of payment. Thus, any foreign exchange gain or loss is not adjusted to the actual cost on year-to-year basis but it is cumulatively adjusted with the actual cost in the year of payment.

Foreign exchange gain or loss is determined by comparing the exchange rate at the time of acquisition of the asset and exchange rate at the time of making the payment.

**ILLUS 93.26 to 93.27:** Suman purchased a machine from the USA for USD 60,000 on 15.9.2023 which was put to use on 15.10.2023. Purchase price was payable as 1/3<sup>rd</sup> at the time of purchase and rest in 2 equal annual instalments falling due on 15 September. INR 1 was equivalent to USD 75 as on 15.9.2023. Compute the depreciation on machinery for AY 2024-25 and 2025-26 if the exchange rate as on 15.9.2024 was (A) 77 or (B) 73. The machine is the only asset in the block entitled to 15% rate of depreciation and it is entitled to additional depreciation. Suman has opted out of the default tax regime.

*Computation of depreciation for AY 2024-25 and AY 2025-26*

Particulars	Case A	Case B
<b>Computation of depreciation for AY 2024-25</b>		
Actual cost of machine = USD 60,000 × 75	45,00,000	45,00,000
Less: Normal depreciation at 50% of 15% of 45 lakh since machinery used for < 180 days	(3,37,500)	(3,37,500)
Less: Additional depreciation at 50% of 20% of 45 lakh since machinery used for < 180 days	(4,50,000)	(4,50,000)
Closing WDV	37,12,500	37,12,500
<b>Computation of depreciation for AY 2025-26</b>		
WDV as on 1 April 2024	37,12,500	37,12,500
Add: Adjustment u/s 43A to actual cost: Increase in liability on payment of USD 20,000 = 20,000 × (77 – 75)	40,000	-
Less: Adjustment u/s 43A to actual cost: Decrease in liability on payment of USD 20,000 = 20,000 × (75 – 73)	-	(40,000)
	37,52,500	36,72,500
Less: Normal depreciation @ 15%	(5,62,875)	(5,50,875)
Less: Balance additional depreciation at 50% of 20% of 45 lakh	(4,50,000)	(4,50,000)
Closing WDV	27,39,625	26,71,625

**BYC & MCQ**

**663. S. 43A** – Rakesh purchased a machinery from the USA for USD 1,20,000 on 1.10.2023 which was put to use on 1.11.2023. Purchase price was payable in 3 equal annual instalments starting from 1.10.2024. Exchange rates are as under:

1.10.2023	INR 1 = USD 75
1.10.2024	INR 1 = USD 80
1.10.2025	INR 1 = USD 70

Compute the depreciation on machinery for PY 2023-24, 2024-25 and 2025-26. Machinery is the only asset in the block entitled to 15% rate of depreciation. It is not entitled to additional depreciation.

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*Computation of depreciation*

Particulars	Rs.
<b>Computation of depreciation for PY 2023-24</b>	
Actual cost of machinery = 1,20,000 USD × 75	90,00,000
Less: Depreciation at 50% of 15% of 90 lakh since machinery used for < 180 days	(6,75,000)
Closing WDV	83,25,000
<b>Computation of depreciation for PY 2024-25</b>	
WDV as on 1 April 2024	83,25,000
Add: Adjustment u/s 43A to actual cost: Increase in liability on payment of USD 40,000 = 40,000 × (80 – 75)	2,00,000
	85,25,000
Less: Depreciation @ 15%	(12,78,750)

Closing WDV	72,46,250
<b>Computation of depreciation for PY 2025-26</b>	
WDV as on 1 April 2025	72,46,250
Less: Adjustment u/s 43A to actual cost: Decrease in liability on payment of USD 40,000 = $40,000 \times (75 - 70)$	(2,00,000)
	70,46,250
Less: Depreciation @ 15%	(10,56,938)
Closing WDV	59,89,312

**M40.** Rambo imported machinery on 1.8.2023 for USD 10,000 from the USA. The machinery was first put to use on 1.8.2023 and the purchase price was paid on the same date. Calculate depreciation for AY 2025-26 if rate of depreciation is 15% and the machinery is the only asset in the block. Exchange rate for 1 USD was Rs. 75 on 1.8.2023, Rs. 70 on 31.3.2024 and Rs. 73 on 31.7.2024

- (a) 99,819 (b) 85,120  
(c) 86,456 (d) 95,625

**M41.** Rambo imported machinery on 1.8.2023 for USD 10,000 from the USA by paying 25% of the price upfront with the balance payable on 31.7.2024. Calculate depreciation for AY 2025-26 if rate of depreciation is 15% and the machinery is the only asset in the block. Exchange rate for 1 USD was Rs. 75 on 1.8.2023, Rs. 70 on 31.3.2024 and Rs. 73 on 31.7.2024.

- (a) 93,375 (b) 95,625  
(c) 97,875 (d) 92,625

**Answer:** M40 D; M41 A

**Hint:** **M40.** Section 43A is not applicable as entire payment is made upon purchase. Dep for PY 2023-24 = 15% of 7,50,000 = 1,12,500. WDV on 1.4.2024 = 6,37,500. Dep for PY 2024-25 = 15% of 6,37,500 = 95,625.

**M41.** Section 43A applies. // PY 2023-24: Dep = 15% of 7,50,000 = 1,12,500. WDV on 1.4.2024 = 6,37,500. // PY 2024-25: Decrease in liability = Rs. 2 for 7,500 USD = 15,000. Adjusted WDV = 6,37,500 – 15,000 = 6,22,500. Dep = 15% of 6,22,500 = 93,375.

### 93.9 Actual cost in special cases [S. 43(1)] [EXTRA PROVISIONS]

Additional situations are given below:

Caption	Situation	Actual cost to the assessee
<b>4: Tax evasion</b>	The following sequence of events is covered: 1: Before the date of acquisition by the assessee, the asset was at any time used by any other person for the purposes of his business or profession. 2: The <b>AO</b> is satisfied that the <b>main</b> purpose of the transfer of such asset is <b>reduction</b> of tax liability by claiming depreciation on an enhanced cost.	<b>AO</b> may determine the actual cost, having regard to all the circumstances of the case.
<b>5: Sale and lease back<sup>14</sup></b>	The following sequence of events is covered: 1: The asset was at any time used by, say X, for the purposes of his business or profession and depreciation was claimed by X. 2: The asset was acquired from X by, say, Y. 3: Subsequently, X acquires the asset from Y on <b>lease, hire</b> or otherwise.	<i>Actual cost to Y = WDV</i> of the asset at the time of transfer by <b>X</b> . WDV of the asset alone is taken even if it is part of block of assets [ <i>Circular 762 of 1998</i> ].

<sup>14</sup> Objective is to prevent tax abuse. Assets having nil or low WDV are sold at higher prices (sometimes much higher than the market price) and buyers again claim depreciation on the purchase price. Further, the usage of asset effectively remains with the original buyer on account of lease or hire.

<b>6: Asset of NR</b>	The following sequence of events is covered: 1: An asset was acquired <b>outside</b> India by a <b>non-resident</b> . 2: It is brought by him <b>to India</b> and used for the purposes of his business or profession.	<i>Actual cost to assessee</i> = Actual cost – Depreciation (at the rate in force) that would have been allowable had the asset been used in India for the said purposes since its <b>acquisition</b>
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Determination of actual cost is left to the AO only in case of #4 above.

**ILLUS 93.28 to 93.32:** Determine the actual cost of asset in the following cases for AY 2025-26.

#	Situation	Actual cost
5	<b>Sale and lease back</b> – Jack buys a machine for Rs. 1 lakh, claims depreciation thereon of Rs. 70,000 and sells the machine to Jill for Rs. 1 lakh. Jill leases the machine back to Jack. Jill claims depreciation on Rs. 1 lakh.	Actual cost to Jill = Rs. 30,000, i.e., WDV of machine at the time of transfer by Jack.

## 97. PRELIMINARY EXPENSES [S. 35D]

Section 35D allows for amortization of specified preliminary expenses over a period of 5 years, subject to a specified limit. Provisions of section 35D are explained below.

**Eligible assessee:** This provision applies to an **Indian** company or a **resident** in India (other than a company).

**Coverage:** Specified expenditure incurred during the following period is covered by this provision:

<b>Before</b> commencement of business	<b>OR</b>	<b>After</b> commencement of business	
		In connection with the <b>extension</b> of undertaking	In connection with setting up a <b>new unit</b>

**Deduction** =  $\frac{1}{5^{\text{th}}}$  of the specified expenditure in **5 annual instalments**. The instalments **begin** with the PY in which (a) business commences, or (b) extension of the undertaking is completed, or (c) new unit commences production or operation (referred as **"First PY"**).

**Specified expenditure:** Specified expenditure is listed below.

Expenditure	Incurred by which assessee
In connection with: <b>1:</b> Preparation of feasibility report or project report; <b>2:</b> Conducting market survey or any other survey necessary for the business of the assessee; <b>3:</b> Engineering services relating to the business of the assessee. The assessee should furnish a prescribed statement containing particulars of such expenditure one month prior to the due date for furnishing return of income u/s 139(1) [para 232.2].	<b>Any</b> eligible assessee
<b>4:</b> Legal charges for drafting any agreement between the assessee and any other person for any purpose relating to the setting up or conduct of the business of the assessee.	<b>Any</b> eligible assessee
<b>5:</b> Legal charges for drafting MOA/AOA of the company and on its printing; <b>6:</b> Fees for registering the company under the Companies Act; <b>7:</b> In connection with public issue of shares or debentures of the company: being underwriting commission, brokerage and charges for drafting, typing, printing and advertisement of the prospectus.	<b>A company</b>
Total expenditure <b>cannot exceed</b> the following: <ul style="list-style-type: none"> <li><i>In case of Indian company:</i> <b>5%</b> of (a) cost of the project or (b) capital employed in the business of the company.</li> <li><i>In case of others:</i> <b>5%</b> of cost of the project.</li> </ul>	

The requirement to furnish the prescribed statement of expenditure is not there for #4 to #7 above.

Capital employed is not relevant for determining the limit of expenditure in case of a non-company assessee.

**Terminology:** Meaning of certain terms has been specified as given below.

Cost of the project	Capital employed in the business of the company	Long term borrowings
<p><i>Cost of the project</i> = <b>Actual cost</b> of fixed assets (being land, buildings, leaseholds, plant, machinery, furniture, fittings and railway sidings), shown in the <b>books</b> of the assessee as on the <b>last</b> day of the <b>First PY</b>.</p> <p>It <i>includes</i> expenditure on development of land and buildings.</p>	<p><i>Capital employed</i> = Issued share capital + Debentures + <b>Long term borrowings</b>, as on the <b>last</b> day of the <b>First PY</b>.</p> <p>Reserves &amp; Surplus is not included</p>	<p>Long-term borrowing <i>means</i>:</p> <p><b>1:</b> Money borrowed by the company from Government, IFCI, ICICI, bank, financial institution<sup>15</sup>; or</p> <p><b>2:</b> Money borrowed or debt incurred (for a term which is <math>\geq 7</math> years) in <b>foreign</b> country in respect of purchase <b>outside</b> India of capital plant &amp; machinery.</p>
<p>In case of extension of undertaking or setting up of new unit, the aforesaid fixed assets and capital employed should have been acquired, developed, issued or obtained, as the case may be, <b>in connection with</b> such extension/setting up.</p>		

**Audit report:** Accounts should be audited for the year(s) in which Specified Expenditure is *incurred* and Audit Report should be furnished for the *first* year in which deduction u/s 35D is claimed. This condition *does not apply* to a company or co-operative society.

**No double deduction:** **No** deduction under **any other** provision is allowable in respect of Specified Expenditure if deduction in respect of such expenditure has been allowed under this section.

**ILLUS 97.1:** *Sure Shot Ltd., an Indian company, was incorporated on 1.6.2024. It commenced business of oil production on 1.1.2025. Following expenditure was incurred by the company before commencement of business.*

1	Payment to a consultancy concern for preparing feasibility and project report	5,00,000
2	Expenditure on conducting market survey by own personnel	5,00,000
3	Payment to a CA firm for drafting agreements, MOA, AOA and registration under Companies Act	50,000
4	Expenses on public issue of shares (underwriting, brokerage and advertising of prospectus)	2,00,000
5	Payment to engineering consultants for setting up the production line	6,00,000

The assessee submitted the prescribed statement in respect of expenditure incurred in # 1 and 2 above. Following balances appear in the books of the company as on 31.3.2025.

Cost of land	50,00,000
Cost of building	75,00,000
Cost of plant and machinery	20,00,000
Issued share capital	1,00,00,000
Loan from ICICI Bank of 10 year term	75,00,000

Compute the deduction allowable u/s 35D.

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#### Computation of deduction u/s 35D

Particulars	Rs.	Rs.
<b>Specified Expenditure</b>		
• Feasibility and project report – Eligible as prescribed statement submitted	5,00,000	
• Market survey – Eligible as prescribed statement submitted	5,00,000	
• Legal charges for drafting, registration – Eligible. Prescribed statement need not be submitted.	50,000	
• Public issue of shares – Eligible. Prescribed statement need not be submitted.	2,00,000	
• Engineering services – Not eligible since prescribed statement not submitted	-	12,50,000

<sup>15</sup> Financial institution which is eligible for deduction u/s 36(1)(viii). Section 36(1)(viii) is not relevant for CA Inter.



- (c) Preparation of feasibility report by a concern in respect of which statement of expenditure is not submitted
- (d) Registration fees under Companies Act paid to Chartered Accountant

**Answer:** M55 D; M56 C

**Hint: M55.** Eligible expenditure u/s 35D = Market survey 5,00,000 + Feasibility report NO (as prescribed statement not submitted) = 5,00,000. Limit = 5% of cost of project of 80 lakh = 4,00,000. Deduction u/s 35D per year is 4,00,000/5 = 80,000

**M56.** Prescribed statement of expenditure should be submitted in respect of such expenditure to be eligible.

### 101. CONTRIBUTIONS FOR RURAL DEVELOPMENT AND URBAN POVERTY ERADICATION [S. 35CCA]

**Deduction:** Deduction is allowed for payment of any sum to:

1. Rural Development Fund (set up and notified by the Central Government), or
2. National Urban Poverty Eradication Fund (set up and notified by the Central Government).

**No double deduction:** No deduction is allowed under any other provision for such expenditure if deduction is allowed under this section.

### 104. DISCOUNT ON ZERO COUPON BONDS [S. 36(1)(iia), R. 8C]

Discount on a zero coupon bond is allowed as deduction on pro rata basis across the life of the bond.

**Deduction =** Pro rata amount of discount on zero coupon bond amortized across the period of life of such bond

**Meaning:** Zero coupon bond means a bond (as notified) issued by infrastructure capital company/fund, infrastructure debt fund, public sector company or schedule bank, on which no payment and benefit is receivable before maturity or redemption [S. 2(48)].

**Computation:** Pro rata amount of discount is calculated as per the steps given below.

Step	Computation
1 – Calculate discount	Amount <b>payable</b> on maturity/redemption of the bond – Amount <b>received</b> (or receivable) by the issuer of the bond
2 – Calculate the period of life of bond	Period commencing from the date of <b>issue</b> of the bond and ending on the date of <b>maturity/redemption</b> of such bond. Convert this period into number of <b>calendar months</b> . For this purpose, where the calendar month in which the bond is issued or it matures or is redeemed contains a <i>part</i> of a calendar month: (A) if such part is < 15 days, it is <i>ignored</i> ; (B) if such part is ≥ 15 days, it is increased to <i>one</i> calendar month.
3 – Calculate pro-rata discount p.m.	Discount ÷ Number of calendar months
4 – Deduction for the PY	Pro-rata discount <b>p.m.</b> × Number of calendar <b>months</b> comprised in the <b>PY</b>

**ILLUS 104.1:** JKG Ltd., an infrastructure capital company, issued 1 lakh 3-year Zero Coupon Bonds (notified by the Government) on 20.1.2024 at an issue price of Rs. 80 per bond. Face value payable at the time of redemption is Rs. 100 per bond. Compute the deduction available to JKG Ltd. in respect of discount on such bonds.

Particulars	Working	Rs.
Discount	1,00,000 bonds × 20 (100 – 80) discount	20,00,000
Period of life of bond (calendar months)	January 2024 is to be ignored (since period is < 15 days). January 2027 is considered as 1 month (since period is ≥ 15 days)	36
Pro-rata discount p.m.	20,00,000 / 36	55,556
Deduction for PY 2023-24	55,556 × 2 months (Feb – Mar)	1,11,112
Deduction for PY 2024-25 and PY 2025-26 each	55,556 × 12 months	6,66,672
Deduction for PY 2026-27	55,556 × 10 months (Apr – Jan)	5,55,560

**BYC & MCQ**

**B73. S. 36(1)(iiia)** – Z Ltd., a public sector company, issued 10,000 notified zero coupon bonds on 10.10.2024 at issue price of Rs. 75. The face value as well as the amount payable on maturity after 3 years (i.e., on 9.10.2027) is Rs. 100. Compute the deduction available to Z Ltd. for AY 2025-26 in respect of discount on such bonds.

■

*Computation of deduction*

Particulars	Working	Rs.
Discount	$10,000 \times (100 - 75)$	2,50,000
Period of life of bond (calendar months)	October 2024 is considered as 1 month (since period is $\geq 15$ days) while October 2027 is to be ignored (since period is $< 15$ days)	36
Pro-rata discount p.m.	$2,50,000 / 36$	6,944
Deduction for PY 2024-25	$6,944 \times 6$ months (October 2024 to March 2025)	41,664

**M69.** Raj Dhan Bank, a scheduled bank, issued 20,000 notified zero coupon bonds on 10.10.2024 at issue price of Rs. 150. The face value as well as the amount payable on maturity after 3 years (i.e., on 9.10.2027) is Rs. 200. Compute the deduction available to Raj Dhan Bank for AY 2025-26 in respect of discount on such bonds.

- (a) 1,66,668 (b) 1,62,162  
(c) 3,24,324 (d) 3,33,333

**Answer:** M69 A

**Hint:** M69. Discount = 20,000 bonds @ 50 = 10,00,000. Period of life = 36 months (Oct 24 is taken as 1 month; Oct 27 is ignored); Discount p.m. =  $10,00,000 / 36 = 27,778$ . Discount for PY 2024-25 for 6 month (Oct to Mar) = 1,66,668

**112. REMUNERATION & INTEREST TO PARTNER OF FIRM (OR LLP) [S. 40(b)] [EXTRA PROVISIONS]**

*Representative capacity:* Sometimes a partner may be a partner in a firm, not in his individual capacity but on behalf, or for the benefit, of any other person. Such partner is called a 'partner in a **representative capacity**'. In such case, **interest** paid by the firm is treated as under:

- Interest paid by the firm to such individual **otherwise** than as partner in a representative capacity is **not taken** into account for the purposes of section 40(b).
- Interest paid by the firm to such individual as partner in a **representative** capacity and interest paid by the firm to the person so **represented** is **taken** into account for the purposes of section 40(b).

There may also be a situation that though the individual is a partner in a firm in his **individual** capacity (i.e., not as partner in a representative capacity), interest is received by him on behalf, or for the benefit, of **any other** person. Such interest is **not taken** into account for the purposes of section 40(b).

**ILLUS 112.3 to 112.5: 1:** Shyamal is a partner in a firm on behalf of his HUF. The HUF has contributed Rs. 5 lakh as capital in the firm. The firm has paid interest @ 15% p.a. to Shyamal. – Interest is paid by the firm to Shyamal as partner in a representative capacity. Thus, it will be allowable u/s 40(b) to the extent of 12% p.a., i.e., Rs. 60,000. The balance of Rs. 15,000 will be disallowed in the hands of the firm.

**2:** In #1 assume that Shyamal has also extended a loan of Rs. 3 lakh to the firm in his individual capacity on which the firm has paid interest @ 15% p.a. to him. – Interest is not paid by the firm to Shyamal as partner in a representative capacity. Thus, it will not be hit by section 40(b). It will be fully deductible in the hands of the firm.

**3:** Shyamal is a partner in a firm in his individual capacity. His daughter has made a deposit of Rs. 5 lakh with the firm on which the firm has paid interest @ 15% p.a. which Shyamal has received on behalf of his daughter. – In such case, even though interest has been received by Shyamal, it will not be hit by section 40(b) as he is a partner in the firm in his individual capacity and has received interest on behalf of another person. Interest will be fully deductible in the hands of the firm.

**113. CONVERSION OF INVENTORY INTO CAPITAL ASSET [S. 28(via), 43(1)]<sup>16</sup>**

An assessee may convert his inventory into a capital asset or may use such capital asset in his business or profession. Tax treatment in such cases is explained below.

#	Situation	Tax treatment
1	When inventory is converted into, or treated as, a capital asset	Business income arises which is = FMV of inventory on the date of <b>conversion</b> [S. 28(via)]
2	When such capital asset is used for the purposes of business or profession	Actual cost of the asset = FMV which was taken into account u/s 28(via) above [S. 43(1)].

If the inventory converted into capital asset (#1 above) is transferred, capital gains arise (see para 139.2).

**117. 🌀 PAYMENT BY NON-SPECIFIED MODE > 10,000 [S. 40A(3), R. 6DD] [EXTRA PROVISIONS]**

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

**Disallowance not applicable:** Disallowance u/s 40A(3) is not applicable in the following cases:

**A.** Where payment is not in the nature of expenditure deductible in computing business income. For example:

- Advancing of loan or repayment of principal amount of loan (*not interest*).
- Payment or advance payment by commission agent to the principal for goods received for sale.

**B.** Following cases and circumstances prescribed as exceptions under Rule 6DD: Certain other exceptions, in addition to those listed in the book, are listed below:

#	Category	Description of payment
4	Through a <b>bank</b>	Payment is made by (i) letter of credit arrangements through a bank; (ii) mail or telegraphic transfer through a bank; (iii) book adjustment from any account in a bank to any other account in that or any other bank; (iv) bill of exchange made payable <i>only</i> to a bank.
5	To <b>cultivator, grower, producer</b>	Payment is made to the cultivator, grower or producer for purchase of (i) agricultural or forest produce; or (ii) produce of animal husbandry (including livestock, meat, hides and skins) or dairy or poultry farming; or (iii) fish or fish products; or (iv) products of horticulture or apiculture. Payment, other than to cultivator, grower or producer, is liable to disallowance (e.g., to a trader, broker or middleman).
6	To producer in <b>cottage industry</b>	Payment is made to the <i>producer</i> for purchase of products manufactured or processed <i>without</i> the aid of power in a cottage industry. Payment, other than to the producer, is liable to disallowance (e.g., to trader, broker or middleman).
7	Of <b>terminal benefit</b>	Payment is made to an employee (or his heir) upon retirement, retrenchment, resignation, discharge or death, on account of gratuity, retrenchment compensation or similar terminal benefit and the <i>aggregate</i> of such sums payable is not > 50,000.
8	Of <b>salary on temporary posting</b>	Payment of salary is made to an employee ( <i>after</i> TDS u/s 192 (para 212)) who (a) is <i>temporarily</i> posted for a <i>continuous</i> period of $\geq 15$ days in a place other than his normal place of duty or on a ship; and (b) does not maintain any account in any bank at such place or ship.
9	To <b>agent</b>	Payment is made to the agent who is <i>required</i> to make payment in cash for goods or services on behalf of such person.
10	By <b>forex dealer</b>	Payment is made by an authorised dealer or a money changer against purchase of foreign currency or travellers cheques in the normal course of his business.

<sup>16</sup> Objective is to discourage the practice of deferring tax payment by converting the inventory into capital asset.



**120. SUM RECEIVED AFTER DISCONTINUANCE OF BUSINESS [S. 176]**

Sums received after a business is discontinued may go untaxed. To capture such cases, section 176 makes a special provision. It provides that where any business is **discontinued** in any year, any sum received **after** discontinuance shall be *deemed* to be income of **recipient** and charged to tax accordingly in the year of **receipt**.

However, such sum should have been included in the total income of the person who carried on the business had such sum been received before such discontinuance. Thus, if the sum was not taxable in the hands of the assessee, it cannot be taxed in the hands of the recipient.

As a corollary, if a sum was already charged to tax in the hands of the assessee, it should not again be charged to tax in the hands of the recipient upon its receipt after discontinuance of the business. For example, if Rs. 10,000 was charged to tax in respect of sale of goods on credit and this sum was received after the discontinuance of business, it should not again be charged to tax in the hands of the recipient.

**BYC & MCQ**

**M125a.** If any business or profession is discontinued in any year, any sum received after the discontinuance cannot be deemed to be the income of recipient in the year of receipt.

- (a) True (b) False

**M126.** Rise Pvt. Ltd., carrying businesses in Units A and B, made payment of Rs. 1 lakh during PY 2022-23 towards an expenditure incurred in Unit A and claimed deduction in that year. Unit A ceased to exist in PY 2023-24. Rs. 40,000 were refunded during PY 2024-25 in respect of such payment. Rs. 40,000 will be taxable for AY 2025-26 where it is received by Mr. Rise, erstwhile CEO of Rise Pvt. Ltd., where Unit B also ceases to exist in PY 2023-24 and the company is dissolved.

- (a) True (b) False

**Answer:** M125a. B; M126 A

**122. COMPULSORY MAINTENANCE OF ACCOUNTS [S. 44AA, R. 6F] [EXTRA PROVISIONS]**

*Books/documents prescribed under Rule 6F:* The following books of account and other documents are required to be kept and maintained as per Rule 6F:

<i>General requirement</i>	Cash book   Journal (if accounts are maintained as per mercantile system of accounting)   Ledger   <b>Carbon copies</b> of bills and receipts issued <b>by</b> the person where the sum is > Rs. 25   <b>Original</b> bills and receipts issued <b>to</b> the person in respect of expenditure incurred by him (or payment vouchers where bills and receipts are not issued and expenditure incurred is not > Rs. 50)
<i>A person carrying on <b>medical</b> profession</i>	The following is required to be kept and maintained (in <i>addition</i> to the above): Daily case register   Medical inventory on the <b>first</b> and <b>last</b> day of the PY

The aforesaid prescribed books of account and other documents are to be kept and maintained at the place where the person is carrying on the profession or, where the profession is carried on in more places than one, at the principal place of his profession. In case, separate books of account are kept and maintained at each place where the profession is carried on, they may be kept and maintained at such respective places.

The aforesaid prescribed books of account and other documents are to be kept and maintained for a period of **6 years** from the **end** of the relevant AY.

*Penalty:* Penalty is leviable for failure to keep and maintain books of account and other documents as required u/s 44AA or to retain them for the specified period. Penalty u/s 271A = Rs. 25,000.



## 8

# Capital Gains

## 139.2 Conversion of inventory into capital asset [S. 28(via), 49(9)]

This provision covers a situation which is reverse of that referred in para 139.1 above. An assessee may convert his inventory into a capital asset. Such conversion results in taxable business income in the year of conversion and it is taken to be the FMV of inventory on this date u/s 28(via) (para 113). Capital gain arises when such capital asset is eventually transferred. In such case, the aforesaid FMV is taken as the COA for computing capital gain u/s 49(9). Computation of capital gain and business income is given below.

Event 1: Business income arises when inventory is converted into (or treated as) a capital asset	Event 2: Capital gain arises when such capital asset is transferred	
Business income is taxable in the PY in which the inventory is <b>converted</b> (or treated) as capital asset	Capital gain is taxable in the PY in which the capital asset is <b>transferred</b>	
Business income u/s 28(via) = FMV of inventory on the date of such <b>conversion</b> (or treatment)	FVC	xx
	Less: COA/COI	COA = FMV taken into account u/s 28(via) POH: It runs <i>from</i> the date of such <b>conversion</b> (or treatment) Indexation: For indexation (if applicable), year of <i>acquisition</i> of capital asset is the year of such <b>conversion</b> (or treatment)
	<b>Capital gain</b>	<b>xx</b>

Capital gain is taxable in the year in which the transfer of capital asset takes place. Unlike para 139.1, taxation is not deferred to a later year.

### BYC & MCQ

**M39.** If Rashmi treats the stock-in-trade of her jewellery business (acquired on 17.8.2018) as a capital asset on 17.8.2022 and later sells the capital asset on 10.7.2024, what will be the tax treatment?

- (a) PGBP will not arise; LTCG will arise for AY 2025-26 (cost to acquire stock-in-trade will be the cost of acquisition)
- (b) PGBP will arise for AY 2023-24; STCG will arise for AY 2025-26 (FMV on date of conversion will be taken as PGBP income and also the cost to compute STCG)
- (c) PGBP and STCG will arise for AY 2025-26 (FMV on date of conversion will be taken as PGBP and also the cost to compute STCG)
- (d) PGBP will arise for AY 2025-26 (FMV on date of conversion will be taken as PGBP); capital gain will not arise

**Answer:** M39 B

**Hint:** M39. Tax treatment will be u/s 28(via) and 49(9). STCG will arise as POH from date of conversion to date of sale is not > 36 months. Cut off POH for LTCG will be 36 months as transfer takes place before 23.7.2024.

## 146. REFERENCE TO VALUATION OFFICER TO DETERMINE FMV [S. 55A, R. 111AA]<sup>17</sup>

With a view to ascertaining the FMV of a capital asset for the purposes of computing capital gain, the Assessing Officer (AO) *may* refer the valuation of capital asset to a Valuation Officer, in the following circumstances:

<sup>17</sup> Objective is to ensure that FMV of capital asset taken by the assessee is not understated or overstated so as to reduce the capital gain.

Circumstance	When can AO refer the valuation to the Valuation Officer?
Where the value of the asset as claimed by the assessee is in accordance with the estimate made by a <b>registered valuer</b>	If the AO is of the opinion that the value so claimed is at <b>variance</b> with its FMV (i.e., less or more).
In any other case	If the AO is of the opinion that: (a) FMV of the asset <b>exceeds</b> the value of the asset as claimed by the assessee by <b>more than 15%</b> of the value so claimed <b>OR</b> by more than Rs. 25,000, <b>OR</b> (b) Having regard to the nature of the asset and other relevant circumstances, it is <b>necessary</b> so to do.

For meaning of FMV u/s 2(22B), see para 130.

### BYC & MCQ

**M58.** Jagan sold gold jewellery during the PY 2024-25, which he acquired for Rs. 1 lakh in June 1997. For computing capital gain, he estimated the FMV of jewellery on 1.4.2001 as Rs. 1.75 lakh, based on report of a registered valuer, and took this figure as the cost of acquisition. Can the AO still refer the valuation to a valuation officer?

- (a) No (b) Yes, if he opines that the FMV is at variance with what has been claimed  
(c) Depends on his discretion (d) Yes, in all cases where assessee substitutes FMV as the cost of acquisition

**M59.** Saurabh exchanged his gold jewellery of value Rs. 10 lakh for a precious work of art of fair market value Rs. 15 lakh and determined short term capital gain arising from this transaction at Rs. 5 lakh. As per the AO, the FMV of the work of art should have been Rs. 16 lakh. He accordingly referred the valuation to the valuation officer who determined the FMV to be Rs. 17 lakh. AO recomputed the amount of capital gain based on this figure. Was the AO justified in doing so?

- (a) Yes (b) No  
(c) May be (d) Don't know

**Answer:** M58 B; M59 A

**Hint: M58.** U/s 55A, where the value of the asset as claimed by the assessee is in accordance with the estimate made by a registered valuer, AO can refer the valuation to the valuation officer if he is of opinion that the value so claimed is at variance with its FMV.

**M59.** AO can refer the valuation to the valuation officer u/s 55A if he is of the opinion that FMV exceeds the value claimed by the assessee by more than 15% or by more than Rs. 25,000 (in this case).

## 156. BONDS [S. 47, 48] [EXTRA PROVISIONS]

### Special provisions

The following special provisions should be noted in case of certain types of bonds. General provisions given in the Book (above this para) do not apply *to the extent* of these special provisions.

Bond	Special provisions
Sovereign Gold Bond issued by RBI under the Sovereign Gold Bond Scheme, 2015	Capital gain <b>does not</b> arise in case of transfer by way of <b>redemption</b> of such bonds by an <b>individual</b> [S. 47(viic)]. <sup>18</sup> Thus, capital gain <b>arises</b> in case of transfer of such bonds to another person (i.e., not being a case of redemption). It also arises in case of redemption by a non-individual. In such case, indexation (if applicable) is <b>available</b> (para 134). <sup>19</sup>
Capital indexed bonds issued by the Government	Indexation (if applicable) is <b>available</b> [para 134].

<sup>18</sup> The Government of India introduced the Sovereign Gold Bond Scheme with the aim of reducing the demand for physical gold so as to reduce the outflow of foreign exchange on account of import of gold.

<sup>19</sup> Objective is to provide parity of taxation with physical gold, since the value of bond moves in tandem with gold prices.

**156A. CONVERSION OF GOLD TO EGR AND VICE VERSA [S. 47(viid), 49(10)]<sup>20</sup>**

It will be useful to understand the concept of Gold Exchange in India before discussing the taxation aspects.

The Gold Exchange is a national platform for buying and selling Electronic Gold Receipt (EGR) with underlying standardized gold. The participants can trade in gold in the form of EGRs.

EGR is an electronic receipt issued by the Vault Manager against the gold deposited with them. Vault Manager is an entity registered by SEBI for providing vaulting services for gold deposited for the purpose of creation of EGR.

EGR is notified as a "security" under the SCRA, 1956 and will be traded on the stock exchange like any other security. Each of the EGRs is backed by the physical gold which is stored with the Vault Managers.

A person can trade in EGR online by registering with a stock broker. Further, the person should have a trading and demat account for trading in EGR.

The trades on the stock exchange will be settled by way of transferring funds to the seller and EGR to the buyer. The EGR will be transferred in the demat account of the buyer. It is not compulsory for the buyer to take physical delivery of gold after settlement of EGR. The buyer can continue to hold the EGR in demat account for further trading or take the physical delivery of gold from the Vault Manager. EGRs will be extinguished by the Vault Manager upon delivery of the gold to the investor.

Special provisions exist to govern taxation in this respect. Conversion of gold into EGR by the Vault Manager (i.e., when EGR is issued by the Vault Manager against the gold deposited with it is **not** liable to capital gain, i.e., such transfer is tax neutral (Col. 2 of Table below).

Capital gain subsequently arises when EGR is transferred. In such case, COA of EGR is *deemed* to the COA of **gold** in the hands of the person in whose name EGR is issued (Col. 3 of Table below). Further, POH of such EGR issued in respect of gold deposited *includes* the POH of **gold** with the assessee prior to its conversion into EGR (Col. 4 of Table below). Similar tax treatment is prescribed for the *vice-versa* transaction, i.e., when gold, released against an EGR, is subsequently transferred. This is summarized below:

Transfer	Capital gains arise?	COA of converted asset	POH of converted asset
Conversion of gold into EGR	No	COA of EGR = Cost of gold	POH of EGR includes POH of gold
Conversion of EGR into gold	No	COA of gold = Cost of EGR	POH of gold includes POH of EGR

The above said provisions are applicable in case of capital asset. These are not applicable where gold or EGR is held as stock-in-trade.

**EGR is a security** [para 128]. Consequently, cut off POH to determine whether capital gain is LTCG is **12 months** [refer #4 of the Table in para 128]. As against this, the cut off POH for LTCG in case of physical gold is 36 months (before 23.7.2024) or 24 months (on or after 23.7.2024).

Rate of tax on LTCG arising on transfer of **EGR** is as applicable u/s **112** for listed securities. STCG is taxable at the regular slab rate. See para 165 for details.

**ILLUS 156A.1:** Jagan purchased gold on 1.3.2024 for Rs. 1,00,000. He converted the gold into EGR on 1.9.2024 by depositing the gold with a Vault Manager. On this date, the value of gold was Rs. 1,20,000. He transferred the EGR on the Gold Exchange for Rs. 1,50,000 on 10.3.2025. Determine the capital gain arising in the hands of Jagan for PY 2024-25 and tax thereon. – Capital gain does not arise upon conversion of gold into EGR on 1.9.2024. Capital gain arises on transfer of EGR on 10.3.2025, computed as follows:

Particulars	Rs.
Full value of consideration	1,50,000
Less: COA = Cost of gold. Indexation is not available as transfer takes place on or after 23.7.2024.	(1,00,000)
<b>Long term capital gain</b> (since POH from 1.3.2024 to 10.3.2025 is > 12 months)	<b>50,000</b>

<sup>20</sup> Objective is to promote the concept of Electronic Gold.

**157. TRANSFER OF GOVERNMENT SECURITY OUTSIDE INDIA [S. 47(viib)]**

Any transfer of a capital asset, being a Government Security (carrying a periodic payment of interest), made outside India through an intermediary dealing in settlement of securities, by a *non-resident* to another *non-resident*, is **not liable** to capital gain.<sup>21</sup>

**158A. CAPITAL GAIN ON TRANSFER OF SHARES OR DEBENTURES OF INDIAN COMPANY BY A NON-RESIDENT [1<sup>st</sup> proviso to S. 48]<sup>22</sup>**

Special provisions for currency conversion are made for computing capital gain arising to a non-resident from the transfer of shares/debentures of an Indian company that were purchased by utilizing foreign currency. Following conditions should be satisfied for the special provisions to apply:

1. A **non-resident** transfers a capital asset being **shares** in, or **debentures** of, an **Indian** company.
2. Such capital asset has been purchased by utilizing **foreign** currency.

In such case, the capital gain arising from such transfer is first computed in terms of the foreign currency and then reconverted into Indian currency as per the following mechanism:

<b>Step 1: Compute capital gain in terms of the same FC as was initially utilised in the purchase of shares or debentures</b>	<b>Rs.</b>	<b>FC</b>	<b>Rate applicable for conversion into FC</b>
FVC	xx	xx	Average of TTBR & TTSR of FC as on the date of <b>transfer</b>
Less: Expenditure incurred wholly and exclusively in connection with transfer	(xx)	(xx)	
Net consideration		xx	
Less: COA	(xx)	(xx)	Average of TTBR & TTSR of FC as on the date of <b>acquisition</b>
Capital gain in <b>foreign</b> currency		<b>xx</b>	
<b>Step 2: Reconvert capital gain in foreign currency (computed above) into Indian currency</b>	<b>FC</b>	<b>Rs.</b>	<b>Rate applicable for conversion into Rs.</b>
Capital gain in <b>Rs.</b>	<b>xx</b>	<b>xx</b>	TTBR of FC as on the date of <b>transfer</b>

**FC** = Foreign currency; **TTBR** = Rate of exchange adopted by the State Bank of India for buying such currency where such currency is made available to that bank through a telegraphic transfer; **TTSR** = Rate of exchange adopted by the State Bank of India for selling such currency where such currency is made available by that bank through telegraphic transfer.

Aforesaid manner of computation of capital gains is applicable in respect of capital gains accruing or arising from every **reinvestment** thereafter in, and sale of, shares in, or debentures of, an Indian company.

The aforesaid currency conversion provisions apply whether the capital gain is short-term or long-term.

For these provisions to be applicable, assessee should be a non-resident at the time of transfer of capital asset.

Indexation is **not** available even if the capital gain is long-term and transfer takes place before 23.7.2024.

Only shares and debentures of an Indian company are covered by these provisions, whether listed or non-listed. Thus, any other capital asset is not covered (for example, units of a Mutual Fund).

Expenditure on transfer is converted to FC by applying the average of TTBR and TTSR as on the date of transfer, not as on the date of incurring the expenditure.

If shares/debentures are purchased by utilizing Indian currency, regular provisions apply and indexation can be availed in case of shares (for transfer before 23.7.2024). However, indexation still cannot be availed in case of debentures (see para 155).

<sup>21</sup> Objective is to facilitate listing and trading of Government securities outside India

<sup>22</sup> Non-residents who invest in shares and debentures of Indian companies in foreign exchange are adversely affected when they sell such securities. This is due to the fall in value of Indian Rupee vis-à-vis foreign currency in which investment was made. Purpose of these provisions is to give special protection to non-residents from fluctuation in the rupee value in terms of the foreign currency utilised for purchase of shares or debentures while computing capital gain on their transfer.

*Note:* Provisions regarding tax on capital gain are given in para 165. You may note that the currency conversion provisions **do not apply** to long-term capital gains from transfer of equity shares referred u/s 112A or from transfer of unlisted securities or shares of a CHC referred u/s 112.

**ILLUS 158A.1:** John is a citizen of USA and a non-resident in India. He purchased 100 shares in ABC Ltd., an Indian company, on 1.6.2018 at the rate of Rs. 150 per share. Such purchase was made by utilizing US dollars remitted by him to India. He sold these shares on 1.5.2024 at the rate of Rs. 250 per share. He paid brokerage @ 5% on purchase (paid on 1.6.2018) and sale (paid on 5.5.2024). Compute the capital gain assuming the following exchange rates.

Date	TTBR (1 USD)	TTSR (1 USD)	Average of TTBR & TTSR
1.6.2018	70.50	71.20	70.85
1.5.2024	80.00	82.40	81.20
5.5.2024	80.60	83.00	81.80

John is a non-resident who purchased shares in an Indian company by utilizing foreign currency. Hence, capital gain on transfer of such shares will be computed as per the 1<sup>st</sup> proviso to section 48, as given below:

Step 1: Compute capital gain in terms of USD initially utilised in the purchase of shares or debentures	Rs.	USD	Rate applicable for conversion into USD
FVC (100 shares @ Rs. 250)	25,000	307.88	Average of TTBR & TTSR of USD as on the date of transfer, i.e., 81.20
Less: Expenditure incurred wholly and exclusively in connection with transfer (5% of Rs. 25,000)	1,250	(15.39)	
Net consideration		292.49	
Less: COA (100 shares @ 157.50 (cost + brokerage); indexation is not applicable)	15,750	(222.30)	Average of TTBR & TTSR of USD as on the date of acquisition, i.e., 70.85
Long term capital gain (USD)		70.19	
Step 2: Reconvert capital gain in USD (computed above) into Rs.	USD	Rs.	Rate applicable for conversion into Rs.
Long term capital gain (Rs.)	70.19	5,615.20	TTBR of USD as on the date of transfer, i.e., 80.00

## 160. AMALGAMATION [S. 2(42A); 47, 49]

Amalgamation is a form of business reorganization. It is defined u/s 2(1B) whereby it means the merger of one or more companies with another company or the merger of two or more companies to form one company, subject to certain conditions. The company (or companies) which merge are called *amalgamating* company (or companies) and the company with which they merge or which is formed as a result of the merger is called the *amalgamated* company. For example, Company A and Company B are amalgamated to form Company C. Companies A and B are amalgamating companies and Company C is amalgamated company. Special provisions are made in the case of amalgamation if the **amalgamated company is an Indian company**. The following transactions take place in the scheme of amalgamation:

1. Transfer of capital asset by the amalgamating company to the amalgamated company.
2. Transfer of shares held by the shareholder in the amalgamating company to the amalgamated company in consideration of allotment to him of shares in the amalgamated company.

The aforesaid transactions are made tax neutral u/s 47, i.e., capital gain does not arise in case of such transfers. However, capital gain arises when the capital asset or the shares are subsequently transferred by the amalgamated company or the shareholder. We have noted in para 136 that aforesaid transfer of capital asset is listed u/s 49(1). Thus, while computing the capital gain upon subsequent transfer of the capital asset by the amalgamated company, computation is made with reference to the previous owner, i.e., the amalgamating company. Further, while computing capital gain upon subsequent transfer of shares by the shareholder, COA of



shares is deemed to the COA of shares in the amalgamating company and POH includes the period for which shares were held in the amalgamating company.

In effect capital gain does not arise on amalgamation. It arises on subsequent transfer of capital assets or shares. These special provisions **do not** apply if the amalgamation does not satisfy the conditions referred u/s 2(1B) or the amalgamated company is not an Indian company.

Provisions are tabulated below for better understanding.

Computation	Event 1A: Transfer of capital asset by A-ing Co to A-ted Co	Event 1B: Subsequent transfer of such capital asset by A-ted Co	Event 2A: Transfer by shareholder of shares in A-ing Co against allotment of shares in A-ted Co	Event 2B: Subsequent transfer of such shares by shareholder
FVC			xx	xx
Less: COA	Capital gain does not arise [S. 47(vi)]	COA POH and indexation (if applicable) is determined with reference to the previous owner (i.e., A-ing Co)	Capital gain does not arise [S. 47(vii)]	COA: It is deemed to be the COA of shares in A-ing Co POH: It includes the POH of shares in A-ing Co Indexation (if applicable): It runs from the date of acquisition of shares in A-ing Co
<b>Capital gain</b>			<b>xx</b>	<b>xx</b>

A-ing Co = Amalgamating company; A-ted Co = Amalgamated Indian company

**ILLUS 160.1:** X Ltd. is amalgamated with Y Ltd., an Indian company, with effect from 15.6.2024, under an approved scheme of amalgamation. Z, a shareholder of X Ltd., is allotted 1,000 shares in Y Ltd., in lieu of 2,000 shares in X Ltd. He had acquired shares in X Ltd. on 15.6.2016 for Rs. 100 each. He sells all the shares in Y Ltd. on 15.1.2025 for Rs. 300 per share. Compute the capital gain liability in the hands of Z. STT is not applicable. – Capital gain does not arise in the hands of Z on transfer of shares in X Ltd. in consideration of allotment of shares in Y Ltd., in view of section 47(vii). Capital gains arises at the time of sale of shares in Y Ltd. for AY 2025-26. LTCG (POH is determined from 15.6.2016) = 3,00,000 FVC (1,000 shares × 300 per share) – 2,00,000 COA (2,000 shares in X Ltd. × 100 per share) = 1,00,000. Indexation is not available as transfer takes place on or after 23.7.2024.

### BYC & MCQ

**M84.** B Ltd. amalgamated with C Ltd on 1.4.2024, both companies being Indian companies, under which all assets of B Ltd. became the assets of C Ltd. (Event 1). Pursuant to the amalgamation, Roman, a shareholder of B Ltd., received 1,000 shares in C Ltd. as a result of transfer of shares held in B Ltd (Event 2). On 1.2.2025, C Ltd. sold some of the assets received on amalgamation (Event 3). On 1.3.2025, Roman sold his shareholding in C Ltd (Event 4). Which of these events is liable to capital gain?

- (a) Events 3 and 4 (b) Events 1 and 2  
(c) Event 1 and 4 (d) All events

**M85.** Shaunak, a shareholder in Mart Ltd., received 5,000 shares in D-Mart Ltd. on 1.6.2024 pursuant to amalgamation of Mart Ltd. with D-Mart Ltd., an Indian company. FMV of share on 1.6.2024 was Rs.300. Shaunak sold all these shares on 1.12.2024 @ Rs. 400. Shares in D-Mart Ltd. were allotted to Shaunak based on 1,000 shares that he held in Mart Ltd. which he had acquired on 12.4.2020 @ Rs. 1,000 per share. Shares are not covered u/s 112A. Capital gain in the hands of Shaunak for AY 2025-26 will be:

- (a) LTCG 7,94,020 (b) STCG 5,00,000  
(c) LTCG 5,00,000 (d) LTCG 10,00,000

**Answer:** M84 A; M85 D

**Hint: M84.** Events 1 are 2 are not liable to capital by virtue of sections 47(vi) and 47(vii).

**M85.** LTCG will arise; FVC = 20,00,000 (5,000 shares @ 400); COA = 10,00,000 (1,000 shares @ 1,000); LTCG = 10,00,000. Indexation is not available as transfer takes place on or after 23.7.2024.

### 161. DEMERGER [S. 2(42A); 47, 49]

Demerger is a form of business reorganization. It is defined u/s 2(19AA) whereby it means the transfer, pursuant to a scheme of arrangement under the Companies Act, by a demerged company of one or more of its undertakings to any resulting company, subject to certain specified conditions. The company whose undertaking is transferred is called the *demerged* company. One or more companies to which the undertaking of the demerged company is transferred is called the *resulting* company. For example, Company A, having Undertakings I and II, transfers Undertaking I to Company B. Company A is the demerged company and Company B is the resulting company. Special provisions are made in the case of demerger if the **resulting company is an Indian company**. The following transactions take place:

1. Transfer of capital asset by the demerged company to the resulting company.
2. Transfer or issue of shares by the resulting company to the shareholders of the demerged company made in consideration of demerger of the undertaking.

The aforesaid transactions are made tax neutral u/s 47, i.e., capital gain does not arise in case of such transfers. However, capital gain arises when the capital asset or the shares are subsequently transferred by the resulting company or the shareholder. We have noted in para 136 that aforesaid transfer of capital asset is listed u/s 49(1). Thus, while computing the capital gain upon subsequent transfer of the capital asset by the resulting company, computation is made with reference to the previous owner, i.e., the demerged company. Further, while computing the capital gain upon subsequent transfer of shares by the shareholder, COA of the shares is taken to be the proportionate COA of shares held by the shareholder in the demerged company and POH includes the period for which the shares were held in the demerged company. Consequently, COA of original shares which continue to be held by the shareholder in demerged company (after such demerger) is reduced to that extent. Thus, COA of original shares is split and apportioned amongst shares now held in resulting company and shares still held in demerged company post the demerger.

In effect capital gain does not arise on demerger. It arises on the subsequent transfer of capital assets or shares.

These special provisions **do not** apply if the demerger does not satisfy the conditions referred u/s 2(19AA) or the resulting company is not an Indian company.

Provisions are tabulated below for better understanding.

Computation	Event 1A: Transfer of capital asset by DCo to RCo	Event 1B: Subsequent transfer of such capital asset by RCo	Event 2A: Transfer or issue of shares by RCo to shareholder of DCo in consideration of demerger	Event 2B: Subsequent transfer of such shares by shareholder
FVC				
Less: COA		COA POH and indexation (if applicable) are determined with reference to the previous owner (i.e., DCo)	Capital gain does not arise [S. 47(vi)]	COA = COA of shares in DCo × [Net book value of assets transferred in a demerger ÷ Net worth of DCo immediately before the demerger]* POH: It includes the POH of shares held in DCo Indexation (if applicable): It runs from the date of acquisition of shares in DCo
<b>Capital gain</b>			<b>xx</b>	<b>xx</b>

DCo = Demerged company; RCo = Resulting Indian company



\*COA of original shares held by shareholder in DCo is deemed to have been reduced by the amount so calculated.

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**BYC & MCQ**

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**M86.** Which of the following transfers is not chargeable to capital gain in case of a demerger?

- (a) Transfer of capital assets by resulting company acquired in demerger      (b) Transfer of shares in resulting company acquired by shareholder in demerger
- (c) Issue or transfer of shares by resulting company to the shareholder in consideration of demerger      (d) None of the above

**Answer:** M86 C



## 9

# Income From Other Sources

## Note in respect of undisclosed income [EXTRA PROVISIONS]

In the following additional cases also, special provisions are made to bring undisclosed sources of income within the tax net.

Provision	Situation covered	How is income assessed?
Cash credits [S. 68]	Where any sum is found <b>credited</b> in the books of an assessee maintained for any PY, and the assessee offers <i>no or unsatisfactory explanation</i> about its nature and source [Note 1]	The sum so <b>credited</b> <i>may</i> be charged to tax as the income of the assessee of that PY.
Unexplained expenditure, etc. [S. 69C]	Where in any FY, an assessee has incurred any <b>expenditure</b> and he offers <i>no or unsatisfactory explanation</i> about the source of such expenditure or part thereof.	The <b>amount</b> covered by such expenditure (or part thereof), <i>may</i> be <i>deemed</i> to be the income of the assessee for such FY. Such unexplained expenditure is <b>not allowed as deduction</b> under any head of income.
Amount borrowed or repaid on Hundi [S. 69D]	Where any amount is <b>borrowed</b> on a <i>hundi</i> from, or any amount due thereon is <b>repaid</b> to (including interest paid), any person <b>otherwise</b> than through an <b>A/c payee cheque</b> drawn on a bank.	The <b>amount</b> <i>shall</i> be <i>deemed</i> to be the income of the person borrowing or repaying, for the PY in which the amount was <i>borrowed or repaid</i> [Note 2]

**Note 1:** Where the sum credited consists of **loan** or **borrowing** or any such amount, by whatever name called, any explanation offered by the assessee is deemed to be **not** satisfactory, unless the person in whose name such credit is recorded in the books of the assessee **also** offers a satisfactory explanation about the nature and source of such sum so credited. A similar treatment applies where the assessee is a closely held company (see para 168.2 for meaning) and the sum credited consists of share application money, share capital, share premium or any such amount by whatever name called. In such case also, any explanation offered by such assessee-company is deemed to be **not** satisfactory, unless the person, being a resident in whose name such credit is recorded in the books of the company **also** offers a satisfactory explanation about the nature and source of such sum so credited.

**Note 2:** If the amount borrowed is deemed to be the income of the person, such person is **not again** taxable in respect of such amount on its repayment. This is to avoid double taxation of the same amount.

### BYC & MCQ

**M64.** During the FY 2024-25, Mr. K incurred Rs. 1 crore as expenditure on marriage ceremony of his son. Upon inquiry regarding the source of such expenditure, Mr. K could provide satisfactory explanation in respect of Rs. 60 lakh. How much amount can be taxed as income of Mr. K?

- (a) 1 crore (b) 60 lakh  
(c) 40 lakh (d) Nil

**M65.** Under section 69D, any amount borrowed or repaid during a previous year, in respect of a hundi, otherwise than through an \_\_\_\_\_, can be taxed as income for such previous year.

**Answer:** M64 C; M65 A/c payee cheque. **Hint:** M64. U/s 69C as nature and source not satisfactorily explained for Rs. 40 lakh.



## 11

# Set off & Carry Forward of Loss

## 190.1 Speculation business [EXTRA PROVISIONS]

*Deemed speculation business:* Where any part of the business of a **company** consists of **purchase and sale of shares** of other companies, such company is *deemed* to be carrying on a speculation business to the **extent** to which the business consists of the purchase and sale of such shares. However, this deeming provision **does not apply** to the following:

1. A company whose gross total income consists **mainly** of income which is chargeable under the heads IHP, Capital gains and IFOS, or
2. A company whose **principal** business is the business of trading in shares or banking or the granting of loans and advances.

The aforesaid deeming provision does not apply to a non-company assessee. It applies only to the purchase and sale of shares. It applies even when the transactions are not speculative in nature (i.e., the contracts are settled by actual delivery or transfer of shares).

The effect of exception #1 is to see that the deeming provision targets companies who are mainly engaged in trading of shares and that other companies are excluded.

The effect of exception #2 is to see that companies where purchase and sale of shares is an essential part of the business are not hit by this provision.

**ILLUS 190.8** – PQR (P) Ltd is engaged in the principal business of software development. Following are the particulars:

- |                                 |             |
|---------------------------------|-------------|
| • Profit from software business | Rs. 15 lakh |
| • Loss from trading in shares   | Rs. 5 lakh  |
| • Long term capital gain        | Rs. 2 lakh  |
| • Interest income               | Rs. 1 lakh  |

Compute the total income.

Gross total income of PQR (P) Ltd does not consist mainly of IHP, capital gain or IFOS. It mainly consists of business income. Its principal business is not trading in shares, banking or money lending. Thus, the company is deemed to be carrying on speculation business to the extent of trading in shares. Loss from speculation business of Rs. 5 lakh cannot be set off against any other income and it is carried forward to the next year. Total income = 15 lakh + 2 lakh + 1 lakh = 18 lakh.



## 12

# Deductions from Gross Total Income

## 196A. SECTION 80CCH – CONTRIBUTION TO AGNIPATH SCHEME<sup>23</sup>

Deduction is available under **optional** tax regime. However, under **default** tax regime, deduction is available **only** u/s 80CCH(2) in respect of contribution of Central Government.

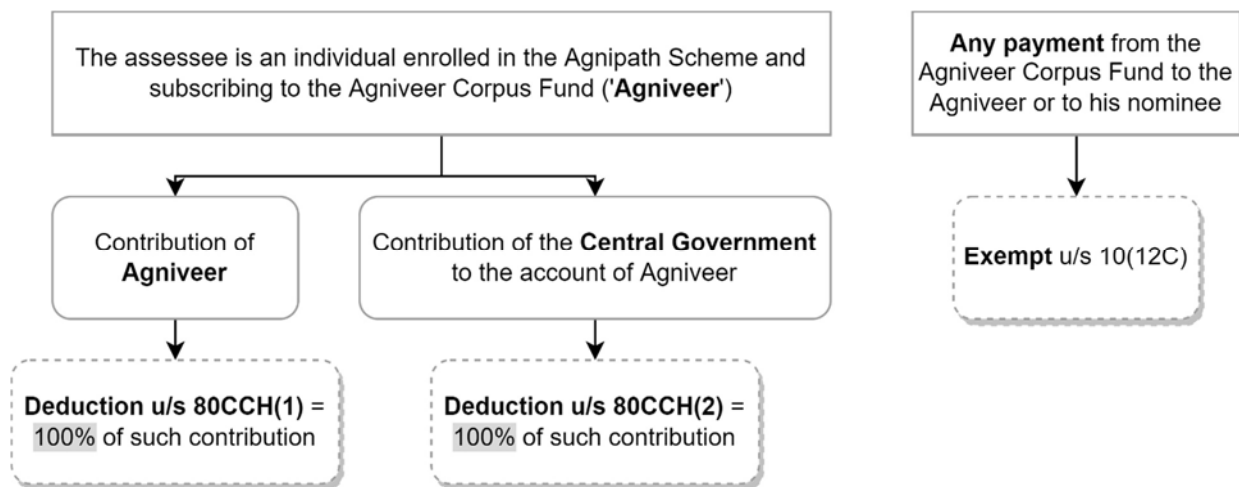
Eligible assessee	Agniveer	Max deduction	100% of contribution
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Agnipath Scheme, 2022 provides for enrolment of Agniveers in Indian Armed Forces. The scheme provides for a non-lapsable dedicated Agniveer Corpus Fund. The package given to an Agniveer from Agniveer Corpus Fund is called 'Seva Nidhi'.

The Agniveer Corpus Fund is a Fund in which consolidated contributions of all the Agniveers and matching contributions of the Government, along with interest, is held. Each Agniveer contributes 30% of his monthly customized Agniveer Package to his Agniveer Corpus Fund. The Government also contribute a matching amount. Interest is payable on the contributions.

On completion of the engagement period of 4 years, Agniveers are paid one time 'Seva Nidhi' package, which comprises of their contribution (including interest thereon) and matching contribution from the Government equal to the accumulated amount of their contribution including interest.

The Act provides for tax benefits to an Agniveer in terms of deduction of contribution to the Agniveer Corpus Fund and exemption of any payout from such fund. An Agniveer is allowed deduction from his GTI of his as well as the Government's contribution to the Agniveer Corpus Fund. Government's contribution first forms part of the salary income and, thereafter, such deduction is allowed. Payment received by Agniveer from the Agniveer Corpus Fund is exempt from tax. The following chart elucidates the provisions in this respect.



*Agnipath Scheme:* Means the scheme for enrolment in Indian Armed Forces introduced by Ministry of Defence;

*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.

<sup>23</sup> Objective is to allow deduction from the computation of total income of Agniveer, any contribution made by him or the CG to his Agniveer Corpus Fund account and to exempt from tax any payment received by Agniveer or his nominee, from the Agniveer Corpus Fund,

Contribution made by Central Government in the PY, to Agniveer Corpus Fund account of Agniveer is **first** included in his income under head '**Salaries**' and, **thereafter**, deduction is provided u/s 80CCH as referred above. There is no upper cap for deduction u/s 80CCH.

**Entire** payout from the Fund is exempt u/s 10(12C), i.e., accumulated contributions as well as interest thereon.

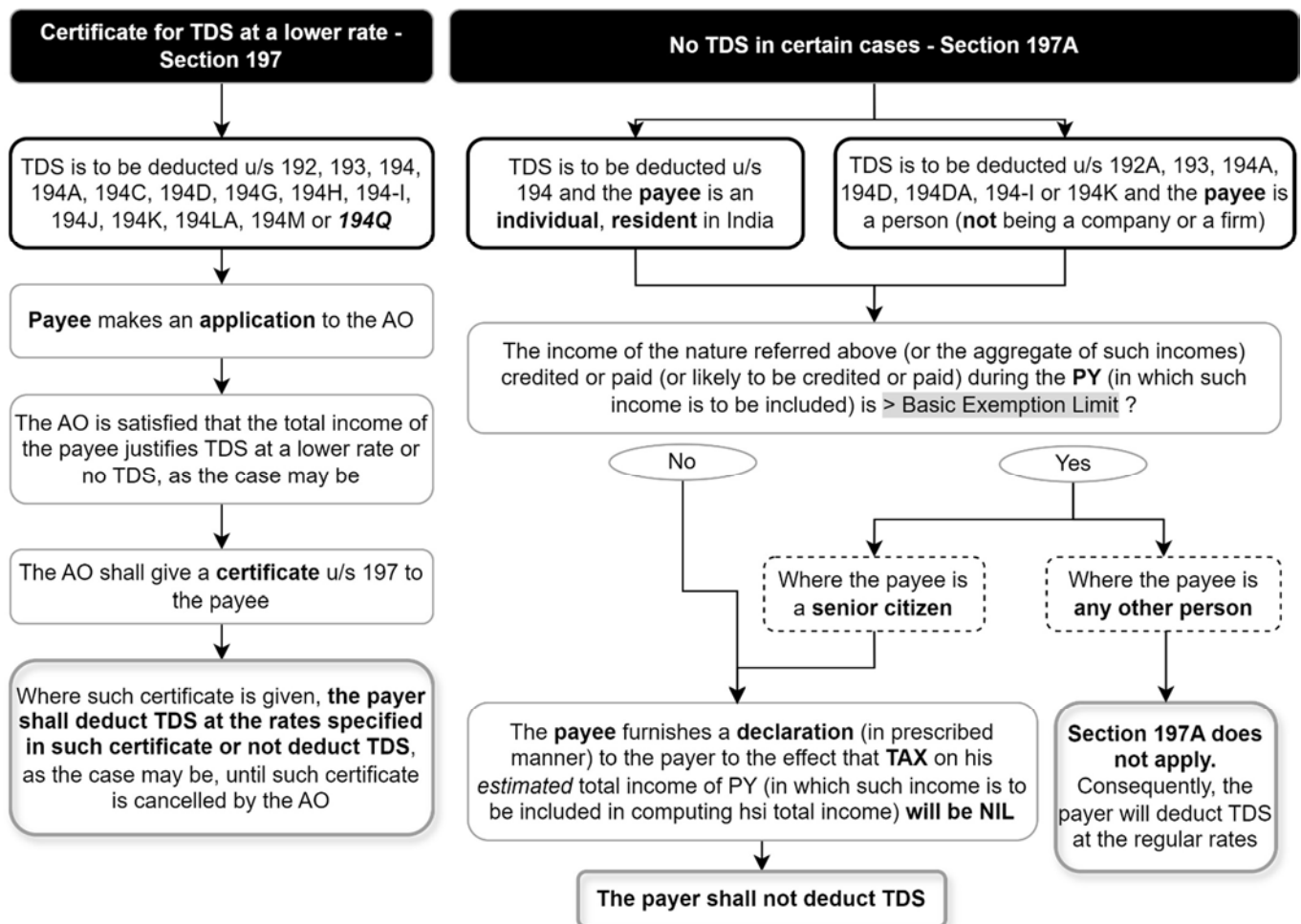


## 14

# TDS, TCS & Advance Tax

## 220. TDS AT LOWER RATE OR NIL TDS [S. 197, 197A]<sup>24</sup>

TDS is to be deducted at the rate specified under the relevant provision. However, in certain situations, deduction of TDS may be justified at a lower rate or deduction of TDS may not be justified. An example of such situation could be where the estimated tax liability of the payee for the relevant PY is Nil. Sections 197 and 197A provide two avenues for a payee for reducing the amount of TDS deducted on his behalf. Section 197 allows the payer to deduct TDS at a lower rate or not deduct TDS on the strength of a certificate issued by the AO consequent to an application made by the payee. On the other hand, section 197A allows the payer not to deduct TDS on the strength of a declaration furnished by the payee if the payee estimates the tax on his estimated total income of the PY to be Nil. The provisions of sections 197 and 197A are depicted below for a clear understanding.



AO: Assessing Officer. For basic exemption limit (BEL), see para 13. Section 197 is applicable to section 194Q w.e.f. 1.10.2024.

<sup>24</sup> Objective is to reduce compliance burden and cash flow issues in cases where there is no need to deduct TDS or where TDS can be deducted at a lower rate, if the estimated total income so justifies.

**Senior citizen:** Means an individual **resident** in India, of the age of **60 years or more** at **any time** during the PY.

**PAN to be furnished:** The following provisions regarding furnishing of PAN by the payee should be noted:

- Certificate u/s 197 is **not granted** unless the application made u/s 197 contains the PAN of the applicant.
- Declaration u/s 197A is **not valid** unless the person furnishes his PAN in such declaration. In case, any declaration becomes invalid due to non-furnishing of PAN, the payer is required to deduct TDS at the rate specified **u/s 206AA** [para 218A.1].

While section 197 allows for No TDS or TDS at a lower rate based on the certificate given by the AO, section 197A allows for No TDS based on self-declaration by the payee.

For certain sections, only section 197 is available, for certain sections only section 197A is available and for certain sections both sections 197 and 197A are available.

Declaration cannot be given by the payee u/s 197A if incomes of the nature referred under the specified sections (or aggregate of such incomes) during the PY exceed the BEL even if the total income of the payee for the PY is not estimated to exceed the BEL (i.e., tax is estimated to be Nil).<sup>25</sup> However, relief is provided to a senior citizen whereby he can furnish the declaration even if the amount of such incomes exceed the BEL, provided his total income of the PY is not estimated to exceed BEL (i.e., tax is estimated to be Nil).

TDS needs to be deducted at the regular rates in cases not covered u/s 197 or 197A.

Benefit of section 197 as well as 197A is not available for casual income sections (194B, 194BA, 194BB; para 214), certain work & services relate sections [**194T**; para 216], certain property related sections (194-IA, 194-IB; para 217), certain trade & commerce related sections [194Q (**till 30.9.2024**); 194R; para 217A] and certain special cases sections (194N; 194P; para 218).

**ILLUS 220.1 to 220.3: 1:** Mr. D, a resident aged 45 years, estimates his total income for the PY to be taxable at a slab rate of 5%. He is entitled to interest of Rs. 1 lakh on fixed deposits made with SBI. Can he reduce the amount of TDS deductible on the interest income? - TDS on interest is deductible @ 10% u/s 194A. He can apply to the AO u/s 197 for a certificate of TDS at a lower rate. He cannot furnish declaration u/s 197A since the tax on his estimated total income for the PY will not be Nil.

**2:** Mr. J, a resident aged 65 years, estimates his gross total income for the PY to be Rs. 4,20,000 and investments eligible for deduction u/s 80C of Rs. 1,50,000. Likely interest on debentures of companies would amount to Rs. 1,00,000, dividend income would amount to Rs. 1,00,000 and interest on corporate deposits would amount to Rs. 1,50,000. Can he reduce the amount of TDS deductible on these incomes? Consider optional tax regime. - Mr. J is a senior citizen. Incomes are covered u/s 193, 194 and 194A. Even though the aggregate of such incomes of Rs. 3.5 lakh is > basic exemption limit of Rs. 3 lakh, Mr. J can furnish a declaration u/s 197A since the tax on his estimated total income for the PY of Rs. 2,70,000 (4,20,000 GTI – 1,50,000 deduction u/s 80C) would be Nil. Alternatively, Mr. J can apply to the AO for a certificate u/s 197.

**3:** Mr. J is a resident aged 54 years. He estimates his gross total income for the PY at Rs. 3,50,000 out of which insurance commission would be Rs. 3,00,000. Investments u/s 80C would be Rs. 1,50,000. Can he reduce the amount of TDS deductible on insurance commission? Consider optional tax regime. - Mr. J is not a senior citizen. TDS is deductible u/s 194D. Since insurance commission of Rs. 3 lakh is > basic exemption limit of Rs. 2.5 lakh, he cannot furnish the declaration u/s 197A even if the tax on his estimated total income of Rs. 2,00,000 (3,50,000 GTI – 1,50,000 deduction u/s 80C) would be Nil. He can apply to the AO for a certificate u/s 197.

### BYC & MCQ

**M51.** Mr. Sharma, sole proprietor of a furniture workshop and a resident aged 62 years, has estimated his total income and tax liability to be nil for the PY 2024-25. He has supplied certain furniture to BCD Pvt. Ltd. for Rs. 50,000 on which tax is deductible at source @ 1% u/s 194C. Which of the following options is available to him to reduce or avoid deduction of TDS?

- |   |  |
|---|--|
| (a) Furnish declaration to the payer u/s 197A | (b) Ask the payer not to deduct TDS                        |
| (c) Make application to the AO u/s 197        | (d) No option; TDS will be deducted at the prescribed rate |

<sup>25</sup> Objective is to discourage and prevent non filing of ROI merely because no TDS has been deducted based on self-declaration u/s 197A even when the specified incomes exceed the basic exemption limit.

**M52.** Suhana, a resident aged 56 years, has estimated her gross total income for PY 2024-25 of Rs. 4,00,000 and deduction available under Chapter VIA of Rs. 1,75,000. Her income will include taxable amount of Rs. 3,00,000 on account of proceeds from a life insurance policy. What can she do to minimize TDS liability on insurance proceeds? Consider optional tax regime.

- (a) Furnish declaration to the payer u/s 197A (b) Ask the payer not to deduct TDS  
(c) Make application to the AO u/s 197 (d) No option; TDS will be deducted at the prescribed rate

**M53.** Mr. K, a resident of age 70 years, is supposed to receive interest on bank fixed deposits of Rs. 2,00,000 and dividend from Indian companies of Rs. 1,50,000. He estimates his gross total income for the PY 2024-25 to be Rs. 5,50,000. However, after providing deduction under Chapter VIA provisions, he estimates his tax liability, under the optional tax regime, to be Nil. What is the best way he can avoid TDS on the aforesaid amounts?

- (a) Furnish declaration to the payer u/s 197A (b) Ask the payer not to deduct TDS  
(c) Make application to the AO u/s 197 (d) No option; TDS will be deducted at the prescribed rate

**Answer:** M51 C; M52 D; M53 A

**Hint: M51.** Section 194C is not covered u/s 197A. It is covered u/s 197.

**M52.** Life insurance proceeds are covered u/s 194DA. It is not covered u/s 197. It is covered u/s 197A but Suhana cannot avail the benefit of this provision since the sum of 3 lakh is > 2.5 lakh basic exemption limit.

**M53.** Interest on bank FD is covered u/s 194A and dividend is covered u/s 194. These sections are covered u/s 197 and 197A. Mr. K is a senior citizen. Since tax on his estimated total income will be Nil, he can furnish a declaration to the payer u/s 197A consequent to which TDS will be not be deducted.

## 222. PROCEDURE FOR TDS [S. 200, 203] [EXTRA PROVISIONS]

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

The procedure for payment/certificate/statement of TDS is briefly given below:

Scheme	Where TDS is deducted by an office of Government		Where TDS is deducted by any other person		
Section	Any section		Other than u/s 194-IA, 194-IB, 194M		U/s 194-IA, 194-IB, 194M
<b>Payment of TDS:</b>					
Due date for payment of TDS to the credit of Central Government	Where TDS is paid <b>without</b> production of an <b>income-tax challan</b> (i.e., book entry): TDS is to be paid on the same day	Where TDS is paid accompanied by an <b>income-tax challan</b> : TDS is to be paid on or before 7 days from the end of the month in which TDS is deducted	Income/amount is credited/paid in ↓	Due date ↓	Within <b>30 days</b> from the end of the month in which TDS is deducted
			April to February	7 days from the end of the month in which TDS is deducted	
			March	30 April	
Quarterly payment of TDS in special cases	-	-	In special cases, the AO may permit quarterly payment of TDS deducted u/s 192, 194A, 194D or 194H as follows:		-
			Quarter	Due date	
			April-June	7 July	
			July-September	7 October	
			October-December	7 January	
			January-March	30 April	



Scheme	Where TDS is deducted by an office of <u>Government</u>	Where TDS is deducted by <u>any other person</u>											
<b>Statement of TDS:</b>													
<i>Due date for furnishing the Statement of TDS to the prescribed authority</i>	<b>Month to which the statement relates ↓</b>	<b>Due date</b>	<table border="1"> <thead> <tr> <th>Quarter</th> <th>Due date</th> </tr> </thead> <tbody> <tr> <td>April-June</td> <td>31 July</td> </tr> <tr> <td>July-September</td> <td>31 October</td> </tr> <tr> <td>October-December</td> <td>31 January</td> </tr> <tr> <td>January-March</td> <td>31 May</td> </tr> </tbody> </table>	Quarter	Due date	April-June	31 July	July-September	31 October	October-December	31 January	January-March	31 May
	Quarter	Due date											
	April-June	31 July											
	July-September	31 October											
October-December	31 January												
January-March	31 May												
April – February	15 days from the end of relevant month												
March	30 April												
			Within 30 days from the end of the month in which TDS is deducted										
<i>Form No.</i>	24G	24Q (u/s 192 or 194P); 26Q <sup>26</sup> (for other sections)	26QB, 26QC, 26QD <sup>27</sup>										
<b>Certificate of TDS:</b>													
<i>Due date to furnish certificate of TDS to the payee</i>	<b>Section</b>	<b>Periodicity</b>	<b>Due date</b>	Within 15 days from the due date for furnishing Statement of TDS									
	192, 194P	Annual	15 June of the succeeding FY										
	Others	Quarterly	15 days from the due date for furnishing the Statement of TDS										
<i>Form No.</i>		16 (u/s 192 or 194P); 16A (for other sections)	16B, 16C, 16D <sup>28</sup>										

*Processing of TDS statement [S. 200A]:* Once submitted, the Statement of TDS is processed pursuant to which TDS liability or refund is calculated and intimated to the deductor along with interest and fee applicable, if any.

## 228. PAYMENT OF ADVANCE TAX BY SELF OR PURSUANT TO ORDER OF ASSESSING OFFICER [S. 210]

Advance tax can be paid by the assessee of his own accord or in pursuance of an order of the Assessing Officer. The provisions are explained below.

### 1 – Payment of advance tax by assessee of his own accord

Every person, liable to pay advance tax, should pay advance tax of his **own accord**, i.e., on his own, as per the due dates and instalments [specified in para 227]. He need not submit the details of estimation of advance tax to the Assessing Officer. Advance tax should be so paid by the person whether or not he has been previously assessed by way of regular assessment.

### 2 – Payment of advance tax by assessee pursuant to order of Assessing Officer<sup>29</sup>

The Assessing Officer can make an order in writing requiring a person to pay advance tax and issue to him a notice of demand specifying the instalments in which such tax is to be paid. Such order can be made where:

- The person has already been assessed by way of regular assessment in respect of total income of any PY; and
- The Assessing Officer is of opinion that such person is liable to pay advance tax.

The order can be made by the Assessing Officer at any time during the FY but not later than the **last day of February**. The law also provides for amendment of the order by the Assessing Officer.

<sup>26</sup> Form No. 27Q in respect of the deductee who is a non-resident not being a company or a foreign company or a RNOR.

<sup>27</sup> Form No. 26QB u/s 194-IA. Form No. 26QC u/s 194-IB, Form No. 26QD u/s 194M.

<sup>28</sup> Form No. 26QB u/s 194-IA. Form No. 26QC u/s 194-IB, Form No. 26QD u/s 194M.

<sup>29</sup> Objective is to enable Assessing Officer to ensure payment of advance tax not only in cases of non-payment of any instalment of advance tax but also in cases of short payment of advance tax, say, where first instalment is paid but subsequent instalments are not being paid.

If the person estimates the advance tax payable on his current income to be **lesser** than that specified in the order of the Assessing Officer, he **may** send an intimation in the prescribed Form to the Assessing Officer to that effect and pay the advance tax as per his estimate in accordance with the instalments and due dates [specified in para 227] falling **after** the date of such intimation.

However, if the person estimates the advance tax payable on his current income to be **higher** than that specified in the order of the Assessing Officer or intimated by him as above, he **should** pay the appropriate part or, as the case may be, the whole of such higher amount of advance tax as per his estimate, on or before the due date of the **last** instalment [specified in para 227].

If the assessee does not pay advance tax as per the order of the Assessing Officer *and* does not send the aforesaid intimation to the Assessing Officer for a lower estimate OR does not pay advance tax as per his higher estimate, he is *deemed* to be an **assessee in default** in respect of such instalment(s).



# 15 Return of Income

## 232.1 Who is required to file return of Income u/s 139(1)? [EXTRA PROVISIONS]

Category E (additional points to note):

- Nothing contained in Category E applies to an individual referred to in E2 (i.e., a beneficiary of any asset located outside India) where, income, if any, arising from such asset is includible in the income of the person referred to in E1. Thus, in such case, the beneficiary individual **need not** furnish his return u/s 139(1) under Category E, unless he is covered under any other Category.
- A person is required to furnish return under this category even if he holds any asset located outside India as a beneficial holder or where he is a beneficiary of such asset. For this purpose, "*beneficial owner*" in respect of an asset means an individual who has provided (directly or indirectly) consideration for the asset for the immediate or future benefit (direct or indirect) of himself or any other person. Further, "*beneficiary*" in respect of an asset means an individual who derives benefit from the asset during the PY and the consideration for such asset has been provided by any person other than such beneficiary.<sup>30</sup>

## 239.3 Inter-changeability of PAN and Aadhaar Number<sup>31</sup>

Following option is available to a person who is required to furnish or intimate or quote his PAN under the Act:

Situation	Option available
He has <b>not</b> been allotted a PAN but <b>possesses</b> the Aadhaar number	He may furnish or intimate or quote his <b>Aadhaar</b> number <b>in lieu of</b> PAN. Such person shall be allotted a PAN in the prescribed manner.
He has been <b>allotted</b> a PAN and has <b>intimated</b> his Aadhaar number u/s 139AA [para 239.2]	He may furnish or intimate or quote his <b>Aadhaar</b> number <b>in lieu of</b> the PAN.

## 239.4 Penalty for failure to comply with the provisions of section 139A [S. 272B]

#	Default	Penalty u/s 272B
1	If a person fails to comply with the provisions of section 139A relating to PAN.	Rs. 10,000
2	If a person, who is required to quote or intimate his PAN (or Aadhaar number), quotes or intimates a number which is false, and which he either knows or believes to be false or does not believe to be true. - <i>Refer para 239.1-2</i>	Rs. 10,000 for each such default
3	If a person, who is required to quote his PAN (or Aadhaar number) or authenticate such number, fails to do so. - <i>Refer para 239.1-1 "Quoting of PAN/Aadhaar"</i>	
4	If a person, who is required to ensure that PAN (or Aadhaar number) has been duly quoted or authenticated (under #2 and #3 above), fails to do so.	

Order of penalty cannot be passed unless the person, on whom the penalty is proposed to be imposed, is given an opportunity of being heard in the matter.

<sup>30</sup> Objective is to capture large number of cases where the assessee escapes the requirement of furnishing of return and disclosing the foreign assets where these assets are held in the name of trusts/entities and the assessee is a beneficial owner or is a beneficiary.

<sup>31</sup> Objective is to ensure ease of compliance.

**242 TAX ON UPDATED RETURN [S. 140B] [EXTRA PROVISIONS]**

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

There could be two situations: (1) Where an earlier return has not been furnished by the assessee; (2) where an earlier return has been furnished by the assessee.



**Situation 1:** Where an earlier return (i.e., regular return u/s 139(1) or belated return u/s 139(4)) has **not been furnished** by the assessee, amount to be paid before furnishing the updated return is computed as given below:

Particulars	Rs.
Tax on total income declared in the <b>updated</b> return	xx
<i>Less:</i>	
• Tax, if any, already paid as advance tax	(xx)
• TDS/TCS deducted or collected	(xx)
• Relief claimed u/s 89	(xx)
• AMT credit claimed to be set off u/s 115JD	(xx)
Tax payable on the basis of the updated return	xx
<i>Add:</i> Interest u/s 234A, 234B, 234C and fee u/s 234F	xx
<i>Add:</i> Additional income-tax	xx
Amount payable before furnishing the updated return	xx

**Situation 2:** Where an earlier return (i.e., regular return u/s 139(1) or belated return u/s 139(4) or revised return u/s 139(5)) has been **furnished** by the assessee, amount to be paid before furnishing the updated return is computed as given below:

Particulars	Rs.
Tax on total income declared in the <b>updated</b> return	xx
<i>Less:</i>	
• Amount of relief or tax referred to u/s 140A(1) [para 241], the credit for which has been taken in the <b>earlier</b> return [refer para 241 above]	(xx)
• TDS/TCS deducted or collected on any income which has <b>not</b> been included in the <b>earlier</b> return	(xx)
• AMT credit claimed to be set off u/s 115JD which has <b>not</b> been claimed in the <b>earlier</b> return	(xx)
<i>Add:</i> Amount of refund, if any, issued in respect of the <b>earlier</b> return	xx
Tax payable on the basis of the updated return	xx
<i>Add:</i> Interest u/s 234B, 234C (as reduced by interest paid in the <b>earlier</b> return)	xx
<i>Add:</i> Additional income-tax	xx
Amount payable before furnishing the updated return	xx

Since in Situation 2, the updated return is preceded by the earlier return, computation of amount payable, provides for reduction for taxes and interest paid at the time of self-assessment upon furnishing the earlier return, prepaid taxes and credits not accounted for in the earlier return and addition of refund issued earlier. Thus, only the incremental amount, based on addition to the tax liability as per the updated return, is payable.

*Additional income-tax:* As noted above, additional income-tax is payable before furnishing the updated return. This is computed as given below.

Situation	Additional income-tax
If updated return is furnished <b>after</b> expiry of the time available to furnish belated return u/s 139(4) or revised return u/s 139(5) and <b>before</b> completion of <b>12 months</b> from the end of the relevant AY.	<b>25%</b> of aggregate of <b>tax payable</b> (including SC & HEC) and <b>interest payable</b> , as determined in Situation 1 or 2 above, as the case may be
If updated return is furnished <b>after</b> the expiry of <b>12 months</b> from the end of the relevant AY but <b>before</b> completion of <b>24 months</b> from the end of the relevant AY.	<b>50%</b> of aggregate of <b>tax payable</b> (including SC & HEC) and <b>interest payable</b> , as determined in Situation 1 or 2 above, as the case may be

**Interest u/s 234A:** As noted above, interest u/s 234A is payable before furnishing the updated return. Interest u/s 234A is chargeable for default in furnishing the return. We have studied the provisions in para 240.1. Interest payable u/s 234A before furnishing the updated return is to be computed with reference to the shortfall based on the tax on the total income declared in the **updated** return. Interest u/s 234 is only payable in Situation 1. It is not payable in Situation 2 as the assessee would have already filed the earlier return.

**Interest u/s 234B:** As noted above, interest u/s 234B is payable before furnishing the updated return. Interest u/s 234B is chargeable where the assessee defaults in payment of advance tax. We have studied the provisions in para 230. Interest payable u/s 234B before furnishing of updated return is computed on the amount of tax payable on the basis of the **updated** return computed in the Table given above for Situations 1 or 2, as the case may be. In Situation 2, interest is to be reduced by the interest paid in the earlier return (so that same interest is not paid twice).

**Interest u/s 234C:** As noted above, interest u/s 234C is payable before furnishing the updated return. Interest u/s 234C is chargeable for deferment of advance tax. We have studied the provisions in para 231. Interest payable u/s 234C before furnishing of updated return is computed with reference to the shortfall based on the tax on the total income declared in the **updated** return. In Situation 2, interest is to be reduced by the interest paid in the earlier return (so that same interest is not paid twice).

**Fee u/s 234F:** As noted above, fee u/s 234F is payable before furnishing the updated return. Fee u/s 234F is chargeable for default in furnishing return within the time prescribed u/s 139(1). We have studied the provisions in para 240.2. Fee u/s 234F is only payable in Situation 1. It is not payable in Situation 2 as the assessee would have already filed the earlier return.

**ILLUS 242.1: EARLIER RETURN NOT FURNISHED:** Mr. X, age 45 years, has total income of Rs. 10 lakh for the PY 2023-24. However, he did not furnish the return of income for AY 2024-25. Realizing his mistake, he wants to furnish the return u/s 139(8A) on 20.5.2025 and pay the tax due on this date. Due date to furnish return u/s 139(1) was 31.7.2024. He paid advance tax of Rs. 17,000 on 25.2.2024. He is eligible to furnish the updated return under the provisions. Compute the amount that Mr. X will need to pay at the time of furnishing the return assuming that he wishes to opt out of the default tax regime. – Since an earlier return has not been furnished by Mr. X, the amount to be paid will be computed as follows:

Particulars	Rs.
Tax on total income of Rs. 10 lakh declared in the updated return	1,17,000
Less: Tax, if any, already paid as advance tax	(17,000)
Tax payable on the basis of the updated return	1,00,000
Add: Interest u/s 234A [Note 1]	10,000
Add: Interest u/s 234B [Note 2]	14,000
Add: Interest u/s 234C [Note 3]	5,734
Add: Fee u/s 234F	5,000
Add: Additional income-tax [Note 4]	32,434
<b>Amount payable before furnishing the updated return</b>	<b>1,67,168</b>

**Note 1:** Interest u/s 234A = 1% p.m. on Rs. 1,00,000 for 10 months (from 1.8.2024 being the date immediately following due date of return to 20.5.2025 being the date of furnishing updated return; part of a month is taken as full month) = Rs. 10,000.

**Note 2:** Interest u/s 234B = 1% p.m. on Rs. 1,00,000 for 14 months (from 1.4.2024 being 1 April following FY 2023-24 to 20.5.2025 being the date of payment of tax; part of a month is taken as full month) = Rs. 14,000.

Note 3: Interest u/s 234C:

Due date of advance tax	Shortfall in payment of advance tax	Simple interest payable u/s 234C	Rs.
On or before 15 June	15% of tax due on returned income – Advance tax paid up to 15 June = 15% of Rs. 1,17,000 – Nil = Rs. 17,550. Rounded off to Rs. 17,500 (fraction of Rs. 100 is ignored)	1% p.m. × 3 months × Rs. 17,500	525
On or before 15 September	45% of tax due on returned income – Advance tax paid up to 15 September = 45% of Rs. 1,17,000 – Nil = Rs. 52,650. Rounded off to Rs. 52,600 (fraction of Rs. 100 is ignored)	1% p.m. × 3 months × Rs. 52,600	1,578
On or before 15 December	75% of tax due on returned income – Advance tax paid up to 15 December = 75% of Rs. 1,17,000 – Nil = Rs. 87,750. Rounded off to Rs. 87,700 (fraction of Rs. 100 is ignored)	1% p.m. × 3 months × Rs. 87,700	2,631
On or before 15 March	100% of tax due on returned income – Advance tax paid up to 15 March = 100% of Rs. 1,17,000 – Rs. 17,000 = Rs. 1,00,000.	1% × Rs. 1,00,000	1,000
			5,734

Note 4: Since updated return is furnished before completion of 12 months from the end of AY 2024-25, additional income tax = 25% of 1,29,734 (aggregate of tax and interest) = 32,434.

**ILLUS 242.2: EARLIER RETURN FURNISHED:** Mr. X, age 45 years, furnished his return u/s 139(1) for the AY 2024-25 on the due date of 31.7.2024 showing a total income of Rs. 10 lakh by way of salary and taking credit of TDS deducted by his employer of Rs. 1,17,000. However, he missed to declare an income of Rs. 5 lakh in the return. Realizing his mistake, he wants to furnish the updated return u/s 139(8A) on 20.5.2025 and pay the tax due on this date. He is eligible to furnish the updated return under the provisions. Compute the amount that Mr. X will need to pay at the time of furnishing the return. He has opted out of default tax regime. – Since an earlier return has been furnished by Mr. X, amount to be paid will be computed as follows:

Particulars	Rs.
Tax on total income of Rs. 15 lakh declared in the updated return	2,73,000
Less: TDS, the credit for which has been taken in the earlier return	(1,17,000)
Tax payable on the basis of the updated return	1,56,000
Add: Interest u/s 234A: Not payable as Mr. X has already furnished the earlier return	-
Add: Interest u/s 234B [Note 1]	21,840
Add: Interest u/s 234C [Note 2]	7,878
Add: Fee u/s 234F: Not payable on furnishing earlier return (as furnished on time) or on furnishing updated return	-
Add: Additional income-tax [Note 3]	46,430
<b>Amount payable before furnishing the updated return</b>	<b>2,32,148</b>

Note 1: Interest u/s 234B = 1% p.m. on Rs. 1,56,000 for 14 months (from 1.4.2024 being 1 April following FY 2023-24 to 20.5.2025 being the date of payment of tax; part of a month is taken as full month) = Rs. 21,840.

Note 2: Interest u/s 234C:

Due date of advance tax	Shortfall in payment of advance tax	Simple interest payable u/s 234C	Rs.
On or before 15 June	15% of tax due on returned income – Advance tax paid up to 15 June = 15% of Rs. 1,56,000 – Nil = Rs. 23,400.	1% p.m. × 3 months × Rs. 23,400	702
On or before 15 September	45% of tax due on returned income – Advance tax paid up to 15 September = 45% of Rs. 1,56,000 – Nil = Rs. 70,200.	1% p.m. × 3 months × Rs. 70,200	2,106
On or before 15 December	75% of tax due on returned income – Advance tax paid up to 15 December = 75% of Rs. 1,56,000 – Nil = Rs. 1,17,000.	1% p.m. × 3 months × Rs. 1,17,000	3,510
On or before 15 March	100% of tax due on returned income – Advance tax paid up to 15 March = 100% of Rs. 1,56,000 – Nil = Rs. 1,56,000.	1% × Rs. 1,00,000	1,560
			7,878

*Note 3:* Since updated return is furnished before completion of 12 months from the end of AY 2024-25, additional income tax = 25% of 1,85,718 (aggregate of tax and interest) = 46,430.

