



**S.Y.B.COM (ACCOUNTING AND
FINANCE)**

SEMESTER - IV (CBCS)

**TAXATION - III
(DIRECT TAXES - II)**

SUBJECT CODE : UA_FFSIV.4

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CONTENTS

Chapter No.	Title	Page No
Module - I		
1.	Clubbing of Income (Section 60-65)	1
Module - II		
2.	Set Off & Carry Forward of Losses (Section 70 To 74)	20
Module - III		
3.	Computation of Tax Liability of Individual & HUF	37
4.	Computation of Tax Liability of Individual & HUF	49
Module - IV		
5.	Computation of Income of Partnership Firm In Relation To Sec 40(B) and Tax Thereon with Applicable Rate of Tax	66
Module - V		
6.	Return of Income (Section 139)	76
Module - VI		
7.	Tax Deducted at Sources	86
8.	Advance Tax (Section 207-211)	101
9.	Interest Payable U/S 234A, 234B, 234C	113
Module - VII		
10.	Dtaa Us 90 & 91	124
Module - VIII		
11.	Tax Planning & Ethics in Taxation	136

Revised Syllabus of Courses of B.Com. (Accounting and Finance)
Programme at Semester IV
with Effect from the Academic Year 2017-2018

1. Elective Courses (EC)

Taxation - III (Direct Taxes- II)

Modules at a Glance

Sr. No.	Modules	No. of Lectures
1	Clubbing of Income	05
2	Set Off & Carry Forward of Losses	05
3	Computation of Tax liability of Individual & HUF	05
4	Computation of Income of Partnership Firm in Relation to Sec: 40(b) & Tax Thereon With Applicable Rate of Tax	15
5	Return of Income – Sec 139	05
6	Tax Deduction at Source Advance Tax Interest Payable	15
7	DTAA U/S 90 & 91	05
8	Tax Planning & Ethics in Taxation	05
Total		60

Sr. No.	Modules/ Units
1	Clubbing of Income - Section 60 to 65
2	Set Off & Carry Forward of Losses
	Sec: 70 – Set off Loss from one Source against Income from another Source under the Same Head of Income Sec: 71 – Set Off Loss from One Head against Income of another Head Sec: 71B – Carry Forward & Set off Losses from House Property Sec: 72 – Carry Forward & Set Off of Losses of Business Losses Sec: 73- Losses in Speculation Business Sec: 74- Loss under the head Capital Gains
3	Computation of Tax liability of Individual & HUF
4	Computation of Income of Partnership Firm in Relation to Sec: 40(b) & Tax Thereon With Applicable Rate of Tax
5	Return of Income – Sec 139
	Excluding u/s 139(4A), 139(4B), 139(4C) & 139 (4D)
6	Tax Deduction at Source Advance Tax U/S 207, 208, 209, 210 & 211 Interest Payable U/S 234A, 234B, 234C
	Basic Aspects of Deduction of Taxes at Source Sec: 192 – TDS on Salary Sec: 194A – TDS on Interest Sec: 194C – TDS on Contractor Sec: 194H – TDS on Commission Sec: 194I – TDS on Rent Sec: 194J – TDS on Professional Fees Advance Tax U/S 207, 208, 209, 210 & 211 Sec: 207 – Income Liable to Advance Tax Sec: 208 – Liability of Advance Tax Sec: 209 – Computation of Advance Tax Sec: 210 – Payment of Advance Tax by Assessee on His Own Account Sec: 211 – Due Dates of Payment of Advance Tax Interest Payable U/S 234A, 234B, 234C Sec: 234A – Interest for default in furnishing return of income Sec: 234B – Interest for default in payment of advance tax Sec: 234C – Interest for deferment of advance tax
7	DTAA U/S 90 & 91
8	Tax Planning & Ethics in Taxation – Basic Concepts

Note:

1. Relevant Law / Statute in force on 1st April immediately preceding commencement of Academic Year is applicable for ensuing examinations after relevant year.
2. The syllabus is restricted to study of particular section/s, specifically mentioned rules and notifications only.

MODULE - I

1

CLUBBING OF INCOME (SECTION 60-65)

Unit Structure

- 1.0 Learning Objectives
- 1.1 Introduction
- 1.2 Scenarios Under Clubbing Of Income
- 1.3 Transferring Of Income Without Transferring Asset (Section 60)
- 1.4 Transferring Of Asset Which Can Be Revoked (Section 61)
- 1.5 Income Of Minor Child (Section 64(1a))
- 1.6 Salary, Commission, Fees, Remuneration, Or Any Other Form Or By Any Mode I.E. Cash Or Kind Paid To Spouse From A Concern In Which An Individual Has A Substantial Interest. (Section 6(1)(ii))
- 1.7 Assets Transferred To Spouse For Inadequate Consideration (Section 64(1)(iv))
- 1.8 Assets Transferred To Daughter-In-Law (Son's Wife) For Inadequate Consideration (Section. 64(1)(vi))
- 1.9 Assets Transferred To Any Person Or Association Of Persons For The Immediate Or Deferred Benefits Of Spouse (Section 64(1)(vii)).
- 1.10 Assets Transferred To Any Person Or Association Of Persons For The Immediate Or Deferred Benefits Of Daughter-In-Law (I.E. Son's Wife) - (Section 64(1)(viii)).
- 1.11 Conversion Of Individual's Property Into His HUF's Property (Section 64(2))
- 1.12 Practical Problems
- 1.13 Exercises
 - Multiple Choice Questions
 - True/ False
 - Short Notes
 - Practical Problems

1.0 LEARNING OBJECTIVES

After reading this chapter learner will be able to:

- **To understand** the concept of clubbing of income and how it relates to taxation.
- **To be familiar** with the numerous provisions of the Income Tax Act that deal with the clubbing of income, including the situations where clubbing of income is applicable and the different kinds of income that can be clubbed.

- **To familiarize** with the legal guidelines for clubbing income, with respect to Sections 60–64 of the Income Tax Act.
- **To determine** the amount of income that must be clubbed in a variety of situations, such as when money is transferred to a spouse, a minor child, or a person for the taxpayer's benefit.
- **To comprehend** the effects of income clubbing, such as the rate of taxation, fines, and others.
- **To improve one's capacity for detection of scenarios** in which clubbing of income is applicable and for recommending suitable tax-planning techniques to lessen its effects.

1.1 INTRODUCTION

As the term suggests, clubbing of income means adding or including the income of another person (mostly family members i.e. spouse, minor son, daughter etc) to one's own income.

Section 60 to 65 of the Income Tax Act, 1961 contains the provisions related to the "Clubbing of Income" whereby income of one person is taxed in the hands of another person.

For example: Income of minor son which is shown to be the income of his parent is clubbed in the income of his parent who earn a higher income and is taxable in the hands of the parent. Under the Income Tax Act a person has to pay taxes on his income.

1.2 SCENARIOS UNDER CLUBBING OF INCOME

While computing total income of an individual and also not all income of specified person can be clubbed. As per Section 64 of the Income Tax Act, certain restrictions pertaining to specified person(s) and specified scenarios are mandated to discourage this practice.

Section	Scenarios under Clubbing of Income
Sec. 60	Transferring of Income without transferring asset.
Sec. 61	Transferring of asset which can be revoked
Sec. 64(1A)	Income of Minor Child
Sec. 64(1)(ii)	Salary, Commission, Fees, remuneration, or any other form or by any mode i.e cash or kind paid to spouse from a concern in which an individual has a substantial interest.
Sec. 64(1)(iv)	Assets transferred to spouse for inadequate consideration
Sec. 64(1)(vi)	Assets transferred to daughter-in-law for inadequate consideration

Sec. 64(1)(vii)	Assets transferred to any person or association of persons for the immediate or deferred benefits of spouse
Sec. 64(1)(viii)	Assets transferred to any person or association of persons for the immediate or deferred benefits of daughter-in-law
Sec. 64(2)	Conversion of individual's Property into his HUF's property

Each of the above scenarios is discussed as below:

1.3 TRANSFERRING OF INCOME WITHOUT TRANSFERRING ASSET (SECTION 60)

Conditions:

- i. The person has transferred his income to another person.
- ii. But Income generating assets is not transferred to such other person.
- iii. Thus, the income from such an asset is taxed in the hands of the transferor (i.e. person transferring the income).

Illustration 1.1:

Mr. Prakash owns a house which fetches a rent ` 20,000 per month. He transfers the rent to his friend Mr. Rakesh but retains the ownership of a house.

In this case,

- i. Mr. Prakash has transferred his income to his friend Mr. Rakesh
- ii. Mr. Prakash retains the ownership of a house (i.e. income generating assets)
- iii. Hence, as per Sec. 60 of the Income Tax Act, Mr. Prakash (i.e. transferor) must include the rental income while computing his total income.

1.4 TRANSFERRING OF ASSET WHICH CAN BE REVOKED (SECTION 61)

When a person transfers an asset to another person and the transferor has retained a right to reacquire the asset back from the transferee in future. Such a situation is called "Revocable Transfer".

Conditions:

- i. The person has transferred his assets to another person revocably.

- ii. Then any income arising from that asset is taxed in the hands of transferor (i.e. person transferring the assets)
- iii. The provisions of section 61 will not apply in following cases:
 - a) transfer by way of trust which is not revocable during the life time of the beneficiary or a transfer which is not revocable during the lifetime of the transferee.
 - b) Transfer made prior to 01-04-1961 and not revocable for a period exceeding 6 years.

Illustration 1.2:

Arjun transferred his house property to Krishna. There is a condition in agreement that asset will transfer back to Arjun after 2 years.

In this case,

- i. Arjun has transferred his assets to Krishna keeping a clause in the transaction which empowers transferor to take back after 2 years.
- ii. Then any income arising from that asset is taxed in the hands of transferor (i.e. Arjun)

1.5 INCOME OF MINOR CHILD (SECTION 64 (1A))

Conditions:

- i. Any income earned by a minor child
- ii. It is clubbed in the hands of either of his/her parents, whose income (excluding minor child income) is greater.

Illustration 1.3:

If a Fixed deposit taken in the name of a minor child, the interest earned Will be clubbed with the income of the highest earning parent.

However, as per Income Tax provisions there are certain situations in which the clubbing of income provisions will not apply. These are:

- iii. When minor child is suffering from any disability as mentioned in Sec 80U, or
- iv. When income is earned by minor child through manual work, or
- v. Income earned by minor child through his skill, talent, knowledge etc. For e.g. minor child wins money on TV shows like Indian Idol Junior winner, Voice India Kids etc.
- vi. Moreover, an exemption of Rs 1500 is provided u/s 10 (32) on income earned by each minor child to the parent under which the minor's income is being clubbed.

1.6 SALARY, COMMISSION, FEES, REMUNERATION, OR ANY OTHER FORM OR BY ANY MODE I.E CASH OR KIND PAID TO SPOUSE FROM A CONCERN IN WHICH AN INDIVIDUAL HAS A SUBSTANTIAL INTEREST. (SECTION 6(1)(ii))

Conditions:

- i. The individual is having substantial interest in a concern (*).
- ii. Spouse of the individual is employed in the concern in which the individual is having substantial interest.
- iii. The spouse of the individual is employed without any technical or professional knowledge or experience (i.e. remuneration is not justifiable).

(*) An individual shall be deemed to have substantial interest in any concern, if such individual alone or along with his relatives beneficially holds at any time during the previous year 20% or more of the equity shares (in case of a company) or is entitled to 20% of profit (in case of concern other than a company). Relative for this purpose includes husband, wife, brother or sister or lineal ascendant or descendent of that individual [section 2(41)].

- iv. The nature of income arising to the spouse is salary, commission, fees or any other form of remuneration whether in cash or in kind.
- v. Spouse does not possess any technical or professional qualification and remuneration is not solely attributable to application of that knowledge/ qualification.

Illustration 1.4:

Mr. Kavi is beneficially holding 21% equity shares of Blokraft Chemical Pvt. Ltd. Mrs. Kavita is employed as Manager (in accounts department) in Blokraft Chemical Pvt. Ltd. at a monthly salary of ₹ 84,000. Mrs. Kavita is not having any knowledge, experience or qualification in the field of accountancy. Will the remuneration (i.e., salary) received by Mrs. Kavita be clubbed with the income of Mr. Kavi?

In this situation,

- i. Mr. Kavi is having substantial interest in Blokraft Chemical Pvt. Ltd.
- ii. The remuneration of Mrs. Kavita is not justifiable (i.e., she is employed without any technical or professional knowledge or experience)
- iii. Hence, salary received by Mrs. Kavita from Blokraft Chemical Pvt. Ltd will be clubbed with the income of Mr. Kavi and will be taxed in the hands of Mr. Kavi.

Note:

Where both the husband and wife have a substantial interest in a concern and both are in receipt of the remuneration from such concern both the remunerations will be included in the total income of husband or wife whose total income, excluding such remuneration, is greater.

1.7 ASSETS TRANSFERRED TO SPOUSE FOR INADEQUATE CONSIDERATION (SECTION 64(1)(iv))

Conditions:

- i. The assessee/taxpayer is an individual.
- ii. The assessee/taxpayer transfers assets belonging to him/her.
- iii. The assets are transferred either directly or indirectly.
- iv. The assets are transferred without adequate consideration. Moreover, there is no agreement to live apart.
- v. Then any income arising from such assets shall be deemed to be the income of the transferor (i.e. assessee/taxpayer who has transferred the assets)

Illustration 1.5:

Mr. Ram transfers his house property to his wife without adequate consideration. Rental Income arising from such property of ₹ 5,000 p.m. will be clubbed and taxable in the hands of Mr. Ram.

Above provision of clubbing of Income u/s 64(1)(iv) is not applicable in the following cases:

- i. If assets are transferred before marriage.
- ii. If assets are transferred for adequate consideration.
- iii. If assets are transferred in connection with an agreement to live apart.
- iv. If on the date of accrual of income, transferee is not spouse of the transferor.
- v. If property is acquired by the spouse out of pocket money (i.e. an allowance given to the wife by her husband for her dress and usual household expenses).

1.8 ASSETS TRANSFERRED TO DAUGHTER-IN-LAW (SON'S WIFE) FOR INADEQUATE CONSIDERATION (SECTION. 64(1)(vi))

Conditions:

- i. The assessee/taxpayer is an individual.

- ii. The assessee/taxpayer transfers assets belonging to him/her.
- iii. The assets are transferred either directly or indirectly.
- iv. The assets are transferred without adequate consideration.
- v. The assets are transferred to daughter-in-law (i.e. to Son's wife)
- vi. Then any income arising from such assets shall be deemed to be the income of the transferor (i.e. assessee/taxpayer who has transferred the assets)

Illustration 1.6:

If Mr. Manoj have, 10,000 10% Debentures of Rs 100 each which he has transferred to his daughter-in-law without any consideration. Now interest income of Rs 1,00,000 will be included and taxable in the hands of Mr. Manoj as per Section 64(1)(vi).

1.9 ASSETS TRANSFERRED TO ANY PERSON OR ASSOCIATION OF PERSONS FOR THE IMMEDIATE OR DEFERRED BENEFITS OF SPOUSE (SECTION 64(1)(vii)).

Conditions:

- i. The assessee/taxpayer is an individual.
- ii. The assessee/taxpayer transfers assets belonging to him/her.
- iii. The assets are transferred either directly or indirectly.
- iv. The assets are transferred without adequate consideration.
- v. The assets are transferred to any person or an association of persons.
- vi. The assets are transferred for immediate or deferred benefits of spouse.
- vii. Then any income arising from such assets shall be deemed to be the income of the transferor (i.e. assessee/taxpayer who has transferred the assets)

1.10 ASSETS TRANSFERRED TO ANY PERSON OR ASSOCIATION OF PERSONS FOR THE IMMEDIATE OR DEFERRED BENEFITS OF DAUGHTER-IN-LAW (i.e. SON'S WIFE) (SECTION 64(1)(viii)).

Conditions:

- i. The assessee/taxpayer is an individual.
- ii. The assessee/taxpayer transfers assets belonging to him/her.

- iii. The assets are transferred either directly or indirectly.
- iv. The assets are transferred without adequate consideration.
- v. The assets are transferred to any person or an association of persons.
- vi. The assets are transferred for immediate or deferred benefits of Daughter-in-law (i.e. Son's wife)
- vii. Then any income arising from such assets shall be deemed to be the income of the transferor (i.e. assessee/taxpayer who has transferred the assets)

1.11 CONVERSION OF INDIVIDUAL'S PROPERTY INTO HIS HUF'S PROPERTY (SECTION 64(2))

Conditions:

- i. The assessee/ taxpayer is an individual.
- ii. An individual being a member of HUF
- iii. An individual converted his self-acquired property into his HUF'S property through the act of impressing such separate property with the character of property belonging to the family or throwing it into the common stock of the family.
- iv. The assets are transferred either directly or indirectly.
- v. The assets are transferred without adequate consideration.
- vi. Then any income arising from such assets shall be deemed to be the income of the transferor (i.e. assessee/taxpayer who has transferred the assets)

Illustration 1.7:

Pradeep have a house from which rental income of ₹ 5,00,000 p.a. is earned by him. When Pradeep transferred this house to HUF without consideration then income of ₹ 5,00,000 will be taxed in the hands of Pradeep.

Note: After partition of the HUF, such property is distributed amongst the members of the family. In such a case income derived from such property by the spouse of the transferor will be clubbed with the income of the individual and will be charged to tax in his hands.

1.12 PRACTICAL PROBLEMS

Illustration 1.8:

Mr. Rajesh has given a car owned by him on rent. Annual rent of the car is ₹. 1,40,000. He transferred entire rental income to his friend Mr. Sonu. However, he did not transfer the car.

In this situation, rent of ₹. 1,40,000 will be taxed in the hands of Mr. Rajesh.

Illustration 1.9:

Mr. Hritik is beneficially holding 21% equity shares of Bhagya Minerals Pvt. Ltd. Mrs. Hritik is employed as Manager (in accounts department) in Bhagya Minerals Pvt. Ltd. at a monthly salary of Rs. 40,000. Mrs. Hritik is not having any knowledge, experience or qualification in the field of accountancy. Will the remuneration (i.e., salary) received by Mrs. Hritik be clubbed with the income of Mr. Hritik?

Solution:

In this situation, Mr. Hritik is having substantial interest in Bhagya Minerals Pvt. Ltd. and remuneration of Mrs. Hritik is not justifiable (i.e., she is employed without any technical or professional knowledge or experience) and, hence, salary received by Mrs. Hritik from Bhagya Minerals Pvt. Ltd. will be clubbed with the income of Mr. Hritik and will be taxed in the hands of Mr. Hritik.

Illustration 1.10:

Mr. A holds shares carrying 30% voting power in Z Ltd. Mrs. A is working as accountant in Z Ltd. getting income from salary (computed) of ₹ 3,60,000 without any qualification in accountancy. Mr. A also receives ₹ 30,000 as interest on securities. Mrs. A owns a house property which she has let out. Rent received from tenants is ₹ 6,000 p.m. Compute the gross total income of Mr. A and Mrs. A for the A.Y. 2023-24.

Solution:

Since Mrs. A is not professionally qualified for the job, the clubbing provisions shall be applicable as per Section 64(1)(ii)

Computation of Gross Total Income of Mr. A

Particulars	Amount in ₹
Income from salary of Mrs. A (computed)	3,60,000
Income from other sources	
Interest on Securities	30,000
Gross Total Income	3,90,000

Computation of Gross Total Income of Mrs. A

Particulars	Amount in ₹	Amount in ₹
Income from Salary (clubbed in the hands of Mr. A)		Nil
Income from House Property		

Gross Annual Value (₹ 6,000 * 12)	72,000	
Less: Municipal Taxes Paid	-	
Net Annual Value (NAV)	72,000	
Less: Deduction u/s 24		
- 30% of NAV i.e. 30% of ₹ 72,000	(21,600)	
- Interest on Loan		
Gross Total Income	-	<u>50,400</u>
		<u>50,400</u>

Illustration 1.11:

Mrs. Mrugen transferred her immovable property to ABC Co. Ltd. subject to a condition that out of the rental income, a sum of ₹ 36,000 per annum shall be utilized for the benefit of her son's wife. Mrs. Mrugen claims that the amount of ₹ 36,000 (utilized by her son's wife) should not be included in her total income as she no longer owned the property. State with reasons whether the contention of Mrs. Mrugen is valid in law.

Solution:

The clubbing provisions under section 64(1)(viii) are attracted if the person satisfied following conditions:

- i. The assessee/taxpayer is an individual.
- ii. The assessee/taxpayer transfers assets belonging to him/her.
- iii. The assets are transferred either directly or indirectly.
- iv. The assets are transferred without adequate consideration.
- v. The assets are transferred to any person or an association of persons.
- vi. The assets are transferred for immediate or deferred benefits of Daughter-in-law (i.e. Son's wife)
- vii. Then any income arising from such assets shall be deemed to be the income of the transferor (i.e. assessee/taxpayer who has transferred the assets)

Therefore, income of ₹ 36,000 meant for the benefit of daughter-in-law is chargeable to tax in the hands of transferor i.e., Mrs. Mrugen in this case.

The contention of Mrs. Mrugen is, hence, not valid in law

Illustration 1.12:

Mr. Abhay has three minor children – two twin daughters, aged 12 years, and one son, aged 16 years. Income of the twin daughters is ₹ 2,000 p.a. each and that of the son is ₹ 1,200 p.a. Mrs. Abhay has transferred her flat to her minor son on 1.4.2021 out of natural love and affection. The flat was let out on the same date and the rental income from the flat is ₹ 10,000 p.m. Compute the income, in respect of minor children, to be included in the hands of Mr. Abhay and Mrs. Abhay u/s 64(1A) (assuming that Mr. Abhay's total income is higher than Mrs. Abhay's total income, before including the income of minor children).

Solution:

Taxable income in respect of minor children, in the hands of Mr. Abhay is

Particulars	Amount in ₹	Amount in ₹
Twin minor daughters (₹ 2,000 * 2)	4,000	
Less: Exempt u/s 10(32) [₹ 1,500 * 2]	3,000	1,000
Minor Son	1,200	
Less: Exempt u/s 10(32) [restricted to ₹ 1,500]	1,200	Nil
Income to be clubbed in the hands of Mr. Abhay		1,000

Note:

Mrs. Abhay is the deemed owner of house property transferred to her minor son. Natural love and affection do not constitute adequate consideration for this purpose. Accordingly, the income from house property of ₹ 84,000 [i.e., ₹ 1,20,000 (-) ₹ 36,000, being 30% of ₹ 1,20,000] would be taxable directly in her hands as the deemed owner of the said property.

Consequently, clubbing provisions u/s 64(1A) would not be attracted in respect of income from house property, owing to which exemption u/s 10(32) cannot be availed by her.

Illustration 1.13:

Compute the gross total income of Mr. & Mrs. B from the following information:

- | | |
|--|------------|
| (a) Salary income (computed) of Mrs. B | ₹ 2,30,000 |
| (b) Income from profession of Mr. B | ₹ 3,90,000 |
| (c) Income of minor son C from company deposit | ₹ 15,000 |

- (d) Income of minor daughter D from special talent ₹ 32,000
- (e) Interest from bank received by D on deposit made out of her special talent ₹ 3,000
- (f) Gift received by D on 30.09.2021 from friend of Mrs. B ₹ 2,500

Detailed computation under various heads of income is not required.

Solution:

The Gross Total Income of Mrs. B is ₹ 2,30,000. The total income of Mr. B giving effect to the provisions of section 64(1A) is as follows:

Computation of Gross Total Income of Mr. B for the A.Y 2023-24

Particulars	Amount in ₹	Amount in ₹
Income from Profession		3,90,000
Income of minor son C from company deposit		
Income from company deposit	15,000	
Less : Exemption u/s 10(32)	1,500	13,500
Income of minor daughter D		
From special talent - not to be clubbed	-	
Interest from Bank	3,000	
Gift of ₹ 2,500 received from a non-relative is not taxable under section 56(2)(x) being less than the aggregate limit of ₹ 50,000	Nil	
	3,000	
Less: Exemption u/s 10(32)	1,500	1,500
Gross Total Income		4,05,000

Note:

- As per the provisions of section 64(1A) of the Income-tax Act, 1961, all the income of a minor child has to be clubbed in the hands of that parent whose total income (excluding the income of the minor) is greater. The income of Mr. B is ₹ 3,90,000 and income of Mrs. B is ₹ 2,30,000. Since the income of Mr. B is greater than that of Mrs. B, the income of the minor children has to be clubbed in the hands of Mr. B. It is assumed that this is the first year when clubbing provisions are attracted.
- Income derived by a minor child from any activity involving application of his/her skill, talent, specialized knowledge and experience is not to be clubbed. Hence, the income of minor child D from exercise of special talent will not be clubbed.

However, interest from bank deposit has to be clubbed even when deposit is made out of income arising from application of special talent.

Illustration 1.14:

Mr. Ramdev gifted a sum of ₹ 6 lakhs to his brother's wife on 01-06-2022. On 02-07-2022, his brother gifted a sum of ₹ 5 lakhs to Mr. Ramdev's wife. The gifted amounts were invested as fixed deposits in banks by Mrs. Ramdev and wife of Mr. Ramdev's brother on 01-09-2022 at 9% interest. Examine the consequences of the above under the provisions of the Income-tax Act, 1961 in the hands of Mr. Ramdev and his brother.

Solution:

In the given case, Mr. Ramdev gifted a sum of ₹ 6 lakhs to his brother's wife on 01.06.2022 and

simultaneously, his brother gifted a sum of ₹ 5 lakhs to Mr. Ramdev's wife on 02.07.2022. The gifted amounts were invested as fixed deposits in banks by Mrs. Ramdev and his brother's wife.

Accordingly, the interest income arising to Mrs. Ramdev in the form of interest on fixed deposits would be included in the total income of Mr. Ramdev and interest income arising in the hands of his brother's wife would be taxable in the hands of Mr. Ramdev's brother as per section 64(1), to the extent of amount of cross transfers i.e., ₹ 5 lakhs.

This is because both Mr. Ramdev and his brother are the indirect transferors of the income to their respective spouses with an intention to reduce their burden of taxation.

However, the interest income earned by his spouse on fixed deposit of ₹ 5 lakhs alone would be included in the hands of Mr. Ramdev's brother and not the interest income on the entire fixed deposit of ₹ 6 lakhs, since the cross transfer is only to the extent of ₹ 5 lakhs.

Illustration 1.15

Mr. B has gifted a house property valued at ₹ 60 lakhs to his wife, Mrs. C, who in turn has gifted the same to Mrs. D, their daughter-in-law. The house was let out at ₹ 25,000 per month throughout the year. Compute the total income of Mr. B and Mrs. D.

Will your answer be different if the said property was gifted to his son, husband of Mrs. D?

Solution:

In this case, Mr. B would be the deemed owner of the house property transferred to his wife Mrs. C without consideration.

As per section 64(1)(vi), income arising to the son's wife from assets transferred, directly or indirectly, to her by an individual otherwise than

for adequate consideration would be included in the total income of such individual.

Income from let-out property is ₹ 2,10,000 [i.e., ₹ 3,00,000, being the actual rent calculated at ₹ 25,000 per month less ₹ 90,000, being deduction under section 24 @ 30% of ₹ 3,00,000]

In this case, income of ₹ 2,10,000 from let-out property arising to Mrs. D, being Mr. B's son's wife, would be included in the income of Mr. B, applying the provisions of section 27(i) and section 64(1)(vi). Such income would, therefore, not be taxable in the hands of Mrs. D.

In case the property was gifted to Mr. B's son, the clubbing provisions under section 64 would not apply, since the son is not a minor child. Therefore, the income of ₹ 2,10,000 from letting out of property gifted to the son would be taxable in the hands of the son.

Illustration 1.16:

A proprietary business was started by Smt. Rani in the year 2020. As on 1.4.2021 her capital in business was ₹ 3,00,000.

Her husband gifted ₹ 2,00,000 on 10.4.2021, which amount Smt. Rani invested in her business on the same date. Smt. Rani earned profits from her proprietary business for the FY 2021-22, ₹ 1,50,000 and FY 2022-23 ₹ 3,90,000. Compute the income, to be clubbed in the hands of Rani's husband for AY 2023-24 with reasons.

Solution:

Section 64(1) of the Income-tax Act, 1961 provides for the clubbing of income in the hands of the individual, if the income earned is from the assets transferred directly or indirectly to the spouse of the individual, otherwise than for adequate consideration. In this case Smt. Rani received a gift of ₹ 2,00,000 from her husband which she invested in her business. The income to be clubbed in the hands of Smt. Rani's husband for A.Y.2023-24 is computed as under:

Particulars	Smt. Rani's Capital Contribution (₹)	Capital Contribution out of gift from husband (₹)	Total (₹)
Capital as at 01.04.2021	3,00,000	-	3,00,000
Investment on 10.04.2021 out of gift received from her husband	-	2,00,000	2,00,000
	3,00,000	2,00,000	5,00,000
Profit for F.Y. 2021-22 to be apportioned on the basis of capital	1,50,000	-	1,50,000

employed on the first day of the previous year i.e., on 1.4.2021			
Capital Employed as at 01.04.2021	4,50,000	2,00,000	6,50,000
Profit for F.Y. 2022-23 to be apportioned on the basis of capital employed as at 1.4.2021 (i.e. 45: 20)	2,70,000	1,20,000	3,90,000

Therefore, the income to be clubbed in the hands of Smt. Rani's husband for A.Y. 2023-24 is ₹ 1,20,000.

1.13 EXERCISES

1. Multiple choice questions

- _____ aims to prevent tax avoidance by diversion of income.
 - double taxation
 - DTAA
 - Clubbing of income
 - both b & c
- A transfer is revocable if transferor can /has _____.
 - re-transfer the income or asset
 - right to re-assume power
 - both a & b
 - none of these
- For provisions of section 60 to be applicable, whether transfer is revocable or irrevocable is _____.
 - important
 - primary condition
 - material
 - immaterial
- As per section 61, all incomes arising to any person by virtue of a _____ transfer of assets is to be included in total income of transferor.
 - revocable
 - transfer
 - both a & b
 - None of the above
- Transfer to obtain religious or spiritual benefits is not transfer for _____.
 - adequate consideration
 - inadequate consideration
 - clubbing provisions
 - both b & c

6. All income which arises or accrues to the minor shall be clubbed in the income of his _____.

a- father b- mother

c- parents d- none of the above
7. Income derived by minor from _____ will not be clubbed.

a- manual work b- application of his talent

c- capital gains d- both a & b
8. Income of minor child is included in income of parent _____

a- having greater total income b- as decided by court

c- as decided by parents d- both a & b
9. Minor child _____ step child.

a- includes b- excludes

c- a or b as decided by the court d- none of the above
10. Clubbing of income _____ clubbing of loss

a- excludes b- exempt

c- restricts d- includes

Answers: (1-c, 2-c, 3-d, 4-a, 5-a, 6-c, 7-d, 8-a, 9-a, 10-d)

2. True/false

1. Individuals can be taxed in respect of his own income only.
2. Clubbing of income aims to prevent tax avoidance by diversion of income.
3. Total income to be clubbed is added as a separate head called 'clubbed income'
4. Section 60 applies only to revocable transfer.
5. Section 61 applies only to irrevocable transfer.
6. Sale with a condition of re-purchase is an example of irrevocable transfer.
7. Transfer includes any settlement, trust, covenant, lease, agreement or arrangement.
8. Association of person includes a 'Trust'.

9. Minor child excludes illegitimate child.
10. Clubbing of income also includes clubbing of losses. Answers:

Answers: (1-F, 2-T, 3-F, 4-F, 5-F, 6-F, 7-T, 8-T, 9-T, 10-T)

3. Write Short notes.

1. Substantial interest.
2. Revocable transfer & explain of its clubbing provisions.
3. Under section 63, which transfer are treated as revocable transfer.
4. Exclusions form clubbing provisions u/s 62.
5. Incomes that can be clubbed in the income of other person.
6. Exceptions to clubbing of minor's income.
7. Who is eligible to get exemption u/s 10 (32) and how much?
8. Clubbing of income includes negative income explain.
9. What are the conditions for clubbing of income u/s 60? Explain with the help of example.
10. State the provisions for clubbing of remuneration received by spouse u/s 64 (1) (ii).

4. Practical problems.

- 1) A proprietary business was started by Smt. Rajani in the year 2020. As on 1-04-2022 her capital in business was ₹ 7,50,000. Her husband gifted ₹ 2,00,000 on 10-04-2020. Which amount Smt. Rajani invested on the same date. Smt. Rajani earned profits from her proprietary business for the financial year 2021-22 ₹ 3,50,000 and financial year 2022-23 ₹ 4,80,000. Compute the income to be clubbed in the hands of Rajani's husband for the assessment year 2023-24 with reasons.

[Ans. Amount to be clubbed $4,80,000 \times 2,00,000 / 7,50,000 = ₹ 1,28,000$]

- 2) Mr. Yagya and his wife Mrs. Kavita furnish the following information:

		₹
I.	Salary income (computed) of Mrs. Kavita	7,75,000
II.	Income of minor son Mohit who suffers from disability specified in Section 80U	2,40,000
III.	Income of minor son Ansh from singing	98,000
IV.	Income from profession of Mr. Yagya	9,00,000
V.	Cash gift received by Ansh on 2-10-2022 from friend of Mrs. Kavita	45,000

VI.	Income of minor married daughter Aarchi from company deposit	25,000
-----	--	--------

Compute the total income of Mr. Yagyadutt & Mrs. Kavita for the assessment year 2023-24.

[Ans. Mr. Yagya 9,00,000 + 25,000 - 1,500 = ₹ 9,23,500; Kavita ₹ 7,75,000]

- 3) Ravindra is the Karta of a HUF, whose members derive income as given below:

		₹
I.	Income from Ravindra's own business	2,00,000
II.	Mrs. Ravindra a dermatologist draws salary	4,50,000
III.	Minor son Kavish earning interest on fixed deposits with bank which were gifted to him by his grandfather	27,000
IV.	Minor daughter Nikita gave dance performance & received remuneration	1,25,000
V.	Sweta got winnings from lottery (Gross)	1,50,000

Explain how the above will be taxed.

[Ans. Mr. Ravindra ₹ 20,000; Mrs. Ravindra 4,50,000 + 27,000 + 1,50,000 + 2,15,000 – 1500 = 6,27,000; Sweta : ₹ NIL; Nikita ₹ 1,25,000]

- 4) Mr. Surendra has four minor children consisting two daughters & two Sons. The annual income of two daughters were ₹ 10,500 & ₹ 7,000 and sons was ₹ 6,300 and ₹ 1,750 respectively. The daughter who was having income of ₹ 7,000 was suffering from disability specified under section 80U. Workout the amount of income earned by minor children to be clubbed in the hands of Mr. Surendra.

[Ans. Mr. Surendra ₹ 13,800]

- 5) Compute the total income of Mr. and Mrs. Jacob from the following information:

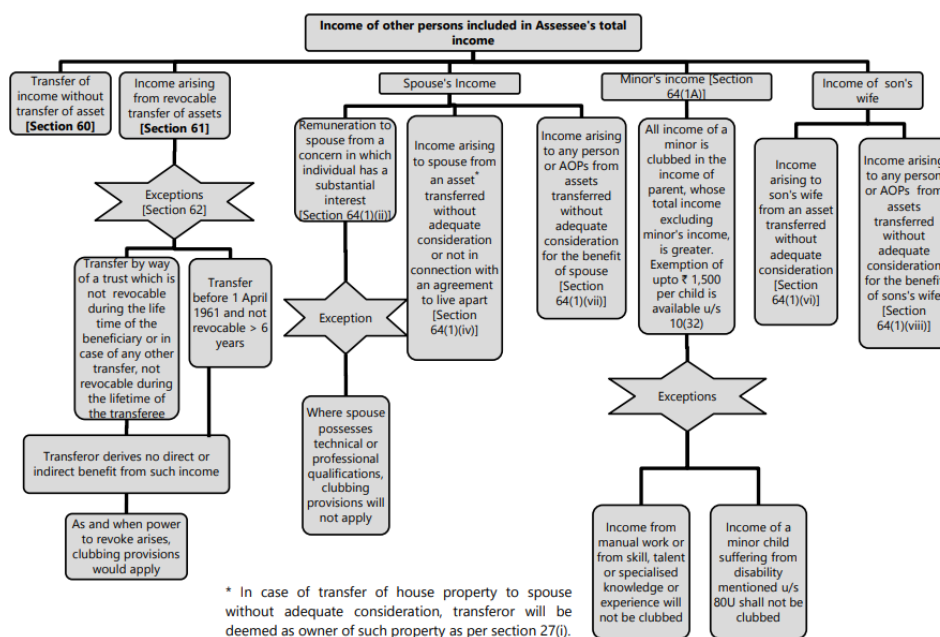
		₹
I.	Salary income (computed) of Mr Jacob	3,70,000
II.	Income from profession of Mr. Jacob	4,05,000
III.	Income from minor sons Kevin from company deposit	17,000
IV.	Income of minor daughter Zoe from special talent	62,000
V.	Interest from bank received by Zoe on fixed deposit made out of her special talent	6,500

VI.	Gift received by Zoe on 30-09-2022 from friend of Mrs. Jacob	12,000
-----	--	--------

Clubbing of Income (Section 60-65)

Brief working is sufficient. Detailed computation under various heads of income is not required.

[Ans. Mr. Jacob 3,70,000; Mrs. Jacob 4,05,000 + 17,000 - 1,500 + 6,500 – 1500 = 4,25,000]



Source: ICAI

<https://resource.cdn.icai.org/71143bos57143-cp5.pdf>

SET OFF & CARRY FORWARD OF LOSSES (SECTION 70 TO 74)

Module Structure

- 2.0 Learning Objectives
- 2.1 Set Off Of Losses
- 2.2 Intra Head Set-Off / Inter Source Adjustment (Section 70)
- 2.3 Inter-Head Set-Off / Inter Head Adjustment (Section 71)
- 2.4 Carry Forward of Losses
- 2.5 Carry Forward & Set Off Unabsorbed Depreciation (Section 32(2))
- 2.6 Carry Forward & Set Off Losses From House Property (Section 71b)
- 2.7 Carry Forward & Set Off Losses From Non-Speculative Business Or Profession (Regular Business Loss) (Section 72)
- 2.8 Carry Forward & Set Off Losses From Speculative Business (Section 73)
- 2.9 Carry Forward & Set Off Losses Under The Head Capital Gains (Section 74)
- 2.10 Carry Forward & Set Off Losses From Owning And Maintaining Race-Horses (Section 74a)
- 2.11 Practical Problems
- 2.12 Exercises
 - Multiple Choice Questions
 - True/ False
 - Short Notes
 - Practical Problems

2.0 LEARNING OBJECTIVES

After reading this chapter learner will be able to :

- **To understand** the concept of Set off and Carry Forward of Losses and its significance in taxation.
- **To develop knowledge** of the various kinds of losses that can be set off against income, such as speculative losses, capital losses, and business losses.
- **To understand** the provisions of the Income Tax Act related to Set off and Carry Forward of Losses, including the time limits and conditions for carrying forward losses.

- **To understand** the calculation of the amount of loss that can be set off or carried forward under different scenarios.
- **To understand** the impact of Set off and Carry Forward of Losses on tax liabilities, including the effect on the tax payable and the amount of refund that can be claimed.
- **To develop the ability** to identify situations where Set off and Carry Forward of Losses can be applied and to suggest appropriate tax planning strategies to minimize the impact of losses.

2.1 SET OFF OF LOSSES

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

A set-off could be:

- an intra-head set-off (Section -70)
- an inter-head set-off (Section - 71)

2.2 INTRA HEAD SET-OFF / INTER SOURCE ADJUSTMENT (SECTION 70)

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

Example 1:

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

Example 2:

Loss from one house property i.e. C can be set off against profit from another house property i.e. D where house property C is one source and house property D is another source and the common head of income is “House Property”

Exceptions:

- Losses from a Speculative business will only be set off against the profit of the speculative business. One cannot adjust the losses of speculative business with the income from any other business or profession.
- Loss from an activity of owning and maintaining race-horses will be set off only against the profit from an activity of owning and maintaining race-horses.

- Long-term capital loss will only be adjusted towards long-term capital gains. However, a short-term capital loss can be set off against both long-term capital gains and short-term capital gain.
- Losses from a specified business will be set off only against profit of specified businesses. But the losses from any other businesses or profession can be set off against profits from the specified businesses.

2.3 INTER-HEAD SET-OFF / INTER HEAD ADJUSTMENT (SECTION 71)

After the intra-head adjustments, the taxpayers can set off remaining losses against income from other heads.

Example 1:

Loss from house property can be set off against salary income.

Example 2:

Business loss other than speculative business can be set off against any head of income except income from salary.

Exceptions:

- Loss under the Profit & Gain form Business or Profession cannot be set off against under the head Salaries.
- Loss from capital gains cannot be set off against any other heads.
- The maximum loss from house property which can be set off against any income from any other head is Rs. 2,00,000
- Speculation losses cannot be set off against any other head of income.
- Specified business losses, horse racing losses cannot be set off against any other heads.

2.4 CARRY FORWARD OF LOSSES

It means to take the excess losses of the current year to the next years and then adjust with the profits of those coming years. The rules as regards carry forward differ slightly for different heads of income.

2.5 CARRY FORWARD & SET OFF UNABSORBED DEPRECIATION (SECTION 32(2))

Conditions:

- Unabsorbed Depreciation is that amount of unutilized depreciation which the assessee will not be able to claim as an expense due to lack of sufficient profit in P&L Account.

- Such unabsorbed depreciation can be set off against any heads of income and the remaining balance can be carried off till for any number of periods.

2.6 CARRY FORWARD & SET OFF LOSSES FROM HOUSE PROPERTY (SECTION 71B)

Conditions:

- If loss under the head “Income from house property” cannot be fully adjusted in the year in which such loss is incurred, then unadjusted loss can be carried forward to next year.
- In the subsequent years(s) such loss can be adjusted only against income chargeable to tax under the head “Income from house property”.
- Can be carry forward up to next 8 assessment years from the assessment year in which the loss was incurred.
- Can be carried forward even if the return of income for the loss year is belatedly filed.

2.7 CARRY FORWARD & SET OFF LOSSES FROM NON-SPECULATIVE BUSINESS OR PROFESSION (REGULAR BUSINESS LOSS) (SECTION 72)

Conditions:

- Can be carry forward up to next 8 assessment years from the assessment year in which the loss was incurred
- Can be adjusted only against Income from business or profession
- Not necessary to continue the business at the time of set off in future years
- Cannot be carried forward if the return is not filed within the original due date u/s 139(1) of The Income Tax Act.

2.8 CARRY FORWARD & SET OFF LOSSES FROM SPECULATIVE BUSINESS (SECTION 73)

Conditions:

- Can be carry forward up to next 4 assessment years from the assessment year in which the loss was incurred.
- Can be adjusted only against Income from speculative business.
- Cannot be carried forward if the return is not filed within the original due date u/s 139(1) of The Income Tax Act.

- Not necessary to continue the business at the time of set off in future years

2.9 CARRY FORWARD & SET OFF LOSSES UNDER THE HEAD CAPITAL GAINS (SECTION 74)

Conditions:

- Can be carry forward up to next 8 assessment years from the assessment year in which the loss was incurred.
- Long-term capital losses can be adjusted only against long-term capital gains.
- Short-term capital losses can be set off against long-term capital gains as well as short-term capital gains
- Cannot be carried forward if the return is not filed within the original due date u/s 139(1) of The Income Tax Act.

2.10 CARRY FORWARD & SET OFF LOSSES FROM OWNING AND MAINTAINING RACE-HORSES (SECTION 74A)

Conditions:

- Can be carry forward up to next 4 assessment years from the assessment year in which the loss was incurred.
- Cannot be carried forward if the return is not filed within the original due date u/s 139(1) of The Income Tax Act.
- Can only be set off against income from owning and maintaining race-horses.

2.11 PRACTICAL PROBLEMS

Illustration 2.11.1:

If Z has the following income:

Business income	₹ 2,40,000
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Capital Gains:

Long-term capital gain	₹ 80,000
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Short-term capital loss	₹ 50,000
-------------------------	----------

Determine total income and carry forward loss, if any

Solution:Set Off & Carry Forward of
Losses (Section 70 To 74)**Name of the Assessee: Mr. Z**

Assessment Year : 2023-24

Previous Year : 2022-23

Legal Status : Individual

Residential Status : R & OR

Computation of Total Income

Particulars	₹	₹
Business Income		2,40,000
Capital Gain:		
• Long term capital Gain	80,000	
• Short-term capital loss	(50,000)	30,000
Gross Total Income		2,70,000

Note:

Short-term capital losses can be set off against long-term capital gains as per Sec. 74

Illustration 2.11.2:

Rahim submits the following information pertaining to the previous year 2022-23.

- (a) Income from salary : ₹ 15,00,000
- (b) Loss from self-occupied property : ₹ 80,000
- (c) Business loss (including unabsorbed depreciation) : ₹ 1,00,000
- (d) Banks interest : ₹ 80,000

Determine total income and carry forward loss, if any

Solution:**Name of the Assessee : Mr. Rahim**

Assessment Year : 2023-24

Previous Year : 2022-23

Legal Status : Individual

Residential Status : R & OR

Computation of Total Income

Particulars	₹
Income from Salary	15,00,000
Income from House Property	
• Loss from self-occupied property	(80,000)

Income from Business or Profession	
• Business Loss (including unabsorbed depreciation)	(1,00,000)
Income from other sources	
• Bank Interest	80,000
Gross Total Income	14,20,000

Note:

- It includes salary income of ₹ 14,20,000 after adjusting house property loss.
- Business loss of ₹ 1,00,000 is set-off against bank interest and remaining business loss of ₹ 20,000 will be carried forward.

Illustration 2.11.3:

Income of Mr. Raju for the previous year 2022-23 is as follows:

Particulars	₹
Business income before depreciation	1,40,000
Less: Depreciation for the current year	<u>(20,000)</u>
Business income after depreciation	1,20,000
Other income	8,45,000

He wants to adjust the following brought forward losses:

Particulars	Business Loss (₹)	Depreciation (₹)
For the Assessment Year 2006-07	2,00,000	30,000
For the Assessment Year 2017-18	1,30,000	40,000

Determine total income and carry forward loss, if any

Solution:

Name of the Assessee: Mr. Raju

Assessment Year : 2023-24

Previous Year : 2022-23

Legal Status : Individual

Residential Status : R & OR

Computation of Total Income

Particulars	₹	₹
Income from Business or Profession		
- Business income before depreciation	1,40,000	
- Less: Depreciation for the current year	<u>(20,000)</u>	
- Business income after depreciation	1,20,000	
- Less: Business Loss for A.Y 2016-17	<u>(1,20,000)</u>	Nil

Income from other sources		
- Other Income	8,45,000	
- Less: Unabsorbed Depreciation A.Y 2006-07	(30,000)	7,75,00
- Less: Unabsorbed Depreciation A.Y 2017-18	(40,000)	0
Gross Total Income		7,75,00 0

Set Off & Carry Forward of
Losses (Section 70 To 74)

Note:

- In this case, business loss pertaining to the Assessment Year 2006-07 cannot be adjusted (it can be adjusted before the expiry of 8 years, i.e., up to the assessment year 2013-14).
- The business loss pertaining to the assessment year 2017-18 can be adjusted against the business income of ₹ 1,20,000 and the balancing amount of ₹ 10,000 will be carried forward for being set off against business income up to the assessment year 2024-25 (it cannot be adjusted against other incomes).
- On the other hand, unabsorbed depreciation can be carried forward without any time-limit and it can be set off against any income.

Illustration 2.11.4:

Mr. Mukesh informs you the following for assessment year 2023-24:

- Taxable salary ₹ 5,20,000.
- Loss from House property at Pune ₹ 60,000.
- Income from House property at Mumbai ₹ 40,000.
- Brought forward business loss- A.Y 2018-19 ₹ 1,00,000.
- Current year business income ₹ 80,000.
- Bank interest ₹ 20,000.

Determine total income and carry forward loss, if any

Solution:

Name of the Assessee: Mr. Mukesh

Assessment Year : 2023-24

Previous Year : 2022-23

Legal Status : Individual

Residential Status : R & OR

Computation of Total Income

Particulars	₹	₹
Taxable Salary		5,20,000
Income from House Property		
- Loss from HP at Pune	(60,000)	
- Income from HP at Mumbai		(20,000)
	<u>40,000</u>	
Income from Business & Profession		
- Business Income	80,000	
- Less: B/f loss- Business loss of A.Y 2018-19 restricted to	<u>(80,000)</u>	Nil
Income from other source		
- Bank Interest		20,000
Gross Total Income		5,20,000

Note:

- The assessee can carry forward unabsorbed business loss of ₹ 20,000 (₹ 80,000 - ₹ 1,00,000) to next year.

Illustration 2.11.5:

Mr. Dinesh furnishes the following information for the year ending of 31-3-2023.

Particulars	₹
(a) Income from business:	
Loss from trading in securities in the nature of derivatives	(50,000)
(Not a speculative business)	1,50,000
Profit from non- speculative business	
(b) Capital gains:	(25,000)
Long term capital loss on sale of unlisted shares	(90,000)
Short term capital loss on sale of shares	75,000
Short term capital gain on sale of jewellery	

From the above information compute the gross total income of Mr. Dinesh and the loss to be carried forward

Solution:

Name of the Assessee: Mr. Dinesh

Assessment Year : 2023-24

Previous Year : 2022-23

Legal Status : Individual

Residential Status : R & OR

Computation of Total Income

Set Off & Carry Forward of
Losses (Section 70 To 74)

Particulars	₹	₹
(I) Income from business:		
(a) Profit from non- speculative business	1,50,000	
(b) Loss from derivatives trading (Note 1)	<u>(50,000)</u>	1,00,000
(II) Capital gains:		
(a) Long term capital loss (Note 2)	<u>(25,000)</u>	
(b) Short term capital gain	75,000	
Less: Short term capital loss (Note 3)	<u>(90,000)</u>	
Carried forward to next year	<u>(15,000)</u>	Nil
Gross Total Income		1,00,000

Note:

- (1) Loss from trading in derivatives is not a speculative loss as per exception to sec 43 (5). Therefore, the loss is eligible for set off against profit from the non- speculative business.
- (2) Long term capital loss can be set off only against long term capital gain. Unabsorbed long-term capital loss of ₹. 25,000 for the assessment year 2023-24 is eligible for carried forward to subsequent 8 assessment years for set off in accordance with Sec 74.
- (3) Short term capital loss of ₹. 90,000 is entitled for inter source adjustment.
- (4) According to Sec 71, loss under the head - "Capital Gains" cannot be set-off against any other income. Therefore, in this case the net loss of ₹. 15,000 shall be carried forward to subsequent assessment years for set off against income under the head Capital Gains.
- (5) The following is the summary of losses eligible for carried forward to A Y 2024-25

Long Term Capital Loss	₹ 25,000
Short Term Capital Loss	₹ 15,000

Illustration 2.11.6:

From the following figures, you are required to compute the total income of Pawar for assessment year 2023-24

Head of Income	Income/ (Loss) ₹
Income from Property	(10,000)
Capital Gains :	
Short term	1,05,000
Long term (N/A)	(75,000)
Other sources	10,000

Solution:**Name of the Assessee: Mr. Pawar**

Assessment Year : 2023-24

Previous Year : 2022-23

Legal Status : Individual

Residential Status : R & OR

Computation of Total Income

Particulars	₹	₹
I. Income from House Property (loss)		(10,000)
II. Capital Gains		
a. Short term capital gain		1,05,000
b. Long term capital loss	75,000	
III. Income from other sources		10,000
Gross Total Income		1,05,000

Note: According to Section 70, long term capital loss is not eligible for set off against short term capital gains. Therefore, in the given case a sum of ₹ 75,000 shall be carried forward to assessment year 2024-25 for set off against any long-term capital gains as per Sec 74.

Illustration 2.11.7:

Mr. Rohan, an individual submits the following information relevant for A. Y. 2023-24:

- (i) Income from Salary Computed ₹ 65,000
- (ii) Income from House Property:
 - House I (Income) ₹ 35,000
 - House II (Loss) ₹ 25,000
- (iii) Income from Business:
 - Business I (speculative) - Profit ₹ 45,000
 - Business II (non-speculative) – Loss ₹ 55,000

Find out the net taxable income of Mr. Rohan for A. Y. 2023-24 applying the provisions of set off and carry forward for losses.

Solution:**Name of the Assessee: Mr. Rohan**

Assessment Year : 2023-24

Previous Year : 2022-23

Legal Status : Individual

Residential Status : R & OR

Computation of Total Income

Set Off & Carry Forward of
Losses (Section 70 To 74)

Particulars	₹	₹
(i) Income from Salary Computed		65,000
(ii) Income from House Property :		
- House I (Income)	35,000	
- House II (Loss)	(17,000)	
- House III (Loss)	<u>(25,000)</u>	(7,000)
(iii) Income from Business:		
- Business I (speculative) – Profit	45,000	
- Business II (non-speculative) – Loss	<u>(55,000)</u>	
(Loss to be c/f to A.Y 24-25)	<u>(10,000)</u>	Nil
Gross Total Income		58,000

Note:

- (1) Loss from House property can be set off against income from salary.
- (2) Loss from non-speculation business can be set off against speculation profit.
- (3) Loss of ₹ 10,000 will be c/f to AY 2024-25.

Illustration 2.11.8:

Mr. Rajnish is a resident individual submit the following information for the previous year ended 31/03/2023.

- (i) Income from Salary □ 90,000.
- (ii) Taxable Income from House Property □ 3,50,000.
- (iii) Income from Business □ 2,00,000.
- (iv) Long Term Capital gain □ 1,50,000.
- (v) Income from speculative business □ 80,000.
- (vi) Other details unabsorbed depreciation and brought forward loss are:
 - Unabsorbed depreciation □ 90,000.
 - Loss from speculative business. □ 1,20,000.
 - Short term capital loss □ 1,00,000.
 - Unrealised rent □ 20,000.

Find out the gross taxable income for the Assessment Year 2023-24 applying provisions of set off and carry forward losses.

Solution:**Name of the Assessee : Mr. Rajnish**

Assessment Year : 2023-24

Previous Year : 2022-23

Legal Status : Individual

Residential Status : R & OR

Computation of Total Income

Particulars	₹	₹
Income from salary		90,000
Income from House Property		3,50,000
Income from Business	2,00,000	
Less: Unabsorbed Depreciation	<u>(90,000)</u>	1,10,000
Income from Speculative Business	80,000	
Less: Loss from Speculative Business	<u>(1,20,000)</u>	
C/f Losses from Speculative Business	<u>(40,000)</u>	Nil
Long Term Capital Gain	1,50,000	
Less: Short Term Capital loss	<u>(1,00,000)</u>	50,000
Gross Total Income		6,00,000

Note:

Unrealised rent cannot be deducted.

2.12 EXERCISE

1. Multiple choice questions

- Section 70 does not apply to _____.
 - Speculative loss
 - Long term capital loss
 - loss from activity of owning and maintaining race horses
 - all of the above
- Speculative loss can be set off against _____.
 - Short term capital
 - Speculative income
 - both a & b
 - none of the above
- Long term capital loss can be set off against _____.
 - Short term capital gain
 - Speculative income
 - Long term capital gain
 - any income

4. As per section 71A, this rule does not apply to_____.
 - a. Speculation loss
 - b. capital loss
 - c. both a & b
 - d. None of the above
5. There cannot be 'Loss' under the head _____.
 - a. house property
 - b. other sources
 - c. Salary
 - d. both b & c
6. _____ means adjustment of losses under the same head of income.
 - a. inter-source adjustment
 - b. inter-head adjustment
 - c. Intra-source adjustment
 - d. intra-head adjustment
7. Short term capital loss can be set off against _____.
 - a. short term capital gain
 - b. long term capital gain
 - c. both a & b
 - d. none of the above
8. Long term capital loss can be set off against _____.
 - a. short term capital gain
 - b. long term capital gain
 - c. both a & b
 - d. none of the above
9. Loss from _____ cannot be set off.
 - a. Capital Asset
 - b. house property
 - c. exempt source
 - d. other source
10. Loss cannot be set off against_____.
 - a. Winnings from lotteries
 - b. gambling all betting income
 - c. winnings from horse races
 - d. all of the above

Answers: (1-d, 2-b, 3-c, 4-c, 5-c, 6-a, 7-c, 8-b, 9-c, 10-d)

2. True/false

1. Section 71A allows set off losses within same year.
2. Speculative loss can be set off against any business income.
3. Speculation loss can be set off in the same year only against the speculation profit.
4. Unabsorbed speculation loss cannot be carried forward.

5. Short term capital loss can be set off against short term or long-term capital gain.
6. Long term capital loss can be set off against short term or long-term capital gain.
7. Unabsorbed short-term loss can be carried forward for 4 years.
8. Unabsorbed long-term loss can be carried forward for 8 years.
9. There cannot be a loss under the head 'salaries'.
10. Set off means adjustment of losses against tax liability.

Answers: (1-F, 2-F, 3-T, 4-F, 5-T, 6-F, 7-F, 8-T, 9-T, 10-F)

3. Write Short notes.

1. Inter-source adjustment U/S 70.
2. Inter-head adjustment U/S 71.
3. Explain the provision of loss under the head profits and gain of business and profession U/S 72.
4. Set off carried forward of losses in speculation business U/S 73.
5. Set off carried forward of losses under the head capital gains U/S 74.
6. Carry forwards and set off of losses from house property U/S 71B.
7. Difference between loss in speculation business and loss under the head capital gain.
8. Difference between loss under the head profits and gains of business or profession and loss under head capital gain.
9. Difference between set off loss from one source against income from another source under the same head of income and set off loss from one head against income from other heads.
10. What do you mean by speculative transaction?

PRACTICAL PROBLEMS

(1) Mr. Ritik has Income under the head

- house property	₹ 2,00,000
- Loss from long term capital gains	₹ 30,000
- income from short term capital gains	₹ 50,000
- income from owning and maintaining race camels	₹1,50,000
- loss from owning and maintaining race horses	₹ 55,000

Compute his total income for the A.Y. 2023-24 and losses to be carried forward.

Set Off & Carry Forward of
Losses (Section 70 To 74)

[Ans.: 4,00,000]

(2) Mr. Kavi has income and losses as given below :

- | | |
|--|------------|
| (a) Income from growing and curing coffee | ₹ 2,25,000 |
| (b) Income from growing and manufacturing mango juice | ₹ 75,000 |
| (c) Income from growing and selling wheat | ₹ 3,00,000 |
| (d) Income under the head salary | ₹ 4,50,000 |
| (e) Long term capital loss on sale of agricultural land in the village | ₹ 2,00,000 |
| (f) Short term capital gain on sale of house property | ₹ 1,75,000 |
| (g) Income from speculation business | ₹ 5,00,000 |

Compute his total income and carried forward losses for A.Y. 23-24.

[Ans.: 17,25,000]

(3) Raghu, engaged in various types in various types of activities, give the following particulars of her income for the year ended 31/3/2023.

- | | |
|--|----------|
| (a) Profit of business of consumer and household products | ₹ 50,000 |
| (b) Loss of business of readymade garments | ₹ 10,000 |
| (c) Brought forward loss of catering business which was closed in Assessment year 2019-20. | ₹ 15,000 |
| (d) Short-term loss on sale of securities and shares | ₹ 15,000 |
| (e) Loss of speculative transactions of assessment year 2018-19. No set off till Assessment year 2020-21 | ₹ 15,000 |
| (f) Profit of speculative transactions entered into during the year | ₹ 12,500 |

Compute the total income of Raghu for the A/Y 2023-24.

[Ans.: 37,500]

(4) Determine the net income of Ratnesh for the A. Y. 2023-24, Mr. Ziddi furnishes the following particulars of his income for the P. Y. 2022-23.

N: Business loss	₹ 4,00,000
------------------	------------

	Unabsorbed depreciation	₹ 2,00,000
M:	Business profit	₹ 10,00,000
	Income from house property	₹ 2,00,000
	Carried forward losses and allowance ;	
J:	business was discontinued on 31-12-2020 leaving the following unabsorbed :	
	(a) Business loss	₹ 3,00,000
	(b) Depreciation	₹ 2,00,000
K:	business was discontinued on 1-3-2021 leaving the following unabsorbed :	
	(a) Business loss	₹ 30,000
	(b) Depreciation	₹ 1,00,000

Compute his total income for A. Y. 23-24.

[Ans : Nil]

(5) From the following particulars of Mr. Rishikesh for previous year ending 31/3/2023 compute the total taxable income and losses to be carried forward.

- 1) Income from business (Proprietary concerns)
 - (a) Net adjusted profit from textile trade ₹ 20,000
 - (b) Net adjusted loss from automotive trade ₹ (30,000)
 - (c) Loss in shares traded (Shares were never taken
Delivery and the transaction were set off
against each other ₹ (40,000)
- 2) Negative income from house property ₹ (25,000)
- 3) Capital Gains
 - (a) Short-Term loss ₹ (20,000)
 - (b) Long Term gain ₹ (45,000)

[Ans.: Nil]

COMPUTATION OF TAX LIABILITY OF INDIVIDUAL & HUF

Unit Structure

3.0 Learning Objective

3.1 Computation of Tax Liability of Individual and HUF

3.1.1 Deduction from Gross Total Income

3.1.2 Slab Rates: Old Tax Regime (Default Rate) For A.Y. 2022-2023

3.2 Computation of Tax Liability

3.3 Deductions under Chapter VIA

3.3.1 Deduction u/s 80C

3.3.2 80CCC- Contribution to Pension Funds of LIC or any other insurer (applicable to individual)

3.3.3 Deduction u/s 80 D

3.3.4 Deduction u/s 80 DD

3.3.5 Deduction u/s 80 E

3.3.6 Deduction u/s 80 EE

3.3.7 Deduction u/s 80EEB

3.3.8 Deduction u/s 80 TTA & u/s 80 TTB

3.3.9 Deduction u/s 80U

3.4 Rebate of Income Tax in case of certain Individuals [Section 87A]

3.5 Exercise

3.6 References

3.0 LEARNING OBJECTIVE

- Understand the deductions applicable in respect of specific incomes earned
- Calculate the amount of deductions and Tax liability allowed for an Individual
- Calculate the amount of deductions and Tax liability HUF assessee.

3.1 COMPUTATION OF TAX LIABILITY OF INDIVIDUAL AND HUF

3.1.1 Deduction from Gross Total Income:

As per sec 80A, of the Income tax Act 1951, deductions reflected in Chapter VI A u/s 80C to 80U are allowed to be deducted from Gross Total

Income of an assessee. However, the total amount of deduction not to exceed the Gross Total Income of an assessee.

As per Sec 80AC, it is mandatory to furnish the return of income on or prior to the due date [as per Sec 139(1)] of the Act to avail benefit of deductions.

Computation of Total Income	
	Rs.
Income from Salaries	xx
Income from House Property	xx
Profit and Gains from Business and Profession	xx
Income from Capital Gains	xx
Income from Other Sources	xx
Gross Total Income	xx
Less : Deduction under Chapter VI-A (Section 80C to 80 U)	xx
Total income	xx
Rounding off total income to nearest Rs. 10/- (Sec- 288A)	xx

3.1.2 Slab Rates: Old Tax Regime (Default Rate) For A.Y. 2022-2023:

(Assessee did not opt for Sec 115 BAC*)

a. For other individuals

Total Income	Tax rate
Upto Rs. 2.5 lakhs	NIL
> Rs. 2.5 lakhs to Rs. 5,00,000	5%
> Rs. 5 lakhs to Rs. 10,00,000	20%
> Rs. 10 lakhs	30%

b. For resident senior citizens (60 years to less than 80 years)

Total Income	Tax rate
Upto Rs. 3 lakhs	NIL
> Rs. 3 lakhs to Rs. 5,00,000	5%
>Rs. 5 lakhs to Rs. 10,00,000	20%
>Rs. 10 lakhs	30%

c. For resident senior citizens (80 years & above- Super senior citizens)

Total Income	Tax rate
Upto Rs. 5,00,000	NIL
>Rs. 5 lakhs to Rs. 10,00,000	20%
> Rs. 10 lakhs	30%

- Sec 115 BAC gives an option to the assessee to choose the new tax regime

Surcharge:

Surcharge (for Individual & HUF)

Total Income	Surcharge
Rs. 50 Lakhs to Rs. 1 crore	10% of Income tax
Above 1 crore to Rs. 2 crores	15% of Income tax
Above 2 crores to Rs. 5 crores	25% of Income tax
Above 5 crores	37% of Income tax

Surcharge (for Partnership firm)

Total Income	Surcharge
Above 1 crore	12 % of Income tax

Cess:

Levy of health & education cess	Rate
Education cess	2%
Secondary & higher education cess	1%
Health cess	1%
Total	4%

SLAB RATES: NEW TAX REGIME FOR A.Y. 2022-2023

(Assessee needs to opt for Sec 115 BAC)

Upto Rs. 2.5 lakhs	NIL
> Rs. 2.5 lakhs to Rs. 5,00,000	5%
> Rs. 5 lakhs to Rs. 7,50,000	10%
> Rs. 7.5 lakhs to Rs. 10,00,000	15%
> Rs. 10 lakhs to Rs.12,50,000	20%
> Rs. 12.5 lakhs to Rs. 15,00,000	25%
>15 lakhs	30%

3.2 COMPUTATION OF TAX LIABILITY

Net taxable income		XXXXX
• Casual Income	(taxed @30%)	xx
• Long term Capital Gains (Check for deficit / carry forward of	(taxed 20%**))	xx

losses) [**subject to provisions u/s 112] (# 10% if indexation is applicable)		
• Short term Capital Gains	(taxed@ 15%)	xx
• Balance	(Check slab rates)	xx
Total tax on Income		xx
Add: Surcharge on total tax (if applicable)		xx
Less: Rebate u/s 87A (if applicable)		xx
Add: Health & Education cess@ 4% [4% on (Total tax + surcharge)]		xx
Tax liability		xx

3.3 DEDUCTIONS UNDER CHAPTER VIA

3.3.1 Deduction u/s 80C:

- Maximum deduction under Section 80C from Gross Total Income can be claimed to the extent of Rs. 1,50,000. This deduction is allowed to an individual or HUF.
- Deduction applicable to assessee (Individual/ HUF) for investment in:
 - Deferred Annuity
 - Provident Fund contribution
 - Tax saver mutual funds
 - ULIP
 - Tax saving FD's
 - Term deposits for FD (not less than 5 years) with scheduled bank or Post office
 - Tuition fees paid to university or college in India for full time education of 2 children.
 - Subscription paid to notified schemes of Central Government or sum towards notified annuity plan of LIC or another insurer.

3.3.2 80CCC- Contribution to Pension Funds of LIC or any other insurer (applicable to individual):

- Amount of deduction (80C or 80CCC)= Actual amount invested OR Rs. 1,50,000 WHICHEVER IS LESS.**

- **80CCD- Contribution to pension scheme notified by the Central Government (max 10% of the salary) - ADDITIONAL DEDUCTION OF 50,000 allowed above deduction u/s 80C.**
- **80CCG – available to new retail individual investors.**

Amount allowed as deduction- 50% of the amount invested in notified equity savings scheme. (Max deduction: Rs. 25,000)

3.3.3 Deduction u/s 80 D:

Deduction in respect of Medical /Health Insurance Premium

1. The deduction is applicable for individual (Resident or non-resident) and H.U.F.
2. The scheme of insurance must be framed by the General Insurance Corporation of India and approved by the Central Government or any other insurer and approved by IRDA.
3. Amount should be spent on Mediclaim insurance premium or preventive health checkup.
4. Deduction is allowed in respect of any sum out of chargeable to tax income by any mode of payment (Cheque, draft, electronic system of bank ECS, NEFT or RTGS) other than cash (for preventive checkup cash payment allowed) towards an insurance policy taken on the health of the assessee or spouse or dependent children or parents and for H.U.F, non-senior citizen.
5. Deduction allowed :

Individual (if not senior citizen 60 yrs and above)	Maximum deductible amount subject to actuals
• Deduction for individual and family (spouse and dependent children)	Rs. 25,000
• Deduction for parents (if parents are senior citizen 60 yrs and above)	Rs. 50,000
PREVENTIVE HEALTH CHECKUP	Rs. 5,000

HUF	Maximum deductible amount subject to actuals
• HUF members	Rs. 25,000
• If member is a senior citizen 60 yrs and above	Rs. 50,000

3.3.4 Deduction u/s 80 DD:

Deduction in respect of Handicapped Dependent:

1. This deduction is allowed to a resident individual and HUF.
2. Deduction is allowed in respect of expenditure incurred for medical treatment (including nursing), training and rehabilitation of a handicapped relative who is dependent upon him and is not dependent on any other person for support or maintenance.
3. The assessee shall have to submit every year a copy of certificate issued by medical authority along with return of income in the prescribed form u/s 139 in respect of the year for which the deduction is claimed.
4. Deduction allowed :

	Fixed deduction (actual expense incurred is irrelevant)
Disability from 40% to 79%	Rs. 75,000
80% and above- severe disability	Rs. 1,25,000

Note:

- A handicapped relative means a relative who is suffering from eminent physical disability (including blindness) or who is subject to mental retardation. They should be of the nature specified in IT Rules and should be certified as such by a physician, a surgeon, or a psychiatrist working in a government hospital. Further, it should have the effect of reducing considerably such person's capacity for normal work or engaging in gainful employment or occupation.
- A person suffering from any of the following disabilities not less than 40% as certified by medical authority, i.e. blindness, low vision, hearing impairment, locomotor disability, mental disability, mental illness.
- A person with severe disability is one who is suffering with 80% or more disabilities as referred to in sub-Section (4) of Section 56 of the persons of disabilities (Equal opportunities, protection of rights and full participation) Act, 1995 or as mentioned in (f) above.

3.3.5 Deduction u/s 80 E:

Interest on Loan taken for Higher Education:

1. Deduction is allowed to an individual assessee or any relative who has taken loan for higher full-time education.

2. The assessee is entitled for deduction in that previous year in which he starts paying the interest on loan and in seven succeeding previous years or until the full amount of interest is paid (whichever is earlier).
3. This deduction is also available for the purpose of higher education of relatives.
4. Loan to be repaid by assessee in the previous year taken from any financial institution for the purpose of pursuing higher education.
5. Relative includes spouse, children, or the student for whom the individual is legal guardian.
6. Higher education means a course pursued after passing SSC or equivalent exam in India.

3.3.6 Deduction u/s 80 EE:

Interest on loan for residential house property:

1. This deduction is allowed to individual first-time home buyers.
2. Amount of such loan not to exceed Rs. 35 lakhs and the value of such house cannot exceed Rs. 50 Lakhs.
3. Loan should be sanctioned between April 1, 2016 and March 31, 2017.
4. The assessee should not own any other house property on the date of sanction of loan.
5. If the deduction for interest on loan for residential house property is claimed u/s 80EE, then it cannot be claimed under any other section of this Act.
6. Deduction under his Section (80 EE) shall be allowed in computing the total income of the individual for the assessment year beginning on 01.04.2017 and subsequent assessment years.
7. This deduction is available upto Rs. 50,000/- on interest amount on home loans taken from specified financial institution such as banks and housing finance company.

3.3.7 Deduction u/s 80EEB:

Tax incentives for interest on loan to purchase Electric Vehicles:

1. Deduction shall be payable to an assessee for interest on loan taken from any financial institution to purchase an electric vehicle.
2. Loan approval should be from financial institutions or banks between April 1, 2019 to March 31, 2022.
3. Amount of deduction is Rs. 1,50,000 for interest on purchase of electric vehicle.

3.3.8 Deduction u/s 80 TTA & u/s 80 TTB:

Deduction for interest on deposits in savings A/c

For Senior citizen	Others
Section 80TTB	Section 80TTA
Deduction is applicable for resident individual with age of 60 years or more.	Deduction is applicable to individual assessee (other than Sr. citizens) and HUF (if the total income includes interest on deposits [excl time deposits] in savings a/c.)
Deduction in respect of interest from fixed term deposits or savings a/c of a bank. (Includes interests on FD and savings a/c)	Deduction in respect of interest on deposits in Savings a/c of the bank.
Maximum amount of deduction is actual amount received on savings a/c interest or Rs.50,000; whichever is less.	Maximum amount of deduction is actual amount received on savings a/c interest or Rs.10,000; whichever is less.
Savings a/c can be with any bank; cooperative society engaged in banking business or post office in India.	
Note : Post office savings bank interest is exempt to Rs. 3,500 u/s 10(15) for single holder. So, assessee shall first take exemption from other sources and then claim deduction for the balance amount of interest received.	

3.3.9 Deduction u/s 80U:

Deduction to an assessee with physical disability:

1. Deduction is available to resident individual certified as physically disable by the medical authority.
2. Lumpsum deduction = Rs. 75,000 (disability from 40% to less than 80%)
Rs.1,25,000(disability 80% and above- severe disability)
3. Copy of certificate issued by the prescribed medical authority is required to be furnished by the assessee along with the return of income u/s 139 of the income tax act.

3.4 REBATE OF INCOME TAX IN CASE OF CERTAIN INDIVIDUALS [SECTION 87A]

- Rebate is applicable to assessee whose Net Taxable Income does not exceed Rs. 5,00,000.

- Amount of Rebate: Rs. 12,500 or 100% of Income tax (before charging health & education cess) whichever is less.

3.5 EXERCISE

- I. Write Short notes on
 - a. Deductions u/s 80C
 - b. Deduction to resident for amount paid towards health insurance premium
 - c. Deduction u/s 80E
- II. Explain the quantum of deduction applicable u/s 80U along with the applicable conditions
- III. Explain the provisions of deduction applicable to individual assessee for receipt of Interest on savings a/c under Income tax act.

IV. Practical Questions:

1. Sanjay (age 43 years) is an Indian citizen. During the year 2021-2022, he pays Mediciclaim insurance of Rs. 7,000 for self ; 11,000 for spouse and Rs. 15,000 for his independent daughter by cheque. He also pays Rs. 30,000 for his father who is a senior citizen. Calculate amount of deduction u/s 80D for Mr. Sanjay.

(Ans: Rs. 48,000)

2. Parab's Net income from salary is Rs. 7,00,000; He incurred Rs. 27,000 as medical expense for his mother (sr. citizen); Rs. 5,000 for self-insurance using cheque. He paid Rs. 15,000 in cash for preventive health checkup for his spouse.

He paid Rs. 75,000 for medical treatment of dependent sister with severe disability.

Calculate the amount of deduction under Chapter VI A.

(Ans: Rs. 1,62,000)

3. Compute the tax liability of Mr. Vijay (age 38) an Indian citizen from the following information during the previous year 2021-2022.

Net income from salary of Rs. 30,00,000; Income from house property Rs. 15,00,000 and income from other sources of Rs. 3,00,000 assuming that Vijay has not opted for New scheme under section 115BAC.

Miss Nisha, an Indian citizen aged 35 years has a net taxable income from salary of Rs. 3,00,000 and Rs. 1,40,000 from other sources during 2021-2022. Calculate her net tax liability for the assessment year 2022-2023.

V. Fill in the blanks choosing correct option

1. Deduction u/s 80TTA for interest earned is applicable to _____.
 - a. Individual & HUF
 - b. Company
 - c. Firm
 - d. Company
2. Maximum amount of deduction u/s 80TTB for interest earned is _____.
 - a. Rs. 10,000
 - b. Rs. 20,000
 - c. Rs. 50,000
 - d. Rs. 5,000
3. Deduction under Sec 80U is applicable to _____.
 - a. Resident individual
 - b. HUF
 - c. Firm
 - d. Company
4. Maximum amount of deduction for preventive health checkup for individual and his parents under Sec 80D is Rs. _____.
 - a. Rs. 5,000
 - b. Rs. 10,000
 - c. Rs. 50,000
 - d. Rs. 1,00,000
5. If assessee pays Rs. 10,000 as Medclaim insurance for self; Rs. 25,000 for his parents by cheque, then the amount of deduction applicable to the assessee u/s 80D is Rs. _____.
 - a. 10,000
 - b. 25,000
 - c. 35,000
 - d. 15,000
6. Deduction under Sec 80 C for contribution to Sukanya samriddhi yojana, PPF is available for _____.
 - a. Individual
 - b. HUF
 - c. Company
 - d. Individual & HUF
7. Deduction under Sec 80C can be claimed for term deposits (fixed deposit) made in the scheduled bank, if minimum period of deposit is _____ years
 - a. 5
 - b. 6
 - c. 10
 - d. 15
8. Mrs. A's mother is dependent on her and suffers from 85% disability. She incurred medical expense for her mother of Rs.60,000 during 2021-2022. The amount of deduction that can be claimed by her for the AY 22-23 is Rs. _____.
 - a. 1,25,000
 - b. 75,000
 - c. 50,000
 - d. 60,000

10. Mr. Swayam, aged 68 years earns interest on savings a/c of Rs. 28,000 and on time deposits of Rs. 10,000. Deduction available to him u/s 80TTB is Rs. _____.

- Ans :**

1-a	2-c	3-a	4-a	5-c	6- d	7- a	8-a	9-b	10-c
-----	-----	-----	-----	-----	------	------	-----	-----	------

- a. Maximum amount of deduction u/s 80C for contribution towards investments is Rs. 25,000.
- b. Deductions are given under chapter VI A of the Income tax Act.
- c. Maximum amount of deduction applicable u/s 80U allowed to a person with 90% disability is Rs.1,25,000
- d. Rebate u/s 87A for AY 2022-23 for income not exceeding Rs. 5,00,000 is Rs. 12,500 or tax liability whichever is less
- e. If total taxable income of an individual (age 25 years) is Rs. 3,40,000 for the AY 2022-2023; his Net tax liability after considering rebate is NIL.
- f. If total taxable income of an individual (age 38 years opting for old scheme) is Rs. 6,00,000 for the AY 2022-2023; his Net tax liability is Rs. 23,400
- g. Total tax liability of the HUF with income of Rs. 22,50,000 (if assessee opts for old scheme) is Rs. 4,29,000.
- h. If total tax of an individual is Rs. 4,12,500; HEC @4% is Rs. 16,500.
- i. If the total taxable income of the individual is below Rs. 5,00,000; the assessee is eligible for rebate u/s 87A.
- j. If Mediclaim insurance premium of Rs. 50,000 for Sr. citizens paid by cash, amount allowed as deduction u/s 80D is Rs. 25,000

Ans:

True: b, c, d, e, f, g, h, i

False: a, j

3.6 REFERENCES

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COMPUTATION OF TAX LIABILITY OF INDIVIDUAL & HUF

Unit Structure

4.0 Learning Objectives

4.1 Practical Sums

4.0 LEARNING OBJECTIVES

After reading this unit:

- Learner will be able to compute Net Taxable Income
- Learner will be able to compute Tax Liability

4.1 PRACTICAL SUMS

HOUSE PROPERTY+ OTHER SOURCES+ 80C+ 80TTA

Q.1 Calculate the taxable income of Mr. Suraj, an Indian citizen for the AY 2022-2023 Suraj owns a property and has let it out on rent of Rs. 3,50,000 p.a.

Particulars	Rs.
Municipal valuation	2,00,000
Municipal taxes (paid by the tenant)	3,600
Repairs (paid by the tenant)	4,000
Insurance premium paid	1,500
Collection charges	3,000
Interest on borrowed capital (for its construction taken in 2020-2021)	15,000

Other Incomes/ expenses

Other Incomes	Rs.
Dividend from foreign companies	10,000
Interest on deposits in PPF a/c	15,000
Income from units of UTI	6,000
Interest from fixed deposits with SBI	18,000
Payment of LIC premium	35,000
Paid Rs. 10,000 each in St. Mary's school as tuition fees for 2 children.	??
Interest from savings a/c with SBI	16,000
Investment in PPF	1,00,000

Soln:**Computation of Total Income of Mr.Suraj**

Particulars	Rs.	Rs.
Income from House property		2,30,000
Income from other sources		65,000
Gross Total Income		2,95,000
<u>Less: Deduction under Chapter VI-A</u>		
<u>Deduction u/s 80C</u>		
Tuition fees for 2 children	20,000	
Investment in PPF	1,00,000	
Payment of LIC premium	35,000	
Restricted to:	-1,50,000	
<u>Deduction u/s 80TTA</u> (Interest on savings a/c- Max: 10,000)	-10,000	1,60,000
Total Income		1,35,000

Note 1:**Income from House property (Let out property)**

	Rs.
Gross Annual value	
Municipal value Rs.2,00,000	
Rent received Rs. 3,50,000	
Higher of two: 3,50,000	3,50,000
Less: Municipal taxes (if borne by assessee)	NIL
Net Annual value	3,50,000
Less: Deduction u/s 24	
Standard deduction (30%)	1,05,000
Interest on Loan	15,000
Income from House property	2,30,000

Interest on loan for Let out property has no limit whereas for Self-occupied property has a maximum limit of Rs. 2,00,000 (subject to conditions).

Note 2:**Income from other sources**

	Rs.
Dividend from foreign companies	10,000
Interest on deposits in PPF a/c	15000

Income from units of UTI	6,000
Interest from fixed deposits with SBI	18000
Interest from savings a/c with SBI	16,000
Income from other sources	65,000

SALARIES + OTHER SOURCES+ 80C+ 80D

Q.2 Mr. Sanjay, an Indian citizen of 45 years earns income from the following sources :

	Rs.
Income from Salaries	25,00,000
Income from other sources	20,00,000
Total	45,00,000

His investments/ payments during the financial year 2021-2022 are as under :

- Rs. 1,00,000 contributed towards Public provident fund (PPF)
- Rs. 50,000 paid as school fees at St. Xavier's school, Calcutta for his son's education studying in 9th standard.
- Repayment of housing loan Rs. 30,000
- Tax saver Fixed deposit (Period: 5 years) Rs. 10,000.
- Rs. 1,00,000 paid as contribution for approved pension scheme
- Rs. 80,000 paid for medical treatment of dependent relative (with 40% disability).

Compute the deductions u/s 80 and total income of Mr. Sanjay for the assessment year 2022-2023

Solution:

Computation of Total Income		
Particulars	Rs.	Rs.
Income from Salaries		25,00,000
Income from other sources		20,00,000
Gross Total Income		45,00,000
<u>Less: Deduction under Chapter VI-A</u>		
Deduction u/s 80C	-1,50,000	
Deduction u/s 80D	-75,000	2,25,000
Total Income		42,75,000

SALARIES + HOUSE PROPERTY+ OTHER SOURCES+ 80C+ 80TTA

Q.3 Ajay, an Indian citizen, of 35 years is a salaried employee in Delhi. He receives the following from his employer during the previous year ending 31.3.2022.

Basic salary	Rs. 7.68,000
Bonus	Rs. 1,00,000
Commission (fixed)	Rs. 20,000
House Rent allowance	Rs. 60,000 (exempt u/s 10 (13A) Rs. 28,000)
Transport allowance	Rs. 18,000
Profession tax paid	Rs. 2,500

He owns a house property which has been let out. Municipal valuation of house property is Rs. 1,80,000 and fair rent is Rs. 1,00,000. He received rent of Rs. 2,40,000. He makes the following expenditure in respect of House Property :

Municipal taxes :	Rs. 2,500
House Insurance :	Rs. 1,600
Interest on housing loan taken for this house :	Rs 50,000

He received Rs 15,000 as interest on savings a/c from Maharashtra bank and Rs. 10,000 as dividend from Indian companies. He also deposited Rs. 1,20,000 in PPF during the previous year.

Calculate the net taxable income of Ajay for the assessment year 2022-2023.

Sol:

Computation of Total Income of Ajay for AY 2022-2023

Particulars	Rs.	Rs.
Income from Salaries (Note 1)		8,85,500
Income from house property (Note 2)		1,16,250
Income from other sources (Note 3)		25,000
Gross Total Income		10,26,250
<u>Less: Deduction under Chapter VI-A</u>		
Deduction u/s 80C (PPF) [Max amount : 1,50,000]	(1,20,000)	
Deduction u/s 80 TTA (Interest on savings a/c) [Max amount: Rs. 10,000] Amount received :Rs 15,000.	(10,000)	(1,30,000)
Total Income		8,96,250

Note 1: Income from SalariesComputation of Tax Liability of
Individual & HUF

	Rs.	Rs.
Basic salary	7,68,000	
Bonus	1,00,000	
Commission	20,000	
HRA 60,000 Less exempt -28,000	32,000	
Transport allowance	18,000	
Gross salary		9,38,000
Less: Deduction u/s 16		
Standard deduction	50,000	
Profession tax (Sec 16(iii))	2,500	52,500
Net salary		8,85,500

Note 2: Income from House Property (let out)

	Rs.
Gross Annual value Municipal value Rs.1,80,000 Fair rent Rs. 1,00,000 Whichever is higher: 1,80,000 Rent received Rs. 2,40,000 Higher of two: 2,40,000	2,40,000
Less: Municipal taxes paid	- 2,500
Net Annual value	2,37,500
Less: Deduction u/s 24	
Standard deduction (30%)	71,250
Interest on Loan (let out property: no limit)	50,000
Income from House property	1,16,250

Note 3: Income from other sources

	Rs.
Interest on savings a/c from Maharashtra bank	15,000
Dividend from Indian companies (taxable)	10,000
	25,000

**PROFITS/GAINS FROM BUSINESS & PROFESSION, OTHER
SOURCES, 80C, 80D**

Q.4 Mrs Sharada, aged 45 years is a doctor. Expenses of clinic run by her for the year ended 31.3. 2022 is as follows :

Receipts & Payments a/c			
Receipts	Rs.	Payments	Rs.
Balance b/d	50,000	Staff salary	45,000
Consultation fees	2,55,000	Rent of clinic	50,000
Dividend from Indian companies	2,000	Medicines purchased	85,000
Winnings from Lottery	7000	Motor car expenses	25,000
Dividend from foreign companies	25,000	Administration expenses	25,000
Gifts from patients	7,000	Donation to school	5,500
Sale of medicines	1,25,000	Daughters' marriage expenses	25,000
Gift from mother	25,000	Rent of operation room	25,000
Visiting fees	1,50,000	Travelling expenses	25,000
		Income tax paid	10,000
		Membership fees	2,000
		Balance c/d	3,23,500
Total	6,46,000	Total	6,46,000

Additional information:

- 1/4 of the motor car expenses are for her personal use.
- She paid Rs. 11,000 as mediclaim insurance premium (for self) by cheque and Rs. 55,000 as mediclaim insurance premium for her dependent father who is a senior citizen.
- She also paid Rs 50,000 towards LIC premium.
- Depreciation on Motor car is Rs. 15,000.
- She also received a Best doctor award and given Rs. 5,500.

Sol:

Computation of Total Income of Mrs. Sharada for AY 2022-2023

Particulars	Rs.	Rs.
Profits/ gains from Business & Profession (Note 1)		2,40,000
Income from other sources (Note 2)		34,000
Gross Total Income		2,74,000

<u>Less: Deduction under Chapter VI-A</u>		
Deduction u/s 80C (PPF) [Max amount: 1,50,000]	-50,000	
Deduction u/s 80 D (Mediclaime insurance premium) (11000+ 50,000) (self: Max 25,000) Paid:11,000 (sr. citizen: Max 50,000) Paid : 55,000	-61,000	- 1,11,000
Total Income		1,63,000

Computation of Tax Liability of
Individual & HUF

Note 1: Income from Business & Profession

	Rs.	Rs.
Taxable receipts		
Consultation fees	2,55,000	
Gifts from patients	7,000	
Sale of medicines	1,25,000	
Visiting fees	1,50,000	5,37,000
Less: Taxable payments		
Staff salary	45,000	
Rent of clinic	50,000	
Medicines purchased	85,000	
Motor car expenses	18,750	
Administration expenses	25,000	
Rent of operation room	25,000	
Travelling expenses	25,000	
Income tax paid	10,000	
Membership fees	2,000	
Depreciation on Motor car	11,250	2,97,000
Profits/ gains from Profession		2,40,000

Note 2: Income from other sources

	Rs.
Dividend from Indian companies	2,000
Winnings from Lottery	7000
Dividend from foreign companies	25,000
Best doctor award (exempt)	NIL
Income from other sources	34,000

(HUF+ Income from House property+ Income from Business & Profession + 80D)

Q.5 Mr. Kashyap Bhatt, Karta of HUF gives the following information for the previous year ended 31.3.2022.

Calculate the Net taxable income for the A.Y 2022-2023

Particulars	Rs.	Particulars	Rs.
To Office expenses	1,20,000	By Gross Profit	4,50,000
To Staff salary	26,000	By Rent received	65,000
To Embezzlement of cash	31,000		
To Repairs of House property	18,000		
To Advertising	3,000		
To Printing & stationery	1,600		
To Charges to collect rent	1,300		
To Mediclaim insurance premium	21,000		
To Municipal taxes of house property	12,000		
To Sales tax	4,600		
To Interest paid for housing loan	5,000		
To Reserve for bad debts	12,000		
To Net profit	2,59,500		
	5,15,000		5,15,000

Additional information:

- Salary includes salary paid to Bhat's daughter and is reasonable as per her qualification.
- Mediclaim insurance premium is paid by cheque.
- Mr. Kashyap Bhatt, Karta of HUF is suffering from disability (to the extent of 50%).

Soln:

Computation of Total Income of Mr. Kashyap (Karta) for AY 2022-2023

Particulars	Rs.	Rs.
Income from house property (Note 1)		32,100
Profits/ gains from Business & Profession (Note 2)		2,63,800
Gross Total Income		2,95,900
<u>Less: Deduction under Chapter VI-A</u>		
Deduction u/s 80U (applicable for individuals not for HUF)	NIL	
Deduction u/s 80 D (Mediclaim insurance premium)		
(self: Max 25,000) Paid:21,000	-21,000	-21,000
Total Income		2,74,900

Note 1:Computation of Tax Liability of
Individual & HUF**Income from House property**

	Rs.
Gross Annual value	65,000
Less: Municipal taxes (if borne by assessee)	12,000
Net Annual value	53,000
Less: Deduction u/s 24	
Standard deduction (30%)	15,900
Interest on Loan	5,000
Income from House property	32,100

Note 2:**Profits/gains from Business & Profession**

	Rs.
Profit as per P& L a/c	2,59,500
Less: Income considered separately	
Rent received	65,000
Add: Expenses disallowed/considered separately	
Repairs of House property	18,000
Charges to collect rent	1,300
Mediclaime insurance premium	21,000
Municipal taxes of house property	12,000
Interest paid for housing loan	5,000
Reserve for bad debts	12,000
Gross total income	2,63,800

(HUF+ Profits/gains from Business & Profession+ Income from other sources + 80D+80U+ 80C)

Q.6 Mr. Shiwale, Karta of a HUF furnishes the following information for the year ended 31.3.2022. Compute the gross total income of HUF.

Profit & Loss a/c for the year ended 31.3.2022

Particulars	Rs.	Particulars	Rs.
To Purchases	1,20,000	By Gross sales	5,50,000
To Staff salary	50,000	By Dividend from Indian companies	65,000
To Free samples distribution	1,500	By Dividend from foreign companies	6,000
To Insurance	18,000	By Bad debts recovered	4,000

To Advertising	3,000	By Winning from horse race	5,000
To Printing & stationery	1,600	By Profit on sale of import licence	3,000
To Mediclaim insurance premium	21,000	By Income tax refund	2,000
To Bad debt provision	1,700		
To Sales tax	5,400		
To Advance tax	4,000		
To Income tax	4,600		
To Depreciation	12,000		
To Wealth tax	4,500		
To Life insurance premium	1,00,000		
To Net profit	2,87,700		
	6,35,000		6,35,000

Additional information:

- Bad debts recovered were not allowed as a deduction in the earlier years which it was written off.
- Depreciation allowed under Income tax rules is Rs. 10,000
- Mr. Shiwale, Karta of HUF has disability to the extent of 75%.
- He received proceeds from maturity of Life insurance policy-Rs. 15,000

Solution:**Computation of Total Income of Mr. Shiwale (Karta) for AY 2022-2023**

Particulars	Rs.	Rs.
Profits/gains from Business & Profession (Note 1)		3,41,800
Income from other sources (Note 2)		80,000
Gross Total Income		4,21,800
<u>Less: Deduction under Chapter VI-A</u>		
Deduction u/s 80U (applicable for individuals not for HUF)	NIL	
Deduction u/s 80C (max Rs. 1,50,000)	1,00,000	
Deduction u/s 80 D (Mediclaim insurance premium)	-5,000	-1,05,000

(self: Max 25,000) Paid : 5,000		
Total Income		3,17,800

Computation of Tax Liability of
Individual & HUF

Note 1:

Profits/gains from Business & Profession

	Rs.
Profit as per P& L a/c	2,87,700
Less: Income considered separately	
Dividend from Indian companies	65,000
Dividend from foreign companies	6,000
bad debts recovered	4,000
Winning from horse race	5,000
Income tax refund	2,000
Depreciation under Income tax rules	10,000
Add: Expenses disallowed/considered separately	
Mediclaime insurance premium	21,000
Advance tax	4,000
Income tax	4,600
Depreciation	12,000
Life insurance premium	1,00,000
Wealth tax	4,500
Gross total income	3,41,800

Income tax, Income tax refund, wealth tax and advance tax are considered as personal.

Note 2:

Income from other sources

	Rs.
Dividend from Indian companies	65,000
Dividend from foreign companies	6,000
Bad debts recovered	4,000
Winning from horse race	5,000
Proceeds from LIC (exempt)	NIL
Income from other sources	80,000

TAX LIABILITY COMPUTATION

Q.7 Mr. Uday (age: 42 years) is an Indian citizen and an employee of Elite Ltd. He earns following emoluments and benefits during the previous year 2021-2022.

Basic salary Rs. 3,50,000 per month

Bonus 20% of Basic salary

Profession tax paid Rs.2,500.

Elite Ltd. allotted him 10,000 sweat equity shares @ Rs. 100 per share in April 2021. FMV of shares was Rs. 120. He sold all his shares for Rs. 150 on 31.3.2022 after payment of STT.

Additional information:

He receives rent from tenant of Rs. 30,000 per month from May 2021. Municipal taxes on the same property of Rs. 20,000 ; outstanding since 2 years, were paid by him in October 2021 . He has availed a housing loan of Rs. 10,00,000 from SBI @ 5% p.a. He paid LIC premium of Rs. 50,500 for self.

He paid Mediclaim insurance premium of Rs. 4,500 by cash for self and Rs. 5,000 by cheque, for his son, who is not dependent on his father.

Compute his gross taxable income and tax liability for the previous year 2021-2022 considering that the individual selects the default (old regime)

Soln:

Computation of Total Income of Mr. Uday for AY 2022-2023

Particulars	Rs.	Rs.
Income from salary (Note 1)		51,87,500
Income from house property (Note 2)		1,75,333
Income from capital gains (Note 3)		3,00,000
Gross Total Income		56,62,833
<u>Less: Deduction under Chapter VI-A</u>		
Deduction u/s 80C (max Rs. 1,50,000)	50,500	
Deduction u/s 80 D (Mediclaim insurance premium)		
(mediclaim insurance premium not allowed for independent son and should not be paid by cash)	NIL	(50,500)
Total Income		56,12,333

Computation of tax liability of Uday for the AY 2022-2023

	Rs.	Rs.
Tax on STCG @ 15% on 3,00,000		45000
Tax on other income of Rs. 53,12,333		
Upto 2,50,000	NIL	
2,50,001 to 5 lakhs @ 5%	12,500	

5,00,001 to 10 lakhs @20%	1,00,000	
10,00,001 to 53,12,333 @30%	12,93,700	14,06,200
		14,51,200
Add: Surcharge @10%(since income above 50 lakh)		1,45,120
		15,96,320
Add: Health & Education cess @ 4% of 1596320		63,853
Total tax liability		16,60,173
Tax liability (rounded off)		16,60,170

Computation of Tax Liability of Individual & HUF

Note 1:

Income from Salaries

Particulars	Rs.
Basic salary	42,00,000
Bonus	8,40,000
Perquisite value of equity shares (120-100) x 10,000	2,00,000
Gross salary	52,40,000
Less:	
Standard deduction	50,000
Profession tax	2,500
Net taxable salary	51,87,500

Note 2:

Income from House property

	Rs.
Gross Annual value (for 11 months: actual rent received)	3,30,000
Less: Municipal taxes (if borne by assessee and paid during the year)	20,000
Net Annual value	3,10,000
Less: Deduction u/s 24	
Standard deduction (30% of 3,10,000)	93,000
Interest on Loan (10,00,000 x 5% x 10/12)	41,667
Income from House property	1,75,333

Note 3:**Income from Capital Gains**

	Rs.
Sale of Sweat equity shares	
Sale consideration (10,000 x Rs.150)	15,00,000
Less: Cost of acquisition (10,000 x Rs. 120)	(12,00,000)
Taxable short term capital gains	3,00,000

TAX LIABILITY COMPUTATION

Q.8 Mr. Vishnu, aged 48 years is an Indian citizen. He reflects the following information for the year ended 31.3.2022

Particulars	Rs.
Income from house property	10,00,000
Income from Business & Profession	4,50,000
Income from other sources	50,000
Taxable income from capital gains (short term)	1,00,000

- Amount paid for repayment of principal amount of housing loan: Rs. 80,000
- Interest received on savings bank a/c Rs. 18,000 (already included in Income from other sources)
- Mediclaime insurance paid by Vishnu for self and his wife by cheque Rs. 5,000.

Compute his gross taxable income and tax liability for the previous year 2021-2022 considering that the individual selects the default (old regime)

Soln:

Computation of Total Income of Mr. Vishnu for AY 2022-2023

Particulars	Rs.	Rs.
Income from house property		10,00,000
Profits/ gains from Business & Profession		4,50,000
Income from capital gains (short term)		1,00,000
Income from other sources		50,000
Gross Total Income		16,00,000
<u>Less: Deduction under Chapter VI-A</u>		
u/s 80C (max Rs. 1,50,000)	80,000	
u/s 80TTA (max Rs. 10,000)	10,000	
u/s 80 D (Mediclaime insurance premium)	5,000	95,000
Total Income		15,05,000

Computation of tax liability of Vishnu for the AY 2022-2023

Computation of Tax Liability of
Individual & HUF

	Rs.	Rs.
Tax on STCG@ 15% on 1,00,000 (u/s 111)		15,000
Tax on other income of Rs. 14,05,000		
Upto 2,50,000	NIL	
2,50,001 to 5 lakhs @ 5%	12,500	
5,00,001 to 10 lakhs @20%	1,00,000	
10,00,001 to 14,05,000 @30%	1,21,500	2,34,000
		2,49,000
Add: Surcharge (since total income is below 50 lakhs)		NIL
		2,49,000
Add: Health & Education cess @ 4% of 2,49,000		9,960
Total tax liability		2,58,960

TAX LIABILITY COMPUTATION

Q.9 Mr. Vikas, aged 48 years is an Indian citizen. He reflects the following information for the year ended 31.3.2022

	Rs.
Taxable income from Salaries	12,00,000
Income from Business & Profession	3,00,000
Income from capital gains (short term)	5,750

- Amount paid for repayment of principal amount of housing loan: Rs. 50,000
- Amount paid for LIC premium: Rs. 1,20,000
- Mediclaime insurance paid by Vikas for self and his wife by cheque Rs. 28,000.

Compute his gross taxable income and tax liability for the previous year 2021-2022 considering that the individual selects the default (old regime)

Soln:

Computation of Total Income of Mr. Vikas for AY 2022-2023

Particulars	Rs.	Rs.
Income from Salaries		12,00,000
Profits /gains from Business & Profession		3,00,000
Income from capital gains (short term)		5,750

Gross Total Income		15,05,750
<u>Less: Deduction under Chapter VI-A</u>		
Deduction u/s 80C (max Rs. 1,50,000) amount paid [1,20,000 +50,000] restricted to 1,50,000	1,50,000	
Deduction u/s 80 D (Mediclaime insurance premium)	25,000	(1,75,000)
Total Income		13,30,750

Computation of tax liability of Mr. Vikas for the AY 2022-2023

	Rs.	Rs.
Tax on STCG@ 15% of Rs,5,750		863
Tax on other income of Rs. 13,25,000		
Upto 2,50,000	NIL	
2,50,001 to 5 lakhs @ 5%	12,500	
5,00,001 to 10 lakhs @20%	1,00,000	
10,00,001 to 13,25,000@30%	97500	2,10,000
		2,10,863
Add: Surcharge (since total income is below Rs. 50 lakhs)		NIL
		2,10,863
Add: Health & Education cess @ 4% of Rs. 210863		8435
Total tax liability		2,19,298
Tax liability (rounded off)		2,19,300

TAX LIABILITY COMPUTATION

Q.10 From the following information of Mr. Sachin, an Indian citizen (aged 35 years); compute his total income and total tax liability for the assessment year 2022-2023

Particulars	Rs.
Income from Salaries (taxable)	62,000
Income from Business & Profession	4,00,000
Amount paid as health insurance premium	4,500
Amount paid for LIC premium	5,000

Soln:

Computation of Tax Liability of
Individual & HUF

Computation of Total Income of Mr. Sachin for AY 2022-2023

Particulars	Rs.	Rs.
Income from Salaries		62,000
Profits/gains from Business & Profession		4,00,000
Gross Total Income		4,62,000
<u>Less: Deduction under Chapter VI-A</u>		
Deduction u/s 80C (max Rs. 1,50,000)	5,000	
Deduction u/s 80 D (Mediclin insurance premium)	4,500	(9,500)
Total Income		4,52,500

Computation of tax liability of Mr. Sachin for the AY 2022-2023

	Rs.	Rs.
Tax on income of Rs. 4,52,500		
Upto 2,50,000	NIL	
2,50,001 to 5 lakhs @ 5%	10125	
5,00,001 to 10 lakhs @20%	0	
10,00,001 to 13,25,000@30%	0	10125
		10,125
Less: Rebate u/s 87A (since total income is below Rs. 5 lakhs)		(10,125)
		NIL
Add: Health & Education cess @ 4%		NIL
Total tax liability		NIL

COMPUTATION OF INCOME OF PARTNERSHIP FIRM IN RELATION TO SEC 40(B) AND TAX THEREON WITH APPLICABLE RATE OF TAX

Unit Structure

- 5.0 Learning Objectives
- 5.1 Computation of Tax Liability of Partnership Firm
- 5.2 Computation of Taxable Income of Partners of Partnership Firm
- 5.3 Computation of Income of Partnership Firm
- 5.4 Conditions to Claim Deduction of Interest Paid to Partners
- 5.5 Self-assessment questions
- 5.6 References

5.0 LEARNING OBJECTIVES

After reading this unit:

Learner will be able to

- Understand which income is taxable for the Partnership Firms
- Understand the Exemptions allowed to Partnership Firms
- Treat the remuneration received by the partners
- Treat the interest received by the partners
- Understand how to calculate the Tax Liability of the HUF

5.1 COMPUTATION OF TAX LIABILITY OF PARTNERSHIP FIRM

		Rs.
Adjusted total income = Rs.XXXXX		
• Casual Income / Winnings from lottery/races	(taxed @30%)	xx
• Long term Capital Gains [**subject to provisions u/s 112] (# 10% if indexation is applicable)	(taxed @20%**))	xx

• Short term Capital Gains	(taxed@ 15%)	xx
• Balance	(taxed @30%)	xx
Total tax on Income		XX
Add: Surcharge on total tax (if income exceeds Rs. 1 crore)	@12%	xx
Less: Rebate u/s 87A (if applicable)		xx
Add: Health & Education cess@ 4% [4% on (Total tax + surcharge)]		xx
Tax liability		xx

Minimum alternate tax = [@ 18.5% + Surcharge+ Health & Education cess] of the adjusted total income.

5.2 COMPUTATION OF TAXABLE INCOME OF PARTNERS OF PARTNERSHIP FIRM

• Share of profit	Exempt u/s 10(2A)
If condition u/s 184 & sec 40b are satisfied	
• Remuneration paid to partners	Taxable as business income
• Interest / salary paid to partners	Taxable as income from salary & expenses incurred to earn interest/ salary can be claimed as deduction u/s 30 to 37
If condition u/s 184 & sec 40b are not satisfied	
• Remuneration paid to partners	Remuneration /salary/ interest paid to partners will be disallowed in hands of firm u/s 40b & 184 hence it is not taxable in the hands of partners.
• Interest / salary paid to partners	

‘Partnership’ as per Indian Partnership Act 1932 refers to relation between two persons who have agreed to share profits of the business carried on by all or any of them acting for all. Their business is carried on by individual partners under the firm’s name.

Eg: Mr. A, Mr. B are partners entering into partnership firm – M/S AB.

5.3 COMPUTATION OF INCOME OF PARTNERSHIP FIRM

- As per the Income tax act, a partnership firm (incl LLP) is taxable as a separate entity apart from their partners.

- Salary, commission, bonus or remuneration received by the partners from the Partnership firm is allowed as a deduction to the firm since it is taxable in the hands of the partners.
- Interest paid by firm to partner: Interest is allowed as a deduction upto 12% p.a to the firm. This amount is taxable in the hands of the partner.
- Income tax rate: Firms income is charged @30%.
- Surcharge: if the income of the firm exceeds Rs. 1 crore, surcharge is applicable @12% of Income tax.
- MAT: Minimum alternate tax is applicable for LLP and Partnership firm.

Amount of Deduction is Allowed If:

- Conditions u/s 184 are satisfied
- Conditions u/s 40b are satisfied

Sec 184:

- As per Sec 184, certified copy of partnership deed is required to be submitted along with the return of income for the first year to claim expenses on interest or remuneration as deduction by the firm. (If not submitted, then certified copy should be retained by partnership firm and produced if demanded by assessing officer)
- The firm should submit a revised partnership deed in case of change in constitution or change in Profit sharing ratio.
- The partnership deed should reflect profit sharing ratio amongst individual partners of the firm.

Sec 40b:

Conditions to Claim Deduction of Remuneration to Partners

- Remuneration should be paid only to working partner.
- Remuneration should be paid as per the terms prescribed in the partnership deed.
- Remuneration should for period after execution of partnership deed.

Limits for remuneration:

Book Profits*	Remuneration to partners
First Rs. 3,00,000 OR Loss	Higher of Rs. 1,50,000 or 90% of book profit
Balance book profit	60% of the book profit

Calculation of Book profits:

Computation of Income of Partnership Firm in Relation to Sec 40(B) and Tax Thereon with Applicable Rate of Tax

	Rs.
Net profit as per P& L a/c	xx
Adjustments u/s 28 to sec 44DB	xx
Add: Remuneration to partners (if debited to P&L a/c)	xx
Book Profits	xx

Note:

1. Income chargeable under house property, capital gains and other sources is not a part of book profits.
2. Business profits brought forward need not be deducted from book profits.
3. Unabsorbed depreciation can be deducted from Book profits
4. Deductions from Gross Total Income from Sec 80C to 80U are to be ignored while computing book profits.

5.4 CONDITIONS TO CLAIM DEDUCTION OF INTEREST PAID TO PARTNERS

1. Interest is deducted if firm satisfies the condition u/s 184
2. Payment of interest should be authorized by the partnership deed.
3. Payment of interest should be for the period after execution of partnership deed.
4. Rate of interest paid should not exceed 12%.

Sec 78:

Set off / carryforward of losses if there is retirement or death of partner in partnership firm

- If there is change in the constitution of partnership firm due to retirement/ death of a partner, firm cannot carryforward its losses applicable to such partner.
- Losses from house property, business loss and capital loss due to owning and maintaining horse race can be carried forward or set off by firm as per the following:
 - a. Find the share of outgoing partner in profit/ loss of the firm during the year of change of firm's constitution.
 - b. Find share of loss of outgoing partner in losses brought forward

Calculate the difference between (a) & (b). Such loss cannot be allowed to be setoff or carry forwarded by the firm.

Carry forward of Unabsorbed depreciation

Sec 78 is not applicable to carryforward the unabsorbed depreciation or unabsorbed capital expenditure incurred for scientific research.

Problems:

1. Shruti, Niti and Dhriti are partners of a software firm SND software. The book profit of the firm was Rs. 6,00,000 for the year ended March 31,2021. The firm has paid salary of Rs. 4,60,000 duly authorized by partnership deed to the working partners. Calculate the amount of salary allowed as deduction to SND software for A.Y. 2022-2023.

Soln:

Amount allowed as deduction Soln :to SND software= Rs. 4,50,000.

Deduction u/s 40b (amount allowed as deduction to SND software)	
Book profit =Rs. 6,00,000	
First Rs. 3,00,000	Balance Rs. 3,00,000
90% of the book profit= Rs. 2,70,000 OR Rs. 1,50,000 Whichever is higher	60% of balance book profit Rs. 3,00,000x 60%
Rs. 2,70,000	Rs. 1,80,000
Total (2,70,000+ 1,80,000) = Rs. 4,50,000	
Salary authorized as per partnership deed= Rs. 4,60,000	
whichever is less= Rs. 4,50,000	

2. Avi, Gavi & Kavi are working partners of M/s AGK sharing profits & losses equally. M/S AGK had a Net profit of Rs. 6,20,000 during the year 2021-2022. The net profit was arrived at before deducting interest on capitals to the partners @ 15% of 1.5 lakhs. The partner's salary was Rs. 1.8 lakhs (as per partnership deed).

Calculate the total income of the firm chargeable to tax for the A.Y. 2022-2023.

Sol:**Computation of total income of M/S AGK**

	Rs.
Net Profit of the firm	6,20,000
Less: Interest @12%	1,20,000
Book profits	5,00,000
Less: Deduction u/s 40b (note 1)	1,80,000
Taxable profit of the firm	3,20,000

Note 1:

Computation of Income of Partnership Firm in Relation to Sec 40(B) and Tax Thereon with Applicable Rate of Tax

Deduction u/s 40b Book profit =Rs. 5,00,000	
First Rs. 3,00,000	Balance Rs. 2,00,000
90% of the book profit= Rs. 2,70,000 OR Rs. 1,50,000 Whichever is higher	60% of balance book profit Rs. 2,00,000x 60%
Rs. 2,70,000	Rs. 1,20,000
Total (2,70,000+ 1,20,000) = Rs. 3,90,000 Remuneration as per partnership deed = Rs. 1,80,000	
whichever is less= Rs. 1,80,000	

- Anish, Tanish and Manish are working partners of a consultancy firm- ATM consultants, sharing profits & losses equally. ATM consultants had a Net loss of Rs. 4,40,000 during the year 2021-2022. The net profit was arrived at before allowance as salary of Rs. 1,20,000 each to all the partners.
- Calculate the income of the firm from business & profession chargeable to tax for the A.Y. 2022-2023.

Sol :**Computation of total income of M/S ATM**

	Rs.
Book profits	-4,40,000
Less : Deduction u/s 40b (note 1)	-1,50,000
Income/ Loss under Profits/ gains from Business & Profession	-5,90,000

Deduction u/s 40b Book profit =Rs. 5,00,000	
First Rs. 3,00,000	Balance Rs. 2,00,000
90% of the book profit= Rs. 2,70,000 OR Rs. 1,50,000 Whichever is higher	60% of balance book profit Rs. 2,00,000x 60%
Rs. 2,70,000	Rs. 1,20,000
Total (2,70,000+ 1,20,000) = Rs. 3,90,000 Remuneration as per partnership deed = Rs. 1,80,000	
whichever is less= Rs. 1,80,000	

5. Arun, Varun and Tarun are working partners of M/s AVT engaged as a tax consultant firm. M/S AVT had a Net profit of Rs.9,00,000 during the year 2021-2022. The partnership deed did not reflect any information on interest on partners' capital. The partner's salary was Rs. 25,000 each per month for all 3 partners.

Calculate the taxable profit of the firm chargeable to tax for the A.Y. 2022-2023.

Sol:

Computation of total income of M/S AVT

	Rs.
Book profits	9,00,000
Less: Deduction u/s 40b (note 1)	-6,30,000
Taxable profit of the firm	2,70,000

Deduction u/s 40b	
Book profit = Rs. 9,00,000	
	
First Rs. 3,00,000	Balance Rs. 6,00,000
90% of the book profit = Rs. 2,70,000 OR Rs. 1,50,000 Whichever is higher	60% of balance book profit Rs. 6,00,000 x 60%
Rs. 2,70,000	Rs. 3,60,000
Total (2,70,000 + 3,60,000) = Rs. 6,30,000 Remuneration as per partnership deed = Rs. 9,00,000 whichever is less = Rs. 6,30,000	

6. Vishwa, a partner of a partnership firm received Rs. 15,000 as share of income from the firm for the year ended 31.3.2021. He also received an interest @ 12% per annum on the capital invested in the firm of Rs. 18,000.

Calculate the income taxable to Vishwa for the assessment year 2022-2023.

Soln :

Calculation of taxable income of Mr. Vishwa

Particulars	Rs.
Profits/ gains from Business & Profession (Interest @ 12%)	18,000
Taxable Income	18,000

Note:

Computation of Income of
Partnership Firm in Relation to
Sec 40(B) and Tax Thereon
with Applicable Rate of Tax

- a. Share of income from the firm is exempt from tax.
 - b. To compute profits & gains from Business & Profession of firm, interest given to partners to the extent of 12% is allowed. Hence it is taxable in the hands of partners under the head Profits/ gains from Business or profession.
7. Income & expenditure a/c of Mehta & Co., Chartered accountants' firm for the year ended 31.3.2021 is as follows:

Particulars	Rs.	Particulars	Rs.
To Office expenses	59,10,000	By Audit fees	25,00,000
To Interest to partners	57,000	By Receipts from clients	35,00,000
To Depreciation	2,95,000	By Dividend from Reliance Ltd.	2,10,000
To Partners salary	2,08,000	By Net loss	2,60,000
	64,70,000		64,70,000

Additional information:

1. Office expenses of Rs. 40,000 is not allowed u/s 36.
2. Depreciation allowed as per income tax u/s 32 is Rs. 45,000.
3. Interest paid to partners is allowed as per partnership deed.
4. Conditions u/s 40(b) and section 184 are satisfied by the firm.

Sol:**Computation of total income of Mehta & Co, Firm**

	Rs.
Net Profit of the firm	-2,60,000
Add: Office expenses	40,000
Add: Depreciation not allowed (2,95,000- 45,000)	2,50,000
Add: Salary to partners	2,08,000
Less: Dividend from RIL (IFOS)	-2,10,000
Book profit	28,000
Less: Deduction u/s 40b (Note 1)	1,50,000
Business income	-1,22,000
Income from other sources	2,00,000
Net taxable income	78,000

Note 1:

Deduction u/s 40b (amount allowed as deduction to firm)	
Book profit =Rs. 28,000	
	
First Rs. 28,000	Balance Rs. NIL
90% of the book profit= Rs. 25,200 OR Rs. 1,50,000 Whichever is higher	60% of balance book profit
Rs. 1,50,000	0
Total = Rs. 1,50,000 Since the amount paid is higher than Rs. 1,50,000; the maximum deduction allowed u/s 40(b) is Rs. 1,50,000	

5.5 SELF-ASSESSMENT QUESTIONS

- I. Write Short notes on
 - a. Deductions u/s 40b
 - b. Computation of tax liability of a partnership firm
- II. Explain the conditions u/s 184 fulfilled by the partnership firm to avail deduction for remuneration /interest paid to partners.
- III. Explain the conditions u/s 40(b) to claim deduction of remuneration of partners by the firm.

State whether the following are true/ false:

- a. Surcharge on total tax for firms' income exceeding Rs. 1 crore is @12%.
- b. Health & Education cess applicable to the partnership firm is @ 4% on total tax and surcharge.
- c. In book profits of partnership firm is Rs. 9,00,000; the maximum remuneration u/s 40b allowed to partners is Rs. 6,30,000.
- d. Maximum allowable amount of salary u/s 40b paid to working partners in partnership firm with book profit of Rs. 6,00,000 is Rs. 4,50,000.
- e. If the profits earned by the partnership firm is Rs. 1,40,000; the maximum amount of deduction u/s 40b deductible from the profit for the AY 2022-2023 is Rs. 1,50,000.
- f. Short- and long-term Capital Gains of the partnership firm is taxed@ 15%.

- g. Change in constitution u/s 184 includes change due to admission/retirement or death of a partner.
- h. Share of profits of partners in the partnership firm is exempt in the hands of the partner.
- i. Partnership deed is a legal instrument containing terms of partnership and share of partner's profit.
- j. Remuneration u/s 40b is allowed as deduction to the firm only if it is paid to working partners.

Ans:

True: a, b, c, d, e, g, h, i, j.

False: f

5.6 REFERENCES

1. Websites:
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RETURN OF INCOME (SECTION 139)

Unit Structure

- 6.0 Learning Objectives
- 6.1 Introduction
- 6.2 Compulsory Filing of “Return of Income” By Various Persons
- 6.3 Various Return Forms For Filing Return of Income
- 6.4 Mode of “Submission of Income-Tax Return”
- 6.5 Due Date for Filing of Income Tax Return
- 6.6 Loss Return (Section 139(3))
- 6.7 Belated Return (Section 139(4))
- 6.8 Revised Return (Section 139(5))
- 6.9 Defective Return (Section 139(9))
- 6.10 Updated Return (Section 139(8a))
- 6.11 Practical Problems
- 6.12 Exercises
 - Multiple Choice Questions
 - True/ False
 - Short Notes
 - Practical Problems

6.0 LEARNING OBJECTIVES

After reading this chapter learner will be able:

- To Understand the concept of income tax and its implications.
- To Know the types of income tax returns and their applicability.
- To Know the forms and information required for filing income tax returns.
- To get familiarize with the due dates, consequences of non-compliance, and the filing procedure.

6.1 INTRODUCTION

Every person, if his total income or the total income of any other person in respect of which he is assessable under this Act during the previous year exceeded the maximum amount which is not chargeable to income-tax, shall furnish a return of his income or the income of such other person

during the previous year in the prescribed form and verified in the prescribed manner.

Section 139 of the Income Tax Act of 1961 has several subsections defining norms and regulations as per different cases and circumstances.

6.2 COMPULSORY FILING OF “RETURN OF INCOME” BY VARIOUS PERSONS

The following persons shall submit return of Income on compulsory basis (applicable even in the case of a non-resident):

Section	Different Situations
139(1)(a)	A company/firm is required to submit its return of income (regardless of the quantum of income or loss).
139(1)(b)	A person (other than an individual/HUF/company/firm) is required to submit his/its return of income, if income exceeds exemption limit.
139(1)(b), read with fifth proviso	Individual/HUF is required to submit his/its return of income, if income [without claiming deduction under sections 10A, 10B, 10BA, 80C to 80U and under section 10(38)] exceeds the amount of exemption limit.
139(4A)	A person in receipt of income derived from property held under a trust for charitable or religious purposes is required to submit return of income if its income (without giving exemption under section 11 or 12) exceeds exemption limit.
139(4B)	Chief executive officer of every political party is required to submit income-tax return if income of the political party (without giving exemption under section 13A) exceeds exemption limit.
139(4C)	If total income (without claiming any exemption u/s 10(21), 10(22B), 10(23A), 10(23AAA), 10(23B), 10(23C), 10(23D), 10(23DA), 10(23EC), 10(23ED), 10(23EE), 10(46), 10(47) of the assessee (who is qualified to claim above exemption) exceeds the exemption limit
139 (4D)	Any university/college/other institution referred to in section 35(1)(ii)/ (iii) is required to submit return of income (return has to be submitted whether there is income or loss. Such return has to be submitted even if it is not required by any other provision)
139(4E)/(4F)	These sub-sections cover submission of return by business trust/investment fund.

6.3 VARIOUS RETURN FORMS FOR FILING RETURN OF INCOME

ITR Forms	Subject
ITR-1 (i.e. SAHAJ)	For an individual who is resident and ordinarily resident (total income does not exceed ₹ 50 lakh) having income from salary/one house property (not being brought forward loss or loss to be carried forward)/income from other sources (not being loss and not being winning from lottery/income from race horsest etc.), and agricultural income upto ₹ 5,000
ITR-2	For an individual/HUF where the total income does not include income under the head business or profession
ITR-3	For an Individual/HUF having income under the head business or profession
ITR-4 (i.e. SUGAM)	For Individuals, HUFs and Firms (other than LLP) being a resident having total income upto ₹ 50 Lakh and having income from business and profession which is computed under sections 44AD, 44ADA or 44AE and agricultural income upto ₹ 5,000.
ITR-5	For persons other than- (i) individual, (ii) HUF, (iii) company and (iv) person filing Form ITR-7
ITR-6	For Companies other than companies claiming exemption under section 11
ITR-7	For persons including companies required to furnish return under sections 139(4A) or 139(4B) or 139(4C) or 139(4D) only
ITR-V	Where the data of the return of income in Forms ITR-1, ITR-2, ITR-3, ITR-4 and ITR-5 transmitted electronically without digital signature

6.4 MODE OF “SUBMISSION OF INCOME-TAX RETURN”

Return of income can be filed in paper mode or in e-filing mode. If return of income is filed through electronic mode, then the assessee has following three options:

- (1) E-filing using a Digital Signature
- (2) E-filing without a Digital Signature
- (3) E-filing under electronic verification code

If return of income is filed using a digital signature or under electronic verification code, then there is no requirement of sending the signed copy, ITR V (i.e., acknowledgement of return filed electronically) to Bangalore CPC.

However, if the return is filed without using digital signature or without electronic verification code, the assessee shall send the signed copy of ITR V on the following address within 120 days of uploading the return either by ordinary post or by speed post only:

Income Tax Department – CPC, Post Bag No.-1, Electronic City Post Office, Bangalore -560100, Karnataka

6.5 DUE DATE FOR FILING OF INCOME TAX RETURN

Category of Taxpayer	Due date for Tax Filing * (unless extended)
Individual / HUF/ AOP/ BOI (books of accounts not required to be audited)	31 st July
Businesses (Requiring Audit)	31st October
Businesses requiring transfer pricing reports (in case of international/specified domestic transactions)	30th November
Revised return	31 December
Belated/late return	31 December
Updated return	24 months from the end of the relevant A.Y

6.6 LOSS RETURN (SECTION 139(3))

Section 139(3) deals with filing income tax returns in the case of a loss. It is usually quite useful to file for the return in the case of losses, as the loss is allowed to be carried forward, reducing the tax liability in subsequent years. The following are specifically defined cases-

- For an individual taxpayer, the tax return is not mandatory for the loss incurred in the previous financial year. However, for companies, a tax return for losses is mandatory.
- If the incurred losses fall in any income under the head 'Capital Gains' or the head 'Profits and Gains of Business and Profession', then the income tax return should be filed before the due date provided under Section 139(1) of the Income Tax Act.
- For losses under "House or residential property," the loss can be carried forward even though the return is filed after the due date.
- Offsetting losses against gains in another category in the same year is permitted even if the returns are filed after the due date.

6.7 BELATED RETURN (SECTION 139(4))

If the person fails to file the return of income within the time-limit prescribed in this regard, then as per section 139(4) he can file a belated return. A belated return can be filed at any time 3 months before the end of the relevant assessment year or before completion of assessment, whichever is earlier.

The taxpayers who are filing an income tax return late may have to pay a penalty of ₹ 5,000 or where the total income of the person does not exceed ₹ 5,00,000, the fee payable shall not exceed ₹ 1,000, as mentioned under Section 271F of the Income Tax Act, 1961. However, there will be no penalty on returns that were not needed to be mandatorily filed according to Section 139(1) of the Income Tax Act.

6.8 REVISED RETURN (SECTION 139(5))

Sometimes the taxpayer may omit to include certain information in the return or may commit any mistake at the time of filing the return of income. In such case any unintentional mistake or error or omission in the return of income filed by the taxpayer can be corrected by filing a revised return.

A return can be revised at any time 3 months before the end of the relevant assessment year or before the completion of the assessment, whichever is earlier. It should be noted that only a return filed under section 139(1) or belated return filed under section 139(4) can be revised.

A return of income filed pursuant to notice under section 142(1) of Act cannot be revised under section 139(5).

6.9 DEFECTIVE RETURN (SECTION 139(9))

Section 139(9) provides the list of situations in which the return of income filed by the taxpayer can be treated as defective return. If the Assessing Officer finds the return of income to be defective under section 139(9), then he may intimate such defect to the taxpayer and may give an opportunity to him to rectify such defect.

The taxpayer shall rectify such defect in the return of income within a period of 15 days of such intimation or within such further period as the Assessing Officer may allow.

If the defect is not rectified within the period of 15 days or the further period so allowed (as the case may be), then, notwithstanding anything contained in any other provision of the Act, the return shall be treated as an invalid return and the provisions of the Act shall apply as if the taxpayer had failed to furnish the return.

6.10 UPDATED RETURN (SECTION 139(8A))

Section 139(8A) enables the filing of "Updated Return" (i.e. ITR-U) by the taxpayers. Section 139(8A) has come into effect from 01st Apr 2022.

Updated Returns can be filed by the taxpayers who have not filed the return or have filed the returns u/s 139(1)- Original, 139(4)-Belated and 139(5)-Revised. The Objective of introducing this facility is to promote voluntary tax compliance and reduce litigation.

ITR-U cannot be filed in the following cases:

- Updated return is already filed
- For filing nil return/ loss return
- For claiming/enhancing the refund amount.
- When updated return results in lower tax liability
- Search proceeding u/s 132 has been initiated against you
- A survey is conducted u/s 133A
- Books, documents or assets are seized or called for by the Income Tax authorities u/s 132A.
- If assessment/reassessment/revision/re-computation is pending or completed.
- If there is no additional tax outgo (when the tax liability is adjusted with TDS credit/ losses and you do not have any additional tax liability, you cannot file an Updated ITR)

6.11 PRACTICAL PROBLEM

Illustration 6.1:

Miss Bhagyashree is a salaried employee. Her taxable salary income for the year 2022-23 is ₹ 10,00,000 (she does not have any other income). What will be the due date of filing the return of income for the financial year 2022-23?

Solution:

In case assessee is an Individual / HUF/ AOP/ BOI whose books of accounts not required to be audited, then due date for filing the return of income will be 31st July.

In this case, Miss Bhagyashree is an Individual having only Salary income and hence the due date for filing the return of income of the financial year 2022-23 will be 31st July, 2023.

Illustration 6.2:

Mr. Rupesh is an Advocate. Gross receipts for the year 2022-23 came to ₹ 15,50,000. He opts for the presumptive taxation scheme of section 44ADA. What will be the due date for filing of return of income by Mr. Rupesh for the financial year 2022-23?

Solution:

The gross receipts for the year are less than ₹ 50,00,000 and Mr. Rupesh has opted for the presumptive taxation scheme of section 44ADA. Hence Mr. Rupesh will not be liable to get his accounts audited i.e. he is not covered by audit. Hence, the due date for filing the return of income of the year 2022-23 will be 31st July, 2023.

Illustration 6.3:

Mr. Kushal is a partner in Roundtrip Enterprises. The turnover of the firm for the financial year 2022-23 amounted to ₹ 3,40,00,000. Apart from remuneration, interest and share of profit from the firm, Mr. Kushal is not having any other source of income. What will be the due date for filing the return of income by the partnership firm and by Mr. Kushal for the financial year 2022-23?

Solution:

The turnover of the firm exceeds ₹ 2,00,00,000 and, hence, the firm will not be eligible for presumptive taxation scheme under section 44AD. Further, the firm shall be liable to get its accounts audited under section 44AB. Hence, the due date for filing the return of income of the year 2022-23 (in case of the firm as well as Mr. Kushal) will be 31st October, 2023.

Illustration 6.4:

Blokraft Engineering Pvt Ltd. is a company engaged in trading of minerals and liable to furnish a report in Form No. 3CEB and under section 92E. What will be the due date for filing the return of income for the financial year 2022-23?

Solution:

In this case Blokraft Engineering Pvt Ltd. is a private limited company and liable to furnish a report in Form No. 3CEB and under section 92E. hence, the due date for filing the return of income of the year 2022-23 will be 30th November, 2023.

Illustration 6.5:

Mr. Mahesh is a trader of garment products. Turnover of his business for the previous year 2022-23 amounted to Rs. 90,00,000. He has not opted for the presumptive taxation scheme of section 44AD i.e. not declaring income at 8% of sales. He declared income at less than 8% of sales. What will be the 'due date' for filing his return of income for the financial year

2022-23? If he fails to file the return of income by the due date then by what date he can file a belated return?

Return of Income
(Section 139)

Solution:

In this case, as Mr. Mahesh had not opted for presumptive taxation scheme of section 44AD, and declared income at less than 8% of sales, he will be required to get his accounts audited under section 44AB and hence, the due date for filing the return of income of the year 2022-23 will be 31st October, 2023.

If he cannot file the return of income by the due date, i.e., by 31st October, 2023, then he can file a belated return 3 months before end of the relevant assessment year or before completion of assessment, whichever is earlier.

In other words, he can file a belated return upto 31-12-2023. If the assessment is completed before 31-12-2022, then he can file a belated return at any time before the completion of assessment.

6.12 EXERCISE

1. Multiple Choice question.

1. The return of income is to be furnished in _____
(a) ITNS 281 (b) Form 26AS
(c) Form 26Q (d) ITR 1 – to 7 (as the case may be)
2. _____ is the acknowledgement of filing the return of income.
(a) ITR - 4 (b) ITR - V
(c) Form 26AS (d) Form 26QB
3. A super senior citizen (i.e., an individual whose age is 80 years or more at any time during the previous year) can file return in paper form if he is filing _____.
(a) ITR- 1 (b) ITR- 2
(c) ITR- 4 (d) ITR 1 or ITR- 4
4. Loss Return filed u/s _____
(a) 139(1) (b) 139(2)
(c) 139(3) (d) 139(4)
5. Updated Return filed u/s _____
(a) 139(1) (b) 139(2)
(c) 139(3) (d) 139(8A)

(Ans: 1-d, 2-b, 3-d, 4-c, 5-d)

2. True/False.

1. The return of income can be filed with the Income-tax Department in electronic mode only.
2. A company can file its return electronically without digital signature.
3. A firm or an individual or a Hindu Undivided Family (HUF) whose books of account are required to be audited under section 44AB shall furnish the return of income electronically under digital signature.
4. A resident and ordinarily resident individual/HUF having any assets (including financial interest in any entity) located outside India or signing authority in any account located outside India shall furnish the return of income electronically with digital signature.
5. A partnership firm required to get its books of account audited shall file the return of income electronically with or without digital signature.

(Ans: True-3 , False – 1,2,4,5)

3. Write Short Notes.

1. Due date of filing of Income Tax Return
2. Loss Return
3. Belated Return
4. Revised Return
5. Defective Return
6. Updated Return

4. Practical Problems.

1. M/s C K Engineering is a partnership firm having a Turnover ₹ 48 Lakh and business loss ₹ 2,50,000 for the previous year ended 31.03.2023. When is it liable to file its return of income for the relevant Assessment Year? Mr. C is a partner in the said firm and has earned interest on debentures of ₹ 60,000, dividend of ₹ 50,000 as other incomes. When is he liable to file the income-tax return for the A.Y?

(Ans: 31st July)

2. During the previous year ended 31-3-2023, Mr. X has earned salary of ₹ 94,000 profits from partnership firm ₹ 66,000 wherefrom he has also received salary as Partner of ₹ 50,000 and has paid to the firm interest on capital (Debit bal.) of ₹ 25,000 and also has own Proprietary business wherefrom he has earned a taxable profit of ₹ 90,000 which amounted to 1% of its Sales Turnover. The said Partnership firm has a Turnover of ₹ 98 lakhs during the said year. Determine, with reasons,

due date of filing of the income-tax return of Mr. X for the relevant assessment year.

Return of Income
(Section 139)

(Ans: 31 Oct as firm covered u/s 44AB)

3. The total income of a University without giving effect to exemption under section 10(23C) is ₹ 50 lakhs. Its total income however is nil. Should the University file its return of income?

(Ans: yes u/s 139(1))

4. Mr. A is a resident Indian. During the F. Y. 2022-23, interest of ₹1,24,000 was credited to his Non-Resident (External) Account with the SBI. ₹ 30,000 being interest on fixed deposit with SBI was credited to his savings bank account during this period. He also earned ₹ 4,000 as interest on this savings account. Is Mr. A Required to file return of income?

(Ans: Not required since income less than basic exemption limit)

TAX DEDUCTED AT SOURCES

Unit Structure

- 7.0 Learning Objectives
- 7.1 Introduction
- 7.2 TDS on Salary (Section 192)
- 7.3 TDS on Interest Other Than Interest on Securities (Section 194a)
- 7.4 TDS on Payment to Contractors and Sub-Contractors (Section 194c)
- 7.5 TDS on Commission or Brokerage (Section 194h)
- 7.6 TDS on Rent (Section 194i)
- 7.7 TDS on Professional Fees (Section 194j)
- 7.8 Exemption
- 7.9 Practical Problems
- 7.10 Exercises
 - Multiple Choice Questions
 - True/ False
 - Short Notes
 - Practical Problems

7.0 LEARNING OBJECTIVES

After reading this chapter learner will be able to:

- The understand the concept of TDS
- The Circumstances under which TDS is to be deducted
- The identify the Incomes on which TDS is to be deducted
- The determine the rate at which TDS is to be deducted
- To study the impact of TDS on the calculation of the Tax payable.

7.1 INTRODUCTION

TDS or Tax Deducted at Source is basically a part of income tax. It has to be deducted by a person at the time of making specified payment such as rent, commission, professional fees, salary, interest etc. The deductee from whose income tax has been deducted at source would be entitled to get credit of the amount so deducted on the basis of Form 26AS or TDS certificate issued by the deductor.

7.2 TDS ON SALARY (SECTION 192)

Tax Deducted at Sources

Payer	Any employer responsible for paying any income chargeable under the head “salaries” is required to deduct TDS on the amount payable to the employees.
Payee	Any employee [resident or non-resident]
Nature of Payment	Any income chargeable under the head “salaries”
Threshold Limit for TDS applicability	Deduct TDS if salary exceeds the basic exemption limit of Income Tax.
When tax should be deducted?	Tax is to be deducted at the time of payment of salary
Rate of TDS	Normal Slab Rate (or) New Tax Regime Slab Rate as opted by employee

7.3 TDS ON INTEREST OTHER THAN INTEREST ON SECURITIES (SECTION 194A)

Payer	- Any person other than individual or HUF - Any individual or HUF whose books of accounts are required to be audited in the preceding financial year.
Payee	Any resident
Nature of Payment	Interest other than interest on securities (i.e. Interest on Bank Deposit, Post office Deposit, Banking Co-Society Deposit etc.)
Threshold Limit for TDS applicability	If payer is Banking Co./Post office/Banking Co-Op. Society a) If payee is senior citizen and interest paid exceed ₹ 50,000 b) In any other case, interest paid exceed ₹ 40,000 If payer is other than Banking Co./Post office/Banking Co-Op. Society a) If interest paid exceed ₹ 5,000
When tax should be deducted?	Tax is to be deducted at the time of payment.
Rate of TDS	- If interest paid exceed above mentioned Threshold limit then TDS deducted @ 10% - If PAN is not furnished then TDS deducted @ 20%

7.4 TDS ON PAYMENT TO CONTRACTORS AND SUB-CONTRACTORS (SECTION 194C)

Payer	- Central Government or State Government, local authority, statutory corporation, a company, co-operative society, Trust, University, a Firm or - Individual and HUF whose books of accounts are required to be audited in the preceding financial year.										
Payee	Any resident person.										
Nature of Payment	Any payment made to a resident contractor or sub-contractor for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract.										
Threshold Limit for applicability of TDS	TDS shall be necessary if: - If the consideration paid or credited to the account of the contractor/sub-contractor exceeds ₹ 30,000 in a single payment or - If the consideration paid or credited to the account of the contractor/sub-contractor exceeds ₹ 1,00,000 in a aggregate during a financial year.										
When tax should be deducted?	Tax is to be deducted at the time of payment or at the time of credit of such sum to the account of the contractor, whichever is earlier.										
Rate of TDS	<table><tr><td colspan="2">TDS rate are as follows:</td></tr><tr><td>For Individual/ HUF contractor/ sub-contractor</td><td>@ 1%</td></tr><tr><td>Other than Individual/ HUF contractor/ sub-contractor</td><td>@ 2%</td></tr><tr><td>Contractor/sub-contractor in transport business (if PAN is furnished)</td><td>Nil</td></tr></table>			TDS rate are as follows:		For Individual/ HUF contractor/ sub-contractor	@ 1%	Other than Individual/ HUF contractor/ sub-contractor	@ 2%	Contractor/sub-contractor in transport business (if PAN is furnished)	Nil
TDS rate are as follows:											
For Individual/ HUF contractor/ sub-contractor	@ 1%										
Other than Individual/ HUF contractor/ sub-contractor	@ 2%										
Contractor/sub-contractor in transport business (if PAN is furnished)	Nil										

7.5 TDS ON COMMISSION OR BORKERAGE (SECTION 194H)

Payer	- Any person other than individual or HUF - Any individual or HUF whose books of accounts are required to be audited in the preceding financial year.
Payee	Any resident person.
Nature of Payment	Payment made by way of commission (other than insurance commission) or brokerage except payable by BSNL or MTNL or their franchisees

Threshold Limit for applicability	If commission or brokerage paid exceeds ₹ 15,000 during the financial year. ☐
When tax should be deducted?	Tax is to be deducted at the time of payment or at the time of credit of such sum to the account of the payee, whichever is earlier.
Rate of TDS	- TDS deducted @5%

7.6 TDS ON RENT (SECTION 194I)

Payer	- Any person other than individual or HUF - Any individual or HUF whose books of accounts are required to be audited in the preceding financial year.	
Payee	Any resident person.	
Nature of Payment	Any payment made in excess of specified limit, by way of lease, sub-lease, tenancy or any other agreement for the use either separately or jointly of any: land, building, factory, land appurtenant to, machinery, plant, equipment, furniture and fittings.	
Threshold Limit for TDS applicability	If rent paid exceeds ₹ 2,40,000 during the financial year.	
When tax should be deducted?	Tax is to be deducted at the time of payment or at the time of credit of such sum to the account of the payee, whichever is earlier.	
Rate of TDS	TDS rate are as follows:	
	In case of Plant & Machinery & Equipment (u/s 194-I(a))	@ 2%
	In case of Land or Building or Furniture or Fittings (u/s 194-I(b))	@ 10%

7.7 TDS ON PROFESSIONAL FEES (SECTION 194J)

Payer	- Any person other than individual or HUF - Any individual or HUF whose books of accounts are required to be audited in the preceding financial year.	
Payee	Any resident person.	
Nature of Payment	Any payment made in excess of specified limit, by the way of fees for professional services or technical service or royalty or non-compete fees referred to in section 28(va)	

Threshold Limit for TDS applicability	If fees paid exceeds ₹ 30,000 during the financial year.	
When tax should be deducted?	Tax is to be deducted at the time of payment or at the time of credit of such sum to the account of the payee, whichever is earlier.	
Rate of TDS	TDS rate are as follows:	
	In case of payee, engaged only in the business of operation of call centre	@ 2%
	In any other cases	@ 10%

7.8 EXEMPTION

There are certain circumstances under which no TDS is not applicable:

- a. When the amount is paid to government or any government body and Reserve Bank of India.
- b. Amount is paid to notified mutual funds under Section 10(23D).
- c. When deductee has certificate of no-deduction under Section 192 of the Income Tax Act.
- d. When amount is paid to state or central financial corporations.
- e. Any payment made by an advertising agency to print media/electronic media.
- f. Interest credited or paid to:
 - i. Banks or Banking Company
 - ii. Life Insurance Corporation, Unit Trust of India or any other insurance company
 - iii. National Savings Certificate
 - iv. Kisan Vikas Patra
 - v. Non Resident External Account
 - vi. Banking Co-operative society
 - vii. Savings account and Recurring deposits of banks and co-operative society
- g. Notified body for non-deduction of tax

Illustration 7.1:

Examine the applicability of tax deduction at source in the following situations:

- (a) Ram, an individual carrying on business and made gross turnover of ₹ 70,00,000 for the year ended 31-03-2023, effected a payment of ₹ 35,000 to Times of India newspaper for recruitment of staff;
- (b) Blokraft private limited has paid a sum of ₹ 1.5 crores to Manthan C & F limited towards clearing and forwarding charges;
- (c) C.K Engineering limited paid a sum of ₹ 28,000 to A.S parcel service and ₹ 10,00,000 to Indian Railways towards freight charges.
- (d) Kartiki Private limited entered into a contract with Trimax Limited for supply of materials amounting to ₹ 30,00,000.

Solution:

- (a) If the consideration paid or credited to the account of the contractor/sub-contractor exceeds ₹ 30,000 in a single payment then TDS shall be deducted @ 2% if payee is Other than Individual/ HUF contractor/ sub-contractor.

In given case Ram as an Individual make a single payment of ₹ 35,000 to Times of India newspaper (other than individual or HUF). Hence TDS shall be deducted @2% of ₹ 35,000 under section 194C of the Income Tax Act.

- (b) If the consideration paid or credited to the account of the contractor/sub-contractor exceeds ₹ 30,000 in a single payment or ₹ 1,00,000 in aggregate then TDS shall be deducted @ 2% if payee is Other than Individual/ HUF contractor/ sub-contractor.

In given case Blokraft Pvt Ltd as a company make a payment of ₹ 1.50 Crores to Manthan C & F limited (i.e. company). Hence TDS shall be deducted @2% of ₹ 1.50 Crores under section 194C of the Income Tax Act.

- (c) Freight Payment to A.S Parcel Services not subject to TDS as the value of contract does not exceed ₹ 30,000 and payment to Railways is exempt from TDS
- (d) Supply of materials shall not be considered to be “work” and therefore not subject to tax.

Illustration 7.2:

Compute the amount of tax to be deducted at source in the following cases:

- a. Blokraft Ltd. takes a building on rent and sublets it to Ranu Ltd.- Ranu Ltd pays ₹ 8,00,000 as rent.
- b. Manthan Ltd takes a building on rent from Priyal (rent being ₹ 21,000 p.m)
- c. Reliance Ltd takes a commercial building on rent (rent being ₹ 5,00,000). Rent is payable in December to three co-owners as follows:
 - Amar : ₹ 1,80,000
 - Akbar : ₹ 2,50,000
 - Anthony : ₹ 70,000

Solution:

Sr. No.	TDS u/s	Rate of TDS	TDS on ₹	Amount of TDS ₹	Remarks
a.	194-I(b)	@ 10%	8,00,000	80,000	Since Rent paid exceeds ₹ 2,40,000 during the financial year.
b.	194-I(b)	@ 10%	2,52,000	25,200	Since Rent paid exceeds ₹ 2,40,000 during the financial year.
c(i)	194-I(b)	Nil	1,80,000	Nil	Since Rent paid does not exceeds ₹ 2,40,000 during the financial year.
c(ii)	194-I(b)	@ 10%	2,50,000	25,000	Since Rent paid exceeds ₹ 2,40,000 during the financial year.
c(iii)	194-I(b)	Nil	70,000	Nil	Since Rent paid does not exceeds ₹ 2,40,000 during the financial year.

Illustration 7.3:

Ascertain the amount of TDS for the following independent situations.

1. Union Bank of India has to pay interest of ₹1,00,000 to Mr. Sajan.
2. Union Bank of India has to pay interest of ₹ 2,00,000 to Karan Ltd.
3. Union Bank of India has to pay interest of ₹ 4,000 to Mr. Salman on time deposit.
4. Bihar Rubber Ltd. has to pay rent of ₹ 20,000 p.m. for a ware house owned by the state government.

5. Bihar Rubber Ltd. has to pay a sum of ₹ 2,50,000 to an engineer.

Tax Deducted at Sources

6. Mr. Sujay has to pay ₹ 20,000 as professional charges.

Solution:

Sr. No.	TDS u/s	Rate of TDS	TDS on ₹	Amount of TDS ₹	Remarks
1.	194A	10%	1,00,000	10,000	Since interest exceeds ₹ 40,000
2.	194A	10%	2,00,000	20,000	Since interest exceeds ₹ 40,000
3.	194A	Nil	4,000	Nil	Since interest paid on time deposit does not exceed ₹ 40,000 and the payer is a banking company
4.	194I	Nil	2,40,000	Nil	Since the payee is Government, there is no requirement of deducting TDS
5.	194J	10%	2,50,000	25,000	Since the recipient is a professional and the amount exceed ₹ 30,000
6.	194J	Nil	20,000	Nil	Since amount paid to Professional does not exceed ₹ 30,000.

Illustration 7.4:

Moon Ltd. makes the following payments during the F.Y 2022-23

Sr. No.	Paid to	Nature of Payment	₹
1.	T.B. Karnik & Co.	Audit Fees	19,000
2.	Sai and Co.	Account Writing fees	40,000
3.	Sai and Co.	Reimbursement of out of pocket expenses (under separate bill)	25,500
4.	D'souza & Co.	Fees for interior Decoration : office	50,000
5.	Ghadi & Co.	Brokerage for arranging office on Rental basis	10,000

Determine the amount of TDS for the following independent situations

Solution:

Sr. No.	TDS u/s	Rate of TDS	TDS on ₹	Amount of TDS ₹	Remarks
1.	194-J	Nil	19,000	Nil	Since amount paid to Professional does not exceed ₹ 30,000.
2.	194-J	10%	40,000	4,000	Since amount paid to Professional does exceed ₹ 30,000.
3.	Nil	Nil	Nil	Nil	Since amount paid as Reimbursement of out of pocket expenses under separate bill is not subject to TDS
4.	194-J	10%	50,000	5,000	Since amount paid to Professional does exceed ₹ 30,000.
5.	194-H	Nil	10,000	Nil	Since amount paid as a brokerage does not exceed ₹ 15,000

Illustration 7.5:

Sr. No.	Payer	Payee	Nature of Payment	₹
1.	Pune University	Mr. Ravi	Contract Charges for construction of over-bridge.	50,000
2.	Raje and Bros (HUF) having tax audit u/s 44AB	Mr. Kavi	For Interior Decoration work carried out of home	80,000
3.	BSNL	Mr. Raju (PCO Operator)	Commission on PCO collection	5,500
4.	Sun Ltd	Radhe Ltd	Accommodation of Manager	2,50,000
5.	Nirasha Ltd.	Mr. Hemant	Refundable Deposit for flat taken on lease.	2,00,000

Determine the amount of TDS for the following independent situations

Solution:

Tax Deducted at Sources

Sr. No.	TDS u/s	Rate of TDS	TDS on ₹	Amount of TDS ₹	Remarks
1.	194-C	Nil	50,000	Nil	Since Payer is Mumbai University
2.	194-C	Nil	80,000	Nil	Since Interior decoration work carried out at home as it is a personal expense
3.	194-H	Nil	5,500	Nil	Since commission on PCO collection is payable by BSNL
4.	194-I	10%	2,50,000	25,000	Since rent paid exceed ₹ 2,40,000
5.	Nil	Nil	2,00,000	Nil	Since Deposit refundable for flat taken on lease.

Illustration 7.6:

Discuss the rate at which tax is deductible in the following cases during Financial year 2022-23.

- (1) X Ltd. pays ₹ 40,000 to Doordarshan.
- (2) An advertising company pays ₹. 1,00,000 to The Times of India on account of publication of its advertisement.
- (3) A publishing company sponsors a seminar and pays ₹. 1,00,000 to the organiser (an AOP).
- (4) A garment manufacturing company pays ₹. 80,000 to an advertising company on. It includes Rs. 65,000 being bill of media.
- (5) X, an individual (having only rental income), pays ₹. 30,000 to a contractor for carrying out routine repair work.
- (6) X Ltd. pays Rs. 30,001 to a contractor for carrying out routine repair work.

Solution:

Sr. No.	TDS u/s	Rate of TDS	TDS on ₹	Amount of TDS ₹	Remarks
1.	194-C	Nil	40,000	Nil	Since the Doordarshan is a Government agency.
2.	194-C	Nil	1,00,000	Nil	Since payment made by an advertising agency to

					print media/ electronic media
3.	194-C	2%	1,00,000	2,000	Since payment made to payee as a contractor
4.	194-C	2%	80,000	1,600	Since payment made by an company to print media/ electronic media
5.	194-C	Nil	30,000	Nil	Since amount paid to contractor does not exceed ₹ 30,000
6.	194-C	1%	30,001	300	Since amount paid to contractor exceed ₹ 30,000

7.10 EXERCISES

1. Multiple Choice Questions.

- 1) Income is earned _____.
 - a. during a year
 - b. at the end
 - c. over a period of time
 - d. anytime
- 2) The Income tax act has made a provision to _____ tax at source on accrual of income u/s192 to 206B.
 - a. deduct
 - b. collect
 - c. both a & b
 - d. none of the above
- 3) Person who _____ payment is responsible to deduct tax at source and deposit the same to government treasury.
 - a. makes
 - b. receives
 - c. transfers
 - d. both a & c
- 4) The recipient of income gets _____ amount and is liable to tax on _____ amount.
 - a. net, net
 - b. net, gross
 - c. gross, gross
 - d. none of the above
- 5) The amount of tax deducted is adjusted against _____.
 - a. final tax liability
 - b. net amount
 - c. advance tax
 - d. tax collected at source

2. True/False.

- 1) The person responsible for deducting TDS is the person who pays the amount
- 2) The amount deducted at source is adjusted against final tax liability
- 3) TDS is to be deducted if interest paid by bank exceeds rs10000
- 4) TDS u/s 194A is deducted @15%
- 5) TDS u/s 194A deals with any interest paid
- 6) TDS u/s 194H is to be deducted @20%
- 7) The rate of deduction of tax at source for interest is 5%
- 8) TDS is not deducted if commission paid is rs20000
- 9) Rent paid for building is liable for TDS @10%
- 10) TDS on professional fees is deducted after excluding service tax

97

3. Short Notes On.

- 1) T. D. S from Salary.
- 2) T. D. S from Dividend.
- 3) T. D. S on Interest on Securities.
- 4) T. D. S for payment to contractors.
- 5) T. D. S on Rent.
- 6) Tax Deducted at Source.
- 7) Tax Deduction Account Number.
- 8) Section 194J TDS on professional fees
- 9) Explain the provisions under the income tax act, 1961 for tax deduction at source.
- 10) T.D.S on commission

4. Practical Questions.

1. Mr.ganesh is employed with AJ industries ltd as well as BJ ltd for a salary of ₹ 25,000 and ₹ 30,000 respectively on part time basis .He selects AJ industries ltd for deducting tax at source on aggregate salary .Calculate tax to be deducted by each company.

[ans: tax on salary to be deducted by BJ ltd = ₹ 5720

tax on salary to be deducted by AJ ltd = ₹40560]

2. Mr. Ram is employed with Yuma ltd up to 31st October (salary;₹50000 p.m).On 1st november , he joined Zumba ltd (salary ₹70000 p.m).Calculate tax to be deducted by each company.

[ans: tax on salary to be deducted by Yuma ltd = ₹ 2,600

Tax on salary to be deducted by Zumba ltd = ₹ 52,000]

- 3) Compute the amount of tax to be deducted at source in the following cases:
 - a) KOTA ltd takes a building on rent and sublets it is B ltd –B ltd pays ₹ 8,00,000 as rent.
 - b) KOTS ltd takes a building on rent from Mahavir (rent being ₹ 16,000 p.m)
 - c) Religare ltd takes a commercial building on rent (rent being ₹ 4,00,000). Rent is payable in december to three co-owners as follows :

Raju – ₹ 190000

Farhan – ₹ 200000

Tax Deducted at Sources

Rancho – ₹ 10000

[ans: a - $[800000 \times 10\% = 80,000]$

b - [nil]

c - [nil]

- 3) 1. SBI has to pay interest of ₹400000 to Mr Aman
2. SBI has to pay interest of ₹400000 to Arunima
3. SBI has to pay interest of ₹3000 to Mr Akki on time deposit.
4. Apar ltd has to pay rent for a ware house owned by the state government.
5. Apar ltd has to pay a sum of ₹400000. to an engineer.
6. Mr.Sahil has to pay ₹19000 as professional charges

[ans: TDS amount:

1- 40000

2- 40000

3- nil

4- nil

5- 40000

6- nil]

- 4) Examine the tax applicability of tax deduction at source in the following situations:
- a) Anmol an individual carrying on business and made gross turnover of ₹7000000 for the year ended 31.3.2023, effected a payment of ₹35000 to Times of India newspaper for recruitment of staff.
- b) Anshi has paid a sum of ₹1.5cr to Sical ltd towards clearing and forwarding charges
- c) Nikita paid a sum of ₹28000 to Harsh and ₹1000000 to Indian Railways forwarding freight charges
- d) KK ltd entered into a contract with Thermax ltd for supply of material amounting to ₹3000000.

[ans: a) tax shall be deducted @2% of 35000

b) liable for tax deduction @2%

c) Freight payment to Harsh not subject to tax as the value of contract exceeds ₹ 30000 and payment to railways is exempt from TDS

d) Supply of materials shall not be considered to be work and therefore not subject to tax

5) What would be the TDS rate applicable :u/sec 194c

1) A company paid ₹500000 to govt dept on 5.5.2023

2) A company involved in advertising business pay ₹60000 to an artist on

3) Kota ltd pays 180000 to a contractor (individual) for carrying out routine repair work

4) Perry ltd pays advertisement printing bill of ₹ 200000 to an imdiviual

[ans: 1)nil

2)10%

3)1%

4)1%

5) Madan ltd makes a payments during the financial year 2022-23

Paid To	Nature of Payment	₹
Disha and co.	audit fees	18000
Luv and co.	account writing fees	35000
Kush and co.	fees for interior design : office	40000
Hira and co.	brokerage for arranging on rental basis	2000

[ans: 1) nil

2) 3500

3) 4000

4) nil]

ADVANCE TAX (SECTION 207-211)

Unit Structure

8.0 Learning Objectives

8.1 Introduction

8.2 Liability for Payment of Advance Tax (Section 207)

8.3 Conditions of Liability for Payment of Advance Tax (Section 208)

8.4 Computation of Advance Tax (Section 209)

8.5 Payment of Advance Tax by the Assessee of his Own Accord or in Pursuance of Order of Assessing Officer (Section 210)

8.6 Due Dates of Payment of Advance Tax (Section 211)

8.7 Practical Questions

8.8 Exercises

Multiple Choice Questions

True/ False

Short Notes

Practical Problems

8.0 LEARNING OBJECTIVES

After reading this chapter learner will be able:

- **To understand** the circumstances under which Advance Tax is payable
- **To calculate** the Advance Tax payable
- **To get familiarize** with the due dates, consequences of non-payment of Advance Tax.

8.1 INTRODUCTION

Advance tax is the income tax paid in advance for the income earned in a particular financial year. Usually, the tax is to be paid when the income is earned. Still, under the tax provisions of advance tax, the payer has to estimate the income for the entire year. These payments have to be made in instalments as per due dates provided by the Income Tax Department.

8.2 LIABILITY FOR PAYMENT OF ADVANCE TAX (SECTION 207)

As per the various provisions of advance tax [sections 208 to 219], tax shall be payable in advance during the financial year in respect of the total income of the assessee which would be chargeable to tax for the assessment year immediately following that financial year.

e.g. If income earned during the financial year 2022-23 shall be charged to tax in the A.Y 2023-24. But assessee is required to pay tax, in advance on the taxable income of financial year 2022-23 during the financial year 2022-23 itself.

Exception:

Advance tax will not be payable in the case of a senior citizen, if following conditions are satisfied:

- The tax payer is an Individual
- The tax payer is resident in India
- The tax payer is of the age of 60 year or more i.e. senior citizen at any time during the previous year.
- The tax payer does not have any income chargeable under the head “Profit and Gains of Business or Profession”

8.3 CONDITIONS OF LIABILITY FOR PAYMENT OF ADVANCE TAX (SECTION 208)

Provision of advance tax is applicable on all assessee, whose tax liability payable is ₹ 10,000/- or more.

8.4 COMPUTATION OF ADVANCE TAX (SECTION 209)

1. Estimate your income:

Estimate total taxable income including income from ongoing projects or new assignments for the year.

2. Subtract eligible deductions and expenses:

- Deduct all eligible deductions such as tax-saving investments and payments (under the old tax regime) and expenses from total estimated income.
- Deduct the expenses which are directly related to your business or profession.

3. Calculate the tax liability:

Now calculate the tax liability for the total income on the applicable rates and reduce the taxes paid such as previously paid tax, TDS which has already been deducted from income.

4. Assess the net tax liability:

Accordingly, if the resulting tax liability is equal to or more than ₹ 10,000 then the assessee are liable to pay advance tax on an instalment basis as per the provision.

8.5 PAYMENT OF ADVANCE TAX BY THE ASSESSEE OF HIS OWN ACCORD OR IN PURSUANCE OF ORDER OF ASSESSING OFFICER (SECTION 210)

Advance Tax (Section 207-211)

Section	Explanation
210(1)	Every person who is liable to pay advance tax under section-208 shall, of his own accord, pay, on or before each of the due dates specified in section-211, the appropriate percentage, specified in that section, of the advance tax on his current income, calculated in the manner laid down in section-209.
210(2)	A person who pays any instalment or instalments of advance tax under sub-section (1), may increase or reduce the amount of advance tax payable in the remaining instalment or instalments to accord with his estimate of his current income and the advance tax payable thereon, and make payment of the said amount in the remaining instalment or instalments accordingly.
210(3)	In the case of a person who has been already assessed by way of regular assessment in respect of the total income of any previous year, the Assessing Officer, if he is of opinion that such person is liable to pay advance tax, may, at any time during the financial year but not later than the last day of February, by order in writing, require such person to pay advance tax calculated in the manner laid down in section-209, and issue to such person a notice of demand under section-156 specifying the instalment or instalments in which such tax is to be paid.
210(4)	If, after the making of an order by the Assessing Officer under sub-section (3) and at any time before the 1st day of March, a return of income is furnished by the assessee under section-139 or in response to a notice under sub-section (1) of section-142, or a regular assessment of the assessee is made in respect of a previous year later than that referred to in sub-section (3), the Assessing Officer may make an amended order and issue to such assessee a notice of demand under section-156 requiring the assessee to pay, on or before the due date or each of the due dates specified in section-211 falling after the date of the amended order, the appropriate percentage, specified in section-211, of the advance tax computed on the basis of the total income declared in such return or in respect of which the regular assessment aforesaid has been made.
210(5)	A person who is served with an order of the Assessing Officer under sub-section (3) or an amended order under sub-section (4) may, if in his estimation the advance tax payable on his current income would be less than the amount of the advance tax specified in such order or

	amended order, send an intimation in the prescribed form 28A to the Assessing Officer to that effect and pay such advance tax as accords with his estimate, calculated in the manner laid down in section-209, at the appropriate percentage thereof specified in section-211, on or before the due date or each of the due dates specified in section-211 falling after the date of such intimation.
210(6)	A person who is served with an order of the Assessing Officer under sub-section (3) or amended order under sub-section (4) shall, if in his estimation the advance tax payable on his current income would exceed the amount of advance tax specified in such order or amended order or intimated by him under sub-section (5), pay on or before the due date of the last instalment specified in section-211, the appropriate part or, as the case may be, the whole of such higher amount of advance tax as accords with his estimate, calculated in the manner laid down in section-209.]

8.6 DUE DATES OF PAYMENT OF ADVANCE TAX (SECTION 211)

Tax is paid on the following dates of financial year.

Due date of advance tax On or before	In case of Individual and Corporate Taxpayers other than taxpayers opting for presumptive income u/s 44AD	Taxpayers opting for presumptive income u/s 44AD
15 th June	15% of net tax payable	Nil
15 th Sept.	45% of net tax payable	Nil
15 th Dec.	75% of net tax payable	Nil
15 th Mar.	100% of net tax payable	100% of net tax payable

8.7 PRACTICAL PROBLEMS

Illustration 8.1:

Mr Jayesh suggests that his estimated taxable income for the current year will be Rs.10,00,000. Based on the assumption that no income deductions were claimed, the taxes to be paid will be Rs.112,500.

As per the rule, calculate the instalments of advance tax and due date of advance tax.

Solution:

Due date of advance tax On or before	In case of Individual and Corporate Taxpayers other than taxpayers opting for presumptive income u/s 44AD	Instalment amount of Advance Tax ₹
15 th June	15% of net tax payable i.e. (1,12,500*15%)	16,875
15 th Sept.	45% of net tax payable i.e. (1,12,500*45%)-16,875	33,750
15 th Dec.	75% of net tax payable i.e. (1,12,500*75%)-50,625	33,750
15 th Mar.	100% of net tax payable i.e. (1,12,500*100%)-84,375	28,125

Illustration 8.2:

Kavi (26 years) is employed by a manufacturing company. For the previous year 2022-23 his estimated income is as follows:

	₹	₹
Estimated gross salary	13,50,000	
Less: Ravi contribution towards recognised provident fund	1,40,200	
Tax deduction at source by employer	<u>1,02,000</u>	11,07,800
Take home pay		
Estimated bank interest		
Less: Tax deduction at source by the bank	1,50,000	1,35,000
Net interest likely to be received by X from bank	<u>15,000</u>	

Solution:

If advance tax payable is ₹ 10,000 or more, then Kavi is liable to pay advance tax during the financial year 2022-23. For this purpose, the calculation shall be made as follows:

Name of assessee : Kavi

Legal Status : Individual

Residential Status: R & OR

A/Y: 2023-24

P/Y: 2022-23

Particulars	₹	₹
Gross Salary	13,50,000	
Less: Deduction u/s 16	50,000	
Income from Salary		13,00,000

Bank Interest		1,50,000
Gross Total Income		14,50,000
Less: Deduction u/s 80C		1,40,200
Net Income		13,09,800
Tax on Net Income	2,05,440	
Add: Cess @4%	8,218	
Tax Liability		2,13,658
Less: TDS		
By employer	1,02,000	
By Bank	15,000	1,17,000
Advance Tax payable during F.Y 2022-23		96,658
By 15th June, 2022 (96,658*15%)	14,499	
By 15th September, 2022 (96,658*45%)- 14499	28,997	
By 15th December, 2022 (96,658*75%)- 43496	28,997	
By 15th March, 2023 (96,658*100%)-72493	24,165	

Illustration 8.3:

The following are the particulars submitted by different taxpayers for the assessment year: 2023-24

Particulars	A (an individual) (35 years) ₹	B (HUF) ₹	C (a firm) ₹
	(1)	(2)	(3)
Salaries	1,20,000	0	0
Income from house property	65000	780000	8000
Profits and gains of business or profession	1200000	-5000	623560
Capital gains (short-term)	10000	0	12560
Income from other sources	5000	40000	25000
Gross total income	14,00,000	8,15,000	6,69,120
Less: Deductions under sections 80C to 80U			
Under section 80C	150000	75000	0
Under section 80D	15000	12500	0
Under section 80D	0	14000	106300
Net income	12,35,000	7,13,500	5,62,820
Tax	183000	55200	168846
Add: Health and education cess @ 4%	7320	2208	6754
Total	190320	57408	175600

Less: Tax deducted or collected at source	170045	5636	180000
Balance (a)	20275	51772	-4400

Advance Tax (Section 207-211)

Determine the amount of advance tax payable during the financial year 2022-23.

Solution:

Advance tax payable for the financial year 2022-23 will be as under:

	A ₹	B ₹	C ₹
Adv tax payable on/before 15th June, 2022 (15% of (a))	3041	7766	0
Advance tax payable on or before September 15, 2022 [45% of (a)] – Adv tax upto 15th June	6083	15532	0
Advance tax payable on or before December 15, 2022 [75% of (a)] – Adv tax upto 15th Sept.	6083	15532	0
Advance tax payable on or before March 15, 2023 [i.e., 100% of (a)] – paid upto 15th Dec.	5069	12943	0

Since in the case of C, amount of tax Refund as shown at (a) is ₹ (4,400) it is not necessary to pay advance tax. As C is a firm, flat 30% tax is applied

Illustration 8.4:

Assuming the total tax payable for an Individual assessee is ₹ 15,750 and TDS is of ₹ 1,000 calculate the Advance Tax payable on the respective due dates for F.Y 2022-23

Solution:

Particulars	₹	₹
Estimated Total Tax payable		15750
Less : TDS		1000
Net tax payable (a)		14750
Adv tax payable on/before 15th June, 2022 (15% of (a))	2213	
Advance tax payable on or before September 15, 2022 [45% of (a)] – Adv tax upto 15th June	4425	
Advance tax payable on or before December 15, 2022 [75% of (a)] – Adv tax upto 15th Sept.	4425	

Advance tax payable on or before March 15, 2023 [i.e., 100% of (a)] – paid upto 15th Dec.	3688	14750
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Illustration 8.5:

Assuming the total tax payable for Ltd. Company assessee is ₹ 55,560 and TDS is of ₹ 10,000 calculate the Advance Tax payable on the respective due dates for F.Y 2022-23

Solution:

Particulars	₹	₹
Estimated Total Tax payable		55560
Less : TDS		10000
Net tax payable (a)		45560
Adv tax payable on/before 15th June, 2022 (15% of (a))	6834	
Advance tax payable on or before September 15, 2022 [45% of (a)] – Adv tax upto 15th June	13668	
Advance tax payable on or before December 15, 2022 [75% of (a)] – Adv tax upto 15th Sept.	13668	
Advance tax payable on or before March 15, 2023 [i.e., 100% of (a)] – paid upto 15th Dec.	11390	45560

Illustration 8.6:

M/s Priya Ltd. an Indian Co., gives the following details to determine advance tax liability for the A.Y 2023-24.

Particulars	₹
Taxable Business Income	9,65,000
Income from other sources	2,10,000
Expected TDS	2,00,000

Solution:

Name of assessee : Priya Ltd

Legal Status : Company Residential Status : R & OR
A/Y : 2023-24 P/Y : 2022-23

Particulars	₹
Business Income	965000
Income from other sources	210000
Gross total income	11,75,000
Less: Deductions under sections 80C to 80U	0

Net income	11,75,000
Tax	352500
Add: Health and education cess @ 4%	14100
Total	366600
Less: Tax deducted or collected at source	200000
Balance (a)	166600

Advance Tax (Section 207-211)

	₹
Advance tax payable on/before 15th June, 2022 (15% of (a))	24990
Advance tax payable on or before September 15, 2022 [45% of (a)] – Adv tax upto 15th June	49980
Advance tax payable on or before December 15, 2022 [75% of (a)] – Adv tax upto 15th Sept.	49980
Advance tax payable on or before March 15, 2023 [i.e., 100% of (a)] – paid upto 15th Dec.	41650

Illustration 8.7:

From the following details to determine advance tax liability of Mr. Gufi for the A.Y 2023-24.

Particulars	₹
Taxable Business Income	7,56,000
Income from other sources	2,50,000
Less: Deduction under chapter VIA	1,50,000
Expected TDS	60,000

Solution:

Name of assessee : Mr. Gufi

Legal Status : Individual Residential Status : R & OR

A/Y : 2023-24 P/Y : 2022-23

Particulars	₹
Business Income	756000
Income from other sources	250000
Gross total income	10,06,000
Less: Deductions under sections 80C to 80U	150000
Net income	8,56,000
Tax	83700
Add: Health and education cess @ 4%	3348
Total	87048

Less: Tax deducted or collected at source	60000
Balance (a)	27048

	₹
Advance tax payable on/before 15th June, 2022 (15% of (a))	4057
Advance tax payable on or before September 15, 2022 [45% of (a)] – Adv tax upto 15th June	8114
Advance tax payable on or before December 15, 2022 [75% of (a)] – Adv tax upto 15th Sept.	8114
Advance tax payable on or before March 15, 2023 [i.e., 100% of (a)] – paid upto 15th Dec.	6762

8.8 EXERCISES

1. Multiple Choice Question.

- (a) The first due date for payment of Advance Tax for company is _____.
- (i) 15th March (ii) 15th June
(iii) 15th September (iv) 15th December
- (b) The first due date for Payment of Advance tax for Asseessee other than companies is _____.
- (i) 15th March (ii) 15th June
(iii) 15th September (iv) 15th December
- (c) Advance tax is payable in cases where tax payable for an assessee is _____ or more.
- (i) ₹10,000 (ii) ₹15,000
(iii) ₹25,000 (iv) ₹50,000
- (d) Advance tax instalment due on 15th September is applicable to _____.
- (i) Registered Firms. (ii) Companies.
(iii) All Assessees (iv) Individual Only
- (e) On or before 15th December a company has to pay total advance tax instalment of not less than _____.
- (i) 30% of tax liability. (ii) 60% of tax liability.
(iii) 75% of tax liability. (iv) 100% of tax liability

(Ans: a-ii, b-ii, c-iii, d-iii, e-iii)

2. True/False.

Advance Tax (Section 207-211)

- (a) There are 4 due dates for payment of advance tax in case of companies.
- (b) Advance tax is also payable on capital gains income earned by the assessee.
- (c) Advance tax is payable if the tax liability is ₹ 5,000 or more.
- (d) There are 4 due dates for payment of advance tax in case of assesses other than companies.
- (e) Individual assessee is not required to pay advance tax.

(Ans: True- a, False – b, c, d, e)

3. Write Short Notes.

1. Due dates of payment of advance tax
2. Income liable to advance tax
3. Due date of Advance tax u/s 211
4. Payment of advance tax by the assessee on his own accord u/s 210
5. Computation of advance tax u/s 209

4. Practical Question.

1. For A.Y 2023-24 Dukhi Ltd. has estimated its tax payable to be ₹ 1,00,000. Show the amount of advance tax due and the instalments.

(Ans: Company assessee: 15.06.2022- ₹ 15,000, 15.09.2022 - ₹ 30,000, 15.12.2022 ₹-30,000, and 15.03.2023 ₹ 25,000)

2. Mr. Right has estimated his tax payable for A.Y 2023-24 ₹ 2,00,000. Show the amounts and due dates of advance tax instalments.

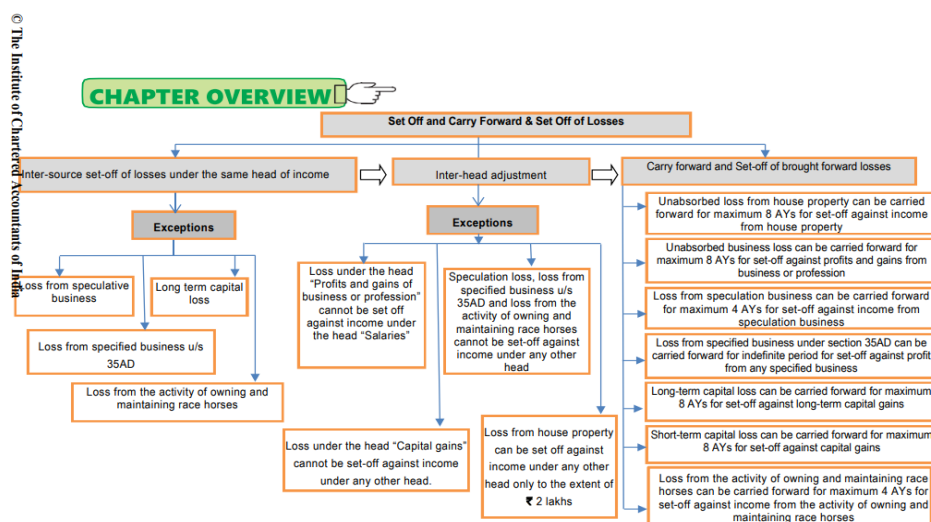
(Ans: Individual assessee: 15.06.2022- ₹ 30,000, 15.09.2022 - ₹ 60,000, 15.12.2022 ₹-60,000, and 15.03.2023 ₹ 50,000)

3. Compute the amount of advance tax payable for the A.Y. 2020-21 in the following cases.

- (a) When the total income of Mr. Vijai is ₹2,20,000;
- (b) When the total income of Mr. Adi, aged 66 years is ₹3,40,000;
- (c) When the annual salary of Ms. Sai, employed in Pavithra Computers Pvt. Ltd. is ₹5,90,000 and TDS on such salary is ₹20,000.

(Ans:

- (a) Nil, since the amount of tax payable by the Assessee during the year is less than ₹10,000
- (b) ₹10,000. Section 208 applies when the amount of tax payable for a FY is ₹10,000 or more.
- (c) ₹29,000. Since the advance tax is payable after reducing the amount of tax by the TDS as per Sec. 209.)
4. Madhu earned ₹ 54,00,000 under the head PGBP and ₹ 18,00,000 by way of long term capital gains on sale of property on 14th Dec, 2022. What is the amount of advance tax payable by the assessee in each instalment during A.Y 2023-24 assuming TDS of ₹ 23,250 on business income.

**Source:** ICAI
<https://resource.cdn.icai.org/71144bos57143-cp6.pdf>

INTEREST PAYABLE U/S 234A, 234B, 234C

Unit Structure

9.0 Learning Objectives

9.1 Introduction

9.2 Interest for Delay in Filing The Return of Income (Section 234a)

9.3 Interest for Defaults in Payment of Advance Tax (Section 234b)

9.4 Payment of Advance Tax Not On Time or Interest for Deferment of Advance Tax (Section 234c)

9.5 Practical Problems

9.6 Exercises

Multiple Choice Questions

True/ False

Short Notes

Practical Questions

9.0 LEARNING OBJECTIVES

After reading this unit, learner will be able:

- To understand the different types of income tax payments, due dates, and consequences of delayed or underpaid tax payments.
- To identify the interest rate payable under various sections and the methods of calculation of such interest.
- To Understand the different scenarios under the different sections which are applicable, such as non-payment of advance tax and non-payment of tax due on regular assessment.
- To understand the importance of timely payments of taxes to avoid the levy of penalty and interest, and the process of filing an application for waiver or reduction of interest under these sections.

9.1 INTRODUCTION

In case assessee forget to pay their income tax on time due to some reason, they should be aware of the method of calculating the interest penalty under sections 234A, 234B, and 234C that assessee will have to pay in order to avoid any future confusion.

It is essential to pay income tax, on time. A delay or not paying tax can attract fine, according to the amount pending. Here is how interest penalty is calculated under Sections 234A, 234B and 234C.

9.2 INTEREST FOR DELAY IN FILING THE RETURN OF INCOME (SECTION 234A)

Under section 234A, interest is levied for delay in filing the return of income, filing of an updated return or filing of a return in response to notice issued under section 142(1).

Interest under section 234A is levied for delay in filing the return of income. In other words, if the taxpayer files the return of income after the due date specified by the authorities or files an updated return, interest under section 234A will be levied.

Rate of Interest U/S 234A:

Interest under section 234A is levied for delay in filing the tax return of income. Interest is levied at 1% per month or part of a month on the tax amount outstanding. The interest needs to be paid is simple interest. The taxpayer is liable to pay a simple interest at 1% per month or part of a month for delay in filing their tax return.

Period of Levy of Interest:

Interest under Section 234A starts right from the date immediately following the due date of filing the income tax return, and ending on the date of furnishing the return of income. In cases where no return has been furnished, the interest starts to build up until the date of completion of the assessment under Section 144.

Amount on Which Interest is To Be Levied:

In case of delay in filing of income tax return, interest shall be liable to pay on the amount of the tax on the total income as determined under sub-section (1) of section 143, and where a regular assessment is made, on the amount of the tax on the total income determined under regular assessment, as reduced by the amount of

- a) Advance tax, if any paid;
- b) Any tax deducted or collected at source;
- c) Any relief of tax allowed

9.3 INTEREST FOR DEFAULTS IN PAYMENT OF ADVANCE TAX (SECTION 234B)

Interest under section 234B of the Income Tax Act is levied in two cases:

- 1) If the taxpayer has failed to pay advance tax, which he is liable to pay if his estimated tax liability for the year is ₹ 10,000 or more,

OR

- 2) If the advance tax paid by the taxpayer is less than 90% of the assessed tax, which is the amount of tax as calculated under section 143(1) and where regular assessment is made, the tax on the total income determined under such regular assessment.

Rate of Interest U/S 234B:

Interest under 234B is levied for default in payment of advance tax. Interest is levied at 1% per month or part of a month. The interest needs to be paid is simple interest. The taxpayer is liable to pay a simple interest at 1% per month or part of a month for default in payment of advance tax.

Period of Levy of Interest:

Interest under section 234B is levied from the first day of the assessment year (mostly from 1st April) till the date of determination of income under section 143(1) or when a regular assessment is made. In case where the income is increased basis the assessment or re-computation, the interest is levied on the differential amount from the first day of the assessment year till the date of assessment or re-computation.

Amount on Which Interest is To Be Levied:

The taxpayer is liable to pay interest on the amount as follows:

- a) If the taxpayer has failed to pay advance tax, on the amount equal to the assessed tax, or
- b) If the advance tax paid by the taxpayer is less than 90% of the assessed tax, on the amount by which the advance tax paid as aforesaid falls short of the assessed tax.

9.4 PAYMENT OF ADVANCE TAX NOT ON TIME OR INTEREST FOR DEFERMENT OF ADVANCE TAX (SECTION 234C)

Section 234C of the Income Tax Act defines the rate of interest and conditions if you delay the advance tax instalments. Everyone, including salaried taxpayers, is required to pay advance tax every quarter of the financial year.

If assessee's advance tax instalments have been delayed then assessee are required to pay a penalty as defined in section 234C of the Income Tax Act. Interest under section 234C is levied in case of deferment of different instalments of advance tax, in following cases:

- 1) For taxpayers other than those who have opted for presumptive taxation scheme under section 44AD or section 44ADA, interest shall be levied:
 - a) If advance tax paid on or before 15th day of June is less than 12% of the tax payable on the returned income,

- b) If advance tax paid on or before 15th day of September is less than 36% of the tax payable on the returned income,
 - c) If advance tax paid on or before 15th day of December is less than 75% of the tax payable on the returned income, and
 - d) If advance tax paid on or before 15th day of March is less than 100% of total tax due on returned income.
- 2) For taxpayers who have opted for presumptive taxation scheme under section 44AD or section 44ADA, interest shall be levied if advance tax paid on or before 15th day of March is less than 100% of tax due on returned income.

Late payment interest under this Section, too, is applied at the rate of 1% on the outstanding amount of tax, starting from the individual dates listed above, up to the payment date.

Period of Levy of Interest:

Interest under section 234C is levied for a period of 1 month in case of short fall in payment of the last instalment and for a period of 3 months in case of short fall in payment of 1st, 2nd and 3rd instalments.

Amount on Which Interest is To Be Levied:

The taxpayer shall liable to pay interest on the amount of shortfall of advance tax of respective individual instalment, in case of shortfall therein.

9.5 PRACTICAL PROBLEMS

Illustration 9.1:

Mr. Gaitonde is a doctor. His tax liability for the financial year 2022-23 amounted to ₹ 9,100. The due date of filing the return of income in his case is 31st July, 2023. On 5th August, 2023 he paid tax of ₹ 9,100 and filed his return of income. Will he be liable to pay interest under section 234A?

Solution:

Interest under section 234A is levied for delay in filing the return of income. The due date for filing the return of income in the case of Mr. Kapoor is 31st July, 2023 and he has paid the tax and filed the return on 5th August 2023. Hence, he will be liable to pay interest under section 234A on the outstanding tax liability @ 1% per month or part thereof for delay in filing the return of Income.

Illustration 9.2:

Mr. Vishwanath is an engineer. The due date of filing the return of income in his case is 31st July, 2023. He filed his return of income on 9th

December, 2023. His tax liability for the financial year 2022-23 is ₹ 9,200 (which is paid on 9th December, 2023). Will he be liable to pay interest under section 234A, if yes then what will be the period of levy of interest?

Solution:

The due date of filing the return of income is 31st July, 2023, and return of income is filed on 9th December, 2023 i.e. after the due date and hence, Mr. Vishwanath will be liable to pay interest under section 234A. While computing interest, part of the month will be taken as full month. In this case, there is a delay of 5 months and 9 days. Part of the month i.e. 9 days will be considered as full month and hence, interest will be levied for 6 months.

Illustration 9.3:

Mr. Sonu is running a medical store. The due date for filing the return of income in his case is 31st July. He filed his return of income on 3rd December. Tax liability of Mr. Sonu for the year is ₹ 39,100 (which is paid on 3rd December). Advance tax paid by him is ₹ 15,000 and he has TDS credit of ₹ 5,000. Will he be liable to pay interest under section 234A, if yes then how much?

Solution:

Mr. Sonu has filed his return of income after the due date i.e. after 31st July and hence, he will be liable to pay interest under section 234A. Interest will be levied at 1% per month or part of the month. The due date of filing the return of income is 31st July and the return of income is filed on 3rd December and hence, there is a delay of 4 months and 3 days. Part of the month i.e. 3 days will be considered as full month and hence, interest will be charged for a period of 5 months. Interest will be levied at 1% per month on ₹ 19,100 (*) for 5 months. Thus, interest under section 234A will come to ₹ 955.

(*) Advance tax of ₹ 15,000 and TDS of ₹ 5,000 are to be deducted from the tax liability of ₹ 39,100, hence, net liability after deducting advance tax and TDS will come to ₹ 19,100. Thus, interest will be levied on ₹ 19,100.

Illustration 9.4:

Mr. Kush is running a shop. Tax liability of Mr. Kush for the year is Rs. 41,800. He has not paid any advance tax till 31st March. Entire tax was paid by him at the time of filing the return of income. Will he be liable to pay interest under section 234B?

Solution:

Interest under section 234B is levied in following two cases:

a) When the taxpayer has failed to pay advance tax; or

- b) Where the advance tax paid by the taxpayer is less than 90% of the assessed tax.

As per section 208 every person whose estimated tax liability for the year is Rs. 10,000 or more, shall pay his tax in advance in the form of “advance tax”. The tax liability of Mr. Kush is Rs. 41,800 (i.e., not less than Rs. 10,000), thus, he is liable to pay advance tax. However, he has not paid any advance tax and, hence, he will be liable to pay interest under section 234B

Illustration 9.5:

Mr. Murthy is running a shop. Tax liability of Mr. Murthy for the year is Rs. 58,400. He has paid advance tax of Rs. 56,000 till 31st March. Balance tax of Rs. 2,400 is paid by him at the time of filing the return of income. Will he be liable to pay interest under section 234B?

Solution:

Interest under section 234B is levied in following cases:

- (a) When the taxpayer has failed to pay advance tax; or
- (b) Where the advance tax paid by the taxpayer is less than 90% of the assessed tax.

In this case, Mr. Murthy has paid 95% of the advance tax (*) i.e. more than 90% and thus, no interest will be levied under section 234B.

(*) The tax liability of Mr. Murthy is Rs. 58,400 and he has paid advance tax of Rs. 56,000. The quantum of advance tax paid by him will come to 95% (i.e., Rs. 56,000/Rs. 58,400) of the total tax liability.

Illustration 9.6:

Mr. Sajan is a businessman. His tax liability as determined under section 143(1) is Rs. 38,400. He has not paid any advance tax but there is a TDS credit of Rs. 10,000 in his account. He has paid the balance tax on 31st July i.e. at the time of filing the return of income. Will he be liable to pay interest under section 234B, if yes, then how much?

Solution:

In this case, the tax liability (after allowing credit of TDS) of Mr. Suraj comes to Rs. 28,400 (i.e. Rs. 38,400 – Rs. 10,000) which exceeds Rs. 10,000 and hence, he will be liable to pay advance tax. He has not paid any advance tax and hence, he will be liable to pay interest under section 234B. Interest under section 234B will be levied at 1% per month or part of the month. In this case, Mr. Sajan has paid the outstanding tax on 31st July i.e. at the time of filing the return of income. Will he be liable to pay interest under section 234B, if yes, then how much?

Illustration 9.7:Interest Payable U/S 234A, 234B,
234C

In the case of Ms. Sakshi, you are furnished the following details from which you are expected to calculate interest u/s. 234A, 234B and 234C:

Tax on total income Rs 10,000; Due date of filing returns: 31-07-2018;

Date of filing the return 1-8-2017; Tax and interest thereon fully paid on 31-7-2019.

Solution:

Name of Assessee : Ms. Sakshi

P.Y : 2019-20

A.Y : 2020-21

Computation of Interest u/s 234A, 234B, 234C

Particulars	₹	₹
Interest u/s 234A = 10,000 *1%		100
Interest u/s 234B = 10,000 *1% *4 months	400	
15,000 *1% *3 months	45	
Interest u/s 234C = 4,500 *1% *4 months	135	
7,500 *1% *3 months	225	
Interest u/s 234C = 4,500 *1% *4 months	100	905
Total Interest Payable		1005

Note:

Self-assessment tax paid u/s 140A on 31.07.2017 amounting to Rs. 10,000 shall not be considered for computation of interest u/s 234A.

9.6 EXERCISES

1. Multiple choice questions.

- The assessee is required to pay interest u/s 234A in respect of his default in_____
 - depositing insufficient advance tax
 - furnishing return of income
 - payment of advance tax instalments
 - all of the above

2. The assessee is liable to pay _____ for every month u/s234A
 - a. simple interest @1% b. compound interest @1%
 - c. penalty d. either a or c
3. The interest u/s234A is applicable on _____
 - a. assessed income b. returned income
 - c. tax on assessed income d. tax on returned income
4. Interest u/s234B is liable if _____
 - a. assessee is liable to pay advance tax u/s208 and has failed to do so
 - b. advance tax paid by assessee is less than 90% of the assessed tax
 - c. both a & b together
 - d. either a or b
5. An assessment made for the 1st time u/s147 or u/s153A is regarded as a _____.
 - a. regular assessment b. best judgement assessment
 - c. self assessment d. income tax assessment
6. In respect of shortfall in payment of _____ interest is required to be calculated u/s234C
 - a. advance tax b. instalment of advance tax
 - c. self assessment tax d. regular assessment tax
7. Any payment made after 15th march but on or before 31st march of the previous year avoids levy of _____
 - a. interest u/s234A b. interest u/s234B
 - c. interest u/s234C d. penalty
8. For calculating interest u/s234A/234B/234C, all calculations are rounded off to nearest ____
 - a. ₹ 10 b. ₹ 1000
 - c. ₹ 50 d. ₹ 100
9. Tax due on _____ income is not relevant for interest u/s234C
 - a. assessed b. returned
 - c. provisional d. either a or b

10. Interest u/s234B is calculated on the amount by which advance tax paid falls short of _____.

Interest Payable U/S 234A, 234B,
234C

- a. returned tax b. advance tax
- c. self-assessment tax d. assessed tax

[answers:1-b,2-a,3-c,4-d,5-a,6-b,7-b,8-d,9-a,10-d]

2. True/False.

1. Assessee is required to pay interest u/s234A for delay or default in filing of return of income.
2. Interest u/s234A is not levied if return is not furnished
3. Interest u/s234A is applicable on tax on returned income
4. The assessee shall be liable to pay simple interest @1% for every month or part of the month
5. Interest u/s 234B is levied if the advance tax that has been deposited in insufficient
6. Interest u/s234B is not applicable if advance tax that has been paid is less than 90% of the assessed tax
7. Interest u/s234B is applicable on tax on assessed income and not on returned income
8. Interest u/s 234C is levied on shortfall in payment in payment of installments of advance tax
9. Interest u/s 234C is calculated from 1st april of relevant assessment year
10. Interest u/s234B is calculated up to 31st march of the relevant year previous year

[answers: 1-t,2-f,3-f,4-t,5-t,6-f,7-t,8-t,9-f,10-f]

3. Short notes on

1. How is the interest payable u/s.234C by non-corporate assesses calculated
2. Advance tax provisions for income arising out of capital gains /or casual income
3. Interest u/s 234A
4. Interest u/s234B

5. Interest u/s234C
6. Assessed tax
7. Difference between interest u/s 234B and interest u/s234C
8. Calculation of interest in case of corporate assessee
9. Calculation of interest in case of non-corporate assessee
10. Difference between interest u/s234A and 234C

4. Practical Questions.

1. Mr. Harsh has estimated his tax liability to be ₹ 2,10,000 and has paid advance tax accordingly but subsequently his tax liability was found to be ₹ 2,70,000. Find out interest payable by him under section 234C

[Ans: Interest u/s234C:270+810 +1350+600=3030]

2. Ramesh co. pvt ltd has estimated his tax liability of ₹ 5,00,000 for the A.Y 2023-24 visa vis actual liability of ₹ 8,00,000. He paid advance tax as follows ₹ 5,00,000 (15.6.22 ₹ 75000; 15.9.22 ₹ 1,50,000; 15.12.22 ₹ 1,50,000; 15.3.22 ₹ 1,25,000) calculate interest ₹

[Ans: interest:1350;2700;2700;2250 total ₹ 9000]

3. Mr ram has tax liability of ₹ 3,50,000 for A.Y 2023-24 .He has paid advance tax as:

Up to 15th sep21-₹75,000

Up to 15th dec21-₹1,00,000

Up to 15th mar22-₹ 75,000

balance amount of tax paid on 1st oct 2023 while filing the return. compute his liability for the A.Y for interest u/234A,234B &234C

[Ans: 234A-2000 234B-6000 234C-3,000]

4. The 'tax due on the returned income for the assessment year 2023-24 is Rs. 15,000 (i.e. tax on returned income less tax deductible or collectible at source). Advance tax paid is Rs. 14,000 (Rs. 1,000 on 15.9.2022, Rs. 4,000 on 15.12.2022 and Rs. 9,000 on 15.3.2023). Calculate the interest u/s 234C assuming that the assessee is an individual.

[Ans.: If assessee is an individual, interest payable u/s 234C is Rs. 188]

5. Mr Z has tax liability of ₹ 4,90,000 for A.Y 2023-24. He has paid advance tax as:

Interest Payable U/S 234A, 234B,
234C

Up to 15th sep21- ₹ 30,000

Up to 15th dec21- ₹ 80,000

Up to 15th mar22- ₹ 1,00,000

balance amount of tax paid on 10th Dec 2023 while filing the return.
compute his liability for the A.Y for interest u/234A,234B &234C
(Due date of filing return is 31 oct, 2023)

[Ans: 234A-5,600 234B-25,200 234C-8,400]

DTAA US 90 & 91

Unit Structure

- 10.0 Learning Objectives
- 10.1 Introduction
 - 10.1.1 How Double Taxation Works
 - 10.1.2 Reason for Double taxation
 - 10.1.3 Double Taxation Relief
- 10.2 Agreement with foreign countries U/S 90
 - 10.2.1 UNILATERAL RELIEF U/S 91
- 10.3 Illustrations
- 10.4 Summary
- 10.5 Theory Question

10.0 LEARNING OBJECTIVES

10.1 INTRODUCTION

A tax principle known as "double taxation" refers to paying income taxes twice on the same source of income. When income is subject to both corporate and individual taxes, it may happen. When the same income is taxed in two separate nations for the same investment or transaction, this is known as double taxation.

10.1.1 How Double Taxation Works:

Because businesses are regarded as distinct legal entities from their stockholders, double taxation frequently happens. As a result, businesses pay taxes on their yearly income just as people do. Even if the earnings that supplied the funds to pay the dividends were previously taxed at the corporate level, when businesses distribute dividends to shareholders, the dividend payments result in income-tax obligations for the shareholders who receive them.

Double taxation is sometimes an unforeseen result of tax law. Tax authorities try to avoid it whenever feasible because it is typically viewed as a negative component of a tax system.

Issues with double taxes are a common problem for multinational corporations. Income may be subject to taxation in both the nation where it is earned and the country where the firm is domiciled. Sometimes the overall tax rate is so high that engaging in foreign commerce becomes prohibitively expensive.

Countries all around the globe have ratified hundreds of agreements to prevent double taxation in order to avoid these problems, frequently using the Organization for Economic Cooperation and Development's (OECD) model agreements as a guide. (IECD). In order to increase commerce between the two countries and prevent double taxation, member states to these treaties agree to restrict their taxation on foreign company.

10.1.2 Reason for Double taxation:

It is possible to be subjected to double taxation when a taxpayer resides in one nation but derives income from a different nation. Based on (i) the source rule and (ii) the residency rule, the same income may be taxed by both the nation of resident and the country where the source of income exists. Regardless of whether the income accrues to a resident or a non-resident, the source rule states that it must be taxed in the nation where it originated. According to the residency rule, the authority to tax should lie with the nation where the taxpayer resides. The expense of doing business internationally goes up due to double taxes, which also slows down globalisation.

10.1.3 Double Taxation Relief:

There are two approaches to avoid double taxation: the exemption technique and the tax credit method.

Specific income is taxed in one of the two nations under the exemption method and exempt in the other.

The income is taxed jointly with the countries included in the income tax treaty, in addition to the country of residence, under the tax credit method. The tax credit or deduction for the tax owed in the country of residence will thereafter be authorised.

In order to protect Indian residents and citizens from double taxation, the government of India has signed the Double Tax Avoidance Agreement, a bilateral agreement, with more than 150 nations.

8.2 AGREEMENT WITH FOREIGN COUNTRIES U/S 90 (BYE LAW)

- (1) The Central Government may enter into an agreement with the Government of any country outside India or specified territory outside India,-
 - (a) for the granting of relief in respect of-

- (i) income on which have been paid both income-tax under this Act and income-tax in that country or specified territory, as the case may be, or
- (ii) income-tax chargeable under this Act and under the corresponding law in force in that country or specified territory, as the case may be, to promote mutual economic relations, trade and investment, or
- (b) for the avoidance of double taxation of income under this Act and under the corresponding law in force in that country or specified territory, as the case may be, 47[without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in the said agreement for the indirect benefit to residents of any other country or territory),] or
- (c) for exchange of information for the prevention of evasion or avoidance of income-tax chargeable under this Act or under the corresponding law in force in that country or specified territory, as the case may be, or investigation of cases of such evasion or avoidance, or
- (d) for recovery of income-tax under this Act and under the corresponding law in force in that country or specified territory, as the case may be, and may, by notification in the Official Gazette, make such provisions as may be necessary for implementing the agreement.
- (2) Where the Central Government has entered into an agreement with the Government of any country outside India or specified territory outside India, as the case may be, under sub-section (1) for granting relief of tax, or as the case may be, avoidance of double taxation, then, in relation to the assessee to whom such agreement applies, the provisions of this Act shall apply to the extent they are more beneficial to that assessee.
- (2A) Notwithstanding anything contained in sub-section (2), the provisions of Chapter X-A of the Act shall apply to the assessee even if such provisions are not beneficial to him.
- (3) Any term used but not defined in this Act or in the agreement referred to in sub-section (1) shall, unless the context otherwise requires, and is not inconsistent with the provisions of this Act or the agreement, have the same meaning as assigned to it in the notification issued by the Central Government in the Official Gazette in this behalf.
- (4) An assessee, not being a resident, to whom an agreement referred to in sub-section (1) applies, shall not be entitled to claim any relief under such agreement unless a certificate of his being a resident in any country outside India or specified territory outside India, as the

case may be, is obtained by him from the Government of that country or specified territory.

- (5) The assessee referred to in sub-section (4) shall also provide such other documents and information, as may be prescribed.

Explanation 1:

For the avoidance of dispute, it is therefore stated that the taxation of a foreign company at a rate higher than the rate at which a domestic business is subject to taxation shall not be deemed a less favourable taxation of such foreign company.

Explanation 2:

For the purposes of this provision, "specified territory" refers to any region outside of India that the Central Government may designate as such.

Explanation 3:

To clear up any confusion, it is hereby stated that any term used in an agreement entered into under subsection (1) that is not defined in the agreement itself or the Act but is given a definition in the notification issued under subsection (3), and said notification is in effect, shall be deemed to have the definition given to it as of the date the agreement entered into force.

Explanation 4:

For the purpose of clearing up any confusion, it is hereby stated that any term used in an agreement entered into pursuant to subsection (1) shall have the same meaning as assigned therein; alternatively, if the term is not defined in the said agreement but is defined in the Act, it shall have the same meaning as assigned therein and any justification provided therefor by the Central Government.

8.2.1 Unilateral Relief U/S 91 (Bye Law):

Provision:

- (1) If any person who is resident in India in any previous year proves that, in respect of his income which accrued or arose during that previous year outside India (and which is not deemed to accrue or arise in India), he has paid in any country with which there is no agreement under section 90 for the relief or avoidance of double taxation, income-tax, by deduction or other under the law in force in that country, he shall be entitled to the deduction from the Indian income-tax payable by him of a sum calculated on such doubly taxed income at the Indian rate of tax or the rate of tax of the said country, whichever is the lower, or at the Indian rate of tax both the rates are equal.
- (2) If any person who is resident in India in any previous year proves that in respect of his income which accrued or arose to him during that previous year in Pakistan he has paid in that country by deduction or

otherwise, tax payable to the Government under any law for the time being in force in that country relating to taxation of agricultural income, he shall be entitled to a deduction from the Indian income-tax payable by him-

- (a) of the amount of the tax paid in Pakistan under any law aforesaid on such income which is liable to tax under this Act also;

or

- (b) of a sum calculated on that income at the Indian rate of tax; whichever is less.
- 3) If any non-resident person is assessed on his share in the income of a registered firm assessed as resident in India in any previous year and such share includes any income accruing or arising outside India during that previous year (and which is not deemed to accrue or arise in India) in a country with which there is no agreement under section 90 for the relief or avoidance of double taxation and he proves that he has paid income-tax by deduction or otherwise under the law in force in that country in respect of the income so included he shall be entitled to a deduction from the Indian income-tax payable by him of a sum calculated on such doubly taxed income so included at the Indian rate of tax or the rate of tax of the said country, whichever is the lower, or at the Indian rate of tax if both the rates are equal

Explanation: In this section,

- (i) the expression "Indian income-tax" means income-tax charged in accordance with the provisions of this Act;
- (ii) the expression "Indian rate of tax" means the rate determined by dividing the amount of Indian income-tax after deduction of any relief due under the provisions of this Act but before deduction of any relief due under this Chapter, by the total income;
- (iii) the expression "rate of tax of the said country" means income-tax and super-tax actually paid in the said country in accordance with the corresponding laws in force in the said country after deduction of all relief due, but before deduction of any relief due in the said country in respect of double taxation, divided by the whole amount of the income as assessed in the said country;
- (iv) the expression "income-tax" in relation to any country includes any excess profits tax or business profits tax charged on the profits by the Government of any part of that country or a local authority in that country.

Interpretation:

In cases when there is no DTA between India and the foreign nation, Section 91 of the Income Tax Act offers exemption from double taxation.

Through the use of the Income Tax Act's provisions, this section permits the taxpayer to seek relief from double taxation.

Key provisions of Section 91:

1. Relief from double taxation:

This provision offers taxpayers who are residents of India and have income accruing or originating outside of India in a nation with which India does not have a DTA relief from double taxation.

2. Relief claim procedure:

The Section 91 relief claim method is the same as the Section 90 relief claim procedure. To determine their eligibility for relief, the taxpayer must provide the Indian tax authorities with the required paperwork and information.

3. Relief calculation:

The Section 91 relief is equal to the lesser of the international tax paid or the Indian tax due on the same income.

Double taxation is a major worry for people and companies who operate internationally. Without adequate safeguards against it, double taxation can dramatically raise the tax burden on the taxpayer and reduce the allure of international investments. Therefore, the Income Tax Act's Sections 90 and 91 are essential for encouraging international investments and fostering economic development.

Taxpayers who are residents of India and have income accruing or originating in a foreign nation with whom India has a DTA are eligible for double taxation relief under Section 90. The relief is offered as a tax credit, allowing the person to offset the Indian tax due on the same income with the foreign tax they have already paid. The remedy that may be obtained under a DTA varies according to the terms of the particular agreement. However, the majority of DTAs offer some type of tax credit or exemption as a form of relief.

It is crucial to remember that the taxpayer must provide specific papers and information to the Indian tax authorities in order to seek relief under a DTA. These papers normally comprise a certificate of residency issued by the foreign tax authorities as well as evidence of payment of foreign taxes. Therefore, it is crucial for taxpayers to keep accurate records and follow the procedural guidelines outlined in Section 90.

In situations when a DTA between India and the other nation does not exist, Section 91 offers exemption from double taxation. The main distinction between Section 91's relief and Section 90's relief is that Section 91's relief is only applicable to the lower of the tax paid in the foreign nation or the Indian tax due on the same income. For taxpayers who conduct business in nations without a DTA with India, Section 91 is a helpful measure that protects them from excessive hardship.

8.3 ILLUSTRATIONS

1. The information below pertains to Mrs. Vency's income earned during the assessment year 2022–2023 as an Indian resident.:

Particulars	Rs in Lakhs
Income from playing snooker matches in country L	12.00
Tax paid in country L	1.80
Income from playing snooker tournaments in India	19.20
Life Insurance Premium paid	
Medical Insurance Premium paid for her father aged 62 years(paid through credit card)	1.10
	0.54

Compute her total income and tax liability for the assessment year 2022-23. There is no Double Taxation Avoidance Agreement between India and country L.

(C.A., adapted)

Solution:

Computation of Total Income and Tax Liability of Mrs Vency for the A.Y. 2022-23

Particulars	Rs. in Lakhs	Rs. in Lakhs
Indian Income (Income from playing snooker tournaments in India)		19,20,000
		<u>12,00,000</u>
Foreign Income (Income from playing snooker matches in country L)		31,20,000
Gross Total Income.		
Less: Deduction under Chapter VI-A		
Deduction under Section 80C		
Deduction under Section 80D Medical insurance premium of 54,000 paid for her father, who is 62 years old, is entirely admissible as a deduction. Life insurance premium of 1,10,000 paid during the previous year deduction is within the overall maximum of 1.5 lakh.	1,10,000	
Because her father is elderly, the deduction is only permitted up to Rs 50,000. (assuming that her father is also a resident in India).		
Deduction is also permitted when payment is made in a way other than cash. Due to the use of a credit card, this transaction qualifies for a deduction..	50,000	<u>1,60,000</u>
	7,00,500	29,60,000
Total Income Tax on Total Income	28,020	7,28,520

Income-Tax		
Add: Health and Education cess @ 4%		
Average Rate of Tax in India		
24.61%		
(i.e. Rs 7,28,520/ 29,60,000 x 100)		
Average Rate of Tax in Foreign country		1,80,000
15%		5,48,520
(.0.1,80,000/ 12,00,000 x 100)		
Rebate under section 91 on 12 lakh @ 15% Tax		
(lower of average Indian-tax rate or average foreign tax rate)		
Tax Payable in India (7,28,520-1,80,000)		

Note:

Mrs Vency shall be allowed deduction under section 91, since the relevant conditions are fulfilled:

- (a) During the pertinent preceding year, she resided in India.
 - (b) Her income does not qualify as income that accrued or arose in India during the preceding year because it did so outside of that country.
 - (c) She was in possession of the income that was in question when it was taxed in the foreign nation L, and she paid the tax there.
 - (d) India and nation L, where the income has accrued or originated, do not have an arrangement under section 90 to relieve or avoid double taxation.
2. Aadhiguru, an individual, resident of India, receives the following payments after TDS during the previous 2022-23:

- (1) Professional costs for August 17, 2022
- (2) Professional costs as of 4/3/2023

Both of the aforementioned services were provided in Pakistan, and TDS of 50,000 and 30,000 has been subtracted from each. He had spent Rs 2,40,000 in order to obtain both of these receipts/income. His other sources of income in India total Rs 5,000,000, and he has paid Rs75,000 towards LIC.

Compute the tax liability of Aadhigur and also the relief under section 91, if any, for assessment year 2022-23

(CS, June 2015, ICWA, adapted)

Solution:**Computation of Total Income and Tax Liability of Mr. Aadhiguru for the A.Y. 2022-23**

Particulars	Rs. in Lakhs	Rs. in Lakhs
Income from Profession from Foreign	4,80,000	
Less: Expenses	<u>2,40,000</u>	2,40,000
Income from Profession in India		<u>5,00,000</u>
Gross Total Income		7,40,000
Less: Deduction u/s 80C		<u>70,000</u>
Total Income		6,70,000
Tax on above		46,500
Add Health and Education Cess		<u>1,860</u>
Tax and Cess Payable		<u>48,360</u>
Average Rate of Tax (Rs 48,360/ 6,70,000 x 100]		7.22%
Rate of Tax in Country X		<u>16.67%</u>
Relief u/s 91 [7.22% of 2,40,000]		<u>17,328</u>
Tax Payable (rounded off u/s 288B)		31,030

3. Mr. Utharan, a resident Indian, has derived the following incomes for the previous year relevant to A.Y. 2022-23:

- (a) India's income from profession was \$2,44,000
- (b) Income from a profession in country A (taxes paid abroad at a rate of 5%): Rs 4,50,000

Calculate the assessee's Indian tax obligation assuming that Rs 4,50,000 is taxable in India under the terms of the treaty between India and Country A. However, a foreign tax duty may be offset by an Indian tax obligation.

(ICWA, adapted)

Solution:**Computation of Total Income and Tax Liability of Mr. Utharan for the A.V. 2022-23**

Particulars	Rs. in Lakhs
Income from Profession in India	2,44,000
Income from Profession in Country A	<u>4,50,000</u>
Gross Total Income	6,94,000
Less: Deduction u/s Chapter VIA	<u>NIL</u>
Total Income	<u>6,94,000</u>
Tax on above	51,300

Add: Health and Education cess @ 4%	<u>2,052</u>
Tax and Cess Payable	53,352
Less: Relief u/s 90 g 4,50,000 x 5%)	<u>22,500</u>
Tax Payable in India (Rounded off u/s 88B)	30,850

4. Nimmi, who typically resides in India, offers the information below on his income for the prior year that is pertinent to the AY, 2022–23:

Indian income: Rs. 3,40,000

Rs 2,00,000 in income from Country Z

PPF investment: Rs 10,000

Additionally, it should be mentioned that

India and Country Z have a double taxation avoidance agreement. According to stated agreement, income is only subject to taxation in the nation where it is earned. However, in the other nation, such income can be taken into account when determining the amount of Indian tax that must be paid (Country Z @ 20%).

(ICWA, adapted)

Solution:

Computation of Total Income and Tax Liability of Nimmi for the A.Y. 2022-23

Particulars	Rs. in Lakhs
Income from India	3,40,000
Income from Country Z	<u>2,00,000</u>
Gross Total Income	5,40,000
Less: Deduction u/s 80C	
Investment in PPF	<u>10,000</u>
Total Income	<u>5,30,000</u>
Tax on above	18,500
Add: Health and Education cess @ 4%	<u>740</u>
Tax and Cess Payable	19,240
Less: Relief u/s 90 R 2,00,000 x 3.63%)	
Tax Payable In India [Rounded off u/s 288B]	<u>7,260</u>
	11,980

Average rate of Indian tax = $19,240 / 5,30,000 \times 100 = 3.63\%$

5. Indian national Mr. Nadhan, a resident, earned the following incomes during the prior year that are relevant to the A.Y. 2020–21:

Income from a profession: \$3,74,000. Royalty on books from a foreign country: \$3,000 (deduction allowed under section 80QQB). (Foreign nation tax of 20% paid)- 5,00,000

Calculate the assessee's Indian tax obligation assuming that India and nation Y do not share any tax treaties.

(ICWA, adapted)

Solution:

Computation of Total Income and Tax Liability of Mr. Nadhan for the A.Y. 2022-23

Particulars	Rs. in Lakhs
Income from Profession	3,74,000
Royalty earned in country Y	<u>5,00,000</u>
Gross Total Income	8,74,000
Less: Deduction u/s 80QQB	<u>3,00,000</u>
Total Income	<u>5,74,000</u>
Tax on above	27,300
Add: Health and Education cess @ 4%	<u>1,092</u>
Tax and Cess Payable	<u>28,392</u>
Average rate of Tax $[28,392/5,74,000 \times 100]$	4.95%
Rate of Tax in country Y	20%
Less: Relief u/s 91 $[4.95\% \text{ of } 2,00,000]$	
Tax Payable in India [Rounded off u/s 2888]	<u>9,900</u>
	<u>18,490</u>

Indian average tax rate: 4.95%

Foreign average tax rate: 20.00%

Relief u/s 91 is available at lower of aforesaid rates i.e. 4.95%

8.4 SUMMARY

The Income Tax Act's Sections 90 and 91 are essential in preventing the double taxation of income in two nations. They provide tax payers assistance by enabling them to claim a credit for taxes paid abroad against the Indian tax due on the same income. These sections' provisions guarantee that taxpayers won't experience excessive hardship or pay taxes on the same income twice. To fully grasp the effects of these sections on their tax burden, people should speak with a tax specialist.

8.5 THEORY QUESTION

DTAA US 90 & 91

1. Write a note on double taxation
2. Write a note on double tax relief.
3. Explain the provision regarding Double taxation Avoidance Agreement.

TAX PLANNING & ETHICS IN TAXATION

Unit Structure

- 11.0 Learning Objectives
- 11.1 Introduction
- 11.2 Tax Planning
- 11.3 Tax Avoidance
- 11.4 Tax Evasion
- 11.5 Objectives of Tax Planning
- 11.6 Characteristics of Tax planning, Tax Avoidance, Tax Evasion & Tax Management
- 11.7 Principles of ethics in taxation
- 11.8 Needs for Ethics in Taxation
- 11.9 Exercise

11.0 LEARNING OBJECTIVES

After reading this unit, learner will be able:

- To Understand the meaning of Tax Planning, Tax Avoidance and Tax Evasion
- To differentiate between Tax Planning, Tax Avoidance and Tax Evasion

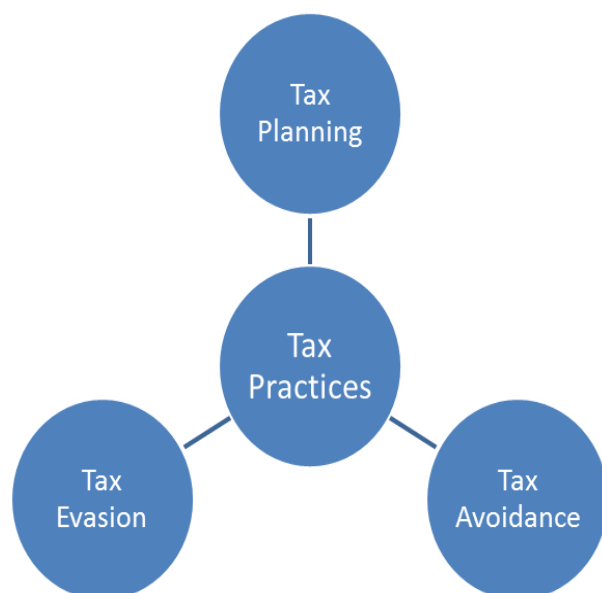
11.1 INTRODUCTION

India's tax laws are undoubtedly complex due to the numerous deductions, exemptions, relief provisions, and rebates. Therefore, it makes sense that taxpayers generally arrange their affairs to result in the lowest possible incidence of tax. However, tax avoidance is a widespread phenomenon, and the conflict between the taxpayer and the tax collector in this area never ends. Both are perceived differently. The taxpayer makes no effort to minimise his incidence and maximise his profits. The tax collector, on the other hand, tries to undermine strategies whose only goal is to reduce taxes.

Three methods are frequently employed in the context of tax savings:

- (a) Tax Planning;
- (b) Tax Avoidance; and
- (c) Tax Evasion.

Lets discuss in details each of them.



11.2 TAX PLANNING

The process of making strategic decisions with an intention to reduce the amount of taxes payable is termed as tax planning. This can be accomplished by taking advantage of government-provided deductions, credits, and other tax benefits as permissible by the Income Tax Act, 1961. Planning one's finances and investments to maximise tax benefits is another aspect of tax planning. Tax planning aims to decrease tax liabilities while still respecting tax obligations.

An effective tax planning can be done by utilising the provisions of Deduction and Exemptions of the Income Tax Act. The following illustrations attempt to provide clarity on the same.

Illustration 1: Deductions under Section 80C of the Income Tax Act

Section 80C of the Income Tax Act provides for deductions from gross total income for certain investments and expenses. An individual can claim a deduction of up to C 1.5 lakhs for investments made in certain tax-saving instruments. This deduction can be claimed against income from any head, such as salary, house property, or business income.

For example, if an individual invests C 1.5 lakhs in a tax-saving instrument such as a Public Provident Fund (PPF), they can claim a deduction of C 1.5 lakhs from their gross total income. This will reduce their taxable income and, consequently, their tax liability.

Illustration 2: Depreciation under the Income Tax Act

Businesses can claim a deduction for the depreciation of assets used for business purposes. Depreciation is the wear and tear of an asset over time, and the Income Tax Act provides for a deduction on this basis. The rate of depreciation varies depending on the nature of the asset.

For example, if a business purchases a computer for C 50,000 and the rate of depreciation for computers is 40%, they can claim a deduction of C 20,000 as depreciation in the first year. This will reduce their taxable income and, consequently, their tax liability.

Illustration 3: Capital Gains Tax

Capital gains tax is a tax on the profit earned from the sale of an asset, such as property or stocks.

For example, if an individual sells a property after holding it for more than two years, they will be liable to pay long-term capital gains tax. However, if they reinvest the proceeds from the sale in another property within a specified time period, they can claim an exemption under Section 54 of the Income Tax Act. This will reduce their taxable income and, consequently, their tax liability.

Illustration 4: HRA Exemption

House Rent Allowance (HRA) is a common component of the salary package for salaried individuals. HRA is provided to help individuals meet the cost of renting a house. Under Section 10(13A) of the Income Tax Act, HRA is exempt from tax up to a certain limit.

For example, if an individual earns a salary of C 10 lakhs per annum and receives an HRA of C 2 lakhs per annum, they can claim an exemption of C 1.5 lakhs under Section 10(13A) of the Income Tax Act. This will reduce their taxable income and, consequently, their tax liability.

The idea of tax planning has come up in a number of cases before the Indian Supreme Court. The significance and restrictions of tax planning have been made clear by some of these cases' landmark rulings. Here are a few of the important cases:

1. McDowell and Co. Ltd. vs. Commercial Tax Officer (1985) 3 SCC 230:

The McDowell case is one of the most significant cases in the history of Indian taxation. The case dealt with the issue of tax planning and whether it was permissible under Indian law. In this case, the Supreme Court held that tax planning is permissible as long as it is done within the framework of the law and does not involve the use of artificial or sham transactions.

The court observed that the law recognizes the right of a taxpayer to arrange his affairs in such a way as to minimize his tax liability. However, it also noted that tax planning must be distinguished from tax evasion, which involves the use of illegal means to avoid paying taxes.

2. Azadi Bachao Andolan vs. Union of India (Azadi Bachao Andolan vs. Union of India (2003) 263 ITR 706 (SC):

The Azadi Bachao Andolan case is another landmark case that dealt with tax planning. In this case, the Supreme Court held that tax planning is

permissible as long as it is not contrary to law. The court observed that taxpayers are entitled to take advantage of tax incentives and exemptions, but they cannot resort to abusive tax avoidance schemes.

The court also noted that the motive behind a transaction is relevant in determining whether it is a bona fide transaction or an abusive tax avoidance scheme. If the transaction is entered into solely for the purpose of avoiding taxes and has no commercial substance, it will be deemed to be an abusive tax avoidance scheme.

3. Vodafone International Holdings BV vs. Union of India (2012) 341 ITR 1 (SC):

The Vodafone case is a widely publicized case that dealt with the issue of tax planning in the context of cross-border transactions. In this case, Vodafone had acquired a stake in an Indian company through a transaction that was carried out outside India. The Indian tax authorities had sought to tax the transaction on the ground that it had resulted in a transfer of assets located in India.

The Supreme Court held that the Indian tax authorities did not have jurisdiction to tax the transaction. The court observed that the transaction had been carried out outside India and had not resulted in the transfer of any assets located in India. The court also noted that the transaction had been structured in a manner that was permissible under the relevant tax laws.

As a result, these cases show that tax planning is acceptable so long as it is carried out legally and without the use of dubious or fictitious transactions. Taxpayers are allowed to benefit from tax breaks and incentives, but they are not allowed to use dishonest tax avoidance tactics. The Supreme Court has repeatedly ruled that a transaction's motivation matters when determining whether it is a legitimate business transaction or an unfair tax avoidance scheme. Taxpayers are required to make sure that their tax planning techniques are legal and have practical application.

11.3 TAX AVOIDANCE

The distinction between tax planning and tax avoidance is blurry and extremely thin. Tax evasion may also involve elements of malafide motivation. Any planning that, even when carried out exactly in accordance with legal requirements, undermines the fundamental purpose of the legislative mandate underlying the statute may be referred to as an instance of tax avoidance. It is typically accomplished by adjusting the affairs so that there is no violation of the tax laws and by **fully utilising the loopholes therein** to attract the least amount of tax. Tax avoidance was previously thought to be entirely legal, but it now might not be in some circumstances. The majority of the current amendments aim to reduce avoidance behaviour.

11.4 TAX EVASION

It describes a scenario in which a person tries to lower his tax liability by intentionally suppressing his income, inflating his expenses to make his income appear lower than it actually is, and using other types of intentional manipulation. An assessee guilty of tax evasion is punishable under the relevant laws. Intentionally making false statements, submitting deceptive documentation, hiding information, failing to keep proper records of income earned (if required by law), and omitting crucial information from assessments are all examples of tax evasion. Tax evasion would be committed by an assessee who dishonestly claims the benefit under the statute by lying.

11.5 OBJECTIVES OF TAX PLANNING

The objectives of tax planning can vary depending on the individual or organization, but some common objectives include:

1. Reducing tax obligations:

The main goal of tax planning is to reduce tax obligations by figuring out and utilising all available credits, deductions, exemptions, and other tax benefits. Taxpayers can lower their tax liability by reducing their taxable income.

2. Maximizing after-tax income:

By structuring financial transactions and investments in a tax-efficient way, tax planning also aims to maximise after-tax income. For instance, taxpayers may decide to put money into tax-exempt or tax-deferred retirement accounts in order to lower their current tax burden and boost their after-tax retirement income.

3. Managing cash flow:

By minimising tax payments and maximising the timing of tax liabilities, tax planning can also assist people and businesses in managing their cash flow. To reduce their tax obligations in a particular year, businesses might decide to accelerate or defer the recognition of some expenses or revenue.

4. Achieving financial objectives:

By reducing tax liabilities and maximising after-tax income, tax planning can also assist people and businesses in reaching their financial objectives. Goals like retirement planning, funding a child's education, or making charitable contributions can fall under this category.

5. Ensuring adherence to tax laws:

Tax planning also seeks to guarantee adherence to all relevant tax laws and rules. Taxpayers can organise their finances in a way that is both tax-efficient and legally compliant by understanding the tax laws and regulations that apply to their particular financial situation.

In conclusion, the goals of tax planning are to reduce tax liabilities, increase after-tax income, control cash flow, reach financial targets, and make sure that taxes are paid in accordance with the law. Individuals and businesses can accomplish these goals and enhance their overall financial well-being by carefully managing their finances in a tax-efficient manner.

11.6 CHARACTERISTICS OF TAX PLANNING, TAX AVOIDANCE, TAX EVASION & TAX MANAGEMENT

Defining characteristics	Tax planning	Tax Avoidance	Tax Evasion	Tax Management
Definition	It is a method of lowering tax obligations by utilising all of the Act's benefits, including its numerous exemptions, deductions, rebates, and relief provisions.	It is a process by which the assessee legally exploits the Act's shortcomings.	By purposefully suppressing income or sales, raising expenses, etc., which lowers the assessee's overall income, it is illegal to reduce tax liability.	It is a process to follow the law's requirements.
Feature	Planning your taxes is a way to adhere to the moral requirements of the law.	Tax evasion is a method of bending the law without actually breaking it.	Tax evasion is morally and legally prohibited.	It is a component of the implementation or execution phase of a company's taxation department.
Object	To lower tax obligations by following the letter and spirit of the law.	To minimise tax liability by strictly following the law's script	To lower tax liability through the use of unethical methods.	To abide by the law's provisions.
Approach	It has a futuristic and uplifting vibe. The planning is done now to take advantage of future benefits.	It is futuristic but only applies to the short term, as future law amendments will close a loophole.	It is concerned with the past and what was done after tax liability arose. It is done in a way that violates the law's morals in order to gain an advantage.	It is an ongoing process that considers the past (rectification, revisions, etc.), the present (filing returns, etc.), and the future (corrective action).
Benefit	The benefits in tax planning arises in long run.	Benefits arises in short run only.	Benefits typically do not result, but there may be	It is possible to avoid a fine, interest, and legal

			penalties and legal action.	action.
Treatment of Law	It makes use of legal advantages.	It tries to avail benefits in the loopholes of law.	The law is superseded by it.	It implements the law.
Practice	It practices Tax saving.	It practices Tax hedging.	It practices Tax concealment.	It practices tax administration .
Morality	It is moral in nature.	It is immoral in nature	It is illegal.	It is duty.

11.7 PRINCIPLES OF ETHICS IN TAXATION

1. **Honesty:** Taxpayers should give the appropriate authorities accurate and truthful information.
2. **Accountability:** Taxpayers are accountable for meeting their financial commitments and contributing their fair share of taxes.
3. **Fairness:** Taxpayers should aim for fairness in their tax compliance and planning, making sure they pay the proper amount of tax depending on their circumstances and income.
4. **Transparency:** Taxpayers should be open and honest in their interactions with tax authorities by revealing all pertinent information and staying away from transactions that are secret or unclear.
5. **Respect for the law:** Instead of trying to evade or get around the tax regulations of their country, taxpayers should respect and follow them.
6. **Social responsibility:** Recognizing that taxes finance public goods and services that benefit society as a whole, taxpayers should take into account the broader social ramifications of their tax planning and compliance.

11.8 NEEDS FOR ETHICS IN TAXATION

Ethics in taxation is important for several reasons, including:

1. Encouraging fairness and equality:

Taxation ethics contribute to ensuring that everyone pays their fair share of taxes depending on their income and circumstances and that tax laws are not abused to unjustly favour certain groups over others.

2. Upholding the rule of law:

By ensuring that taxpayers and tax authorities respect the law and that tax policies are in line with ethical and moral norms, ethics in taxation contributes to the preservation of the integrity of tax systems.

3. Protecting Public Trust:

Maintaining public faith in government institutions and tax systems is made possible by the promotion of openness, honesty, and accountability in tax laws and procedures.

4. Ensuring sustainability:

Promoting ethical and effective use of tax revenues and encouraging tax compliance, ethics in taxes helps ensure that tax systems are sustainable over the long run.

5. Promoting economic progress:

By encouraging fair competition and reducing tax fraud and avoidance, which can impede economic growth, ethics in taxes helps level the playing field for firms and people.

Overall, the promotion of trust, justice, and accountability in tax systems, as well as ensuring that tax policies are in line with ethical, moral, and social norms, depend on taxation ethics. Individuals and businesses may support a more just and equitable society by upholding ethical standards and values in their tax compliance and planning.

11.9 EXERCISE

1. State whether true or false:

- a. Saving of taxes by any means is an example of tax planning.
- b. Tax Avoidance and tax planning both are legal.
- c. Tax Evasion is illegal in nature.
- d. It is duty of assessee to mention all the income with honesty.

Ans:

True: c, d

False: a., b.

2. Answer in Brief:

- a. What are the objectives of Tax Planning
- b. Distinguish between Tax planning, Tax Avoidance & Tax Evasion

3. Short Notes:

- a. Tax planning
- b. Tax Avoidance
- c. Tax Evasion
