As Per Revised Syllabus under CBCGS System of BAF Course under Mumbai University w.e.f. June, 2017

Vipul's™

TAXATION – III

DIRECT TAXES

(PAPER – II)

(BAF / B.Com. Financial Management)

(Second Year : Fourth Semester)

(Elective Courses)

[For April 2021 and October 2021 Examination]

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PREFACE

I am happy to present the book "Direct Taxes - II" to the students of B.Com. Accounting and Finance (BAF) and B.Com. Financial Management of Mumbai University. In this edition, an effort has been made to incorporate the latest examination questions at relevant places in the book.

The syllabus contains a list of the topics covered in each chapter which will avoid the controversies regarding the exact scope of the syllabus. The text follows the term-wise chapter-topics pattern prescribed in the syllabus.

The numerous illustrations are arranged in ascending order of difficulty containing full solutions to questions asked in various examinations of Mumbai University and Professional Examinations. 'Exercises' contain the theory as well as practical questions.

I preferred to give the text of the section and the Rule as it is and thereafter added the comments with the intention of explaining the subject to the students in a simplified language. While making an attempt to explain in a simplified language, any mistake of interpretation might crept it.

This book is an unique presentation of subject matter in an orderly manner. This is a student friendly book and a tutor at home. I hope the teaching faculty and students' community will find this book of great use.

I welcome constructive suggestions for improvement.

I am extremely grateful to Mr. Nitin Maroo of Vipul Prakashan for their devoted and untiring personal attention accorded by them to this publication. I gratefully acknowledge the immense contribution and suggestion from various colleges. I gratefully acknowledge my deepest and sincere thanks to Mr. Jitendra Singh, Dr. Chaitaly Chakraborty and Mrs. Janki Nishikant Jha for the immense contribution to improve continuously this revision and updating without whose inspiration support, constructive suggestions.

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Authors' Profile

Dr. N. K. Jha approved Ph.D. & M.Phil. Guide by University of Mumbai & HOD for BAF Thakur College of Science and Commerce [Autonomous], UGC 2(F) & 12 (B) recognised college; He did his M.Com. from University of Mumbai, in 2002. ICWAI from Calcutta, PGDBM [MBA] from ICFAI University Hyderabad. Thereafter, he obtained Ph.D. degree from SKM University, Dumka, Jharkhand. CIMA Advocate, CIMA London, International Executive MBA from United Business Institutes Brussels, Belgium, Europe & BEC from Cambridge University & D.Litt. from ITU, Maryland, USA. He has Specialization in Accounting, Banking and Finance. He is BoS member for B.Com. Accounting & Finance and Financial Management University of Mumbai & SRTM University Nanded & Many Autonomous Colleges. He has Successfully Guided 13 Ph. D. & 14 M. Phil. Students. Dr. Jha has 153 books in his credit and has published 123 research papers on the subject in reputed ISBN reference book/ ISSN journals. He also presented 111 research papers in national and international conferences among these one paper have been accepted in UKSS international conferences in St. Anne's College, Oxford University UK & another paper on "How to Teach Easily-Accounting & Finance and Management" Organized by University of Malaya, Kuala Lumpur, Malaysia. He is an author for LAP LAMBERT Academic Publishing is a trademark of AV Akademikerverlag GmbH & Co. KG, Heinrich-Böcking-Str. 6-8,66121, Saarbrücken, Germany. His 2 research paper has been selected for best research paper award in National Conference, Mumbai, 1 research paper has been selected for best research paper award in International Conference, Punjab & Rajasthan & One Paper on 'Innovative Thoughts-Education, Management, Arts, Science, and Linguistics' Winner for "Anuragam – National Level Competition on Teaching at Chennai. He Received Best Commerce Author & Best Researcher Award 2013-14 by Maharashtra Commerce Association in Mumbai. National Citizen Gold Medal Award for Outstanding Individual Achievement in the field of Education and Social Service from Global Economic Progress & Research Association Chinnai Tamilnadu. Rajiv Gandhi Gold Medal Award GEPRA New Delhi 2014-15. Maharashtra State level Mahatma Jyotiba Phule Excellent Teacher Award 2016. Maharashtra Guru Gaurav Award 2016-17, Outstanding Contributions in the field of Education by Global Human Research & Welfare Society and College Times; Thane. Maharashtra State Exemplary Teacher Award 2017-18, Outstanding Contributions in the field of Education by KNDBM, Nasik (M.S.). Swami Vivekananda Human Service Award at All India Talent Conference Vasco Goa 2018-19. Community Leader Award by PWD Department Government of Maharashtra MMV Dept. & CASI Global at YBC opp. Mantralaya Mumbai 2019-20. Life Member for Indian Commerce Association [ICA], Indian Economic Association [IEA], Indian Accounting Association [IAA], Indian Accounting Association Research Foundation [IAARF], Maharashtra Commerce Association [MCA].

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SYLLABUS

Unit	Modules/ Units	No. of Lectures for BAF	No. of Lectures for FM
1	**Clubbing of Income:** Section 60 to 65	5	5
2	**Set Off & Carry Forward of Losses**	5	5
	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**	5	5
4	**Computation of Income of Partnership Firm in Relation to Sec: 40(b) & Tax Thereon With Applicable Rate of Tax**	15	15
5	**Return of Income – Sec 139**	5	10
	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**	15	15
	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**	5	5
8	**Tax Planning and Ethics in Taxation – Basic Concepts**	5	–
	Total	**60**	**60**

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.

Question Paper Pattern

Duration: 2½ Hrs. **Maximum Marks:** 75

Questions to be Set: 05

All Questions are Compulsory Carrying 15 Marks each.

Q-1	Objective Questions (A) Sub Questions to be asked 10 and to be answered any 08 (B) Sub Questions to be asked 10 and to be answered any 07 (*Multiple choice / True or False / Match the columns, Fill in the blanks)	**15 Marks**
Q-2	Full Length Practical Question	**15 Marks**
	OR	
Q-2	Full Length Practical Question	**15 Marks**
Q-3	Full Length Practical Question	**15 Marks**
	OR	
Q-3	Full Length Practical Question	**15 Marks**
Q-4	Full Length Practical Question	**15 Marks**
	OR	
Q-4	Full Length Practical Question	**15 Marks**
Q-5	(A) Theory questions	**08 Marks**
	(B) Theory questions	**07 Marks**
	OR	
Q-5	Short Notes To be asked 05 To be answered 03	**15 Marks**

Note: *Full Length Question of 15 Marks may be Divided into Two Sub Questions of 08 and 07 Marks.*

CONTENTS

***** This chapter is **not** to be studied by B.Com. Financial Management Course Students.

Chapter 1

Clubbing of Income

(Section 60-65)

INTRODUCTION:

Under Section 60 Income arising to any person by virtue of any transfer of income assets remaining property of the person, who made the transfer, is deemed to be the income of **transferor and is taxable in his hands**. It will not make any difference whether transfer is revocable, or irrevocable, or it was affected before or after the commencement of the Act. There is **no exception to this rule, Transfers under a settlement, trust, covenant, agreement** or arrangement are also covered by this section.

By virtue of Section **61/62/63 income arising to any person as a result of transfer of asset**, is deemed as income of the transferor if:

- the transfer is revocable; or
- it contains any provision for the retransfer, directly or indirectly, of the whole or any part of the income or assets to the transferor; or
- it gives the transferor a right to reassume power, directly, over the whole or any part of the **income or assets**.

Generally, an individual is taxed in respect of his own income. **Section 64 of the income-tax Act provides an exception to this rule and an individual may be taxed in respect of incomes which legally belong to some other person e.g. his spouse or minor child etc.**

INCOMES TO BE CLUBBED:

Broadly speaking such incomes are:

- Remuneration of spouse
- Income from assets gifted to spouse
- Income from assets gifted to son's wife
- Income from assets gifted transferred for the benefit of the spouse
- Income from assets transferred for the benefit of the son's wife
- Income of minor child, and
- Income from own property converted into property of HUF.

REMUNERATION OF SPOUSE: [S. 64(1)(ii)]

(1) **When remuneration is clubbed:** Normally, remuneration received by a spouse, say Mrs. W, wife of Mr. H, would be taxed in the hands of Mrs. W. However, such remuneration will be taxed in the hands of Mr. H when:

(a) income arises, directly or indirectly, to (W) the spouse of the individual (H):

(b) by the way of salary, commission, **fees or any** other form of remuneration (whether in **cash or in** kind):

(c) from a concern in which such individual (H) has a **substantial interest**.

(2) **When remuneration is not clubbed:** Remuneration solely attributable to the application of technical or **professional knowledge and experience possessed by the spouse is not clubbed.**

(3) **Whose remuneration is clubbed:** Remuneration of the spouse is to be clubbed. Spouse means marriage partner **i.e. either the husband or the wife.** (Thus, W is the spouse of H; and H is the spouse of W). Relationship of husband/wife should exists at the same time of accrual of income. The relationship must arise out of a legal marriage.

(4) **How remuneration is clubbed:** Income to be clubbed in the hands of individual is limited to salary, commission, fees or any other remuneration received by the spouse, directly or indirectly, whether in cash or in kind. Any other **income (say, brokerage) cannot be clubbed** under this provision, even if it accrues to the spouse from a concern in which the individual has a **substantial** interest.

(5) **Substantial Interest:** The individual has substantial interest in a concern when:

(a) in respect of a company, the individual **along with his relative(s) beneficially owns 20% or more of its voting power any time during** the year.

(b) in respect of any other concern (e.g. a firm), the individual along with his relative(s) is **entitled to 20% or more of its profits any** time during the year.

Relative means the husband, wife, brother or sister or any lineal ascendant or descendant of that individual.

(6) **If Applicable to Both Spouses:** Where both husband and wife have a substantial interest in the concern and both earn remuneration from such concern, remuneration will be included in the total income of **husband or wife whose total income excluding such remuneration is more.** Where such income is once included in the income a particular spouse, similar income **arising** subsequently must be included in the income of that spouse only.

INCOME FROM ASSETS GIFTED TO SPOUSE: [S. 64 (1(iv)]

(1) **When income is clubbed:** Normally, income earned by a spouse, say Mrs. W, wife of Mr. H, from assets belonging to her would be taxed in her hands. However, such income will be taxed in the hands of H, the transferor, if:

(a) such income arises, directly or indirectly, to the spouse of the individual (W), from the assets transferred, directly, indirectly, to the spouse by such individual (H); and

(b) such transfer is **otherwise than for adequate considerations** or in connection with an argument to live apart.

(2) **When income is not clubbed:** This provision does not apply **to transfer of a house property**

(3) **Special Points:** Following special points should be noted –

(a) The relationship as 'spouse should exists both at the time of transfer of assets and accrual of income. Thus, the income accruing to the would-be –wife before marriage or the widow after death of the husband from transferred assets cannot be clubbed, because a would-be wife or a **widow is not a spouse.**

(b) Transfer **includes a lease**.

(c) Indirectly transfer of assets means many inter-connected transfers which finally results in such transfer of assets.

(d) Transfer for 'adequate considerations' does not include transfer made out of natural love and affection or transfer to obtain religious or spiritual benefits.

(e) **Capital gains** arising from sale of such assets is also **subject to clubbing.**

(f) Income arising from investments out of such transferred assets is computed and clubbed as explained below.

(i) if the spouse invests the amount received, as her capital contribution in a firm, the interest from the firm, if any, to be clubbed is computed by the followings formula:

$$\text{Interest from the firm} \times \frac{\text{Capital contributed out of the assets received as on 1st day of P.Y.}}{\text{Her Total capital in firm as on 1st day of P.Y.}}$$

(ii) in case of **investing in any other business**, the income to be clubbed is the income arising from such business to the spouse in the previous year computed by the following formula:

$$\text{Income from such business} \times \frac{\text{Investment out of a assets received as on 1st day of P.Y.}}{\text{Her Total investment in business as on 1st day of P.Y.}}$$

E.g. However, income arising to the transferee from the accretion of such property or from accumulated income of such property is not includible in the total income of the transferor. For **example**, where X transfers Rs. 2,00,000 to his wife without any considerations and Mrs. X deposits the money in a bank, interest received from the bank on such deposits is **taxable in the hands of X.** if, however, **Mrs. X purchases debentures** of a company from the accumulated interest income, interest received by Mrs. X on debentures is **taxable in her hands** and is not to be clubbed with the income of X.

INCOME FROM ASSETS GIFTED TO SON'S WIFE: [S. 64(1) (vi)]

(4) **When income is clubbed:** Normally, income earned by the son's wife, say Mrs. D wife of son of Mr. F, assets **belonging to her would be taxed in her hands**. However, such **income** will be taxed in the **hands** of F, the transferor, if:

(a) such income arises, directly or indirectly, to the wife of the son of the individual, from assets transferred, directly or indirectly to the son's wife by such individual; and

(b) such transfer is made **otherwise than for adequate considerations**, on or after **1st June, 1973.**

(5) **Special Points:** Following special points should be noted-

(a) The **relationship as son's wife should be exists both** at the time of transfer of assets and accrual of income.

(b) Transfer includes a **lease.**

(c) Indirect transfer of assets covers a chain of many inter-connected transfers which finally results in such transfer of assets.

(d) Transfer for adequate considerations does not **include transfer made out of** natural love and affection or transfer to obtain religious or spiritual benefits.

(e) Capital gains arising from sale of such assets is also subject to clubbing.

(f) Income arising out of investments out of such transferred assets is computed and clubbed as explained below.

(i) if the son's wife invests the amount received, as her capital contribution in a firm, the interest from the firm, if any, to be clubbed is computed by the following formula:

$$\text{Interest form the firm} \times \frac{\text{Capital contributed out of assets received as on 1st day of P.Y.}}{\text{Her Total capital in firm as on 1st day of P.Y.}}$$

(ii) in case of investment in any other business, the income to be clubbed is the income arising from such business to the son's wife in the previous year computed by the following formula

$$\text{Interest from the firm} \times \frac{\text{Investment out of assets received as on 1st day of P.Y.}}{\text{Her Total investment in business as on 1st day of P.Y.}}$$

E.g. However, income arising to the transferee from the accretion of such property or from accumulated income of such property is not includible in the total income of the transferor.

INCOME FROM ASSETS GIFTED FOR BENEFIT OF SPOUSE: [S. 64(1)(Vii)]

(1) When income is clubbed: Income is clubbed U/S 64(1) (vii), if the following conditions apply

- **(a)** such income arises directly or indirectly to any person or association of person from assets transferred, directly or indirectly, to such a person or association of persons from such individual;
- **(b)** such transfer is made otherwise than for adequate considerations; and
- **(c)** the income from such assets is for the immediate or deferred benefit of the spouse of such individual.

(2) Transfer to AOP: 'Association of persons' include a trust. Thus if Mr. H makes a gift of Rs. 1,00,000 to a trust with the specific condition that, the trust should pay out of the income of trust Rs. 10,000 per year to his wife Mrs. W, such amount received by Mrs. W will be taxed in the hands of **Mr. H.**

INCOME FROM ASSETS GIFTED FOR BENEFIT OF SON'S WIFE: [S. 64(1) (viii)]

(1) When income is clubbed: Income is clubbed u.s. 64 (1) (viii), if the following conditions apply:

- **(a)** such income arises directly or indirectly, to any person or association of persons from assets transferred, directly or indirectly, to such person or association of persons by such individual on or after **1st June, 1973**;
- **(b)** such transfer is made otherwise than for adequate considerations; and
- **(c)** the income from such assets is for the immediate or deferred benefit of such individual's son's wife.

(2) Transfer to AOP: 'Association of person' include a trust. Thus, if Mr. F makes a gift of Rs. 2,00,000 to a trust with the specific condition that, the trust should out of the income of trust pay Rs. 20,000 per year to Mrs. D (his son's wife), such amount received by Mrs. D will be taxed in the hands of Mr. F.

INCOME OF MINOR CHILD: [S. 64(1A)]

(1) When income is clubbed: All income which arises or accrues to the minor **(below 18 years)** shall be clubbed in the income of his parent.

(2) When income is not clubbed: However, the following will not be so clubbed:

- **(a)** income derived by the minor from manual work (e.g. **child worker**) or from any activity involving applications of his talent or specialized knowledge and experience (e.g. artist **singer, sportsperson** etc.); and
- **(b)** income of minor child suffering from any disability of the nature specified in section **80U**

(3) Clubbed with Whose Income: The income of minor will be included in the income of that parent-

- **(a)** whose total income [excluding the income includible under section 64 (1A)] is greater provided that the **marriage of the parents subsists** (is in force); or
- **(b)** who maintains the minor child in the relevant previous year, where the marriage of the parents **does not subsist (e.g. parents** are divorced).

(4) Clubbing in Subsequent Year (s): Where any such income is once included in the total income of either parent, any such income arising in any such succeeding year shall not be included in the total income of the other parent, unless the Assessing Officer is satisfied (after giving that parent an opportunity of being heard) that it is necessary so to do.

(5) Exemption: In case the income of an individual includes the income of his minor child in terms of section 64 (1A), such individual shall be entitled to an exemption upto Rs. 1,500 in respect of each minor child [as per s. 10 (32)].

(6) Special Points: The following special points should be noted

- **(a)** 'Minor child' includes a step child and an adopted child; but excludes an illegitimate child.
- **(b)** 'Income' to be included is the net income (i.e. gross income less deduction under chapter VI).
- **(c)** If a child becomes a major, on say 1st October of a previous year; his income between 1st April to 30th September is clubbed with the income of parent as explained above. Income after 1st October will be taxed in the hands of the child.

INCOME FROM PROPERTY GIFTED TO HUF: [S. 64(2)]

(1) When income is clubbed: Normally, income earned by a Hindu undivided family (HUF) would be taxed in the hands of the HUF. However, the situation changes if an individual, being a member of a HUF, converts, without receiving adequate considerations, his separate property into the property of HUF, by-

- **(a)** Impressing his property with the character of the property of HUF; or
- **(b)** Throwing his property into the common stock of the family; or
- **(c)** Transferring it directly or indirectly to the HUF.

On such conversion, the individual is deemed to have transferred such property, through the HUF, to the members of the HUF, to be held by them jointly.

(2) How income is clubbed: The income from the converted property is taxed as follows:

- **(a)** the entire income from the converted property is treated as the income of the transferor (until there is a partition of such property i.e. division among all the members of HUF);
- **(b)** if the converted property is subsequently portioned amongst the members of the HUF, the income derived from such converted property, as is received by the transferor as well as his spouse will be treated as his income.

CLUBBING OF LOSS: [S. 64-Explanations 2]

For the purposes of including the income of specified persons in the income of the individual, the word "income" will include a loss. Thus, if S.64 applies, not only the income will be added, but even the losses will be deducted. Thus, where assets gifted by husband are sold by wife, if there is capital gain it will be added to the husband's income; if there is short-term capital loss it will be deducted from the husband's income.

Illustration 1:

Mrs. Shah is an employee of A Ltd. earning salary of **₹ 7,50,000 p a.** State how her salary will be taxed in view of the following further information and the provision of S. 64 (1) (ii):

(1) Mr. Shah holds 25% of the equity shares in A Ltd. Mrs. Shah does not have professional qualification.

(2) Mr. Shah holds 25% of the equity shares in A Ltd. The remuneration is due solely to the professional qualification of Mrs. Shah.

(3) Mr. Shah. Holds 25% of the equity shares in A Ltd. Mrs. Shah is a qualified engineer; but she works as an account.

(4) Mr. Shah holds 15% of the equity shares in A Ltd. and his brother holds 15% of the equity shares in A Ltd. Mrs. Shah does not have any professional qualification.

(5) Mr. Mehta, who is Mrs. Shah's father, holds 25% of the equity shares in A Ltd. Mrs. Shah does not have any professional qualification.

(6) Mr. Shah purchased 25% of the equity shares in A Ltd on 25th March of the relevant previous year. Mrs. Shah does not have any professional qualification.

Solution:

(1) Net Salary will be clubbed with the income of Mr. Shah as he holds substantial interest in the employer -company and Mrs. Shah does not possess any professional qualifications

(2) Net Salary will be taxed in hands of Mrs. Shah as the income is attributable solely to her professional qualification.

(3) Net salary will be clubbed with the income of Mr. Shah as he holds substantial interest in the employer company and though Mrs. Shah does possess professional qualifications; his remuneration is not solely due to such qualifications.

(4) Net salary will be clubbed with Mr. Shah as he (along with his relative) holds substantial interest in the employer company and Mrs. Shah does not possess any professional qualifications.

(5) Net salary will be taxed in the hands of Mrs. Shah as her spouse does not hold any shares at all in her employer-company and Mrs. Shah's father is not a ' relative' of Mr. Shah as defined in S. 64 (1) (ii).

(6) Net Salary will be clubbed with the income of Mr. Shah as he held, during the previous year, substantial interest in the employer company and Mrs. Shah does not possess any professional qualifications.

Note: Net Salary is Rs. 7,50,000 less professional tax if any.

Illustration 2:

Mrs. Dilwala, who has passed FY Arts examination of the Mumbai University works as a receptionist at her husband Dr. Dilwala's Heart Clinic. Dr. Dilwala claims that her salary should not be clubbed with his professional income on the following grounds- (a) the provisions do not apply to a professional concern, (b) the provision do not apply to a sole proprietary concern where the individual is entitled to 100% share in the profits; (c) the provision do not require that the spouse must possess a technical or professional qualification. Do you agree with these arguments? Why?

Solution:

Dr. Dilwala's arguments cannot be accepted for the following reasons:

(1) 'Concern' includes any establishment carrying on a business or a profession.

(2) 'Substantial Interest' also includes 100% interest held by an individual in his sole proprietorship concern.

(3) 'Professional or technical qualification' does not cover passing of FY Arts' of a University.

Hence, Mrs. Dilwala's salary should be clubbed with the professional income of her husband, as the conditions laid down u/s 64 are satisfied.

Illustration 3:

Examine the following transactions in the light of s. 64 (1) (iv) and advice whether clubbing provisions will apply.

(1) W earns interest of Rs. 10,000 on a fixed deposit of Rs. 1,00,000 transferred by her husband H out his natural love and affection for her as it is without ask made cut?

(2) W earns interest of Rs. 10,000 on the bank deposit of Rs. 1,00,000 gifted by H to her on the day of **their engagement.**

(3) W earns interest of Rs. 10,000 on the bank deposit of Rs. 1,00,000 transferred by her **ex- husband H** to her as per their agreement to **live apart due** to break- down of marriage.

(4) W earns interest of Rs. 10,000 on the fixed deposit of Rs. 1,00,000 gifted by her brother- in-law B, who in turn had received Rs. 1,00,000 on the same day **from W's husband H**.

(5) W earns interest of Rs 1,000 on the amount saved by her out of monthly allowance given by her husband for **household expenses and** invested by her in a bank deposit of Rs. 10,000.

Solution:

(1) Yes, as transfer of asset out of natural love and affection is transfer of asset without adequate consideration.

(2) No; as there is no relationship of spouse on the date of the transfer of asset.

(3) No; as the transfer of asset is in connection with the agreement to live apart.

(4) Yes; as the there is an indirect transfer of assets.

(5) No; as there is no transfer as such of any asset.

Illustration 4:

Determine whether the following incomes are liable to be included in the total income of H (the husband) in respect of asset transferred by him to W (his wife). Their marriage took place on October 1, 2019.

No.	Asset transferred	Whether section 64 (1) (iv) is applicable to the income derived from such asset.
1	H gifts a house property to W on December 1, 2019. The house is let out for Rs. 5,000 p. m	Rent will be taxed under the head "Income from house property" in the hands of H by virtue of section 27 (i). The case is not covered under section 64(1) (iv)
2	H leases an asset to W on January 1, 2020 **without adequate** consideration. Income from such asset for the previous year 2019-20 is Rs. 1 lakh.	Rs. 1 lakh **is included** in the total income of H. It should be noted that "transfer" includes a lease.
3	H transfers a car to W **for Rs. 3 lakh** on January 1, 2020. Market value of the car as on this date is Rs. 3 lakh. W runs the car on hire during the previous year 2019-20 and earns Rs. 25,000.	Income from such car is **not included** in the total income of H as it was transferred to W for adequate consideration.
4	In 3 above, assume that W sells the car on February 1, 2020. Capital gain arising from such transfer is Rs. 0.5 lakh.	Capital gain of Rs. 0.5 lakh is charged in the hands of W for the assessment year 2020-21 as the clubbing **provisions are not applicable** due to transfer being for adequate consideration.
5	Out of natural love and affection, H gifts Rs. 5 lakh to W on January 1, 2019. W utilizes Rs. 10 lakh (including Rs. 5 lakh gifted) to purchase an asset. Income for the previous year 2019-20 from such asset is Rs. 10,000.	That part of income which is related to the amount gifted. i.e. Rs. **5,000 (50% of Rs. 10,000)** is included in the total income of H.
6	Assume in (5) that the relationship between H and W comes to an end on January 1, 2020.	Since the relationship between H and W is not in existence at the time of accrual of income, nothing is clubbed with the income of H.

7	Assume in (5) that W incurs Rs. 500 as expenses for earning such income and that the income is taxable under the head 'Income from other sources'.	Rs. 500 can be deducted under section 57(ii). Therefore, Rs. 250, being 50% of Rs. 500, is deducted from Rs. 5,000 and the balance of Rs. 4,750 is clubbed with the income of H.
8	H gifts Rs. 10 lakh to W January 1, 2019 W starts a business on April 1, 2019 by investing Rs. 15 lakh in cash of her own and machinery purchased out of the gifted amount. The value of machinery purchased out of the gifted amount on April 1, 2019 is Rs. 5 lakh. Income from such business for the previous year 2019-20 is Rs. 4 lakh.	Income to be clubbed = Rs. 4 lakh (income) × Rs. 5 lakh being value of machinery on April 1, 2018 ÷ Rs. 20 lakh being total investment on April 1, 2019. Thus, Rs. 1 lakh is clubbed with the income of H for the assessment year 2020-21.
9	H gifts a computer to W on January 1, 2020, W lets it out during January 2020. For Rs. 5,000. Rent becomes due on January 31, 2020. The relationship between H and W come to an end on March 15, 2020.	As the relationship exists as on January 31, 2020 being the date of accrual of income, Rs. 5,000 is clubbed with the income of H even though the rent is received after their relationship comes to an end.

Illustration 5:

Master Chhote Mia, who is the minor son of Mr. Bade Mia, submits the following particulars of his income for the current previous year:

(1) Income from house property (as computed) Rs. 25,000. The house was gifted to him by his uncle.

(2) Income from debentures of an Indian company Rs. 20,000. The debentures were gifted to him by his mother Mama Mia.

(3) Income from acting in a films Rs. 1,00,000.

Who is liable to pay tax on the above income? Will your answer be different if Master Chhote Mia is a handicapped child?

Solution:

(1) The following amount will be clubbed with the income of either Mr. Bade Mia or his wife Mama Mia (depending on whose income, be fore such clubbing, is greater.

Particulars	Rs.
Income from house property	25,000
Interest on debentures	20,000
	45,000
Less: Exemption u /s 10 (32)	(1,500)
Net Income to be clubbed	43,500

(2) Income from acting in a film will not be clubbed but taxed in the hands of Master Chhote Mia.

(3) If Master Chhote Mia is a handicapped child, his income will not be clubbed. His income, computed as below, will be taxed in his hands (to enable him to claim deduction u/s 80 U):

Particulars	Rs.
Income from house property	25,000
Interest on debentures	20,000

Income from acting in Films	1,00,000
	1,45,000
Less: Deduction u/s 80U	(75,000)
Net Income	70,000

Illustration 6:

Mr. Ratan transfer Rs. 1,00,000 to Mr. Ketan, his uncle. Mr. Ketan creates a trust with a corpus of Rs. 1, 00,000 for the equal benefit of the following members of Ratan's family: Ratan's wife, his minor daughter, his son's wife, son's minor child and an orphan child who stays with them. Discuss the taxability of the share of income arising to each member of Ratan's family from the trust.

Solution:

(1) Income arising to Ratan's wife from the trust will be clubbed with the income of Mr. Ratan under S. 64 (1)(vii), as the income if from assets transferred to an AOP (trust) for the benefit of spouse.

(2) Income arising to Ratan' son's wife from the trust will be clubbed with the income of Mr. Ratan. Under s 64 (1) (vii), as the income is from assets transferred to An AOP (trust) for the benefit of son's wife.

(3) Income arising to Ratan's minor daughter from the trust will be clubbed with the income of either Mr. Ratan or his wife (depending on whose income, excluding such income of the minor daughter, is higher), as this transaction falls under s 64 (1A).

(4) Income arising Ratan's Son's minor child will be clubbed with the income of either such child's father (Mr. Ratan's son) or mother (Mr. Ratan's daughter in law), as this transaction falls under s 64 (1A).

(5) Income arising to the orphan child from the trust will not be clubbed with the income of Mr. Ratan, as the child is neither the natural nor the adopted child of Mr. Ratan.

Illustration 7:

X transfer his self acquired property being debentures of face value of Rs. 4,00,000 (yielding annual interest income at the rate of 10 per cent, accruing on March 31 every year) his HUF without any consideration on April 1, 2018. On April 1, 2019, the HUF undergoes complete partition whereby the converted property is divided equally amongst X, his wife, his minor son and his brother being the members of the HUF, explain how the interest will be taxed in the respective years.

Solution:

(1) In the previous year 2018-2019, the entire interest income of Rs. 40,000 will be taxed in the hands of Mr. X.

(2) In the previous year 2019-20, brother of X will be taxed on interest of Rs. 10,000 earned by him. X will be taxed on the income computed as shown below:

Particulars		Rs.
Interest earned by Mr. X		10,000
Interest earned by Mrs. X (including u/s 64 (2))		10,000
Interest earned by minor son of X	10,000	
Less: Rs. 1,500 exempt u/s 10 (32)]	1,500	8,500
Total income taxed in the hands of X		28,500

Illustration 8:

M provides the following particulars of the assessment year 2020-21:

Particulars	Rs.in lakhs
Income from house property	3.00
Income from other sources	2.00
Income from business	5.00
Loss under the head 'Income from other sources' of Mrs. M (to be clubbed with the income of M)	1.00
Salary received by Mrs. M(to be clubbed with the income of M)	6.80
Professional income of R (minor child of M) from singing	2.00

Compute the total income of each family member.

Solution:

Total Income of M, Mrs. M and R for the assessment year 2020-21 is computed as follow

	Particulars	M Rs (lakh)	Mrs. M Rs. (lakh)	R Rs. (lakh)
(a)	**Income from salary:**			
	Total salary income	6.80	-	-
(b)	**Income from house property**	3.00	-	-
(c)	**Income from business or profession:**			
	professional income of R (not to be clubbed)	-	-	2.00
	Income from business.	5.00	-	-
(d)	**Income from other sources:**			
	Rs. 2 lakh less loss from other sources of Mrs. M of Rs. 1 lakh	1.00	-	-
(e)	**Gross total income (a + b + c + d)**	15.80	Nil	2.00

Illustration 9:

Ramesh gifted Rs. 2,00,000 to his wife in August, 2019 which was utilized by her in buying a house, for Rs. 3,50,000. Balance of the funds were arranged by her as under.

(a) Rs. 1,00, 000 from her personal assets.

(b) Rs. 50,000 by way of, loan from her friend.

The house is let out by her on a rent of Rs. 3,000 per month. The loan was repaid out of rent received and now surplus amount is deposited in bank which fetches her annual interest of Rs. 10,000. The Assessing Officer desires to club all this income in the hands of her husband. Advice, what will be the tax consequences, if she sells the house and capital gains arise?

Solution:

(1) Out of the income of Rs. 36,000 per annum by way of rent, a portion is attributable to the gift from Ramesh. Rs. 2,00,000 have been given by him out of the purchase price of Rs. 3,50,000. It is therefore necessary that 2,00,000 divided by Rs. 3,50,000 multiplied by Rs. 36,000 be included in his total income. The AO will therefore include Rs. 20,571 in the income of Ramesh whereas his wife will pay tax on Rs. 15,429.

(2) Interest income will however be taxed in her hands because income on income from the transferred asset is outside the scope of section 64 (1) (iv).

(3) In case she sells the house, then 4/7ths of the capital gains will be taxable in the hands of Ramesh.

Illustration 10:

Kumar gives you particulars of different transactions affecting his assessment for the previous year 2019-20 as below:

(a) Kumar settled marriage of his son S with D on 10th July, 2019 and soon after gifted Rs. 50,000 to D- the would be daughter in law. The marriage was celebrated in December, 2019. Income from this gift accruing to D amounted to Rs. 10,000.

(b) Kumar received remuneration from X Company Ltd. By working there as its managing director. He did not own any shares in the company. He does not have any special technical qualification or experience. However, his wife is holding 30% of the shares in her name. She bought them with her own money Kumar's other income is Rs. 1,00,000 whereas Mrs. Kumar earns other income amounting to Rs. 30,000 only.

Discuss how the above transaction will be treated in the Assessment of Kumar of Mrs. Kumar.

Solution:

(a) Income of Rs. 10,000 accruing to D is taxable in her hands only because the gifting was done before she became daughter in law of Kumar. Application of section 64(1)(vi) is not possible in this case.

(b) Income from the company will be subjected to clubbing provisions of the Act. Kumar was not appointed because of any technical qualification or experience. The clubbing is done in the hands of that spouse whose income is higher and therefore the amount of Rs. 50,000 will be taxed in his hands only because income of his wife is less than his income. There fore clubbing provisions do not change the taxability.

Illustration 11:

B is karta of a Hindu undivided family whose members derive income as given below:

Particulars	Rs.
(a) B from business which is his own	50,000
(b) B's wife a school teacher draws salary	40,000
(c) Minor daughter D acts in a film and received remuneration	1,00,000
(d) Minor son C got winning from lottery	2,00,000

Explain how the above will be taxed.

Solution:

Business income will be assessable in the hands of B.

(a) B's wife pays tax on her salary.

(b) Income from acting received by daughter D (through minor) will taxed in her hands.

(c) Lottery winnings to the minor will be taxed in the hands of B notwithstanding as to buy the ticket, after deducting Rs. 1,500 u/s 10 (32).

B's income will be as below:

Particulars	Rs.
(a) Profit and gains from business.	50,000
(b) Income from other sources: Winnings from lottery to minor son (2,00,000-1,500)	1,98,500
(c) **Gross Total Income (a + b)**	**2,48,500**

Illustration 12:

Who is liable to pay tax on the following incomes:

(a) Mr. Ram transferred a property worth Rs. 3 lakhs to his son's minor child on 10th May, 1979. The income accrued to the child from the property Rs. 50,000 during the previous year 2019-20.

(b) Mr. Ram transferred property worth Rs. 2 lakhs to his son's wife on 10th June, 2009. The income accrued to her from the property Rs. 30,000 during the previous year 2019-20.

(c) Mr. Ram, a member of Hindu undivided family, transferred his personal property worth Rs. 1,00,000 to the HUF on 10th July, 1984 without consideration. The income accrued to the family from the property Rs. 20,000 during the previous year 2019-20.

Solution:

(a) Mr. Raman transferred the property to his son's minor child prior to 1-6-1979. During the previous year 2019-20 the child is major. Hence the child is liable to pay tax on his income Rs. 50,000.

(b) Mr. Ram transferred the property to his son's wife on 10-06-2009 without adequate consideration. Hence, the income from such property (Rs. 30,000) is liable to be taxed in the hands of Mr. Ram and not in the hands of Son's wife.

(c) Mr. Ram transferred the individual property without consideration to the HUF. On 10-07-1984, hence the whole income (Rs. 20,000) from such property is liable to be taxed in his hand and not in the hands of the HUF.

Illustration 13:

B, an individual, furnishes the under noted in connection with the preparation of his income tax return for the assessment year 2020-21.

In consideration of the marriage of his son D with on June 30, 2019, B made a gift to M by a registered conveyance of property of value Rs. 25,000 on June 25, 2019, the day on which the marriage proposal was finalized. The income arising out of this property from June 25, 2019 to March 31, 2020 (the end of the previous year) amounted to Rs. 4,000.

Discuss how the information noted above will affect the assessment of B, D, M and Mrs. B.

Solution:

The income from property transferred to M will not be included in the income of B, because the transfer was made to M on the date when she was not the daughter in law. For the application of section 64(1)(vi) it is important that on the date of transfer of property the transfer must be father in law or mother in law of the transferee and the transfer must be without adequate consideration in money or money's worth, Hence, in the given problem, the clubbing provision will not apply.

Illustration 14:

The Income of a family as under:

(a) Mr. Ram from business Rs. 50,000.

(b) Mrs. Ram from employment Rs. 40,000.

(c) Minor son of Mr. Ram (Interest from a company) Rs. 10,000.

(d) Minor son of Mr. Ram, Mr. Krishna (From acting in film) Rs. 60,000.

(e) Minor daughter of Mr. Ram, Miss Anjali Rs. 6,000.

Discuss in whose hands the incomes are assessed and to what extent.

Solution:

(A) Computation of Income of Mr. Ram

Particulars	Rs.	Rs.
Income from business		50,000
Income from Other Sources		
Income of minor Son: Interest	10,000	
Less: Amount exempt u/s 10 (32)	1,500	
		8,500
Income of minor daughter	6,000	

Less: Amount exempt u/s 10(32)	1,500	
		4,500
Total Income		63,000

(B) Income of Mrs. Ram:

Salary Rs. 40,000

(C) Income of minor son- Krishna

Income from acting- Not including in the income of parent 60,000

Note: Income of Mr. Ram is more than the income of Mrs. Ram. Hence, the income of minor son and daughter has been included in his income.

Illustration 15:

S has transferred a house property to U on 1-4-2009. U married R, who is the son of S, on 1-4-2009. The income from the property received by U during the previous year 2019-20 is Rs. 1,20,000. The Assessing Office has clubbed the above income in the hands of S. Is the action of Assessing officer right under the law?

Solution:

The relationship of father in law and the daughter in law between S and U did not exist at the time of the transfer of the property. Therefore, the clubbing provision of section 64(1) (vi) of the Income tax Act, 1961 is not applicable. It is essential that such relationship should be there both (a) at the time of accrual of the income, and (b) at the time of transfer pf property.

Transfer of asset to the prospective daughter in law is outside the scope of clubbing provision even if income accrues after the son's marriage.

Therefore, the action of the Assessing Officer is not right under law.

Illustration 16:

D is born on June 7, 2004. Her engagement took place on March 5, 2019. On the said day she received cash gifts of Rs. 25,000 each from her father, father's mother, father's father, mother, mother's mother and mother's father. All the six relatives made similar gifts on the day of marriage, i.e., on April 1, 2019. The amount so received is deposited in a private limited company in which her husband has substantial interest. For the year ending March 31, 2020, the company has paid her interest @ 14 per cent i.e. Rs. 42,000. Discuss how this income will be assessed to income tax.

Solution:

As 'D' is minor, therefore entire income of Rs. 42,000 Less Rs. 1,500 (exemption u/s 10(32)) = Rs. 40,500 shall be included in the income of father/mother whose income before this clubbing is greater.

Illustration 17:

Y is a trade. Particulars of his income and those of the members of his family are given below. These relate to the previous year ending March 31, 2019.

Particulars	Rs.
Income from Y's business	90,000
Salary from College earned by Mrs. Y	40,000
Income derived by Master Z (minor son) from deposits made from gift from his uncle	12,000
Receipt from sale of paintings made by Miss A (minor daughter and child artist)	60,000
Lottery prize received by Master B (minor son)	6,000

Solution:

P/Y – 2019-20 Name of Assesses: Mr. Y A/Y – 2020-21

Computation of Total Income

Particulars	Rs.	Rs.
Income from business		90,000
Income from other sources - Interest on deposits	12,000	
Less: Exempt u/s 10 (32)	1,500	10,500
Lottery price received by Minor son	6,000	
Less: Exempt u/s 10 (32)	1,500	4,500
Net taxable income		1,05,000

Note: (1) Sal received by Mrs. Y from college is taxable in her hands. (2) Income received by minor daughter & child artist is on her own skill & talent thus taxable in her hands separately.

Illustration 18:

Mr. Naresh and his minor Son Rajesh provide you with the following information for the year ended 31/03/2020.

Particulars	Mr. Naresh Rs.	Master Rajesh Rs.
Income from Salary	1,00,000	Nil
Income from Profession	Nil	25,000
(Professional fees received as a play back singer for a film.)		
Interest on Fixed Deposits	10,000	2,000

Calculate net taxable Income of Mr. Naresh and Master Rajesh for Assessment Year 2020-21 applying the provisions of clubbing of income.

(Modified, MU, TYBAF, Sem-VI, May 2008)

Solution:

P/Y – 2019-20 Name of Assessee: Mr. Naresh & Master Rajesh A/Y – 2020-21

Computation of Total Income

Particulars	Rs.	Rs.
Income from salary	1,00,000	Nil
Income from Profession	Nil	25,000
Income from other source		
Interest on Fixed. Deposits:		
Own	10,000	
Minor son	2,000	
Less: exempt u/s 10 (32)	(1,500)	
Net taxable income	1,10,500	25,000

Note: (1) Income from profession and as a playback singer for a film cannot be clubbed as the income solely is attributable to minors skill and talent. (2) Interest on F. D. will be clubbed in hands of his father Mr. Naresh and he will be entitled to exemption of Rs. 1,500 u/s 10 (32).

Illustration 19:

(a) Mr. Pravin and Mrs. Anjali (Husband and wife) each hold 25% equity shares in Kamdhenu Pvt. Ltd. They both are also employed in the same company on a monthly salary of Rs. 25,000 Rs. 20,000 respectively. They do not have any professional qualifications. Income of Mr. Pravin from house property is Rs. 20,000 and that to Mrs. Anjali is Rs. 75,000 from other sources.

Compute the income taxable in the hands of both applying the provisions of clubbing of Income.

Solution:

Particulars	Mr. Pravin	Mrs. Anjali
Income from salary		
(Own)		2,40,000
(Husband)		3,00,000
Income from House property	20,000	–
Income from other sources	–	75,000
Net taxable income	20,000	6,15,000

Note: *When both the Husband and wife hold substantial interest and both are getting remuneration without any professional qualification then remuneration is to be clubbed in the hands of that spouse whose total income excluding such remuneration is greater.*

(b) Ms. Apurva is the minor daughter of Mr. Girish. She earned Rs. 75,000 during the P. Y. 2019-20 from acting in the film. In addition to that she earned Rs. 25,000 as interest on F.D. in Bank. (Amount was gifted by Girish to Ms. Apurva).

Find out who is liable to pay tax on above incomes.

(Modified, MU, TYBAF, Sem-VI, May 2008)

Solution:

Mr. Apurva, minor daughter of Mr. Girish is earning Rs. 75,000 from acting in film and since the income is solely attributable to her skill and talent, such income cannot be clubbed.

However, interest income of Rs. 25,000 on F.D. will be clubbed in the hands of Mr. Girish as it does not require use of any skill or talent.

Illustration 20:

(i) Mrs. Roy holds 4,000 shares out of 10,000 Equity Shares of Boy Ltd. Mr. Roy holding no degree is working as a Finance Manager with salary of Rs. 30,000 pm. Calculate Tarable Income of Mr. and Mrs. Roy.

(ii) Mr. Abhay transfer 10,000, 10% debenture @ Rs. 100 each of X Ltd. to his wife as an anniversary gift. Determine in whose hand the interest will be chargeable. If Mrs. Karuna (wife of Mr. Abhay) gives a loan to Mr. Rakesh (a friend) and gets an interest of Rs. 10,000, find out in whose hand this interest will be chargeable.

(Modified, MU, TYBAF, Sem-VI, May 2008)

Solution:

(i) Income from salary (30,000 × 12) Rs. 3,60,000 received by Mr. Roy will be taxed in the hands of Mrs. Roy because she is having substantial interest (more than 20% of shares) in Roy Ltd. and Mr. Roy is earning income as a finance manager without any professional qualifications.

(ii) Interest on debenture held by Mrs. Karuna will be taxed in the hands of Mr. Abhay as the transfer is without consideration. Interest on loan received by Mrs. Karuna of Rs. 10,000 will be taxed in her hands only.

Illustration 21:

Mr. Shiva has four children consisting 2 daughters and 2 sons. The annual income of 2 daughters were Rs. 9,000 and Rs. 4,500 and of sons were Rs. 6,200 and Rs. 4,300, respectively. The daughter who has income of Rs. 4,500 was suffering from a disability specified under section 80U.

Compute the amount of income earned by minor children to be clubbed in hands of Mr. Sharma.

Solution:

As per section 64(1A), in computing the total income of an individual, all such income accruing or arising to a minor child shall be included. However, income of a minor child suffering from disability specified under section 80U would not be included in the income of the parent but would be taxable in the hands of the minor child. Therefore, in this case, the income of daughter suffering from disability specified under section 80U should not be clubbed with the income of Mr. Shiva.

Under section 10 (32), income of each minor child includible in the hands of the parent under section 64 (1A) would be exempt to the extent of the actual income or Rs. 1,500, whichever is lower. The remaining income would be included in the hands of the parent.

Computation of income earned by minor children to be clubbed with the income of Mr. Shiva:

	Particulars	Rs.
(i)	**Income of one daughter**	9,000
	Less: Income exempt under section 10(32)	1,500
	Total (A)	7,500
(ii)	**Income of two sons (Rs. 6,200 + Rs. 4,300)**	10,500
	Less: Income exempt under section 10(32) (Rs. 1,500 + Rs. 1,500)	3,000
	Total(B)	7,500
	Total Income to be clubbed as per section 64(IA) (A+B)	15,000

Note: It has been assumed that:

(1) All the four children are minor children;

(2) The income does not accrue or arise to the minor children on account of any manual work done by them or activity involving application of their skill, talent or specialized knowledge and experience;

(3) The income of Mr. Shiva, before including the minor children's income, is greater than the income of Mrs. Shiva, due to which the income of the minor children would be included in his hands; and

(4) This is the first year in which clubbing provisions are attracted.

Illustration 22:

During the previous year 2019-20, the following transaction. occurred in respect of Mr. X.

(a) Mr. X had a fixed deposit of Rs. 5,00,000 in Bank of India. He instructed the bank to credit the interest on the deposit @ 9% from 0.1.04.2019 to 31.03.2020 to the savings bank account of Mr. B, son of his brother, to help him in his education.

(b) Mr. X holds 75% share in a partnership firm. Mrs. X received a commission of Rs. 25,000 from the firm for promoting the sales of the firm. Mrs. X possesses no technical or professional qualification.

(c) Mr. X gifted a flat to Mrs. X on April 1, 2019. During the previous year, the flat generated a net income of Rs. 52,000 to Mrs. X.

(d) Mr. X gifted Rs. 2,00,000 to his minor son who invested the same in a business and he derived income of Rs. 20,000 from the investment.

(e) Mr. X's minor son derived an income of Rs. 20,000 through a business activity involving application of his skill and talent.

During the year, Mr. X got a monthly pension of Rs. 10,000. He had no other income. Mrs. X received salary of Rs. 20,000 per month from a part time job.

Discuss the tax implications of each transaction and compute the total income of Mr. X, Mrs. X and their minor child.

Solution:

Computation of total income of Mr. X, Mrs. X and their minor son for the A.Y. 2020-21

Particulars		Mr. X Rs.	Mrs. X Rs.	Minor Son Rs.
Salary income (of Mrs. X)			2,40,000	
Pension income (of Mr. X) (Rs. 10,000 × 12)		1,20,000		
Income from House Property **[See Note (3) below)**		52,000		
Income from other sources:				
Interest on Mr. X's fixed deposit with Bank of India				
(Rs. 5,00,000 × 9%) **[See Note (1) below)**	45,000			
Commission received by Mrs. X from a partnership firm,				
in which Mr. X has substantial interest **(See Note (2) below)**	25,000	70,000		
Income before including income of minor				
son under section 64(IA)		**2,42,000**	**2,40,000**	
Income of the minor son from the investment made in the				
business out of the amount gifted by Mr. X **(See Note (4) below)**		18,500		
Income of the minor son through a business activity involving				
application of his skill and talent **(See Note (5) below)**				20,000
Total Income		**2,60,500**	**2,40,000**	**20,000**

(1) As per section 60, in case there is a transfer of income without transfer of asset from which such income is derived, such income shall be treated as income of the transferor. Therefore, the fixed deposit interest of Rs. 45,000 transferred by Mr. X to Mr. B shall be included in the total income of Mr. X.

(2) As per section 64(1)(ii), in case the spouse of the individual receives any amount by way of income from any concern in which the individual has substantial interest (i.e. holding shares carrying at least 20% voting power or entitled to at least 20% of the profits of the concern), then, such income shall be included in the total income of the individual. The only exception is in a case where the spouse possesses any technical or professional qualifications and the income earned is solely attributable to the application of hers technical or professional knowledge and experience, in which case, the clubbing provisions would not apply.

In this case, the commission income of Rs. 25,000 received by Mrs. X from the partnership firm has to be included in the total income of Mr. X, as Mrs. X does not possess any technical or professional qualification for earning such commission and Mr. X has substantial interest in the partnership firm as he holds 75% share in the firm.

(3) According to section 27(i), an individual who transfers any house property to his or her spouse otherwise than for adequate consideration or in connection with an agreement to live apart, shall be deemed to be the owner of the house property so transferred. Hence, Mr. X shall be deemed to be the owner of the flat gifted to Mrs. X and hence, the income arising from the same shall be computed in the hands of Mr. X.

Note:

(i) It has been assumed that the net income from the flat i.e., Rs. 52,000 given in the question is the net income computed under the head "Income from house property".

(ii) Alternatively, the net income from the flat i.e., Rs. 52,000 given in the question may be taken as the net income before providing for deduction @ 30% under section 24(a) and accordingly, the solution can be worked out on this basis.

(iii) The provisions of section 56(2)(vii) would not be attracted in the hands of Mrs. X, since she has received immovable property without consideration from a relative i.e., her husband.

(4) As per section 64(1A), the income of the minor child is to be included in the total income of the parent whose total income (excluding the income of minor child to be so clubbed) is greater. Further, as per section 10(32), income of a minor child which is includible in the income of the parent shall be exempt to the extent of Rs. 1,500 per child.

Therefore, the income of Rs. 20,000 received by minor son from the investment made out.

Illustration 23:

Computer the gross total income of Mr. & Mrs. A from the following information

Particulars	Rs.
(a) Salary income (computed) of Mrs.A	2,30,000
(b) Income from profession of Mr.A	3,90,000
(c) Income of minor son B from company deposit	15,000
(d) Income of minor daughter C from special talent	32,000
(e) Interest from bank received by C on deposit made out of her special talent	3,000
(f) Gift received by C on 30.09.2018 from friend of Mrs. A	2,500

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

Solution:

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. A is Rs. 3,90,000 and income of Mrs. A is Rs. 2,30,000. Since the income of Mr. A is greater than that of Mrs. A, the income of the minor children have to be clubbed in the hands of Mr. A. 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, specialised knowledge and experience is not to be clubbed. Hence, the income of minor child C 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.

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

Computation of gross total income of Mr. A for the A.Y.2020-21

Particulars	Rs.	Rs.
Income from profession		3,90,000
Income of minor son B from company deposit	15,000	
Less: Exemption under section 10(32)	1,500	
		13,500
Interest from bank	3,000	
56(2)(vii) being less than the aggregate limit of Rs. 50,000	Nil	
	3,000	
Less: Exemption under section 10(32)	1,500	1,500
Gross total Income		4,05,000

Illustration 24:

A proprietary business was started by Smt. Rani; in the year 2015. As on 1.04.2017 her capital in business was Rs. 3,00,000.

Her husband gifted Rs. 2,00,000 on 10.04.2017, which amount Smt. Rani invested in her business on the same date. Smt. Rani earned profits from her proprietory business for the Financial year 2018-19 Rs. 1,50,000 and Financial year 2019-20 Rs. 3,90,000. Compute the income to be club in the hands of Rani's husband for e Assessment Year 2020-21 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 Rs. 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 2020-21 is computed as under:

Particulars	**Smt. Rani's Capital Contribution**	**Capital Contribution Out of gift from husband**	**Total**
	Rs.	**Rs.**	**Rs.**
Capital as at 1.04.2017	3,00,000		3,00,000
Investment on 10.04.2017 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. 2017-18 be apportioned on the basis of capital employed on the first day of the previous year i.e. on 1.04.2017	1,50,000		1,50,000
Capital employed as at 01.04.2018	**4,50,000**	**2,00,000**	**6,50,000**
Profit for F.Y. 2019-20 to be apportioned on the basis of capital employed as at 01.04.2018 (i.e. 45 : 20)	2,70,000	1,20,000	3,90,000
56(2)(vii) being less than the aggregate limit of Rs. 50,000		Nil	

Therefore, the income to be clubbed in the hands of Smt Rani's husband for A.Y. 2020-21 is Rs. 1,20,000.

Illustration 25:

Write short notes on "Clubbing of income of minor children in the hands of parent".

Solution:

Income earned by a minor child would be clubbed in the hands of the parent. If both parents are having income, then income of minor child would be clubbed in the hands of that parent whose income is higher before clubbing the income of minor child.

Under the following situations the income of the minor child would not be clubbed in the hands of parent

(a) Income earned by minor child through manual work done by him.

(b) Income from activity involving application of his skill, talent or specialised knowledge and experience.

If the relationship of husband and wife does not subsist between the parents, the income of the minor child would be clubbed in the hands of the parent who maintains the child during the previous year. The parent is entitled to claim an exemption under section 10(32) upto Rs. 1,500 per minor child if the income of the minor child is included in his total income.

Where any such income is once included in the total income of either parent, any such income arising in any succeeding previous year shall not be included in the total income of the other parent, unless the Assessing Officer is satisfied after giving that parent an opportunity of being heard, that it is necessary to do so.

Illustration 26:

Mr. Vatsan has transferred, through a duly registered document, the income arising from a godown to his son, without transferring the godown. In whose hands will the rental income from godown be charged?

Solution:

Section 60 expressly states that where there is transfer of income from an asset without transfer of the asset itself, such income shall be included in the total income of the transferor. Hence, the rental income derived from the godown shall be clubbed in the hands of Mr. Vatsan.

Illustration 27:

Mr. Dhaval and his wife Mrs. Hetal furnish the following information"

	Particulars	Rs.
(i)	Salary income (computed) of Mrs. Hetal	4,60,000
(ii)	Income of minor son 'B' who suffers from disability specified in Section 80U	1,08,000
(iii)	Income of minor daughter 'C' from singing	86,000
(iv)	Income from profession of Mr. Dhaval	7,50,000
(v)	Cash gift received by 'C' on 02.10.2019 from friend of Mrs. Hetal on winning of singing competition.	48,000
(vi)	Income of minor married daughter 'A' from company deposit.	30,000

Compute the total income of Mr. Dhaval and Mrs. Hetal for the Assessment year 2020-21.

Solution:

Computation of Total Income of Mr. Dhaval and Mrs. Hetal for the A.Y. 2020-21

Particulars		Mr. Dhaval Rs.	Mrs. Hetal Rs.
Salaries			4,60,000
Profits and gains of business or profession income from other sources:		7,50,000	
Income by way of interest from company deposit earned by minor daughter A (See Note(d)]	30,000		
Less: Exemption under section 10(32)	1,500	28,500	
Total Income		**7,78,500**	**4,60,000**

Notes:

(a) The income of a minor child suffering from any disability of the nature specified in section 80U shall not be included in the hands of the parents. Hence, Rs. 1,08,000 being the income of minor son 'B' who suffers from disability specified under section 80U, shall not be included in the hands of either of his parents.

(b) The income derived by the minor from manual work or from any activity involving exercise of his skill talent or specialised knowledge or experience will not be included in the income of his parent. Hence in the given case Rs. 86,000 being the income of the minor daughter 'C' shall not be clubbed in the hands of the parents.

(c) Under section 56(2)(vii), cash gifts received from any person/persons exceeding Rs. 50,000 during the year in aggregate is taxable. Since the cash gift in this case does not exceed Rs. 50,000, the same is not taxable.

(d) The clubbing provisions are attracted even in respect of income of minor married daughter. The income of the minor will be included in the income of that parent whose total income is greater. Hence, income of minor married daughter 'A' from company deposit shall be clubbed in the hands of the

Mr. Dhaval and exemption under section 10(32) of Rs. 1,500 per child shall be allowed in respect of such income.

Exercises

(1) What is clubbing of income? When can Income of spouse? Minor child be clubbed with that of Assessee? Give illustrations to your answer? ***[MU. Oct. 06 TYBAF]***

(2) Explain in detail, the various provisions of section 64 in respect of clubbing of income. ***[MU. May 06 TYBAF]***

(3) Explain the circumstances under which Income of other person is included in Assesse's total income under sections of Income tax Act. 1961. ***[MU. May 06 TYBAF]***

(4) Explain the significance of Clubbing of Income?

(5) "An Assessee is not only liable in respect of his own income, but his liability may extend to some other income also." Discuss. ***[Modified C.A. Inter Nov. 99]***

(6) Explain the provision under the Income Tax Act, 1961 requiring inclusion of minor's income with the Assesses total income. ***[C.A. Inter May. 92]***

(7) Give explanatory Notes on:

- **(a)** Individual being assessed on Income from assets transferred to spouse.
- **(b)** Individual being assessed on Income from assets transferred to a person for the benefit of spouse.
- **(c)** "Substantial Interest" in context of "Clubbing of Income." ***[Modified C.A. Inter May. 90]***

(8) Does clubbing of Income include clubbing of losses also? ***[M. U. March 06 TYB.Com]***

(9) Briefly explain the provisions of Income Tax Act, 1961 relating to tax consequences arising on conversion of self acquired property in to property belonging to the HUF of which he is a member. ***[C.A. Inter Nov. 93]***

(10) State the provisions for clubbing of remuneration received by spouse u/s 64(1)(ii). ***[April 2017]***

(11) **State whether following statements are True or False:**

- **(a)** Where an individual has substantial interest in a concern, there shall be included in his total income any remuneration paid by such concern to the spouse of such individual.
- **(b)** Where an individual transfers the house property to his wife without adequate consideration, then income from such house property shall be subject to the provisions of section 27.
- **(c)** Clubbing provisions under section 64 (1) (vi) are applicable where the asset is transferred by an individual without any adequate consideration to major son.
- **(d)** As per section 64 (1A) income accruing to a minor shall be clubbed in the income of father or mother at their option.
- **(e)** If the marriage of the parents does not subsist, the income of the minor child shall be clubbed in the income of father or mother whose income is higher.
- **(f)** When income of minor child is clubbed in the income of the parent concerned, such parent will be allowed exemption of lump-sum Rs. 1,500 per minor child.
- **(g)** If any income has to be clubbed under section 64, it will be clubbed under the relevant head to which it belongs.

Answers:

(a) True, **(b)** True, **(c)** False, son's wife, **(d)** False, in the hands of parent whose income is more., **(e)** False, parent who maintains the child., **(f)** False, to the extent of actual income clubbed **or** Rs. 1,500 per minor child whichever is less, **(g)** True.

(12) Find out the income in the following cases for the assessment year 2020-21.

(1) X is employed by A Ltd. (salary being Rs. 20,000 month) in which his father-in-law has a substantial interest. X does not have any technical or professional qualification to justify the remuneration. Mrs. X holds 10 shares for a few days during the previous year 2020-21.

(2) Y gives a loan of Rs. 10,00,000 to Mrs. Y at the rate of 10 percent per annum. Mrs. Y gives the same as loan to Z Ltd. at the rate of 15 percent per annum.

Minor child of X and Mrs. X gets a birthday gift from X's friend on September 30, 2015: Rs. 50,000. Income of X and Mrs. X : Rs. 8 lakh and Rs. 4 lakh.

[Ans.: (1) Mrs. X: Rs. 2,40,000, (2) Y: Rs. 1,00,000; Mrs. Y: 50,000, (3) X: Rs. 8,48,000; Mrs. X: Rs. 4,00,000]

(13) Mr. Mahesh has sold 20,000 14% debentures of Rs. 100 each to his wife for Rs. 1,80,000. The market value of debentures on the date of transfer was Rs. 3,60,000. Compute Income to be included in the total income of Mahesh.

[Ans.: Rs. 28,000; MV of 10,000 debentures is paid; clubbing w.r.t only bal. deb.]

(14) M gifts Rs. 10,00,000 to his wife who invested the same in the partnership business. M receives Rs. 90,000 as her share of profits from such firm. Compute amount to be clubbed in the income of M.

[Ans.: Nil; share from firm is exempt u/s 10.]

(15) Mr. Manik gifts Rs. 10,00,000 to his wife on 1-4-2005. His wife invested the above sum as capital contribution to the firm where she is a partner and earned interest every year. The total capital of Mrs. M as on 1-4-2018 including 3 years interest was Rs. 1,50,000. During the year she earned Rs. 27,000 as interest on such capital balance. Compute the income to be clubbed in the hands of Manik.

[Modified C. A. final May 99]

(16) X holds 20 percent equity share capital in Y Ltd. Mrs. X is employed by Y Ltd. (salary being Rs. 50,000 per month) as general manager (finance). She does not have any professional qualification to justify remuneration. Ascertain in whose hand's salary income is charageable to tax. Does it make any difference if Mrs. X was employed by Y Ltd. even prior to her marriage?

[Modified M. U. 2004; Ans.: No difference]

(17) X and Mrs. X hold 20 percent and 30 percent equity shares in C Ltd. respectively. They are also employed in Mumbai branch of C Ltd. (monthly salary being Rs. 30,000 and Rs. 20,000 respectively) without any technical/ professional qualification. Other incomes of X and Mrs. X are Rs. 1,60,000 and Rs. 1,90,000 respectively. Find out the net income of X and Mrs. X for the assessment year 2020-21.

[Ans.: Mr. X – Rs. 1,60,000; Mrs. X – Rs. 3,60,000 + 2,40,000 + 1,90,000 = Rs. 7,90,000]

(18) Mr. Monu State in whose income the following incomes will be included. (i) Monu transferred Rs. 1,00,000 to his daughter-in-law in 2007 without any consideration. She received Rs. 10,000 as interest on this amount during the previous year 2019-20. (ii) Monu transferred his self-acquired property to the HUF, of which he is a member. During the previous year 2019-20 the HUF earned an income of Rs. 1,00,000 from his property.

[Ans.: (i) Taxable in the hands of Mr. Monu; (ii) taxable in the hands of Monu]

(19) State in whose income the following incomes will be included. M transferred his self-acquired property to the HUF of which he is a member. The HUF earns an income of Rs. 4,20,000 per annum. During the previous year 2019-20 the HUF is partitioned and the property is divided as under:

M	1/5th share
M's minor son	1/5th share
M's major son	1/5th share
Mrs. M	1/5th share
M's brother	1/5th share

[Ans.: Modified C. A Inter Nov 98; M : – Rs. 2,50,500]

(20) Mr. Mukesh state in whose income the following incomes will be included. Mr. Mukesh transferred debentures worth Rs. 50,000 to his wife on 1-4-2019. The debentures carry an interest of 12% per annum. Mrs. Mukesh accumulates the interest of Rs. 6,000 perannum, which she receives on the debentures. The accumulated amount of interest of Rs. 40,000 is invested in a fixed deposit with a bank and Mrs. Mukesh receives interest amounting to Rs. 4,000 on this FDR.

[Ans.: Mr. Mukesh – Rs. 6,000; Mrs. Mukesh – Rs. 4,000]

(21) Decide in whose hands the following income shall be taxable. Master R (Age 10 years) received following incomes during 2019-20.

Particulars	Rs.
(a) Interest on Bank deposits	11,000
(b) Interest on Debentures	7,000
(c) Income from a singing concert held by him	60,000
(d) His mother's total income	75,000
(e) His father's total income	76,000

[Ans.: Rs. 16,500 clubbed with father's income, Rs. 60,000 from singing in R's hands]

(22) Mr. Monu explain the tax implications of the following:
Monu transferred agricultural land permanently to his wife Veena. Veena earned an income of Rs. 60,000 from the transferred property.

[Ans.: Agr. Income will be clubbable, but exempt]

(23) Explain the tax implications of the following:
Mrs. Monu holds 5,000 out of 13,000 equity shares of A Ltd., a company in which Monu holding a BA degree, is working as Finance Manager on a salary of Rs. 50,000 per month.

[Modified C. A final Nov 92]

[Ans.: Clubbed with Mrs. M's income, as salary not solely attributable to application of qualification]

(24) Mr. M transferred a sum of Rs. 3 lakhs to his wife in 1995 and Mrs. M constructed a property out of this amount. She has since been using the property for her own residence.

[Ans.: Income, clubbable, but Nil as it is from SOP]

(25) Mr. M transfers Rs. 10 lakhs to Mrs. M without consideration. She starts a business by investing the gifted money. On 1-4-2019, her total investment in business is Rs. 30 lakhs and the profit of the previous year ending 31-3-2019 is Rs. 7,50,000, the amount taxable in the hands of Mrs. M and Mr. M (if any). ***[Modified M. U. April 2005]***

[Ans.: Mrs. M – Rs. 2,50,000; Mr. M – Rs. 5,00,000]

(26) Mr. M transferred his self-acquired property yielding an annual income of Rs. 6,00,000 to his Hindu Undivided Family. The HUF is made up of Mr. M, Mrs. M, his major son R and minor son S. Show how much income will be included in the income of M (i) before partition (ii) after partition.

[Ans.: (i) Rs. 60,000; (ii) Rs. 43,000 (Own share 15,000 + Share of Mrs. M – 15,000 + Share of minor child [15,000 – 1,500]]

(27) Mr. Manoj gifts a house property to his wife on 27-5-2019. Mrs. M lets out the property on a monthly rent of Rs. 10,000 with effect from 1-6-2020. In whose hands shall the rental income be charged?

[Ans.: M – deemed owner u/s 27]

(28) Mr. Rajeev gifts Rs. 9,00,000 to Mrs. Rajeev on 5-1-2010. The amount is invested by Mrs. Rajeev is her partnership. For the previous year 2019-20, R receives Rs. 90,000 from the partnership as her share of profits. In whose hands will this amount be taxed?

[Ans.: Share from firm is exempt]

(29) Determine the taxability of the following incomes. Assume that B is a minor child of A.
(1) A gifts certain amount to B when he is 6 months short of becoming a major. B invests the amount on which interest of Rs. 4,000 accrues after one year of making the investment.
(2) A gifts Rs. 1 lakh to B on January 1, 2008. B invests the amount in debentures of ABC Ltd. Interest income from debentures for the previous year 2018-19 is Rs. 15,000.

[Ans.: (1) The entire amount of Rs. 4,000 is liable to be taxed in the hands of B as he is a major when interest income accrues. (2) Rs. 15,000 is clubbed with the total income of a for the current assessment year subject to exemption of Rs. 1,500 under section 10(32)]

(30) Mr. A and his wife have a substantial interest in a limited company holding shares carrying not less than 20% of voting power in the limited company. Both Mr. A and Mrs. A draw form the company remuneration of Rs. 60,000 and Rs. 48,000, respectively. The income of Mr. A and Mrs. A, other than remuneration from the company, is Rs. 1,20,000 and Rs. 1,00,000, respectively. Discuss the taxability in each case.

[Ans.: Mr. A Rs. 2,28,000; Mrs. A Rs. 1,00,000]

(31) Mr. A transfers a sum of Rs. 3 lakhs to his brother Mr. B on 1-4-1990. Mr. B creates a trust by which he settles the said amount of Rs. 3 lakhs received from Mr. A for the benefit of Mr. A's wife, minor child, son's wife and son's minor child. It is stated that:
(i) The personal income of Mr. A is Rs. 80,000;
(ii) The income of the trust created by Mr. B is Rs. 60,000;
(iii) The share of each beneficiary is 25%;
Compute the total income of Mr. A.

[Ans.: Rs. 1,10,000]

(32) An individual being a member of Hindu undivided family converted his separate property on 1-1-1974 into property belonging to his Hindy undivided family. The income in respect of such converted property is Rs. 50,000. Assuming that the family consists of Mr. A, Mrs. A, 2 minor sons and 1 major son, ascertain income of each member of HUF, (a) before partition (b) after partition.

[Ans.: (a) Before partition, Rs. 50,000 will be clubbed in the hands of Mr. A. (b) After partition income received by Mr. A + Mrs. A will be clubbed either in the hands of Mr. A or Mrs. A depending on whose other income is more; income of major son will be taxed in his hands.]

(33) Mr. A is one third partner in ABC & Co. which Firm has paid is Rs. 75,000 salary to Mrs. A (Wife of the said Mr. A) during the previous year 2019-20. During the same year, Mr. A has received Partner's salary from the said firm of Rs. 2,25,000 and has also received interest on Debentures Rs. 25,000 and

Dividend from Indian companies Rs. 22,000. Compute the Gross Total Income of Mr. A and Mrs. A for the Assessment Year 2020-21. Given that Mrs. A does not possess any technical or professional qualification, neither has any other income.

(MU, TYBAF, Sem-VI, May 2007)

(34) M gifts Rs. 5,00,000 to his wife N which she invests in 10% Fixed Deposit of Rs. 4,00,000 (for 9 months during previous year 2019-20) and gives a 18% Loan for the balance amount of Rs. 1,00,000 to her relative around the same time. M has house property income (net) of Rs. 5,00,000 and income from other sources Rs. 1,25,000 in the same year. N does not have any other income. Calculate M's and N's Gross Total Income for Assessment Year 2020-21.

(MU, TYBAF, Sem-VI, May 2007)

(35) Mr. Oswald and Mrs. Oswald are working in a film in which Mr. Oswalds has a beneficial interest (i.e. more than 20% voting power). Mrs. Oswald is employed in the firm as a finance manager. However she does not have the necessary professional qualification for the same. She is drawing a salary of Rs. 20,000 p.m. Are the provisions of clubbing of income attracted in this case?

(MU, TYBAF, Sem-VI, Nov. 2007)

(36) Mr. Beans gifted the debentures of XYZ Ltd. to Mrs. Beans without accepting any consideration from her. Mrs. Beans earned interest of Rs. 10,000 on the debentures during the year 2019-20. The ITO wishes to club the interest in the hands of the transferor of debentures i.e. Mr. Beans. Is he justified in doing so?

(MU, TYBAF, Sem-VI, Nov. 2007)

Chapter 2

Set-off, Carry Forward of Loss

(Section 70-74)

SET-OFF LOSSES:

Inter Source Adjustment: [U/S. 70]

Where the net result of computation for any assessment year in respect of any source of income falling under any head of income is a loss, the assessee shall be entitled to have the amount of such loss set off against his income from any source under the same head. However, the following are the exceptions to the above rule:

(i) Loss from speculative business; [u/s 73]

(ii) Loss from the activity of owning and maintaining race horses; and [u/s 74 A]

(iii) Long term capital loss. [u/s 74]

(iv) Loss from specified business u/s 35AD [Like cold chain facility for storage **or** transportation of agricultural and forest produce, cross-country natural gas **or** crude **or** petroleum oil pipeline network, Building and operating in Indra hotel of 2 star or above hospital with at least 100 beds, developing and building a housing project, production of fertiliser in India etc.] [u/s 73 A]

Inter Head Adjustment: [U/S. 71]

Where the net results of computation under any head of income is a loss, the assessee shall be entitled to have such amount of loss set-off against his income under any other head of income. This rule of inter head adjustment is subject to the following exceptions:

(a) Loss from speculation business; [u/s 73]

(b) Loss from the activity of owning and maintaining race horses; [u/s 74 A]

(c) Loss under capital gains; [u/s 74]

(d) Loss under Profits & Gains of Business or Profession against salary income. [u/s 74 A]

(e) Loss from specified business u/s 35 AD [u/s 73 A]

Students may note that loss under the head "Profits and Gains of Business or Profession" cannot be set-off against salary income. However, setoff of Business loss against any other head of income is allowed.

Speculation Business: A speculative transaction is defined to mean a transaction in which a contract for purchase or sale of any commodity including stocks, shares is periodically or ultimately settled otherwise than by actual delivery or transfer of the commodity or scips.

According to Section 58(4) any expenditure, allowance or loss shall be allowed to be set-off against any income by way of winning from lotteries, crossword puzzles, races including horse races, card games and other games of any sort or form of gambling or betting. However, in case a person who is carrying on the activity of owning and maintaining such horses, deduction for such expenditure and allowance shall be allowed.

CARRY FORWARD OF LOSSES:

Section	Nature of loss	Number of years	To be set-off against
71B	Loss from house property	8 years	Income from house property
72	Unabsorbed business loss.	8 years	Profits and gains of business or profession.
72A(1)	Unabsorbed depreciation of Amalgamating company	Indefinite period	Any income of the amalgamated co.
72A(4)	Unabsorbed depreciation of Demerged company	Indefinite period	Any income of the resulting company
72A(6)	Unabsorbed depreciation of a firm or a proprietary concern succeeded by a company	Indefinite period	Any income of successor company
72AA	Unabsorbed depreciation of Banking company	Indefinite period	Any income of banking institution
72AB(1)	Unabsorbed depreciation of amalgamating cooperative bank	Indefinite period	Any income of the amalgamated cooperative bank
72AB(3)	Unabsorbed depreciation of demerged cooperative bank	Indefinite period	Any income of resulting cooperative bank
72A(1)	Unabsorbed business loss of amalgamating company	Indefinite period	Income from business of amalgamated company
72A(4)	unabsorbed business loss of demerged company	Unexpired period out of the total permissible period of 8 years	Income from business or profession of the resulting company
72A(6)	Unabsorbed business loss of firm or proprietary concern succeeded by a company	8 years from the expiry of the year of conversion of the firm or proprietary concern into a company [setoff in the year of succession and c/f for 8 years]	Income from business or profession of the successor company
72AA	Unabsorbed business loss of banking company	8 years from the expiry of the year of amalgamation of such banking institution [setoff in the year of amalgamation and c/f for 8 years]	Income from business or profession of the banking institution.
72AB(1)	Unabsorbed business loss of amalgamating cooperative bank	Unexpired period out of the total permissible period of 8 years	Banking income of the amalgamated cooperative bank

72AB(3)	Unabsorbed business loss of demerged cooperative bank.	Unexpired period out of the total permissible period of 8 years	Business income of resulting cooperative bank
73	Speculation business loss	4 years	Income from speculation from business.
74	Loss under the head Capital Gains a) Short term capital loss b) Long term capital loss	 8 years 8 years	 Short term or long term capital loss Long term capital gains
74A	Loss from the activity of owning and maintaining race horses.	4 years	Income from same activity

Loss from House Property: [U/S. 71 B]

Where the net result of computation for any assessment year under the head "Income from house property" is a loss which cannot be or is not wholly set off against income under other heads under section 71, [NOT MORE THAN RS. 2,00,000 CAN BE SET OFF AGAINST OTHER HEADS IN PREVIOUS YEAR] such loss can be carried forward for set off against income from house property in the subsequent assessment years. Such carry forward is permissible for a period of 8 assessment years.

Loss under the head Profits and Gains of Business or Profession: [U/S. 72]

In respect of unabsorbed loss under the head "Profits and gains of business or profession" other than speculation business loss, the assessee is entitled to carry forward and set off in the subsequent years subject to the following conditions:

(i) The unabsorbed business loss carried forward can be set off only against income under the head "Profits and gains of business or profession".

(ii) Such carry forward is permissible upto 8 assessment years from the end of the year in which the loss is first computed.

(iii) Unabsorbed Depreciation carried forward u/s. 32 (2) will be set off only after setting off of the brought forward loss under this section.

Loss can be carried forward and set off even if the business in respect of which it was incurred and computed has been discontinued. Students may note that unabsorbed depreciation u/s. 32(2) can also be carried forward even if the business is discontinued.

Other points - One should note the following points:

(1) Barring the aforesaid cases, any other loss can be set off against any other income within the same head of income. For instance, -

- **(a)** loss from a house property can be set off against income from any other house property;
- **(b)** loss from a non-speculation business can be set off against income from speculation or non-speculation business.
- **(c)** short-term capital loss can be set off against any capital gain (whether long-term or short-term).

(d) under the head "Income from other sources" loss from an activity (other than the business of owning and maintaining race horses) can be set off against any income but other than winnings from lotteries, crossword puzzles, etc.

(2) If income from a particular source is exempt from tax, e.g., income exempt from tax under section 10, loss from such source cannot be set off against income chargeable to tax.

(3) If there is income from one source and loss from another source within the same head of income, one can set off the loss against the income, in all other cases loss has to be first set off against income within the same head of income.

Illustration 1:

If X has the following income:

	(₹)
Business income	2,40,000
Capital Gains:	
Long-term capital gain	80,000
Short-term capital gain	(50,000)

Solution:

In this case, short-term capital loss will have to be set off within the same head or of income against long-term capital gain. Therefore Long Term Capital Gain 30,000.

Illustration 2:

X, Y and Z give the following information pertaining to the income under the head "Profits and gains of business or profession".

	X		**Y**		**Z**	
	Speculative (₹)	**Non-speculative (₹)**	**Speculative (₹)**	**Non-speculative (₹)**	**Speculative (₹)**	**Non-speculative (₹)**
Business A	2,40,000		1,60,000		1,50,000	
Business B	(–) 50,000		(–) 1,80,000		(–) 60,000	
Business C		2,00,000		4,00,000		2,10,000
Business D		(–) 80,000		(–) 90,000		(–) 2,20,000
Total	**1,90,000**	**1,20,000**	**(–) 20,000**	**3,10,000**	**90,000**	**(–) 10,000**

Solution:

In this case, loss from speculative business can be set off only against income from speculative business. However, loss from non-speculative business can be set off against income from any business speculative or non-speculative. For instance, in the case of Y loss of ₹ 20,000 from speculative business cannot be set off against income of ₹ 3,10,000 from non-speculative business. In the case of Z, however, loss of ₹ 10,000 from non-speculative business should be set off against speculative business income of ₹ 90,000. It may be noted that Z does not have any option to set off (or not to set off) the loss of ₹ 10,000 against income of ₹ 90,000.

INTER-HEAD ADJUSTMENT - HOW MADE [U/S. 71]

The provisions of section 71 are given below-

General rule: Where the net result of computation made for any assessment year in respect of any head of income is a loss, the same can be set off against the income from other heads.

Exceptions: The following are the exceptions to the aforesaid rule:

- Loss in a speculation business - Loss in a speculation business cannot be set off against any other income.

- Loss under the head "Capital gains"- Losses under the head "Capital gains" cannot be set off against any income except income under the head "Capital gains".
- Loss from the activity of owning and maintaining race horses - Losses from the activity of owning and maintaining race horses cannot be set off against any other income.
- Business loss cannot be set off against salary income - Loss from business or profession (including depreciation) cannot be set off against income under the head "Salaries".
- Loss cannot be set off against winnings from lotteries, etc. - By virtue of section 58(4) a loss cannot be set off against winnings from lotteries, crossword puzzles, races (including horse races), card games and other games of any sort or from gambling or betting of any form or nature.
- Loss from purchase of securities.

Other points - The following points should be considered:

(1) Before adjusting loss under section 71, one has to set off the loss under section 70.

(2) Barring the aforesaid cases, any loss can be set off against income under other heads of income for the same year. For instance,

(a) loss under the head "Income from house property" can be set off against business income, capital gains, salary income or income from other sources;

(b) business loss can be set off against property income, capital gains or other income;

(c) a loss under the head "Income from other sources" [not being from the activity of owning and maintaining race horses] can be set off against salary income, property income, business income or capital gains.

Illustration 3:

X submits the following information pertaining to the previous year 2019-20. (a) income from salary: ₹ 14,00,000; (b) loss from self-occupied property: (–) ₹ 70,000; (c) business loss (including unabsorbed depreciation): (–) ₹ 1,00,000; banks interest: ₹ 80,000.

Solution:

	(₹)
Income from salary	14,00,000
Income from house property	(70,000)
Business loss	(1,00,000)
Bank interest	80,000
Gross total income	13,30,000
Less: Deduction under sections 80C to 80U	Nil
Net income	13,30,000

It includes salary income of ₹ 13,30,000 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.

No order of priority is given in the Act. One should try to first set off those losses which cannot be carried forward to the next year.

Illustration 4:

A taxpayer has the following income pertaining to the previous year 2019-20.

	(₹)
Income from house property	1,70,000
Profits and gains of business or profession	(1,50,000)
Income from other sources (being interest on debentures which were purchased out of borrowed money)	(1,47,000)

Solution:

As the loss under the head "Income from other sources" cannot be carry forward to the next year, one should first set oft against other income. [i.e. 1,70,000 – 1,47,000 = 23,000]. But Loss from business **or** profession should be carried forward to next year.

Barring the cases discussed, in all other cases a loss has to first adjusted against available income under other heads of income. No option is available to set off a loss or not to set off a loss.

Illustration 5:

A taxpayer has following income/loss:

	Current Year (₹)	**Next year (₹)**
Business income	(–) 1,00,000	8,00,000
Long-term capital gain	2,30,000	3,00,000

Solution:

Long-term capital gain is taxable at lower rate. Even then, the assessee cannot avoid set off of business loss in the current year under section 71 against capital gain and carry forward the business loss to the next year. In other words, business loss has to be set oft against capital gain. There is no option. After adjusting business loss of ₹ 1,00,000, on remaining long-term capital gain of ₹ 1,30,000 he will have to pay tax during the current year.

Moreover, partial set off is not permissible when full loss can be otherwise set off. For instance, if an individual has property income of ₹ 2,10,000 and business loss of ₹ 1,90,000, he can set off the entire loss and taxable income will be ₹ 20,000 on which no tax is payable. He cannot claim the set off of business loss of only ₹ 60,000 to reduce taxable income to ₹ 1,50,000 (on which no tax is payable) and claim carry forward of remaining amount.

Where income from a particular source is exempt from tax, e.g., incomes exempt under section 10, loss from such source cannot be set off against income chargeable to tax. For the purpose of section 71, loss of profits must be a loss of taxable profits.

Carry forward of loss - How to set off:

If a loss cannot be set off either under the same head or under the different heads, because absence or inadequacy of the income of the same year, it may be carried forward and set off against the income of the subsequent year. Under the Act, the following losses can be carried forward:

(a) loss under the head "income from house property" [sec. 71B applicable from the assessment year 1999-2000.]

(b) loss under the head "Profits and gains of business or profession" (i.e., loss from speculative or non-speculative business). [sec. 72 and 73].

(c) loss under the head "Capital gains" (i.e., short-term or long-term capital loss). [U/S. 74].

(d) loss from the activity of owning and maintaining race horses [sec. 74A].

Other remaining losses cannot be carried forward.

Carry forward and set off of business loss other than speculation loss [U/S. 72]: The right of carry forward and set off of loss arising in a business or profession is subject to the following restrictions:

LOSS CAN BE SET OFF ONLY AGAINST BUSINESS INCOME:

The following points should be:

(1) It is not necessary that business loss of year 1 should be set off against income from the same business in year 2. In other words, loss of Business A of year 1 can be set off against profit of business A or some other business in year 2.

(2) A loss under the head, "Profits and gains of business or profession" can be set off against pro/its of any business in the subsequent year. For this purpose, business profits would also include profits derived from a business activity but assessable under head other than "Profits and gains of business or profession".

For instance, where shares are held by an assessee as a part of his trading assets, dividend [under section 2(22)(e)] on such shares would form part of business income and, consequently, he will be entitled to claim set off of business loss brought forward from earlier years against deemed dividend of the current year – Western States Trading Co. (P.) Ltd. v. CIT [1971] 80 ITR 21 (SC).

LOSSES CAN BE CARRIED FORWARD BY THE PERSON WHO INCURRED THE LOSS:

The loss can be carried forward and set off against the profits of the assessee who incurred the loss. However, this rule has the following exceptions:

- Accumulated business loss of an amalgamating company under section 72A or 72 AA.
- Accumulated business loss of a demerged company.
- Accumulated business loss of a proprietary concern or a firm when its business is taken over by a company by satisfying conditions of section 47(xiii)/(xiv).
- Loss of business acquired by inheritance – CIT v. Bai Maniben [1960] 38 ITR 80 (Born.).

LOSS CAN BE CARRIED FORWARD FOR 8 YEARS - The loss cannot be carried forward for more than eight assessment years.

RETURN OF LOSS SHOULD BE SUBMITTED IN TIME [U/S. 80] - A loss cannot be carried forward unless it is determined in pursuance of a return filed within the time allowed under section 139(3) [i.e., the time allowed under section 139(1)].

In other words, if an assessee fails to file his return of loss on or before the due date of furnishing of return as prescribed by section 139(1), then, by virtue of section 80, the following losses (of the assessment year for which the return is not submitted in time) cannot be carried forward:

(a) loss of a speculative or non-speculative business (not being unabsorbed depreciation etc.,

(b) short or long-term capital loss; and

(c) loss (not being unabsorbed depreciation etc.,) from the activity of owning and maintaining race horses.

Right to carry forward the aforesaid losses will be lost if return is not filed in time for the year in which the loss was incurred. In order to ensure that such right is not lost:

(a) loss should be determined in pursuance of a return filed within the time-limit of section 139(1); and

(b) such loss should be notified by the Assessing Officer to the assessee by an order in writing under section 157.

The delay in submission of return of loss may be condoned if a few conditions are satisfied Circular No. 8/2001, dated May 16. 2001.

CONTINUITY OF BUSINESS NOT NECESSARY:

The business or profession in which the loss was originally suffered may or max not continue to be carried on by the assessee during the year in which brought forward loss is sought to be set off.

CARRY FORWARD OF UNABSORBED DEPRECIATION, CAPITAL EXPENDITURE ON SCIENTIFIC RESEARCH AND FAMILY PLANNING EXPENDITURE:

The above rules are not applicable in the case of carry forward of depreciation which is not absorbed during the current year, unabsorbed capital expenditure on scientific research and family planning expenditure. These losses are governed is by section 32(2) and not by section 72. In other words, the rules discussed above are not applicable in the case of carry forward of unabsorbed depreciation, capital expenditure on scientific research and capital expenditure on family planning. These losses are governed by section 32(2).

Illustration 6:

The following illustrations are given to have a better understanding:

Income of X for the previous year 2019-20 is as follows:

	(₹)
Business income before depreciation	1,36,000
Less: Depreciation for the current year	(20,000)
Business income after depreciation	1,16,000
Other income	8,45,000

He wants to adjust the following brought forward losses:

	Business Loss (₹)	**Depreciation (₹)**
For the assessment year 2006-07	2,00,000	36,000
For the assessment year 2010-11	1,25,000	40,000

Solution:

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 2010-11 can be adjusted against the business income of ₹ 1,16,000 and the balancing amount of ₹ 9,000 will be carried forward far being set off against business income up to the assessment year 2019-20 (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. The unabsorbed depreciation pertaining to assessment years 2006-07 and 2010-11 can be set off against business income as well as other income. In this case, the brought forward unabsorbed depreciation of ₹ 76,000 (i.e., ₹ 36,000 + ₹ 40,000) can be adjusted against other income.

Illustration 7:

Income of Y for the previous year 2019-20 is as follows:

	(₹)
Business income after depreciation	5,15,000
Dividend on shares in foreign companies (held as stock-in-trade)	2,36,000
Dividend on shares in foreign companies (held as investment)	1,10,000
Other incomes	46,000

He wants to adjust the following brought forward losses:

	Business loss (₹)	Depreciation (₹)
For the assessment year 2012-13	1 ,00,000	20,000
For the assessment year 2013-14	7,65,000	60,000

Solution:

Dividend income is always taxable under the head, "Income from other sources". Consequently, the dividend income on shares held as stock-in-trade or investment is taxable under the head "Income from other sources". Brought forward business losses can be set off during the current year against any business income and for this purpose dividend on shares held as stock-in-trade is treated as business income, although such dividend income is taxable (like any other dividend income) under the head, "Income from other sources".

The brought forward losses will be set off as follows:

Heads of income	"Business income" for the purpose of adjusting brought forward losses (₹)	Other income (₹)
Salaries	Nil	Nil
Income from house property	Nil	Nil
Profits and gains of business or profession	5,15,000	Nil
Capital gains	Nil	Nil
Income from other sources	2,36,000	1,56,000
Total	7,51,000	1,56,000
Less: Brought forward losses		
Business loss (2012-13)	Nil	Nil
Business loss (2013-14)	7,51,000	Nil
Depreciation (2012-13)	Nil	20,000
Depreciation (2013-14)	Nil	60,000
Balance	Nil	76,000

The unadjusted business loss of ₹ 14,000 will be carried forward up to the assessment year 2019-20.

Illustration 8:

Mrs. Asma submits the following information for the year ending 31/3/2020:

Particulars	₹	₹
Income from salaries Rs. 5,000 p. m.	60,000	
Income from house property		
House 1	16,000	
House 2	(-) 20,000	
House 3 (self- occupied property)	(-) 12,000	(16,000)
Profits and gains of business/ profession.		
Business A	(-) 25,000	
Business B (Speculative)	35,000	10,000
Capital gains		
Short term capital loss	(-) 18,000	
Long term capital gain	10,000	(8,000)
Income from other sources		

Income from betting	9,000	
Loss on maintenance of race horses	(-) 12,000	
Interest on securities (gross)	18,000	
Interest on loan borrowed to invest in securities	20,000	(2,000)

Solution:

P/Y – 2019-20 Name of Assessee: Mr. Asma A/Y – 2020-21

Legal Status: Individual

Residential Status: R & OR

Computation of gross total income

Particulars	₹	₹
I. Salaries:		
Salary @ 5,000 p m		60,000
II. Income from house property:		
House 1	16,000	
House 2	(20,000)	
House 3	(12,000)	(16,000)
III. Profits and gains of business:		
Business A	(25,000)	
Business B (Speculation)	35,000	10,000
IV. Capital gains:		
Short term capital loss	(18,000)	
Long term capital gains	10,000	
(To be carried forward to A Y 2019-20)	(8,000)	NIL
V. Income from other sources:		
Interest on Securities (Gross)	18,000	
Less: Interest on loan	20,000	(2,000)
Loss on maintenance of race horses carried forward to AY 2019-20	(12,000)	
Income from betting		9,000
Gross Total Income		**61,000**

Note: Net loss of ₹ 2,000 on account of interest on securities cannot be set off against income from betting. However, this loss can be adjusted against any other head of income available to the assessee.

Illustration 9:

Mr. Aslam submits the following information for the A. Y. 2020-21.

Particulars	₹
Salary income taxable	48,000
House property income:	
House 1 Income	37,000
House 2 loss	(27,000)
Textile Business (discontinued on 10.10.2018)	(20,000)
Brought forward loss of textile business- A Y 2017-18	(80,000)
Chemical Business (discontinued on 15-3-18) b/fd loss of previous year 2018-19	(25,000)
Unabsorbed depreciation of previous year 2019-20	(15,000)
Income from chemical business	40,000
Leather Business	62,000
Interest on securities held as stock in trade	10,000

Determine the gross total income for the assessment year 2020-21 and also compute the amount of loss that can be carried forward to the subsequent years.

Solution:

P/Y – 2019-20 Name of Assessee: Mr. Aslam A/Y – 2020-21

Status: Individual

Residential Status: R & OR

Computation of Gross Total Income

Particulars	₹	₹	₹
I. Salaries:			
Salary as computed			48,000
II. Income from House property;			
House 1 Income		37,000	
House 2 loss		(27,000)	10,000
III. Profits and Gains of Business or Profession:			
(i) Textile business loss		(20,000)	
(ii) Chemical business	40,000		
Less: Set off brought forward loss of P Y 2018-19 u/s 72	(25,000)	15,000	
		(5,000)	
(iii) Leather Business Income	62,000		
(iv) Interest on securities held as stock in trade	10,000	72,000	
		67,000	
Less: B/F loss of business Rs. 80,000 restricted to (Note 1)		67,000	NIL
Total			**58,000**
Less: Unabsorbed depreciation loss of Rs. 15,000			
Restricted to Rs. 10,000 (Note 2)			10,000
Gross Total Income			**48,000**

Note:

(1) The unabsorbed loss of Rs. 13,000 (80,000-67,000) of Textile business can be carried forward to A Y 2021-22 for setoff u/s 72, even though the business is discontinued.

(2) The unabsorbed depreciation of Rs. 15,000 is eligible for set off against any income other than salary income. Accordingly, a sum Rs. 10,000 is adjusted against income from house property. The balance Rs. 5,000 is eligible for carry forward and set off to A Y 2021-22

Illustration 10:

Mr. X informs you the following for assessment year 2020-21:

(i) Taxable salary ₹ 5,20,000.

(ii) Loss from House property A ₹ 60,000.

(iii) Income from House property B ₹ 40,000.

(iv) Brought forward business loss- assessment year 2018-19 ₹ 1, 00,000.

(v) Current year business income ₹ 80,000.

(vi) Bank interest Rs. 20,000.

Determine total income and carry forward loss, if any.

Solution:

P/Y – 2019-20 Name of Assessee: Mr. X A/Y – 2020-21

Status: Individual

Residential Status: R & OR

Computation of Total Income

Particulars		₹
Salary Income		5,20,000
Income from House Property		
HP –A (Loss)	(60,000)	
HP –B Income)	40,000	(20,000)
Profits & Gains of Business or Profession		80,000
Income from Other Sources- Bank interest		20,000
		6,00,000
Brought forward loss- Business loss (AY 2018-19) restricted to		(80,000)
Gross Total Income		**5,20,000**

Note: *The assessee is not eligible to carry forward unabsorbed business loss of ₹20,000 (₹1 lakh – ₹80,000 set off) to assessment year 2020-21 since the period of eight assessment years eligible for carry forward has expired.*

Illustration 11:

Mr. Dinesh furnishes the following information for the year ending of 31-3-2020.

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

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

Solution:

P/Y – 2019-20 Name of Assessee: Mr. Dinesh A/Y – 2020-21

Status: Individual

Residential Status: R & OR

Computation of taxable income

Particulars	₹	₹
I. Income from business:		
(a) Non speculative income.	1,50,000	
(b) Loss from derivative trading (Note 1)	(50,000)	1,00,000
II. Capital gains:		
(a) Long term capital loss (Note 2)	(25,000)	
(b) Short term capital gain	75,000	
Less: Short term capital loss (Note 3)	(90,000)	
Carried forward to next year	(15,000)	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 Rs. 25,000 for the assessment year 2020-21 is eligible for carried forward to subsequent 8 assessment years for set off in accordance with Sec 74.

(3) Short term capital loss of Rs. 90,000 is entitled for inter source adjustment.

(4) According to Sec 71, loss under the head "Capital Gains" cannot be setoff against any other income. Therefore, in this case the net loss of Rs. 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 2021-22.

Description	Sec	No. of years	Amount	Set off against
Long term capital loss	74	8	25,000	Long term capital gains
Short term capital loss	74	8	15,000	Income under the head' Capital gains' i.e. either long term capital gain or short term capital gain

Illustration 12:

The summarised Profit and Loss Account of Sri. Raj (from his grocery stores) for the Previous Year ended 31.3.2020 is as under:

Particulars	₹	Particulars	₹
To Expenses	4,20,000	By Gross profit	6,00,000
To Net profit	2,80,000	By Dividends (from Indian listed cos.)	1,00,000
	7,00,000		**7,00,000**

The following further information was provided for the same previous year:

I	Raj had other business (Proprietary) Cloth Trade (Loss)	42,000
II	Speculation (profit)	30,000
III	Loss in Proprietary business carried on in the name of his minor son	45,000
IV	He had carried forward loss in Electrical Spares for A Y 2021-22, which business was closed down (Return filed in time)	39,000
V	Income of Smt. Raj separately charged	55,000

Compute the chargeable income of Mr. Raj for the Assessment year 2020-21 under the head Profits and gains of business.

Solution:

P/Y – 2019-20 Name of Assessee: Mr. Raj A/Y – 2020-21

Status: Individual

Residential Status: R & OR

Computation of business income

	Particulars	₹	₹
(1)	Profits from Grocery stores business	2,80,000	
	Less: Income exempt from tax:		
	Dividend income [u/s.10(34)]	(1,00,000)	1,80,000
(2)	Profit from speculation business		30,000
(3)	Loss from cloth Trade	(42,000)	
(4)	Loss from business carried on in minor son's name	(45,000)	
			(87,000)
			1,23,000
	Less: B/f loss of Electrical spares business u/s. 72		39,000

	Business Income		**84,000**

Note: Section 64 (1A) provides for clubbing of minor's income with that of either of the parent whose gross income before clubbing is greater. According to Explanation 2 of section 64 Income includes loss. Since income of Mr. Raj (Rs. 1,29,000) is more than that of Mrs. Raj (Rs. 55,000) income/ (loss) of minor son is to be clubbed in the hands of Mr. Raj.

Section 72 (2) does not prohibit set off loss brought forward even if the business in respect of which the loss was determined is discontinued. Hence, loss of discontinued business can be set off against income from business even if the business is not continued in the year of set off

Illustration 13:

From the following figures, you are required to compute the total income of Pawan for assessment year 2020-21

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

Solution:

P/Y – 2019-20 Name of Assessee: Mr. Pawan A/Y – 2020-21

Status: Individual

Residential Status: R & OR

Computation of Total income of Mr. Pawan

	Particulars	₹	₹
I	Income from House Property		(10,000)
II	Capital Gains		
	Short term capital Gain		1,05,000
	Long term capital loss	75,000	
III	Income from other sources		10,000
	Gross Total Income		1,05,000
	Less: Deduction under chapter VIA		NIL
	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 Rs. 75,000 shall be carried forward to assessment year 2021-22 for set off against any long term capital gains as per Sec 74.

Illustration 13:

Mr. Hiroda submits the following information in respect of Assessment Year 2020-21. Calculate his net Income, Also show losses to be carried forward.

Particulars	₹
Income from salary	40,000
Income from House Property:	
House I	25,000
House II	(–) 35,000
Income from Business:	
Business I (Non – speculative)	54,000
Business II (Non – speculative)	(–) 14,000
Income from Capital Gains:	

Long Term Capital Gains	30,000
Income from Other Sources:	
Interest on Debentures	1,000
Lottery Winnings	8,000

You are also informed that:

(1) He spent ₹ 1,500 are collection charges towards interest on debentures (allowed to be deducted u/s 57 as an expenditure)

(2) He has following carried forward losses.

Particulars	**Year** ₹	**Amount** ₹
Business Loss	2017 – 2018	10,000
Long Term Capital Loss	2017 – 2018	30,000

(MU, TYBAF, Sem-VI, May 2008 Modified)

Solution:

P/Y – 2018-19 Name of Assessee: Mr. Hiroda A/Y – 2019-20

Status: Individual

Residential Status: R & OR

Computation of Total Income

Particulars	₹	₹
Income from salary		40,000
Income from House Property:		
House I	25,000	
House II	(35,000)	(10,000)
Income from Business:		
Business I (non-speculative)	54,000	
Business II (non-speculative)	(14,000)	
	40,000	
Less: C/f Business Loss (2017-18)	(10,000)	30,000
Income from Capital Gains:	30,000	
Less: C/f Loss of 2017-18	(30,000)	NIL
Income from Other Sources:		
Interest on debentures	1,000	
Lottery winnings	8,000	
	9,000	
Less: Collection charges u/s 57	(1,500)	7,500
Net Total Income		**67,500**

Note: Long term capital loss of ₹ 5,000 will be carried forward to A. Y. 2021-22.

Illustration 14:

X, an individual submits the following information relevant for A. Y. 2020-21:

(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) ₹ 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. X for A. Y. 2020-21 applying the provisions of set off and carry forward for losses.

(MU, TYBAF, Sem-VI, May 2006 Modified)

Solution:

P/Y – 2019-20 Name of Assessee: Mr. X A/Y – 2020-21

Status: Individual

Residential Status: R & OR

Computation of Net Taxable Income

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)	(25,000)	(7,000)
(iii)	**Income from Business:**		
	Business I (speculative) Profit	45,000	
	Business II (non-speculative) Loss	(55,000)	
	(Loss to be c/f to AY 2021-22)	(10,000)	
Net Taxable 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 2021-22.

Illustration 15:

Compute the taxable income in the following situation:

Particulars	**X Ltd.** ₹	**Y Ltd.** ₹
Income from specified business	(7,00,000)	7,00,000
Income from non specified business	10,00,000	(10,00,000)

Solution:

Particulars	**X Ltd.** ₹	**Y Ltd.** ₹
Income from specified business	(7,00,000)	7,00,000
Income from non specified business	10,00,000	(10,00,000)
Total Taxable Income	**10,00,000**	**(3,00,000)**

Note:

X Ltd. cannot set-off loss of specified business activity against profits of non specified business activity as it is prohibited u/s. 73 A. Thus loss of ₹ 7,00,000 to be carried forward to subsequent years. On the other hand Y Ltd. can set-off the profits of specified business against loss of non specified activity. Students may note that the specified business enjoy certain tax benefits under the head 'Profits and Gains of business of profession' and loss suffered by such specified business shall not be set-off against income from any other source or any other head of income.

Illustration 16:

MCA Ltd. engaged in the business of "cold chain facility" and "warehousing activity", which are the specified businesses u/s. 35AD of the Income Tax Act, 1961. The assessee furnishes the following information for year ending 31.03.2020.

(1) Loss from business of cold chain facility – ₹ 10,00,000

(2)	Taxable income from business of warehousing	– ₹	8,00,000
(3)	Taxable income from software consultancy	– ₹	3,00,000
(4)	Taxable income from other sources	– ₹	3,00,000
(5)	Loss from House property	– ₹	5,00,000

Compute the taxable income for the AY 2019-20.

Solution:

Computation of Total Income of MCA Ltd for the A. Y. 2020-21.

(₹)

		Amount	**Amount**
(I)	Income from House Property		(5,00,000)
	– As given		
(II)	Income from Business		
	– Net loss from specified business	(2,00,000)	
	– Net income from non-specified business		3,00,000
(III)	Income from other sources		3,00,000
	Gross total Income		**1,00,000**

Illustration 17: ***(IPCC, Nov. 09 Modified)***

Discuss briefly on carry forward and set off of losses in the case of change in Constitution of Firm or Succession.

Solution:

Refer to caption "Change in constitution and succession".

Illustration 18: ***(IPCC Nov. 09 Modified)***

Mr. Rajat submits the following for the financial year ending 31 March, 2020. He desires that you should:

(a) Compute the total Income and

(b) Ascertain the amount of losses that can be carried forward.

(i) He has two houses:

Sr. No.	**Particulars**	**₹**
(a)	House No. I – Income after all statutory deductions	72,000
(b)	House No. II – Current year loss	(30,000)

(ii) He has three proprietary businesses:

Sr. No.	**Particulars**	**₹**
(a)	Textile Business:	
	(i) Discontinued from 31st October, 2017 – Current year loss	40,000
	(ii) Brought forward business loss of the assessment year 2018-19	95,000
(b)	Chemical business:	
	(i) Discontinued loss from 1st March, 2018 – hence no Profit/Loss	Nil
	(ii) Bad debts allowed in earlier years recovered during this year	35,000
	(iii) Brought forward business loss of the assessment year 2017-18	50,000
(c)	Leather Business: Profit for the current year	1,00,000
(d)	Share of profit in a firm in which he is a partner since 2013	16,550

Sr. No.	**Particulars**	**₹**
(iii)	**(a)** Short-term capital gain	60,000

	(b) Long-term capital loss	35,000
(iv)	Contribution to LIC towards premium	10,000

Solution:

Computation of Total Income of Mr. Rajat for the Assessment Year 2020-21.

Particulars	₹	₹
Income from House Property		
(a) House 1 – Income	72,000	
(b) House 2 – Loss	(30,000)	42,000
Loss from business:		
(a) Textile Business – Loss	(40,000)	
(b) Chemical business – Bad debts recovered taxable u/s. 41(4)	35,000	
Leather Business – Profit	1,00,000	
Total	95,000	
Less: Brought forward loss from Textile Business – AY 2018-19	95,000	NIL
Loss from Chemical business of ₹ 50,000 shall be carried forward to AY 2021-22		
Income from capital gain		
(a) Long term capital loss — carried forward to AY 2021-22	35,000	
(b) Short term capital gain		60,000
		1,02,000
Gross Total Income		
Less: deduction under Chapter VI-A		
U/s. 80C – LIC premium		10,000
Total Income		**92,000**

Illustration 19:

Mr. P, a resident individual, furnishes the following particulars of his income and other details for the previous year 2019-20.

	Particulars	₹
(i)	Income from Salary	18,000
(ii)	Net annual value taxable under income from house property	70,000
(iii)	Income from business.	80,000
(iv)	Income from speculative business.	12,000
(v)	Long term capital gain on sale of land.	15,800
(vi)	Loss on maintenance of horse race.	9,000
(vii)	Loss on gambling.	8,000

Depreciation allowable under the Income-tax Act comes to ₹ 8,000 for which no treatment is given above.

The other details of unabsorbed depreciation and brought forward losses are:

	₹
(i) Unabsorbed depreciation	9,000
(ii) Loss from speculative business	16,000
(iii) Short term capital loss	7,800
(iv) Unrealised rent	17,000

Compute the gross total income of Mr. P, for the Assessment year 2020-21 and amount of loss that can or cannot be carried forward. ***(IPCC, Nov. 08, Modified)***

Solution:

P/Y 2019-20 **Assessee: Mr. P** **A/Y 2020-21**

Particulars	Amount	Amount
(I) Income from Salary		18,000
(II) Income from House Property		
Net Annual Value	70,000	
Less: 30% of Net Annual Value	21,000	49,000
(III) Income from Business	80,000	
Less: **(i)** Depreciation	8,000	
(ii) Unabsorbed Depreciation	9,000	63,000
(IV) Long Term Capital Gain	15,800	
Less: Short Term Capital Loss	7,800	8,000
(V) Income from Speculative Business	12,000	
Less: Loss from speculative business restricted to	12,000	Nil
Gross Total Income		**1,38,000**

Table showing loss to be carried forward to A.Y. 2021-22

Particulars	Section Ref.	Amount
Unabsorbed depreciation	32	Nil
Short Term Capital Loss	74	Nil
Loss on maintenance of horse race	74A	9,000
Loss from speculative business	73	4,000
TOTAL		**13,000**

Note: Unrealised rent, if realized subsequently, the same shall be chargeable under the head "Income from House Property" in the year in which it is realized.

Illustration 20:

Ms. Geeta is a resident individual, provides the following details of her income/losses for the year ended 31.3.2020.

- **(a)** Salary received as a partner from a partnership firm ₹ 7,50,000
- **(b)** Loss on sale of shares listed in BSE ₹ 3,00,000. Shares were held for 15 months and STY paid on sale
- **(c)** Long-term capital gain on sale of land Rs. 5,00,000.
- **(d)** Rs. 51,000 received in cash from friends in party
- **(e)** Rs. 53,000 received towards dividend on listed equity share of domestic companies
- **(f)** Brought forward business loss of assessment year 2019-20 Rs. 12,50,000

Compute gross total income of Ms. Geeta for the Assessment Year 2020-21 and ascertain the amount of loss that can be carried forward ***(IPCC, June 09 Modified)***

Solution:

P/Y – 2019-20 Name of Assessee: Ms. Geeta A/Y – 2020-21

Status: Individual

Residential Status: R & OR

Computation of Gross total income

Particulars	Refer Note	Amount (₹)
(I) Profits and Gains from Business or Profession		

	Salary received from partnership firm	a	7,50,000
(II)	Capital Gains		
	Loss on sale of shares listed in BSE	b	Nil
	Long term capital gain		5,00,000
(III)	Income from Other Sources		
	Cash received from friends in party	c	51,000
	Dividend received from domestic companies	d	Nil
Total:			**13,01,000**
Less: Set-off of Brought forward Business loss of A.Y. 2018-19, restricted to ₹ 7,50,000			7,50,000
	Gross Total Income		**5,51,000**

Note:

(a) Any salary received by a partner from a partnership firm is taxed under the head 'Profits and Gains from Business or Profession.

(b) Long term capital loss on sale of listed shares cannot be allowed to be set-off against other capital gains. Sec. 10(38) exempts the capital gains from sale of listed shares in a stock exchange, similarly, any loss from sale of listed shares will also be disallowed

(c) Any gifts received in excess of ₹ 50,000 from a non-relative has to tax under the head 'Income from other sources'. It may be noted that the aggregate of ₹ 50,000 is not in the nature of basic exemption or a threshold limit.

(d) Dividend received from domestic company is exempt u/s 10(34).

(e) According to Sec. 72, brought forward loss under the head 'Profits and Gains from Business or Profession' can be set-off only under 'profit and gains from business or profession'.

Illustration 21:

Discuss in brief the provisions relating to set off and carry forward of losses in speculation business. ***(IPCC, Nov. 07 Modified)***

Solution:

(Refer to caption "Speculation business loss".)

Illustration 22:

Fill in the blanks:

The maximum period for which speculation loss can be carried forward is _____ years.

(IPCC, May 07 Modified)

Solution:

4 years

Illustration 23:

"Loss can be carried forward only by the person, who has incurred the loss". Discuss.

(IPCC, Nov. 05)

Solution:

Refer to caption "Loss/depreciation of one person benefiting another person".

Illustration 24:

Write short note on Set off and carry forward of loss arising under the head "Income from other sources" ***(CA, Inter Nov. 05)***

Solution:

Refer to caption "Loss from activity of owning and maintaining race horses".

Illustration 25:

State the conditions to be fulfilled by an Amalgamated company for carry forward of the accumulated losses and unabsorbed depreciation of the amalgamating company.

(CA, Inter Nov. 04)

Solution:

Refer to caption "Amalgamation".

Illustration 26:

What are the consequences of demerger as to the accumulated loss and unabsorbed depreciation? ***(CA, Inter May 04)***

Solution:

Refer to caption "Demerger".

Illustration 27:

Balbir a resident individual, submits the following information relevant for the previous year ending March 31, 2020.

	₹
Income from Salary	16,00,000
Income from House Property:	
House I	70,000
House II	(–) 52,000
House III (Self occupied)	(–) 25,000
Profits and Gains of Business or Profession:	
Business I	2,00,000
Business II	(–) 75,000
Business III (Speculative)	(–) 60,000
Business IV (Speculative)	72,000
Capital Gains:	
Short term capital loss	(–) 83,000
Long term capital gains on transfer of Preference Shares	70,000
Income from Other Sources:	
Income from card games	80,000
Loss on maintenance of horses race	(–) 1,20,000
Income from owning and maintaining camels race	2,00,000

Determine the Net Income for the assessment year 2019-20.

(MU, TYBAF, April 2011, Modified)

Solution:

Name of assessee: Ganesh

Legal Status: Individual

P/Y: 2019-20 Residential Status: R & OR A/Y: 2020-21

Computation of Total Income

	Particulars		₹	₹	₹
(I)	**Income From Salary**				16,00,000
(II)	**Income From House Property**				
	House I	(Profit)		70,000	
	House II	(Loss)		(52,000)	
	House III	(Loss)		(25,000)	(7,000)
(III)	**Profits and Gains of Business/Professions**				
	Business I	(Non Speculative)	2,00,000		
	Business II	(Non Speculative)	(75,000)	1,25,000	

Business III (Speculative)	(1,60,000)		
Business IV (Speculative)	72,000		
Speculative Loss Carried Forward	(88,000)		1,25,000
(III) Capital Gains			
Long Term Capital Gains		70,000	
Less: Short Term Capital Loss		83,000	
Short Term Capital Loss Carried Forward		**(13,000)**	
(IV) Income From Other Sources			
Income From Card Games		80,000	
Income From Owning and Maintaining Camels Race		2,00,000	2,80,000
Loss From Owning and Maintaining Horses Race Carried Forward		(1,20,000)	
Net Taxable Income			**19,98,000**

Illustration 28:

For the assessment year, 2020-21, Mr. Ganesh a non-resident individual, furnishes the following information:

Particulars	₹
Business Income	1,15,000
Income from House Property	32,000
Long Term Capital Gains	2,00,000
Short Term Capital Gains	4,05,000
Income from owning and maintain race horses	2,15,000
Income from card games	1,10,000

Besides, Mr. Ganesh has the following brought forward losses/allowances ₹

Brought forward business loss of the assessment year 2017-18	1,21,000
Unabsorbed depreciation allowance of the assessment year 2016-17	1,05,000
Long Term Capital Loss in respect of the assessment year 2017-18	3,45,000
Brought forward loss from the activity of owning and maintaining race horses of the assessment year 2017-18	2,75,000
Speculation losses of the assessment year 2013-14	50,000

Determine the Gross Total Income of Mr. Ganesh for the assessment year 2020-21.

(MU, TYBAF, April 2013, Modified)

Solution:

Name of assessee: Mr. Ganesh

Legal Status: Individual

P/Y: 2019-20 Residential Status: Non resident A/Y: 2020-21

Computation of Total Income

Particulars	₹	₹
Income from House Property		32,000.00
Business Income	1,15,000.00	
Less: Business loss	1,21,000.00	
Business Loss to be carried forward to next year	6,000.00	
Long Term Capital Gain	2,00,000.00	
Less: Long Term Capital loss	3,45,000.00	

Long Term Capital Loss cannot be carried forward beyond the A.Y. 2021-22	-1,45,000.00	
Short Term Capital Gain		4,05,000.00
Income from owning & maintaining race horses	2,15,000.00	
Less: Loss from owning & maintaining race horses	2,75,000.00	
Carried forward to A.Y. 2021-22	-60,000.00	
Income from Card Games		1,10,000.00
Total Income		**5,47,000.00**
Less: Unabsorbed Depreciation Allowance		1,05,000.00
Gross Total Income		**4,42,000.00**

Note: In the absence of speculation income, brought forward speculation loss of the A Y 2013-14 cannot be set off. As four year time limit expires with the A Y 2018-19, the loss cannot be carried forward to the next A Y.

Illustration 29:

Mr. Rahul is a resident individual submit the following information for the previous year ended 31/3/2020.

(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 2020-21 applying provisions of set off and carry forward losses.

(MU, TYBAF, April 2015, 2016, Modified)

Solution:

Name of assessee: Mr. Rahul
Legal Status: Individual
P/Y: 2019-20 Residential Status: Resident A/Y: 2020-21

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	90,000	
		1,10,000
Income from Speculative Business	80,000	
Less: Loss from Speculative Business	1,20,000	
		–
Long Term Capital Gain	1,50,000	
Less: Short Term Capital Loss	1,00,000	
		50,000

Taxable Income		**6,00,000**

Note: (1) Loss from speculative business of Rs. 40,000 will be carried forward. **(2)** Unrealised rent cannot be deducted.

Exercises: Objectives

(1) Explain the concept of inter source adjustment u/s 70 and inter head adjustment u/s 71.
(2) How is the loss from house property set off or carry forward u/s 71B?
(3) Explain the provisions of section 72 of Income Tax Act, 1961.
(4) **State whether following statements are True of False:**
- **(a)** Unabsorbed Speculative loss can be carried forward upto 4 A. Y. ***Ans.:*** *True*
- **(b)** Unabsorbed loss under the head capital gain can be carried forward for only 8 A. Y. ***Ans.:*** *True*
- **(c)** Unabsorbed loss relating to short term capital assets is to be carried forward of set off against income from capital gains, both long term & short term. ***Ans.:*** *True*
- **(d)** Speculation loss can not be set off only against salary. ***Ans.:*** *True*
- **(e)** Loss under the head Business/profession cannot be adjusted against. Income under the head Business Income. ***Ans.:*** *False*
- **(f)** Speculative loss can not be set off only against salary Income. ***Ans.:*** *True*
- **(g)** Long term capital loss can be set off only against long term capital gains. ***Ans.:*** *True*
- **(h)** Loss relating to long term capital assets is to be set off against long term capital gains. ***Ans.:*** *True*

(5) **Explain the following statements are true or false:**
- **(a)** Loss from house property can be written off over a period of 10 years.
  Ans.: *False – 8 years*
- **(b)** Unabsorbed business loss can be set off against income from house property.
  Ans.: *False – against business or profession*
- **(c)** Set off provision for loss under head of capital gain is explained u/s 73.
  Ans.: *False – u/s 74*
- **(d)** Speculation business loss can be set off over a period of 8 years.
  Ans.: *False – 4 years*

(6) **Match the Column:**

Column I	Column II
(1) Speculative loss set off	**(a)** Salary Income
(2) Long term capital loss set off	**(b)** Business Income
(3) Short term capital loss set off	**(c)** Long term capital gain
(4) Loss under the head House property	**(d)** Income from House property
	(e) Speculative Income
	(f) Either long term capital gain or short term capital gain

Ans.: (1-e), (2-c), (3-f), (4-d)

Column I	Column II
(1) Business loss can be set off against	**(a)** Income from salary
(2) Speculation loss can be carried forward for	**(b)** 10 years
(3) Business loss can be carried forward for	**(c)** 4 years
	(d) 5 years
	(e) Income from business
	(f) 8 years

Ans.: (1-e), (2-c), (3-f)

(7) **Fill in blanks:**
- **(a)** Unabsorbed business loss can be carried forward for __________.
- **(b)** Unabsorbed __________ can be carried forward even is business is discontinued.
- **(c)** Loss from House property can be set off against __________ in the same A. Y.
- **(d)** __________ cannot be set off against salary income in the A.Y.
- **(e)** Speculative loss cannot be set off against __________.
- **(f)** Long term capital loss should be asset off only against __________.
- **(g)** __________ under the head capital gains cannot be set off against 8 day.
- **(h)** Capital gains loss can be carried forward for set off for __________.
- **(i)** Speculation loss can be carried forward for set off for __________.

***Ans.:** (a-8 A.Y.), (b-business loss), (c-Business Gain), (d-Business loss), (e-Business), (f-any other head;), (g-Loss), (h-4 A.Y.), (i-long term capital gain)*

(8) Rewrite the statements after choosing the correct option:

(a) Long Term Capital Losses of current year can be set-off against __________.
- **(i)** Only Short Term Capital Gains of current year.
- **(ii)** Only Long Term Capital Gains of Current year.
- **(iii)** Both Short Term and Long Term Capital Gains of current year.

(b) Un-absorbed depreciation allowance can be carried forward for __________.
- **(i)** 4 years.
- **(ii)** 8 years.
- **(iii)** Indefinitely

(c) Loss from activity of owing and maintain race horses can be set-off against __________.
- **(i)** All speculative profits.
- **(ii)** Only profits from activity of owning and maintaining race horses.
- **(iii)** All items of income under 'Income from House Property'.

[Ans.: (a – ii), (b – iii), (c – ii)]

(9) Multiple Choice Questions:

(a) Speculative loss can be set off only against __________.
- **(i)** Salary Income
- **(ii)** Capital Gain
- **(iii)** Business Income
- **(iv)** None of the above

(b) Long term capital loss can not be set off against __________.
- **(i)** Short term capital gain
- **(ii)** Business gain
- **(iii)** Speculative Income
- **(iv)** All of the above

(c) Unabsorbed loss from House property can be carried forward to next __________ A.Y.
- **(i)** 6 years
- **(ii)** 12 years
- **(iii)** 8 years
- **(iv)** 4 years

(d) Unabsorbed speculation loss can be carried forward to next __________ A.Y.
- **(i)** 6 years
- **(ii)** 12 years
- **(iii)** 8 years
- **(iv)** 4 years

(e) Loss under the head capital gains __________ be set off against income under any other head of Income in the same A.Y.
- **(i)** Can
- **(ii)** Cannot
- **(iii)** (i) & (ii) both
- **(iv)** either (i) or (ii)

(f) Loss from short term Capital Asset can be set off against __________ &/or __________ in the same A.Y.
- **(i)** Salary Income/Income from House Property
- **(ii)** Salary Income/Business Income
- **(iii)** Long term capital gain/short term capital gain
- **(iv)** None of the above

Ans.: (1-d), (2-d), (3-c), (4-d), (5-b), (6-c),

Exercises: Practical

(1) Explain the concept for carry forward of losses under different sections of Income Tax Act, 1961?

(2) Mr. X. submits the following information in relation to Assessment Year 2020-21.

Particulars	₹
Income from Salary	2,00,000

Income from House Property:	
HP-I-Profit	75,000
HP-II-Loss	(–) 1,00,000
Income from Business:	
Loss from Business – I (speculative)	(–) 15,000
Profit from Business – II (Non-speculative)	50,000
Loss from Business – III (Non-speculative)	(–) 10,000
Income from Capital Gains:	
Short Term Capital Loss	(–) 60,000
Loss Term Capital Gain	80,000
Income from other Sources:	
Wining from crossword puzzle	30,000

[Ans.: 2,65,000]
(MU, TYBAF)

(3) Mr. Z furnishes his following particulars for previous year 2019-20:

	₹		₹
Business Loss (Plastics)	(–) 4,00,000	Business Profit (Grocery)	10,00,000
Carried Forwards:		Income from House Property	2,00,000
Business Loss [Speculative] (First determined for Asst. Year 2017-18)	(–) 6,00,000		

Determine the Gross Total Income of Z for Assessment Year 2021-22.

[Ans.: 8,00,000]
(MU, TYBAF, Sem-VI, May 2007)

(4) Mr. X furnishers the following particulars of his income for the previous year 2019-20:

Income from	₹
House Property (Delhi)	5,00,000
House Property (Kolkotta)	(–) 2,00,000
Business (Jute)	(–) 15,00,000
Business (Cotton)	18,00,000
Speculation (Shares)	2,00,000
Speculation (Silver)	(–) 5,00,000
Capital Gain (Short term):	
Land	3,00,000
Shares	(–) 2,00,000
Other Sources:	
Card Game	2,50,000
Race Horses	(–) 3,00,000

Determine Mr. X's Gross Total Income for Assessment Year 2020-21. ***[Ans.: 9,50,000]***
(MU, TYBAF, Sem-VI, May 2007)

(5) Mr. Vyom gives you his following details for the financial year 2019-20 from which you are required to calculate his total Income liable to tax for the Assessment year 2020-21:

	₹		₹
Brought forward:		**Brought forward:**	
Business loss	(–) 20,000	Income from House property:	(–) 75,000
Current year:		**Current year:**	
Short term Capital Gain (shares)	5,000	Long term Capital Gain: (debentures)	(–) 25,000
Income from House Property	1,50,000	(Gold)	(–) 7,000
Salary	50,000	Business loss	(–) 75,000

[Ans.: 55,000]
(MU, TYBAF, Sem-VI, Nov. 2008)

(6) Mr. Yeshwant submits the following information for the financial year ending 31st March, 2020. He desires that you should (a) compute the gross total income and (b) ascertain the amount of losses that can be carried forward:

	₹
(1) He has two houses:	
(a) House No. I – Computed Income	36,000

(b) House No. II – Current year loss	10,000
(c) Brought forward loss of assessment year 2018-19 of second house	30,000
(2) He has three proprietory business:	
(a) Textile business:	
(i) Discontinued from 31st October, 2018 current year loss	10,000
(ii) Brought forward business loss of the year 2019-20	80,000
(b) Chemical business:	
(i) Discontinued from 1st March, 2019 hence no profits/loss in current year	Nil
(ii) Bad debts allowed in earlier years recovered during this year	30,000
(iii) Carried forward business loss for the assessment year 2019-20	20,000
(c) Leather business:	
(i) Profit for the current year	70,000
(3) (a) Short-term capital gains	20,000
(b) Long-term capital loss	15,000

[Ans.: 20,000]

Ans.: "Yes" or "No".

(i) *Where a person has liability to pay tax in respect of other persons' income, be is allowed to adjust such persons' losses against his income.*

(ii) *Short-term capital losses of an assessment year may be set off against profits of a non speculative business.*

(iii) *Loss from speculation silver may be carried forward for set off against profits from speculation in gold.*

(iv) *Speculation losses may be set off against non-speculation profits.*

(v) *Business losses may be carried forward for a maximum of ten years.*

(vi) *Long-term capital losses cannot be carried forward.*

(7) Mr. Ronak 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 and loss from owning and maintaining race horses ₹ 55,000. Compute his total income for the A.Y. 2019-20 and loses to be carried forward.

[Ans.: 4,00,000]

(8) Mr. Mukul 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. 20-21.

[Ans.: 17,25,000]

(9) From the following particulars of Mr. Naresh for previous year ending 31/3/2020 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]

(10) Simran, engaged in various types in various types of activities, give the following particulars of her income for the year ended 31/3/2020. ₹

(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 2018-19. 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 simran for the A/Y 2020-21.

[Ans.: 37,500]

(11) X, an individual, submits the following information relevant for the P.Y. 2018-19

Particular	Profit ₹	Loss ₹
Salary income computed	42,000	
Income from house property:		
House A	15,000	
House B		17,000
House C		21,000
Profit and gains of business or profession:		
Business A	8,000	
Business B		18,000
Business C [speculative]	11,000	
Business D [speculative]		23,000
Capital gains:		
Short-term capital gains	6,000	
Short-term capital loss		28,000
Lon-term capital gains on sale of building	12,500	
Income from other sources:		
Income from card games	3,000	
Loss from card games		7,000
Loss on maintenance of race horses		6,000
Interest on securities	4,000	

[Ans.: 19,000]

(12) Determine the net income of X for the A. Y. 2020-21, Mr. Zilani furnishes the following particulars of his income for the P. Y. 2019-20.

Particular	₹
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 31-12-2018 leaving the following unabsorbed:	
(a) Business loss	(–) 3,00,000
(b) Depreciation	(–) 2,00,000
K business was discontinued on 1-3-2019 leaving the following unabsorbed:	
(a) Business loss	(–) 30,000
(b) Depreciation	(–) 1,00,000

Compute his total income for A. Y. 20-21.

[Ans.: Nil]

Chapter 3

Computation of Income of Partnership Firms

[Section 40(b)]

WHAT IS PARTNERSHIP?

Section 4 of the Indian Partnership Act, 1932 defines partnership as "relationship between persons who have agreed to share the profits of a business carried on by all or any of them acting for all". Persons who have entered into partnership with one another are called individually partners and collectively a firm and the name under which their business is carried on is called the firm name.

WHAT IS THE SCHEME OF TAXATION OF FIRMS?

The salient features of the scheme are as under:

- The firm is taxed as a separate entity.
- The share of the partner in the income of the firm is not chargeable to tax in the hands of partners.
- Any salary, bonus, commission or remuneration (by whatever name called), paid/payable to partners is allowed as a deduction to the firm. However, the deduction is subject to certain restrictions in the hands of the firm. The amount which is allowed as deduction to the firm is taxable in the hands of the partners.
- Where a firm pays interest to any partner, the firm can claim deduction of such interest from its total income. However, the maximum rate at which interest can be allowed to a partner is 12 per cent per annum. The amount of interest, allowed as deduction in the hands of the firm, is taxable in the hands of partner.
- The income of the firm is taxed at a flat rate, i.e., 30 per cent from the Asst. Year 2020-21. However Surcharge say's 12% of tax where total income exceeds Rs. 1 crore and Health and Education cess 4% of income tax and surcharge.

WHEN REMUNERATION/INTEREST IS DEDUCTIBLE?

Payment of remuneration and interest is deductible if the following conditions are satisfied:

- Conditions of section 184
- Conditions of section 40(b)

WHAT ARE THE CONDITIONS A FIRM SHOULD FULFILL UNDER SECTION 184?

The five conditions which a firm has to satisfy under section 184 are as under:

Condition 1	A firm must be evidenced by a partnership deed.
Condition 2	Individual share of partners must be specified in partnership deed.
Condition 3	Certified copy of the partnership deed should be submitted.
Condition 4	Revised partnership deed should be submitted whenever there is change in the

	constitution of firm/profit-sharing ratio.
Condition 5	There should not be any failure as is mentioned in section 144.

A firm must be evidenced by an instrument [U/S. 184(1)(i)]: The firm should be evidenced by an "instrument". In simple words, a firm should be evidenced by a partnership deed.

"Instrument" docs not mean only a regular partnership deed but it may constitute any other formal document. If the terms of a partnership are contained in a number of documents or in the correspondence between the parties, the documents or letters would constitute "instrument" for this purpose.

Individual share of partners must be specified in instrument: The instrument of partnership (i.e., partnership deed) must specify the individual shares of partners in profits of the partnership.

Certified copy of the instrument should be submitted: A certified copy of the instrument of partnership should accompany the first return of income of a firm. For this purpose, a copy of the instrument of partnership (may be xeroxed copy) may be taken. It should be certified in writing by all partners (other than minors). If, however, the return is made after the dissolution of the firm, it should be certified by all partners (other than minors) who were partners in the firm immediately before dissolution and by legal representative of any such partner who is deceased.

Revised instrument should be submitted whenever there is change in the constitution of firm/profit-sharing ratio: If there is any change in the constitution of the firm or profit-sharing ratio during any previous year, a certified copy of the revised instrument of partnership should be filed along with return of income of the relevant assessment year. Even if there is a change in remuneration/payment of interest to partners but there is no change in profit-sharing ratio, a copy of revised instrument of partnership should be submitted along with return.

There should not be any failure as is mentioned in section 144: There should not be any failure as is mentioned in section 144.

What is important is type of failure in section 144 and not an assessment under section 144.

WHAT ARE THE CONDITIONS FOR CLAIMING DEDUCTION OF REMUNERATION OF PARTNERS UNDER SECTION 40(b)?

Deduction of salary to partners depends upon conditions of sections 184 and 40(b).

Conditions of section 40(b): The following specific conditions, as prescribed by section 40(b), should be satisfied:

Condition 1	Remuneration should be paid only to a working partner.
Condition 2	Remuneration must be authorised by the partnership deed.
Condition 3	Remuneration should not pertain to period prior to partnership deed.
Condition 4	Remuneration should not exceed the permissible limit.

PAYMENT SHOULD BE MADE TO A WORKING PARTNER:

Any payment of salary, bonus, commission or remuneration to any partner who is a "working partner" is allowable as deduction if the other conditions are satisfied.

For this purpose, a working partner" means an individual who is actively engaged in conducting the affairs of the business or profession of the firm of which he is a partner [Explanation to section 40(b)1].

REMUNERATION MUST BE AUTHORISED BY PARTNERSHIP DEED:

Any payment of salary, bonus, commission or remuneration (by whatever name called) to a working partner is allowed as deduction:

(a) if the payment is authorised by partnership deed; and

(b) if it is in accordance with the terms of partnership deed.

To claim deduction of remuneration to partner, it should not only be authorised by the partnership deed, but also it should be in accordance with the terms of partnership deed.

IT SHOULD NOT PERTAIN TO THE PERIOD PRIOR TO PARTNERSHIP DEED:

Remuneration to the working partners (as per the partnership deed), should be payable after the date of deed. In other words, if such payment is made from a date prior to the date of partnership deed, it would not be allowed as deduction, unless the earlier deed provides for such payment.

Illustration 1:

A and B enter into a partnership agreement on April 1, 2019. As per the partnership deed, each of them is entitled for salary at the rate of ₹ 1,000 per month apart from profit. On July 1, 2019, the agreement of partnership has been amended to increase the salary to ₹ 3,000 per month with retrospective effect from May 1, 2019.

Solution:

In this case, salary is deductible as follows subject to the satisfaction of other conditions:

	X (₹)	Y (₹)
From April 1, 2019 to June 30, 2019	1,000 per month	1,000 per month
From July 1, 2019 onwards	3,000 per month	3,000 per month

REMUNERATION SHOULD NOT EXCEED THE PERMISSIBLE LIMIT:

If the above conditions are satisfied, remuneration to partners is allowable as deduction in the hands of the firm. However, the maximum amount of such payment to all the partners during the previous year should not exceed the limits given below.

(a)	On negative book profit or in case of a case of a loss.	₹ 1,50,000
(b)	On the next ₹ 3,00,000 of the book profit	₹ 1,50,000 or at the rate of 90 per cent of the book profit, whichever is more.
(c)	On the balance of the book profit	at the rate of 60 per cent of book profit

BOOK PROFIT - HOW TO COMPUTE:

It would be determined as under:

Step one	Find out the net profit of the firm as per Profit and Loss Account.
Step two	Make adjustments as provided by sections 28 to 44DB.
Step three	Add remuneration to partners if debited to the Profit and Loss Account.

The resulting amount is "book profit".

It max be noted that under Step two only adjustment as specified under sections 28 to 44DB are made and, consequently:

(a) income chargeable to tax under the heads 'Income from house property", "Capital gains" and "Income from other sources" is not part of "book profit";

(b) brought forward business losses are not to be deducted from "book profit" (one can, however, deduct brought forward unabsorbed depreciation); and

(c) permissible deductions from gross total income under sections 80C to 80U shall be ignored for computing "book profit".

(1) Interest paid to a partner by a firm is not deductible unless the following conditions are fulfilled:

- It should be authorized by and in accordance with the partnership deed.
- It should relate to a period falling after the date of the Partnership deed.

- It should be not exceeding 12% p.a. simple rate of interest.

Further, the disallowance of interest is subject to the following explanations:

Explanation 1: If a person is a partner in his representative capacity in the firm and if he receives interest in his individual capacity from the firm such interest should not be disallowed.

Explanation 2: If a person who is a partner in his individual capacity receives interest for and on behalf of some one else from the firm in which he is a partner such interest should not be disallowed.

(2) Any amount paid by way of salary, bonus, commission or remuneration by a firm to a partner is not deductible in the computation of income of the firm unless the following conditions are fulfilled:

(a) It should be authorized by and in accordance with the partnership deed.
(b) It should relate to a period falling after the date of the partnership deed.
(c) It should be within the prescribed limits. The prescribed limits are as follows:
(d) It should be paid to a working partner.

For the purpose of remuneration paid to working partner by a firm the following explanations are relevant:

Explanation 3: "Book profit" means the net profit, as shown in the profit and loss account for the relevant previous year, computed in the manner laid down in Chapter IV-D as increased by the aggregate amount of the remuneration paid or payable to all the partners of the firm if such amount has been deducted while computing the net profits.

Explanation 4: "Working partner" means an individual who is actively engaged in conducting the affairs of the business or profession of the firm of which he is a partner.

According to u/s 2(23) the terms "FIRM", "PARTNERS" and "PARTNERSHIP" have the meanings respectively assigned to them in the Indian Partnership Act, 1932. The expression "PARTNER" shall also include any person who is a minor admitted to the benefits of partnership.

CBDT has issued circular no.739 dt.25.3.96 stating that disallowance of salary to partners shall be made in the case of a firm if the partnership deed does not specify the amount of remuneration payable to each individual working partner or it does not lay down the manner of quantifying such remuneration.

Students can remember that the deductible amount of interest and salary shall be the amount payable as per partnership deed or amount calculated u/s 40(b), whichever is less. Further, rent paid to a partner by the firm in respect of assets belonging to the partner and used by the firm is not covered by Section 40(b) and therefore deductible.

WHAT ARE THE CONDITIONS FOR CLAIMING DEDUCTION OF INTEREST TO PARTNERS UNDER SECTION 40(b):

Deductibility of interest paid to partners by firm depends upon the fulfilment of conditions of sections 184 and 40(b).

Compliance of section 40(b): The following specific conditions should be fulfilled to obtain deduction of interest paid to the partners:

Condition 1	Payment of interest should be authorised by the partnership deed.
Condition 2	Payment of interest should pertain to the period after the partnership deed.
Condition 3	Rate of interest should not exceed 12 per cent.

RATE OF INTEREST SHOULD NOT EXCEED 12 PER CENT:

Interest to partner is deductible if it does not exceed simple interest @ 12 per cent per annum. If, however, interest payable exceeds simple interest of 12 per cent per annum, the excess amount is not deductible.

WHEN RECIPIENT OF INTEREST ACTS IN A REPRESENTATIVE CAPACITY:

Section 40(b) deal with case where recipient of interest acts in a representative capacity.

U/S. 40 (b) provides that where an individual is a partner in a firm on behalf (or for the benefit of) any other person, interest paid by the firm to such individual, (otherwise than as partner in a representative capacity), is not taken into account, for the purposes of section 40(b).

Illustration 2:

X is a partner in a firm on behalf of his HUF. He has given a loan of ₹ 1 lakh in his personal capacity @ 14 per cent to the firm. The HUF has also given a loan (or capital contribution) of ₹ 4 lakh 14 per cent.

Solution:

In this case, ₹ 14,000 (being interest @ 1 4 per cent on ₹ 1 lakh) tax in his personal capacity is deductible without applying the provisions of section 40(b). However, interest of ₹ 56,000 paid to X for the benefit of HUF will be governed by section 40(b) and interest in excess of 12 percent (i.e., ₹ 8,000) shall be disallowed. In other words, out of interest of ₹ 56,000 paid to X for the benefit of HUF, ₹ 48,000 is allowed as deduction if conditions of sections 184 and 40(b) are satisfied.

Illustration 3:

A partner receives ₹ 10,000 from the firm as interest on deposit made by his minor son, ₹ 10,000 will be allowed. Similarly, if X is a partner in a firm in his personal capacity, interest paid by the firm to X (not in his personal capacity but, say, as representing the HUF of which he is Karta) is not taken into account for purpose of section 40 (b).

INTEREST CHARGED BY FIRM ON DRAWINGS:

Where a firm pays as well as receives interest from the same partner, interest received by the firm will be chargeable to tax. Interest paid to the same partner will he allowed within the four-corners of section 40(b).

INTEREST BEFORE BECOMING PARTNER OF FIRM:

The above provisions are not applicable in respect of interest paid to a person before becoming partner.

CARRY FORWARD AND SET OFF OF LOSS IN THE CASE OF CHANGE IN THE CONSTITUTION OF FIRM:

Section 78 provides that where there is a change in the constitution of the firm on account of death/retirement, the firm shall not be entitled to carry forward of so much of the loss as is attributable to such partner. This provision covers when a partner goes out of the firm (i.e., the case of retirement or death). It does not, however, cover the case of change in profit-sharing ratio or the case of admission of a partner.

Carry forward of house property loss, business loss, capital loss and loss from the activity of owning and maintaining race horses: These losses can he set off and carried forward by a firm in the case of change in constitution of the firm as follows, as per the provisions of section 78:

(1) First ascertain the share of outgoing partner in the profit/loss of the firm in the year of change in the constitution of firm.

(2) Compute the share of loss of outgoing partner in the brought forward loss.

(3) The difference between the two (in the case of profit in the year of change) or the aggregate of the two (if there is loss in the year of change in the constitution of firm) cannot be allowed to be set off and carry forward.

CARRY FORWARD OF UNABSORBED DEPRECIATION:

As section 78 is not applicable in the case of unabsorbed depreciation and unabsorbed capital expenditure on scientific research. These unadjusted allowances (without deducting share of outgoing partner) can be carried forward by the carried firm.

Illustration 4:

X, Y and Z (1:1:2) are three partners of a firm. For the assessment year 2020-21, net income of the firm is (-) ₹ 1,30,000 (out of which unadjusted depreciation is ₹ 40,000) On April 30, 2018, Z retires from the firm and the other partners carry on the same business. The income of the firm for the assessment year 2020-21 before adjusting of the aforesaid loss and depreciation is ₹ 1,08,000.

Compute the net income of the firm after adjustment of loss and depreciation for the assessment year 2020-21. Assume that salary and interest are not paid to partners.

Solution:

Name of Assessee: X Y & Z

Legal Status: Firm

P/Y – 2019-20 Residential Status: R & OR A/Y – 2020-21

	₹
Brought forward loss from the assessment year 2019-20	1,30,000
Unabsorbed depreciation	40,000
Brought forward loss (excluding depreciation)	90,000
Share of Z, the retiring partner (2/4 of ₹ 90,000)	45,000
Income of the firm of the assessment year 2020-21 before adjustment of loss	1,08,000
Out of which shore of Z, the retiring partner (1/12 × 2/4 × ₹ 1,08,000]	4,500
Amount of brought forward loss which cannot be set off [₹ 45,000 – ₹ 4,500]	40,500
Computation of income of the firm for the assessment year 2020-21	
Income (before adjustment)	1,08,000
Less:	
Brought forward loss (i.e., ₹ 90,000 – ₹ 40,500)	49,500
Unadjusted unabsorbed depreciation	40,000
Net income	18,500

INCOME OF A FIRM:

First find out the taxable income of firm under the following steps:

(1) Find out income under the different heads of income (viz., "Income from house property, "Profits and gains of business or profession", 'Capital gains" and "Income from other sources") excluding incomes exempt under sections 10 to 13A. The payment of remuneration and interest to partners is deductible if conditions of section 184 and section 40(b) are satisfied.

(2) Make adjustment on account of brought forward losses/disallowances. The total income under the aforesaid heads is gross total income.

(3) From the "gross total income" make the following deductions and the balancing amount is net income of the firm.

Section	**Nature of Deduction**

80G	Donations to charitable institutions and funds.
80 GGA	Donations for scientific research or rural development.
80 GGC	Contributions given to political parties.
80-IA	Profits and gains from industrial undertakings or enterprises engaged in infrastructure development, etc.
80-IAB	Profits and gains by an undertaking or enterprise engaged in development of special economic zone.
80-IB	Profits and gains from certain industrial undertakings other than infrastructure tore development undertakings.
80-IC	Profits and gains of certain undertaking in certain special category of States.
80-ID	Profit from the business of hotel and convention centre in NCR.
80-IF	Profit from certain under taking in North eastern states.
80JJA	Profits from the business of collecting and processing of bio-degradable waste.

Other points: The following other points one should also keep in mind:

(1) Where at the time of assessment, it is found that a change has occurred in the constitution of a firm, only one assessment shall be made in respect of the entire previous year in which change in the constitution has occurred.

A change in the constitution of a firm is said to take place:

(a) if one or more of the partners cease to be partners or one or more new partners are admitted, provided that at least one of the partners of the firm before the change continues as partner after the change [it does not cover a case where a firm is dissolved on the death of any of its partners] or

(b) where all the partners continue with a change in their respective shares or a change in the share of some of them.

(2) Where a firm carrying on a business/profession is succeeded by another firm and the case is not covered by the aforesaid provision, sepal-ate assessments shall be made on the predecessor firm and the successor firm.

(3) Every person who was, during the previous year, a partner of a firm, and the legal representative of any such person who is deceased, shall be jointly and severally liable along with the firm for the amount of tax, penalty or other sum payable by the firm for the assessment year.

(4) If conditions of section 184 and/or 40(b) are not satisfied, then salary and interest paid by a firm to partners are not deductible.

TAX LIABILITY OF FIRM:

On the income computed above, tax is payable for the assessment year 2020-21 is calculated at follows:

(1) Find out Income-tax:

	Tax rate
Short-term capital gain under section 111A	15%
Long-term capital gain (sec. 112)	20%
Winnings from lottery, races, etc.	30%
Income (not being income which is subject to special tax rate)	30%

(2) Add. Education cess @ 2% of (1).

(3) Add: Secondary and higher education cess @ 1% of (1).

(4) Tax liability is (1) + (2) + (3).

Surcharge is applicable @ 12%, if total income exceeds Rs. 1 crore.

TAXABLE INCOME OF PARTNERS OF A FIRM:

These provisions are given below:

Share of profit: Section 10(2A) provides that in the case of a partner (including a minor admitted for the benefit of the firm) of a firm, his share in the total income of the firm shall be exempt from tax.

Remuneration or interest: If condition of section 184 and section 40(b) are satisfied then interest, salary, bonus, commission or remuneration paid/payable by the firm to partners is taxable in the hands of partners (to the extent these are allowed as deduction in the hands of the firm).

The following points one should note:

(1) Remuneration is not taxable under the head "Salaries": Remuneration is not taxable in the hands of partners under section 15 under the head "Salaries" (Explanation 2 to section 15). It is taxable as business income.

(2) Expenses are deductible under sections 30 to 37: Any expenditure incurred in order to earn salary/interest income can be claimed as a deduction under sections 30 to 37 from such income. For instance, if a partner borrows money to make his capital contribution to the firm and he has received interest on his capital contribution, the amount of such interest will be taxed under the head "Profits and gains of business or profession", but the interest paid by him on the borrowed money will have to be allowed as a deduction.

(3) Consequences when remuneration/interest is disallowed in firm's hands: If salary/ interest is disallowed in the hands of firm under section 40(b) and/or section 184, then the same is not taxable in the hands of the partners. Likewise, if a part of salary/interest is not allowed as deduction in the hands of the firm, that part of salary/interest is not taxable in the hands of the partners. The cumulative impact of the aforesaid provision is that in the hands of partners the entire remuneration/interest (excluding the amount disallowed in the assessment of partners) is chargeable to tax.

Net profit as per profit and loss account		XXX
Add:		
(1) Items debited to profit and loss account but not deductible including interest to partners to be disallowed u/s. 40(b)	XXX	
(2) Items chargeable as business/professional income but not credited to P&L account	**XXX**	
		XXX
		XXX
Less:		
(1) Items credited to profit and loss account but not taxable under this head of income	XXX	
(2) Items not debited to profit and loss account but allowable as deduction	**XXX**	**(XXX)**
Adjusted income from business/profession		XXX
Add: Salary and interest on capital to partners debited to profit and Loss a/c		XXX
		XXX
Less: Salary to working partners as per amount debited to P&L or as per u/s 40(b), whichever is less		XXX
		XXX
Less: Interest on capital as per deed or at 12% whichever is less		(XXX)

Taxable income from business/profession		**XXX**

Illustration 5:

Profit and Loss account of X Co. [a firm of X, Y and Z which satisfies all conditions of sections 184 and 40(b)] for the year ending March 31, 2020 is as follows:

	₹		₹
Cost of goods sold	7,90,000	Sales	26,00,000
Remuneration to partners		Rent of house property (half portion)	50,000
X	6,00,000	Interest on debentures (non-trade investment)	60,000
Y	9,00,000		
Z	55,000		
Fringe benefit tax	8,000		
Interest to partners @ 13.5%			
X	40,000		
Y	10,000		
Z	60,000		
Municipal tax of house property (entire property)	5,000		
Other expenses	2,10,000		
Net Profit	32,000		
	27,10,000		**27,10,000**

Other information:

(1) Out of other expenses, ₹ 48,500 is not deductible under sections 36, 37(1) and 43B.

(2) On January 15, 2020, the firm pays an outstanding sales tax liability of ₹ 2,922 of the previous year 2019-20. As this amount pertains to the previous year 2019-20, it has not been debited to the aforesaid profit and loss account.

(3) Z is not a working partner.

(4) The firm owns a house, the ground floor is used for business purposes, the first floor is given on rent. Municipal tax is paid on May 10, 2020.

Find out the net income of the firm (and tax treatment of the payments to partners in their hand) for the assessment year 2020-21.

Solution:

Name of Assessee: X Co.

Legal Status: Firm

P/Y – 2019-20 Residential Status: R & OR A/Y – 2020-21

Computation of remuneration deductible under section 40(b)	₹
Net profit as per profit and loss account	32,000
Less: Income not chargeable to tax under section 28	
Rent	50,000
Interest	60,000
Balance	78,000
Add: Expenses debited to profit and loss account but which are not deductible	
Remuneration (taken separately)	15,55,000
Interest to partners (amount in excess of 12% which is not allowable as deduction]	12,222
Fringe benefit tax	8,000

Municipal taxes of house property half portion given on rent	2,500
Other expenses	48,500
Balance	15,48,222
Less: Outstanding sales tax paid during 2019-20 (deductible by virtue of section 43B)	2,922
Book profit	15,45,300

Maximum amount which is deductible on account of payment of remuneration to partners:

	₹	₹
First ₹ 3,00,000 (1,50,000 or 2,70,000 (90% of 3,00,000) whichever is higher 2,70,000 Balance of ₹ 12,45,300 @ 60%. 7,47,180	10,17,180	
Book profit		15,45,300
Less: Remuneration to partners (amount deductible is actual payment of ₹ 15,55,000 subject to a maximum of ₹ 10,17,180)	10,17,180	
Income from the business of the firm		5,28,120
Income from house property		
Gross annual value	50,000	
Less: Municipal tax of ₹ 2,500 [not deductible as it is paid after the end of the previous year]	–	
Net annual value	50,000	
Less: Standard deduction (30% of ₹ 50,000)	15,000	35,000
Income from the other sources - Interest on debentures		60,000
Net income of the firm		**6,23,120**

Notes:

(1) It may be noted that if conditions of sections 184 and 40(b) on account of payment of salary and interest to partners.

(2) Tax treatment in the hands of partners

	X (₹)	**Y (₹)**	**Z (₹)**
Share of profit (exempt) U/S 10 (2A)	–	–	–
Salary [to the extent allowed as deduction to the firm, ₹ 10,17,180 shall be distributed in ratio of 6:9 to X and Y, salary to Z is not allowed as deduction as Z is not a working partner] Interest to partners (to the extent allowed as deduction]	4,06,872	6,10,308	–
Interest to partners (to the extent allowed as deduction)	35,556	8,889	53,333
Amount taxable in the hands of partners	4,42,428	6,19,197	53,333

Illustration 6:

Profit and Loss account of X Co. [a CA firm of X, Y and Z which satisfies all conditions of sections 184 and 40(b)] for the year ending March 31, 2020 is as follows:

	₹		₹
Expenses	2,88,000	Receipts from clients for tax advice	3,60,000
Depreciation	2,32,000	Audit fees	2,72,000
Remuneration to partners	2,75,000	Net loss	2,18,000
Interest on capital to partners	55,000		
	8,50,000		**8,50,000**

Other information:

(1) Out of expenses of ₹ 2,88,000 ₹ 57,250 is not deductible under sections 36 and 37.

(2) Depreciation as per section 32 is ₹ 3,23,100.

(3) Interest on capital to partners, not deductible under section 40(b), is ₹ 17,900.

Solution:

P/Y – 2019-20 Name of Assessee: X Co. A/Y – 2020-21

Status: Firm

Residential Status: R & OR

	₹
Net loss as per profit and loss account	(2,18,000)
Add: Expenses (other than remuneration) not deductible	
Expenses	57,250
Interest on capital to partners	17,900
	(1,42,850)
Less: Depreciation as per section 32 (i.e., ₹ 3,23,100 – ₹ 2,32,000 debited in P&L a/c)	(91,100)
	(2,23,950)
Add: Remuneration to partners debited to profit and loss account	2,75,000
Book profit	41,050
Maximum permissible remuneration As per Section 40(b) - (i.e., 36,945 (90% of ₹ 41,050) or ₹ 1,50,000, whichever is more) and As per partnership Deed – 2,75,000 whichever is less	1,50,000
Computation of income of the firm	
Book profit	41,050
Less: Remuneration to partners	(1,50,000)
Loss to be carried forward by firm	(1,08,900)

Illustration 7:

Profit and loss account of XY and Co. (a firm) for the year ending March 31, 2020 is as follows:

	₹		₹
Cost of goods sold	2,80,000	Sales	7,92,000
Other expenses	3,91,000	Net loss	2,72,000
Interest to partners	1,25,000		
Remuneration to partners	2,68,000		
	10,64,000		**10,64,000**

Out of other expenses debited to profit and loss account, ₹ 63,600 is not deductible under sections 30, 36 and 37(1). Interest to partners is not deductible to the extent of ₹ 17,100. The firm satisfies all conditions of sections 184 and 40(b).

Computation of remuneration deductible under section 37(1) read with section 40(b)

Solution:

Name of Assessee: XY & Co.

Status: Firm

P/Y – 2019-20 Residential Status: R & OR A/Y – 2020-21

	₹
Net loss as per profit and loss account	(2,72,000)
Add: Expenses other than remuneration not deductible	
Other expenses	63,600

Interest to partners	17,100
	(1,91,300)
Add: Remuneration to partners debited to profit and loss account	2,68,000
Book profit	76,700
Maximum permissible remuneration	1,50,000
Computation of taxable income of the firm	
Book profit	76,700
Less: Remuneration deductible under section 37(1) read with section 40 (b)	1,50,000
Net income (Loss)	(73,300)

Illustration 8:

M/s. Sunny Industries, a partnership firm, submits the following profit and loss account to you for computation of taxable business income for the assessment year 2020-21.

Profit and loss account for the year ending 31-3-2020

Particulars	₹	Particulars	₹
To Salaries	3,48,000	By Gross profit	6,40,000
" Rent	24,000	" Sundry Creditors w/off	7,000
" Printing & Stationery	4,700	" Dividend from UTI	13,000
" Telephone	2,800		
" Conveyance	19,500		
" Travelling	16,000		
" Interest	68,000		
" Depreciation	20,000		
" Legal fees	12,000		
" Auditor's fees	12,000		
" PF contribution	18,000		
" Net Profit	1,15,000		
Total ₹	**6,60,000**	**Total ₹**	**6,60,000**

Additional information:

(a) Salaries include ₹ 1,20,000 paid to working partner X and ₹ 80,000 to working partner Y.

(b) Rent of ₹ 24,000 is paid to the premises belonging to partners Y who has let it out to the firm.

(c) Interest paid includes ₹ 60,000, being interest paid on loan given by partner Y at the rate of 20% simple interest.

(d) Out of PF contribution debited to P & L Account ₹ 7,000 is outstanding beyond the due date of filing of return.

(e) The firm purchased goods by issuing crossed cheques and Bank drafts except in the case of one bill for ₹ 25,000 for which payment has been made by cash. This has been debited to trading account as part of purchases.

Solution:

Name of Assessee: M/s. Sunny

Legal Status: Firm

P/Y – 2019-20 Residential Status: R & OR A/Y – 2020-21

Computation of Total Income

Particulars	₹	₹
Net Profit as per Profit & Loss A/c		1,15,000

Add:		
(1) Remuneration to Partner		
X	1,20,000	
Y	80,000	2,00,000
		3,15,000
(2) Interest on loan exceeding 12%	24,000	
(3) O/s PF Contribution [43B]	7,000	
(4) Cash purchase [40 (A3)]	25,000	56,000
		3,71,000
Less:		
(1) Dividend from UTI (in other sources [exempted u/s 10(34))		(13,000)
Book Profit		3,58,000
Less: Remuneration as per Partnership Deed Or	2,00,000	
as per u/s 40(b) (whichever is less)	3,04,800	(2,00,000)
Taxable Income		1,58,200

Working Note:

Calculation of Remuneration as per u/s 40(b)

Other terms		Remuneration
On 1st @ 90%	3,00,000	2,70,000
On next balance @ 60%	58,000	34,800
		3,04,800

Illustration 9:

M/s. Mita Traders, a partnership firm, furnishes the following Profit and Loss account and requires you to compute the taxable business income for A.Y. 2020-21.

Particulars	**₹**	**Particulars**	**₹**
To Salary to staff	1,20,000	By Gross Profit	5,90,000
" Salary to		" Insurance compensation	60,000
Partner A	1,00,000		
Partner B	90,000		
" Interest	48,000		
" Rent	72,000		
" Advertisement	40,000		
" Conveyance	26,500		
" Printing & Stationery	13,500		
" Entertainment	12,000		
" Travelling	18,200		
" Office maintenance	6,800		
" Miscellaneous	1,000		
" Net Profit	1,02,000		
Total ₹	**6,50,000**	**Total ₹**	**6,50,000**

(1) Interest represents interest paid to partners at 20% rate whereas partnership deed provides for 15% rate.

(2) Insurance compensation has been received towards loss of stock-in-trade which was allowed as deduction in earlier year.

Solution:

Name of Assessee: M/s. Mita Traders
Legal Status: Firm
P/Y – 2019-20 Residential Status: R & OR A/Y – 2020-21

Computation of Total Income

Particulars	₹	₹
Net Profit as per Profit & Loss A/c		1,02,000
Add:		
(1) Salary to		
Partner A	1,00,000	
Partner B	90,000	1,90,000
(2) Excess interest disallowed		19,200
		3,11,200
Book Profit		NIL
Less: Remuneration as per Partnership Deed Or	1,90,000	
as per u/s 40(b) (whichever is less)	2,76,720	(1,90,000)
Taxable Income		1,21,200

Working Note:

Calculation of Remuneration as per u/s 40(b)

Other terms		Remuneration
On 1st @ 90% of 3,00,000	2,70,000	2,76,720
balance 60% of 11,200	6,720	
	2,76,720	1,90,000

Whichever is more - i.e. ₹ 1,50,000 or 1,90,000 = ₹ 1,90,000

Illustration 10:

Determine the total income of the firm and partners for assessment year 2020-21on the basis of following:

	₹
(a) Net Profit as per Profit & Loss Account	15,00,000
(b) Remuneration to partners debited to Profit & Loss Account	
A (Working Partner)	5,00,000
B (Sleeping Partner)	2,00,000
(c) Interest debited – Partner C on loan of ₹ 2 Lakhs i.e. 25%	50,000
(d) Profit & Loss sharing ratio A 40%; B 30% & C 30%	

Solution:

Name of Assessee: ABC
Legal Status: Firm
P/Y – 2019-20 Residential Status: R & OR A/Y – 2020-21

Computation of Total Income

Particulars	₹	₹
Net Profit as per Profit & Loss A/c		15,00,000
Add:		
(1) Remuneration to Partner 'A'	5,00,000	
(2) Remuneration to Partner 'B' (sleeping partner)	2,00,000	

(3) Interest on loan exceeding 12%	26,000	7,26,000
Book Profit		22,26,000
Less: Remuneration as per partner Deed Or u/s 40(b)		
(whichever is less) (14,25,600 or 5,00,000)		(5,00,000)
Taxable Income		17,26,000

Working Note:

Calculation of Remuneration as per u/s 40(b):

Other terms		Remuneration
On 1st @ 90%	3,00,000	2,70,000
On balance @ 60%	19,26,000	11,55,600
	22,26,000	14,25,600

Calculation of Taxable income of Partners:

	A	B	C
Remuneration	5,00,000	Nil	Nil
Interest	Nil	Nil	24,000
Share of Profit	Exempt	Exempt	Exempt
Taxable Income	5,00,000	Nil	24,000

Illustration 11:

A firm comprising of four partners 'A', 'B','C','D', carrying on business in partnership, sharing profits/losses equally shows a Loss of ₹ 32,000 in its books after deduction of the following amounts for the year:

		₹
a.	Remuneration to partner 'A' who is not actively engaged in business	48,000
b.	Remuneration to partners 'B' & 'C' actively engaged in business	
	Partner 'B'	60,000
	Partner 'C'	72,000
c.	Interest to partner 'D' on loan of ₹ 1,50,000 @ 24%	36,000

The deed of partnership provides for the payment of above remuneration and interest to partners. You are required to work out the taxable income of the firm as well as partners for assessment year 2020-21.

Solution:

Name of Assessee: ABCD

Legal Status: Firm

P/Y – 2019-20 Residential Status: R & OR A/Y – 2020-21

Computation of Total Income

Particulars		**₹**	**₹**
Net Profit as per Profit & Loss A/c (Loss)			(32,000)
Add:			
(1) Remuneration to partner A (sleeping partner) A		48,000	
(2) Remuneration to 'B' and 'C'			
B	60,000		
C	72,000	1,32,000	
(3) Interest on loan exceeding 12%		18,000	1,98,000
Book Profit			1,66,000

Less:			
Remuneration as per partner. Deed or u/s 40(b) (whichever is less)			
OR (₹ 1,49,400 or 1,50,888)		1,50,000	
B	60,000		
C	72,000	1,32,000	(1,32,000)
Taxable Income			34,000

Working Note:

Calculation of Remuneration as per u/s 40(b):

Other terms		Remuneration
On 1st @ 90%	1,66,000	1,49,400
		1,49,400

Calculation of Taxable income of Partners:

	A	B	C	D
Remuneration	Nil	60,000	72,000	Nil
Interest	Nil	Nil	Nil	18,000
Share of Profit	Exempt	Exempt	Exempt	Exempt
Taxable Income	Nil	60,000	72,000	18,000

Illustration 12:

Given below the Profit and Loss Account of JP Associates for the year-ended 31st March, 2020. JP Associates is a partnership firm which satisfies all the conditions of Section 184 and 40 (b).

Profit and Loss A/c

Particulars		(₹)	Particulars	(₹)
To Opening stock		27,600	By Sales	12,53,500
To Purchases		24,120	By Closing stock	30,000
To Salaries		20,235	By Rent Received	72,000
To General Expenses		55,500	By Interest on Investments	3,500
To Depreciation		23,550		
To Electricity Charges		16,800		
To Printing and Stationery		9,600		
To Municipal Tax		6,000		
To Remuneration to Partner				
J	3,00,000			
P	2,00,000			
Q	1,00,000	6,00,000		
To Interest to Partners @ 15%				
J	80,000			
P	20,000			
Q	1,20,000	2,20,000		
To Net Profit		3,55,595		
		13,59,000		**13,59,000**

Additional Information:

(1) Out of the General Expenses ₹ 20,000 is not deductible under the Income Tax Act.

(2) The salaries include an amount of ₹ 5,000 being the bonus declared during the year. However, the bonus was unpaid till 31st October, 2020, which is the due date for filling the return of income. Therefore, it is to be disallowed.

(3) The rent received is in respect of a house property given on rent. The Municipal tax debited above relates to the same property.

(4) Depreciation allowable as per the Income Tax Act is ₹ 53,550.

Ascertain the Income from Business of the firm with reference to Section 40(b) for the assessment year 2020-2021.

(MU, TYBAF, April 2006, Modified)

Solution:

Name of Assessee: JP Association

Legal Status: Firm

P/Y – 2019-20 Residential Status: R & OR A/Y – 2020-21

Computation of Taxable Income

Particulars	**₹**	**₹**
Net Profit as per Profit & Loss		3,55,595
Add: (i) Bonus not paid till due date	5,000	
(ii) General expenses disallowed	20,000	
(iii) Depreciation as per books	23,550	
(iv) Municipal tax	6,000	
(v) Remuneration to partner	6,00,000	
(vi) Excess interest to partners		
J 16,000		
P 4,000		
Q 24,000	44,000	6,98,550
		10,54,145
Less: (i) Rent Received	72,000	
(ii) Interest on Investment	3000	
(iii) Depreciation as per Income Tax	53,550	(1,28,850)
Book Profit		9,25,595
Less: Salary to working partners as per amount debited to P & L or 40(b) whichever is less (Working Note)		(6,00,000)
Income from Business/Profit		3,25,595
Working Note:		
On the 1st 3,00,000 @ 90%	2,70,000	
On the next 25,095 @ 60%	15,357	
		(2,85,357)
Income From Firm		40,238

Illustration 13:

Following is the Profit and Loss Account of AB and Co (A partnership firm of Chartered Accountants, which satisfies all conditions of section 184 and 40 (b) for the year ending 31st March, 2020:

Profit and Loss A/c

Particular	**₹**	**Particular**	**₹**
To Firm Tax (Income Tax)	25,000	By Receipts from Clients for	1,75,000

To Expenses	1,38,000	Tax Advice	
To Depreciation	32,000	By Audit Fees	2,25,000
To Remuneration to Partners	1,50,000		
To Interest to Partners @ 15% p.a.	30,000		
To Net Profit	25,000		
Total	4,00,000	Total	4,00,000

Additional Information:

(a) Expenses include the following:

- **(i)** Capital expenditure ₹ 15,000.
- **(ii)** Donations to Trust ₹ 10,000.
- **(iii)** Other Expenses not deductible u/s 30 to 36 & 37, ₹ 12,000.

(b) However the following expenses paid were inadvertently not recorded in books of accounts.

- **(i)** Telephone Charges ₹ 5,000.
- **(ii)** Electricity Charges ₹ 7,000.

(c) Depreciation allowable as per Income Tax Act is ₹ 35,000. Find out the income of the firm for A. Y. 2020-21.

(MU, TYBAF, Oct. 2006, Modified)

Solution:

P/Y – 2019-20 Name of Assessee: Mr. AB & Co. A/Y – 2020-21

Legal Status: Firm

Residential Status: R & OR

Computation of Taxable Income

Particulars	**₹**	**₹**
Net Profit as per Profit and Loss A/c		25,000
Add: (i) Income tax	25,000	
(ii) Capital expenditure	15,000	
(iii) Donation to trust	10,000	
(iv) Expenses not deductible	12,000	
(v) Depreciations	32,000	
(vi) Interest to partners (excess)	6,000	
(vii) Remuneration to partners	1,50,000	2,50,000
		2,75,000
Less: (i) Telephone charges	5,000	
(ii) Electricity charges	7,000	
(iii) Depreciation	35,000	(47,000)
Book Profit		2,28,000
Less: Remuneration debited to Profit and Loss or as per 40(b) whichever is more		(2,05,200)
Net taxable income		22,800
Working Note:		
On the 1st ₹ of 2,28,000 90%		2,05,200
		2,05,200

Illustration 14:

X (28 years) and Y (26 years) are two partners of XY Co. (a firm of chartered accountants). On March 31, 2020, there is no provision for payment of salary and interest to partners. On April 1, 2019, the deed of partnership has been amended to provide salary and interest as follows:

	X	Y
Salary	₹ 20,833 per month	₹ 25,000 per month
Interest	24 per cent per annum	24 per cent per annum

The income and expenditure account of XY Co. for the year ending March 31, 2020 is as follows:

Particular	₹	Particular	₹
Office expenses	2,10,000	Receipt from clients	10,10,000
Salary to employees	70,000	Interest recovered from X and Y on drawings	3,000
Fringe benefit tax	42,000		
Salary to X	2,50,000		
Salary to Y	3,00,000		
Interest on capital to X @ 24% p.a.	16,000		
Interest on capital to Y @ 24% p.a.	19,000		
Net profit (shared by X and Y equally as per the terms of Partnership deed)	1,06,000		
	10,13,000		**10,13,000**

Other information:

(1) Out of office expenses, ₹ 18,800 is not deductible by virtue of sections 30 to 37.

(2) During the previous year 2019-20, the firm sells a capital asset for ₹ 7,10,000 (indexed cost of acquisition being ₹ 1,45,865).

(3) Personal income and investments of partners are as follows:

	X (₹)	Y (₹)
Interest from Government securities	4,70,000	4,23,000
Bank interest	6,00,000	1,02,000
Deposit in public provident fund	70,000	45,000
Mediclaim insurance premium	12,000	11,000

Find out the net income and tax liability of the firm for the assessment year 2019-20 on the assumptions that:

(a) Conditions of sections 184 and 40(b) are satisfied; and

(b) Conditions of section 184 and/or section 40(b) are not satisfied.

Solution:

	Situation (a): When Conditions of sections 184 and 40(b) are satisfied (₹)	Situation (b): When conditions of section 184 and / or 40(b) are not satisfied (₹)
Computation of net income/tax liability of the firm		
Net profit as per income and expenditure account	1,06,000	1,06,000
Add: Fringe benefit tax	42,000	42,000
Office expenses	18,800	18,800

Salary to X and Y (entire amount)	5,50,000	5,50,000
Interest to X and Y [to the extent not allowed as deduction, i.e., 12/24 of (₹ 16,000 + ₹ 19,000)	17,500	35,000
Book profit	7,34,300	7,51,800
Less: Remuneration to partners (maximum deductible amount is 90% of ₹ 3,00,000 + 60% of ₹ 7,34,300]	5,30,580	
Income from the profession	2,03,720	7,51,800
Capital gains ₹		
Sale proceeds 7,10,000		
Less: Indexed cost of acquisition 1,45,865	5,64,135	5,64,135
Net income (rounded off)	7,67,860	13,15,940
Tax		
Income-tax on long-term capital gain [20% of ₹ 5,64,135]	1,12,827	1,12,827
Income-tax on balancing amount [@ 30%]	61,118	2,25,542
Tax	1,73,945	3,38,396
Add: Surcharge (@ 12% of tax) if net income exceeds ₹ 1 crore)	Nil	Nil
Tax and surcharge	1,73,945	3,38,369
Add: Education cess (2% of tax)	3,479	6,767
Add: Secondary and higher education cess (1% of income-tax and surcharge)	1,740	3,384
Tax liability of the firm (rounded off)	1,79,160	3,48,520
Note: Interest recovered from partners is fully taxable.		

Illustration 15:

XY and Co. is a partnership firm. It has two partners X and Y (1 : 2). The firm is engaged in the business of civil construction including repairs of dams and supply of labour far civil construction. The profit and loss account of the firm for the year ending March 31, 2020 is as follows:

	(₹)		(₹)
Opening stock of raw material	21,700	Receipts from the business of Civil construction	38,70,700
Depreciation	2,39,430	Rent of a godown	48,000
Salary to employees	1,30,000	Interest on company deposits	2,60,000
Fringe Benefit tax	5,000	Closing stock of raw material	5,11,600
Purchase of raw material	24,10,210		
Interest on loan taken to make deposit in companies	13,800		
Interest on loan taken for business purposes	74,400		
Travelling, entertainment and advertisement expenses	57,800		
Other expenses	4,12,000		
Municipal tax and insurance (₹ 6,000 + ₹ 1,200) of godown Salary to partners as per partnership deed	7,200		
X	2,16,000		
Y	1,44,000		
Interest to partners as per partnership deed @ 24 per cent p.a.,			
X	12,000		
Y	57,000		
Net profit	8,89,760		
	46,90,300		**46,90,300**

Other information:

(1) Out of other expenses debited to P&L a/c ₹ 12,700 is not deductible under section 37(1).

(2) Out of travelling, advertisement and entertainment expenses ₹ 17,500 is not deductible under section 37(1).

(3) On April 1, 2017, the firm owns the following depreciable assets:

Block 1 – Plants A, B and C, depreciated value: ₹ 3,70,000, rate of depreciation : 15%.

Block 2 – Plants D and E, depreciated value : ₹ 1,98,000, rate of depreciation : 30%.

On January 1, 2013, the firm sells Plant D for ₹ 9,10,000 and purchases Plant F (rate of depreciation 15%) for ₹ 4,86,000.

(4) The firm gives a donation of ₹ 1,70,000 to a notified charitable institute which a is included in other expenses.

(5) The firm wants to set off the following losses brought forward from earlier years:

	Assessment years	
	2018-19 (₹)	**2019-20 (₹)**
Business	20,000	–
Capital loss (short-term)	2,000	1,000

(6) Income of partners X and Y is as follows:

	Assessment years	
	X (₹)	**Y (₹)**
Bank interest	4,31,000	6,23,000
PPF contribution	70,000	20,000

Find out the net income and tax liability of the firm for the assessment year 2020-21 on the assumption that:

(a) Conditions of sections 184 and 40(b) are satisfied; and

(b) Conditions of section 184 and/or section 40(b) are not satisfied.

Solution:

	Situation (a): When Conditions of sections 184 and 40(b) are satisfied (₹)	**Situation (b): When conditions of section 184 and / or 40(b) are not satisfied (₹)**
Computation of business income of the firm		
Income from the business of civil construction [i.e., 8% of ₹ 38,70,700]	3,09,656	3,09,656
Less: Interest on capital to partners @ 12%	34,500	–
Book profit	2,75,156	3,09,656
Less: Remuneration to partners [i.e., 90% of ₹ 2,75,156]	2,47,640	–
Income from the business of civil construction	27,516	3,09,656
Computation of income		
Property income [i.e., ₹ 48,000 – ₹ 6,000 – 30% of ₹ 42,000]	29,400	29,400
Business income (minus brought forward business loss)	7,516	2,89,656
Capital gain on sale of Plant D under section 50 [i.e., ₹ 9,10,000 – ₹ 1,98,000] (minus brought forward short-term capital loss)	7,09,000	7,09,000
Income from other sources [i.e., interest on company deposits ₹ 2,60,000 – ₹ 13,800]	2,46,200	2,46,200
Gross total income	9,92,116	12,74,256
Less: Deduction under section 80G [i.e., 50% of 10% of ₹ 9,12,116 or	49,606	63713

₹ 12,74,256]		
Net income (rounded off)	9,42,510	12,10,540
Tax	82,753	3,63,162
Add: Surcharge [not applicable]	Nil	Nil
Tax and surcharge	2,82,753	3,63,162
Add: Education cess (2% of tax and surcharge)	5,655	7,263
Add: Secondary and higher education cess (1% of income-tax and surcharge)	2,828	3,632
Tax liability (rounded off)	**2,91,240**	**3,74,060**

Illustration 16:

Tanaji, Dadoji and Suryaji are partners in TDS Enterprises. They furnish the following information for the year ended 31st March, 2020:

Profit and Loss Account of the year ended 31st March, 2020

Debit	Amount (₹)	Credit	Amount (₹)
To Tax deducted at source from Business Receipts	12,000	By Gross Profit b/d	6,80,000
To Advance Tax Paid	90,000	By Profit on Sale of Machinery	40,000
To Drawings of Partners	48,000		
To Remuneration to Partners			
Tanaji 80,000			
Dadoji 1,60,000			
Suryaji 1,60,000	4,00,000		
To Interest on Capital of partners (9%)	90,000		
To Net Profit c/d	80,000		
	7,20,000		**7,20,000**

Additional Information:

Tanaji is non-working partner. Dadoji looks after production and Suryaji is in-charge of marketing.

From above information, for the Assessment year 2020-2021:

(a) Calculate Book Profit and Remuneration of partners allowable u/s 40(b) of the Income Tax Act, 1961.

(b) Compute the taxable income of the firm, and

(c) Calculate net tax payable by the firm.

(MU TYBAF, 2011, Modified)

Solution: Name of assessee: TDS Enterprises

Legal Status: Firm

P/Y: 2019-20 Residential Status: R & OR A/Y: 2020-21

Computation of Capital Gain

Particulars	₹	₹	₹
(I) Profit and Gains of Business/Profession			
NFT Profit as per profit and Loss A/c		80,000	
Add: Items Considered Separately/Disallowed			
(1) Tax Deducted at source	12,000		
(2) Advance tax paid	90,000		

	(3) Remuneration to partners	4,00,000		
	(4) Interest on capital	90,000		
	(5) Drawings of partners	48,000	6,40,000	
			7,20,000	
Less:	Incomes considered separately/Incomes Exempt			
	(1) Profit on Sale of Machinery		40,000	
			6,80,000	
Less:	Items allowed u/s 40(b)			
	Interest on partner's capital		90,000	
	Book profits		**5,90,000**	
Less:	Eligible Deduction u/s 40(b)			
	On first 3,00,000 @ 90%	2,70,000		
	On Balance 2,90,000 @ 60%	1,74,000		
		4,44,000		
	OR			
	Remuneration paid to working partners (P. Deed)			
	Dadoji	1,60,000		
	Suryaji	1,60,000		
		3,20,000		
Amount of Deduction Lower P. Deed and Sec 40 (b)			3,20,000	
				2,70,000
(II) Short Term Capital Gains				
	On sale of machinery			40,000
	Net Taxable Income			**3,10,000**
	Tax on Total Income			
	Income Tax on Total Income (At Normal Rates)			93,000
Add:	Education Cess 3%			2,790
	Total Tax and Education Cess Payable			95,790
Less:	(1) Tax Deducted at source		12,000	
	(2) Advance Tax Paid		90,000	1,02,000
	Refund due			**(6,210)**

Illustration 17:

M/s. Viswanath Industries, a partnership firm, submits the following profit and loss account you for computation of taxable business income for the assessment year 2020-21:

Profit and Loss account for the year ending 31/03/2020

Expenses	₹	Income	₹
To Salaries	3,48,000	By Gross profit	6,50,000
To Rent	24,000	By Sundry creditors w/off	7,000
To Printing & Stationery	4,700	By Dividend from UTI	13,000
To Telephone	2,800		
To Conveyance	19,500		
To Travelling	16,030		
To Interest	68,000		
To Depreciation	20,000		
To Legal fees	12,000		

To Auditor's fees	12,000		
To PF contribution	18,000		
To Not profit	1,25,000		
Total ₹	**6,70,000**		**6,70,000**

Additional information:

(a) Salaries include ₹ 1,20,000 paid working partner X and ₹ 80,000 to working partner Y.

(b) Rent of ₹ 24,000 is paid to the premises belonging to partner Y who has let it out to the firm.

(c) Interest paid includes ₹ 60,000, being interest paid on loan given by partner Y at the rate of 20% simple interest.

(d) Out of PF contribution debited to P & L Account ₹ 7,000 is outstanding beyond the due date of filing of return.

(e) The firm purchased goods by issuing crossed cheques and Bank drafts except in the case of one bill for ₹ 75,000 for which payment has been made by cash. This has been debited to trading account as part of purchases.

(f) Assessee has incurred expenditure relating to exempt income and the same was charged to personal account and not debited to the P & L account.

(MU TYBAF, 2010, Modified)

Solution:

Name of assessee: M/s. Viswanath Industries

Legal Status: Firm

P/Y: 2019-20 A/Y: 2020-21

Taxable business income

Particulars		**₹**	**₹**
Net Profit as per Profit & Loss Account			1,25,000
Add:	Remuneration to partners		2,00,000
			3,25,000
	Inadmissible expenses:		
	Interest (60,000 – 36,000 being 12%)	24,000	
	Provident Fund outstanding u/s. 43B	7,000	
	Cash purchases u/s. 40A(3)	75 000	1,06,000
			4,31,000
Less:	Item credited but exempt		
	Dividend from UTI u/s. 10 (35)		13 000
	Book Profit		4,18,000
Less:	Remuneration to partners deductible (Note 1)		2,00,000
	Taxable Business Income		**2,18,000**

Note: 1

Allowable remuneration to partners:		₹
On first 3,00,000 of book profit or case of a loss	90%	2,70,000
On the balance book profit ₹ 1,18,000	60%	70,800
Remuneration allowable u/s. 40(b) (ii)		**3,40,800**

Note: Since the actual remuneration paid is less than the allowable limit u/s 40(b) (ii) ₹ 2,00,000 is deducted. It is presumed that the remuneration paid is as per the partnership deed.

Illustration 18:

Following is the Profit and Loss Account DHK & Co.

Profit and Loss Account for the year ending 31st March, 2020

Particulars	₹	Particulars	₹
To Income Tax	50,000	By Professional Fees	10,00,000
To Expenses	4,76,000		
To Depreciation	64,000		
To Remuneration to Partners	3,00,000		
To Interest to Partners @ 15% p.a.	60,000		
To Net Profit	50,000		
Total	**10,00,000**	**Total**	**10,00,000**

Additional Information:

(a) Out of total expenses, expenses include the following:
- **(i)** Capital expenditure ₹ 20,000
- **(ii)** Donations to Trust ₹ 30,000
- **(iii)** Other Expenses not deductible u/s 30 to 36 & 37 ₹ 24,000.

(b) However the following expenses paid were inadvertently not recorded in books of accounts.
- **(i)** Telephone Charges ₹ 12,000
- **(ii)** Electricity Charges ₹ 12,000

(c) Depreciation allowable as per Income Tax Act is ₹ 70,000. Find out the Taxable income of the firm for A. Y. 2020-21.

[MU., TYBAF, April 2012]

Solution:

Name of Assessee: DHK & Co.

Legal Status: Firm

P/Y – 2019-20 Residential Status: R & OR A/Y – 2020-21

Computation of Taxable Income	₹	₹
Net Profit		50,000
Add: Expenses Disallowed		
Income Tax	50,000	
Capital Expenditure	20,000	
Donations to Trust	30,000	
Expenses not Deductible	24,000	
Depreciation as per books	64,000	
Remuneration to Partners	1,50,000	3,38,000
Disallowed		
Less: Expenses Allowed		
Telephone Expenses	12,000	
Electricity Charge	12,000	
Depreciation actually allowed	70,000	94,000
Total Income taxable		**2,94,000**

Notes:

(1) Income tax, capital expenditure and Donations are disallowed.

(2) Depreciation allowed as per the Income Tax Act, 1961.

Illustration 19:

Following is the Profit and Loss a/c of ABC & Co. where Mr. B and Mr. C are partners. Mr. A is a sleeping partner whereas Mr. B and Mr. C are working partners. You are required to compute the taxable income of the firm for A Y 2020-21 and also the tax liability of the firm:

Profit and Loss Account for the year ending 31st March, 2020

Particulars		₹	Particulars	₹
To salary to staff		2,40,000	By Gross Profit	6,08,000
To salary to partner			By Net Loss	64,000
Mr. A	96,000			
Mr. B	1,20,000			
Mr. C	1,44,000	3,60,000		
To Interest to partner				
Mr. C on Loan @ 24%		72,000		
Total		**6,72,000**	**Total**	**6,72,000**

The deed of partnership provides for the payment of above remuneration and interest to partners.

[MU., TYBAF, April 2013, Modified]

Solution:

Name of Assessee: M/s ABC & Co.

Legal Status: Firm

P/Y – 2019-20 Residential Status: Firm A/Y – 2020-21

Computation of Total Income

Particulars	Rs.	Rs.
Income from Business:		
Net Loss As per P & L A/c		– 64,000
Add: Items Disallowances or Considered Separately		
Salary to partners	360,000	
Interest to partners in excess of 12%	36,000	396,000
		332,000
Less: Items admissible		
Salary to Partners:		
First Rs. 3,00,000 @ 90%	270,000	
Balance Rs. 32,000 @ 60%	19,200	
	289,200	
OR		
Salary to B & C as per deed	264,000	264,000
Taxable Income:		**68,000**
Tax @ 30% on Rs. 68,000		20,400
Add: Education Cess @ 2% of tax		408
Add: Secondary & Higher Education Cess @ 1% of tax		204
Total Tax Payable		**21,012**

Illustration 20:

From the following Profit and Loss Account of a Partnership Firm for the year ended 31/3/2019. You are required calculate taxable income and tax payable for A. Y 2020-21.

Profit and Loss Account for the year ended 31st March, 2020

Particulars	₹	Particulars	₹
To Income tax paid	1,50,000	By Professional Fees	30,00,000
To Expenses	9,00,000		
To Depreciation	1,20,000		
To Partners salary	8,00,000		
To Interest on Partners Capital @ 15%	1,80,000		
To Net Profit c/d	8,50,000		
Total	**30,00,000**	**Total**	**30,00,000**

Additional Information:

(i) Out of expenses includes

- **(a)** Capital Expenditure . 1,00,000.
- **(b)** Donations . 1,00,000.
- **(c)** Expenses not deductible . 80,000.

(ii) Following expenses are not recorded in books of accounts:

- **(a)** Telephone Expenses . 80,000.
- **(b)** Electricity Expenses . 80,000.

(iii) Depreciation as per income tax . 1,20,000.

[MU., TYBAF, April 2015, Modified]

Solution:

Name of Assessee:

Legal Status: Firm

P/Y – 2019-20 Residential Status: R & OR A/Y – 2020-21

Computation of Taxable Income	₹	₹
Profit as per P&L A/c		8,50,000
Add: Expenses Disallowed		
Income Tax	1,50,000	
Capital Expenditure	1,00,000	
Donations	1,00,000	
Expenses not Deductible	80,000	
Partner's Salary	8,00,000	
Interest on Partner's Capital	36,000	
Depreciation	1,20,000	
		13,86,000
		22,36,000
Less: Expenses Allowed		
Telephone Expenses	80,000	
Electricity Expenses	80,000	
Depreciation as per Income Tax Rule	1,20,000	
		2,80,000
Total Income taxable before Remuneration		**19,56,000**
Less: Remuneration allowed to Partner		8,00,000
Total Income taxable after Remuneration		**11,56,000**
Tax: (11,56,000 × 30.9 ÷ 100)		3,57,204
Calculation of Remuneration:		

First ₹ 3,00,000 (₹ 3,00,000 × 90%)	2,70,000	
Next ₹ 19,56,000 – ₹ 3,00,000 (₹ 16,56,000 × 60%)	9,93,600	
	12,63,600	
₹ 12,63,000 or ₹ 8,00,000 whichever is lower		
Hence, allowable remuneration is ₹ 8,00,000		

Illustration 21:

M/s A and B, a partnership firm submits the following Profit and Loss Account for the year ended 31-3-2020.

Particulars	₹	Particulars	₹
To Salaries	2,40,000	By Gross profit b/d	9,00,000
To Rent	1,30,000	By Dividend from UTI	10,000
To Printing	26,000	By Dividend from Indian company	60,000
To Telephone expenses	18,000	By Bank interest	49,000
To Conveyance	23,000		
To Bad debts	18,000		
To Interest	78,000		
To Depreciation	1,20,000		
To Professional fees	50,000		
To Advertisement	16,000		
To Net profit	3,00,000		
	10,19,000		**10,19,000**

Additional information:

(1) Salaries includes salary to partners Rs. 2,00,000.

(2) Interest includes interest paid to partners @ 20% p.a.

(3) Depreciation as per Income Tax Rs. 1,30,000.

Calculate the taxable income of the firm and tax liability for the AY 2020-21.

[MU., TYBAF, April 2016, Modified]

Solution:

Name of Assessee: M/s. A and B Partnership Firm

Legal Status: Firm

P/Y – 2019-20 Residential Status: R & OR A/Y – 2020-21

Computation of Taxable Business Income and Tax Liability of Firm

Particulars	₹	₹
Net profit as per profit and loss account		**3,00,000**
Add: Remuneration to Partner	2,00,000	
Interest Paid to Partners	31,200	
Depreciation	1,20,000	3,51,200
		6,51,200
Less: Dividend from UTI	10,000	
Dividend from Indian Company	60,000	
Bank Interest	49,000	
Depreciation as Income tax	1,30,000	(2,49,000)
BOOK PROFIT		**4,02,200**
Less: Remuneration to Partner		(2,00,000)

Taxable Business Income		2,02,200
Tax Liability (2,02,200 × 30.90 ÷ 100)		62,480
Calculation of Remuneration to Partners:		
First Rs. 3,00,000	2,70,000	
Next Rs. 1,02,200 (4,02,200 – 3,00,000)	61,320	
	3,31,320	
Rs. 3,31,320 or Rs. 2,00,000 whichever is lower		
Hence, allowable remuneration is Rs. 2,00,000		

Exercises: Objectives

(1) State whether following statements are True of False:

(a) Remuneration received by the partner from partnership form is taxable under the head income from salary.

Ans.: *False*

(b) Interest on capital to partner if authorized by partnership deed should not exceed the amount calculated at the rate of 15% simple interest.

Ans.: *False*

(c) A firm can pay remuneration to its partners if it has incurred loss.

Ans.: *True*

(d) Partners share in the profits of the firm is not taxable.

Ans.: *True*

(2) Rewrite the statements after choosing the correct option:

(a) There is net loss of ₹ 2,00,000 after considering all provisions of calculation of book profits of a firm. The maximum amount deductible on account of remuneration to partners u/s 40(b) will be __________.

(i) Nil.
(ii) ₹ 2,00,000.
(iii) ₹ 1,50,000.
[Ans.: (a-iii)]

Exercises: Practical

(1) Explain with illustration the limits for remuneration to partners u/s 40(b). ***(MU, TYBAF, April 2006)***

(2) Explain how the income is computed for partnership firms as per the provisions of u/s 40(b).

(3) L, M and N are partners in LMN and Co. The firm satisfies all the conditions of section 184 and 40(b). Given below is the P & L A/c of the firm for the year ended 31-3-2020.

Profit and Loss A/c

Particulars		**₹**	**Particulars**	**₹**
To Opening stock		22,000	By Sales	5,40,000
To Purchases		3,00,000	By Clearing Stock	6,000
To Gross Profit		2,24,000		
		5,46,000		**5,46,000**
To Salaries		20,000	By Gross Profit	2,24,000
To Administration expenses		44,000	By Dividend on Shares	20,000
To Depreciation		10,000	By Sale of Land	24,000
To Income Tax		5,000		
To Interest on loan		7,000		
To Remuneration to Partners				
L	60,000			
M	40,000			
N	22,000	1,22,000		
To Interest to partners @ 13.50%				

L	16,000			
M	4,000			
N	24,000	44,000		
To Net Profit		16,000		
		2,68,000		2,68,000

Additional information:

(1) The dividend is received on shares which are held as investment. The entire interest on loan ₹ 7,000 relates to loan taken for acquisition of these shares.

(2) Administration expenses include expenses of ₹ 4,000 which are not deductible under the Income Tax Act.

(3) The depreciation allowable as per Income Tax rules is ₹ 12,000. Ascertain the income from business of the firm with reference to Section 40(b) for the Assessment Year 2020-21.

(Ans.: Loss (9,111))
(MU. Oct. 2007 TYBAF)

(4) From the following data of M/s. Vodafone & Co., engaged in business, calculate the salary and interest to partners allowable under Section 40 (b) of the Income-tax Act, 1961:

Profit and Loss A/c for the year ended 31-3-2020

Particulars	₹	Particulars	₹
To Salaries:		By Gross Profit	16,25,300
(i) Staff	5,50,000	By Dividend from companies	25,600
(ii) partners: A	2,00,000	By Interest received on Fixed	72,500
B	1,40,000	Deposits (held as 'Investments')	
C	60,000		
To General Expenses	55,000		
To Depreciation on machinery	82,000		
To Rent	84,000		
To Bank Interest	22,500		
To Insurance premium	1,55,000		
To Telephone, printing, postage & stationery	42,000		
To Interest to partners: A	30,000		
B	22,500		
C	15,000		
To Net Profit	2,65,400		
	17,23,400		**17,23,400**

You are further informed that:

(1) Rent paid includes Partner A's personal rent ₹ 14,000.

(2) Depreciation admissible as per the Income Tax Act is ₹ 60,000.

(3) Insurance premium paid for cover of Machinery is ₹ 35,000, for stock is ₹ 85,000 and the remaining is partners' personal life insurance premium:

(4) General expenses include partner B's children's school fees ₹ 15,000.

(5) Partners are paid interest @ 15% p.a. on their capitals and C is not a working partner.

Ascertain the income from business of the firm with reference to Section 40(b) for the Assessment Year 2019-20.

(Ans.: 3,26,800)
(MU. May 2007, Sem-VI, TYBAF)

(5) Kalu and Balu are partners in KB and Co., a partnership firm which satisfies all conditions of section 40(b) and 184. They share profits equally. Given below is the P and L A/c of the firm for the year ended 31-3-2020.

Profit and Loss Account

Particulars	₹	Particulars	₹
To Salaries	30,000	By Gross Profit	3,43,000
To Depreciation	27,000	By Interest on Investments	4,000
To Conveyance	23,000		
To Stationery	3,000		
To Sales Tax (Unpaid)	12,000		
To Staff Welfare	5,000		

To Salary to partners				
Kalu	1,00,000			
Balu	1,00,000	2,00,000		
To Interest to partners at 18% p.a.				
Kalu	9,000			
Balu	9,000			
		18,000		
To Net Profit		29,000		
		3,47,000		**3,47,000**

Additional Information:

(a) The firm is carrying on business of trading in goods.

(b) The depreciation allowable as per Income Tax Rules if ₹ 31,000.

(c) Sales Tax liability (shown above) was remaining unpaid till the due date of filling the return of Income.

(d) Staff Welfare expenses include ₹ 2,000 which are not allowed as expenses for Income Tax purposes.

(e) You are also informed that the partners have following incomes (in addition to salary and interest from firm.)

Particulars	**Kalu ₹**	**Balu ₹**
Income from House Property	19,000	–
Income from Other Sources	–	14,000

You are required to calculate net taxable Income of the firm, as well as both the partners for assessment Year 2020-2021.

(Ans.: Firm 41,000 Kalu 1,25,000 Balu 1,20,000)
(MU. May 2008, Sem-VI, TYBAF)

(6) The following data of X and Co., having X, Y and Z as partners is as follows:

Trading and Profit & Loss Account for the year ended 31-3-2020

			₹		₹
To Opening stock			5,00,000	By Sales	85,00,000
To Purchases			62,00,000	By Closing stock	7,00,000
To Wages and other direct charges			8,00,000		
To Gross Profit			17,00,000		
			92,00,000		**92,00,000**
To Salaries (Staff)			5,00,000	By Gross Profit b/d	17,00,000
To Salaries (Partners):	X	1,80,000		By Dividend from Indian	1,20,000
	Y	1,80,000		companies (On which u/s	
	Z	84,000	4,44,000	transaction tax paid)	
To Depreciation on Machinery			1,05,000	By Interest on Fixed Deposits:	
To Printing and Stationery			25,000	(i) held as free investments	60,000
To Telephone, Fax, Postage, Stamps & Misc.			27,750	(ii) pledged against firm's	20,000
To Interest on Loan : Bank			75,000	Overdraft of ₹ 1,50,000	
: Others			45,000		
To Interest to Partners	:X		42,000		
	:Y		36,000		
	:Z		30,000		
To Net Profit			5,70,250		
			19,00,000		**19,00,000**

(a) The partners have been paid interest @ 15% p.a. on their Capitals;

(b) As per the Partnership Deed, the Partners are to be paid salary as mutually agreed upon between them as per their involvement in the business and accordingly the aforesaid amounts as appearing in the Profit and Loss account have been paid to all partners who have worked for all twelve months during the year. The same clause of Partnership Deed further provides an overall ceiling on the Salary paid to all the Partners at ₹ 30,000 p.m.;

(c) Depreciation on Machinery admissible under rule 5 of the Income-tax Rules read with section 32 of the Income-tax Act is ₹ 85,000

(d) Interest is paid on the firm's Bank Overdraft Ts. 17,000; Calculate the Partner's Salary and interest that would actually be allowed to the firm under section 40(b) of the Act.

(Ans.: X – 1,79,545 Y – 1,74,746, Z – 92,108 From 15,850)

(MU. Nov. 2008, Sem-VI, TYBAF)

(7) Explain the provisions of section 40(b) of the Income-tax Act, 1961 with references to its cognizance of the Partnership Deed taken in respect of determining allowable Partner's Salary and Interest.

(MU. Nov. 2008, Sem-VI, TYBAF)

(8) Profit and loss account of XY Co. [a firm which satisfies all conditions of sections 184 and 40(b)] for the year ending March 31, 2020 is as follows:

	₹		₹
Cost of goods sold	4,05,000	Sales	20,10,000
Remuneration to partners	8,50,000	Interest on company deposit	2,70,000
Remuneration to employees	1,70,000	(being income from other sources)	
Fringe benefit tax	52,500		
Interest to partners	1,20,000		
Other expenses	60,000		
Sales tax outstanding	1,10,000		
Net profit	5,12,500		
	22,80,000		**22,80,000**

Other information:

(1) Out of other expenses, ₹ 25,500 is not deductible by virtue of section 37(1).

(2) Outstanding sales tax is paid on October 1, 2014.

(3) Interest to partners is not deductible to the extent of ₹ 15,000.

Find out (a) book profit and (b) maximum remuneration to partners which is deductible under section 4 0(b) for the assessment year 2020-21. ***(Ans.: (a) ₹12,95,500; (b) ₹8,67,300)***

(9) Profit and loss account of ABC & Co. (a firm of chartered accountings) for the year ending March, 31, 2020 is as follows:

	(₹)		**(₹)**
Expenses	2,10,000	Receipts from clients and audit fees	5,00,000
Depreciation	1,40,000	Dividend from foreign companies	1,05,000
Remuneration to partners	3,80,000	Net loss	2,50,000
Interest to partners	1,25,000		
	8,55,000		**8,55,000**

Other information:

(1) Out of expenses of ₹ 2,10,000, ₹ 56,400 is not deductible by virtue of sections 36 and 37.

(2) Depreciation as per section 32 is ₹ 1,27,500.

(3) Interest to partners is fully deductible under section 40(b).

(4) The firm satisfies all conditions of section 184 and 40(b).

Find out the amount of net income of the firm for the assessment year 2020-21. ***(Ans.: ₹56,100)***

(10) Profit and loss account of XYZ (a firm of X, Y and Z) for the year ending March 31, 2020 is as follows:

	(₹)		**(₹)**
Cost of goods sold	2,69,000	Sales	1,78,000
Interest to partners	64,000	Net loss	2,45,000
Remuneration to partners	40,000		
Other expenses	50,000		
	4,23,000		**4,23,000**

Out of other expenses of ₹ 50,000, ₹ 18,700 is not deductible under sections 30 to 37. Moreover, interest to partners is not deductible to the tune of ₹ 24,000 under section 40(b). Find out the amount of net income of the firm for the assessment year 2020-21. The firm satisfies all conditions of section 184 and 40(b). ***(Ans.: ₹2,02,300)***

(11) X (28 years), Y (26 years) and Z (32 years) are three partners (1:2:3) of X Co., a firm engaged in manufacturing leather goods. The profit and loss account of the firm for the year ending March 31, 2020 is as follows:

Particular	**₹**	**Particular**	**₹**
Cost of goods sold	13,43,000	Sales	38,41,000
Salary to staff	12,05,000	Long-term capital gains	1,10,000

Fringe benefit tax	1,10,000	(according to section 48)	
Depreciation	2,70,500	Other business receipts	1,10,000
Remuneration to partners:		Net loss	1,09,500
X	2,04,000		
Y	1,20,000		
Z	1,44,000		
Int. on capital to partners @20% p.a.			
X	86,000		
Y	1,40,000		
Z	8,000		
Other expenses	5,40,000		
	41,70,500		**41,70,500**

Other information:

(1) The firm is note eligible for deduction under section 80-IA/80-IB.

(2) The firm has given donation of ₹ 40,000 to a notified public charitable trust which was not debited to the profit and loss account.

(3) Salary and interest are paid to partners as per the partnership deed.

(4) Depreciation allowable under section 32 is ₹ 3,70,400.

(5) Income and investment of X, Y and Z are as follows:

	X (₹)	**Y (₹)**	**Z (₹)**
Interest on company deposit	4,20,000	4,05,000	4,46,000
Dividend from foreign companies	1,06,000	1,13,000	1,05,000
Contribution towards the Master Equity Plan 2014 of UTI	1,10,000	1,04,000	1,07,000

Find out the net income and tax liability of the firm for the assessment year 2020-21 on the assumption that:

(a) Conditions of sections 184 and 40(b) are satisfied; and

(b) Conditions of section 184 and/or section 40(b) are not satisfied.

(Ans.: Situation (a) ₹1,58,340, ₹37,600 Situation (b) ₹5,82,600 ₹1,68,690)

(12) Calculate the maximum amount of deduction u/s 40 (b) for a professional firm if the book practice are:

(a) 80,000

(b) 56,000

(c) 54,000

(d) 1,20,000

(e) 2,10,000

(f) Loss of ₹ 24,000. ***(Ans.: all 1,50,000 excepted i.e. 1,89,000)***

Solve the above Question if firm is not a professional firm.

(13) A firm comprising of 4 partners A, B, C, D carrying on business of partnership sharing Profit & Loss equally shows a profit of ₹ 1,00,000 in its book after deducting following amounts for the year.

(a) Remuneration to partner A who is not actively engaged in business 48,000.

(b) Remuneration to partner B actively engaged in business ₹ 60,000.

(c) Remuneration to partner C actively engaged in business ₹ 72,000.

(d) Interest to partner D on a capital of ₹ 1,50,000 @ 24% ₹ 36,000.

The deed of partnership provides for payment of above remuneration and interest on partner's capital. You are required to workout income of firm as well as partners for A. Y. 2020-21.

(Ans.: 1,66,000)

(14) Net profit as per Profit & Loss 22,000.
Remuneration to A Non Working Partner 48,000.
Remuneration to B Working Partner 90,000.
Remuneration to C Working Partner 1,20,000.
Interest on capital pay to D @ 24% 36,000.

Calculate Taxable Income of firm & partners. ***(Ans.: 88,000)***

(15) Profit and Loss account of X Co. [a firm of X, Y and Z which satisfies all conditions of sections 184 and 40 (b)] for the year ending March 31, 2020 is as follows:

Particular	**₹**	**Particular**	**₹**
Cost of goods sold	7,90,000	Sales	13,50,000
Remuneration to partners		Rent of house property [half portion]	50,000

X	1,50,000	Interest on debentures	
Y	1,00,000	[non-trade investment]	60,000
Z	55,000		
Sundry Expenses	8,000		
Interest to partners @ 13.5%			
X	40,000		
Y	10,000		
Z	60,000		
Municipal tax of house property (entire property)	5,000		
Other expenses	2,10,000		
Net Profit	32,000		
Total	**14,60,000**		**14,60,000**

Other information:

(a) Out of other expenses, ₹ 47,500 is not deductible under section 37 and 43B.

(b) On January 15, 2020, the firm pays an outstanding sales tax liability of ₹ 2,922 of the previous year 2016-17. As this amount pertains to the previous year 2017-18, it has not been debited to the aforesaid profit and loss account.

(c) Z is not a working partner.

(d) The firm owns a house, the ground floor is used for business purposes, the first floor is given on rent. Municipal tax is paid on May 10, 2020.

Find out the net income of the firm [and tax treatment of the payments to partners in their hand for the A. Y. 2019-20. ***[Ans.: Firm 36,300 X – 1,85,556, Y – 1,08,889, Z – 53,334].***

(16) Profit and loss account of XY Co. [a firm which satisfies all conditions of 184 and 40(b)] for the year ending March 31, 2020 is as follows:

Particular	₹	Particular	₹
Cost of goods sold	4,05,000	Sales	8,10,000
Remuneration to partners	2,00,000	Interest on company deposit	70,000
Remuneration to employees	1,70,000	[being income from other sources]	
Interest to partners	20,000		
Other expense	62,500		
Sales tax outstanding	10,000		
Net profit	12,500		
Total	**8,80,000**	**Total**	**8,80,000**

Other information:

(a) Out of other expenses of ₹ 25,500 is not deductible by virtue of section 37(1).

(b) Outstanding sales tax is paid on October 1, 2019.

(c) Interest to partners is not deductible to the extent of ₹ 5,000.

Find out (a) book profit and (b) maximum remuneration to partners which is deductible under section 40(b) for the A.Y. 2020-21. ***(Ans.: 18,300)***

(17) Profit and loss account of A Co. [a firm of chartered accountants which satisfies all conditions of sections 184 and 40(b)] for the year ending March 31, 2020 is as follows:

Particular	₹	Particular	₹
Expenses	88,000	Receipts from clients for tax advice	60,000
Depreciation	32,000	Audit fees	72,000
Remuneration to partners	75,000	Net Loss	68,000
Interest on capital to partners	5,000		
Total	**2,00,000**	**Total**	**2,00,000**

Other information:

(a) Out of expenses of ₹ 88,000, ₹ 17,250 is not deductible under sections 36 and 37.

(b) Depreciation as per section 32 is ₹ 33,100.

(c) Interest on capital to partners, not deductible under section 40(b), is ₹ 700.

(d) You are required to workout income of firm for A. Y. 2020-21. ***(Ans.: 51,150)***

(18) Profit and Loss account of ABC & Co. [a firm of chartered accountants] for the year ending March 31, 2020 is as follows:

Particular	₹	Particular	₹
Expenses	10,000	Receipts from clients and audit fees	1,40,000

Depreciation	40,000	Dividend from foreign companies	5,000
Remuneration to partners	80,000	Net loss	10,000
Interest to partners	25,000		
Total	**1,55,000**	**Total**	**1,55,000**

Other information:

(a) Out of expenses of ₹ 10,000, ₹ 6,400 is not deductible by virtue of sections 36 and 37.

(b) Depreciation as per section 32 is ₹ 27,500.

(c) Interest to partners is fully deductible under section 40[b].

(d) The firm satisfies all conditions of sections 184 and 40[b]. ***(Ans.: From 3,900 & GTI 8,900)***

Find out the amount of net income of the firm for the A. Y. 2020-21.

(19) Profit and loss account of XY and Co. [a firm] for the year ending March 31, 2020 is as follows:

Particular	₹	Particular	₹
Cost of goods sold	2,80,000	Sales	2,92,000
Other expenses	91,000	Net loss	1,72,000
Interest to partners	25,000		
Remuneration to partners	68,000		
Total	**4,64,000**	**Total**	**4,64,000**

Out of other expenses debited profit and loss account, ₹ 13,600 is not deductible under section 30, 36 and 37 (1). Interest to partners is not deductible to the extent of ₹ 7,100. The firm satisfies all conditions of sections 184 and 40(b). Find out the amount of net income of the firm for the A. Y. 2020-21.

(Ans.: Loss 51,300)

(20) M/s. Sunny Industries, a partnership firm, submits the following profit and loss account to you for computation of taxable business income for the A. Y. 2020-21.

Particular	₹	Particular	₹
To Salaries	3,48,000	By Gross profit	6,40,000
To Rent	24,000	By Sundry Creditors W/off	7,000
To Printing and Stationery	4,700	By Dividend from UTI	13,000
To Telephone	2,800		
To Conveyance	19,500		
To Travelling	16,000		
To Interest	68,000		
To Depreciation	20,000		
To Legal fees	12,000		
To Auditors fees	12,000		
To PF Contribution	18,000		
To Net Profit	1,15,000		
	6,60,000		**6,60,000**

Additional Information:

(a) Salaries include ₹ 1,20,000 paid to working partner X and ₹ 80,00,000 to partner Y.

(b) Rent of ₹ 24,000 is paid to the premises belonging to partner Y who has let it out the firm.

(c) Interest paid includes ₹ 60,000, being interest paid on loan given by partner Y at the rate of 20% simple interest.

(d) Out of PF contribution debited to P&L account ₹ 7,000 is outstanding beyond the due date of filling of return.

(e) The firm purchased goods by issuing crossed cheques and Bank drafts except in the case of one bill for ₹ 25,000 for which payment has been made by cash. This been debited to trading account as part of purchases. ***(Ans.: 1,82,000)***

(21) M/s Mita Traders, a partnership firm, furnishes the following Profit & Loss account and requires you to compute the taxable business income for A.Y. 2020-21.

Particular	₹	Particular	₹
To Salaries to staff	1,20,000	By Gross profit	5,90,000
To Salary to Partner A	1,00,000	By Insurance Compensation	60,000
To Salary to Partner B	90,000		
To Interest	48,000		
To Rent	72,000		
To Advertisement	40,000		
To Conveyance	26,500		

To Printing and Stationery	13,500		
To Entertainment	12,000		
To Travelling	18,200		
To Office maintenance	6,800		
To Miscellaneous	1,000		
To Net Profit	1,02,000		
Total ₹	**6,50,000**	**Total ₹**	**6,50,000**

Additional Information:

(a) Interest represents interest paid to partners 20% rate whereas partnership deed provides for 15% rate.

(b) Insurance compensation has been received towards loss of stock-in-trade which was allowed as deduction in earlier year. ***(Ans.: 1,21,200)***

(22) Determine the total income of the firm and partners for A.Y. 2020-21 on the basis of following.

	Particular	₹
(a)	Net Profit as per Profit & Loss a/c	15,00,0000
(b)	Remuneration to partners debited to P&L a/c	
	[A] (Working Partner)	5,00,000
	[B] (Sleeping Partner)	2,00,000
(c)	Interest debited-Partner C on loan of ₹ 2 lakhs	50,000
(d)	Profit and Loss sharing ratio A 40%, B30% & C 30%	

(Ans.: Firm Rs. 17,26,000; A – 5,00,000; B – Nil; C – 24,000)

(23) Given below the Profit & Loss Account of JP Associates for the year ended 31st March, 2020. UP Associates is a partnership firm which satisfies all the conditions of Section 184 and 40(b).

Particular		₹	Particular	₹
To Opening Stock		27,600	By Sales	12,53,500
To Purchases		24,120	By Closing Stock	30,000
To Salaries		20,235	By Rent Received	72,000
To General Expenses		55,500	By Int. on Invest	3,500
To Depreciation		23,550		
To Electricity Charges		16,800		
To Printing and Stationary		9,600		
To Municipal Tax		6,000		
To Remuneration to Partner				
J	3,00,000			
P	2,00,000			
Q	1,00,000	6,00,000		
To Interest to Partner @ 15%				
J	80,000			
P	20,000			
Q	1,20,000	2,20,000		
To Net Profit		3,55,595		
		13,59,000		**13,59,000**

Additional Information:

(a) Out of the General Expenses ₹ 20,000 is not deductible under the Income Tax Act.

(b) The salaries include an amount of ₹ 5,000 being the bonus declared during the year. However, the bonus was unpaid till 30th September, 2020 which is the due date for filling the return of income. Therefore, it is to be disallowed.

(c) The rent received is in respect of a house property given on rent. The Municipal tax debited above relates to the same property.

(d) Depreciation allowable as per the Income Tax Act is ₹ 53,550. ***(Ans.: 3,25,095)***

Ascertain the Income from Business of the firm with reference to section 40[b] for the A. Y. 2020-21.

(24) Following is the Profit & Loss Account of AB and Co. [A partnership firm of Chartered Accounts, which satisfies all conditions of section 184 and 40(b) for the year ending 31st March, 2020.

Profit & Loss Account

Particular	₹	Particular	₹
To Firm Tax (Indirect Tax)	25,000	By Receipts from Clients for Tax Advice	1,75,000
To Expenses	1,38,000	By Audit Fees	2,25,000

To Depreciation	32,000		
To Remuneration to partners	1,50,000		
To Interest to Partners @ 15% p.a.	30,000		
To Net Profit	25,000		
Total	**4,00,000**	**Total**	**4,00,000**

Additional Information:

(a) Expenses include the following:

(i) Capital expenditure ₹ 15,000.

(ii) Donations to Trust ₹ 10,000

(iii) Other Expenses not deductible u/s 30 to 36 & 37, ₹ 12,000.

(b) However the following expenses paid were inadvertently not recorded in books of accounts.

(i) Telephone Charges ₹ 5,000.

(ii) Electricity Charges ₹ 7,000.

(c) Depreciation allowable as per Income Tax Act is ₹ 35,000. Find out the income of the firm for A. Y. 2020-21. ***(Ans.: 53,000)***

(25) Ramco Industries Ltd. is an Indian Public Company. The profit as per the Profit and Loss account of the company for the first year ending on 31/03/2020 is ₹ 15 lakhs. This is arrived at after debiting the following items.

(a) Expenditure incurred for acquisition of patent right for ₹ 2,80,000.

(b) Lump sum consideration paid for know how purchased from a laboratory owned by the government ₹ 3,00,000.

(c) Equipment purchased for scientific research ₹ 5,00,000 and equipment for promotion of family planning among employees ₹ 2,00,000.

(d) Preliminary expenses incurred by the company before commencement of business ₹ 6,20,000. You are informed the cost of project is ₹ 80 lakhs and the capital employed is ₹ 100 lakhs as on 31/03/2020.

(26) Determine the total income of the firm and partners for assessment year 2020-21 on the basis of following:

	Particular	**₹**
(a)	Net Profit as per Profit & Loss account	15,00,000
(b)	Remuneration to partners debited to Profit & Loss Account	
	(A) (Working Partner)	5,00,000
	(B) (Sleeping Partner)	2,00,000
(c)	Interest debited – Partner C on loan of ₹ 2 lakhs	50,000
(d)	Profit & Loss sharing ratio A 40%; B 30% & C 30%	

(Ans.: Firm ₹17,26,000; Mr. A ₹5,00,000; Mr. B Nil; Mr. C ₹24,000)

Chapter 4

Computation of Tax Liability of Individual and HUF and Return of Income

(Section 139-140)

INCOME TAX RETURN:

"Income Tax Return" is a term which is often used when we talk about income tax. It is a way by which we pay this tax. When total annual income of a person, including all sources, is more than maximum unchargeable limitation then that person is liable to pay income tax.

FILING OF RETURN OF INCOME: [U/S. 139]

139 (1) Due date for filing ROI	139 (3) Loss returns
139 (1A) Filing of returns by employees	139 (4) Belated returns
139 (1B) Electronic returns	139 (5) Revised returns
139 (4A) Return of trust	139 (9) Defective returns
139 (4B) Return by political parties	
139 (4C) Return by certain institutions	
139 (4D) ROI by approved scientific research institutions	

INCOME TAX DATES:

It is very important to file income tax return before the last date of return filing. Last date for corporate assesses as well as assesses requiring tax audit is 30th Sept.; While last date for other assesses is 31st July.

Due dates:

According to Section 139(1):

(i) every person being a company or firm; or

(ii) being a person other than a company or a firm, if his total income or the total income of any other person in respect of which he is assessable to tax during the previous year exceeded the maximum amount which is not chargeable to income tax, shall furnish a return of income within the due dates stipulated hereunder:

Assessee	Due date
(1) In case of a person being: **(a)** Company; not covered u/s 92E pertaining to international transaction. **(b)** a person whose accounts are required to be audited under this Act or under any other Law; **(c)** working partner of a firm whose accounts are so required to be audited; and	30th September of relevant assessment year. (e filing mandatory)
(2) In the case of any other assessee Individual/HUF	31st July of relevant assessment year.

Late fees for non-filing of Return within due-date: (SEC-234F)

	Late fees
Return furnished after due date u/s 139(1) but on/before 31st Dec. of A.Y.	Rs. 5,000
Return furnished after 31st Dec. of A.Y.	Rs. 10,000

[In case total income does not excess Rs. 5,00,000 /- Late fees payable shall Rs. 1,000]

INCOME TAX RATES:

For individuals, HUF, Association of Persons (AOP) and Body of individuals (BOI):

For Year 2020-2021

Income tax slabs (₹)	Rate (%)
(1) For resident or non-resident Individual (age is less than 60 years), HUF, AOP & BOI level of Income (₹)	
upto ₹ 2,50,000	Nil
₹ 2,50,000 to ₹ 5,00,000	5%
₹ 5,00,000 to ₹ 10,00,000	20%
₹ 10,00,000 and above	30%
(2) For resident individual between age 60 years & 80 years level of income (₹)	
upto ₹ 3,00,000	Nil
₹ 3,00,000 to 5,00,000	5%
₹ 5,00,000 to ₹ 10,00,000	20%
₹ 10,00,000 and above	30%
(3) For resident individual of the age above 80 years level of income (₹)	
upto ₹ 5,00,000	Nil
₹ 5,00,000 to ₹ 10,00,000	20%
₹ 10,00,000 and above	30%

Rebate: Will be allocated to an individual who is Resident to India whose total income does not exceed ₹ 5,00,000. The Rebate shall be 100% or ₹ 2,500 which even is less.

*A surcharge of 10% of the total tax liability is applicable where the taxable income exceeds Rs. 50,00,000 and 15% of the total tax liability is applicable where the taxable income exceeds Rs. 1,00,00,000 for Individual taxable, HUF, AOP, BOI, AJP.

Note:

(a) *Education cess is applicable @ 3 per cent on income tax, inclusive of surcharge as education cess 2% and Secondary and higher education cess 1%.*

(b) *Agricultural income is exempted from income-tax.*

INCOME TAX CALCULATOR:

How to calculate tax

Illustration 1:

Let us take a case where the assessee's income is ₹ 7,10,000 for assesee being male.

- According to the Income Tax Slab, the first 2,50,000 is not taxable.
- The next ₹ 2,50,000 is taxable @5%.
- 5% of ₹ 2,50,000 is ₹ 12,500.
- The remaining ₹ 2,10,000 i.e. 7,10,000 – (2,50,000 + 2,50,000) is taxable @20%.
- 20% of ₹ 2,10,000 is ₹ 42,000.
- Therefore, the net Income Tax Payable is ₹ 12,500 + ₹ 42,000 i.e. ₹ 54,500 + 3% education cess 1,635 total tax liability ₹ 56,135.

Illustration 2:

Let us take a case where the assessee is women and whose taxable income is ₹ 7,40,000.

- According to the Income Tax Slab, the first 2,50,000 is not taxable.
- The next ₹ 2,50,000 is taxable @5%.
- 5% of ₹ 2,50,000 is ₹ 12,500.
- The remaining ₹ 2,40,000 i.e. 7,40,000 – (2,50,000+ 2,50,000) is taxable @20%.
- 20% of ₹ 2,40,000 is ₹ 48,000.
- Therefore, the net Income Tax Payable is ₹ 12,500 + ₹ 48,000 i.e. ₹ 60,500 + 3% education cess 1,815 total tax liability ₹ 62,315

Illustration 3:

Let us take a case where the assessee is senior citizen age 75 years and whose taxable income is ₹ 17,90,000.

- According to the Income Tax Slab, the first 3,00,000 is not taxable.
- The next ₹ 2,00,000 is taxable @5%
- 5% of 2,00,000 is 10,000
- The next 5,00,000 (i.e. 10,00,000- 5,00,000) 20% of ₹ 5,00,000 is ₹ 1,00,000
- The next ₹ 7,90,000 i.e. 17,90,000 – 10,00,000 is taxable @30%
- 30% of ₹ 7,90,000 is ₹ 2,37,000.
- Therefore, the net Income Tax Payable is 20% of ₹ 5,00,000 = 1,00,000 + ₹ 2,37,000 i.e. ₹ 3,47,000 + 10,410 (i.e. 3% education cess) = 3,57,410.

Various Income Tax Return Forms with their usage.

New Income Tax Return Forms	
Form No	**Heading**
A.Y. 2020-21	**Usage**
ITR 1 (i.e. Sahaj)	For Individuals having Income from Salary/ Pension/ family pension & Interest/One house property (excluding loss b/d dram P.Y) and income terms other source (not being winning from lottery and income from Horse race). Total income does not exceed Rs. 50,00,000
ITR 2	For Individuals and HUFs not having Income from Business or Profession
ITR 3	For Individuals/HUFs being partners in firms and not carrying out business or profession under any proprietorship
ITR 4	For individuals & HUFs having income from a proprietary business or profession
ITR 5	For firms, AOPs and BOIs

ITR 6	For Companies other than companies claiming exemption under section 11
ITR 7	For persons including companies required to furnish return under section 139(4A) or section 139(4B) or section 139(4C) or section 139(4D)
ITR V	Return for Fringe Benefits where the data/ Income in Forms ITR 1 to 6 transmitted electronically without digital signature.

Authorized Signatory:

Income tax return must be signed by the authorized person. Under section 140 of the Income Tax Act, 1961 the Return form must be signed & verified by the authorized person according to the following chart:

Return by whom to be signed – Section 140

	Assessee	Signatory
(1)	Individual	Himself
	When absent from India; mentally incapacitated; for any other reason he is not able to sign.	His guardian or any other person competent to act on his behalf duly authorized by him.
(2)	H.U.F	Karta
	Where Karta is absent from India or is mentally incapacitated	Any other adult member of the family
(3)	Company Where M.D. is unable to sign or where there is no M.D. When company is not resident in India When the company is in liquidation When the company's management is taken over by the Government.	Managing Director Any other director; Any person who holds a valid Power of Attorney from the company The liquidator The Principal Officer
(4)	Partnership Firm	Managing partner or any other partner not being a minor
(5)	Local Authority	Principal Officer
(6)	Political party	Chief Executive Officer
(7)	Association of Person	Any member or principal Officer
(8)	Any other person	That person or some other person who is competent to sign.

Note: A return of income u/s 139(1) or return of fringe benefit u/s 115WD which are not signed and verified is not merely an inaccurate or incomplete return but it is not a return at all.

Filing of Bulk Return of Income by Salaried Employees: [U/S. 139 (1A)]

In the case of salaried class assessees the return of income for any previous year shall be furnished to the employer concerned. Such employer shall furnish all returns of income received by him on or before the due date, in such form and manner as notified by the CBDT for this purpose. Any employee who has filed a return of income to his employer shall be deemed to have filed a return of income in accordance with the law.

Filing of Returns in Electronic Form: [U/S. 139 (1B)]

Any person may at his option file returns in electronic form such as floppy diskette, magnetic cartridge tape, CD-ROM or any other computer readable media. Such return shall be furnished in accordance with the scheme specified in this behalf by the CBDT. Returns filed in such computer readable form shall be deemed to be return filed u/s.139.

Loss Return: [U/S. 139(3)]

Any person who sustained loss in any previous year and claims that such loss should be carried forward under sec. 72, 73, 74 and 74A of the Act shall furnish a return of loss within the time allowed u/s.139 (1) in the prescribed form. Any return so filed shall be treated as a return filed u/s. 139 (1) and all provisions of the Act shall accordingly apply. Students may also refer to 80 which states that unless loss return is filed in accordance with the due date stipulated u/s. 139 and loss is determined in pursuance of that return, the loss cannot be carried forward.

The above mentioned stipulation does not cover unabsorbed depreciation carried forward u/s. 32 (2) and loss under the head "Income from house property" u/s. 71B. These two provisions are not specified even under section 80.

The following losses cannot be c/f if the return of loss is not submitted in time:

(a) Business loss (speculative or otherwise).

(b) Capital loss; and

(c) Loss from the activity of owing and maintaining horse race.

Consequences of Late submissions:

(a) The assessee will be liable for penal interest u/s 234A.

(b) A penalty of ₹ 5,000 may be imposed u/s 271.

(c) Few losses like business loss, capital loss, horse race can't be c/fd.

(d) Deduction u/s 10 A & B, 80-IA, IAB, IB, IC, ID and IE will not be allowed.

Belated Return: [U/S. 139(4)]

Any person who has not furnished a return within the time allowed u/s. 139 (1) or within the time allowed by the notice issued u/s. 142 (1) can file a belated return for any previous year at any time before one year from the end of the relevant assessment year or before the assessment is completed, whichever is earlier.

Returns by Trust: [U/S. 139(4A)]

Every person in receipt of income derived from property held under trust or other legal obligation wholly or partly for charitable or religious purposes or income by way of voluntary contributions shall furnish a return of the total income if it exceeds the maximum amount which is not chargeable to tax before giving effect to the provisions of Sec. 11 and 12. When the income of the trust before giving effect to sec. 11 and 12 exceeds the maximum amount not chargeable to tax audit of accounts of the trusts is compulsory. Therefore, the due date for filing return of income of the trust would be 31st October every year.

Returns by Political Parties: [U/S. 139(4B)]

The Chief Executive Officer of every political party shall furnish a return of income in respect of which the political party is assessable if it exceeds the maximum amount which is not chargeable to tax before giving effect to the provision of Sec. 13A. In order to avail exemption u/s 13A, the accounts of a political party must be audited. Therefore the due date for filing the return of income is 31st October of the assessment year.

Returns by Certain Associations / Institutions: [U/S. 139(4C)]

The following entities shall furnish their return of income if the total income, before giving effect to the exemption u/s. 10, exceeds the basic exemption limit:

(i) Scientific Research Association covered under section 10(21);

(ii) News agency covered under section 10(22B);

(iii) Association or institution referred to in section 10(23A) / (23B);

(iv) Fund or institution, University or other educational or hospital or other medical institution referred to under section 10(23C) (iiiad); (iiiae); (iv); / (v); / (via); and

(v) Trade union or association covered under section 10 (24).

Returns by Associations / Institutions approved u/s 35: [U/S. 139(4D)]

Every University, College or other institutions approved u/s. 35, which is not required to file return of income under any other provisions of section 139, shall furnish the return of income or loss for every previous year.

Revised Return: [U/S. 139(5)]

Any person who has furnished a return u/s. 139 (1) or in pursuance of a notice issued u/s. 142(1) can file a revised return if the assessee discovers any omission or any wrong statement in the return filed earlier. Such revised return can be furnished at any time before the expiry of one year from the end of the relevant assessment year or before completion of assessment whichever is earlier. The effective return for the purposes of assessment is the return ultimately filed by the assessee. A revised return replaces the original return. Therefore, if the assessee discovers any omission or wrong statement in such a revised return he is entitled to furnish a second revised return.

Defective Return: [U/S. 139(9)]

If the return of income furnished by the assessee is defective according to assessing officer, it is intimated to the assessee and given an opportunity to rectify the defect within 15 days from the date of such intimation or within such further period as may be allowed by the assessing officer on the request of the assessee. If this is not rectified by the assessee within the aforesaid period then the return shall be deemed invalid and further it shall be deemed that the assessee had failed to furnish the return.

Circumstances when a return can be treated as defective:

A return of income can be regarded as defective by the Assessing Officer under the following circumstances:

(1) Annexures, statements and columns in the returns of income has not been duly filled;

(2) Return of income has not been accompanied by:

- **(a)** Statement showing computation of tax on returned income
- **(b)** Proof of tax claimed to have deducted or collected at source (TDS or TCS) advance tax paid and self-assessment tax paid. However, the return of income shall not be regarded as defective if a certificate for TDS/ TCS was not received by the person furnishing the return of income and such certificates is produced within the period of 2 years from the end of the assessment year in which the income covered by the TDS/TCS is assessable. Once the certificate is so furnished, the Assessing Officer shall amend the intimation or deemed intimation or the order of assessment for the relevant assessment year by virtue of sec. 155 (14) to grant the credit for the TDS/TCS.
- **(c)** Tax Audit report u/s. 44B or copy of such report together with the proof of furnishing the report on earlier date.

(3) Where regular books of accounts are maintained, the copies of Manufacturing account or Trading account of Profit and Loss account or Income and Expenditure account or any other similar account and Balance Sheet has not been furnished. Similarly, where no copies of personal account of the proprietor, partner or member of AOP/BOI have been filed;

(4) If the accounts are audited and copies of audited statement of accounts and auditor's report have not been filed (including Cost audit report, if any);

(5) Where regular books are not maintained, a statement indicating the amount of turnover or gross receipts, gross profit, expenses and net profit and the basis thereof together with the amount of total sundry debtors, sundry creditors, stock- in – trade and cash balance at the end of the previous year have not been filed.

Procedure for rectifying the defect:

The A.O. may intimate the defect in the return of income to the assessee and within 15 days or within such extended time the assessee may be called upon to rectify the defect. If the detect is not so rectified then the A.O. shall treat the return of income as an invalid return. However, if the assessee rectifies the defect after the time allowed but before the assessment is made, the Assessing Officer is empowered to condone the delay and treat the return as valid.

Permanent Account Number (PAN) [U/S 139A]:

Permanent Account Number (PAN) is a number which is used by Income Tax Department as an identification of a person. Through this number income tax department can get every information about the assessee.

It is a 10 digit alphanumeric number which is printed on a laminated card, known as PAN card along with other details like PAN number, name of applicant, father's name, date of birth and passport size photo

(PAN number is taking place of General Index Registrar (GIR) Number. GIR number is given by an assessing officer to assessee who also contains details of assessing officer.)

Under section 139A of Income Tax Act, 1961, PAN number is required for following persons:

- Whose total annual income is more than the amount which is not chargeable under income tax act
- Whose turnover through business or other profession is more than ₹ 5 lakhs
- Who is filling income tax return

PAN is necessary in case of following transactions:

- Filing income tax return
- Any correspondence with income tax department
- Submitting challans for payment of any tax to the department
- At the time of verifications of identity of assessee in income tax department

PAN Application Form:

Permanent Account Number – Rule 114 / Form no. 49A: [U/S. 139A]

The following persons are required to apply for and obtain Permanent Account Number:

(a) Any person who is assessable to tax either in respect of his income or the income of any other person is required to apply on or before the 31st May of the relevant assessment year.

(b) Any person carrying on business / profession whose turnover or gross receipts likely to exceed ₹ 5,00,000 in any previous year is required to apply before the end of the relevant previous year.

(c) Any person who is required to furnish a return of income u/s.139(4A) is required to apply before the end of the previous year.

(d) Employer, who is required to furnish his return of income under the provisions of fringe benefit tax u/s. 115WD.

(e) Any person registered under the Central Sales Tax Act, 1956 or the General Sales Tax Act, applying for import –export code, service tax assessee or columns, excise assessee of the appropriate state or union territory.

Filing of Return in Electronic Form: [U/S. 139D]

The Central Board of Direct Taxes is empowered to make rules providing for:

(a) the class or classes of persons who shall be required to furnish the return in electronic form;

(b) the form and the manner in which the return in electronic form may be furnished;

(c) the documents, statements, receipts, certificates or audited reports which may not be furnished along with the return in electronic form but shall be produced before the Assessing Officer on demand;

(d) the computer resource or the electronic record to which the return in electronic form may be transmitted.

*[**Note:** As such section 140 onwards are not there in T.Y.BAF Syllabus but for practical understanding and for filling Income Tax Return these sections are important that is why we have incorporated these section in our Text book.]*

Self-Assessment Tax: [U/S. 140A]

On the basis of the:

(1) Return of income that is being filed u/s. 139 or in response to notice issued u/s. 142 (1) for making inquiry before assessment or in response to notice u/s. 148 where income has escaped assessment; or

(2) Return of fringe benefit being filed u/s. 115WD or in response to notice u/s. 115WH where fringe benefits have escaped assessment; or under any other provisions of this Act, the assessee is required to compute the tax payable by him after considering the following:

- **(a)** Tax paid under the provisions of the Act;
- **(b)** Amount of Tax Deducted at Source and Collected at Source;
- **(c)** Double Taxation Relief;
- **(d)** Credit on minimum Alternate Tax available in case of companies

Besides, interest payable for delay in filing return of income [u/s 234A], interest for default in payment of advance tax [u/s 234B] or interest for deferment in payment of advance tax [u/s 234C] and interest payable for delay in filing fringe benefit tax return shall be computed and paid together with the tax payable before filing the return if income or return of fringe benefit tax and the proof of payment shall be attached thereto.

If the payment made by the assessee falls short of the aggregate of the tax and interest, the payment made shall first be adjusted towards the interest payable and the balance amount shall be adjusted towards the tax payable.

After a regular assessment is made under section 143 or 144 or any other relevant provision of the Act, any amount paid under this section shall be deemed to have been paid towards such regular assessment or best judgement assessment, as the case may be.

Failure to pay the tax wholly or in part and interest shall result in the assessee being treated as an "assessee in default".

Late Return:

Any person not filing the return within the time mentioned is allowed to file a late return at any time before the expiry of one year from the end of the relevant assessment year or before the completion of the assessment year, whichever is earlier.

Penalty:

Penalty for delay filing of return is calculated as a percentage of the shortfall of tax. In case where tax has been deducted at source, or advance tax has been duly paid, no penalty is leviable.

INCOME TAX COMPLAINT:

There is a provision of Income Tax Complaint in Income Tax Act, 1961. According to the act, one can file a complaint against any person who is not fulfilling the Income Tax Act to his assessing officer or other officer in-charge like CIT or CCIT or DGIT (investigation), responsible for its further processing. The person who is filing the complaint can also submit proof/evidence for his/her own interest. On the basis of his/her complaint, if the IT department collects more tax from such person, then he/she will be rewarded monetarily from the department.

CRITIQUE OF INCOME TAX:

Critics of income tax systems have argued that they can be extremely complex, requiring detailed record-keeping, lengthy instructions, and complicated schedules, worksheets, and forms. Critics further claim that income tax systems can penalize work, discourage saving and investment, and hinder the competitiveness of business. Taxation systems such as a national sales tax or value added tax remove the tax component when goods are exported and apply the tax component on imports. The principles of an income tax are also argued by critics. Frank Chodorov wrote "... you come up with the fact that it gives the government a prior lien on all the property produced by its subjects." The government "unashamedly proclaims the doctrine of collectivized wealth. ... That which it does not take is a concession."

WHAT IS SELF-ASSESSMENT [U/S. 140A]:

The provisions of section 40A are given below:

- An assessee is required to submit his return of income or fringe benefits under section 115WD or 115WH or 139 or 142 or 148 or 153A or 158BC.
- Before submitting the aforesaid return, he is supposed to find out whether any tax and/or interest is payable. For this purpose, tax and/or interest shall be calculated as follows:

Find out income-tax, surcharge, education cess and secondary and higher education cess as per return of income		xxxx
Add: Interest		
Under section 234A or 115WK for late submission of return of income* or fringe benefit	xxxx	
Under section 234B for non-payment or short payment of advance tax* or fringe benefit	xxxx	
Under section 234C for non-payment or short payment of different instalments of advance tax	xxxx	xxxx
Total tax and interest		xxxx
Less: Advance tax, tax deducted at source, tax collected at source, MAT credit and relief under section 90/90A/91A		xxxx
Self assessment tax payable under section 140A		xxxx

Interest under sections 234A and 234B shall be calculated on the basis of income declared in the return of income.

- Self-assessment tax so determined shall be deposited by the assessee before submitting return of income. From April 1, 2009, all corporate assessees and other assessees (who are subject to compulsory audit under section 44AB) will have to make electronic payment of tax through internet banking facility offered by authorized banks. Alternatively, these taxpayers can make electronic payment of tax through internet by way of credit or debit cards.
- The proof of deposit should be submitted along with the return of income (i.e., BSR code of bank, Serial No. of challan, amount of deposit and date of deposit)

- Where the amount paid by the assessee falls short of the aggregate of tax and interest, as determined above, the amount so paid shall first be adjusted towards interest payable and the balance, if any, shall be adjusted towards tax payable.

Illustration 4:

Tax liability of Mr. Rajeev for the assessment year 2019-20 is ₹ 2,40,000. He is liable to pay interest under sections 234A, 234B and 234C of ₹ 4,340, ₹ 12,000 and ₹ 1 5,000, respectively. He is entitled for tax credit on account of pre-paid taxes (i.e., advance tax paid during the financial year 2019-20: ₹ 1 7,000 and tax deducted/collected at source ₹ 6,000). At the time of filing of return of income for the assessment year 2020-21 on December 12, 2020, the tax payable under section 140A shall be determined as under.

Name of Assessee: Mr. Rajeev

Legal Status: Individual

P/Y – 2019-20 Residential Status: R & OR A/Y – 2020-21

	₹	₹
Income-tax		2,40,000
Add: Interest		
Under section 234A	4,340	
Under section 234B	12,000	
Under section 234C	15,000	31,340
Total		2,71,340
Less: Prepaid taxes		
Advance tax	1 7,000	
Tax deducted, collected at source, MAT credit and double taxation relief under section 90/90A/91	6,000	23,000
Self-assessment tax under section 140A		2,48,340

If the amount of tax paid under section 140A is less than ₹ 2,48,340, then the amount paid under section 140A, shall be first adjusted towards interest payable and the balance if any, shall be adjusted towards tax payable. Suppose in the above case Mr. Rajeev pays (a) ₹ 1,69,000 or (b) ₹ 25,000 under section 140A, then tax so paid shall be adjusted as under:

	Situation (a) ₹	**Situation (b) ₹**
Tax paid under section 140A	1,69,000	25,000
Amount treated as payment of interest under sections 234A, 2348 & 234C	31,340	25,000
Amount treated as payment of tax (₹ 1,69,000 – ₹ 31,340)	1,37,660	Nil

Other points:

The following should also be kept in view:

- After a regular assessment of income or fringe benefits has been made, any amount paid under section 140A shall be deemed to have paid towards such regular assessment.
- If any assessee fails to pay whole or any part of such tax or interest or both in accordance with the provisions of section 1 40A, he shall (without prejudice to any other consequences which he may incur) be deemed to be an assessee in default in respect of the tax or interest or both remaining unpaid, and all the provisions of the Act shall apply accordingly.

If an assessee is deemed to be an assessee in default, then under the different provisions of the Income-tax Act, he is liable for the following:

(1) The assessee is liable for payment of self-assessment tax (including interest) (as calculated above), which he has not paid so far.

(2) Besides, he is liable for payment of simple interest under section 220(2) at the rate of 1 per cent per month (or part thereof) for the period of default. This interest is in addition to the interest payable under sections 234A, 234B and 234C.

(3) Moreover, he is liable for penalty under section 22 1(1). Under section 22 1(1), the Assessing Officer may impose a penalty of an amount not exceeding the amount of tax in arrears after giving the assessee a reasonable opportunity of being heard.

Problem on Return of Income and Assessment:

Illustration 5:

Discuss whether the following persons are required to submit return of income for the assessment year 2020-21 [indicate form number mode of Submission and due date]:

Assessee	Net income ₹	Deduction claimed under sections 10A, 10B, 10BA, 80C to 80U	Sources of income	Turnover / Gross Receipt ₹
X Ltd.	41,000	–	Business	40,80,000
Y (24 years)	3,60,000	4,000	Salary and property	–
Z (47 years)	1,37,000	14,500	Rent from a plot of land	–
A Ltd.	(30,000)	–	Business	50,00,000
B (60 years)	(20,000)	1,80,000	Profession	65,00,000
C (31 years)	(32,000)	1,70,000	Capital Gain and agricultural income	–
D (65 years)	2,03,000	11,000	Pension	–
E (72 years)	1,60,000	65,000	Business	38,00,000
Mrs. F (29 years)	15,000	1,74,000	Business	1,45,00,000
G (18 years)	75,000	76,000	Business	1,49,00,000
H (64 years)	1,60,000	100	Partner in a firm	–

Solution:

Assessee	Is it necessary to submit return under section 139 (1)			Due date
	Yes or No	Form No.	Compulsory Electronic Format	
X Ltd.	Yes	ITR-6	Yes	September 30, 2020
Y	Yes	ITR-2	Optional	July 31, 2020
Z	Yes	ITR-1	Optional	July 31, 2020
A Ltd.	Yes	ITR-6	Yes	September 30, 2020
B	Yes	ITR-4	Yes	September 30, 2020
C	No	ITR-2	Optional	–
D	No	ITR-1	Optional	–
E	No	ITR-4S	Optional	–
Mrs. F	Yes	ITR-4	Yes	September 30, 2020
G	Yes	ITR-4	Yes	September 30, 2020
H	Yes	ITR-3	Optional	July 31, 2020

Notes:

(1) Audit under section 44AB is compulsory when turnover exceeds ₹ 1 Cr even if taxable income is lower than the amount of exemption limit.

(2) If return of income is not submitted in time, loss cannot be carried forward.

(3) If a taxpayer is an individual/HUF/AOP/BOI and his income (before giving any deduction under sections 10A, 10B, 10BA, 80C to 80U) exceeds the exemption limit, he will have to submit his return of income. This rule is applicable even if his taxable income (after giving aforesaid deductions) is equal to or less than exemption limit and his tax liability is zero. For instance, income of Z (after giving aforesaid deductions) is ₹ 1,37,000 (which is less than the exemption limit of ₹ 2,00,000 and tax liability is zero). However, he will have to submit his return of income, as his income (before giving deduction under aforesaid sections) is ₹ 2,01,500.

(4) Income of E (before giving deduction under aforesaid sections) is ₹ 5,00,000, he may not submit his return of income (E being senior citizen, exemption limit is ₹ 5,00,000).

(5) Likewise, income of Mrs. F is ₹ 15,000 (tax liability is zero). She will have to submit her return of income because turnover exceeds 1 Cr.

Illustration 6:

State, giving reasons, whether the following are correct or incorrect:

(1) Income of X Ltd. for the assessment year 2020-21 is (–) ₹ 12,000 (i.e., loss from other sources). As the loss under the head "Income from other sources" is not permitted to be carried forward, the company should not submit return of income.

(2) Income of Y for the assessment year 2020-21 is ₹ 98,000 deduction under section 80C is ₹ 90,000. He is not entitled for any other deduction. He does not want to submit return of income, as the income is not more than ₹ 2,00,000.

(3) Z is a salaried employee. His net income for the assessment year 2020-21 is ₹ 2,00,000 (income include F.D. Interest ₹ 12,000). He has claimed deduction of ₹ 5,000 under section 80C. The employer has not deducted tax at source. He is liable to submit return of income.

(4) A is a minor. As his income is included in the income of his father, he not required to submit his return of income.

Solution:

Except (1), all are correct

Illustration 7:

Rakesh, a Chief Executive appointed on a contract of 2 years by Reliance Industries Ltd. the following particulars of his income for the financial year ending 31st March, 2019. Compute his total income and tax liability for the assessment year 2020-21.

(A) Salary particulars:

Particulars	₹
(1) Basic Pay and Dearness Allowance	2,48,000
(2) Other Allowances:	
(a) Taxable Education Allowance	3,000
(b) House rent Allowance	12,000
(c) Servant Allowance	1,500
(d) Gas, Electricity, Water supply	1,500

(C) Interest income:

Particulars	₹
(a) Public Provident Fund	1,000
(b) On fixed Deposits with Bank	11,000

(D) He has invested the following amounts out of his income:

Particulars	₹	₹
(a) Deposited into Pension Plan of LIC		13,000
(b) Mediclaim Insurance premium paid on the life of		

(i) dependent son	1,000	
(ii) wife	2,000	3,000

(Modified C.A. Inter)

Solution:

Name of Assessee: Mr. Rakesh
Status: Individual
P/Y – 2019-20 Residential Status: R & OR A/Y – 2020-21

Computation of Total Income

Particulars	₹	₹
Income from Salary		
Basic Pay	2,48,000	
Education allowance	3,000	
House Rent allowance	12,000	
Servant allowance	1,500	
Gas, Electricity and Water supply	1,500	2,66,000
Less: Deduction u/s 16		Nil
Taxable Salary		2,66,000
Income from other sources		
Interest on Fixed Deposit with Bank		11,000
Gross Total Income		2,77,000
Less: Deductions u/s 80		
80CCC Pension Pan of LIC	13,000	
80D Mediclaim Insurance Premium	3,000	
		16,000
Net Taxable Income		2,61,000

Tax Liability:

Particulars	₹	₹
1st ₹ 2,50,000	Nil	Nil
On balance- 11,000 (2,61,000 – 2,50,000)	5%	550
Total		1,100
Add: Education cess (2% + 1%)		17
		567
Less: T.D.S		Nil
Total Tax Liability		567

Illustration 8:

From the following details and information, compute the total income and Tax Liability of Ms. Ravina individual, for the assessment year 2020-21:

Profit and Loss Account for the year ended 31/3/2020

Particulars	(₹)	Particulars	(₹)
To Staff Salaries, bonus etc.	32,000	By Trading Profit	1,60,000
To Drawings for Household	12,000	By Rent from portion let out	24,000
To Life Insurance premium paid	6,000	By Share of Profit from Partnership firm	8,000
To Contribution to Public Provident Fund	5,000	By Receipt from HUF as member of HUF	1,500
To Depreciation on assets used in business	21,000		

To Advertisement Expenses	6,000		
To Printing and Stationery	3,000		
To Net income for the year	1,08,500		
	1,93,500		**1,93,500**

Further Details:

(1) An analysis of the fixed assets, ledger revealed the following:

(a) Ms. Ravina had purchased an accounting machine in June 2000 for ₹ 36,000. Its written down value, as per Income-tax records, as on 1/4/2018 was ₹ 22,110. In October 2019, it was sold for ₹ 38,110.

(b) Depreciation available on other fixed assets for the current year, as per Income tax Rules was ₹ 18,000.

(2) Included in salaries was salary of ₹ 6,000 drawn by Ms. Ravina and a payment of ₹ 4,800 to his brother's son, who was a student of the tenth standard and did not attend to Ms. Ravina business.

(3) Ms. Ravina owned two house properties-the first of which was used half for running the business and the other half was let out at ₹ 2,000 p.m. The second property was wholly used as a residence by Ms. Reena. Municipal taxes for the two properties were the same at ₹ 4,800 per annum. The business and the let out premises were insured against loss by fire and the annual insurance premium was ₹ 600. The payment of municipal taxes and the insurance premium was included in household expenses.

(4) Included in Advertisement is Personal Expenses of ₹ 1,500.

(Modified C.A. Inter)

Solution:

Name of Assessee: Ms. Ravina

Status: Individual

P/Y – 2019-20 Residential Status: R & OR A/Y – 2020-21

Computation of Total Income

Particulars	₹	₹
(1) Income from House Property (W. N 1)		15,120
(2) Profits and Gains of Business & Profession (W N 2)		1,10,600
(3) Capital Gains (W.N.3)		16,000
Gross Total Income ₹		1,41,720
Less: Deduction u/s 80	6,000	
80C LIC premium paid	5,000	
PPF Deposit		11,000
Net Taxable Income		**1,30,720**

Tax Liability:

Upto ₹ 2,50,000 (No tax) therefore Tax liability will be Nil.

WN (1) Income from House Property:

Particulars	₹	₹
Gross annual value u/s 23 (2) (Actual Rent)		24,000
Less: Municipal Tax 50% of ₹ 4,800 for LOHP		2,400
Net Annual Value		21,600
Less: Deduction u/s 24		
(i) 30% Standard Deduction	6,480	

(ii) Interest	Nil	6,480
Income from LOHP		15,120
Income from SOHP		Nil

WN (2) Profits and Gains of Business/Profession:

Particulars	₹	₹
Net Profit as per P & L A/c		1,08,500
Add: Inadmissible Expenses		
Drawings for House hold expenses	12,000	
LIC premium paid	6,000	
Contribution to PPF	5,000	
Salary to proprietor Ms. Reena	6,000	
Add: Depreciation on Asset used in business considered separately	21,000	
Add: Payment to brothers son unreasonable u/s 40A (2)	4,800	
Add: Personal Expenses Included in Advertisement	1,500	
		56,300
		1,64,800
Less: Items considered separately		
Rent from House Property	24,000	
Share in Partnership Profits	8,000	
Less: Admissible expenses	1,500	
Depreciation	18,000	
Fire Insurance Premium (50% of 600)	300	
Municipal Taxes (paid)	2,400	
		54,200
Chargeable Business Income		1,10,600

WN (3) Capital Gain:

Particulars	₹
Machinery as Block of asset Sale Price during the year	38,110
Less: WDV as on 1/4/2014	22,110
Short Term Capital Gain u/s 50	16,000

Illustration 9:

Compute the taxable income and Tax liability of Ms. Mridula for the Assessment year 2020-21:

Particulars	₹
Net Income from Chemical business	1,30,000
Interest on Post Office Saving Bank Account	900
Share of Profit from a Partnership Concern	22,000
Short-term Capital Gain on Land	24,000
Long-term Capital Gain on House property	1,20,000
Share of Income from HUF in which he is a Member	8,200
Winning from Horse Race	10,000
TDS for P. Y. 2019-20	3,000
Interest on Bank Deposits:	
Deposit in his own name	4,000
In the name of minor son	1,300

Contribution to Pension Fund	12,000

[CA Inter Modified]

Solution:

Name of Assessee: Ms. Mridula

Status: Individual

P/Y – 2019-20 Residential Status: R & OR A/Y – 2020-21

Computation of Total Income

Particulars	₹	₹	₹
Profits & Gains of Business/Profession:			
Income from Chemical Business		1,30,000	
Share of Profit from Partnership Firm	22,000		
Less: Exempt u/s 10 (2A)	22,000	Nil	1,30,000
Capital Gains:			
Short Term Capital Gain		24,000	
Long Term Capital Gain		1,20,000	1,44,000
Income from Other Sources:			
Interest on Post Office Saving Bank A/c	900		
Less: Exempt u/s 10 (15)	900	Nil	
Winning from Horse Race		10,000	
Interest on Bank Deposit		4,000	
Interest in the name of minor	1,300		
Less: Exempt u/s 10 (32)	1,300	Nil	14,000
Gross Total Income			2,88,000
Less: Deduction u/s 80			
80CCC Contribution to pension fund		12,000	
Relief Fund		–	12,000
Net Taxable Income			**2,76,000**

Tax Liability:

Particulars	₹	₹
Tax on LTCG (16,000 (1,20,000 - 1,04,000) × 20%) [2,50,000 - (2,76,000 - 1,20,000 - 10,000)] = 1,04,000		3,200
Tax on Winning from Horse race 3,000 (30,000 × 10%)		3,000
Tax on Other Income 1,46,000		Nil
Total		6,200
Add: Educational Cess [2% + 1%]		186
		6,386
Less: TDS		3,000
Total Tax Liability		3,386

Illustration 10:

The following particulars are furnished by Mr. Manav for the year ending 31st March, 2020.

	₹
Net salary received after deduction of tax at source	80,000

Tax deducted from salary	4,000
Ex-gratia received	16,000
House Rent Allowance (Exempt ₹ 5,600)	8,400
Project Allowance	6,800
Arrears of salary received for 2017-18	8,000
Professional Tax paid by Employee	840
Interest on Government Securities (net)	18,000
Tax deducted at source on Interest on Securities	2,000
Winning from Lotteries	7,000
Interest Paid to Bank for money borrowed for above Investment	2,000
Paid to G.I.C. for medical insurance for self and his wife by cheque	16,000
Contribution to ULIP for his wife	3,000

Compute the Total Income & tax liability for the Assessment Year 2020-21.

(T.Y.B.Com. Oct. 99, Modified)

Solution:

Name of Assessee: Mr. Manav

Status: Individual

P/Y – 2019-20 Residential Status: R & OR A/Y – 2020-21

Computation of Total Income	₹	₹	₹
(A) Income from Salary			
Net Salary	80,000		
Add: Tax Deducted at Source	4,000	84,000	
Ex-gratia Received		16,000	
House Rent Allowance u/s 10 (13A)	8,400		
Less: Exempt	(5,600)	2,800	
Project Allowance		6,800	
Arrears of Salary Received		8,000	
Add: Allowances		1,17,600	
Less: Deductions u/s 16			
Professional Tax Paid		(840)	1,16,760
(B) Income from Other Sources			
Interest on Government Securities (Net)	18,000		
Add: Tax Deducted at Source	2,000	20,000	
Winning from Lottery		7,000	
Less: Interest Paid on Investment u/s 57		2,000	25,000
(C) Gross Total Income (A + B)			1,41,760
(D) Less: Deductions under chapter VIA:			
U/S 80C: ULIP	3,000		
U/S 80D: Medicalim Insurance Premium (limited to)	16,000		19,000
(E) Net Taxable Total Income (C – D)			**1,22,760**

Tax Liability:

Up to ₹ 2,50,000 No Tax therefore Tax liability for Mr. Manav will be ₹ Nil.

Illustration 11:

Mr. Sagar is a 90% physically handicapped person and sales manager of Raj Ltd. provides you the following information for the year ending 31st March, 2020.

(a) Basic salary ₹ 6,500 per month.
(b) Dearness allowance ₹ 1,000 per month.
(c) Bonus ₹ 8,000.
(d) Commission 1% on sales which for the year was ₹ 15,00,000.
(e) Perquisite value ₹ 7,500.
(f) Educational allowance ₹ 300 per month (exempted ₹ 100 per month).
(g) Entertainment allowance ₹ 825 per month since 1st January, 1991.
(h) Professional tax deducted ₹ 700.

Mr. Sagar has borrowed ₹ 75,000 @ 30% and made following Investment.

(i) 14% Debentures in D.C.M Ltd. ₹ 50,000.
(ii) 11% Fixed Deposit with S.B.I. ₹ 25,000.
(iii) Contribution to PPF ₹ 10,000.

Compute the total Taxable Income & Tax Liability of Mr. Sagar for the assessment year 2019-20.

(T.Y.B.Com. April 98, Modified)

Solution:

Name of Assessee: Mr. Sagar
Status: Individual
P/Y – 2019-20 Residential Status: R & OR A/Y – 2020-21

	Computation of Total Income	**₹**	**₹**
(A)	**Income from Salaries**		
	Basic Pay (6,500 × 12)	78,000	
	Dearness Allowance (1,000 × 12)	12,000	
	Bonus	8,000	
	Commission [1% of 15,00,000]	15,000	
	Other Allowances	7,500	
	Education Allowance (200 × 12)	2,400	
	Entertainment Allowance (825 × 12)	9,900	1,32,800
	Less: Deductions		
	U/s. 16 (iii) Prof. Tax		(700)
(B)	**Income from Other Sources**		1,32,100
	D.C.M. Debentures Interest (50,000 × 14%)	7,000	
	S.B.I. Bank Interest (25,000 × 11%)	2,750	
	Less: Deduction U/S 57 Interest Period on borrowings [30% of 75,000]	(22,500)	(12,750)
(C)	**Gross Total Income (A + B)**		1,19,350
(D)	**Less:** Deductions Under CH. VIA		
	(1) U/S. 80C Provident Fund	2,750	
	(2) U/S. 80U being a physically handicapped person (90%) [restocked]	1,25,000	(1,27,750)
(E)	**Net taxable Income (C – D)**		8400

Tax Liability: Up to ₹ 2,50,000 No Tax therefore Tax liability for Mr. Sagar will be ₹ Nil.

Illustration 12:

Mr. Sonu Nigam (a handicapped person to the extent of 75%) has let out house property situated at Matunga, for residential purpose. Following details are given regarding the let out property for the year F.Y. 2019-20:

	Amount (₹)
Reasonable letting value	6,60,000
Rent received	20,000 per month
Municipal Taxes paid by tenant	40,000
Land Revenue payable	7,000
Ground Rent payable	10,000
Fire Insurance paid	8,000
Repairs by Mr. Nigam (urgently needed)	12,000
Minor repairing done by tenant	1,500
Salary of rent collector	300 per month
Interest for the year 2014-15 on loan taken for construction	
(Out of which `5,000 is outstanding)	30,000

Mr. Sonu Nigam also had the following investments and incomes:

14% Debentures of Nirma Industrial Ltd. ₹ 75,000.

11% Fixed Deposits with HDFC Bank ₹ 70,000.

50 shares of Jay Ltd. of ₹ 100 each. The company paid interim dividend @ 30%.

Interest on National Saving Certificates ₹ 1,000.

During the year he won a crossword puzzle prize of ₹ 10,000.

Compute the Total Taxable Income and Tax liability of Mr. Nigam for the Assessment Year 2020-21. If TDS in ₹ 3,000.

(T.Y.B.Com. Oct. 2001, Modified)

Solution:

Name of Assessee: Mr. Sonu Nigam

Status: Individual

P/Y – 2019-20 Residential Status: R & OR A/Y – 2020-21

Computation of Total Income	₹	₹	₹
(A) Income from House Property			
Reasonable Letting Value	6,60,000		
Rent Received (20,000 × 12)	2,40,000		
Annual Value (Whichever is higher)		6,60,000	
Less: Municipal Taxes Paid by owner		Nil	
Net Annual Value		6,60,000	
Less: Deduction u/s 24			
(1) Standard Deduction (30% × 6,60,000)	1,98,000		
(2) Interest on Loan taken	30,000	2,28,000	
Income from House Property			4,32,000
(B) Income from Other Sources			
14% Interest on Debentures in Nirma Ltd.		10,500	
11% Fixed Deposits with HDFC Bank		7,700	
Interest on National Saving Certificates		1,000	
Dividend - Co-op. society		1,500	
Cross Word Puzzle Prize		10,000	
Income from Other Sources			30,700
(C) Gross Total Income (A + B)			4,62,700

(D) Less: Deduction Under Chapter VI A			
U/S 80 C: Interest on NSC		1,000	
U/S 80 U: For Physically Handicapped		75,000	76,000
(E) NET Taxable Income (C - D)			**3,86,700**

Tax Liability:

Particulars	**₹**	**₹**
1st ₹ 2,50,000	No Tax	Nil
On balance (3,86,700 – 2,50,000 = 1,36,700)	@ 5%	6,835
Total		6,835
Add: Educational Cess [2% + 1%]		205
		7,040
Less: TDS		(3,000)
Income Tax Payable		4,040

Illustration 13:

Ms. Megha who is totally blind, has let out her house property situated at Navi Mumbai for Residential purpose. The details of the said property for the year ended 31st March, 2020 are as follows:

(a) Rent Received ₹ 1,20,000.
(b) Municipal Valuation ₹ 1,00,000.
(c) Fair Rent ₹ 1,50,000.
(d) Municipal Taxes paid by Tenant ₹ 10,000.
(e) Interest on Loan taken from ICICI Bank for construction of house property ₹ 35,000. Loan was taken in April 2012.

Following are the details of other income earned by her during the year.

(i) Interest accrued on NSC, ₹ 20,000.
(ii) Interest accrued on Public Provident Fund account ₹ 5,000.
(iii) Dividend from M/s. Raymond Ltd. ₹ 10,000.
(iv) Interest Accrued on private loans to friend and relatives ₹ 60,000.

Compute the Net Taxable Income of Ms. Megha for Financial Year 2018-19, relevant to Assessment Year 2020-21. ***(T.Y.B.Com. Oct. 2001, Modified)***

Solution:

Name of Assessee: Ms. Megha
Status: Individual
P/Y – 2019-20 Residential Status: R & OR A/Y – 2020-21

Computation of Total Income		**₹**	**₹**
(A) Income from House Property			
(1) Gross Annual Value:			
(a) Rent Received	1,20,000		
(b) Municipal Valuation	1,00,000		
(c) Fair Rent	1,50,000		
Whichever is higher		1,50,000	
Less: Municipal Taxes paid by owner		NIL	
(2) Net Annual Value		1,50,000	
(3) Less: Deduction u/s 24			
(a) Standard Deduction @ 30%	45,000		

	(b) Interest on House Construction Loan	35,000	(80,000)	70,000
(B)	**Income from Other Sources**			
	Interest Accrued on NSC		20,000	
	Interest Accrued on PPF	5,000		
	Less: Exempt U/S 10	(5,000)	Nil	
	Dividend from Raymond Ltd.	10,000		
	Less: Exempt U/S 10	(10,000)	Nil	
	Interest on Private Loans to Friends and Relatives		60,000	
				80,000
(C)	**Gross Total Income**			**1,50,000**
(D)	**Less: Deductions under Chapter VIA**			
	U/S 80C: Interest accrued on NSC		20,000	
	U/S 80U: For Physically Handicapped (100% Totally Blind)		1,25,000	1,45,000
(E)	**NET TAXABLE INCOME (A – B)**			**5,000**

Tax Liability:

Up to ₹ 2,50,000 No Tax therefore Tax liability for Ms. Megha will be ₹ Nil.

Illustration 14:

Mrs. Ritu Bist owns two houses in Mumbai. The particulars of her Income from properties for the year ended 31st March, 2020 is as follows:

(A)

Particulars	House Property I		House Property II	
(1) Nature of occupancy	Self-Occupied		Let out	
(2) Fair rent	₹	4,00,000	₹	6,00,000
(3) Municipal valuation	₹	4,20,000	₹	6,10,000
(4) Rent received	₹	NIL	₹	6,50,000
(5) Municipal taxes paid on 15/3/2018	₹	30,000	₹	40,000
(6) Fire Insurance Premium paid	₹	8,000	₹	10,000
(7) Rent collection charges	₹	–	₹	8,000
(8) Land Revenue payable	₹	2,000	₹	3,000
(9) Interest paid on loan taken for construction of house property	₹	1,60,000	₹	1,50,000
(10) Date on which loan taken		26-11-05		22-10-04
(11) Repayment of principal amount of loan	₹	30,000	₹	NIL

(B) Mrs. Ritu Bist also received the following other income after paying interest of ₹ 40,000:

- **(a)** Dividend from Mafatlal Industries ₹ 10,000.
- **(b)** Interest on fixed deposits with Bank of India ₹ 20,000

(C) Mrs. Ritu Bist paid Medical Insurance premium of ₹ 18,000 for self & Advance Tax ₹ 90,000 by cheque.

Compute her Net Taxable Income and Tax Liability for the Assessment Year 2020-21.

(T.Y.B.Com. March 2008, Modified)

Solution:

Name of Assessee: Mrs. Ritu Bist

Status: Individual

P/Y – 2019-20 Residential Status: R & OR A/Y – 2020-21

Computation of Total Income	₹	₹

(I) Income from House Property			
(A) House Property – 1 (Self-Occupied)			
Gross Annual Value		NIL	
Less: Municipal Taxes paid		NIL	
Net Annual Value		NIL	
Less: Deduction u/s 24			
Interest on Loan	1,60,000		
restricted to		2,00,000	
Income from House Property - 1	**(A)**		(1,60,000)
(B) House Property – 2 (Let Out)			
Fair Rent		16,00,000	
Municipal Valuation		16,10,000	
Annual Letting Value (higher of above)		16,10,000	
Actual Rent Received		16,50,000	
Gross Annual Value (higher of above)		16,50,000	
Less: Municipal Tax paid by owner		40,000	
Net Annual Value		16,10,000	
Less: Deduction u/s 24			
Standard Deduction @ 30%	4,83,000		
Interest on loan	1,50,000	6,33,000	
Income From House Property - 2	**(B)**		9,77,000
Net Income from House Property	**(A + B)**		8,17,000
(II) Income from Other Sources			
(A) Dividend from Mafatlal Industries	10,000		
Less: Exempt u/s 10	10,000	Nil	
(A) Interest on FD with Bank of India		20,000	
Less: Deduction U/S 57 Interest Paid		(40,000)	(20,000)
Gross Total Income			**7,97,000**
Less: Deduction under Chapter VI-A			
U/s 80C: Housing Loan Principal Repayment		30,000	
U/s 80D: Medical Insurance Premium		18,000	
			48,000
Net Taxable Income			**7,49,000**

Tax Liability:

Up to ₹ 2,50,000	=	Nil
Therefore 2,50,000 @ %	=	12,500
Balance 2,49,000 @ 20%	=	49,800
		62,300
Ec @ 3%	=	1,869
		64,169
Less: Advance Tax		(90,000)
Net Tax Liability		(25,831)

Illustration 15:

Mr. Kuldeep Sharma owns two houses in Mumbai, both of which are used by him for his own residence. The particulars of these houses are as follows for the previous year ended 31/3/2020:

Particulars	House Property I (₹)	House Property II (₹)
(1) Gross Municipal Valuation	2,25,000	3,50,000
(2) Fair Rent	2,50,000	4,00,000
(3) Municipal taxes – due	25,000	35,000
– paid	2,000	1,000
(4) Repairs	2,000	3,000
(5) Insurance Premium – due	500	600
(6) Ground rent due	150	200
(7) Interest on funds borrowed for – Construction of house property	40,000	40,000
(8) Year in which loan was taken	1997	1998

He also received the following income of the paying collection charges and Interest of ₹ 40,000 during the previous year 2019-20:

(a) Accrued Interest on NSC (VIII issue) ₹ 6,000
(b) Winning from lottery ₹ 10,000
(c) Interest on deposits with Bank of India ₹ 4,000
(d) Interest on P.P.F. ₹ 5,000.

He also paid Medical Insurance Premium for self, by cheque of ₹ 3,000.

Compute the Net Taxable Income and Tax liability of Mr. Kuldeep Sharma for the previous year 2018-19, relevant to Assessment year 2020-21. ***(T.Y.B.Com. March 2006, Modified)***

Solution:

Name of Assessee: Mr. Kuldeep Sharma
Status: Individual

P/Y – 2019-20 Residential Status: R & OR A/Y – 2020-21

Computation of Total Income		**₹**	**₹**
(I) Income from House Property			
Property I (Deemed to be Let Out)			
Gross Annual Value (Highest of the Following)			
Municipal Value	2,25,000		
Fair Value	2,50,000		
∴ Annual Value		2,50,000	
Less: Municipal Taxes paid		2,000	
Net Annual Value			2,48,000
Less: Deduction u/s 24			
(i) Standard Deduction @ 30%		74,400	
(ii) Interest on borrowed funds for construction		40,000	1,14,400
Income from LOP	**(A)**		1,33,600
Property II (Self-Occupied)			
Annual Value		Nil	
Less: Municipal Taxes		Nil	
Net Annual Value		Nil	

Less: Deduction u/s 24			
Interest on Borrowed Funds for construction	40,000		
Restricted to ₹ 30,000 as taken before 1-4-99		30,000	
Income from SOP	**(B)**		30,000
Income from House Property	**(A + B)**		1,03,600
(II) Income from Other Sources			
Accrued interest on NSC		6,000	
Winning from Lottery		10,000	
Interest on Bank Deposits		4,000	
Interest on PPF (Exempt u/s 10)		NIL	
Lees: Deduction u/s 57 Interest Paid		(40,000)	
			(20,000)
Gross Total Income			83,600
Less: Deductions under Chapter VIA			
u/s 80C: Interest accrued on NSC		6,000	
u/s 80D: Medical Insurance Premium		3,000	
			9,000
Net Taxable Income			**74,600**

Tax Liability:

Up to ₹ 2,50,000 No Tax therefore Tax liability for Mr. Kuldeep Sharma will be ₹ Nil.

Illustration 16:

Mr. Rahul owns two houses in Mumbai, the particulars of which are as follows for the previous year 2019-20:

Particulars	House Property I		House Property II	
(1) Nature of occupancy	Let out		Self-Occupied	
(2) Municipal Valuation	₹	2,00,000	₹	3,00,000
(3) Fair rent	₹	1,90,000	₹	2,70,000
(4) Rent received	₹	3,50,000	₹	NIL
(5) Municipal taxes paid on 1/3/2019	₹	20,000	₹	30,000
(6) Fire Insurance Premium paid	₹	3,000	₹	5,000
(7) Collection charges	₹	1,000	₹	NIL
(8) Land revenue payable	₹	1,500	₹	2,400
(9) Interest paid on loan taken for construction of house property	₹	1,60,000	₹	40,000
(10) Repayment of principal amount of Loan	₹	50,000	₹	10,000
(11) Date on which loan was taken	20/12/1999		25/1/1998	

Mr. Rahul also received the following Income during the previous year 2019-20.

(a) Royalty on book written by him ₹ 2,25,000.

(b) Dividend received from co-operative society ₹ 75,000

(c) Interest received on debentures from Indian Company ₹ 75,000.

(d) Expenses incurred to earn above income ₹ 70,000.

He contributed ₹ 11,000 to L.I.C. Pension Fund Policy.

Compute the Net Taxable Income and Tax Liability of Mr. Rahul for the previous year 2019-20 relevant to assessment year 2020-21. If he paid advance tax ₹ 2,000 and there was tax deducted at source ₹ 399. ***(T.Y.B.Com. Oct. 2006, Modified)***

Solution:

Name of Assessee: Mr. Rahul
Status: Individual

P/Y – 2019-20 Residential Status: R & OR A/Y – 2020-21

Computation of Net Taxable Income		₹	₹
Income from House Property			
(A) Property I (Let Out Property)			
Gross Annual Value			
Fair Rent		1,90,000	
or Gross Municipal Valuation		2,00,000	
or Actual Rent		3,50,000	
whichever is higher			3,50,000
Less: Municipal Taxes paid by the owner			20,000
Net Annual Value			3,30,000
Less: Deduction u/s 24			
(a) Standard Deduction @ 30%		99,000	
(b) Interest on Construction Loan		1,60,000	2,59,000
Income from Let Out House Property	**(A)**		71,000
(B) Property II (Self-Occupied Property)			
Net Annual Value			NIL
Less: Deduction u/s 24			
Interest on Construction Loan ₹ 40,000 restricted to			30,000
Income from Self Occupied House Property	**(B)**		(30,000)
Total Income from House Property	**(A + B)**		41,000
Income from Other Sources			
Royalty		2,25,000	
Dividend from Co-op. Society		75,000	
Interest on Debentures		75,000	
Less: Deduction u/s 57 Expenses incurred		70,000	3,05,000
Gross Total Income			3,46,000
Less: Deduction under Chapter VI A			
U/s 80 C: Repayment of Housing Loan		60,000	
U/s 80 CCC: LIC Pension Fund Policy		11,000	71,000
Net Taxable Income			**2,75,000**

Tax Liability:

Up to ₹ 2,50,000 No Tax	=	Nil
balance 25,000 @ 5%	=	1,250
(+) education cess 3%		38
		1,288
(–) Advance Tax paid		(2,000)
(–) T.D.S		(399)
Income Tax Payable/ (refundable)		1112

Illustration 17:

Mr. Sahu, who is a resident of Mumbai owns three houses, the particulars of which are given as under for the year ended 31st March, 2020.

(i) The first house is occupied by him for his own residence, the Gross Annual value of which is ₹ 30,000. He paid ₹ 2,500 as property tax and ₹ 1,60,000 as interest on loan taken for construction of house.

(ii) The second house has been let out for a rent of ₹ 10,000 per month. The municipal valuation of the house was ₹ 90,000 whereas the fair rent was ₹ 1,10,000. The above house remained vacant for 2 months. He paid ₹ 9,000 as property tax on 29th May, 2020. The insurance premium paid amounted to ₹ 2,225 and ground rent ₹ 1,075. Unrealised rent of last year ₹ 2,000 was recovered during the year.

(iii) The third house property which was purchased at a cost of ₹ 3,22,595 in the financial year 3017-18 was sold on 15th April, 2019. The purchaser paid ₹ 14,00,000 on 1st May, 2019 and balance consideration of ₹ 3,50,0000 was paid on 30th June, 2019. Mr. Sahu paid brokerage of ₹ 13,000 for the sale transaction. The cost inflation index for financial year 2019-20 -280; Total TDS & Advance Tax and for Mr. Sahu during the year was ₹ 1,85,000. He has a severely handicapped son. He paid mediclaim premium ₹ 10,000.

Compute the total taxable income and tax liability of Mr. Sahu for the Asst. Year 2020-21.

(T.Y.B.Com. March 2003, Modified)

Solution:

Name of Assessee: Mr. Sahu

Status: Individual

P/Y – 2019-20 Residential Status: R & OR A/Y – 2020-21

Computation of Total Income	₹	₹	₹
(I) Income from House Property			
House - I (Self-Occupied Property)			
Annual value		NIL	
Less: Municipal taxes		NIL	
Net Annual Value		NIL	
Less: Deduction u/s 24			
Interest on Loans	NIL		
		1,60,000	
			(1,60,000)
House - II (Let out Property)			
Annual value (Highest of following)			
Municipal valuation	90,000		
Fair valuation	1,10,000		
Rent receivable (10,000 × 12)	1,20,000		
∴ Annual value		1,20,000	
Less: Vacancy allowance		20,000	
Actual rent received		1,00,000	
Less: Municipal taxes		NIL	
Net Annual Value		1,00,000	
Less: Deduction u/s 24			
Standard deduction @ 30%	30,000		
		30,000	

		70,000	
Add: Unrealised rent recovered		2,000	
			72,000
(II) Income from Capital Gain			
Short Term Capital Gains on Sale of House Property			
Sale Proceeds (14,00,000 + 3,50,000)	17,50,000		
Less: Brokerage	13,000		
		17,37,000	
Less: cost of acquisition		3,22,595	
			14,14,405
Gross Total Income			13,26,405
Less: Deduction Under CH. VI A			
(1) U/S 80D: Medi-claim Premium		10,000	
(2) U/S 80DD: Premium for severely handicapped son		1,25,000	(1,35,000)
Net Taxable Income			11,91,405

Tax Liability:

Particulars	₹	₹
For 1st Rs. 2,50,000		Nil
then 2,50,000	@ 5%	12,500
then 5,00,000	@ 20%	1,00,000
on balance 1,91,405	@ 30%	57,422
11,91,405		1,69,922
Add: Education cess (2% + 1%)		5,097
Tax Payable		1,75,019
Less: TDS & Advance Tax		(1,85,000)
Total Tax Payable		**9,981**

Illustration 18:

The following is the Profit and Loss Account of Mr. Deepak. Compute his total taxable income and Tax liability for the Assessment Year 2020-21.

	₹		₹
To Salaries and Bonus	45,000	By Gross Profit	2,30,000
To Provision for doubtful debts	10,000	By Share of profit from Partnership Firm	30,000
To Printing and Stationery	6,000	By FD Interest	17,900
To Entertainment Expenses	25,000	By Sales Tax Refund	10,000
To Bad Debts	5,000	By Recovery of Bad Debts	13,000
To Interest on capital	5,000		
To Advertisement Expenses	20,000		
To General Expenses	17,000		
To Personal Drawings (Mediclaim)	20,000		
To Advance Income Tax paid	10,000		
To Bank charges (Dividend collection)	2,000		
To Office Rent	25,000		
To Depreciation	5,000		
To Net Profit	1,05,900		
₹	3,00,900	₹	3,00,900

Additional Informations:

(a) Advertisement expenses include ₹ 5,000 for advertisement in souvenir of a political party.
(b) Recovery of bad-debts was earlier allowed as deduction.
(c) Mediclaim policy is on the health of his mother who is a senior citizen.
(d) Depreciation allowable as per Income Tax Rules ₹ 4,000.
(e) Interest paid on money borrowed for F.D. ₹ 31,800.

(T.Y.B.Com. Oct. 98, Modified)

Solution:

Name of Assessee: Mr. Deepak
Status: Individual
P/Y – 2019-20 Residential Status: R & OR A/Y – 2020-21

Computation of Total Income	₹	₹	₹
(I) Income from Business/Profession			
Net Profit as per Profit and Loss A/c		1,05,900	
Less: Share of Profit from Partnership firm (exempt)	30,000		
FD Interest	17,900	47,900	
		58,000	
Add: Expenses Disallowed/considered separately			
Provision for Doubtful Debts	10,000		
Interest on Capital	5,000		
Advertisement to Political Party	5,000		
Mediclaim Premium	20,000		
Advance Tax	10,000		
Bank Charges for Interest	2,000		
Depreciation	5,000	57,000	
		1,15,000	
Less: Expenses allowed			
Depreciation		4,000	
			1,11,000
(II) Income from Other Sources			
FD Interest		17,900	
Less: Bank Charges for Collection		(2,000)	
Interest paid on money borrowed		(31,800)	
			(15,900)
Gross Total Income			95,100
Less: Deductions under Chapter VI A:			
S. 80D: Mediclaim Premium		20,000	(20,000)
Net Taxable Income			**75,100**

Tax Liability:

Up to ₹ 2,50,000 No Tax therefore Tax liability for Mr. Deepak will be ₹ Nil.

Illustration 19:

Mr. Mukesh proprietor of NDA Enterprises, furnishes you the following information for the previous year ending on 31st March, 2020.

Profit and Loss A/c for the year ended 31st March 2018

Particulars	₹	Particulars	₹

Salaries and wages	1,22,000	Gross Profit	7,10,000
Printing and stationery	24,400	Agriculture Income	8,000
Motor car expenses	29,600	Interest on PPF account	6,000
Rent	24,000	Gift from father	4,000
Entertainment Expenses	17,000	Winning from Lotteries	10,000
Advertisement Expenses	47,000	NSC Interest	2,000
Depreciation	32,000		
Drawings	50,000		
Advance income tax	15,000		
Embezzlement by an employee	5,000		
Training Expenses	28,000		
Staff welfare expenses	66,000		
Net profits	2,80,000		
₹	7,40,000	₹	7,40,000

Other Informations:

(a) Allowable Depreciation as per Income Tax Rules is ₹ 35,000.

(b) Half of the rent is attributable towards his residential flat.

(c) Staff welfare expenses includes ₹ 16,000 incurred for his own medical treatment.

(d) Advertisement expenses includes ₹ 15,000 for introducing new product.

(e) Printing includes ₹ 4,400 paid for printing marriage cards of his son.

(f) He spent ₹ 200 for purchase of lottery tickets.

(g) Training expenses of ₹ 28,000 were incurred on his 40% handicapped dependent brother.

(h) Interest and Collection changes paid for lottery prize & NSC interest ₹ 24,000.

(i) TDS for the year tax 5,000.

Compute his taxable income and Tax liability for the Assessment Year 2020-21.

Solution:

Name of Assessee: Mr. Mukesh

Status: Individual

P/Y – 2019-20 Residential Status: R & OR A/Y – 2020-21

Computation of Total Income	**₹**	**₹**	**₹**
(I) Income from Business/Profession			
Net Profit as per Profit and Loss A/c		2,80,000	
Add: Expenses Disallowed/treated separately			
Printing of Son's Marriage Card	4,400		
Rent of Residential Flat	12,000		
Drawings	50,000		
Advance Tax	15,000		
Training	28,000		
Own Medical Expenses	16,000		
Depreciation	32,000		
		1,57,400	
		4,37,400	
Less: Expenses Allowed			
Depreciation as per Income Tax Rules		35,000	

		4,02,400	
Less: Income Considered Separately/Exempt			
Agricultural Income	8,000		
Interest on PPF	6,000		
Gift from Father	4,000		
Winning from Lottery	10,000		
Dividend from Co-operative Society	2,000		
		30,000	
Income from Business/Profession			3,72,400
(II) Income from Other Sources			
Lottery Prize Received		10,000	
NSC Interest		2,000	
Less: Deduction u/s 57 Expenses incurred		(24,000)	(12,000)
Gross Total Income			3,60,400
Less: Deductions under chapter VI A			
U/s 80 C: NSC Interest		2,000	
U/s 80DD: Exp. on 40% handicapped dependent		75,000	77,000
Taxable Income			**2,83,400**

Tax Liability:

Particulars	₹	₹
Tax on lottery prize 10,000 × 30%	3,000	
Tax on balance income 2,73,400 (2,83,400 - 10,000)	1,170	
Total		4,170
Add: Education Cess (2% + 1%)		125
Tax Payable		4,295
Less: TDS & Advance Tax (5,000 + 15,000)		(20,000)
Total Tax Refund		15,705

Illustration 20:

For the assessment year 2020-21, X (age 38 years), a non-resident individual, furnishes the following information:

	₹
Income from house property	3,18,500
Business income	1,05,000
Shod-term capital gains	4,22,000
Long-term capital gains	2,02,500
Income from owning and maintaining race horses	1,15,000
Income from card games	2,16,000
Besides, X has the following brought forward losses/allowances	
Brought forward business loss of the assessment year 2016-17	1,12,000
Unabsorbed depreciation allowance of the assessment year 2015-16	2,06,000
Long-term capital loss in respect of the assessment year 2016-17	2,47,200
Brought forward loss from the activity of owning and maintaining race horses of the assessment year 2017-18	1,25,000
Speculation losses of the assessment year 2014-15	30,000

Determine the net income and tax liability of X for the assessment year 2020-21.

Solution:

Name of Assessee: X
Legal Status: Individual

P/Y – 2019-20 Residential Status: R & OR A/Y – 2020-21

	₹	₹
Income from house property		3,18,500
Business income	1,05,000	
Less: Brought forward business loss of the assessment year 2015-16	(1,12,000)	
Business loss to be carried forward to next assessment year	(7,000)	Nil
Long-term capital gains	2,02,500	
Less: Brought forward long-term capital loss	(2,02,500)	Nil
Short-term capital gains		4,22,000
Income from owning and maintaining race horses	1,15,000	
Less: Loss from owning and maintaining race horses of the assessment year 2017-18	(1,15,000)	Nil
Income from card games		2,16,000
Total		9,56,500
Less: Unabsorbed depreciation allowance		2,06,000
Gross total income		7,50,500
Less: Deductions under sections 80C to 80U		Nil
Net income		**7,50,500**

Notes:

(1) In the absence of speculation income, brought forward speculation loss of the assessment year 2014-15 cannot be set off. As four-year time-limit expires with the assessment year 2017-18 the loss cannot be carried forward to the next assessment year.

(2) Long-term capital loss of ₹ 44,700 will be carried forward (it cannot be carried forward beyond the assessment year 2023-24.

(3) Loss from the activity of awning and maintaining race horses of ₹ 10,000 will not be carried forward to assessment year 2020-21.

(4) Computation of tax liability:

	₹
Tax on income from card games (i.e., ₹ 2,16,000 @ 30%)	64,800
Tax on the remaining income [as the remaining income (₹ 5,34,500)]	19,400
Tax	84,200
Add: Education cess (2% of tax)	1,684
Add: Secondary and higher education cess (1% of income-tax and surcharge)	842
Tax liability (rounded off)	86,726

Illustration 21:

From the following data, find out tax liability for the assessment year 2020-21.

	X (a resident individual) (age: 32 years) ₹	**AB (HUF) (a resident Hindu undivided family) ₹**
Income from house property	1,95,000	2,02,000
Capital Gain:		

Short-term	12,000	12,000
Long-term on sale of silver	35,000	60,000
Deductions under sections 80CCC, 80D, 80DD and 80E	7,000	8,000
Payment of life insurance premium, contribution to public provident fund	28,000	30,000

Solution:

P/Y – 2019-20 A/Y – 2020-21

Computation of Net Income	**X (a resident individual) (age: 32 years) ₹**	**AB (HUF) (a resident Hindu undivided family) ₹**
Income from house property	1,95,000	2,02,000
Capital gain	47,000	72,000
Gross total income	2,42,000	2,74,000
Less: Deduction under section 80C	28,000	30,000
Less: Deduction under sections 80CCC, 80D, 80DDD and 80G	7,000	8,000
Net income	2,07,000	2,36,000
Computation of tax		
Net income (excluding long-term capital gain) (a)	1,72,000	1,76,000
Income-tax on (a)	Nil	Nil
Income-tax on long-term capital gain (c)		
*20% of [₹ 35,000 – (₹ 1,80,000 – ₹ 1,72,000)]:		
** 20% of [₹ 60,000 – (₹ 1,80,000 – ₹ 1,76,000)]:	5,400*	11,200**
	–	–
Tax and surcharge [(b) + (c) + (d)] (e)	5,400	11,200
Add: Education cess (2% of tax and surcharge) (f)	108	224
Add: Secondary and higher education cess (1% of tax and surcharge)	54	112
Tax payable [(e) + (f)]	5,560	11,540

Illustration 22:

Thakur Trust, a resident Hindu undivided family, has the following income for the previous year 2019-20:

	₹
Business income	(15,000)
Short-term capital gain	63,000
Long-term capital gain on sale of land	8,21,000

Find out the tax liability for the assessment year 2020-21, assuming that the family pays life insurance premium of ₹ 65,000.

[Modified CA 2010]

Solution:

Name of Assessee: Thakur Trust

Legal Status: HUF

P/Y – 2019-20 Residential Status: R & OR A/Y – 2020-21

Computation of Net Income	**Long Term ₹**	**Short Term ₹**

Business income	(15,000)	
Capital gain		
Short-term		63,000
Long-term	8,21,000	
Less: Deduction u/s 80		(65,000)
Net income (being long-term capital gain, after adjusting business loss)	8,06,000	Nil
Computation of tax		
Tax on 20% of [8,06,000 – 1,80,000]	1,25,200	
Add: Education cess 2%	2,504	
Add: Secondary and higher education cess 1%	1,252	
Tax liability	1,28,956	

Illustration 23:

On June 30, 2019, X (31 years) sells the following assets:

	Equity shares in A Ltd. (listed) ₹	**Equity shares in B Ltd. (listed)** ₹	**Shares in C Ltd. (non-listed)** ₹
Sale consideration	5,00,000	8,25,000	6,89,000
Cost of acquisition	26,000	10,000	20,000
Date of acquisition	May 10, 2003	June 6, 2004	April 6, 2005

Income of X from other sources if ₹ 7,86,000. X deposits ₹ 50,000 in public provident fund. Find out the net income and tax liability for the assessment year 2020-21 under the following situations:

(Modified CS, 2010)

Solution:

Computation of long-term capital gain under situation (a)

Name of Assessee: X

Legal Status: Individual

P/Y – 2019-20 Residential Status: R & OR A/Y – 2020-21

	Equity shares in A Ltd. (listed) ₹	**Equity shares in B Ltd. (listed)** ₹	**Shares in C Ltd. (non-listed)** ₹
Sale consideration	5,00,000	8,25,000	6,89,000
Less: Indexed cost of acquisition**	66,789	24,778	47,863
Long-term capital gain	4,33,211	8,00,222	6,41,137
Computation of Net Income			
Long-term capital gain			18,74,570
Income from other sources			7,86,000
Gross total income			26,60,570
Less: Deduction under section 80C			50,000
Net income (rounded off)			26,10,570
Computation of tax			
Tax on income other than long term capital gain (i.e., tax on ₹ 7,36,000)			69,700
Add: Tax on long-term capital gain (see Note)			3,74,914
Tax			4,44,614

Add: Not applicable for Individual Assessee			Nil
Tax			4,44,614
Add: Education cess @ 2%			8,892
Add: Secondary and higher education cess @1%			4,446
Tax payable (rounded off)			4,57,952

Note: Computation of tax on long-term capital gain

** A Ltd. ₹ $\frac{26,000}{109} \times 280$ B Ltd. ₹ $\frac{10,000}{113} \times 280$ C Ltd. ₹ $\frac{20,000}{117} \times 280$ (FY 18-19)

Illustration 24:

On April 20, 2019, Rakesh (29 years) sells the following assets:

	Sale Consideration (₹)
(1) Self-generated goodwill of a business (long-term)	14,00,000
(2) Bonus shares in A Ltd. (listed) (being long-term capital assets)	6,00,000
(3) Bonus shares in B Ltd. (non-listed) (being short-term capital assets)	8,00,000
(4) Listed debentures of C Ltd. (acquired on March 6, 1985 for ₹ 40,000)	1,00,000
Find out the tax liability of X for the assessment year 2020-21 on the assumption that his business income is ₹ 6,000 in the following two situations: **(a)** when shares are transferred outside a recognised stock exchange **(b)** when shares in A Ltd. are transferred through a recognised stock exchange	

(ICWAI, 2010, Modified)

Solution:

Name of Assessee: Rakesh
Legal Status: Individual
P/Y – 2019-20 Residential Status: R & OR A/Y – 2020-21

Computation of long-term capital gain under situation (a)

	Goodwill	Listed bonus shares in A Ltd.	Non-listed bonus shares in shares in B Ltd.	Listed debentures of C Ltd.
	₹	₹	₹	₹
Sale consideration	14,00,000	6,00,000	8,00,000	1,00,000
Less: Cost of acquisition [* the benefit of indexation is not available in the case of transfer of debentures/bonds]	Nil	Nil	Nil	40,000*
Short-term capital gain	–	–	8,00,000	–
Long-term capital gain	14,00,000	6,00,000	–	60,000

Computation of Income	₹	₹
Business income		6,000
Capital gain		
Short-term	8,00,000	
Long-term	20,60,000	28,60,000
Net Income		28,66,000
Computation of tax under situation (a)		
Tax on income other than long-term capital gain (i.e., tax on ₹ 8,06,000)		73,700

Tax on long-term capital gain [20% of ₹ 14,00,000 + 10% of ₹ 6,00,000 + 10% of ₹ 60,000]		3,46,000
Tax		4,19,700
Add: Surcharge is not applicable in case of individual		Nil
Tax and surcharge		4,19,700
Add: Education cess (2% of ₹ 4,19,700)		8,394
Add: Secondary and higher education cess [1% of income-tax and surcharge]		4,197
Tax payable (rounded off)		4,32,291

Tax Liability:

Particulars	₹	₹
Upto 2,50,000		Nil
2,50,000 – 5,00,000	@ 5%	12,500
5,00,000 – 8,06,000	@ 20%	61,200
		73,700

Note:

(1) In the case of listed bonus shares and listed debentures/bonds, it is better if tax is computed as per the Option 2.

(2) If the shares in A Ltd. are transferred in a recognised stock exchange, X will have to pay securities transaction tax [i.e., 0.125% of (₹ 6,00,000)] and long-term capital gain will not be chargeable to tax and short-term capital gain is taxable @ 15% (plus surcharge plus education cess plus secondary and higher education cess).

Computation of Income (b)	₹
Tax on income other than long-term capital gain (i.e., tax on ₹ 8,06,000)	73,700
Tax on long-term capital gain [20% of ₹ 14,00,000 + 10% of ₹ 60,000]	2,86,000
Tax	3,59,700
Add: Surcharge	Nil
Tax and surcharge	3,59,700
Add: Education cess (2% of ₹ 3,79,880)	7,194
Add: Secondary and higher education cess (1% of income-tax and surcharge)	3,597
Tax payable (rounded off)	3,70,491

Illustration 25:

Mr. Rohan owns two houses properties particulars of which as follows:

Particulars	House I (SOP) ₹	House II (LOP) ₹
Municipal Valuation	3,00,000	4,00,000
Fair Valuation	3,50,000	4,50,000
Rent Received	–	5,00,000
Municipal Tax paid	15,000	50,000 (50% paid by tenant)
Insurance	10,000	30,000
Land Revenue	5,000	10,000
Interest on loan (loan taken after 1/4/1999)	50,000	80,000

His other income as follows:

(i) Dividend from foreign company 45,000.

(ii) Interest Income 80,000.

(iii) Dividend from cooperative bank 90,000.

He contributed 50,000 for provident fund and he repaid 80,000 housing loan principal amount. Calculate the net taxable income for the AY 2020-21 and tax liability of Mr. Rohan.

[MU., TYBAF, April 2015, 2016, Modified]

Solution:

Name of Assessee: Mr. Rohan

Status: Individual

P/Y – 2019-20 Residential Status: R & OR A/Y – 2020-21

Computation of Net Taxable Income	**₹**	**₹**
Income from House Property		
(A) House I (Self-Occupied Property)		NIL
Less: Municipal Taxes paid by the owner		NIL
Net Annual Value		NIL
Less: Deduction u/s 24		
Standard Deduction @ 30%		NIL
Interest on Construction Loan ₹ 50,000		50,000
Income from Self Occupied House Property (A)		50,000
(B) Property II (Let Out Property)		
Gross Annual Value		5,00,000
Less: Municipal Taxes paid by the owner		25,000
Net Annual Value		4,75,000
Less: Deduction u/s 24		
(a) Standard Deduction @ 30%	1,42,500	
(b) Interest on Construction Loan	50,000	
Income from Let Out House Property (B)		2,82,500
Total Income from House Property (A + B)		2,32,500
Income from Other Sources		
Dividend from Foreign Company	45,000	
Interest Income	80,000	
Dividend from Co-operative Bank	90,000	
Total Income from other Sources		2,15,000
Gross Total Income		4,47,500
Less: Deduction under Chapter VI A		1,30,000
Net Taxable Income		**3,17,500**

Calculation of Tax liability:

	₹	**₹**
Tax Payable 67,500 × 5% (3,17,500 – 2,50,000)		3,375
3% Cess of 3375		101
Income Tax payable		3,476

Illustration 26:

Mr. A is an individual with disability (60%) certified by the medical authority employed in a private limited company. From the following information for the AY 2020-21 calculate the taxable income and tax liability.

- Gross salary Rs. 10,00,000.

- Exgratia Rs. 1,20,000.
- Perquisite value Rs. 80,000.
- Employers contribution to Provident fund in excess Rs. 20,000.
- Profession tax deducted Rs. 2,500.
- Mr. A owns a house property for his own residence. During the previous year he paid interest on housing loan Rs. 48,000 and repayment of principal Rs. 12,000. (Loan taken before 1-4-99)

[MU., TYBAF, April 2016, Modified]

Solution:

Mr. A

Particulars	₹	₹
(I) Income From Salary:		
Gross Salary		10,00,000
Ex-gratia		1,20,000
Perquisite Value		80,000
Employee's Contribution to PF in excess		20,000
		12,20,000
Less: Profession Tax		- 2,500
Net Income from Salary		12,17,500
(I) Income from SOP		
Net Annual Value	Nil	
Less: Interest on Housing loan (Loan is taken before 1.4.1999)	- 30,000	
		- 30,000
Total Income (I + II)		11,87,500
Less: Deduction under Chapter VIA		
80 C: Repayment of Principal	12,000	
80 U: 60% Disability	50,000	
		- 62,000
Taxable Income		**11,25,500**
Tax Payable		
12,500 + 1,00,000 + 37,650		1,50,150
Add: 3% Cess		4,505
		1,54,655

Illustration 27:

Partnership firms deriving loss need not file return of income.

Solution:

False. To topic "Loss Return"

Illustration 28:

Mr. A is a resident Indian. During the F. Y. 2018-19, interest of ₹ 1,42,000 was credited to his Non-Resident (External) Account with the SBI. ₹ 20,000 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?

Solution:

It is given in the question that Mr. A is a resident. It is assumed that he is permitted to maintain NR(E) account. According to section 10(4), any interest from NR(E) account is exempt from tax. After excluding interest in NR(E) account, the total income of Mr. A is ₹ 24,000 only. As his income before giving effect to section 10A, 10B, 10BA or chapter VIA is less than the basic exemption limit of ₹ 2,00,000 he is not required to file the return of income u/s. 139(1).

Loss Return

Illustration 29:

If a return of loss was not filed within a due date, what are the consequences?

Solution:

Refer to topic "Loss Return".

Returns by Trusts

Illustration 30:

When is a charitable trust required to file its audit report along with return of income?

Solution:

Refer to topic "Returns by Trusts"

Returns by certain associations/institutions

Illustration 31:

The total income of a University without giving effect to exemption under section 10(23C) is ₹ 46 lacs. Its total income however is nil. Should the University file its return of income?

Solution:

Since the total income of the University before giving effect to the exemptions exceeds the basic exemption limit, it has to file its return of income. Only Sec 10A, 10B or Chapter VIA forms the basis for the amount of total income for the purpose Filing of Return of Income u/s. 139(1).

Revised Return

Illustration 32:

Explain with brief reason whether the return of income can be revised under section 139(5) of the Income Tax Act, 1961 in the following case:

(i) Defective or incomplete return filed under section 139(9).

(ii) Belated return filed under section 139(4).

(iii) Return already revised once under section 139(5).

(iv) Return of loss filed under section 139(3).

Solution:

Any person who has furnished a return under section 139(1) can file a revised return if he discovers any omission or any wrong statement in the return filed earlier. Accordingly:

(a) A defective or incomplete return filed under section 139(9) cannot be revised. However, the defect can be removed.

(b) A belated return filed under section 139(4) cannot be revised. Only a return furnished under section 139(1) or in pursuance of a notice issued under section 142(1) can be revised.

(c) A return revised earlier can be revised again as the first revised return replaces the original return. Therefore, if the assessee discovers any omission or wrong statement in such a revised return, he can furnish a second revised return within the prescribed time i.e. within one year from the end of the relevant assessment year or before the completion of assessment, whichever is earlier.

(d) A return of loss filed under section 139(3) is deemed to be return filed under section 139(1), and therefore, can be revised under section 139(5).

Illustration 33:

Time limit for filing revised return where assessment has not been completed is

Solution:

Before the expiry of one year from the end of the relevant assessment year or before the completion of assessment whichever is earlier.

Illustration 34:

What are the requisites for filing a revised return?

Solution:

Refer to topic "Revised return".

Defective Return

Illustration 35:

Write short note on Defective Returns.

Solution:

Refer to topic "Defective Return".

Permanent Account number

Illustration 36:

Enumerate eight transactions for which quoting of Permanent Account Number are mandatory.

Solution:

Refer to topic "Permanent Account Number".

Illustration 37:

The assessing officer has the power, inter alia, to allot PAN to any person by whom no tax is payable.

Solution:

True. Section 139(2) has been substituted w.e.f. 1 - 6 - 2006, to provide that the Assessing Officer may, having regard to the nature of transactions as may be prescribed, also allot a PAN to any other person, whether any tax is payable by him or not, in the manner and in accordance with the procedure as may be prescribed.

Illustration 38:

What are the documents/Prescribed transactions, relating to which a allottee of PAN, should quote his PAN?

Solution:

Refer to topic "Mandatory of quoting PAN".

Tax Return Preparer

Illustration 39:

Mrs. Hetal, an individual, engaged in the business of Beauty Parlour, has got her books of account for the Financial Year ended on 31st March, 2020 audited u/s. 44AB. Her total income for the assessment year 2020-21 is ₹ 1,75,000. She wants to furnish her return of income for assessment year 2020-21 through a tax return preparer.

Solution:

As per section 139B TRP scheme is not applicable for a company or a person who is required to undergo audit u/s. 44AB of the Income Tax Act or audit under any other law. Hence Mrs. Hetal cannot file her return of income through a Tax Return Preparer.

Return by whom to be signed

Illustration 40:

Can an individual, who is not in India, sign the return of income from outside India? Is there any other option?

Solution:

Refer to topic "Return by whom to be signed".

Illustration 41:

Where the karta of HUF is absent from India, the return of income can be signed by any male member of the family.

Solution:

False. Refer to topic "Return by whom to be signed".

Illustration 42:

Write short notes on signatory to return of income filed by an individual and partnership firm.

Solution:

Refer to topic "Return by whom to be signed".

Illustration 43:

What are the particulars required to be furnished with the return of income, as per Sec. 139(6)?

Solution:

Refer to topic "Particulars to be furnished with the return".

Exercises: Theory

(1) Write short note on "Return of income." ***[MU. Oct. 07 TYBAF]***

(2) What do you mean by income-tax return? What are the various forms which are to be filed by different categories of assessees while filing income-tax return? State the limitation periods under the provisions of the Income-tax Act relating to filing the return.

(3) What is the time limit for filing of return of income under the Income-tax Act?

(4) What do you mean by reassessment? State the provisions under the Income-tax Act relating to assessment.

(5) What are the time limits for filing return of income, completion of assessment and rectification of mistake under section 154?

(6) Explain the provisions of Sec 140. (Return of whom to be signed)?

(7) Compute the taxable liability if Mr. Tejas is earning ₹ 4,80,000 for P/y 2019-20.

(8) If Mrs. Kareena earning ₹ 4,80,000. How much will be her Income- Tax Liability for A. Y. 2020-21.

(9) Explain Income Tax Rate of A/y 2019-20 for following Assessee:
(a) Individuals **(b)** HUF **(c)** AOP **(d)** BOI.

(10) Explain various Income Tax Return forms with their usage?

(11) Explain in details about different provision of section 139 for filing of return?

(12) What will be income tax liability for ₹ 11,45,000?
- **(a)** If it is earned by Abhishek Bachchan.
- **(b)** If it is earned by Aishwarya Bachchan.
- **(c)** If it is earned by their Son Abhiaish age one year.

(13) **Write short note on:**
(a) Revised Return. **(b)** Belated Return. **(c)** Defective Return. **(d)** Self Assessment Tax. **(e)** Loss Return. **(f)** Self-assessments. **(g)** Regular assessments.

Exercises: Objectives

(1) **Multiple Choice Questions:**

(a) Rented house is sublet for a rent of ₹ 20,000 p.m. The income from such rent shall be taxable under the head:
- **(i)** Income from House Property
- **(ii)** Income from Business
- **(iii)** Income from Other Sources.

(b) If Gross Total Income is ₹ 1,90,000 and Life Insurance Premium paid is ₹ 1,95,000, the Net Taxable Income would be:
- **(i)** ₹ 90,000
- **(ii)** NIL
- **(iii)** ₹ (–) 5,000.

(c) Mr. Ravi a practicing Chartered Accountant is a full time Lecturer in Thakur College. He was appointed as Internal Auditor of Students' Council of S. N. College and was paid Audit fees of ₹ 5,000. These fees are taxable under the head:
- **(i)** Income from Business and Profession
- **(ii)** Income from Other Sources
- **(iii)** Income from Salary.

(d) Remuneration received by a working partner of a partnership firm u/s 40 (b) is taxed under:
- **(i)** Income from Salary
- **(ii)** Income from Other Sources
- **(iii)** Income from Business and Profession.

(e) There is a Long Term Capital gain if equity shares sold were held for:
- **(i)** More than 36 months
- **(ii)** More than 12 months
- **(iii)** More than 10 months.

(f) Voluntary Retirement Compensation received by retiring employee is exempt u/s 10(10C) to the maximum extent of:
- **(i)** ₹ 3,50,000
- **(ii)** ₹ 5,00,000
- **(iii)** ₹ 1,00,000

[Ans.: (a-iii), (b-ii), (c-iii), (d-iii), (e-ii), (f-ii)]

(2) (a) Match the following Columns and rewrite the sentences:

Column A	Column B
(1) Equity Shares of Indian company hold for 8 months	**(a)** Ordinarily Resident
(2) An Indian Company	**(b)** Non Resident
(3) Dividend from Indian Company	**(c)** 30%
(4) Shivaji University	**(d)** 33⅓% or ₹ 15,000 whichever is less
(5) Maximum Deduction Under Chapter VI A	**(e)** Gross Total Income
(6) Standard Deduction on Family Pension	**(f)** ₹ 1,00,000
	(g) Short Term Capital Asset
	(h) Long Term Capital Asset
	(i) Artificial Juridical Person
	(j) Local Authority
	(k) Taxable
	(l) Exempt u/s 10

Ans.: (1 – g), (2 – a), (3 – l), (4 – i), (5 – e), (6 – d)

(b)

Column A	Column B
(1) Maximum total Deduction u/s 80	**(a)** ₹ 50,000
(2) Maximum contribution to pension funds u/s 80C & 80CC	**(b)** ₹ 1,00,000
(3) Severally handicapped resident Individual u/s 80U	**(c)** ₹ 1,00,000
(4) Handicapped dependent Individual	**(d)** Restricted to GTI
(5) Maximum deduction for interest on loan for higher education u/s 80E	**(e)** ₹ 70,000
(6) Deduction u/s 80D	**(f)** u/s 80D
	(g) Actual Amount Paid
	(h) Cheque only

Ans.: (1 – d), (2 – b), (3 – c), (4 – g), (5 – f), (6 – h)

(c)

Column A	Column B
(1) Revised Return	**(a)** 30th September
(2) Belated Return	**(b)** 31st March
(3) Defective Return	**(c)** 31st July
(4) Audited Accounts	**(d)** Return furnished after due date

(5) On Audited Accounts	**(e)** Omission or wrong statement is discovered. **(f)** Return not accompanied by a start showing computation of tax payable

Ans.: (1 – e), (2 – d), (3 – f), (4 – a), (5 – c)

(3) Fill in the blank:

(a) Family pension deduction to assessee is least of the following __________% or __________.
(b) Share of income received by a member of HUF is __________ income.
(c) Dividends from a __________ company is exempt from tax.
(d) Agricultural income from Srilanka is taxable under the head __________.
(e) Amount exceeding ₹__________ received without consideration from non-relatives, is taxable under the head income from other sources.
(f) Deduction under sec. 80 of the chapter VI A of the income tax __________ are allowed from __________.
(g) Deduction u/s 80C is respect of tution fees is allowed maximum upto __________ children.
(h) __________ expenses of the assessee is not deductable u/s 58.
(i) Deduction u/s 80 E is available for interest on loan for higher education to __________ assessee only.
(j) The deduction u/s 80 E for payment of interest on loan for higher education is allowed for a maximum period of __________ years.
(k) Due date for filing __________ for company or an company or an assessee whose books of accounts are audited is 30th September.
(l) Due date for filing Income tax returns for other assessee (i.e. other than co. & whose books are audited) is __________.
(m) For carry forward of __________ under any head the return of income should be filed before due date each year else he cannot carry forward the loss to the succeeding year.
(n) Belated return on revised return can be __________ before the expiry of one year from the end of the relevant assessment year or before the competition of assessment whichever is earlier.

[Ans.: (a) 33 1/3% or ₹15,000; (b) Exempt; (c) Indian; (d) Income from other source; (e) ₹50,000; (f) Gross total Income; (g) Two; (h) personal; (i) Individual; (j) 8 years; (k) Income tax return; (l) 31st July; (m) loss; (n) furnished.]

(4) Rewrite the following sentences by selecting the correct option:

(a) For computing lottery income, the assessee shall
- **(i)** Be entitled to any deduction for purchase of lottery tickets.
- **(ii)** Not entitled to any deduction for purchase of lottery tickets.
- **(iii)** Be entitled to deduction upto 10% of total purchase of tickets.
- **(iv)** None of the above.

(b) The legal heir of the deceased who received family pension is allowed standard deduction from such pension to the extent of:
- **(i)** 33 1/3% of such pension.
- **(ii)** 33 1/3% of such pension or ₹ 15,000 whichever is less.
- **(iii)** 33 1/3% of such pension or ₹ 15,000 whichever is more.
- **(iv)** None of the above.

(c) Deduction u/s 80C in respect of LIP, Contribution to provident fund, etc. is allowed to:
- **(i)** Any assessee
- **(ii)** Any individual
- **(iii)** An individual and / or HUF
- **(iv)** An individual or HUF who is resident in India

(d) An assessee has paid life insurance premium of ₹ 1,25,000 during the previous year for a policy of ₹ 5,00,000. He shall:
- **(i)** Not be allowed deduction u/s 80C
- **(ii)** Be allowed Deduction u/s 80C to the extent of 20% of the capital sum assured i.e. ₹ 1,00,000
- **(iii)** Be allowed Deduction for the entire premium as per the provisions of section 80C
- **(iv)** None of the above

(e) Deduction u/s 80C in respect of term deposit with a scheduled bank is allowed if the term deposit is for a period.
- **(i)** Not less than 3 years
- **(ii)** No less than 5 years

- **(iii)** Not less than 10 years
- **(iv)** None of the above

(f) Deduction u/s 80D is allowed to an individual for premium paid to insure the health of
- **(i)** Assessee himself
- **(ii)** Assessee and his family
- **(iii)** assessee his spourse dependent parents and dependent children
- **(iv)** None of the above

(g) Deduction u/s 80E shall be allowed for the higher education of
- **(i)** Assessee himself
- **(ii)** Assessee, spouse and children
- **(iii)** Assessee and dependent children
- **(iv)** None of the above

(h) If the taxable income of the firm is ₹ 10,00,000, the tax payable including Education Cess will be __________.
- **(i)** ₹ 3,00,000.
- **(ii)** ₹ 2,08,000.
- **(iii)** ₹ 3,09,000.

(i) The due date for filing return of income for a company assessee is __________.
- **(i)** 31st July.
- **(ii)** 30th September.
- **(iii)** 31st December.

(j) Belated return for the previous year ended 31st March, 2010 can be filed before the completion of assessment or on or before __________.
- **(i)** 31st March, 2011.
- **(ii)** 31st March, 2012.
- **(iii)** 31st March, 2013.

[Ans.: (a – ii), (b – ii), (c – iii), (d – ii), (e – ii), (f – iii), (g – ii), (h – iii), (I – ii), (h – iii), (i – ii)]

(5) State whether following statements are True or False:

(a) Any sum received including bonus under keyman insurance policy is taxable under the head income from other sources. ***Ans.:*** *True*

(b) Gift in contemplation of death of the payer is taxable. ***Ans.:*** *False*

(c) Dividend declared by Mutual fund is taxable in the hands of the shareholders.
Ans.: *False*

(d) For claiming Deduction u/s 80C in respect of LLP, premium can be paid by assess for himself, spouse and any child.
Ans.: *True*

(e) For claiming Deduction u/s 80C, for life insurance premium if the payment is made by the assessee for this child, then the child must be minor dependent and unmarried.
Ans.: *False*

(f) Deduction u/s 90C in respect of tution fee is allowed to an individual for any number of his children.
Ans.: *False*

(g) The premium under section 80D can be paid by an individual, for his dependent parents.
Ans.: *True*

(h) Where the medical insurance premium is paid to effect an insurance in relation to a senior citizen, the deduction allowed shall be ₹ 1,20,000.
Ans.: *False*

(i) Deduction u/s 80U in case of permanent physical disability allowed to an individual who is citizen of India.
Ans.: *False*

(j) Revised return can be filed before the expiry of one year from the end of the relevant assessment year or before the completion of assessment whichever is earlier.
Ans.: *True*

(k) Belated Return can be submitted at any time before expiry of one year from the end of the relevant assessement year or before the completion of the assessment whichever is earlier.
Ans.: *True*

(l) If an assessee has suffered any loss in any previous year under any head and claims the loss to be carried forward for set off then he must file the return of income within the time limit given u/s 139 (1).

Ans.: *True*

(m) The due date for filing Income tax returns for all the assessee is 31st October every year.

Ans.: *False*

(6) Answers in one word on one Sentence:

(a) What is the amount of exemption available u/s 10 of the Income Tax Act, 1961 when the income Tax Act, 1961 when the income exempt income. Is her claim correct?

(b) Mr. Sachin retired from a Government organisation. He received monthly pension of ₹ 15,000 during the previous year. He claims pension as exempt being received from a Government Organisation. Is his claim correct?

(c) Mr. Ramdas retired from a Government Organisation. He received pension @₹ 5,000 p.m. During the previous year. He claims this pension as exempt being received from a Government Organisation. Is his claim correct?

(d) Mr. Satish received Dividend of ₹ 5,000 from XYZ Ltd., an Indian company. Can he claim this dividend income as exempt u/s 10 (34)?

(e) Mr. Pradeep earns ₹ 1,50,000 during the previous year as interest on public provident fund (PPF) account maintained with State Bank of India. Whether tax needs to be deducted at source by State Bank of India?

(f) Rajaram received ₹ 7,50,000 as compensation on voluntary retirement and claims that entire amount is exempt u/s 10 (10C). Is he right?

(g) What is the maximum amount exempt in case of Leave Encashment to non-Government employees?

(h) Amar has earned ₹ 5,000 from a lottery ticket and claims ₹ 500 as a deduction for purchase of lottery tickets. Can he avail this deduction?

(i) Is Interest credited to Public Provident Fund fully exempt from tax?

[Ans.:

(a) The amount of exemption for clubbing of Minor's income is ₹ 1,500 per child, and is available to the parent with whose income it is clubbed u/s. 10(32)

(b) No, As Mr. Sachin received uncommuted pension it is taxable even in the hands of Government Employee. U/S 10 (10A)

(c) No. Uncommuted pension is taxable as salary u/s 10(10A).

(d) Yes. Mr. Satish's claim is correct as dividend from Indian Company is exempt u/s 10(34).

(e) No. Interest on PPF is exempt from tax u/s 10 (11).

(f) No, Exemption u/s 10(10C) towards compensation received on voluntary retirement is limited to ₹ 5,00,000.

(g) The maximum amount exempt in case of Leave Encashment to non-government employees is ₹ 3,00,000

(h) No deduction for any expenses incurred for earning lottery income is allowed.

(i) Yes, interest credited to Public Provident Fund is fully exempt from tax u/s 10.

Exercise: Practical

(1) Mr. Z furnishes his following particulars for previous year 2018-19: ***[MU. May 2007 TY BAF]***

	₹		₹
Business Loss (Plastics) **Carried Forwards:** Business Loss (First determined for Asst. Year 2011-12)	(–) 4,00,000 (–) 6,00,000	Business Profit (Grocery) Income from House Property	10,00,000 2,00,000

Determine the Gross Total Income of Z for Assessment Year 2020-21.

(2) **(i)** Given below is the Profit and Loss A/c of AB and Co. a partnership for the year ended 31/03/2020.

[MU. May, 2008 TY BAF]

Profit and Loss Account

Particulars	₹	Particulars	₹
To Purchases	30,00,000	By Sales	57,00,000

To Other Expenses		10,00,000		
To Salary to Partners				
A	2,50,000			
B	2,50,000			
		5,00,000		
To Net Profit		12,00,000		
		57,00,000		**57,00,000**

Both A and B are working partners in the firm. Both of them do not have any income, other than salary received from firm.

From the information given above, determine the due date for furnishing the return of Income of the firm AB and Co. and both its partners A and B for the Assessment year 2020-21.

(i) Mr. X received a salary of ₹ 5,00,000 p.a. during 2019-20 from Central Railway. He has no other income. What is the due date for filing return of income of Mr. X for Assessment Year 2020-21.

[MU. Oct. 2008 TY BAF]

(3) During the previous year ended 31-3-2020, Mr. X has earned salary of ₹ 84,000 profits form partnership firm ₹ 55,000 wherefrom he has also received salary as Partner of ₹ 48,000 and has paid to the firm interest on capital (Debit bal.) of ₹ 15,000 and also has own Proprietory business wherefrom he has earned a taxable profit of ₹ 70,000 which amounted to 1% of its Sales Turnover. The said Partnership firm has a Turnover of ₹ 95 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.

[MU. Oct. 2008 TY BAF]

(4) M/s. AB Ltd. is a partnership firm having a Turnover of ₹ 38 lakhs and a business loss of ₹ 2,00,000 for the previous year ended 31-3-2020. When is it liable to file its Return of income for the relevant Assessment year? Mr. Y is a director in the said co. and has earned Interest on Debentures of ₹ 52,000, dividend of Rs. 37,000 as other incomes. When is he liable to file the income-tax return for the relevant assessment year? ***[MU. Oct. 2008 TY BAF]***

(5) Mr. K filed his return of Income for ₹ 3,00,000 for Assessment year 2020-21 on 31-8-2020 instead of his due date of 31-7-2019 on which his gross tax was determined at ₹ 40,800 (which is also per the assessment) against which he had paid advance-tax during the previous year 2019-20 as ₹ 6,000 on 15-9-2019, ₹ 10,000 on 14-12-2018, ₹ 8,000 on 15-3-2020, ₹ 5,000 on 31-3-2020 and the balance alongwith the return of income after adjusting his tax deducted at source claim of ₹ 1,800 which was well admitted. Determine his liability to various interests under the Income-tax Act, 1961.

[M.U. Oct. 2008 TY BAF]

(6) X (24 years) has the following income for the previous year 2019-20:

	₹
Salary	1,27,000
Business income	(54,000)
Short-term capital gain	92,000
Long-term capital gain on sale of non-listed shares	79,000

He deposits ₹ 55,000 in the public provident fund account, find out the tax liability for the assessment year 2020-21 on the assumption that X is (a) resident and ordinarily resident, or (b) resident but not ordinarily resident, or (c) non-resident in India.

(Ans.: ₹1,850, ₹1,850, ₹5,150)

(7) X Ltd., an Indian company, sells the following assets outside a recognised stock exchange on May 19, 2019.

	Government securities ₹	**Preference shares (listed) ₹**
Sale consideration	90,000	9,92,000
Cost of acquisition	70,000	1,00,000
Date of purchase	April 19, 2012	April 28, 2001

Find out the amount of tax liability for the assessment year 2020-21 on the following assumptions:

(a) Income of X Ltd. from business : ₹ 5,56,000;

(b) Amount invested in NSC VIII issued on March 31, 2020 : ₹ 1,00,000.

(Ans.: ₹92,510)

(8) The "tax due on the returned income" for the assessment year 2020-21 is ₹ 15,000 (i.e. tax on returned income less tax deductible or collectible at source). Advance tax paid is ₹ 11,000 (₹ 1,000 on

15-9-2019, ₹ 4,000 on 15-12-2019 and ₹ 9,000 on 19-3-2020). Calculate the interest u/s. 234C assuming that the assessee is an individual.

(Ans.: Interest payable uls. 234C is ₹ 3,251)

(9) When will tax not required to be deducted at source on interest payable to a resident on any bond or security issued by a company though the aggregate amount of interest exceeds ₹ 2,500, the bask exemption limit under section 193 of the Act?

(Ans.: Refer to caption "Interest on securities" Application)

Chapter 5

Tax Deduction at Source (TDS)

(Section 192-194)

INTRODUCTION:

Income is earned over a period of time and the assessment determination of tax liability takes place much later. To avoid the liquidity problem for the tax payer at a later stage and also to ensure a regular How of revenue for the government, the Income Tax Act, has provided for periodic recovery of tax from Income liable to tax by way of:

- Payment of advance tax in instalments during the financial year in which the Income arises.
- Requiring tax to be deducted from certain income/payment as and when such income/ payments are credited/paid i.e. TDS.
- Requiring tax to be collected at the time of Receiving certain amount i.e. TDS.

TDS FROM SALARIES: [S. 192]

(1) WHO SHOULD DEDUCT TAX:

Any person responsible for paying any income chargeable under the head "Salaries" is required to deduct tax at source on the amount payable. Such person is the employer himself; and in case of a company the company or its designated principal officer (e.g. its managing director).

(2) WHEN TAX SHOULD BE DEDUCTED:

Tax is to be deducted at the time of payment of the salary itself. Thus, if salary for April 2019, tax is to be deducted on 7th May, 2019 itself. As far as the previous year 2018-19 is concerned, tax is to be deducted only if the estimated salary during 2019-20 is likely to exceed the minimum taxable amount. i.e.₹ 2,50,000 , ₹ 3,00,000 or 5,00,000 as the case may be. Excluding salary received by Partners from Partnership firm. Which is computed U/S. 40 (b).

(3) HOW MUCH TAX SHOULD BE DEDUCTED:

TDS is to be deducted at average rate of Income Tax computed on the basis of the rates in fare in that A.Y.

TDS FROM INTEREST ON SECURITIES: [S. 193]

(1) WHO SHOULD DEDUCT TAX:

Any person responsible for paying to any resident any income by way of any interest on securities (e.g. debentures) is required to deduct tax at source on the amount payable. Such person is the local authority, corporation or company including its principal officer e.g. its managing director.

(2) WHEN TAX SHOULD BE DEDUCTED:

Tax is to be deducted at the earlier of (a) crediting interest to the payee's account or to any account such as Interest Payable Account or Interest Suspense Account; or (b) paying interest by cash cheque etc.

(3) HOW MUCH TAX SHOULD BE DEDUCTED:

In case of an individual recipient, tax **is** to be deducted at source at the prescribed rate i.e. 10% It PAN is provided otherwise 20%.

In the following cases tax is not deducted or deducted at lower rates:

(1) if the recipient obtains a certificate from his assessing officer in this regard;

(2) if the recipient furnishes Form No. 15H to the payer;

(3) if the interest on debentures satisfy the following conditions;

- **(a)** the debentures have been issued by a widely held public company;
- **(b)** the debentures are listed in a recognized stock exchange in India;
- **(c)** the interest is paid by the company by an account payee cheque; and
- **(d)** the annual interest is due to an individual resident and does not exceed Rs. 10,000.

[A] TDS FROM INTEREST: [U/S. 194A]

(1) WHO SHOULD DEDUCT TAX:

Any person, not being an individual or a Hindu undivided family, who is responsible for paying to a resident any income by way of interest, other than on securities, is required to deduct income-tax thereon at the prescribed rates.

(2) WHEN TAX SHOULD BE DEDUCTED:

Tax should be deducted at the time of credit of such income to **the account of payee or interest** payable account or suspense account or at the time of payment thereof, in cash or by issue of a cheque or draft or by any other mode, whichever is earlier.

(3) WHEN TAX NEED NOT BE DEDUCTED:

The provisions of this section are, however, not applicable in the following cases:

(a) where interest is credited or paid by a firm to its partners;

(b) where interest is credited or paid by a co-operative society to its members or to any other co-operative society;

(c) Compensation by Motor Accidents claims Tribunal (Interest should not exceed ₹ 50,000 during financial year).

(d) where the aggregate amount of interest credited or paid (or likely to be credited or paid) during the financial year does not exceed ₹ 10,000 in the case of bank interest from "term deposit" and deposits with housing finance companies;

(e) where interest is credited or paid to any banking company, co-operative society engaged in banking business, public financial institutions, the Life Insurance Corporation, the Unit Trust of India, a company or a co-operative society carrying on the business of insurance, or notified institutions; Basic exemption ₹ 5,000.

(f) Interest on zero coupon bonds.

(g) Interest paid by off share banking units on deposits or borrowings.

(h) where interest is credited or paid in respect of deposits under the schemes of Post Office (Time Deposits), Post Office (Recurring Deposits), Post Office Monthly Income Account; Kisan Vikas Patra; National Savings Certificates (VIII Issue); and Indira Vikas Patra; Basic exemption ₹ 10,000.

(i) where interest is in respect of deposits (other than time deposits) with a banking company or with a co-operative society carrying on the business of banking; Basic exemption ₹ 10,000.

(j) where interest is credited or paid in respect of deposits with a primary agricultural credit society or co-operative land mortgage bank or co-operative land development bank; and

(k) where interest is credited or paid by the Central Government under different provisions of the direct taxes.

(4) HOW MUCH TAX SHOULD BE DEDUCTED:

TDS is to be deducted at the **prescribed rates i.e. @ 10%.** However, recipient may apply to his Assessing Officer and obtain a certificate authorizing the Payer to pay interest at a lower or Nil rate TDS will be Nil, if the recipient furnishes Form No. 15H to the payer.

[B] TDS FROM PAYMENTS TO CONTRACTORS [U/S 194 C]:

WHO SHOULD DEDUCT TAX:

(1) **Payer to Resident Contractor:** Any person responsible for paying any sum to any resident contractor for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract between a specified person and the resident contractor is required to deduct tax at source.

(2) **Payer or Principal Officer of Co.:** For this purpose, the payer himself is treated as person responsible for paying any sum to contractor. If, however, the payer is a company, the company itself including the principal officer thereof, is the person responsible for paying the resident contractor.

(3) **Sub-Contractor:** The above rule is also applicable in case payment is made by a contractor to a resident sub-contractor for carrying out (or for the supply of labour for carrying out. the whole (or any part) of the work undertaken by the contractor, or for supplying, whether wholly or partly, any labour which the contractor has undertaken to supply.

Specified Payers: Tax is deductible under section 194C (1) only if payment is made of a contract between **a specified person and a resident contractor**. The following are the persons" for this purpose:

(a) the Central Government or any State Government; or

(b) any local authority; or

(c) any corporation established by or under a Central, State or Provincial Act; or

(d) any company; or

(e) any co-operative society; or

(f) any authority constituted in India by or under any law, engaged either for the purpose of dealing with and satisfying the need for housing accommodation or for the purpose of planning, development or improvement of cities, towns and villages, or for both; or

(g) any society registered under the Societies Registration Act, 1860 or under any law corresponding to that Act in force in any part of India; or

(h) any trust; or

(i) any University established or incorporated by or under a Central, State or Provincial Act and an institution declared to be a University under section 3 of the University Grants Commission Act, 1956; or

(j) any firm.

WHEN TAX SHOULD BE DEDUCTED:

Tax is to be deducted at the earlier of (a) crediting amount to the payee's account or to any account such as Payable Account or Suspense Account; or (b) paying the sum by cash, cheque etc. Tax is to be deducted at source where the amount credited or paid to a contractor or sub-contractor exceeds ₹ 30,000 in a single payment or ₹ 1,00,000 in the aggregate during a financial year.

HOW MUCH TAX SHOULD BE DEDUCTED?

TDS is to be charged on the entire bill including reimbursements, if any. TDS may be Nil or lower if the Assessing Officer gives a certificate to such effect. Rate of TDS is 1% if recipient is individual/HUF and rate of TDS is 2%, if the recipient is any other person Rate of TDS is 20% in case of nor having PAN)

MEANING OF CONTRACTOR/SUB-CONTRACTOR/WORK:

(1) **Contractor:** A "contractor" is one who makes an agreement with another to do a piece of work. Such contractor controls the means, methods and manner of doing the work. The expression "contractor" also includes a contractor who is carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract between the contractor, and the Government of a foreign State; or a foreign enterprise; or any association or body established outside India.

(2) **Sub-contractor:** Sub-contractor is one who takes portion of contract from principal contractor or another sub-contractor.

(3) **Work:** The expression "work", also includes (a) advertising, (b) broadcasting and telecasting including production of programmes for such broadcasting or telecasting, (c) carriage of goods and passengers by any mode of transport other than by railway, and (d) catering. TDS is applicable only where contract is either a "work contract" or a "contract for supply of labour for works contract". These provisions are, therefore, not applicable for payments made under contract for sale of goods.

[C] TDS FROM COMMISSION OR BROKERAGE [U/S. 194 H]:

WHO SHOULD DEDUCT TAX:

Any person, not being an individual or a Hindu undivided family, who is responsible for paying to a resident any sum by way of commission or brokerage shall deduct tax at source.

WHEN TAX SHOULD BE DEDUCTED:

Tax is to be deducted at the earlier of (a) crediting commission etc. to the payee's account or to any account such as Payable Account or Suspense Account; or (b) paying the sum by cash, cheque etc. Tax should be deducted only if the commission or brokerage paid or likely to be credit and paid during the financial year by the aforesaid person to the account of, or to, the payee, exceed ₹ 15,000.

HOW MUCH TAX SHOULD BE DEDUCTED:

Tax shall be deducted at the prescribed rate i.e. 5%. TDS may be Nil or lower if the Assessing Officer gives certificate to such effect.

MEANING OF COMMISSION OR BROKERAGE:

Commission or brokerage includes any payment (**except insurance commission**) received or receivable, directly or indirectly, by a person acting on behalf of another person for services rendered (except professional services), or for any service in the course of buying or selling goods or in relation to an/transaction relating to any asset, valuable article or thing, not being securities.

[D] TDS FROM RENT: [U/S. 194-I]

(1) WHO SHOULD DEDUCT TAX:

Any person (not being an individual or a Hindu undivided family) responsible for paying rent to a resident is required to deduct tax at source under the provisions of section 194-I. For this purpose, payer himself is treated as person responsible for paying rent. If, however, payer is a company, the company itself, including the principal officer thereof, is the person responsible for paying rent.

(2) WHEN TAX SHOULD BE DEDUCTED:

Tax is to be deducted at the earlier of (a) crediting rent to the payee's account or to any account such as payable Account or Suspense Account; or (b) paying the sum by cash, cheque etc. No tax is deductible if the amount of rent credited/paid during the financial year does not exceed ₹ 1,80,000.

(3) HOW MUCH TAX SHOULD BE DEDUCTED:

TDS is to be deducted at the prescribed rate i.e. Rent of plant or machinery 2% rent of land, building, furniture 10% (excluding service tax and municipal tax). TDS may be Nil or lower if the Assessing Officer gives a certificate to such effect.

[E] TDS FROM PROFESSIONAL FEES: [U/S. 194-J]

(1) WHO SHOULD DEDUCT TAX:

Any person, not being an individual or a Hindu undivided family (not being subject to Tax Audit u/s 44A), who is responsible for paying to a resident any sum by way of fees for professional services, or fees for technical services or royalty or 'non-compete fees' u/s 28(va) shall deduct tax at source.

(2) WHEN TAX SHOULD BE DEDUCTED:

Tax is to be deducted at the earlier of (a) crediting fees to payee's account or to any account such as Payable Account or Suspense Account; or (b) paying the sum by cash, cheque etc. Tax should be deducted only if fees paid or likely to be credited and paid during the financial year by the aforesaid person to the account of, or to, the payee, exceed ₹ 30,000.

(3) HOW MUCH TAX SHOULD BE DEDUCTED:

Tax shall be deducted at the prescribed rate i.e. 10% (no surcharge and education cess etc.) on total payment including service tax). Even reimbursement of actual expenditure can not be deducted in case of consolidated bill. TDS may be Nil or lower if the Assessing Officer gives a certificate to such effect.

Section	Types of Payment/Income	When to deduct tax at source	At what rate to be deducted at Source
192	SALARY	If GTI is more than ₹ 2,50,000 or ₹ 3,00,000	As per Income Tax slab Rate.
193	Interest in Securities	₹ 10,000	10% I.T.
194	Dividends	2,500	10%
194 A	Interest other than interest on Securities	At the time of credit or payment, whichever is earlier, when the aggregate sums payable during the financial year exceeds ₹ 5,000. [₹ 50,000 in the case of bank interest co-operative Society, Post office Deposits etc.]	10% as I.T. if PAN is provided. 20% if PAN is not provided.
194 C	Payment to Contractors and Sub Contractors	At the time of credit or payment, whichever is earlier, when the contract value exceeds ₹ 30,000 OR Aggregate of payments during the year exceeds ₹ 1,00,000	2% as IT for other Person.1% as IT for Individual & HUF. 20% It PAN is not provided for both.

194 H	Commission or brokerage	At the time of credit or payment whichever is earlier. When aggregate sums credited/paid during the financial year exceeds ₹ 15,000.	5% as IT. It PAN is provided. 20% If PAN is not provided.
194 I	Rent	At the time of credit or payment whichever is earlier, when aggregate sum credited/paid during the financial ear exceeds ₹ 2,40,000.	2% as IT on Machinery. Plant or equipment (10% as IT & SC for Land and Building.)
194 J	Fees for Professional or Technical services	At the time of credit or payment whichever is earlier, when the aggregate sums credited/paid during the financial year exceeds ₹ 30,000 in either case.	10% as IT. It PAN is provided. 20% If PAN is not provided.

PROCEDURE PENALTY AND PROSECUTION - TDS:

Once it is ascertained that an assessee is required to deduct tax at Source (TDS) then various procedures and compliances must be studied in order that no penalties or prosecution proceedings are launched against the assessee.

Following are the steps which are required to be followed

(1) Obtain Tax Deduction and Collection Account Number (TDCAN).

(2) Deduct Tax from income/payments liable for TDS as per the Act.

(3) Pay the tax to the government within stipulated period.

(4) Issue TDS certificates to payees within stipulated period.

(5) Furnish various returns/statements to the Income tax department within the stipulated period.

Obtain Tax Deduction and Collection Account Number (TDCAN) (U/S 203A):

The application for TDCAN No. is required to be made in form 49B, in duplicate to the assessing officer. Such an application is required to be made within one month from the end of the month, in which tax is deducted/collected at source. On obtaining the TDCAN No. the same is required to be quoted on all challans, returns and certificates related to TDS matters.

Failure to comply with provisions of Section 203A may attract a penalty upto ₹ 10,000 u/s 272BB.

Deduct Tax from income/payments liable for TDS as per the Act.

The provision as to when to deduct tax and at what rate differs for each payment of Income. These are covered up by under section 192 to 196D. Under .each section the act specifies the types of Payers and Payee to be covered (along with the conditions if any required to be fulfilled). The payees reduce or escape the TDS burden either by filing certain forms (i.e. 15H. 15G etc.) to payers or (Form 13, 13C) to assessing officer and obtain appropriate certificate.

However, no TDS should be made u/s 196 by any person from any sum payable as Interest or dividend or other sums payable to government. Reserve bank or Certain Corporations or Mutual Fund u/s 10(23D)

But if a person fails to deduct tax at source he is treated as an 'Assessee in default' in respect of the said tax and shall be liable to pay:

(i) Simple Interest @ 1% for every month or part of the month on the amount of tax from the date on which tax was deductable to the date on which tax was actually paid (Sec. 201)

(ii) Penalty in addition to arrears of tax and interest which can be to the extent of tax in arrears (Sec. 221).

(iii) Penalty equal to the amount of tax which he failed to deduct at source. (Sec. 271 C).

Pay the tax to Government within stipulated period.

After the tax is deducted at source in accordance with the provisions of the Act, the payer is required to pay the same to the government within the prescribed time and in the prescribed manner.

However, if a person after deducting the tax fails to deposit the tax as required by the Act, he shall be treated as an "Assessee in default" and such person is liable to

(i) Pay Simple Interest @ 1% for every month or part of the month on the amount of tax from the date on which tax was deductible to the date on which such tax was actually paid. Also the tax and interest shall have a charge on the asset of the person who has failed to pay deducted tax (Sec. 201).

(ii) Pay Penalty in addition to arrears of tax and interest which can be to the extent of tax in arrears. (Sec. 221).

(iii) Punishment with a rigorous imprisonment for a term which shall not be less than 3 months and fine and can be extended to 7 years.

TDS Return:

In the case of a person file TDS return should be submitted in a computer readable media. For other person deducting tax at source, it still optional to file a paper return or return on computer media. The return is to be prepared on the data structure provided by the NSDL and copied on a CD. The CD affixed with label indicating name PAN No., TDS A/c No., address, the period to which the return pertains the form number of the return.

Issue Certificate of TDS to the payees within stipulated (U/S 203).

TI S certificate are to be issued in form 16 for salary payment of Income and 16A in any other cases. Such TDS certificates are to be issued on payers own stationery or can be purchased from the market. The time limit for issuing if TDS certificates to payees are covered independently under each payment/income. If TDS certificate is lost the payer can issue it in duplicate TDS certificate. The payer has to prepare 3 copies of TDS certificate, Original for time assessee, Second for the Payer and Third copy to be attached relevant annual returns.

However, if a person fails to issue TDS certificate otherwise than by reasonable cause as per the Act within the stipulated period he shall be liable to pay by way of penalty a sum which shall not be less than ₹ 100, but may extend to ₹ 200 for every day for which failure continues and however no upper limit has been provided for the amount of penalty. However, where tax has been deducted or paid in accordance with the provisions of the act on or after 1st April 2006 there shall be no requirement to furnish a certificate as referred above.

Furnish various returns, Statements to the Income tax department within stipulated time (i.e. Annual Return Form 24, 25. 26, 26A etc.)

As per Section 206, the person responsible for deduction of tax at source is also liable to file annual returns of TDS after the end of each financial year within prescribed time limit.

In case of default otherwise than by reasonable cause, assessee shall be liable to pay by way of penalty a sum which shall not be less than ₹ 100 but extended to ₹ 200 for every day for which failure continues.

Payments to travel agents:

It is clarified that the provisions of Sec.194C do not apply to the payments made to the airlines or the travel agents for purchase of tickets for air travel of individual. The provisions shall, however, apply when payments are made for chartering an aircraft for carriage of passengers or goods. 'Further, this clarification shall apply mutatis mutandis to the tickets for travel of individual by any other mode of transport also - Circular No. 713, dated 2nd August, 1995.

Payments relating to Advertisement: (i) Payments made directly to Doordarshan, a Government Agency, is not liable to income-tax. The payments made directly to print and electronic media would be covered u/s 194C; (ii) Section 194C applies for sponsorship of debates, seminars and other functions with a view to earn publicity through display of banners, etc., put up by the organizers. Deduction of tax is required to be made on payments for cost of advertisements issued in the souvenirs brought out by various organizations - Circular No. 715, dated 8th August, 1995.

Other Points:

(a) Payments made to couriers for carrying documents, letters, etc., attracts Sec 194G.

(b) Service contracts would be covered by the provisions of this section since service moans doing 'any work'. However, contracts involving professional! technical services would be covered u/s 194J.

(c) Provisions of Sec. 194C cover written as well as oral contracts.

(d) Where advance payments are made during the execution of the contract and such payments are to be adjusted at the time of final settlement of accounts, tax will have to be deducted at the time of making advance payments, subject to fulfillment of other conditions of Sec 194C.

(e) Sec 194C refers to any sum paid. Obviously, reimbursement of actual expenses cannot be deducted out of the bill amount for the purpose of tax deduction at source. Circular:
No. 723, dated 19-9-1995.

(f) The rate of tax prescribed u/s.194G shall be applied on the gross amount and not on the 'Income element comprised in the contract amount. Therefore, the person responsible to deduct tax at source is not required to estimate the income comprised in the payment – ACC Ltd vs. CIT (1993) 201 ITR 435 fSC).

Illustration 1:

Dr. Zubin is an individual medical practitioner. His gross receipt from the medical practice for the year ending 31st March, 2020 was ₹ 75 lakhs. Whereas the gross professional receipts for the year ending 31st March, 2019 is ₹ 8 lakhs. During the financial year 2019-20, he makes the following payments to a resident contractor for various activities:

Contract No.	Name of the Contractor	Description of Contract	Amount paid or credited in the books (₹)
A	Mr. X	Medical equipment maintenance contract	45,000
B	Mr. X	Household personal equipment maintenance contract	2,50,000
C	Mr. Y	Clinic furnishing contract	20,025
D	Mr. Y	Clinic furnishing contract	29,000
E	Mr. Y	Clinic furnishing contract	28,000
F	Mr. M	Personal catering contract in connection with daughter's wedding.	3,00,000

Examine the liability to deduct tax and the amount of TDS under section 194C for the AY 2020-21. ***[MU., TYBAF, April 2010, Modified]***

Solution:

In the case of individuals, the liability to deduct tax u/s. 194C arise, only where they are subject to tax audit u/s. 44AB in the immediately preceding previous year in which such payments or credit entries are made. In the given case, the individual's account is subject to tax audit for the year ending 31st March, 2020 and therefore, the provisions of section 194C is applicable in respect of payments covered there under. Gross receipts for the financial year 2019-20 is not relevant to determine the applicability of Sec. 194C. Accordingly, the liability to TDS is as follows

Contract A:

Since the amount of individual contract exceeds ₹ 30,000 the provisions of sec.194C shall apply and therefore, tax of ₹ 450, being 1%, shall be deducted at source at the time of payment or passing credit entries in the books, whichever is earlier.

Contract B and F:

In the case of individual or HUF, where the payment under a contract is made for personal purpose, liability to deduct tax does not arise. Therefore, in the given case, the contract for maintenance of household personal equipment and catering contract for daughter's marriage does not attract tax deduction at source.

Contract C, D and E:

The liability to deduct tax in respect of payment made in pursuance of a contract arise only where the amount of individual contract exceeds ₹ 30,000 or the aggregate amounts of all contracts to a resident contractor exceeds ₹ 1,00,000 during the financial year. In the given case, though the independent contract value of contracts of C, D and E does not exceed ₹ 30,000, the aggregate value of all these contracts to Mr. Y also does not exceeds ₹ 1,00,000 during the financial year. Therefore, Dr. Z is not responsible to deduct tax u/s. 194C.

Therefore, the total amount of tax to be deducted by Dr. Zubin for the AY 2020-21 under section 194C is ₹ 450.

Illustration 2:

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

(a) Akshath, an individual carrying on business and made gross turnover of ₹ 70,00,000 for the year ended 31-03-2019, effected a payment of ₹ 35,000 to Times of India news paper for recoupment of staff;

(b) ABC private limited has paid a sum of ₹ 1.5 crores to Sical C & F limited towards clearing and forwarding charges;

(c) XYZ limited paid a sum of ₹ 28,000 to ABT parcel service and ₹ 10,00,000 to Indian Railways towards freight charges.

(d) K Private limited entered into a contract with Thermax Limited for supply of materials amounting to ₹ 30,00,000. ***[MU.,TYBAF, Oct. 2010, Modified]***

Solution:

(a) Tax shall be deducted @ 2% of ₹ 35,000; **(b)** Liable for tax deduction @ 2%; **(c)** Freight Payment to ABT 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 3: ***[MU, TYBAF, April 2011 Modified]***

(a) Sun Ltd. makes the following payments during the Financial Year 2019-20.

	Paid to	Nature of Payment	₹
(i)	Desai and Co.	Audit Fees	18,000
(ii)	Tilak and Co.	Account writing fees	35,000
(iii)	Tilak and Co.	Reimbursement of out of pocket expenses (Under Separate Bill)	20,000
(iv)	Naik and Co.	Fees for Interior Decoration: Office	40,000
(v)	Patil and Co.	Brokerage for arranging office on Rental basis	2,000

Determine on which of the above payments tax is to be deducted at source for the Assessment year 2020-21.

(b) Determine on which of the following payments tax is to be deducted at source for the Assessment year 2020-21.

	Payer	Payee	Nature of Payment	₹
(i)	Manoj and Co. (a partnership firm)	Mr. Manoj (a partner)	Interest on capital	15,000
(ii)	Indian Post Office	Mr. Jagan (age 69 years)	Interest on Senior Citizen Savings scheme Account	18,000
(iii)	Janata Sahakari Bank Ltd.	Mr. Pramod	Interest on Fixed Deposit	21,000
(iv)	Motor Accident Claim Tribunal	Mrs. Sunita	Interest on Compensation of ₹ 1,00,000	9,000
(v)	Income Tax Department	Mr. Suresh	Interest on Income Tax Refund	6,000

(c) Determine on which of the following payments tax is to be deducted at source for the Assessment year 2020-21.

	Payer	Payee	Nature of Payment	₹
(i)	Mumbai University	Mr. Sagar	Contract Charges for construction of over-bridge	49,000
(ii)	Sawant and Bros. (HUF) having tax audit u/s 44 AB in the year 2018-19	Mr. 'X'	for Interior Decoration work carried out at home	75,000
(iii)	MTNL	Mr. Parag (PCO operator)	Commission on PCO Collection	4,500
(iv)	Moon Ltd.	Shyam Ltd.	Accomodation of General Manager	2,10,000
(V)	Asha Ltd.	Mr. Mahendra	Refundable Deposit for flat taken on lease	1,50,000

Solution:

(a)

Paid to	Nature of Payment	₹	Remarks
(i) Desai and Co.	Audit Fees	18,000	No
(ii) Tilak and Co.	Account Writing Fees	35,000	Yes
(iii) Tilak and Co.	Reimbursement of out of pocket expenses (Under Separate Bill)	20,000	No
(iv) Naik and Co.	Fees for Interior Decoration: Office	40,000	Yes
(v) Patil and Co.	Brokerage for Arranging Office on Rental Basis	2,000	No

(b)

Payer	Payee	Nature of Payment	₹	Remarks
(i) Manoj and Co. (a partnership firm)	Mr. Manoj (a partner)	Interest on capital	15,000	No
(ii) Indian Post Office	Mr. Jagan (age 69 years)	Interest on Senior Citizen Savings scheme Account	18,000	Yes
(iii) Janata Sahakari Bank Ltd.	Mr. Pramod	Interest on Fixed Deposit	21,000	Yes
(iv) Motor Accident Claim Tribunal	Mrs. Sunita	Interest on Compensation of ₹ 1,00,000	9,000	Yes
(v) Income Tax Department	Mr. Suresh	Interest on Income Tax Refund	6,000	No

(c)

Payer	Payee	Nature of Payment	₹	Remarks

(i)	Mumbai University	Mr. Sagar	Contract Charges for construction of over-bridge	49,000	Yes
(ii)	Sawant and Bros. (HUF.) having tax audit u/s 44 AB in the year 2018-19	Mr. 'X'	For Interior Decoration work carried out at home	75,000	No
(iii)	MTNL	Mr. Parag (PCO operator)	Commission on PCO Collection	4,500	No
(iv)	Moon Ltd.	Shyam Ltd.	Accomodation of General Manager	2,10,000	Yes
(v)	Asha Ltd.	Mr. Mahendra	Refundable Deposit for flat taken on lease	1,50,000	No

Illustration 4:

(a) Determine on which of the following payments tax is to be deducted at source for the Assessment year 2020-21.

	Payer	Payee	Nature of Payment	₹
(i)	Manoj Ltd.	Mrs. Loomba	Returnable deposit for flat taken on lease	2,00,000
(ii)	Kiran Ltd.	Raghav Ltd.	Accommodation of Director	1,90,000
(iii)	LIC of India	Mr. Kirit Shah	Amount of Commission	2,00,000
(iv)	Pawar & Co. (a partnership firm)	Mr. Shreyas (Partners)	Int on Capital	20,000
(v)	Great Bombay Co. op Bank Ltd.	Mr. Lokesh	Interest on F.D	19,000

(b) Shyam Ltd. makes the following payments during the Financial Year 2019-20.

	Paid to	Nature of Payment	₹
(i)	Shah & Co.	Account writing fees	30,000
(ii)	Mehta & Co.	Reimbursement for out of pocket expenses (under separate bill)	20,000
(iii)	Gandhi & Co.	Audit fees	19,000
(iv)	Sanghi & Co.	Fees for technical services	50,000
(v)	Darji & Co.	Brokerage for after space	1,000

(c) Determine on which of the following payments tax is to be deducted at source for the Assessment year 2020-21.

	Payer	Payee	Nature of Payment	₹
(i)	Income tax department	Mr. Rakesh	Interest on I.T. refund	20,000
(ii)	MTNL	Mr. Mukesh (PCO Operator)	Commission on PCO collection	4,000
(iii)	IGNOU	Mr. Vikas	Contract charges for construction of flyover	74,000
(iv)	Mr. Ravi	Mr. Suresh	Part of that	1,00,000
(v)	Indian Post office	Mr. Singham (Age 71 yrs)	Interest on Senior Citizen saving scheme account	21,000

Solution:

(a)

	Payer	Payee	Nature of Payment	₹	TDS
(i)	Manoj Ltd.	Mrs. Loomba	Returnable deposit for flat taken on lease	2,00,000	No
(ii)	Khan Ltd.	Raghav Ltd.	Accommodation of Director	2,90,000	Yes
(iii)	LIC of India	Mr. Kirit Shah	Amount of Commission	2,00,000	Yes
(iv)	Pawar & Co. (a partnership firm)	Mr. Shreyas (Partners)	Interest on Capital	20,000	No
(v)	Great Bombay Co. op Bank Ltd.	Mr. Lokesh	Interest on F.D	19,000	Yes

(b)

	Paid to	Nature of Payment	₹	Remarks
(i)	Shah & Co.	Account writing fees	30,000	Yes

(ii) Mehta & Co.	Reimbursement for out of pocket expenses (under separate bill)	20,000	No
(iii) Gandhi & Co.	Audit fees	19,000	No
(iv) Sanghi & Co.	Fees for technical services	50,000	Yes
(v) Darji & Co.	Brokerage for office space	1,000	No

(c)

Payer	Payee	Nature of Payment	₹	Remarks
(i) Income tax department	Mr. Rakesh	Interest on I.T. refund	20,000	No
(ii) MTNL	Mr. Mukesh (PCO Operator)	Commission on PCO collection	4,000	No
(iii) IGNOU	Mr. Vikas	Contract charges for construction of flyover	74,000	No
(iv) Mr. Ravi	Mr. Suresh	Part of flat	1,00,000	No
(v) Indian Post office	Mr. Singham (Age 71 yrs)	Interest on Senior citizen saving scheme account	21,000	Yes

Illustration 5:

Discuss the clarifications issued by the Cetnral Board of Direct Taxes on Section 194C.

Solution:

The following clarifications have been issued by the Board on section 194C.

- Advertising Contracts – The payments made directly to print and electronic media would be covered under section 194C as these are in the nature of payments for purposes of advertising. It may, however, be noted that the payments made directly to Doordarshan may not be subjected to tax deduction as Doordarshan, being a Government agency, is not liabel to income tax.
- Payment by an advertising agency to print media/electronic media – It is not subject to tax deduction under section 194C.
- Sponsorship of debates is advertisement – The agreement of sponsorship of debates, seminars and other functions in schools/colleges/associations is in essence an agreement for carrying out a work of advertisement. Therefore, provisions of section 184C shall apply.
- Advertisement in souvenirs – Tax has to be deducted on payments for cost of advertisements issued in the souvenirs brought out be various organisations.
- Payment of putting up a hoarding – the contract for putting up a hoarding is in the nature of advertising contract and provisions of section 194C would be applicable. If, however, a person has taken a particular space on rent and thereafter sublets the same fully or in part for putting up a hoarding, he would be liable to tax deduction under section 1940-1 and not 194C.
- Payment of an Electrician – The payment made to an electrician or to a contractor who provides the service of an electrician will be in the nature of payment made in pursuance of a contract for carrying out any work. Accordingly, provisions of section 194C will apply in such cases.
- Maintenance contracts – Routine, normal maintenance contracts which include supply of spares will be covered under section 194C. However, where technical services are rendered, the provisions of section 194J will apply in regard to tax deduction of source.
- Fixed deposit commission – FD commission/brokerage cannot be covered by section 194 C – circular No. 715, dated August 8, 1995.
- Procurement of Orders – Rendering services for procurement of orders is not covered by section 194C (but by section 194J) – Circular No. 715, date August 8, 1995.
- Cooling charges – Section 194C will be applicable to the amounts paid as cooling charges by the customers of the storage.

- Reimbursement – Section 194C refers to any sum paid. Reimbursements cannot be deducted out of the bill amount for the purpose of tax deduction at source.

Illustration 6:

Discuss the rate at which tax is deductible in the following cases during Financial year 2018-19.

(1) X Ltd. pays Rs. 40,000 to Doordarshan on March 15, 2020.

(2) An advertising company pays Rs. 1,00,000 to The Times of India on account of publication of its advertisement on November 10, 2019.

(3) A publishing company sponsors a seminar and pays Rs. 1,00,000 to the organiser (an AOP) on January 31, 2020.

(4) A garment manufacturing company pays Rs. 80,000 to an advertising company on February 5, 2020. It includes Rs. 65,000 being bill of media.

(5) X, an individual (having only rental income), pays Rs. 30,000 to a contractor for carrying out routine repair work on March 20, 2020.

(6) X Ltd. pays Rs. 30,001 to a contractor for carrying out routine repair work on May 10, 2020.

Solution:

(1) Nil

(2) Nil

(3) 2% of 1,00,000 = 2,000

(4) 2% of 80,000 = 1,600

(5) Nil

(6) 1% of 30,001 = 300.

Illustration 7:

Discuss the clarification issued by the Central Board of Direct Taxes on section 194-1.

Solution:

- When building is let out alongwith furniture/fittings - if a building is let out alongwith furniture/fittings but rent is payable under two separate agreements (one for building and another for furniture/fittings) the composite rent is subject to tax deduction under section 194-1.
- Rent of 'any' building is covered – Rent of any building is covered by section 194-1.
- The payee may not be owner of the building – Section 194-1 is applicable even if the person to whom rent is paid, is not the owner of the building. In other words, tax is deductible even in the case of sub-lease of a building.
- Warehousing charges – The term 'rent' as defined in Explanation (i) below section 194-1 means any payment by whatever name called under any lease, sub-lease, tenancy or any other agreement or arrangement for the use of any building or land. Therefore, the warehousing charges will be subject to deduction of tax under section 194-1.
- Rent inclusive of municipal tax, ground rent – The basis of tax deduction at source under section 194-1 is 'income by way of rent'. Rent has been defined to mean any payment under any lease, tenancy, agreement, etc., for the use of any land or building. Thus, if the municipal taxes, ground rent, etc., are borne by the tenant, no tax will be deducted on such sum.

Illustration 8:

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

(1) X Ltd. takes a building on rent and sub-lets it to Y, an individual who has only salary income, Y, the sub-tenant, pays rent of Rs. 2,00,000 on January 5, 2020.

(2) X Ltd. takes a building on rent and sub-lets it to Y Ltd. pays Rs. 2,00,000 as rent on January 5, 2020.

(3) On November 1, 2019, Z Ltd. takes a building on rent from A (rent being Rs. 15,000 per month). During 2019-20, Rs. 1,95,000 is paid to A (i.e., regular rent of 2019-20; Rs. 1,80,000 and advance rent of April 2020 : Rs. 15,000) on March 31, 2020.

(4) On October 1, 2019, B Ltd. takes a commercial building on rent (rent for the period ending March 31, 2019 being Rs. 5,00,000). Rent is payable on December 31, 2020 to three co-owners as follows:

C (1/2 share) : Rs. 2,50,000;

D Ltd. (40 per cent share) : Rs. 2,00,000;

E Ltd. (10 per cent share) : Rs. 50,000.

(5) Assume in (4), if the building is taken on rent by B, an individual B is a businessman but his books of account are not audited.

Solution:

(1) Nil

(2) 10% of 2,00,000 = 20,000

(3) 10% of 1,95,000 = 19,500

(4) 45,000

(5) Nil

Exercises: Objectives

(1) Explain the various provisions under the Income Tax Act, 1961 for the tax deduction at source? ***[M. U. May 08 TYBAF]***

(2) **Write short notes on:** ***[M. U. Nov. 06 TYBAF]***

(a) T. D. S from Salary.
(b) T. D. S from Dividend.
(c) T. D. S on Interest on Securities.
(d) T. D. S for payment to contractors.
(e) T. D. S on Rent.
(f) Tax Deducted at Source.
(g) Tax Deduction Account Number.
(h) Tax Deduction Account Number.

(3) **State whether following statements are True of False:**

(a) NSDL stands for National Security Depositary Ltd. ***Ans.:*** *True*
(b) TAN stands for Tax deduction Account No. ***Ans.:*** *False*
(c) TDS is not deducted if commission paid is ₹ 20,000. ***Ans.:*** *False*
(d) 26 QQA From No. is to be filled and submitted for TDS on Interest. ***Ans.:*** *True*
(e) CIN stands for challan identification number. ***Ans.:*** *True*
(f) The rate of deduction of tax at source for interest is 5%. ***Ans.:*** *False*
(g) The TDS rate u/s 194 C for payment to contractors for individuals is 2%. ***Ans.:*** *False*
(h) A flat monetary limit ₹ 20,000 is fixed u/s 194 A on TDS on Interest. ***Ans.:*** *False*

(4) **Match the Column:**

Column I	Column II
(1) Sec. 194 A	**(a)** TDS on Securities
(2) Sec. 194 C	**(b)** TDS on fees
(3) Sec. 194 H	**(c)** TDS on Professional
(4) Sec. 194 I	**(d)** Payment to Resident Contractors
(5) Sec. 194 J	**(e)** TDS on Interest

	(f) TDS on Rent **(g)** TDS on Commission

Ans.: (1-g), (2-d), (3-e), (4-f), (5-c)

Column I	Column II
(1) TDS if interest paid exceeds	**(a)** ₹ 1,000
(2) TDS monetary limit for contract	**(b)** ₹ 1,500
(3) TDS on commission paid	**(c)** ₹ 15,000 p.a. and above
(4) TDS on Rent	**(d)** ₹ 10,000 & above
(5) TDS on professional fees	**(e)** ₹ 30,000 & above
	(f) ₹ 15,000 & above
	(g) ₹ 30,000 & above
	(h) ₹ 1,80,000 p.a. above

Ans.: (1-d), (2-g), (3-c), (4-h), (5-e)

Column I	Column II
(1) TDS on Interest	**(a)** 5%
(2) TDS on Payment to Resident contractor being Ind/HUF	**(b)** 15%
(3) TDs on payment to contractor for Firm, Co., etc.	**(c)** 2%
(4) TDs on Rent payment for Plant, Mach & equipment.	**(d)** 7.5%
(5) TDS on Rent of land & building.	**(e)** 10%
	(f) 1%
	(g) 2%
	(h) 10%

Ans.: (1-e), (2-f), (3-c), (4-g), (5-h)

(5) Fill in blanks:

(a) TDS on interest on securities paid by __________ is done at 10% if interest paid exceeds 10,000.

(b) __________ rates of payment made to contractors is 1% for individuals / HUF and 2% for firm, company etc.

(c) TDS shall be necessary if a single contract exceeds __________ & __________ if there are multiple contracts.

(d) TDS shall be necessary in case of commission or brokerage exceeds.

(e) TDS provisions on __________ is not applicable to __________.

(f) __________ on rent paid for plant & machinery is 2% and for land and building is 10%.

(g) TDS is applicable an professional fees paid above ₹ __________.

[Ans.: (a-banking company) (b-TDS); (c-₹30,000, ₹1,00,000); (d-15,000); (e-Commission/brokerage BSNL or MTNL or PCO franchise); (f-TDS); (g-₹30,000)]

(6) Rewrite the statements after choosing the correct option:

(a) When Axis Bank Ltd. pays interest to its customer Mr. Gajanan, it will have to deduct tax at source if total interest paid/credited to him during the year exceeds __________.

(i) ₹ 5,000.
(ii) ₹ 10,000.
(iii) ₹ 20,000.

(b) When an E-TDS return has 78 deductee records, charges for furnishing E-TDS return are __________.

(i) ₹ 30.
(ii) ₹ 182.
(iii) ₹ 606.

(c) The rate of deduction of tax at source on payments to a resident individual contractor u/s 194C is __________.

(i) 10%
(ii) 2%
(iii) 1%

[Ans.: (a-ii), (b-i), (c-i), (d-iii)]

(7) Multiple Choice Questions:

(a) While applying TDS on Rent service tax is to be __________.

(i) excluded
(ii) ignored

(iii) included
(iv) None of the above

(b) The monetary limit for deducting TDS on professional fees is ₹ _________.
(i) ₹ 15,000
(ii) ₹ 20,000
(iii) ₹ 40,000
(iv) ₹ 30,000

(c) The TDS rate to be applied on commission is _________%.
(i) 1%
(ii) 2%
(iii) 10%
(iv) None of the above.

(d) The monetary limit for deducting TDS if interest payment made by a banking company is ₹ _________.
(i) ₹ 22,500
(ii) ₹ 17,500
(iii) ₹ 10,000
(iv) ₹ 25,000

(e) The monetary limit for deducting TDS u/s 194C for a single contract ₹ _________.
(i) ₹ 30,000
(ii) ₹ 60,000
(iii) ₹ 50,000
(iv) ₹ 40,000

[Ans.: (a-i); (b-ii); (c-iii); (d-iii); (e-i)]

(8) Mr. Avinash who earns taxable salary from ABC Ltd. requests the employer not to deduct tax from his salary and offers to pay tax on his own. Is it correct for the employer not to deduct tax? ***[Modified M. U. Oct 04]***

(9) Enumerate any four payments to which TDS provisions are applicable. ***[M. U. April 05 TYBAF]***

(10) Write short notes on Provisions of the Income-tax Act, 1961 for tax deduction at source from any five different types of payments. ***[M. U. May 07 TYBAF]***

(11) Explain in detail steps to be followed for tax to be deducted at source.

(12) Explain various penal provision for Tax deducted at Source.

(13) What is the amount of interest paid or payable in a P.Y. after which TDS on interest on securities becomes applicable u/s 193? ***(M.U. April, 2004)***
Ans.: *₹2,500*

(14) What is the rate of TDS on Payments Pursuant to any contract or sub-contract of work u/s 194 C? ***(M.U. April, 2004)***
Ans.: *2% for contract, 1% for sub-contract*

(15) Mr. Badani who earns taxable salary from T. N. Ltd. requests the employers not to deduct tax from his salary and offers to pay the income tax on his own. Whether it is correct? ***(M.U. Oct., 2004)***

(16) Mr. Raju earns ₹ 2,00,000 during Assessment Year 2020-21 as interest on PPF account maintained with State Bank of India. Whether tax needs to be deducted at source? ***(M.U. Oct., 2004)***

(17) The rate of T.D.S. on payment of interest to a resident other than a company is 12%. Is it correct? Give reasons. ***(M.U. April, 2005)***
Ans.: *False - 10%*

(18) Enumerate any four payments to which TDS provisions are applicable. ***(M.U. April, 2005)***

(19) M/s. Sanglikar Pvt. Ltd. paid to M/s. Kokane & Co. Chartered Accountants sum of ₹ 30,000 as retainership fees during the previous year ending 31st March, 2020 without deducting any tax at source. Are they right? ***(Adapted M.U. April, 2007)***
Ans.: *No Refer Sec. 194 J*

(20) Mr. Avinash who earns taxable salary from ABC Ltd. request the employer not to deduct tax from his salary and offers to pay tax on his own. Is it correct for the employer not to deduct tax?

(21) When will tax not required to be deducted at source on interest payable to a resident on any bond or security issued by a company though the aggregate amount of interest exceeds ₹ 2,500, the basic exemption limit under section 193 of the Act? ***(M.U. Oct., 2009)***
Ans.: *Refer to caption "Interest on securities" Application*

(22) Mrs. Hemalatha has made payments of ₹ 5 lacs to a contractor (for business purposes) during the last two quarters of the year ended 31-3-2020. Her turnover for the year ended 31-3-2019 was ₹ 1.2 crore. Is there any obligation to deduct tax at source? ***(M.U. May, 2008)***

Ans.: *Sec. 194C mandates tax deduction at source on any payment made in pursuance of any contract for carrying out any work or for supply of labour in connection with carrying out work. In case where the payer is an individual, the provisions of tax deduction at source shall apply only where the turnover/gross receipts of such individual has exceeded the limits specified in Sec. 44AB of the Income tax Act (₹1 crore in the case of business and ₹50 lakhs in the case of profession) in the financial year immediately preceding the year in which such payment is made.*

In the given case, since the business turnover of Mrs. Hemalatha has exceeded ₹ 1 crore for the year ended 31st March, 2019, and the contract payment is relating to business activities, she shall be liable to deduct tax at source in respect of payment made to a contractor.

(23) State with reasons, whether tax deduction at source provisions are applicable to the following transactions and if so, the rate of tax deduction:

(a) *An Insurance Company paid ₹45,000 as Insurance Commission to its agent Mr. Han.*

(b) *X & Go. (Firm) engaged in wholesale business assigned a contract for construction of its godown building to Mr. Ravi, a contractor. It paid ₹25,00,000 to Mr. Ravi as contract payment.*

(c) *AB Ltd. allowed a discount of ₹50,000 to XY & Co. (a firm) on prompt payment of its dues towards supply of automobile parts.*

(d) *Y & Co engaged in real estate business conducted a lucky dip and gave Maruthi car to a prize winner.* ***(M.U. May, 2010)***

Ans.: ***(i)*** *Refer to caption "Insurance Commission".*

(ii) *Yes. Refer to caption "TDS on contract".*

(iii) *No. Amount allowed as discount does not warrant tax deduction.*

(iv) *Yes. Refer to caption "Winnings from lottery/crossword puzzle".*

(24) State the concessions granted to transport operators from 1st October, 2019 onwards in the context of cash payments u/s. 40A (3) and deduction of tax at source u/s.194G. ***(M.U. May 10)***

Ans.: *Refer to caption "Tax deduction in the case of transporters".*

(25) Person not deducting tax also deemed to be an assessee in default under Section 191 read with Section 201 of the Income-tax Act, 1961. ***(M.U. Oct. 09)***

Ans.: *True. Refer to caption "Consequences of failure to deduct or pay".*

(26) An AOP having gross receipts of ₹ 50 Lakhs during the financial year 2018-19 is not required to deduct tax at source under Section 194C of the Income-tax Act, 1961, on payment made to contractors during the financial year 2018-19. ***(Nov. 09)***

Ans.: *False. Refer to caption "TDS on contracts – Sec.194C".*

(27) Explain the consequences of failure to deduct tax at source and payment of the same to the Government A/c under income Tax Act, 1961. ***(M.U. Oct. 09)***

Ans.: *Refer to caption "Consequences of failure to deduct or pay"*

(28) Failure to deduct tax at source in accordance with the provisions of Chapter XVII – B, inter alia, from the amounts payable to a resident as rent or royalty, will result in disallowance while computing the business income. ***(M.U. Oct. 07)***

Ans.: *TRUE. Sec. 40 (a) (ia) provides for disallowance of certain specified expenditure which includes rent and royalty payable to a resident, for which tax has not been deducted or the amount of tax deducted has not been remitted to the credit of Central Government as per the provisions of the tax deduction at source.*

(29) Briefly explain the provisions of Section ~97 in respect of obtaining certificate for deduction of tax at a lower rate. ***(M.U. Oct. 07)***

Ans.: *Refer to caption "Lower / no deduction of tax at source - Sec 197"*

(30) What are the consequences of failure to deduct tax at source or pay the tax deducted at source to the credit of Central Government? ***(M.U. May 07)***

Ans.: *Refer to caption "Responsibilities attached to deduction of tax". Such expenditure shall be allowed only in the year in which tax is deducted and remitted to the credit of Central Government.*

(31) Mrs. Indira, a landlord, derived income from rent from letting a house property to M/s Vaibhav Corporation Ltd. of ₹ 1,00,000 per month. She charged the service tax @ 10.3% on lease rent charges. Calculate the deduction of tax at source (TDS) to be made by MIs. Vaibhav Corporation Ltd. on payment made to Mrs. Indira and narrate related Formalities in relation to TDS. What are the consequences of failure to deduct or pay TDS? ***(M.U. Oct. 09)***

Ans.:

(a) *The CBDT vide circular no. 4/2008 dated 28-04-2018 has clarified that service tax paid by the tenant does not partake the nature of income of the landlord. In view of this clarification, Tax deduction at source. (TDS) under section 194-I of Income tax Act would be required to be made on the amount of rent paid/payable without including the service tax. CBDT clarification refers only to TDS u/s 194–I.*

(b) *In the given case, tax has to be deducted on ₹12,00,000 which is exclusive of service tax. Therefore, tax to be deducted is ₹1,20,000, being 10% on ₹12,00,000/-; i.e.₹10,000 per month.*

(c) *Surcharge and education cess are not to be applied on tax deduction w.e.f. 01.10.2018.*

(d) *Refer to caption "Consequences of failure to deduct or pay"…*

Chapter 6

Advance Payment of Tax

(Section 207-211)

Liability for Payment of Advance Tax:

Tax shall be payable in advance during any financial year in respect of the total income of the assessee which would be chargeable to tax for the assessment year immediately following that financial year – Section 207.

Advance tax shall be payable during any financial year in every case where the amount of such tax payable by the assessee during that year is ₹ 10,000 or more – Section 208.

A senior citizen not having any income from business/profession, is not liable to pay advance tax.

Computation and Payment of Advance Tax:

The amount of advance tax payable by an assessee in the financial year shall be computed by first estimating his current income. The income tax payable on such estimated income shall be reduced by the amount of tax deductible at source and tax collectible at source to arrive at the advance tax payable for that year – Section 209.

By virtue of Section 210, every person who is liable to pay advance tax u/s 208 shall be, of his own accord, pay the appropriate percentage of the advance tax on his current income calculated in the manner laid down in Section 209 on or before each of the due dates specified in Section 211.

Due Dates for Payment of Advanced Tax: [U/S. 211]

For all Assesee which are liable to pay advance tax shall have to pay the installments as follows:

Due date of installments – on or before	Amount
(1) 15th June	Not less than 15% of such advance tax
(2) 15th September	Not less than 45% of such advance tax, as reduced by the amount, if any, paid in the earlier installments.
(3) 15th December	Not less than 75% of such advance tax, as reduced by the amount or amounts, if any paid in the earlier installments or installments
(4) 15th March	The whole amount of such advance tax, as reduced by the amount or amounts, if any paid in the earlier installments or installments.

Assessed covered u/s 44 AD are to pay advance tax of the whole amount in one installment on or before 15th March of the financial year consequent upon raising of turnover unit from ₹ 1 crore to ₹ 2 crore, these amendments were from 1st June, 2016.

If any assessee does not pay any installments of the advance tax, he shall be deemed to be an assessee in default in respect of such installments or installments – Sector.218.

Any sum paid by or recovered from an assessee as advanced tax shall be treated as a payment of tax in respect of the income assessable in the relevant assessment year and credit thereof shall be given to the assessee in the regular assessment – Section 219.

When a person becomes liable to pay advance tax:

Every person is liable to pay advance tax if advance tax payable is ₹ 10,000 or more. All items of income are liable for payment of advance tax.

Illustration 1:

The following illustration is given to have a better understanding:

Ravi (26 years) is employed by a manufacturing company. For the previous year 2019-20 his estimated income is as follows:

	₹	₹
Estimated gross salary	12,40,000	
Less: Ravi contribution towards recognised provident fund	1,28,800	
Tax deduction at source by employer	1,01,880	
Take home pay		10,09,320
Estimated bank interest	1,00,000	
Less: Tax deduction at source by the bank	10,000	
Net interest likely to be received by X from bank		90,000

Solution:

If advance tax payable is ₹ 10,000 or more, then Ravi is liable to pay advance tax during the financial year 2019-20. For this purpose, the calculation shall be made as follows:

Name of assessee: Ravi

Legal Status: Individual

P/Y: 2019-20 Residential Status: R & OR A/Y: 2020-21

	₹	₹
Gross salary	12,40,000	
Less: Deduction u/s 16	–	
Income from salary		1 2,40,000
Bank interest		1,00,000
Gross total income		13,40,000
Less: Deduction under section 80C		1,28,800
Net income		11,11,200
Tax on net income	1,45,860	
Add: Surcharge	Nil	
Tax and surcharge	1,45,860	
Add: Health and education cess @ 4%	5,834	
Tax liability		1,51,694
Less: Tax deduction at source		
By employer	1,01,880	
By bank	10,000	(1,11,880)
Advance tax payable during the financial year 2018-19 (a)		39,814
By 15th June 2018 (39,814 × 15%)-	5,972	
By 15th September 2018 (39,814 × 45%) – 5,972	11,944	
By 15th December 2018 (39,814 × 75%) – 17,916	11,944	
By 15th March 2019 (39,814 × 100%) – 11,917	9,954	

In his case, tax computed is ₹ 10,000 or more. Therefore, Ravi will have to pay advance tax during the financial year 2019-20 (the detailed provisions are given below). It may be noted that it tax computed is less than ₹ 10,000, then no advance tax is payable by Ravi.

When Advance Tax payment becomes due:

Advance tax is payable as follows:

	In the case of a all assessee
On or before June 15 of the previous year	Up to 15 per cent of advance tax payable
On or before September 15 of the previous year	Up to 45 per cent of advance tax payable
On or before December 15 of the previous year	Up to 75 per cent of advance tax payable
On or before March 15 of the previous year	Up to 100 per cent of advance tax payable

- Where advance tax is payable by virtue of the notice of demand issued by the Assessing Officer, the whole or the appropriate part of the advance tax shall be payable in the remaining instalments.
- Any payment of advance tax made before March 31 shall be treated as advance tax paid during the financial year.
- If the last day for payment of any instalment of advance tax is a day on which the receiving bank is closed, the assessee can make the payment on the next immediately following working day, and in such case, the mandatory interest leviable under sections 234B and 234C would not be charged.

How advance tax is computed:

Advance tax liability is computed as follows:

Payment of advance tax by the assessee on his own account: An assessee who is liable to pay advance tax is required to estimate his current income and pay advance tax thereon without having to submit any estimate or statement of income to the assessing authorities.

- **Revision of second and subsequent instalments:** After making payment of first/second instalment of advance tax, an assessee can revise the remaining instalment(s) of advance tax in accordance with his revised estimate of current income and pay tax accordingly without any requirement of filing the revised estimate of advance tax.

Computation of Tax: Tax can be computed on the current income (estimated by the taxpayer) at the rates in force during the financial year. From the tax so computed, tax deducted/collected at source will be deducted. Calculation can be made on similar lines in the case of upward/downward revision of current income.

The amount of advance tax payable by an assesse in the financial year shall be computed as follows U/S 209:

Estimated taxable income for the year	XX
Tax on Estimated income	XX
Less: Tax deducted or collected at source	(XX)
Amount payable as advance Tax	XXX

By virtue of section 210, every person who is liable to by advance tax U/S 208 shall, of his own accord, pay appropriate percentage of the advance tax on his current income calculated in the manner laid down in section 209 on or before each of the due date specified U/S 211.

Illustration 2:

The following are the particulars submitted by different taxpayers for the assessment year: 2020-21.

	X (an individual) (30 years) ₹	Y (a Hindu undivided family) ₹	Z (a firm) ₹
	(1)	(2)	(3)
Salaries	1,10,000	–	
Income from house property	62,000	6,97,000	6,000
Profits and gains of business or profession	10,00,000	(3,000)	5,98,840
Capital gains (short-term)	6,000	–	18,380
Income from other sources	3,000	38,000	23,000
Gross total income	11,81,000	7,32,000	6,46,220
Less: Deductions under sections 80C to 80U			
Under section 80C	50,000	61,000	–
Under section 80D	10,000	14,500	–
Under section 80D	–	13,000	1 ,02,000
Net income	11,21,000	6,43,500	5,44,220
Tax	1,48,800	41,200	1,63,266
Add: Surcharge	Nil	Nil	Nil
Tax and surcharge	1,48,800	41,200	1,63,266
Add: Health and education cess @ 4%	5,936	1,648	6,531
Total	1,54,336	42,848	1,69,797
Less: Tax deducted or collected at source	1,70,045	5,636	61,886
Balance (a)	(15,709)	37,212	1,07,911

Determine the amount of advance tax payable during the financial year 2019-20.

Solution:

Advance tax payable for the financial year 2019-20 will be as under:

	X ₹	Y ₹	Z ₹
Adv tax payable on/before 15th June, 2017 (15% of (a))	–*	5,582	16,187
Advance tax payable on or before September 15, 2017 [45% of (a)] – Adv tax upto 15th June	–*	11,164	32,373
Advance tax payable after September 15, 2017 but on or before December 15, 2017 [i.e., 45% of (a)] – Adv tax upto 15/9	–*	11,164	32,373
Advance tax payable after December 15, 2017 but on or before March 15, 2018 [i.e., 100% of (a)] – paid upto 15/12	–*	9,303	26,978#

*Since in the case of X, amount of tax Refund as shown at (a) is ₹ (16,781) it is not necessary to pay advance tax. As z is a firm, flat 30% tax is applied.

Note:

To be rounded off to nearest ₹ 10.

Illustration 3:

In the cases given below, find out the amount of advance tax payable during the financial year 2019-20.

	X (29 years)	A Ltd. (an Indian Co.)	B & Co. (a firm)
	₹	₹	₹
Business income	1,80,000	1,80,000	1,80,000

Long-term capital gain on transfer of capital asset on June 1, 2016	1,46,000	1,63,000	1,63,000
Bank interest	1,26,000	1,26,000	1,26,000
Other income	2,10,000	2,10,000	2,10,000
Tax deducted at source	28,975	42,000	42,000

Solution:

	X Individual	A Ltd. & B & Co.
Business income	1,80,000	1,80,000
Bank interest	1,26,000	1,26,000
Other income	2,10,000	2,10,000
	5,16,000	5,16,000
LTCG in June	1,46,000	1,46,000
Total Income	6,62,000	6,62,000

Tax on above:

	X Individual	A Ltd. & B & Co.
5,16,000 (at slab rate)	15,700	1,54,800 (30%)
1,46,000 (20% LTCG)	29,200	29,200
	44,900	1,84,000
Add: 4% Health and education cess	1,796	7,360
	46,696	1,91,360
Less: TDS	28,975	42,000
Amount payable as Advance Tax	17,721	1,49,360

	X Individual	A Ltd. (an Indian Co.)	B & Co. (a firm)
15th June, 2017	2,658	22,404	22,404
15th Sept. 2017	5,316	44,808	44,808
15th Dec. 2017	5,316	44,808	44,808
15th Mar. 2018	4,430	37,340	37,340

Note:

Each installment should be rounded off to nearest ₹ 10.

Illustration 4:

From the following particulars submitted by X (25 years), ascertain the advance tax payable during the financial year 2019-20.

	Income ₹	Tax deduction by payer ₹
Salary	1,60,000	3,000
Rent @ ₹ 15,000 per month	1,80,000	16,621
Long-term capital gain on sale of shares on June 1, 2018	1,25,000	–
Winning from a TV game show	10,000	3,000
Winning from lottery	5,00,000	1,50,000
Winning from races	50,000	15,000

Bank interest	80,000	8,000
Dividend from foreign companies	70,000	–

X has contributed ₹ 13,600 towards recognised provident fund.

Solution:

Computation of income of X	**₹**
Income from Salary	1,60,000
Income from House Property [i.e., ₹ 1,80,000 – 30% of ₹ 1,80,000]	1,26,000
Long-term Capital Gain	1,25,000
Income from Other Sources	
Winnings from betting, lottery, etc. [₹ 10,000 + ₹ 5,00,000 + ₹ 50,000]	5,60,000
Bank interest	80,000
Dividend	70,000
Gross Total Income	11,21,000
Less: Deduction under section 80C	13,600
Net income	11,07,400

Computation of X	**₹**	**₹**
(1) Tax on ₹ 11,07,400		
Tax on ₹ 1,25,000, being long-term capital gain [i.e., 20% of ₹ 1,25,000]	25,000	
Tax on ₹ 5,60,000, being winnings from lottery [i.e., 30% of ₹ 5,60,000]	1,68,000	
Tax on the balance (i.e. ₹ 4,22,400)	8,620	2,01,620
Add: cess @ 4%		8,065
Tax liability		2,09,685
Less: TDS [₹ 3,000 + 16,621 + 3,000 + ₹ 1,50,000 + ₹ 15,000 + ₹ 8,000]		1,95,621
Amount payable by way of advance tax		14,064
Adv tax payable on/before June 15, 2018		2,110
Advance tax payable on or before September 15, 2018		4,219
Advance tax payable after September 15, 2017 but on or before December 15, 2018		4,219
Advance tax payable after December 15, 2017 but on or before March 15, 2019		3,516

Payment of advance tax in pursuance of order of Assessing officer: The provisions are given below:

(1) The taxpayer is one who has earlier been assessed to income-tax.

(2) Inspite of the legal obligation, he has not paid advance tax.

(3) The Assessing Officer may pass an order under section 210(3) requiring him to pay advance tax on his current year's income.

(4) The order must specify the different instalments in which the advance tax should be paid.

(5) Such order must be passed during the previous year but not later than last day of February.

- **Lower estimate by the assessee:** On receipt of the notice from the Assessing Officer to pay advance tax, the assessee can submit his own estimate of lower current income/ advance tax and pay tax accordingly. In such a case he has to send an intimation in Form No. 28A to the Assessing Officer.
- **Higher estimate by the assessee:** Alternatively, if the advance tax on current income, as per own estimate of the assessee, is likely to be higher than the amount estimated by the Assessing Officer, the assessee shall pay higher tax in accordance with his own calculation. In such case, no intimation to the Assessing Officer is required.

COMPUTATION OF TAX BY ASSESSING OFFICER:

The provisions are given below:

First of all, the Assessing Officer will have to find out income of the current year. Current year's income would be calculated on the following basis:

(a) Total income of the latest previous year in respect of which the assessee has been assessed by way of regular assessment; or

(b) The total income returned by the assessee for any subsequent year, whichever is higher.

Tax liability on the income of the current year would be calculated according to the rate applicable. Tax deducted/collected at source will be deducted.

Calculation can be made on the similar lines when the assessee wants to make upward/ downward revision of current income.

Payment of advance tax in pursuance of revised order of Assessing Officer:

The provisions are given below:

(1) The order passed by the Assessing Officer under section 210(3) can be revised by him under section 210(4).

(2) Such revision is possible if subsequent to passing an order under section 210(3) but before March 1 of the relevant financial year, the assessee has furnished a return of income for a later year or any assessment for a later year has been completed at a higher figure.

(3) On receipt of revised order, the assessee will have to pay advance tax accordingly.

Lower estimate by the assessee: The taxpayer can submit his own estimate of lower current income/advance tax and pay tax accordingly. In such a case he has to send an intimation in Form No. 28A to the Assessing Officer.

Higher estimate by the assessee: If, the advance tax on current income as per own estimate is likely to be higher than the amount re-estimated by the Assessing Officer, the assessee shall pay higher tax in accordance with his own calculation. In such a case intimation to the Assessing Officer is not required.

COMPUTATION OF TAX: The total income declared in the return furnished by the assessee for the later previous year or total income in respect of which the regular assessment is made after passing an order by the Assessing Officer but before March 1, shall be taken and income tax thereon shall be calculated at the rates in force in the financial year. From the tax so determined, tax deducted at source will be deducted.

Illustration 5:

From the following information find out the amount of Advance Tax payable during the Financial year 2019-20 for Mr. Kishore (age 69 years).

	Rs.
Business Income:	
Speculative Business	1,00,000
Non-speculative Business	
Business I (Profit)	2,30,000
Business II (Loss)	(30,000)
Long term Capital Gain (on 15-05-2019)	5,00,000
Short Term Capital Loss	(1,00,000)
Income form Other Sources	
Bank Interest	80,000
Other Income	1,90,000
Tax deducted at Source	8,410

(MU TYBAF, April 2011, Modified)

Solution:

Name of assessee: Mr. Kishore
Legal Status: Individual

P/Y: 2019-20 Residential Status: R & OR A/Y: 2020-21

Computation of Capital Gain

Particulars	₹	₹	₹
(I) Profit and Gains of Business/Profession			
Business I (Non Speculative)	2,30,000		
Business II (Non Speculative)	(30,000)	2,00,000	
Speculative Business		1,00,000	3,00,000
(II) Capital Gains			
Long Term Capital Gains		5,00,000	
Less: Short Term Capital Loss		1,00,000	4,00,000
(III) Income From Other Sources			
Bank Interest		80,000	
Other Income		1,90,000	2,70,000
Gross Total Income			**9,70,000**
Less: Deductions Under Chapter VIA			-
Net Taxable Income			**9,70,000**
Tax on Total Income			
At Normal Rates 2,00,000 @ 5% & 70,000 @ 20%		24,000	
At Special Rates (on LTCG ₹ 4,00,000 @ 20%)		80,000	1,04,000
Add: Cess 4%			4,160
			1,08,160
Less: Tax Deducted at Source			(8,410)
Total Tax Payable			**99,750**
Advance Tax Payable			
On or Before			
15 June			14,963
15 Sept.			29,925
15 Dec.			29,925
15 March Balance			24,938
			99,750

Illustration 6:

From the following information find out the amount of advance tax payable during the year 2019-20.

Particulars	Mr. Kapoor (72 yrs) Resident Individual
Business Income	6,00,000
Other Sources	2,80,000
Deduction u/s chapter VI – A	1,20,000
Tax deducted at source	15,000

[MU., TYBAF, April 2012 Modified]

Solution:

Name of Assessee: Mr. Kapoor
Legal Status: Individual
P/Y – 2019-20 Residential Status: R & OR A/Y – 2020-21

Computation of Taxable Income	₹
Business Income	6,00,000
Other Sources	2,80,000
Gross total Income	8,80,000
Less: Deduction U/S Sec. 80	1,20,000
Taxable Income	7,60,000

Computation of Tax on above Income	₹
Rs. 3,00,000 – 5,00,000 @ 5%	10,000
Rs. 2,60,000 @ 20%	52,000
	62,000
Add: 4% cess	2,480
	64,480
Less: TDS paid	(15,000)
Net Tax Payable	49,480

Computation of Advance Tax Payable	₹
Till 15th June	7,422
Till 15th September	14,844
Till 15th December	14,844
Till 15th March (Balance)	12,370

Illustration 7:

From the following particulars submitted by Mr. Rajaram (70 years), ascertain the advance tax payable during the financial year 2019-20:

Particulars	Income ₹	Tax Deduction by Payer ₹
Salary	20,00,000	10,000
Rent @ ₹ 10,000 per month	1,20,000	–
Long Term Capital Gains on sale of shares on September 1, 2018	1,20,000	–
Winning from races	5,00,000	15,000
Bank Interest	50,000	15,000

Mr. Rajaram has contributed ₹ 10,500 towards recognized provident fund.

[MU., TYBAF, April 2013, Modified]

Solution:

Name of Assessee: Mr. Rajaram
Legal Status: Individual
P/Y – 2019-20 Residential Status: R & OR A/Y – 2020-21

Computation of Taxable Income

Particulars			**₹**	**₹**
Income from Salary				20,00,000
Rent				84,000
Long Term Capital Gain				1,20,000
Winning from races				5,00,000
Bank Interest				50,000
Gross Total Income				27,54,000
Less: Deduction under section 80C				
Contribution to Recognised Provident Fund				10,500
Net Income				27,43,500
Computation of Tax:				
Tax on ₹ 27,43,500				
Tax on Long Term Capital Gain ₹ 1,20,000 @ 20%				24,000
Tax on winning from races ₹ 5,00,000 @ 30%				1,50,000
Balance Taxable Income			21,23,500	
Less: Exemption Limit			3,00,000	
Taxable Income			18,23,500	
Tax on ₹ 18,23,500	0 – 3,00,000	Nil		
	3,00,000 – 5,00,000 @ 5%	10,000		
	5,00,000 – 10,00,000 @ 20%	1,00,000		
	8,23,500 @ 30%	2,47,050		3,57,050
Tax payable				5,31,050
Ed. Cess and SHEC 1%				15,931
Total tax payable				5,46,981
TDS				40,000
Balance tax payable				5,06,981

Solution:

Following needs to be added:

(adv tax on normal income)	**₹**
upto 15th June, 2017 (15% of 5,06,981)	76,047
upto 15th Sept., 2017 (30% of 5,06,981)	1,52,094
upto 15th Dec., 2017 (30% of 5,06,981)	1,52,094
upto 31st Mar, 2018 25%	1,26,746

Illustration 8:

From the following particulars submitted by Mr. Ramesh. Find out the advance tax payable during the financial year 2019-20.

Particulars	**Income ₹**	**Tax Deducted by payer ₹**
Winning from Lotteries	5,00,000	1,50,000

Income from House Property	3,00,000	50,000
Winning from Horse races	3,00,000	90,000
Income from Salary	6,50,000	50,000
Dividend from Foreign Company	3,00,000	–
Dividend from Indian Company	50,000	–
Interest Income	50,000	–

Contribution to Provident Fund 1,00,000.

[MU., TYBAF, April 2015, 2016, Modified]

Solution:

Name of Assessee: Mr. Ramesh

Legal Status: Individual

P/Y – 2019-20 Residential Status: R & OR A/Y – 2020-21

Computation of Taxable Income and Tax Liability

Particulars	**₹**	**₹**
Income from Salary		6,50,000
Income from House Property		3,00,000
Winning from Lotteries		5,00,000
Winning from Horse Races		3,00,000
Interest Income		50,000
Dividend from Foreign Company		3,00,000
Gross Total Income		**21,00,000**
Less: Deduction under section 80C		1,00,000
Net Taxable Income		**20,00,000**
Computation of Tax:		
Tax on winning from lotteries and horse race 8,00,000 × 30%	2,40,000	
Tax on other income 12,00,000 (20,00,000 – 8,00,000)	1,72,500	
Tax Payable (		4,12,500
Add: Cess @ 4%		16,500
Total Tax Payable		4,29,000
Less: Tax Deducted at Source		3,40,000
Advance Tax Payable		89,000
Advance Tax breakup:		
First 15% on 15-06-2019	13,350	
Next 30% on 15-9-2019	26,700	
Next 30% 15-12-2019	26,700	
Balance 25% on 15-3-2020	22,250	
	89,000	

Exercises: Objectives

(1) State whether following statements are True of False:

(a) There are 4 due dates for payment of advance tax in case of companies.

Ans.: *True*

(b) Advance tax is also payable or capital gains income earned by the assessee.

Ans.: *True*

(c) Advance tax is payable if the tax liability is ₹ 5,000 or more.

Ans.: *False*

(d) There are 4 due dates for payment of advance tax in case of assesses other than companies.

Ans.: *False*

(2) Match the Column:

Column I	Column II
(1) Advance tax payable	**(a)** 31st December
(2) 4 due dates/installments of advance tax	**(b)** 1st April
(3) 3 due dates/installments of advance tax	**(c)** For companies
(4) 1st due date for company	**(d)** 15th June
(5) 1st due date of assessee other than company	**(e)** If tax payable is ₹ 10,000 or more
	(f) If tax payable is ₹ 15,000 or more assesses
	(g) For other than companies
	(h) 15th September

Ans.: (1-e), (2-c), (3-g), (4-d), (5-h)

(3) Rewrite the statements after choosing the correct option:

(a) Advance tax installment due on 15th September is applicable to __________.

(i) Registered Firms.
(ii) Companies.
(iii) All Assessees.

(b) 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.

[Ans.: (a-iii), (b-iii)]

(4) Multiple Choice Questions:

(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

Exercises: Practicals

(1) In the case of an individual, if the information in concept tester is modified as under, what will be the interest implication?

(a) Tax and interest fully paid only on 31-8-2018 and return filed on 31-8-2018.
(b) Tax and interest fully paid only on 31-3-2019 and return filed on 31-12-2019.
(c) Tax and interest fully paid only on 15-3-2019 and return filed on 1-9-2019.

Ans.: *(a) 234A ₹100; 234B ₹500; 234C ₹370; (b) 234A and 234B Nil; 234C ₹370; (c) 234A and 234B Nil; 234C ₹270.*

(2) The 'tax due on the returned income for the assessment year 2020-21 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 19.9.2018, Rs. 4,000 on 15.12.2019 and Rs. 9,000 on 19.3.2018). 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 ₹325.*

(3) Explain the various provisions under Income Tax Act, 1961 in respect of Advance Tax Liabilities. ***[M. U. Oct 07 TYBAF]***

(4) Short note on Due dates for payment of Advance Tax. ***[M. U. May 06 TYBAF]***

(5) N Ltd. paid ₹3,15,000 advance-tax during the year ended 31-3-2019 and furnished Return with Total Income of ₹10,00,000 alongwith T.D.S. Certificates for ₹20,500. Determine N Ltd. tax liability (alongwith interest payable if any) for Assessment Year 2020-21 if its assessed Total Income is ₹15,00,000) and presuming its tax on Returned Total Income to be ₹3,00,000 and tax on assessed Total Income to be ₹4,50,000. ***[M. U. May 07 TYBAF]***

(6) Mr. M had gifted ₹5,00,000 to his wife before five years, which his wife had, very prudently, invested in 10% Fixed deposit ₹4,00,000 and the balance in a Partnership firm's Capital. She had also, very thrift fully, accumulated the interest income from the deposit in a separate back account which, ultimately, she had invested in Debentures. If, in the current year, she has received interest of ₹15,000 on the said debentures and Partner's Salary of ₹75,000 and share in profit of the firm ₹1,00,000 apart from the interest on Fixed deposit held, calculate her taxable income for the current year. ***[M. U. Oct. 08 TYBAF]***

(7) The following particulars are submitted by X (26 years) for the previous year 2019-20.

	Gross amount	TDS amount	Net amount
	₹	₹	₹
Winning from lottery	25,000	7,500	17,500
Rent [before any deduction under section 24] received on February 24, 2019	2,00,000	20,000	1,80,000
Interest on debentures received on November 15, 2018	30,000	6,000	24,000
Salary income	11,05,810	1,87,000	9,17,890
Bank interest received on December 31, 2020	12,000	1,200	10,800

Ascertain the advance tax payable for the financial year 2020-21 on the assumption that he has contributed ₹81,000 towards Home Loan Account Scheme of the National Housing Bank.

(8) 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.*

[Ans.: ₹29,260]

(9) Due dates of Advance tax by companies.

[Ans.: 15th June, 15th September, 15th December, and 15th March]

Chapter 7

Interest Payable

(Section 234)

Interest for delay in furnishing Return of Income: [S. 234A]

(1) Where the return of income for any assessment year is furnished after the due date specified in Section 139(1) or is not furnished, the assesse shall be liable to pay simple interest @ 1% for every month or part of a month.

(2) The interest shall be payable for the period commencing from the date immediately following the due date and-

- **(a)** where the return is furnished after the due date, ending on the date of furnishing of the return; or
- **(b)** where no return has been furnished, ending on the date of completion of assessment u/s 144 {best judgement assessment}

(3) The interest shall be calculated on the amount of tax on the total income as determined u/s 143 (1) or on regular assessment as reduced by the advance tax paid and any deducted or collected at source.

Interest for defaults in payment of Advance Tax: [S. 234B]

(1) Where in any financial year, an assessee who is liable to pay advance tax u/s.208 has failed to pay such tax or the advance tax paid by such assessee is less than 90% of the assessed tax, the assessee shall be liable to simple interest @1% for every month or part of a month.

(2) The period for which interest is payable would be period from the first day of April next following such financial year to the date of determination of total income u/s.143 (1). However, if regular assessment is completed, then interest is chargeable up to the date of regular assessment.

(3) The amount on which interest shall be the amount equal to the assessed tax or on the amount by which the advance tax paid falls short of the assessed tax.

Interest for deferment of Advance Tax: [S. 234C]

(1) In the case of all assesses calculation of interest u/s.234C shall be as follows: Where the advance tax paid by the assessee on its current income on or before 15th June, 15th September, 15th December is less than 15%, 45% and 75% respectively on the returned income, then the assessee shall be liable to pay simple interest at the rate of 1% per month for a period of three months on the amount of the shortfall. However, where the advance tax paid by assessee on or before 15th day of June and on or before 15th September is not less than 12% and 36% respectively of tax due on the returned income the assessee are not liable on shortfall.

(2) Where the whole amount of advance tax paid by any assessee on or before 15th March is less than the tax due on the income returned then the assessee shall be liable to pay simple interest @1% on the amount of shortfall from the tax due on the returned income. This applies as to companies as well as to other assessees.

(3) If the short fall in the payment of the tax due on the returned income is on account of underestimation or failure to estimate.

(a) capital gains

(b) winnings from lotteries, crosswords puzzles, races (including horse races), card games and any other activity in the nature of gambling, betting etc., and the assessee has paid the amount of tax payable in respect of such income as part of the remaining installments of advance tax which are due or where no such installments are due, by the 31st March of the financial year, no interest shall be leviable in respect of such shortfall.

(4) "Tax due on the returned income" means the tax chargeable on the total income declared in the return of income furnished by the assessee for the assessment year commencing on the 1st April immediately followings the financial year in which the advance tax is paid or payable as reduced by the amount of tax deductible or collectible at source on any income which is subject to such deduction or collection and which is taken into account in computing such total income. (Explanation to sec.234C).

ILLUSTRATIONS:

In the case of Ms. Seema, 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: 31-7-2018; Date of filing the return 1-8-2017; Tax and interest thereon fully paid on 31-7-2019.

Illustration 1:

Solution:

Assessee: Ms Seema **A Y 2020-21**

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

Particulars			Rs.	Rs.
Interest	u/s 234A =	10,000 × 1%		100
	u/s 234B =	10,000 × 1% × 4 months		400
		15,000 × 1% × 3 months	45	
	u/s 234C =	4,500 × 1% × 3 months	135	
		7,500 × 1% × 3 months	225	
		10,000 × 1%	100	
				505
Total Interest Payable				**1,005**

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.*

Illustration 2:

Mr. A. (aged 48 years) files return of income on 10th January, 2020 though the due date is 31st July, 2018 for the Assessment Year 2020-22. On 10th January, 2019 he deposits ₹ 42,130 u/s 140A Self-Assessment tax which is computed as under:

Particulars	₹	₹
Tax on income of ₹ 6,00,000, returned		46,350
Less: Advance tax paid during 2018-19		
15-09-2016	3,800	
15-12-2016	5,200	

15-03-2017	1,000	
		10,000
Tax Deducted at Source (TDS)		1,000
Balance Payable		35,350
Add: Interest Calculated:		
U/s 234A	2,145	
U/s 234B	3,443	
U/s 234C	1,193	
		6,781
Total Tax paid u/s 140A		42,131
Self Assessment Tax Rounded off		42,130

An assessment is completed u/s 143(3) on 20th April 2019 and income assessed is ₹ 7,20,000.

Solution:

Tax Slab in case of an individual other than resident senior citizen and other than resident women below 65 years of age for the A.Y. 2020-21:

Income	Rate of Tax
Upto ₹ 2,50,000 (Basic Exemption Limit)	NIL
Above ₹ 2,50,000 upto ₹ 5,00,000	10%
Above ₹ 5,00,000 upto ₹ 10,00,000	20%
Above ₹ 10,00,000	30%

Section 234A – Interest for default in furnishing return of income:

The actual interest liability which is calculated in the month of April 2018 taking assessed income as base.

Particulars	₹	₹
Assessed Income u/s 143(3)		7,20,000
Assessed Tax on above income		50,470
Less: Advance tax paid during 2018-19		
15-09-2016	3,800	
15-12-2016	5,200	
15-03-2017	1,000	
		10,000
Tax Deducted at Source (TDS)		1,000
Amount to be paid u/s 140A (SA Tax)		39,470

Interest u/s 234A (Rule 119A) = 39,400 × 1% × 6 (Aug. 17 to Jan. 18)
= ₹ 2,364.

The interest element involved u/s 234A in the total SA Tax payment of ₹ 42,130 which is calculated in the month of January 2019 taking returned income as base.

Particulars	₹	₹
Returned Income		6,00,000
Tax on Returned Income		46,350
Less: Advance tax paid during 2018-19		
15-09-2016	3,800	
15-12-2016	5,200	
15-03-2017	1,000	
		10,000
Tax Deducted at Source (TDS)		1,000
Amount to be paid u/s 140A (SA Tax)		35,350

Interest u/s 234A (Rule 119A) = 35,300 × 1% × 6 (Aug. 17 to Jan. 18)
= ₹ 2,118.

Section 234C – Interest for deferment of Advance Tax:

The interest under this section is always calculated taking returned income as base.

Particulars	₹	₹
Returned Income		6,00,000
Tax on Returned Income		46,350
Less: Tax Deducted at Source (TDS)		1,000
Amount of Advance Tax payable		45,350

First installment:

Particulars	₹	₹
Due on/before 15th June, 2016 (15%) no Adv tax paid		6,802
Less: No Advance Tax paid		6,802
int u/s 234C 6,802 × 1% × 3 months	204	
Due on before 15th September, 2016 (i.e. 45%)		20,407
Less: Actual Advance Tax paid		3,800
Balance of Advance Tax payable (Rounded off in 100 Rs.)		16,607

Interest u/s 234C (Rule 119A) = 16,607 × 1% × 3
= ₹ 498.

Second installment:

Particulars	₹	₹
Due on before 15th December, 2016 (i.e. 75%)		34,762
Less: Advance Tax paid till date (3,800 + 5,200)		9,000
Balance of Advance Tax payable (Rounded off in 100 Rs.)		25,762

Interest u/s 234C (Rule 119A) = 25,762 × 1% × 3
= ₹ 773.

Third installment:

Particulars	₹	₹
Due on before 15th March, 2017 (i.e. 100%)		45,350
Less: Advance Tax paid till date (3,800 + 5,200 + 1,000)		10,000
Balance of Advance Tax payable		35,300

Interest u/s 234C (Rule 119A) = 35,300 × 1% × 1
= ₹ 353.

Thus, total of all three installments:

Total Interest u/s 234C = 204 + 498 + 773 + 353
= ₹ 1,828.

Section 234B – Interest for defaults in payment of Advance Tax:

The actual interest liability which is calculated in the Month of April 2019 taking assessed income as base.

Particulars	₹	₹
Assessed Income u/s 143(3)		7,20,000
Assessed Tax on above income		46,350
Less: Tax Deducted at Source (TDS)		1,000
Advance Tax Payable		45,350

The advance tax paid by Mr. A (i.e. ₹ 10,000) is less than 90% of the assessed tax (i.e., 45,350 × 90% = ₹ 40,815. Hence, Mr. A shall be liable to pay simple interest @1% for every month or part of a month.

Particulars	₹	₹
Advance Tax Payable		45,350
Less: Advance tax paid during 2018-19		
15-09-2016	3,800	
15-12-2016	5,200	
15-03-2017	1,000	
		10,000
Balance Payable		35,350

Interest u/s 234B (Rule 119A) = 35,300 × 1% × 10 (Apr. 17 to Jan. 18)
= ₹ 3,530.

The interest element involved u/s 234B in the total Self Assessment Tax payment of ₹ 42,130 which is calculated in the month of January, 2019 taking returned income as base.

Particulars	₹	₹
Returned Income		6,00,000
Tax on Returned Income		46,350
Less: Tax Deducted at Source (TDS)		1,000
Advance Tax Payable		45,350

The advance tax paid by Mr. A (i.e. ₹ 10,000) is less than 90% of the assessed tax (i.e., 45,350 × 90% = ₹ 40,815). Hence, Mr. A shall be liable to pay simple interest @ 1% for every month or part of a month.

Particulars	₹	₹
Advance Tax Payable		45,350
Less: Advance tax paid during 2018-19		
15-09-2016	3,800	
15-12-2016	5,200	
15-03-2017	1,000	
		10,000
Balance Payable		35,350

Interest u/s 234B (Rule 119A) = 35,300 × 1% × 10 (Apr. 17 to Jan. 18)
= ₹ 3,530.

The amount paid towards tax in the Self Assessment Tax payment of ₹ 42,130.

Particulars	₹	₹
Amount paid u/s 140A Self Assessment Tax		42,130
Less: Amount paid towards interest:		
U/s 234A	2,118	
U/s 234B	3,530	
U/s 234C	1,828	
		7,476
Total amount paid		34,654

The actual interest liability u/s 234B for the period February 2019 to April 2019 i.e. the next month immediately succeeding month in which return was filed till the month in which assessment got complete.

Particulars	₹	₹
Total Advance Tax Payable		39,470
Less: Total Advance Tax Paid		34,654
Balance of Advance Tax payable (Rounded off in 100 Rs.)		4,816

Interest u/s 234B (Rule 119A) $= 4{,}900 \times 1\% \times 3$ (Feb. 19 to Apr. 19)
= ₹ 147.

Total Interest u/s 234B = ₹ 3,530 + ₹ 147
= ₹ 3,677.

The statement ascertaining the net amount due from Mr. A or the net amount payable to him.

Particulars	₹	₹
Assessed Income u/s 143(3)		7,20,000
Assessed Tax on above income		50,470
Less: Advance tax paid during 2019-20		
15-09-2017	3,800	
15-12-2017	5,200	
15-03-2018	1,000	
		10,000
Tax Deducted at Source (TDS)		1,000
Amount paid u/s 140A Self Assessment Tax		42,130
Balance Payable		(2,660)
Add: Interest Calculated:		
U/s 234A	2,346	
U/s 234B	3,677	
U/s 234C	1,828	
		7,851
Net amount payable by Mr. A for the A.Y. 2020-21		5,191

Exercises

(1) In the case of an individual, if the information in Illustration 1 is modified as under, what will be the interest implication?

(a) Tax and interest fully paid only on 31-8-2018 and return filed on 31-8-2018.

(b) Tax and interest fully paid only on 31-3-2018 and return filed on 31-12-2018.

(c) Tax and interest fully paid only on 15-3-2018 and return filed on 1-9-2018.

Ans.: *(a) 234A Rs. 100; 234B Rs. 500; 234C Rs. 370; (b) 234A and 234B Nil; 234C Rs. 370; (c) 234A and 234B Nil; 234C Rs. 270.*

(2) The 'tax due on the returned income for the assessment year 2020-21 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 19.9.2017, Rs. 4,000 on 15.12.2017 and Rs. 9,000 on 19.3.2017). 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. 325.*

(3) When can interest be payable by Assessee? Explain in brief various clauses specified in Sec. 234 A, 234 B and 234 C. ***[MU. Oct. 06 TYBAF]***

(4) Mr. Ramadurai has computed his net taxable income for the Assessment Year 2020-21. On that basis, he informs you that his total tax payable for the Assessment Year 2020-21 is Rs. 60,000. As against this the TDS from his income is Rs. 20,000. He has paid advance tax of Rs. 30,000 as follows:

Date	**Rs.**
14-09-2016	10,000
14-12-2016	10,000
14-03-2017	10,000

Therefore, his net tax payable is Rs. 10,000. He has paid this net tax of Rs. 10,000 by way of self Assessment tax on 31-08-2018. Also, he has filed his return of income on 31-08-2016. However, the due date for filing the return of income was 31-07-2018.

Calculate the advance-tax interests payable by Mr. Ramadurai u/s 234 A, 234 B and 234 C. ***[MU. Oct. 07 TYBAF]***

(5) Mr. Don informs you that his tax liability for the Assessment Year 2020-21 is Rs. 4,000. The due date for filing the return of income was 31-07-2018. But he filed his return on 02-08-2018.

(i) Is he liable to pay interest u/s 234 A for Late filing of return? If yes, calculate the amount of interest.

(ii) Is he liable to pay interest u/s 234 B for shortfall of advance tax? If yes, calculate the amount of interest. (Ignore interest u/s 234 C.) ***[MU. Oct. 07 TYBAF]***

(6) Mr. Davda informs you that the net tax payable by him for the year 2018 – 2019 is Rs. 20,000. The advance tax paid by him during the year is as follows:

Date	**Rs.**
15/09/2017	3,000
15/12/2017	5,000
15/03/2018	2,000

In addition to the above, the tax deducted at source on his income is Rs. 4,000.

You are also informed that he filed his return of Income on 28/12/2018 even though the last date of filling the return of Income was 31/07/2018.

Calculate interest u/s 234 A, 234 B, 234 C. ***[MU. May 08 TYBAF]***

(7) Interest u/s 234 A:

Ans.:

(1) The assesse is required to pay interest u/s 234 A in respect of his default in furnishing return of income within the given time.

Where the return of income for any assessment year is furnished after the due date specified in Section 139 (1), 139 (4) or after the time allowed in the notice issued u/s 142 (1). OR is not furnished at all the assesse shall be liable to pay simple interest @ 1% for every month or part of a month.

(2) The interest u/s 234 A is applicable on the tax on assessed income and not on the tax on returned income.

Chapter 8

Double Taxation Avoidance Agreement (DTAA)

(Section 90-91)

INTRODUCTION:

Double Taxation Avoidance Agreement (DTAA) is a bilateral economic agreement between two nations that aims to avoid double taxation of the same income in two countries.

Income tax is chargeable to tax on the basis of following:

(1) Source of income.

(2) Residential status.

In case of foreign income it is possible that a person's income is charged to tax in the country in which the in which the income is earned and also the country in which the person is resident.

Till now, India has DTAA with 84 nations, including Armenia, Bangladesh, Finland, Ireland, Japan, Kazakhstan, Greece, Italy and several others. Further, India is constantly trying to establish DTAA with other nations because these agreements can promoting trade and investments among contracting nations.

The Provisions of DTAA override the general provisions of Income tax Act. As per Sec. 90(2) it is clear that assessee has an option of choosing to be governed either by the provisions of particular DTAA or the provisions of the Income Tax Act, whichever are more beneficial.

The Non Resident can certainly take the benefit of the provisions of DTAA entered into between India and the country, in which he resides, more particularly in respect of Interest Income from NRO account, Government securities, Loans, Fixed Deposits with Companies and dividends etc.

AGREEMENT WITH FOREIGN COUNTRIES OR SPECIFIED TERRITORIES U/S 90:

(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, 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.

(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 prescribe.]

Explanation 1: For the removal of doubts, it is hereby declared that the charge of tax in respect of a foreign company at a rate higher than the rate at which a domestic company is chargeable, shall not be regarded as less favourable charge or levy of tax in respect of such foreign company.

Explanation 2: For the purposes of this section, "specified territory" means any area outside India which may be notified as such by the Central Government.]

[***Explanation 3:*** For the removal of doubts, it is hereby declared that where any term is used in any agreement entered into under sub-section (1) and not defined under the said agreement or the Act, but is assigned a meaning to it in the notification issued under sub-section (3) and the notification issued there under being in force, then, the meaning assigned to such term shall be deemed to have effect from the date on which the said agreement came into force.]

COUNTRIES WITH WHICH NO AGREEMENT EXISTS U/S 91:

(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 otherwise, 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 if 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.

OTHER DETAILS:

Double taxation occurs when an individual is required to pay two or more taxes for the same income, asset, or financial transaction in different countries. Double taxation occurs mainly due to overlapping tax laws and regulations of the countries where an individual operates his business. Double taxation Agreement is the systematic imposition of two or more taxes on the same income. When an Indian businessman makes a profit or some other type of taxable gain in another country, he may be in a situation where he will be required to pay a tax on that income in India, as well as in the country in which the income was made! To protect Indian tax payers from this unfair practice, the Indian government has entered into tax treaties, known as Double Taxation Avoidance Agreement (DTAA) with other countries. The double liability is often mitigated by tax agreements, known as treaties, between countries. These agreements provides for relief from the double taxation in respect of incomes by providing exemption and also by providing credits for taxes paid in one of the countries. These treaties are based on the general principles laid down in the model draft of the Organization for Economic Cooperation and Development (OECD) with suitable modifications as agreed to by the other contracting countries. In case of countries with which India has double taxation avoidance agreements, the tax rates are determined by such agreements and are indicated for various countries as under:

The Central Government acting under the authority of Law (Sec. 90) has entered into DTAAs with more than 82 countries including U.S.A, Canada, U.K, Japan, Germany, Australia, Singapore, U.A.E, and Switzerland. DTAA ensures that India's trade and services with other countries, as well the movement of capital are not adversely affected. Such treaties serve the purpose of providing protection to the tax payers from double taxation. As per section 90(2), in relation to an assessee to whom any DTAA applies, the provisions of the Act shall apply only to the extent they are more beneficial to the assessee. The provisions of these DTAAs thus prevail over the statutory provisions. For availing the benefits under DTAA the NRIs need to complete certain formalities for example for getting the reduced rate of tax deduction from bank interest (NRO deposits), they need to submit certain declaration with their banks before the starting of the financial year.

To avail benefit of lower rates of tax as per double taxation avoidance treaty entered in by India, NRIs need to submit certain declarations and forms with his banker. These documents should be submitted to the designated bank branch at the time of opening the bank account and subsequently each financial year. The reduced TDS rate shall be applied only after the submission of the required declarations by the NRIs with the designated banker.

(1) Indian Residents posted abroad for employment:

Indian residents who have taken up employment in countries with which India has got DTAA are entitled to the benefit of the DTAA entered into by India with the country of employment. Accordingly, their tax liability is decided.

Indian expatriates working abroad have been granted several special tax concessions under the Act. Professors, teachers and research workers working abroad in any university or any educational institutions are entitled to deduction of 75% of their foreign remuneration provided the same is brought into India in convertible foreign exchange within a period of 6 months from the end of the previous year or such extended time as may be allowed (Sec. 80-R). Similarly, in case of an Indian Citizen having received remuneration for services rendered outside India, 75% of his foreign remuneration is deductible from his taxable income provided such remuneration is brought to India in convertible foreign exchange within the time specified above (Sec. 80 RRA).

From assessment year 2001-2002 onwards, there has been a change in the amount of deduction available under sections 80R/80RRA. For details, reference may be made to the sections concerned of the Income Tax Act. No deduction u/s 80R/80RRA shall be allowed in respect of A.Y. 2005-06 onwards.

It may also be mentioned here that as per section 9(1)(iii) income chargeable under the head 'Salary' payable by the Government to a citizen of India for services rendered outside India is deemed to accrue or arise in India. However, allowances or perquisites paid or allowed outside India by the Govt. to a citizen of India for rendering services abroad is exempt from taxation u/s 10(7).

(2) Capital Gain Tax Rates:

Under Section 90 and 91 of the Income Tax Act, relief against double taxation is provided in two ways:

(a) Unilateral Relief:

Under Section 91, the Indian government can relieve an individual from double taxation irrespective of whether there is a DTAA between India and the other country concerned. Unilateral relief may be offered to a tax payer if:

- The person or company has been a resident of India in the previous year. The same income must be accrued to and received by the tax payer outside India in the previous year.
- The income should have been taxed in India and in another country with which there is no tax treaty.
- The person or company has paid tax under the laws of the foreign country in question.

(b) Bilateral Relief:

Under Section 90, the Indian government offers protection against double taxation by entering into a DTAA with another country, based on mutually acceptable terms. Such relief may be offered under two methods:

- Exemption method: This ensures complete avoidance of tax overlapping.
- Tax credit method: This provides relief by giving the tax payer a deduction from the tax payable in India.

(3) The Countries with which India has DTAA:

India has entered into DTAA with more than 80 countries including countries like U.S.A., U.K., Japan, France, Germany, etc. These agreements provides for relief from the double taxation in respect of incomes by providing exemption. The Countries with which India has DTAA are given below:

Country	Year
Australia	1993-94
Austria	1963-64
Bangladesh	1993-94
Belarus	1999-2000
Belgium	1989-90; 1999-2000
Brazil	1994-95
Bulgaria	1997-98
Canada	1987-88; 1999-2000
China	1996-97
Cyprus	1994-95
Czechoslovakia	1986-87; 2001-02
Czech Republic	1998-99
Denmark	1991-92
Egypt	1970-71
Finland	1985-86; 2000-2001
France	1996-97
Germany	1996-97
Greece	1964-65
Hungary	1989-90
Indonesia	1989-90
Israel	1995-96
Italy	1997-98
Japan	1991-92
Jordan	2001-02
Kazakhstan	1999-2000
Kenya	1985-86
Korea	1985-86
Kyrgyzstan	2001-02
Libya	1983-84

Malaysia	1973-74
Malta	1997-98
Mauritius	1983-84
Morocco	2000-01
Country	Year
Mongolia	1995-96
Namibia	2000-01
Nepal	1990-91
Netherlands	1990-91
New Zealand	1988-89
Norway	1988-89
Oman	1999-2000
Philippines	1996-97
Poland	1991-92
Portugal	2000-01
Qatar	2001-02
Romania	1989-90
Russian Federation	2000-01
Singapore	1995-96
South Africa	1999-2000
South Korea	1985-86
Spain	1997-98
Sri Lanka	1981-82
Sweden	1990-91; 1999-2000
Switzerland	1996-97
Syria	1983-84
Tanzania	1983-84
Thailand	1988-89
Trinidad and Tobago	2001-02
Turkey	1995-96
Turkmenistan	1999-2000
United Arab Emirates	1995-96
United Kingdom	1995-96
United States	1992-93
Uzbekistan	1994-95
Vietnam	1997-98
Zambia	1979-80

Double Taxation Avoidance Agreement (DTAA) is an agreement entered into by India with various countries. Under the current DTAA provisions, you can enjoy the benefit of concessional rates for Tax Deducted at Source (TDS), providing you a higher yield as compared to the regular NRO FD offered today.

In case the NRIs who wish to avail the reduced rate of TDS from NRO deposits as per DTAA they need to submit the required declaration with their banks along with their PAN number before the cut of date specified by the bank for each financial year

PAN updation is mandatory to avail of DTAA. One set of the below documents is required per Customer ID.

Declaration that the client was an NRI during the year in which tax is sorted to be deducted & that he does not have any permanent establishment in India.

Original or certified true copies of the tax residency certificate from income tax authorities to be obtained from the client OR

(ii) In case of non-taxpaying countries, any valid proof issued by the government, certifying that the client is a resident of that country OR

(iii) If the client is unable to obtain the residency certificate in (i) above, and has been assessed as a resident earlier, then he may obtain a certificate from any CA firm registered in India). However, in such cases, the CA certificate should be supported by certified true copies of documentation from tax authorities, e.g., assessment order, notice from the tax authorities clearly indicating the residential status of the customer as a 'resident' under the local tax laws.

Self attested copy of passport & visa. (not required in case the client is submitting Tax Residency Certificate).

For UAE and KUWAIT ONLY- photocopy of the passport pages which give the details of entry and exit.(to ascertain 183 days stay in a calendar year for UAE and 183 days in a financial year for Kuwait)

If your PAN is not updated with the Bank/financial institution, then the DTAA rate or applicable TDS (Income tax will be deducted at source under Section 195 of the Income Tax Act, 1961, at the rates in force) rate whichever is higher will be applicable. For more details, please contact your bank.

(4) How to get relief in case of Double Taxation?

In any country the tax is levied based on (1) Source Rule and 2) the Residence Rule. The source rule holds that income is to be taxed in the country in which it originates irrespective of whether the income accrues to a resident or a non-resident whereas the residence rule stipulates that the power to tax should rest with the country in which the taxpayer resides. If both rules apply simultaneously to a business entity and it were to suffer tax at both ends, the cost of operating on an international scale would become prohibitive and would deter the process of globalisation. It is from this point of view that Double Taxation Avoidance Agreements (DTAA) becomes very significant.

Steps to calculate the relief:

(1) First of all, add the Total income of India as well as foreign country which is earned force in India & abroad.

(2) Now, calculate the total Tax on above calculated income.

(3) Now calculate average rate of Tax.

(4) Now, multiply the rate with the income of foreign country.

(5) Now, deduct the Tax paid in the foreign county form the Tax calculated in step 4 above.

(6) The resultant amount would be the amount of relief u/s 90.

The following chart shows the double taxation relief:

- Relief
  - Unilateral Relief
    - Relief by Home Country
  - Bilateral Relief
    - Tax Credit Method
    - Tax Exemption Method

ILLUSTRATIONS:

Illustration 1:

Mr. Jash who derived income of Rs. 10,00,000 during the AY 2020-21 from a country with which India has no double taxation avoidance agreement. Tax of Rs. 1,00,000/- was deduced at Source in the country. His income from business in India during AY 2020-21 amounted to Rs. 8,00,000. Compute tax payable by Mr. Jash for AY 2020-21.

Solution:

Name of Assessee: Mr. Jash

P/Y – 2019-20 Legal Status: Individual A/Y – 2020-21

Computation of Tax Payable

Particulars	**₹**	**₹**
Income from India		8,00,000
Income from foreign country		10,00,000
Total Income		**18,00,000**
Tax on Total Income	3,52,500	
Health and education cess @ 4%	14,100	
Total Tax		**3,66,600**
(a) Average rate of tax in India		
$\frac{3,66,600}{18,00,000} \times 100)$ = 20.36%		
(b) Average rate of tax in foreign country		
$\frac{1,00,000}{10,00,000} \times 100 = 10\%$		
Less: Amount of Relief u/s 91		1,00,000
Lower of (a) or (b) (10L × 10%)		
Tax payable		**2,66,600**

Illustration 2:

Mr. Shubhash who derived income of Rs. 4,00,000 during the assessment year 202-21 from a country with which India has no double taxation avoidance agreement Tax of Rs. 80,000/- was deducted at source in the country. His income from profession in India during the assessment year 2020-21 amounted to Rs. 6,00,000. Compute tax payable by Mr. Shubhash for Assessment year 2020-21.

[MU., TYBAF, April 2016, Modified]

Solution:

Name of Assessee: Mr. Subhash

P/Y – 2019-20 Legal Status: Individual A/Y – 2020-21

Computation of Tax Payable

Particulars	₹	₹
Income in the Foreign Country		4,00,000
Income in India		6,00,000
Total Income		**10,00,000**
Tax on Total Income	1,12,500	
Add: EC + SHEC (4%)	4,500	
Total Tax		**1,17,000**
(a) Average Rate of Tax in India		
$1{,}17{,}000 \div 10{,}00{,}000 \times 100$	11.7%	
(b) Average Rate of Tax in Foreign Country		
$80{,}000 \div 4{,}00{,}000 \times 100$	20%	
Less:		
Amount of Relief u/s 91 (4,00,000 × 11.7%) Lower of (a and b)		-46,800
Tax Payable		70,200

Exercises

(1) Mr. A is having income from India of ₹ 2,00,000 and ₹ 50,00 from US TDS has been deducted on BIS US income of 2,500.
Cal^{n} of relief under section 91?
Note: Section 91 is applicable in case DTAA doesn't exist b/w the countries in which assessee has earned income.

(2) Mr. X is having income from India of ₹ 4,00,000 & ₹ 1,50,000 from US. TDS has been deducted on his US income of ₹ 50,000.
Cal^{n} of relief u/s 91

[Ans.: ₹13,080]

(3) Ms. Jayanti is a resident individual. Income earned in India ₹ 5,00,000. Income earned from foreign ₹ 2,00,000. (tax paid there ₹ 50,000).Calculate Relief u/s 91.

[Ans.: ₹ 38,625]

(4) What are the steps to be followed for calculation of relief u/s 91?
Ans.: Step to find out Relief u/s 91
(i) Compute the Net Taxable Income
(ii) Find out the amount of Gross Tax
(iii) Find out the Average Rate of Tax on NTI
(iv) A.R.T = Gross Tax payable *100/Net taxable Income.
(v) Find out the rate, at which the tax was deducted / paid in foreign country
(vi) Find out the lower of rate tax from step no. 3 and 4.
(vii) Relief u/s 91 Doubly taxed income included in NTI * Rate of Tax found out in Step No. v.

Chapter 9*

Tax Planning and Ethics in Taxation

Basic Concept:

There is a vast difference between the two terms Tax Evasion / Avoidance V/s Tax Planning.

The former refers to a scenario wherein Tax is avoided by way of not declaring the Income with the Authorities. This is done by involving an element of deceit, misrepresentation of facts, falsification of Accounting calculations or downright fraud. The result is that at a subsequent stage of assessment the Evasion / Avoidance surfaces and the Authorities levy a very heavy Interest and Penalty. Ultimately the Tax avoided is paid in double the amount as otherwise paid.

As against this the term Tax Planning is a wider terminology and a legitimate way in which an assessee is legally entitled to claim rebates against his Income that are chargeable to Tax. These rebates are mainly in the form of Exempt Incomes covered under Sections 10 to 13 and deductions / weightage deductions covered under section 80. Similarly benefits of Adjustment of losses in Intra Head and other heads and adjustments of current year profits against carry forward of earlier year losses are also available.

There are other deductions available under other sections like Income from House Property, Income from Capital Gains and Income from Other Sources.

There is also a concept of Diversion of Income at Source which proves to be the most meaningful tool in Tax Planning. In such case it is observed that the Income is diverted as Income of someone else by overriding title and application of Income before it reaches the assesse. This tool prevents the assesse from the elements of disallowances of expenses in assessment proceedings. However diversion does not mean that transferring Income belonging to the assesse to someone else. In such cases during assessment proceedings the Authorities are empowered with clubbing provisions and the penal provisions get attracted.

Furthermore and the most essential element to be noted is the concept of Capital Income V/s Revenue Income. In all cases Revenue Income is always taxable unless otherwise exempt whereas in all cases Capital Income is always exempt unless otherwise taxable.

Apart from above new and novel concepts of Double Taxation Avoidance Agreement and Double Taxation Reliefs with different countries needs also be kept in mind. Section 90, 90A and 91 of the Income Tax Act mainly deals with such cases.

Therefore it is always necessary to conduct a Taxation Impact Analysis before starting any new business.

What test to Apply for a Successful Tax Planning:

The Institute of The Chartered Accountants of India in the study modules for aspiring Chartered Accountants clearly states the following:

There has to be a conformity on two outstanding tests:

(a) **Conformity with Current Law:** This knowledge of law extends not only to the provisions of the taxing statues and the case law that has developed on those statutes, but also to the

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* This chapter is **not** in the syllabus of B.Com. Financial Management Course. Hence, it is not to be studied by students of B.Com. Financial Management Course.

other branches of law, both civil and personal, so that the tax planner's device does not get defeated by the universal principles of jurisprudence.

(b) Flexibility: Flexibility seeks to ensure that the success of tax planning device is not nullified by statutory negation. Though the tax planner may be successful in seeking out a device which in his opinion is in conformity with the law, the subsequent statutory negation may nullify his success. In order to counter this exigency, his tax plan must be flexible. Flexibility means that the device provides for suitable changes in accepted forms. Flexibility is a practical concept and will vary from case to case and situation to situation. The tax planner should always be watchful of all significant development related to his field and design such plans which are capable of avoiding irretrievable situations to the maximum possible extent.

To conclude it has to be understood that tax planning should not ignore the legislative intent and should be directed in every case to see that not only tax benefits are obtained but also the tax obligations are discharged without fail so that the penal provisions are not attracted.

Retrospective Legislation:

It is judicially settled that the law to be applied to the assessment year is the law that stands in the year and not the law that stood in the year in which Income was earned.

Therefore the Tax Planner should ensure that the Planning is done on the law applicable as the beginning of the assessment year unless otherwise stated or implied i.e. the law as it stands on 1st April, the commencement of Assessment Year. Any amendments that comes into force after 1st April of the Assessment Year will not be applicable even if assessment is actually made after the amendment comes into force.

Platforms of Tax Planning:

Tax Planning is carried out in a Matrix Format as follows:

Heads of Income	**Form of Business Organization in Conjunction with Residential Status**						
	Individual	HUF	Partnership Firm / LLP	AOP / BOI	Co-op. Soc.	Corporate (Pvt Ltd/Ltd)	AJP
Salary		NA	NA	NA	NA	NA	NA
House Property							
Business / Professions							
Capital Gains							
Other Sources							

Though the Tax Planning could run into a number of pages, a bird eye view can be projected to give a preliminary understanding and generate confidence in the mind of assesse. The assesse has to be sure of one thing that the Tax Planning will depend on various combinations of above table and from case to case.

(1) Tax Planning in respect of Salary Income: Salary Structure

- **(a)** Employee's Welfare Scheme.
- **(b)** Insurance Policies.
- **(c)** Dearness Allowance, Dearness Pay.
- **(d)** Commission.
- **(e)** Leave Travel facility.
- **(f)** Rent Free Accommodation / House Rent Allowance.
- **(g)** Medical Allowances.
- **(h)** Uncommuted / Commuted Pension.
- **(i)** Provident Fund.
- **(j)** Retirement benefits.

- **(k)** Pension received by Non-Residents.
- **(l)** Accident Insurance.
- **(m)** Exempted Perquisites.
- **(n)** Deductions under chapter VIA.
- **(o)** Rebate u/s 89.

(2) Tax Planning in respect of House Property Income: Payments towards Taxes paid to local municipal board and Interest paid on Money borrowed from specific institutions towards acquisition / repairs of House Property.

(3) Tax Planning in respect of Income from Business / Profession:

- **(a)** Form of Organisation.
- **(b)** Nature of Business.
- **(c)** Location.
- **(d)** Financial Structure.
- **(e)** Acquisition of Plant or Machinery and other Fixed Assets.
- **(f)** Setting Up and commencement of Business.
- **(g)** Deductions under chapter VIA.
- **(h)** Exemptions.

(4) Tax Planning in respect of Income from Capital Gains:

- **(a)** Sec 54
- **(b)** Sec 54EC
- **(c)** Sec 54F

(5) Tax Planning in respect of Income from Other Sources: There is not much planning in this head of Income except the exemptions and deductions.

Ethics in Taxation:

Ethics in taxation refers to extent of compliance with tax laws. Tax planning is lawful as it makes use of deductions, exemptions, rebates etc in accordance with the law. Whereas tax avoidance is unlawful as it makes use of loopholes in taxation laws to reduce the tax burden. Thus tax evasion attracts heavy penalties and prosecution.

Ethics can be seen from two angles:

- **(1)** Fundamental ethical principles to be followed by ICAI members in practice.
- **(2)** Ethical considerations from tax payer's angle.

Fundamental Ethical Principles to be followed by ICAI members in practice:

A professional accountant should:

- **(a)** Be honest in performing professional services.
- **(b)** Be fair and unbiased.
- **(c)** Respect confidentiality.
- **(d)** Act in the manner consistent with the good reputation of profession.
- **(e)** Rely on information provided by the client provided that the information appears reasonable.
- **(f)** In case of knowledge about material error or omission must advice client to revise the return.

Ethical Considerations from Tax Payer's Angle:

A tax payer's ultimate consideration is to minimize payment of tax. There are two ways to reduce tax impact: one is through lawful tax planning and second is through tax avoidance i.e. by finding loopholes in the tax laws. An assessee should provide correct information and furnish authentic records and should not resort to concealment, misrepresentation or willful omission.

Objective Type and Theory Questions

Objective Type Questions

(1) **(a)** **Rewrite the following sentences by selecting correct option.**

(1) TDS applicable on commission is __________%. (10, 2, 5)

(2) Filling of TDS returns electronically is mandatory for __________ deductor. (corporate, government, both)

(3) First due date of payment of advance tax of individual is __________ (15th Sept., 15th June, 15th Dec.)

(4) Speculative loss can be set off against __________ (Salary income, business income, speculative income)

(5) Due date of return of income for company is __________ (31st March, 30th Sept., 31st Oct.)

(6) Income from minor child is entitled for exemption of Rs. __________ per child. (1000, 1500, 2000)

(7) Dividend from Indian Company is __________ (taxable, exempt, partly exempt)

(8) Advance tax total installment to be paid by 15th December non corporate assessee is not less than __________ (60%, 30%, 80%)

(9) The assesse is liable to pay interest __________ for every month under section 234A. (1%, 1.5%, 2%)

(10) Service tax shall be __________ while deducting tax on rent. (excluded, included, none of the above)

Ans.: ***(1)*** *5%* ***(2)*** *corporate* ***(3)*** *15th September* ***(4)*** *speculative income* ***(5)*** *30th September* ***(6)*** *1500* ***(b)*** *exempt* ***(8)*** *60%* ***(9)*** *1%* ***(10)*** *excluded.*

(b) **State whether the following statements are true or false:**

(1) Due date for filling of return for all assessee on 30th June every year.

(2) Advance tax is payable if tax liability is more than Rs. 5,000.

(3) TDS under section 194 A is deducted at 15%.

(4) There are three due dates for payment of advance tax for companies.

(5) Short term capital loss can be set off against all income.

(6) Business loss includes speculation loss.

(7) Clubbing of income includes clubbing of losses.

(8) Non resident can claim relief under section 91.

(9) A firm can pay salary to its partner if there is a loss.

(10) Tax deducted on interest income is 5%.

Ans.: ***(1)*** *False* ***(2)*** *False* ***(3)*** *False* ***(4)*** *False* ***(5)*** *False* ***(6)*** *False* ***(b)*** *True* ***(8)*** *False* ***(9)*** *True* ***(10)*** *False.*

(2) **(A)** **Rewrite the following sentences by selecting correct option.**

(1) Due date of filing of return of income for a company is ________. (31st July, 30th Sept., 31st Dec.)

(2) Speculation loss can be carried forward upto ________ years. (4, 8, 6)

(3) First due date of payment of advance tax for an individual is ________. (15th Sept., 15th June, 15th Dec.)

(4) Business Loss can be set off against ________. (Salary income, Business income, Speculative income)

(5) Interest paid to partners on their capital cannot exceed _______%. (10, 18, 12)

(6) Loss from _______ cannot be set off. (Capital asset, Other sources, House property)

(7) Clubbing of income aims to prevent avoidance by ________ of income. (Diversion, Double taxation, Transfer)
(8) If rent is paid for Land and Building, TDS is to be deducted @ _________. (2%, 10%, 20%)
(9) TDS u/s 194 H is deducted @ ________ %. (10, 5, 20)
(10) Minor child _________ illegitimate child. (Includes, Excludes, None of the above)

[Ans.:* (1)** *30th September,* **(2)** *4,* **(3)** *15th September,* **(4)** *Business Income,* **(5)** *12,* **(6)** *Other Sources,* **(7)** *Diversion,* **(8)** *2%,* **(9)** *5%,* **(10)** *Excludes]**

(B) State whether the following statements are True or False:
(1) There are four due dates for payment of advance tax for companies.
(2) Resident Indian can claim relief under section 91.
(3) Clubbing of income includes clubbing of losses.
(4) TDS under section 194I is deducted @ 15%.
(5) There can be a loss under the head of income from salaries.
(6) Speculation loss can be set off against all income.
(7) Due date for filing of return for corporate assesses is 30th April every year.
(8) Advance tax is payable if tax liability is more than Rs. 15,000.
(9) Unabsorbed losses from house property cannot be carried forward.
(10) Partner's share in profits of the firm is exempt.

[Ans.:* (1)** *True,* **(2)** *True,* **(3)** *True,* **(4)** *False,* **(5)** *False,* **(6)** *False,* **(7)** *False,* **(8)** *True,* **(9)** *False,* **(10)** *True]**

Theory Questions

(1) (a) What are the steps to be followed for calculation of relief u/s 91?

Ans.: Step to find out Relief u/s 91:
(1) Compute the Net Taxable Income
(2) Find out the amount of Gross Tax
(3) Find out the Average Rate of Tax on NTI
A.R.T = Gross Tax payable *100/Net taxable Income.
(4) Find out the rate, at which the tax was deducted / paid in foreign country
(5) Find out the lower of rate tax from step no. 3 and 4.
(6) Relief u/s 91 Doubly taxed income included in NTI * Rate of Tax found out in Step No. 5.

(b) State the provisions for clubbing of remuneration received by spouse u/s 64 (1) (ii).

Ans.: The individual is taxable in respect of income arising to his/her spouse directly or indirectly if the following conditions are satisfied:
(1) The nature of income arising to the spouse is salary, commission, fees or any other form or remuneration whether in cash or in kind.
(2) Such income is received from a concern in which such individual has a substantial interest.

Exception where income is not included:
(1) Any income other than the income specified above shall not be clubbed, even if it accrues to spouse from the concern in which the assesse has substantial interest.
(2) If the spouse possesses technical or professional qualification and the income is solely attributable to the application of his or her technical or professional knowledge and experience then the above clubbing provisions are not applicable.

If husband and wife both have substantial interest and both receive remuneration:

Where both husband and wife have substantial interest in a concern and both are in receipt of income form the said concern without technical or professional qualification, such income will be includible in the hands of that spouse, whose total income, excluding such income is higher.

OR

(1) Write short notes on:

(a) Remuneration to Partners.

Ans.:

(1) Remuneration should be paid only to a working partner.

(2) Remuneration must be authorized by the partnership deed.

(3) Remuneration should not pertain to period prior to partnership deed.

(4) Remuneration should not exceed the permissible limit.

(b) Belated Return.

Ans.: U/S. 139 (4):

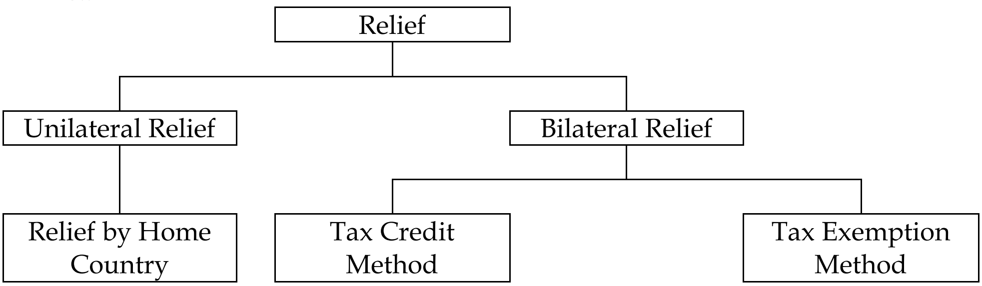
Any person who has not furnished a return within the time allowed u/s. 139 (1) or within the time allowed by the notice issued u/s. 142 (1) can file a belated return for any previous year at any time before one year from the end of the relevant assessment year or before the assessment is completed, whichever is earlier.

(c) Due dates of Advance tax by companies.

Ans.: 15th June, 15th September, 15th December, and 15th March.

(d) Double Taxation Relief.

Ans.:



(e) Interest u/s 234A.

Ans.:

(1) The assesse is required to pay interest u/s 234 A in respect of his default in furnishing return of income within the given time.

(a) Where the return of income for any assessment year is furnished after the due date specified in Section 139 (1), 139 (4) or after the time allowed in the notice issued u/s 142 (1). OR is not furnished at all the assesse shall be liable to pay simple interest @ 1% for every month or part of a month.

(2) The interest u/s 234 A is applicable on the tax on assessed income and not on the tax on returned income.

(2) (a) Explain Double Taxation Relief.

Ans.: A person, whose income has been taxed twice, would face genuine hardship and he therefore, needs some relief. There are following two types of Double Taxation Relief which can be provided to such persons:

(i) Unilateral Relief: Where only one country comes forward to provide relief, then it is called as Unilateral Relief. This is possible only in a case, where there is no DTAA between Indian and the other country. In such situation Government of India will provide double taxation u/s 91 of the Income Tax Act. Such one side relief offered by Government of India is called Unilateral Relief. However, such unilateral relief will be provided only to those who are residents of India.

(ii) **Bilateral Relief:** Where both the countries provide relief, it is called as Bilateral Relief. Under this, the Government of India will enter into a DTAA with the Government of Foreign country u/s 90 of the Income Tax Act, to provide relief from double taxation.

If there is a DTAA between GOI and the foreign Government, then bilateral relief can be provided by either of the following two methods:

(i) **Tax Credit Methods:** Under this method, tax will have to pay in both the countries. However, one of the countries will give credit for the tax paid in the other country on doubly taxed income.

(ii) **Tax Exemption Methods:** Under this method, income will be taxed in any one country only and the other country will exempt such income from taxability in that country.

(b) Provisions of clubbing of income from minor child [Section 64 (1A)]

Ans.: Income of a minor child is required to be added to the income of his/her parent.

As per definition of child u/s 2 (15B), it includes a step child and adopted child.

The income of the minor child only up to the date of attaining majority is to be clubbed in the hands of the parents.

Clubbing of Minor's income shall be in father's hands or mother's hands: Income of a minor child shall be clubbed with the income of his either of the parents whose total income is higher.

Exception: The clubbing as provided in Section 64(1A) shall not be applicable in the following cases;

(1) Income arises to minor child due to his manual work or

(2) Income to minor child due to his skill, talent, specialized knowledge or experience or

(3) If the minor child is suffering from any disability specified u/s 80U.

OR

(2) Write short notes on:

(a) Inter-head adjustment u/s 71:

Ans.: Loss of any head can be set off against income of any other head within the same year. Thus if the net result of computation under any head of income is a loss, the assesses is entitled to have such amount of loss set off against the income under any other head of income within the same year. However, the following rule does not apply to the following activities.

(i) Speculation Loss cannot be adjusted against any other income.

(ii) Loss from activity of owning and maintaining race horses cannot be adjusted against any other income.

(iii) Loss under the Capital Gain cannot be adjusted against any other income.

(iv) Loss under the head Income from business/profession cannot be adjusted against income under the head salary.

(b) Defective return:

Ans.: It is essential that the return filed should be correct and complete in all respects and should be accompanied by necessary attachments and proofs etc. required. Else it would be considered as defective return.

Where the AO considers that the return of income furnished by the assesses is defective, he may intimate the defect to the assesses for rectifying the same within 15 days from the date of such intimation or within such further period which he may grant, on an application made in his behalf.

(c) TDS from commission or brokerage:

Ans.: Deduct TDS, if commission or brokerage paid exceeds Rs. 5,000 p.a.

Above provision is not applicable on any commission or brokerage payable by BSNL or MTNL or their PCO franchisees.

Payer:

Any person other than individual and HUF who are not subject to tax audit in the preceding financial year.

Payee:

Any Resident Person

TDS RATES:

Individual/HUF/BOI – 10%

Company/Firms etc. 10%

(d) Loss from House Property:

Ans.: Where the net result of computation of income for any assessment year under the head income from house property is a loss which cannot be or is not completely set off against income under other heads, such loss (i.e. unabsorbed loss) can be carried forward to next 8 years for set off against house property income only.

(e) Interest u/s 234A:

Ans.:

(1) The assesses is required to pay interest u/s 234A in respect of his default in furnishing return of income within the given time. The salient features of section 234A are as follows:

(i) Where the return of income for any assessment year is furnished after the due date specified in section 139(1), 139(4) or after the time allowed in the notice issued u/s 142(1) or is not furnished at all, the assesses shall be liable to pay simple interest @ 1% for every month or part of a month.

(ii) The interest shall be payable for the period commencing from the date immediately following the due date and

(a) Where the return is furnished after the due date, ending on the date of furnishing return or

(b) where no return has been furnished, ending on the date of completion of assessment u/s 144

(2) The interest u/s 234A is applicable on the tax on assessed income and not on the tax on returned income.

(3) Where in relation to an assessment year an assessment is made for the first time u/s 147 or u/s 153A, the assessment so made shall regarded as regular assessment for this purpose.

(4) The final interest payable u/s 234A shall be reduced by any interest paid u/s 140A towards interest chargeable under this section.