

Volume-III

17th Edition

ASSESSMENT YEAR 2020-21

Updated -

- ★ **Finance Act 2019**
- ★ **Finance (No. 2) Act 2019**
- ★ **The Taxation Laws (Amendment) Ordinance, 2019**

DIRECT TAX



CA SURAJ AGRAWAL

CA Rank Holder, CPA (USA), B.COM (H)



23 Rank Holder from Tax Batch of CA Suraj Agrawal Sir

GST Update:- <https://t.me/joinchat/AAAAAEplsO9j8tetlCbMVg>

DT Update:- https://t.me/joinchat/AAAAAFH_YN5_oFnF4OqZMw

<https://www.facebook.com/suraj.agrawal.564>

<https://www.facebook.com/SurajAgrawalTaxationClasses.satc/>

https://www.youtube.com/channel/UCv-ybxFp_X9EWiei7YhZQmw

Congratulation



AIR-3

Parveen Dutt Sharma



AIR-7

Mohit Garg



AIR-11

Firoz Khan



AIR-13

Megha Singhal



AIR-17

Om Prakash Jha



AIR-22

Arun Shekher



AIR-22

Sachin Arora



AIR-23

Neeraj



AIR-24

Pradeep



AIR-25

Anurag Pant



AIR-26

Mohit Garg



AIR-27

Vivek Sharma



AIR-31

Sonu Singh



AIR-33

Rhythm Jain



AIR-35

Chetan Aggarwal



AIR-35

Sumit Saini



AIR-36

Vineet Kumar



AIR-38

Sonu Singh



AIR-42

Anee Duivedi



AIR-45

Bharat Bhusan



AIR-47

Arun Shekher



AIR-48

Tushar Sethi



Tax-84 Marks

Kamna Gupta



Next

SURAJ AGRAWAL TAX CLASS

D-323, Gali No.12, Ameena Complex, 3rd Floor, Lalita Park.

Laxmi Nagar, Delhi-110092,

Ph.No +91-8527230445, 011-4754 2530



THIS BOOK HAS BEEN A REALITY
ONLY BECAUSE OF MY FAMILY &
STUDENTS.

CA SURAJ AGRAWAL

PREFACE

Taxation is a dynamic subject, which is not only a vast subject but also difficult to comprehend in view of frequent amendments. Yet it is the scoring subject of your syllabus. In addition, practice in the field of Taxation is also highly remunerative.

My association with the students has helped me to bring this book in its present form – simplified, comprehensive and easy to understand.

The present edition of this book is designed to bridge the gap between theory & applications and incorporates the following:

- ❖ **Updated with Finance Act 2019 & Finance (No. 2) Act 2019 (AY 2020-21)**
- ❖ **Updated with The Taxation Laws (Amendment) Ordinance 2019**
- ❖ **Income-tax (9th Amendment) Rules, 2019**
- ❖ Covers entire syllabus with theoretical concepts, examples etc
- ❖ Contains more than 1000 practical problems with solutions
- ❖ Chapter-wise short notes (**separate volume**) for revision purpose.

Hope this book serves the purpose of the students. I shall be thankful to the readers for their suggestions, criticism and feedback if any.

Email: suraj.agrawal@hotmail.com

Contact: 85272 30445 (Call or Whatsapp); 01147542530

ACKNOWLEDGEMENT

This book is a result of sincere efforts of our family members, colleagues, associates, well-wishers and students, whose contribution cannot go unacknowledged.

Master Reyaan, my wife **CA Monika Agrawal** and my mother deserve special mention for the time (on which they had the first right) they allowed me for this book.

I dedicate this book to my beloved late grandparents & Papa.

CA Suraj Agrawal

Updated as on 15.12.2019 (17th Edition – 2nd Print)

“One more step towards success”

PROFILE – CA SURAJ AGRAWAL

CA Suraj Agrawal is a Commerce Graduate [B.Com (H)] from Kolkata University and has qualified CA in November 2005 in First Attempt from Kolkata. He has also secured All India **27th Rank in CA-Foundation** – 1st level (First Attempt – 70% marks).

Besides CA, he has completed **Certification Course of International Taxation** of the ICAI in 2009. He has also qualified **CPA (Certified Public Accountant) examination from AICPA (USA)** in 2009 with more than 90 Marks in each of four papers in First Attempt *[Presently, he is inspired to complete CIMA, London as well as LLM in International Taxation (UK) by Year 2024]*

He started his career by joining Direct Tax Department of **Reliance Industries Limited, Mumbai** and worked for near 2 years in core tax team. He has also worked in Taxation Division of **Chaturvedi & Shah (Chartered Accountants), Delhi** followed by Tax Division of **Ernst & Young, Gurgaon, India** (A Leading Big 4 Firm having International Presence). During the working tenure of more than 4 years, he is exposed to in-depth theoretical and practical knowledge of Direct Taxation & has a consultancy exposure in various industries including Energy - Oil & Gas, Airlines, Retail, Infrastructure and Shipping Industries.

With the above academic and practical knowledge, he is in teaching profession from more than 10 years to serve professional students (taught 15,000 CA/CMA Students till date). ***His in-depth coverage of legal provisions in Tax with practical approach is very well recognized among the students.*** He is also an associate member of ICAI and is also providing services as Tax Consultant to various organisations.

He was also a member in WTO, FEMA & International Tax Study Group of the NIRC of the ICAI for the year 2011-12 and was member of ***International Taxation & FEMA Research Study Group of NIRC of the ICAI*** for the year 2010-11. He is regularly contributing tax articles and various opinions on subjects of Direct Taxation including International Taxation in various leading magazines [Taxmann] and professional forums.

CA Suraj Agrawal

“CA Rank Holder, Qualified CPA (USA), B.Com(H)”

Email: suraj.agrawal@hotmail.com

Contact: +91 85272 30445 / 011 4754 2530

Subjects: CA Inter / CMA Inter / CMA Final - DT & IDT

FB: <http://www.facebook.com/suraj.agrawal.564>

https://www.youtube.com/channel/UCv-ybxFp_X9EWiei7YhZQmw

<https://www.facebook.com/Surajagrawaltaxationclasses.satc>

CONGRATULATIONS

CA INTERMEDIATE/IPCC RESULT AT SATC

Students Successfully Completed Group 1 or Both Group

S.NO	NAME	ROLL NUMBER	MARKS IN TAX
1	MEGHA KUMARI SINGHAL (All India Rank 13)	341001	77
2	VAIBHAV SAINI	817284	70
3	OSIM AKHTAR	328098	70
4	RAGHAV MANGLA	651375	69
5	PUNEET	325987	67
6	SUJIT KUMAR SHAH	508842	65
7	SURYANSH RASTOGI	804115	65
8	SAMIKSHA PANDEY	637869	65
9	RAJNISH PANDEY	345099	64
10	FATIMA	635666	64
11	SUNIL KUMAR	635526	64
12	VARUN MUNJAL	729537	64
13	MUSKAN MOURYA	336951	63
14	MUDASSIR	815904	63
15	NAVENDU SHARMA	815548	63
16	SHUBHAM GUPTA	343489	62
17	AKASH KUMAR	815849	62
18	DEVENDER	635594	62
19	ABHISHEK PANT	328056	62
20	KISHAN	520305	62
21	PRATEEK GUPTA	399180	62
22	PRINCE TYAGI	344697	61
23	POOLKIT	815940	61
24	NIRAJ KR SINGH	636316	61
25	RAHUL SINGH	635669	61
26	SALMAN AHMED	326069	60
27	PARAS KHURANA	813333	58
28	SANJAY KHADKA	520344	58
29	NIDHI UTREJA	352431	57
30	PRABIN GUPTA	344472	57
31	VIKASH KUMAR	336504	57
32	MUNNA KUMAR KAPOOR	343467	57
33	AJAY KUMAR	639946	57

34	FAISAL SAHID	639261	57
35	ANJAN KUMAR BHARTIA	344271	56
36	RADHIKA MODI	510990	56
37	VINEET KUMAR (All India Rank 36)	337925	56
38	DEEPANSHU GUPTA	346496	56
39	RAJAT GOYAL	814758	55
40	SUPRIYA CHAUHAN	330769	55
41	PRAMOD KUMAR	431053	54
42	DIKSHA AGRAWAL	635923	54
43	FAIZ	328101	54
44	ASHUTOSH DIXIT	344503	53
45	ABHISHEK AWASTHI	339998	53
46	LALIT MOHAN JOSHI	816589	53
47	AMBIKA GARG	816052	53
48	AGAMLEEN KAUR	509284	52
49	SIDDHARTH JOSHI	344311	52
50	NIRAJAN KUMAR SHAH	346548	52
51	VIVEK KUMAR	346220	51
52	LAV KUMAR PATHAK	345956	51
53	KUNAL GARG	343966	49
54	PRAKHAR GARG	346213	49
55	RIYA BHALLA	424268	49
56	KAMLESH MEHRA	636192	49
57	ADITYA KR JHA	643454	49
58	KRITI AWASTHI	341017	48
59	DEEPAK TIWARI	346638	48
60	RAJNISH DUBEY	330946	47
61	AMAN BANSAL	501643	46
62	KAMAL PRAJAPATI	360459	44
63	JAI KUMAR	816631	43

THANKS TO ALL OF YOU

SURAJ AGRAWAL TAX CLASSES

8527230445, 01147542530

CONGRATULATIONS

CMA FINAL INDIRECT TAX/GST RESULT FROM SATC

S. NO.	NAME OF STUDENTS	REGISTRATION NUMBER	MARKS IN IDT	EXAM
1	PARAS JAIN (AIR 42)	4141009584	84	Jun-19
2	AMARDEEP	4151002203	79	Dec-18
3	SHREY GUPTA	4151004191	77	Dec-18
4	VASUDEVAN KALASHASTHY	4161004499	75	Jun-19
5	ASHISH SINGH	4142005774	74	Dec-18
6	PANKAJ TRIVEDI	14092006037	68	Jun-19
7	RAVI GUPTA	4132003787	65	Dec-18
8	SHUBHAM GUPTA	4151001994	64	Dec-18
9	KETAN JAIN	4112022182	64	Dec-17
10	JAVED AKHTAR	4122012930	63	Dec-18
11	KAPIL SHARMA	4152003027	63	Jun-19
12	MD. SAIF	4142003895	63	Dec-17
13	MOHD. ADIL	4142010375	61	Jun-18
14	MANISHA BHATIA	4162001141	61	Jun-19
15	RAHUL YADAV	4151003566	60	Jun-19
16	SYED SHABAD ALAM	3151001485	60	Jun-19
17	SHIVEK MADAN	4152000047	59	Jun-19
18	ANKITA NAGPURKAR	4151008311	58	Jun-18
19	NIKHIL	4152006069	58	Jun-19
20	VISHAL CHAUHAN	4122005659	57	Dec-18
21	NAVEEN GOSWAMI	414100550	56	Jun-19
22	ANURAG PANT	4132012214	56	Dec-17
23	NISHTHA AGRAWAL	4121009440	55	Jun-18
24	HIMANSHU TYAGI	4132000652	55	Jun-18
25	APOORV JAISWAL	4142003143	55	Jun-19
26	SHILPA AGGARWAL	4151003054	54	Jun-18
27	HIMANSHU JAIN	4142010175	54	Jun-18
28	ANUP	4121013398	53	Dec-18
29	MD. SHAHNAWAZ HUSSAIN	4132009413	53	Dec-17
30	AMIT KR KASHYAP	4142005646	52	Dec-18
31	SUMIT	4131008313	49	Jun-19
32	AMIT YADAV	4121000259	44	Jun-19

SURAJ AGRAWAL TAX CLASSES

LAXMINAGAR | 8527230445 , 01147542530

SURAJ AGRAWAL TAX CLASSES, LAXMINAGAR, NEW DELHI

GST BATCH RESULTS FROM SATC IN LAST 2 ATTEMPTS AT CMA INTER

60 students have got 60+ marks in these 2 attempts

S.NO	NAME	REG. NO	IDT MATKS
1	PREETI RAWAT	`04171007477	79
2	ASHISH SHIYANI	`04151005102	76
3	RAJNESH GUPTA	`04151004925	74
4	GAURANG RAJPAL	`04152005198	73
5	MAYANK BATRA	`04171010401	73
6	ATUL JAYANT	`04132002741	71
7	MD.SHAHBAZ IDDRISI	`04161000406	71
8	AMIT SHARMA	`04161001090	70
9	ROHAN HEERA	`04152006198	70
10	PRADEEP SINGH KANDARI	`04171006214	69
11	ABHINAV PANNU	`04152006249	69
12	SOUVAGYA GERU	`04162003079	69
13	DEEPANJALI	`04181035932	69
14	MAHIMA THREJA	`04171007005	68
15	HITESHEE SHARMA	`04162000658	68
16	VIABHAV SRIVASTAVA	`04152003904	68
17	RAHUL KR. SONI	`04171006939	68
18	ANKUSH GUPTA	`04162003134	67
19	PRIYA AGRAWAL	`04152002867	67
20	SNEHA	`04152003288	66
21	NEELABH SRIVASTAVA	`04151002871	66
22	SANJOLI JAIN	`04151004777	65
23	MOHIT UPADHYAY	`04171011775	65
24	NANCY JAIN	`04171012943	65
25	KARTIK BHATT	`04162003301	64
26	HIMANI AGGARWAL	`04171009548	64
27	SHIVAM SINGH	`04171006774	64
28	SWADHA CHITRANSH	`04162000395	64
29	KARAN PANESHR	`04171013462	64
30	RAHUL NEGI	`04142001226	64
31	AVINASH KUMAR	`04132003466	64
32	ANURAG	`04171013969	63
33	SALONI MITTAL	`04171007814	63
34	ANKIT SINGH	`04131000362	63
35	AMRITA VIDWAN	`04161001976	63
36	PANKAJ	`04162002704	63
37	ANKIT SINGH	`04131000362	63
38	PANKAJ RAWAT	`04162002704	63
39	ABHISHEK PARASHAR	`04171008310	63
40	AMAN GUPTA	`04171011461	63
41	ROHIT SATI	`04141004707	62
42	SHOBHIT KR. YADAV	`04162002512	62
43	DINESH SINGH	`04152004116	62
44	NEHA SHARMA	`04162003239	62

45	KULDEEP RAWAT	`04152004253	62
46	SAURABH JAIN	`04151006110	62
47	NANDINI ANAND	`04171015462	61
48	MAYANK GARG	`04162003405	61
49	FARHEEN NAAZ	`04171015009	61
50	KRATIKA KIRAR	`01142009362	61
51	OMKAR SINGH	`04112018993	61
52	FAHREEN NAAZ	`04171015009	61
53	RAM SHARMA	`04151007483	61
54	VINAY SHARMA	`04162000208	60
55	PARVEJ ALAM	`04162000312	60
56	VIVEK UPADHYAY	`04171006249	60
57	BHARTI	`04171014248	60
58	ANAND VALLABH OLI	`04161004350	60
59	PRINCE GOYAL	`04152006085	59
60	VIKALP KUMAR	`04161000373	59
61	NEHA SURATIYA	`04142001231	59
62	NISHA KUMARI	`04142001150	58
63	ANURADHA MISHRA	`03162004159	58
64	KAMINI	`04161000149	57
65	DEEPAK KR KAMAT	`04142006457	55
66	VIVEK PRASAD	`04171009533	54
67	SIMRAN SINHA	`04171006940	54
68	MOHINI AGRAWAL	`04152005687	53
69	VIKRANT JHA	`04162002126	52
70	KAVITA RAWAT	`04171006492	52
71	MOHIT ARYA	`04172018239	52
72	BUNTI/VINAY	`04171007024	52
73	PUNEET TIWARI	`04162005106	51
74	SAURAV KUMAR	`04161001645	51
75	KAVITA	`04151000769	51
76	VISHAL KESARWANI	`04171014398	51
77	VARUN MOR	`01172016485	50
78	SHALENDER SEMWAL	`04142005213	49
79	PRIYA RAHI	`04162003080	48
80	NEHA KASHYAP	`04161002757	48
81	YOGESH	`04172018166	48
82	JAYED SAIFI	`04171011777	47
83	GUNDEEP SINGH GILL	`04161006711	46
84	RAHUL	`04151000891	45
85	NISHTHA JAIN	`04181030186	42
86	SHIVANGI BISHT	`04171008407	41
87	MOHAMMAD MOMIN	`04142002305	40

THANK YOU

SURAJ AGRAWAL TAX CLASS

LAXMINAGAR / 01147542530 / 9953006445

CONGRATULATIONS to 24 Qualified CMAs

CMA FINAL RESULT AT SATC IN DEC 2018 EXAM ALONE

List A : CMA FINAL IDT STUDENTS OF DEC 2018 EXAM

S.NO	NAME	REG. NO	IDT MARKS	REMARKS
1	AMARDEEP	`04151002203	79	Qualified CMA Exam
2	ASHISH SINGH	`04142005774	74	Now in Group 3
3	RAVI GUPTA	-	65	-
4	SHUBHAM GUPTA	-	64	-
5	JAVED AKHTAR	`04122012930	63	Qualified CMA Exam
6	VISHAL CHAUHAN	`04122005659	57	Qualified CMA Exam
7	ANUP	`04121013398	53	Now in Group 3
8	AMIT KR KASHYAP	`04142005646	52	Now in Group 3

List B : CMA FINAL DT STUDENTS OF DEC 2018 EXAM

S.NO	NAME	REG. NO	DT Marks	REMARKS
9	SUDHANSHU MITTAL	`04131008556	65	Qualified CMA Exam
10	RAHUL GARG	`04141001245	61	Qualified CMA Exam
11	SHWETA KUMARI	`04141002305	56	Qualified CMA Exam
12	GAURAV JINDAL	`04122001570	55	Qualified CMA Exam
13	SHEKAR KUMAR	`04151008360	55	Qualified CMA Exam
14	PRABHAKAR JOSHI	`04161000574	55	Qualified CMA Exam
15	GAYATRI VAISHYA	`01121011179	54	Qualified CMA Exam
16	ABHISHEK VERMA	`04141002173	51	Qualified CMA Exam
17	JYOTI GUPTA	`04131000233	50	Qualified CMA Exam
18	VISHAL CHAUHAN	`04122005659	49	Qualified CMA Exam
19	RAHUL KUMAR	14091008266	49	Now in Group 4
20	HARIOM DIXIT	`04141002980	48	Qualified CMA Exam
21	SADAN KUMAR	`04151004320	48	Now in Group 4
22	SHIVAM KESHARI	`04142001531	48	Qualified CMA Exam
23	SHIVAM KAUSHAL	14111016972	47	Qualified CMA Exam
24	VASUDEVAN	`04161004499	45	Now in Group 4
25	BABITA	`04132008019	45	Now in Group 4
26	ARCHANA SHAH	`01121001048	45	Qualified CMA Exam
27	ANANT	`04142008583	43	Qualified CMA Exam
28	DEEPAK KR CHAUBEY	13101006604	43	Qualified CMA Exam
29	V VARSHA	`04161606057	42	Qualified CMA Exam
30	HIMANSHU TYAGI	`04132000652	41	Qualified CMA Exam
31	AVINASH RAJBHAR	`04132012507	41	Qualified CMA Exam
32	SURAJ KANOJIA	`04152004596	41	Qualified CMA Exam
33	VIKAS AHLAWAT	`04141001740	40	Qualified CMA Exam

SURAJ AGRAWAL TAX CLASS

LAXMINAGAR / 01147542530 / 9953006445

CONGRATULATIONS

CMA INTER RESULT AT SATC IN DEC 2018 EXAM ALONE

List A : Students cleared Both Group of CMA Inter & Now in CMA FINAL

1	DEEPANJALI	`04181035932	NOW IN CMA FINAL
2	ABHISHEK PANDEY	`04162003486	NOW IN CMA FINAL
3	AMRITA VIDWAN	`04161001976	NOW IN CMA FINAL
4	ISHIKA KHANDELWAL	`04181033400	NOW IN CMA FINAL
5	JAYED SAIFI	`04171011777	NOW IN CMA FINAL
6	KAJAL NEGI	`04161002549	NOW IN CMA FINAL
7	KAVITA RAWAT	`04171006492	NOW IN CMA FINAL
8	MIHIR KUMAR	`04172020200	NOW IN CMA FINAL
9	MOHIT ARYA	`04172018239	NOW IN CMA FINAL
10	NEHA RANA	`04181031694	NOW IN CMA FINAL
11	NEHA SHARMA	`04162003239	NOW IN CMA FINAL
12	OMPRAKASH KUMAR	`04151004795	NOW IN CMA FINAL
13	PRIYA RAHI	`04162003080	NOW IN CMA FINAL
14	PUNEET TIWARI	`04162005106	NOW IN CMA FINAL
15	RAHUL	`04151000891	NOW IN CMA FINAL
16	SAMARJEET SINGH	`04181027869	NOW IN CMA FINAL
17	VIVEK PRASAD	`04171009533	NOW IN CMA FINAL

List B : Students cleared 1st or 2nd Group & Now in CMA FINAL

18	ANAND VALLABH OLI	`04161004350	NOW IN CMA FINAL
19	ANKIT SINGH	`04131000362	NOW IN CMA FINAL
20	ANURADHA MISHRA	`03162004159	NOW IN CMA FINAL
21	RAHUL NEGI	`04142001226	NOW IN CMA FINAL
22	AYUSH DHONDIYAL	`04172018516	NOW IN CMA FINAL
23	BHARTI	`04171014248	NOW IN CMA FINAL
24	BUNTI/VINAY	`04171007024	NOW IN CMA FINAL
25	DEEPAK KR KAMAT	`04142006457	NOW IN CMA FINAL
26	FAHREEN NAAZ	`04171015009	NOW IN CMA FINAL
27	GUNDEEP SINGH GILL	`04161006711	NOW IN CMA FINAL
28	KAMINI	`04161000149	NOW IN CMA FINAL
29	KARAN PANESCHAR	`04171013462	NOW IN CMA FINAL
30	KAVITA	`04151000769	NOW IN CMA FINAL
31	KIRAN	`04152006169	NOW IN CMA FINAL
32	KULDEEP RAWAT	`04152004253	NOW IN CMA FINAL
33	MADHURI KUMARI	`04171014151	NOW IN CMA FINAL

SURAJ AGRAWAL TAX CLASS

LAXMINAGAR / 01147542530 / 9953006445

CONGRATULATIONS

CMA INTER RESULT AT SATC IN DEC 2018 EXAM ALONE

List B : Students cleared 1st or 2nd Group & Now in CMA FINAL

34	MAYANK BATRA	`04171010401	NOW IN CMA FINAL
35	MOHD. SHAHBAZ	`04161000406	NOW IN CMA FINAL
36	MOHINI AGRAWAL	`04152005687	NOW IN CMA FINAL
37	MOHIT UPADHYAY	`04171011775	NOW IN CMA FINAL
38	NEELABH SRIVASTAVA	`04151002871	NOW IN CMA FINAL
39	NEHA KASHYAP	`04161002757	NOW IN CMA FINAL
40	NEHA SURATIYA	`04142001231	NOW IN CMA FINAL
41	NIKHIL KUMAR	`04142001898	NOW IN CMA FINAL
42	OMKAR SINGH	`04151007144	NOW IN CMA FINAL
43	OMKAR SINGH	`04112018993	NOW IN CMA FINAL
44	OWAIS	`04142011578	NOW IN CMA FINAL
45	PANKAJ	`04162002704	NOW IN CMA FINAL
46	PANKAJ RAWAT	`04162002704	NOW IN CMA FINAL
47	PRINCE GOYAL	`04152006085	NOW IN CMA FINAL
48	PRIYA AGRAWAL	`04152002867	NOW IN CMA FINAL
49	PUNIT KUMAR	`14092007508	NOW IN CMA FINAL
50	PURUSHOTAM KUMAR	`03152004176	NOW IN CMA FINAL
51	RAHUL NEGI	`04142001226	NOW IN CMA FINAL
52	SAURABH JAIN	`04151006110	NOW IN CMA FINAL
53	SAURAV KUMAR	`04161001645	NOW IN CMA FINAL
54	SHALENDER SEMWAL	`04142005213	NOW IN CMA FINAL
55	SHIVAM GUPTA	`01142006142	NOW IN CMA FINAL
56	SHIVAM SINGH	`04171006774	NOW IN CMA FINAL
57	SHIVANGI BISHT	`04171008407	NOW IN CMA FINAL
58	SIMRAN SINHA	`04171006940	NOW IN CMA FINAL
59	SONALI	`04151008330	NOW IN CMA FINAL
60	SWADHA CHITRANSH	`04162000395	NOW IN CMA FINAL
61	UMESH	`04161001647	NOW IN CMA FINAL
62	VARUN MOR	`01172016485	NOW IN CMA FINAL
63	VIDYA P	-	NOW IN CMA FINAL
64	VIKALP KUMAR	`04161000373	NOW IN CMA FINAL
65	VIPIN	`04151006112	NOW IN CMA FINAL
66	VISHAL CHAUHAN	`04172021373	NOW IN CMA FINAL
67	VISHAL KESARWANI	`04171014398	NOW IN CMA FINAL
68	YOGESH	`04172018166	NOW IN CMA FINAL

SURAJ AGRAWAL TAX CLASS

LAXMINAGAR / 01147542530 / 9953006445

CONGRATULATIONS

CMA INTER RESULT AT SATC IN DEC 2018 EXAM ALONE

List C : Students cleared First OR Second Group of CMA Inter

69	ABHISHEK PARASHAR	`04171008310	NOW IN GROUP - 1
70	AMAN GUPTA	`04171011461	NOW IN GROUP - 1
71	AVINASH KUMAR	`04132003466	NOW IN GROUP - 1
72	NANCY JAIN	`04171012943	NOW IN GROUP - 1
73	NISHTHA JAIN	`04181030186	NOW IN GROUP - 1
74	RAM SHARMA	`04151007483	NOW IN GROUP - 1
75	ANKIT SHARMA	`04152003376	NOW IN GROUP - 2
76	DHARMESH SHARMA	`04152004215	NOW IN GROUP - 2
77	GAGAN CHAUHAN	`04112021154	NOW IN GROUP - 2
78	HIMANSHU SINGH BASNAL	`04181023904	NOW IN GROUP - 2
79	MD. ZAYAUL HAQUE	`03151008179	NOW IN GROUP - 2
80	MOHAMMAD ZOHAIB	`04181033459	NOW IN GROUP - 2
81	RAHUL MAITHANI	`04151000047	NOW IN GROUP - 2
82	RIDHI SINGH	`01452001869	NOW IN GROUP - 2
83	SHIVAM CHAUHAN	`04181033342	NOW IN GROUP - 2
84	SURAJ BISHT	`04181025181	NOW IN GROUP - 2
85	VAISHALI CHAUHAN	`04171009980	NOW IN GROUP - 2
86	VARSHA	`04141006563	NOW IN GROUP - 2

THANK YOU TO ALL OF YOU

SURAJ AGRAWAL TAX CLASS

CONGRATULATIONS

CMA FINAL DT & IDT RESULT FROM SATC

1. CMA DIVYA KHANDELWAL	74 Marks in Tax	June 2017
2. RUCHI GOEL	72 Marks in DT	June 2018
3. CMA PARVEEN DUTT SHARMA	AIR-3 (67 Marks in Tax)	Dec 2017
4. CMA MOHIT GARG	AIR-7	June 2017
5. CMA ARUN SHEKHAR	AIR-22	Dec 2017
6. CMA SACHIN ARORA	AIR-22	June 2017
7. CMA ANURAG PANT	AIR-25 (61 Marks in DT)	Dec 2017
8. CMA SONU KUMAR	AIR-38	Dec 2017
9. CMA BHARAT BHUSAN	AIR-45	June 2015
10. SANJAY	66 Marks in DT	June 2018
11. CMA Avish Bajaj	65 Marks in Tax	June 2016
12. CMA Sandeep Kumar	65 Marks in Tax	Dec 2015
13. JAVED AKHTAR	65 Marks in Tax & 58 Marks in IDT	Dec 2017/June 2018
14. CMA Bharati Bhatia	65 Marks in Tax	Dec 2015
15. SIMRAN SARKAR	65 Marks in Tax	Dec 2015
16. CMA Lavi KAMBOJ	65 Marks in Tax	Dec 2015
17. CMA HIMANSHU JAIN	65 Marks in DT & 54 in IDT	June 2018
18. CMA MD. ADIL	65 Marks in DT & 61 in IDT	June 2018
19. CMA NITU	64 Marks in DT	Dec 2017
20. CMA AQIB NAZAR	63 Marks in DT	June 2017
21. CMA LALIT JEENA	62 Marks in DT	Dec 2017
22. HIMANSHU SHARMA	60 Marks in DT	June 2017
23. CMA RICHA AGARAWAL	60 Marks in Tax	Dec 2017
24. CMA ANIL SHARMA	60 Marks in Tax	Dec 2017
25. CMA RITU BHATT	60 Marks in DT	June 2018
26. CMA ANITA SHARMA	59 Marks in DT	Dec 2017
27. CMA SANKET GUPTA	59 Marks in DT	Dec 2017
28. AMARDEEP	57 Marks in DT	June 2018
29. CMA ANKITA NAGPUR	56 Marks in DT	Dec 2017
30. SUMEET KUMAR	56 Marks in Tax	June 2016
31. TARIQUE ARSHAD	56 Marks in DT	June 2018
32. CMA KAPIL DHINGRA	55 Marks in DT	Dec 2017
33. CMA KETAN JAIN	55 Marks in DT & 64 Marks in IDT	June 2017/Dec 2017
34. CMA KAPIL DHINGRA	55 Marks in DT	Dec 2017
35. CMA SHALINI KAMBOJ	55 Marks in Tax	Dec 2015
36. CMA NISHTHA AGARWAL	48 Marks in DT & 55 Marks in IDT	June 2018
37. CMA MD. SAIF	46 Marks in DT & 63 Marks in IDT	June 2017/Dec 2017
38. MEHAK MALHOTRA	61 Marks in IDT	June 2018

.....& Many More

CONGRATULATIONS

CMA INTER IDT/GST RESULT FROM SATC

June 2018 EXAM - 1st GST BATCH

1. PREETI RAWAT (VIDEO)	79 Marks in IDT/GST	June 2018
2. ASHISH SHIYANI (F2F)	76 Marks in IDT/GST	June 2018
3. CHANDA (F2F)	75 Marks in IDT/GST	June 2018
4. RAJNESH GUPTA (Video)	74 Marks in IDT/GST	June 2018
5. GAURANG RAJPAL (F2F)	73 Marks in IDT/GST	June 2018
6. ATUL JAYANT (Video)	71 Marks in IDT/GST	June 2018
7. AMIT SHARMA (F2F)	70 Marks in IDT/GST	June 2018
8. ROHAN HEERA (Video)	70 Marks in IDT/GST	June 2018
9. ABHINAV PANNU (Video)	69 Marks in IDT/GST	June 2018
10. SOUVAGYA GERU (Video)	69 Marks in IDT/GST	June 2018
11. PRADEEP SINGH KANDARI (Video)	69 Marks in IDT/GST	June 2018
12. MAHIMA THREJA (Video)	68 Marks in IDT/GST	June 2018
13. VAIBHAV SRIVASTAVA (Books)	68 Marks in IDT/GST	June 2018
14. HITESHEE SHARMA (Video)	68 Marks in IDT/GST	June 2018
15. ANKUSH GUPTA (F2F)	67 Marks in IDT/GST	June 2018
16. SNEHA (Video)	66 Marks in IDT/GST	June 2018
17. MOHIT UPADHYAY	65 Marks in IDT/GST	June 2018
18. SANJOLI JAIN (F2F)	65 Marks in IDT/GST	June 2018
19. SHIVAM SINGH (F2F)	64 Marks in IDT/GST	June 2018
20. KARTIK BHATT (Video)	64 Marks in IDT/GST	June 2018
21. HIMANI AGGARWAL (F2F)	64 Marks in IDT/GST	June 2018
22. ANURAG	63 Marks in IDT/GST	June 2018
23. ANKIT SINGH	63 Marks in IDT/GST	June 2018
24. SALONI MITTAL (F2F)	63 Marks in IDT/GST	June 2018
25. SHOBHIT KUMAR YADAV (Video)	62 Marks in IDT/GST	June 2018
26. DINESH SINGH	62 Marks in IDT/GST	June 2018
27. ROHIT SATI (Video)	62 Marks in IDT/GST	June 2018
28. KRATIKA KIRAR (F2F)	61 Marks in IDT/GST	June 2018
29. NANDINI ANAND (Video)	61 Marks in IDT/GST	June 2018
30. MAYANK GARG (F2F)	61 Marks in IDT/GST	June 2018
31. FARHEEN NAAZ (Video)	61 Marks in IDT/GST	June 2018
32. VINAY SHARMA	60 Marks in IDT/GST	June 2018
33. PARVEJ ALAM	60 Marks in IDT/GST	June 2018

.....& Many More

SURAJ AGRAWAL TAX CLASSES

CONGRATULATIONS

CMA INTER IDT/GST RESULT FROM SATC DEC 2017 EXAM RESULT

1. ARUN KUMAR	76 Marks in IDT	DEC 2017
2. HEENA KAPOOR	73 Marks in IDT	DEC 2017
3. VISHAL SINGH	73 Marks in IDT	DEC 2017
4. RINKU	72 Marks in IDT	DEC 2017
5. PARDEEP KUMAR	70 Marks in IDT	DEC 2017
6. VAISHALI CHAUHAN	70 Marks in IDT	DEC 2017
7. POONAM KHEKMA	68 Marks in IDT	DEC 2017
8. OM PRAKASH	67 Marks in IDT	DEC 2017
9. GANU RAJ DHODY	66 Marks in IDT	DEC 2017
10. KANCHAN	66 Marks in IDT	DEC 2017
11. GURPREET	65 Marks in IDT	DEC 2017
12. HIMANSHU SAJWAN	63 Marks in IDT	DEC 2017
13. OM PRAKASH JHA (AIR 17)	62 Marks in IDT	DEC 2017
14. SUMIT SAINI (AIR 35)	60 Marks in IDT	DEC 2017
15. PRAPTI BANSAL	59 Marks in IDT	DEC 2017
16. MD. SHADAB ARYUM	56 Marks in IDT	DEC 2017
17. JYOTI ADHIKARI	56 Marks in IDT	DEC 2017
18. DURGA PRASAD	55 Marks in IDT	DEC 2017
19. ANURAG CHAUDHARY	55 Marks in IDT	DEC 2017
20. SIMRAN KAUR	53 Marks in IDT	DEC 2017
21. PARVESH KUMAR	52 Marks in IDT	DEC 2017
22. ASHIT SINGH NEGI	52 Marks in IDT	DEC 2017
23. MANOJ KUMAR	51 Marks in IDT	DEC 2017

.....& Many More

SURAJ AGRAWAL TAX CLASSES

CONGRATULATIONS

CMA INTER DIRECT TAX RESULT - SATC

1.	FIROZ KHAN (69 Marks in DT)	A.I.R. - 11	DEC 2013
2.	OM PRAKASH JHA (63 Marks in DT/62 in IDT)	A.I.R. - 17	DEC 2017
3.	NEERAJ (53 Marks in DT)	A.I.R. - 23	JUN 2014
4.	PRADEEP Kr. PANDIT (55 Marks in DT)	A.I.R. - 24	JUN 2014
5.	MOHIT GARG (63 Marks in DT)	A.I.R. - 26	JUN 2015
6.	VIVEK SHARMA	A.I.R. - 27	DEC 2015
7.	SONU SINGH (63 Marks in DT)	A.I.R. - 31	JUN 2015
8.	SUMIT SAINI (62 Marks in DT/60 marks in IDT)	A.I.R. - 35	DEC 2017
9.	CHETAN AGGARWAL	A.I.R. - 35	DEC 2015
10.	ANEE KUMAR DUIVEDI	A.I.R. - 42	DEC 2017
11.	ARUN SHEKHER (65 Marks in DT)	A.I.R. - 47	DEC 2015
12.	TUSHAR SETHI (58 Marks in DT)	A.I.R. - 48	DEC 2017
13.	ARUN VISHWAKARMA	76 Marks in DT	DEC 2012
14.	GAURANG RAJPAL (73 marks in IDT)	74 Marks in DT	JUN 2017
15.	ROHAN KUMAR VAISHY	73 Marks in DT	JUN 2015
16.	ANKIT KUMAR	72 Marks in DT	DEC 2013
17.	DEVANGANA	70 Marks in DT	DEC 2013
18.	RAHUL NEGI	67 Marks in DT	DEC 2017
19.	HIMANSHU MEHTA	66 Marks in DT	DEC 2012
20.	MD. SAIF	65 Marks in DT	DEC 2015
21.	RICHA AGARWAL	65 Marks in DT	DEC 2014
22.	NIKHIL GOYAL	65 Marks in DT	JUNE 2013
23.	NITESH SAINI	65 Marks in DT	DEC 2013
24.	GAURAV	65 Marks in DT	DEC 2012
25.	HOTI LAL	65 Marks in DT	DEC 2013
26.	LALIT KUMAR	65 Marks in DT	JUNE 2016

27.	ANAMIKA SINGH	65 Marks in DT	JUNE 2016
28.	VIKASH KR. JHA	65 Marks in DT	JUNE 2016
29.	MAYANK GARG (61 marks in IDT)	65 Marks in DT	DEC 2017
30.	SHEKHAR KUMAR	65 Marks in DT	JUNE 2016
31.	ANKIT PATWAL	65 Marks in DT	JUNE 2016
32.	GURPREET SINGH (65 marks in IDT)	65 Marks in DT	JUNE 2018
33.	AYUSH DHOUNDIYAL	65 Marks in DT	JUNE 2018
34.	SHIVAM	65 Marks in DT	JUNE 2017
35.	SIMPI GARG	64 Marks in DT	JUNE 2018
36.	KULDEEP SINGH RAWAT	64 Marks in DT	DEC 2017
37.	SAUGAT (58 marks in IDT)	64 Marks in DT	JUNE 2014
38.	JAVED (59 marks in IDT)	64 Marks in DT	DEC 2013
39.	AMAN SINGH	64 Marks in DT	JUNE 2014
40.	SANYA	64 Marks in DT	JUNE 2014
41.	UMA SHANKER	64 Marks in DT	JUNE 2013
42.	RAJNEESH KUMAR	64 Marks in DT	DEC 2017
43.	DEEPAK KUMAR MANDAL	64 Marks in DT	DEC 2015
44.	MOHD THABRIS	63 Marks in DT	JUNE 2016
45.	SHARANDEEP KAUR	63 Marks in DT	DEC 2017
46.	SUSHMA (43 marks in IDT)	63 Marks in DT	DEC 2017
47.	SANDEEP JAISWAL	62 Marks in DT	JUNE 2016
48.	SANJOLI JAIN (65 marks in IDT)	62 Marks in DT	DEC 2017
49.	NASEEM (70 marks in IDT)	62 Marks in DT	DEC 2012
50.	DEVESH RAJPAL	62 Marks in DT	JUNE 2016
51.	PRADEEP SINGH KANDARI	62 Marks in DT	DEC 2017
52.	HIMANSHU JOSHI	62 Marks in DT	JUNE 2012
53.	VASHU DEVAN	62 Marks in DT	JUNE 2017
54.	POONAM KHEMKA (68 marks in IDT)	62 Marks in DT	DEC 2017
55.	VIVEK KUMAR KARN	62 Marks in DT	JUNE 2015
56.	JOGINDER SINGH	62 Marks in DT	DEC 2015
57.	SHUBHAM GUPTA	62 Marks in DT	DEC 2015
58.	PRAPTI BANSAL (59 marks in IDT)	61 Marks in DT	JUNE 2018
59.	SHEENA	61 Marks in DT	JUNE 2018
60.	MANU KUMAR	61 Marks in DT	DEC 2012
61.	MAHIMA THERAJA (68 marks in IDT)	61 Marks in DT	DEC 2017
62.	SURAJ NAITHANI (Now CMA)	61 Marks in DT	DEC 2015

63.	DEEPAK THAKUR	61 Marks in DT	
64.	LALIT	61 Marks in DT	JUNE 2014
65.	SACHIN GUPTA	61 Marks in DT	DEC 2013
66.	RAHUL YADAV	61 Marks in DT	DEC 2017
67.	VAIBHAV SRIVASTAVA	61 Marks in DT	JUNE 2017
68.	SHUBHAM RAI	60 Marks in DT	DEC 2017
69.	SARU	60 Marks in DT	DEC 2015
70.	SONU	60 Marks in DT	DEC 2015
71.	SANJAY	60 Marks in DT	DEC 2015
72.	VIVEK SHARMA	60 Marks in DT	DEC 2015
73.	ASHISH KANDPAL	60 Marks in DT	JUNE 2012
74.	SACHIN MITTAL	60 Marks in DT	DEC 2012
75.	VIBHOR KHANNA	60 Marks in DT	JUNE 2013
76.	SANJEEV	60 Marks in DT	DEC 2017
77.	GOVIND	60 Marks in DT	JUNE 2015
78.	DEEPAK SAINI	60 Marks in DT	JUNE 2016
79.	SANDEEP PAL	59 Marks in DT	JUNE 2016
80.	KUNAL GAUTAM	59 Marks in DT	JUNE 2014
81.	KALYANI	59 Marks in DT	JUNE 2014
82.	MOHIT BAGHEL	59 Marks in DT	DEC 2013
83.	MD. SHADAB ANJUM	59 Marks in DT	JUNE 2016
84.	AMIT GUPTA	59 Marks in DT	JUNE 2018
85.	VARUNDR KUMAR JHA	59 Marks in DT	DEC 2012
86.	SAORABH	59 Marks in DT	DEC 2015
87.	PRIYA AGRAWAL	58 Marks in DT	DEC 2017
88.	ANUP SINGH SOMVANSHI (48 marks in IDT)	58 Marks in DT	DEC 2017
89.	RAHUL SINGH	58 Marks in DT	JUNE 2016
90.	VED PRAKASH	58 Marks in DT	JUNE 2017
91.	NEERAJ RAWAT	58 Marks in DT	DEC 2017
92.	OMKAR SINGH	57 Marks in DT	JUNE 2018
93.	ANIKET GARG	57 Marks in DT	JUNE 2017
94.	FARHEEN NAAZ (61 marks in IDT)	57 Marks in DT	DEC 2017
95.	ANURADHA MISHRA	57 Marks in DT	JUNE 2018
96.	ASHISH	57 Marks in DT	DEC 2013
97.	UTTAM SINGH	57 Marks in DT	DEC 2013
98.	NEERAJ KUMAR	57 Marks in DT	JUNE 2016

99.	DHRUV KUMAR SHARMA	57 Marks in DT	DEC 2015
100.	SURABHI	57 Marks in DT	JUNE 2016
101.	KARAN PANESHAAR	56 Marks in DT	JUNE 2018
102.	PIYUSH MEHTA	56 Marks in DT	JUNE 2016
103.	MADHU	56 Marks in DT	JUNE 2016
104.	ANKIT PARASHAR	56 Marks in DT	JUNE 2018
105.	VISHAL AGRAWAL	56 Marks in DT	JUNE 2018
106.	SANJEEV KUMAR	56 Marks in DT	DEC 2015
107.	DEBJANI DUTTA	56 Marks in DT	JUNE 2016
108.	SAHIL AGGARWAL	55 Marks in DT	JUNE 2016
109.	NEHA GUPTA	55 Marks in DT	JUNE 2014
110.	KHUSHBU MISHRA	55 Marks in DT	JUNE 2015
111.	PRADEEP KUMAR	55 Marks in DT	
112.	ISHAN KUMAR JAIN	55 Marks in DT	JUNE 2017
113.	NIMMI AGRAWAL	54 Marks in DT	JUNE 2013
114.	SHIVANGI SINGH	54 Marks in DT	JUNE 2013
115.	ROHIT CHAUHAN	54 Marks in DT	DEC 2013
116.	PRAVEEN KUMAR TIWARI	54 Marks in DT	DEC 2015
117.	ROHIT SHARMA	54 Marks in DT	DEC 2015
118.	ANAND MOHAN MISHRA	54 Marks in DT	JUNE 2016
119.	DEEPAK KUMAR (47 marks in IDT)	53 Marks in DT	DEC 2017
120.	HIMANSHU GARG	53 Marks in DT	JUNE 2015
121.	RINKU KUMAR BIND	53 Marks in DT	JUNE 2016
122.	FAKHRUZZAMAN	53 Marks in DT	JUNE 2016
123.	ANKIT RAWAT	53 Marks in DT	DEC 2013
124.	KUNJIT JAIN	53 Marks in DT	DEC 2015
125.	RAVI GUPTA	53 Marks in DT	DEC 2015
126.	VIVEK KUMAR	53 Marks in DT	DEC 2012
127.	ANAND KUMAR	53 Marks in DT	DEC 2013
128.	TAUSIF ANSARI	53 Marks in DT	JUNE 2018
129.	AARAV KAPOOR	53 Marks in DT	JUNE 2016
130.	ABHISHEK	53 Marks in DT	JUNE 2016
131.	ASHISH KUMAR	52 Marks in DT	DEC 2013
132.	ADITYA	52 Marks in DT	DEC 2013
133.	SANDEEP MAHOR	52 Marks in DT	JUNE 2013
134.	ANKUSH GUPTA	52 Marks in DT	DEC 2017

135. VIJAY	52 Marks in DT	DEC 2015
136. RAHUL GARG	52 Marks in DT	DEC 2015
137. ANANT	52 Marks in DT	DEC 2015
138. PRIYA JOSHI	52 Marks in DT	DEC 2015
139. TARIQ	52 Marks in DT	DEC 2015
140. RAJAT JAGWANI	52 Marks in DT	DEC 2015
141. VARUN MOR	52 Marks in DT	JUNE 2018
142. SANDEEP SAINI	52 Marks in DT	JUNE 2013
143. PRADEEP KUMAR	52 Marks in DT	JUNE 2017
144. PUSHKAR SINGH	51 Marks in DT	DEC 2015
145. DHARMENDRA SINGH	51 Marks in DT	DEC 2015
146. AMIT JOGHI	51 Marks in DT	JUNE 2013
147. MUKESH KUMAR	51 Marks in DT	JUNE 2014
148. DEEPAK KUMAR RAWAT	51 Marks in DT	JUNE 2018
149. AVINASH RAJBHAR	51 Marks in DT	JUNE 2016
150. DINESH SHEORAN	51 Marks in DT	JUNE 2015
151. ARNITA NEGI	51 Marks in DT	JUNE 2017
152. ABBAS	50 Marks in DT	
153. VINAY SHARMA	50 Marks in DT	JUNE 2018
154. DURGA PRASAD (55 marks in IDT)	50 Marks in DT	DEC 2017
155. DURGA PRASAD	50 Marks in DT	DEC 2015
156. YASH WALIA	50 Marks in DT	DEC 2017
157. SAURABH JAIN	50 Marks in DT	JUNE 2018
158. MUKESH MISHRA	50 Marks in DT	JUNE 2016
159. AMIT KUMAR JHA	50 Marks in DT	JUNE 2016
160. MUKESH CHAND	50 Marks in DT	DEC 2015
161. PAWAN	50 Marks in DT	DEC 2015
162. SHRAVAN KUMAR	50 Marks in DT	JUNE 2015
163. AMIT KUMAR JHA	50 Marks in DT	JUNE 2016
164. MEENAKSHI	50 Marks in DT	DEC 2013
165. PRIYA SINGHAL	49 Marks in DT	JUNE 2013
166. VIVEK GUPTA	49 Marks in DT	JUNE 2018
167. PRIYA KANOJIA	49 Marks in DT	DEC 2017
168. VIJAY KUMAR MISHRA	49 Marks in DT	JUNE 2015
169. DIVYA KAUSHAL	49 Marks in DT	JUNE 2013
170. CHANDA (75 marks in IDT)	48 Marks in DT	DEC 2017

171. NITIKA JAIN (40 marks in IDT)	48 Marks in DT	DEC 2017
172. ANKIT SINGH (IDT-63 Marks)	48 Marks in DT	JUNE 2018
173. DEEPAK JOSHI	48 Marks in DT	JUNE 2016
174. ANJALI	48 Marks in DT	DEC 2013
175. MEENAKSHI	48 Marks in DT	DEC 2015
176. LALIT MATHPAL	48 Marks in DT	DEC 2013
177. SHUBHAM AGRAWAL (44 marks in IDT)	47 Marks in DT	DEC 2017
178. ANURAG SHARMA	47 Marks in DT	JUNE 2016
179. PRANAV JAYAN	47 Marks in DT	JUNE 2015
180. KAUSHIKI	47 Marks in DT	DEC 2012
181. ABHISHEK TYAGI	47 marks in DT	DEC 2013
182. SHUBHAM GUPTA	46 Marks in DT	JUNE 2015
183. AYUSH GUPTA	46 Marks in DT	JUNE 2014
184. MD. SHANU	46 Marks in DT	JUNE 2014
185. SAURABH AGGARWAL	46 Marks in DT	JUNE 2015
186. HITESH BHARDWAJ	46 Marks in DT	JUNE 2016
187. NEERAJ RAWAT (48 marks in IDT)	45 Marks in DT	DEC 2017
188. INDU	45 Marks in DT	JUNE 2016
189. HIMANSHU GARG (60 marks in IDT)	45 Marks in DT	DEC 2014
190. GOPAL CHAUDHARY	45 Marks in DT	DEC 2012
191. SANDEEP SINGH	45 Marks in DT	DEC 2012
192. DEEPAK BHARTI	45 Marks in DT	DEC 2013
193. SHIV SHANKER	45 Marks in DT	DEC 2013
194. NAND KISHORE	45 Marks in DT	DEC 2013
195. CHANKEY PRASAD	45 Marks in DT	JUNE 2013
196. NIKITA DUSEJA	43 Marks in DT	JUNE 2016
197. MEENA YADAV	43 Marks in DT	JUNE 2016
198. KANCHAN	43 Marks in DT	DEC 2017
199. BHARTI	42 Marks in DT	JUNE 2018
200. GANU RAJ DHODY (66 marks in IDT)	41 Marks in DT	DEC 2017

SURAJ AGRAWAL TAX CLASSES
LAXMINAGAR, DELHI

CONGRATULATIONS

CA INTER/IPC RESULT FROM SATC

1.	KAMNA GUPTA	84 Marks	NOV 2014
2.	RHYTHM JAIN (AIR 33)	83 Marks	NOV 2014
3.	MEGHA KUMARI SINGHAL (AIR 13)	77 Marks	MAY 2018
4.	VINEET KUMAR (AIR 36)	56 Marks	MAY 2018
5.	ROHIT SINGH	80 Marks	MAY 2013
6.	JAGJEET SINGH	80 Marks	MAY 2012
7.	DEEPAK CHAUHAN	79 Marks	NOV 2014
8.	DEEPANSHU CHAUHAN	79 Marks	NOV 2014
9.	MOHIT SHUKLA	79 Marks	MAY 2014
10.	UJJAWAL NAYYAR	77 Marks	NOV 2016
11.	VANSHIKA KHANNA	76 Marks	NOV 2016
12.	PRACHI SONI	75 Marks	NOV 2014
13.	PRADEEP KUMAR	75 Marks	MAY 2014
14.	NISHA AGRAWAL	74 Marks	NOV 2014
15.	SHAHWAT PANDEY	74 Marks	NOV 2012
16.	NANDITA GUPTA	74 Marks	NOV 2012
17.	PRATIK SUMAN	74 Marks	MAY 2012
18.	SHUBHAM GUPTA	73 Marks	MAY 2017
19.	BHANU	73 Marks	NOV 2016
20.	VISHAL AGGARWAL	73 Marks	MAY 2014
21.	OM PRAKASH	73 Marks	MAY 2013
22.	NIKITA	73 Marks	NOV 2011
23.	SANJAY RAWAT	72 Marks	NOV 2014
24.	RAJAT RASTOGI	72 Marks	MAY 2014
25.	JATIN KUMAR	72 Marks	MAY 2014
26.	SUNNY CHAUDHARY	72 Marks	NOV 2011
27.	RAMESH RIZAL	72 Marks	MAY 2011
28.	NITESH KUMAR	71 Marks	MAY 2017
29.	VAIBHAV	71 Marks	MAY 2016

30. PRIYANKA SEERA	71 Marks	MAY 2014
31. SHISHIR KUMAR	71 Marks	MAY 2012
32. BIKASH KR. BHAGAT	71 Marks	MAY 2012
33. MRINAL SINHA	70 Marks	NOV 2014
34. MD. ALAM REHMANI	70 Marks	NOV 2014
35. BIPIN KR. JHA	70 Marks	NOV 2014
36. SHIVANI	70 Marks	NOV 2014
37. RAHUL KOHLI	70 Marks	MAY 2014
38. SUMIT GUPTA	70 Marks	NOV 2013
39. KRITYANSHU	70 Marks	MAY 2013
40. HARPREET SINGH	69 Marks	NOV 2017
41. SANTOSH KUMAR THAKUR	69 Marks	NOV 2017
42. DEVENDRA DIXIT	69 Marks	MAY 2016
43. NEHA GUPTA	69 Marks	NOV 2014
44. YASH CHAUDHARY	69 Marks	NOV 2014
45. TANSHA	69 Marks	NOV 2014
46. AYUSH YADAV	69 Marks	NOV 2014
47. GARIMA AGGRAWAL	69 Marks	MAY 2014
48. RUHANI RAHEJA	69 Marks	MAY 2013
49. PRADEEP YADAV	69 Marks	NOV 2012
50. NEELMANI	69 Marks	NOV 2011
51. NIVESH BHATNAKAR	68 Marks	NOV 2016
52. RAJ KAUSHIK	68 Marks	NOV 2014
53. SAMEERUDIN	68 Marks	MAY 2014
54. ANKIT SINGH	68 Marks	MAY 2014
55. PRAKASH SHARMA	68 Marks	MAY 2014
56. SUDHIR KUMAR GUPTA	68 Marks	NOV 2011
57. PRAVESH POKHREL	68 Marks	MAY 2011
58. PRIYANKA	67 Marks	NOV 2017
59. SHOBHIT DIWAKER	67 Marks	MAY 2017
60. SATYENDRA KUMAR	67 Marks	NOV 2016
61. DEEPAK DHIWAN	67 Marks	NOV 2016
62. KAMLESHWAR MAURYA	67 Marks	NOV 2014
63. MD DANIYAL	67 Marks	NOV 2014
64. MANISH JOSHI	67 Marks	MAY 2013
65. UJJWALA	67 Marks	MAY 2013

66. NAVEEN	67 Marks	MAY 2012
67. KIRTI RAWAT	67 Marks	MAY 2012
68. AKASHDEEP	66 Marks	NOV 2017
69. LOKESH	66 Marks	NOV 2016
70. LOKESH	66 Marks	NOV 2016
71. DEVRAT CHAUDHARY	66 Marks	MAY 2016
72. SHIVANDU SHARMA	66 Marks	MAY 2016
73. JAI VARDHAN GOEL	66 Marks	NOV 2014
74. SARTHAK GUPTA	66 Marks	NOV 2014
75. SHAILESH GARG	66 Marks	NOV 2014
76. KARAN YADAV	66 Marks	MAY 2014
77. AMAN SAGAR	66 Marks	NOV 2013
78. SUJIT KUMAR SHAH	65 Marks	MAY 2018
79. BHUPENDRA UPADHYAYA	65 Marks	NOV 2016
80. SWATI JAIN	65 Marks	NOV 2016
81. SONALI SHARMA	65 Marks	NOV 2014
82. KANIKA	65 Marks	NOV 2013
83. NEHA JAIN	65 Marks	MAY 2013
84. GAURAV	65 Marks	NOV 2012
85. JEET RAM	65 Marks	NOV 2011
86. RAJNISH PANDEY	64 Marks	MAY 2018
87. RISHABH GOEL	64 Marks	NOV 2017
88. SHUBHAM JAIN	64 Marks	MAY 2017
89. PRIYANKA UPADHYAY	64 Marks	NOV 2016
90. GANESH KARKI	64 Marks	NOV 2016
91. JAI GUPTA	64 Marks	MAY 2016
92. CHETAN SHARMA	64 Marks	NOV 2014
93. MUKESH SHARMA	64 Marks	NOV 2014
94. SHIVAM AGRAWAL	64 Marks	NOV 2014
95. BALRAM JHA	64 Marks	NOV 2013
96. HUDA MARIYAM	64 Marks	NOV 2013
97. UTTAM RAJPUT	64 Marks	NOV 2013
98. AMIT KUMAR KESHWANI	64 Marks	MAY 2013
99. SAJID RIZWI	64 Marks	MAY 2013
100. NAVEEN MANSINGH	64 Marks	NOV 2012
101. RAKESH NANDA	64 Marks	NOV 2011

102. MUSKAN MOURYA	63 Marks	MAY 2018
103. MAYANK BANSAL	63 Marks	MAY 2017
104. GAGAN MUNJAL	63 Marks	NOV 2016
105. PRATEEK RASTOGI	63 Marks	NOV 2014
106. ISHA BAKSHI	63 Marks	NOV 2014
107. SHEETAL	63 Marks	MAY 2014
108. LOKESH DAS	63 Marks	MAY 2012
109. AMIT SINGH CHAUHAN	63 Marks	NOV 2011
110. SHUBHAM GUPTA	62 Marks	MAY 2018
111. ARIF KHAN	62 Marks	NOV 2017
112. PARDEEP	62 Marks	MAY 2017
113. TARUN GOYAL	62 Marks	MAY 2017
114. SWATI	62 Marks	MAY 2017
115. PRADYUMNA SRIVASTAVA	62 Marks	MAY 2016
116. ANSHUL	62 Marks	NOV 2014
117. ARYAN TANWAR	62 Marks	NOV 2014
118. BISHAL PRASAI	62 Marks	NOV 2014
119. POOJA SHARMA	62 Marks	NOV 2014
120. DEEPALI	62 Marks	NOV 2014
121. SURUCHI PANDEY	62 Marks	NOV 2013
122. ANMOL JAIN	62 Marks	MAY 2013
123. MANISH GOEL	62 Marks	MAY 2013
124. NAMAN JAIN	62 Marks	MAY 2013
125. DOLLY TOMAR	62 Marks	NOV 2012
126. NEERAJ SHARMA	62 Marks	NOV 2011
127. SANJAY KUMAR PRASAD	62 Marks	NOV 2011
128. VED PRAKASH	62 Marks	NOV 2011
129. PRINCE TYAGI	61 Marks	MAY 2018
130. DEERAJ AGRAWAL	61 Marks	NOV 2017
131. AAKRITI BANSAL	61 Marks	MAY 2017
132. MANISH KUMAR GUPTA	61 Marks	MAY 2017
133. VARUN KUMAR SHARMA	61 Marks	MAY 2017
134. LAVISH MITTAL	61 Marks	NOV 2016
135. JAHAGIR AHMAD	61 Marks	MAY 2016
136. JATIN GUPTA	61 Marks	MAY 2016
137. HARIOM	61 Marks	NOV 2014

138. VISHAL RAHUJA	61 Marks	NOV 2014
139. LAKHWINDER	61 Marks	NOV 2014
140. ANSHUL	61 Marks	NOV 2014
141. ASTHA GUPTA	61 Marks	MAY 2014
142. DEEPAK	61 Marks	MAY 2014
143. ADITYA CHAUDHARY	61 Marks	MAY 2014
144. POONAM KUMARI	61 Marks	MAY 2014
145. AMAR KUMAR SINGH	61 Marks	NOV 2013
146. GANESH CHAUDHARY	61 Marks	NOV 2013
147. PREETY GOYAL	61 Marks	NOV 2013
148. VICKY SAMANIYA	61 Marks	MAY 2013
149. AMIT KUMAR DUBEY	61 Marks	NOV 2012
150. VISHAL KUMAR	61 Marks	MAY 2012
151. CHANDAN PATHAK	60 Marks	MAY 2017
152. PANKAJ	60 Marks	MAY 2017
153. TUSHAR GOEL	60 Marks	MAY 2017
154. MOHD ASHIQU	60 Marks	NOV 2016
155. APOORV AGRAWAL	60 Marks	MAY 2016
156. BHANWIKA KANWAR	60 Marks	NOV 2014
157. SANDIP KAFLA	60 Marks	NOV 2014
158. RIYA ARORA	60 Marks	MAY 2014
159. MANISH	60 Marks	MAY 2014
160. DEEPAK	60 Marks	MAY 2014
161. RAHUL SHARMA	60 Marks	NOV 2013
162. ABHIMANYU DAS	60 Marks	NOV 2013
163. SATENDRA KR. SHUKLA	60 Marks	NOV 2013
164. DEEPANSHU	60 Marks	MAY 2013
165. ANKIT KUMAR	60 Marks	MAY 2013
166. ANAMIKA	60 Marks	MAY 2013
167. RAMESH KUMAR	60 Marks	NOV 2012
168. RISHABH GOEL	59 Marks	MAY 2017
169. SHRUTI JAIN	59 Marks	NOV 2016
170. KANIKA JAIN	59 Marks	NOV 2014
171. SOMPAL	59 Marks	MAY 2013
172. VIKASH KR. PANDIT	59 Marks	NOV 2012
173. RAHUL RAI	58 Marks	NOV 2017

174. SHIVAM SHUKLA	58 Marks	MAY 2017
175. VIKASH KUMAR	57 Marks	MAY 2018
176. MUNNA KUMAR KAPOOR	57 Marks	MAY 2018
177. PRABIN GUPTA	57 Marks	MAY 2018
178. SAMEER	57 Marks	NOV 2017
179. KAMLESH MEHRA	57 Marks	MAY 2017
180. AZAD ALI	57 Marks	NOV 2016
181. OM PRAKASH JHA	57 Marks	NOV 2016
182. ANJAN BHARTIA	56 Marks	MAY 2018
183. RADHIKA MODI	56 Marks	MAY 2018
184. DEEPANSHU GUPTA	56 Marks	MAY 2018
185. ADITI	56 Marks	NOV 2017
186. BHAWNA TIWARI	56 Marks	NOV 2017
187. DEEPIKA AGRAWAL	56 Marks	NOV 2017
188. SHANKAR KUMAR	56 Marks	NOV 2017
189. AUPIN	55 Marks	NOV 2017
190. PRAVEEN	55 Marks	NOV 2017
191. VISHAL SHARMA	56 Marks	MAY 2017
192. MADHAV	56 Marks	NOV 2016
193. SHEETAL GUPTA	56 Marks	NOV 2016
194. SHIVANGI MISHRA	55 Marks	NOV 2016
195. HEMANT GARG	55 Marks	NOV 2016
196. PRIYANSHU RANA	55 Marks	NOV 2016
197. JAI PRAKASH KUMAR	56 Marks	MAY 2016
198. SANDEEP SINGH	56 Marks	MAY 2016
199. MANISHA	55 Marks	MAY 2016
200. SUNNY KUMAR	55 Marks	MAY 2016

.....& Many More

SURAJ AGRAWAL TAX CLASSES
LAXMINAGAR-01147542530

Inside

S. No.	Particulars	Page No.
8	Depreciation & Capital Gain on Depreciable Assets Practical Questions Solutions	8.01 – 8.12 <i>8A .01 – 8A.04</i> <i>8B.01 – 8B.08</i>
9	PGBP Practical Questions Solutions	9.01 – 9.38 9A.01 – 9A.12 9B.01 – 9B.16
10	AOP & Firm [Section 40(ab) & Section 40(b)]	10.01 – 10.10
11	HUF	11.1 – 11.6
12	Clubbing of Income Practical Questions Solutions	12.1 – 12.18 12A.1 – 12A.6 12B.1 – 12B.10
13	Set-off, Carry Forward & Set-off of Losses Practical Questions Solutions	13.1 – 13.12 13A.1 – 13A.08 13B.1 – 13B.10
14	Return of Income Practical Questions Solutions	14.1 – 14.10 14A.1 – 14A.2 14B.1 – 14B.4
15	Advance Tax & Interest u/s 234A, B & C Practical Questions	15.1 – 15.2 15A.1 – 15A.2
16	TDS & TCS Practical Questions Solutions	16.01 – 16.22 16A.01 – 16A.04 16B.01 – 16B.06
17	Deduction u/s Section 10AA	17.1 – 17.06
18	Various Exemptions u/s 10	18.1 – 18.02

Depreciation [Section 32]

The assets in respect of which depreciation is claimed must belong to either of the following categories, namely:

- (a) buildings, machinery, plant or furniture, being tangible assets;
- (b) know-how, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of similar nature, being intangible assets.

No depreciation is allowable on the cost of the land. Goodwill is now eligible for Depreciation as Intangible Assets.

Some Important Points:

1) Beneficial owner: Assessee need not be a registered owner, even a beneficial owner can claim depreciation	2) Passive use vs. Active use: Use includes active use as well as passive use. Active use means actual use of the property for the purpose of business or profession. Whereas passive use includes "ready to use". It means, if a property was not actually used for business or profession but was ready to use in the PY, in such case, assessee can claim depreciation to such assets
3) Co-owner: In case of joint ownership, depreciation is allowed on proportionate basis.	
4) Property acquired on hire purchase: in case of hire purchase, the buyer can claim depreciation even though he does not get legal title of the asset till he pays the last installment. <ol style="list-style-type: none"> a. Depreciation can be claimed on cash price of such asset on the date of agreement b. Hire charges will be allowed as deduction under section 37(1). 	5) Partly used for business or profession: As per Sec. 38, if an asset is partly used for business or profession and partly used for personal purpose, then proportionate depreciation (as determined by the Assessing Officer) shall be allowed.
6) Capital expenditure on a property by the lessee: Where an assessee being a lessee of a property incurs any capital expenditure by way of improvement, extension, super construction, etc. on building being used for his business or profession, he is entitled to depreciation in respect of such capital expenditure.	7) House property let out to tenant for smooth running of the business: If an assessee lets out a property to his employee/others and where such letting out supports smooth flow of his business, then rent received from employees/others shall be chargeable under the head "PGBP" and such property shall be eligible for depreciation u/s 32.
8) Sec. 53A of Transfer Of Property Act: Possessor of an Immovable Property u/s 53A Of Transfer of Property Act can claim depreciation even though he is not the registered owner of the property.	9) Deduction on account of depreciation shall be made compulsorily, whether or not the assessee has claimed the deduction in computing his total income.

SIGNIFICANCE OF DATE OF PURCHASE (EFFECT OF TIME ON DEPRECIATION)

Where-

- (a) an asset is acquired by the assessee during the previous year, and
- (b) is put to use in the **same previous year** for **less than 180 days**,

- the depreciation in respect of such asset is restricted to 50% of the normal depreciation. [Both conditions should be satisfied together] - 5th October onwards

[There is no significance of date of sale for computation of depreciation]

DEPRECIATION FOR UNDERTAKINGS OTHER THAN POWER GENERATING UNITS

In respect of –

- (a) buildings, machinery, plant or furniture, ***being tangible assets***;
- (b) know-how, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of similar nature, ***being intangible assets***;

owned, wholly or partly, by the assessee and used for the purpose of the business or profession, depreciation shall be allowed on the **Written Down Value of the block of assets** at such percentage as may be prescribed.

Block of Assets [Section 2(11)]:

A “block of assets” is defined as a group of assets falling within a class of assets comprising:

- (a) ***tangible assets*** being buildings, machinery, plant or furniture;
- (b) ***intangible assets*** being know-how, patents, copyrights, trademarks, licenses, franchises or any other business or commercial rights of similar nature,

in respect of which the same percentage of depreciation is prescribed.

[Note: Each class of Assets has been further divided into blocks with a particular rate of depreciation for each block. However, Intangible assets, have been granted into one block only with a depreciation rate of 25%.]

WRITTEN DOWN VALUE [Section 43(6)]

In the case of assets acquired by the assessee during the previous year, the WDV means the actual cost to the assessee.

In the case of assets acquired before the previous year, the WDV shall be worked out as follows:

WRITTEN DOWN VALUE OF BLOCK OF ASSETS

Opening value of the block at the beginning of the Previous Year	xxx
Add: ACTUAL COST of assets acquired during the Previous Year & falling within this block	xxx
Less: MONEYS PAYABLE (i.e. sale price & insurance compensation) in respect of asset, <i>which is sold, discarded, demolished or destroyed, together with the scrap value,</i> if any.	xxx
WDV for the purpose of depreciation	xxx
Depreciation at prescribed percentage	xxx
Closing value of the block	xxx

Notes:

- 1) The deduction of moneys payable shall only be to the extent that WDV becomes NIL
- 2) **MONEYS PAYABLE** means the sale price of the asset and includes any insurance, salvage or compensation payable in respect of the asset.
- 3) ***Depreciation will not be charged in the following two cases:***
 - a. When Money payable exceeds the amount of “Opening WDV + Assets acquired”
 - b. When block cease to exist (means when all the assets is sold).

RATES OF DEPRECIATION**PART A - TANGIBLE ASSETS**

I Buildings		
Block 1.	Residential	5%
Block 2.	Non Residential	10%
Block 3.	Temporary Erections (Wooden Structure)	40%
II Furniture and Fittings		
	Furniture and fittings including electrical fittings	10%
III Plant & Machinery		
Block 1.	(a) Plant & machinery (General rate) (b) Motor cars not used for hiring purpose (new rate – Refer Page 8.12)	15%
Block 2.	Motors buses, motor lorries, motor taxis used in a business of running them on hire (new rate – Refer Page 8.12)	30%
Block 3.	Energy Saving Devices (as specified) Air, Water Pollution control equipments, Solid waste control equipment (Specified) All Kind of Books Computers (Laptops) <u>including computer printer & software</u> Aeroplanes, aeroengines	40%
Block 4.	Ships or Vessels	20%

PART B INTANGIBLE ASSETS

Know-how, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of similar nature	25%
Goodwill (as decided by the Supreme Court in case of Smifs Securities Ltd. v CIT) [‘Goodwill’ is treated as Intangible Asset & eligible for Deprecation]	25%

➔ Now, there is no block with depreciation rate higher than 40%.

DIFFERENT SITUATION FOR DEPRECIATION CALCULATION:

1. Assets purchased and put to use for 180 days or more
2. Asset purchased and put to use for less than 180 days
3. Asset put to use for less than 180 days and the WDV is less than the actual cost of the asset purchased
4. Where any asset is sold at a price more than the WDV of the block of assets
5. When all the assets of block are sold at a price less than the WDV of the block of assets

Section 43(1)

Where an assessee incurs any expenditure for acquisition of any asset in respect which a payment (or aggregate of payments made to a person in a day), otherwise than by an account payee cheque/draft/use of electronic clearing system through a bank account or through such other electronic modes as may be prescribed, exceeds ₹ 10,000, such payment shall be ignored for the purposes of determination of “Actual Cost” of such asset. ★

Consequently, Depreciation/Additional Depreciation under Section 32 and Deduction u/s 32AD pertaining to such payment is not available. Moreover, such expenditure will not be considered for the purpose of Section 50.

COMPUTATION OF CAPITAL GAINS IN CASE OF DEPRECIABLE ASSETS**In the following 2 cases, the capital gains shall be calculated:**

- (1) When value of block ceases to exist; or
- (2) Block ceases to exist.

SECTION 50: SHORT-TERM CAPITAL GAINS SHALL BE COMPUTED AS UNDER:

Full value of consideration received /receivable	xxx
--	-----

Less: Aggregate of following amounts:

- | | |
|---|-----|
| ▪ Expenditure incurred wholly & exclusively for transfer | xxx |
| ▪ WDV of the block of assets at the Beginning of the Previous Year | xxx |
| ▪ Actual Cost of any asset falling within the block of assets acquired during the Previous Year | xxx |

Short-term capital gains (if positive)/Short-term capital loss (if negative)	xxx
--	-----

Notes:

- 1) If Sec. 50 is not attracted then expenditure on transfer of assets from block of assets is allowable as business expenditure u/s 37(1).
- 2) Short term Capital Loss arises when relevant Block of Asset ceases to exist (i.e. all assets in a block are transferred).
- 3) Insurance compensation in respect of asset destroyed shall be deducted from WDV of Block under section 43(6) even if the same has not been actually received. **(Mercantile Basis)**
- 4) However, if STCG arises under section 50 because of insurance compensation then such STCG shall be taxable in the previous year in which insurance compensation is actually received as per section 45(1A).

Example:

- | | |
|---|-----------|
| a. Opening WDV of block as on 1-4-2019
(15%)(Assets A,B,C,D & E) | 5,00,000 |
| b. Asset F acquired 30-6-2019 | 2,00,000 |
| c. Asset A destroyed in fire on 31.12.2019 | |
| d. <u>Insurance Compensation payable</u> | 10,00,000 |

Compensation is determined on 28.02.2020 and received on 31.12.2020.**Answer:****Assessment Year 2020-21**

Opening WDV as on 01.04.2019	5,00,000
Add: Actual cost of assets acquired during the P/Y	2,00,000
Less: Moneys payable in respect of insurance compensation receivable during the P/Y (Restricted to ₹ 7,00,000)	7,00,000
WDV	Nil

Assessment Year 2021-22**Short Term Capital Gain under section 50**

Insurance compensation Received	10,00,000
Less: Opening WDV as on 01.04.2019	5,00,000
Less: Assets acquired	2,00,000
Short Term Capital Gain	3,00,000

Note: Short Term Capital Gain u/s 50 shall be taxable in AY 2021-22, as per section 45(1A). As per Section 45(1A) the Capital gains shall be taxable in the year in which insurance compensation is received.

Example:

SATC Enterprises has WDV in building block (depreciation rate 10%) as on 1/4/19 ₹ 80,000. The block consists of two building X and Y. Compute depreciation u/s 32 for the AY 2020-21 in the following cases:

- Case A** Building X sold for ₹ 20,000 on 1/5/19
- Case B** Building X sold for ₹ 100,000 on 1/1/20
- Case C** Building X sold for ₹ 100,000 and building S purchased for ₹ 35,000 as on 1/7/19
- Case D** Building X sold for ₹ 10,000 and building S purchased for ₹ 40,000 as on 1/7/19
- Case E** Building X sold for ₹ 10,000 and building S purchased for ₹ 40,000 as on 1/11/19
- Case F** Building X sold for ₹ 200,000 and building S purchased for ₹ 40,000 as on 1/11/19
- Case G** Building X and building Y both sold for ₹ 10,000 and ₹ 35,000 respectively.
- Case H** Building X and building Y both sold for ₹ 10,000 and ₹ 35,000 respectively as on 1/11/19. New building T purchased for ₹ 5,000 as on 1/7/19.
- Case I** Building Z purchased for ₹ 40,000 on 1/7/19 and the same being put to use on 1/12/19.
- Case J** Building Q purchased for ₹ 50,000 on 1/7/19 but put to use on 1/11/20.
- Case K** Building S purchased for ₹ 10,000 on 1/7/19 but put to use on 1/11/19 and building X and Y sold for ₹ 10,000 and ₹ 6,000 respectively.
- Case L** Building R purchased for ₹ 30,000 on 1/7/19 and sold the same for ₹ 40,000 on 11/11/19.
- Case M** Sold building X and Y for ₹ 95,000 on 11/7/19 and purchased Building R for ₹ 30,000 on 11/11/19.

Assume in all cases new building is charged to depreciation @ 10%.

Solution:**Computation of depreciation for the AY 2020-21**

Particulars	Case A	Case B	Case C	Case D	Case E	Case F	Case G	Case H
Block: Building (Rate 10%)								
WDV as on 1/4/19	80000	80000	80000	80000	80000	80000	80000	80000
Add: Purchase	Nil	Nil	35000	40000	40000	40000	Nil	5000
	80000	80000	115000	120000	120000	120000	80000	85000
Less: Sale proceeds	20000	80000 [#]	100000	10000	10000	120000 [#]	45000	45000
WDV as on 31/3/2020	60000	Nil	15000	110000	110000	Nil	Nil	40000
Depreciation	6000	Nil	1500	11000	9000 ¹	Nil	Nil	4000
Short term capital gain		20000				80000		
Short term capital loss							(35000)	

[#] Sale proceeds cannot exceeds opening WDV as increased by actual cost of asset acquired during the previous year. Excess, if any, shall be considered as Short Term capital gain.

Computation of depreciation for the AY 2020-21

Particulars	Case I	Case J	Case K	Case L	Case M
Block: Building (Rate 10%)					
WDV as on 1/4/19	80000	80000	80000	80000	80000
Add: Purchase	40000	50000	10000	30000	30000
	120000	130000	90000	110000	110000
Less: Sale proceeds	Nil	Nil	16000	40000	95000
	120000	130000	74000	70000	15000
Depreciation	10000 ²	8000 ³	6900 ⁴	7000	750 ⁵
Short term capital gain					
Short term capital loss					

¹ (₹ 70000 * 10%) + (₹ 40000 * 10% * ½) ² (₹ 80000 * 10%) + (₹ 40000 * 10% * ½)

³ Though the asset is acquired in the current year but put to use in next year hence no depreciation on the same.
(₹ 80,000 * 10%)

⁴ (₹ 10000 * 10% * ½) + (64000 * 10%) ⁵ (₹ 15000 * 10% * ½)

DEPRECIATION FOR POWER GENERATING UNDERTAKINGS

Assessee is in the business of generation or generation & distribution of power **have the option to claim depreciation on Straight Line Method on each asset or WDV method on Block of Assets.**

Depreciation under Straight Line Method (SLM) [Section 32(1)(i)]

An assessee in the business of generation or generation & distribution of power will be allowed Depreciation in respect of

- building, machinery, plant or furniture **being tangible assets;**
 - Know-how, patents, copyrights, trademarks etc. **being intangible assets**
- owned wholly or partly by the assessee and used for the purposes of business at the prescribed rates on actual cost of each asset on the basis of ***Straight Line Method*** of depreciation.

Note:

1. Assessee has to **exercise such option before the due date of furnishing the ROI** relevant to the Previous Year in which they begin to generate power.
2. The option once exercised shall be **FINAL for all subsequent assessment years.**
3. The aggregate depreciation u/s. 32(1)(i) shall not exceed the actual cost of the assets.
4. **Restriction of 50% of Depreciation** shall apply if the asset is put to use for less than 180 days in the year of acquisition.
5. **Additional depreciation under section 32(1)(ia) is also available to power generating undertakings following WDV methods.**

Terminal Depreciation [Section 32(1)(iii)]

In the case of any building, machinery, plant or furniture or intangible assets

- on which depreciation has been claimed and allowed u/s. 32(1)(i) i.e. under SLM and
- which is sold, discarded etc. in the Previous Year, and moneys payable for such assets is less than the WDV, then
- **TERMINAL DEPRECIATION** i.e. WDV of such asset (-) Moneys Payable for such assets,
- shall be allowed as deduction **only if such loss is actually written off** in the books.
- **However, If asset is sold in the same Previous Year in which it was acquired, then there will be STCL under section 45(1)**

Balancing Charge [Section 41(2)]

In the case of any building, machinery, plant or furniture or intangible assets

- in respect of which depreciation is claimed and allowed under section 32(1)(i) i.e. under SLM and
- which is sold, discarded etc. in the Previous Year and moneys payable for such assets is more than the WDV, then
- **BALANCE AMOUNT** shall be chargeable to tax as PGBP **to the extent it does not exceeds the amount of depreciation already allowed.**
- **Even if business is no longer in existence, the above provisions shall apply.**
- If asset is sold in the same Previous Year in which it was acquired, then there will be STCG under section 45(1)

Special provision for COA in case of Depreciable Assets under SLM [Section 50A]

If an asset on which depreciation is allowed under SLM u/s. 32(1)(i) is sold during the Previous Year,

- then for computing Capital Gain, the **WDV as adjustment is taken as COA.**
- **WDV as adjusted should mean:**

WDV of asset

xxx

Add: Income assessed under section 41(2)

xxx

ADDITIONAL DEPRECIATION [ON PLANT & MACHINERY ACQUIRED BY AN INDUSTRIAL UNDERTAKING]: - Section 32(1)(iia)

Additional depreciation is allowed on any **new machinery or plant** (other than ships and aircraft) **acquired and installed after 31.3.2005** by an assessee engaged in the business of manufacture or production of any article or thing **at the rate of 20% of the actual cost of such machinery or plant**.

Additional Depreciation will be restricted to 50% in case the asset is put to use for less than 180 days during the previous year.

Further, the balance 50% of the additional depreciation on new plant or machinery acquired and used for less than 180 days, shall be allowed in the immediately succeeding previous year.

Such additional depreciation will not be available in respect of:

- (a) any machinery or plant which, before its installation by the assessee, **was used within or outside India by any other person**; or
- (b) any machinery or plant **installed in office premises, residential accommodation, or in any guest house**; or
- (c) **office appliances or road transport vehicles**; or
- (d) any machinery or plant, **the whole of the actual cost of which is allowed as a deduction** (whether by way of depreciation or otherwise)
- (e) Ships and Aircrafts.

Note:

1. Additional depreciation is allowed even if the block has NIL value.
2. Additional depreciation is not available if the new plant and machinery is sold in the year of acquisition
3. Additional depreciation shall be subtracted while computing next year opening WDV.
4. An assessee engaged in the business of **Generation, Transmission or Distribution** of power shall also be allowed additional depreciation at the rate of 20% of actual cost of eligible new machinery or plant (other than ships and aircrafts) acquired and installed in a previous year. [Only in WDV Method]
5. **An assessee engaged in the business of printing or printing & publishing is also eligible for AD.**

Example: Gamma Ltd. was incorporated on 1.1.2019 for manufacture of tyres and tubes for motor vehicles. The manufacturing unit was set up on 1.5.2019. The company commenced its manufacturing operations on 1.6.2019. The total cost of the plant and machinery installed in the unit is ₹ 120 crore. The said plant and machinery included second hand plant and machinery bought for ₹ 20 crore and new plant and machinery for scientific research relating to the business of the assessee acquired at a cost of ₹ 15 crore.

Compute the amount of depreciation allowable under section 32 of the Income-tax Act, 1961 in respect of the AY 2020-21.

Solution

Computation of depreciation allowable for the A.Y. 2020-21 in the hands of Gamma Ltd.

Particulars	₹ in crore	
Total cost of plant and machinery	120.00	
Less: Used for Scientific Research (Note 1)	15.00	
	105.00	
Normal Depreciation at 15% on ₹ 105 crore		15.75
<u>Additional Depreciation:</u>		
Cost of plant and machinery		120.00
Less:		
(a) Second hand plant and machinery (Note 2)	20.00	
(b) Plant and machinery used for scientific research, the whole of the actual cost of which is allowable as deduction under section 35 (Note 2)	15.00	35.00
		85.00
Additional Depreciation at 20%		17.00
Total Depreciation allowable for A.Y. 2020-21 (15.75 + 17)		32.75

Notes:

- 1) As per section 35, no depreciation shall be allowed in respect of plant and machinery purchased for scientific research relating to assessee's business, since deduction is allowable under section 35 in respect of such capital expenditure.
- 2) As per section 32(1)(iia), additional depreciation is allowable in the case of any new machinery or plant acquired and installed by an assessee engaged in the business of manufacture or production of any article or thing, at the rate of 20% of the actual cost of such machinery or plant.

However, additional depreciation shall not be allowed in respect of:

- (1) any machinery or plant which, before its installation by the assessee, was used either within or outside India by any other person;
- (2) any machinery or plant, the whole of the actual cost of which is allowed as a deduction (whether by way of depreciation or otherwise)

Additional depreciation @35% to be allowed to assessee setting up manufacturing units in notified backward areas of specified States and acquiring and installing of new plant & machinery [Proviso to section 32(1)(iia)]

- a) Under section 32(1)(iia), to encourage investment in new plant or machinery, additional depreciation of 20% of the actual cost of plant or machinery acquired and installed is allowed. Such additional depreciation under section 32(1)(iia) is allowed over and above the normal depreciation under section 32(1)(ii).
- b) In order to encourage acquisition and installation of plant and machinery for setting up of manufacturing units in the **notified backward areas of the States of Andhra Pradesh, Bihar, Telangana and West Bengal**, a proviso has been inserted to section 32(1)(iia) to allow higher additional depreciation at the rate of 35% (instead of 20%) in respect of the actual cost of new machinery or plant (other than a ship and aircraft) acquired and installed during the period **between 1st April, 2015 and 31st March, 2020** by a manufacturing undertaking or enterprise which is set up in the notified backward areas of these specified States **on or after 1st April, 2015**.
- c) Such additional depreciation shall be **restricted to 17.5% (i.e., 50% of 35%)**, if the new plant and machinery acquired is put to use for the purpose of business for **less than 180 days** in the year of acquisition and installation.
- d) The **balance 50% of additional depreciation (i.e., 50% of 35%)** would, however, be allowed in the **immediately** succeeding financial year.

Eligibility for grant of additional depreciation under section 32(1)(iia) in the case of an assessee engaged in printing or printing and publishing [Circular No. 15/2016, dated 19-05-2016]

An assessee, engaged in the business of manufacture or production of an article or thing, is eligible to claim additional depreciation under section 32(1)(iia) in addition to the normal depreciation under section 32(1).

The CBDT has, vide this Circular, clarified that the **business of printing or printing and publishing amounts to manufacture or production of an article or thing and is, therefore, eligible for additional depreciation under section 32(1)(iia).**

Manufacturing industries set up in the notified backward areas of specified States to be eligible for a deduction @15% of the actual cost of new plant & machinery acquired and installed during the previous year [Section 32AD]

1. **Section 32AD** has been inserted to provide for a deduction of an amount equal to 15% of the actual cost of new plant and machinery acquired and installed, if the following conditions are satisfied by the assessee –
 - a) The assessee sets up an undertaking or enterprise for manufacture or production of any article or thing **on or after 1st April, 2015 in any backward area notified by the Central Government in the State of Andhra Pradesh or Bihar or Telangana or West Bengal; and**
 - b) the assessee **acquires and installs** new plant and machinery for the purposes of the said undertaking or enterprise during the period **between 1st April, 2015 and 31st March, 2020** in the said backward areas.
2. **For the purposes of this section, “New plant and machinery” does not include—**
 - a) any ship or aircraft;
 - b) any plant or machinery, which before its installation by the assessee, was used either within or outside India by any other person;
 - c) any plant or machinery installed in any office premises or any residential accommodation, including accommodation in the nature of a guest house;
 - d) any office appliances including computers or computer software;
 - e) any vehicle;
 - f) any plant or machinery, the whole of the actual cost of which is allowed as deduction (whether by way of depreciation or otherwise) in computing the income chargeable under the head “Profits and gains of business or profession” of any previous year.
3. Further, if any new plant and machinery acquired and installed by the assessee is sold or otherwise transferred except in connection with the amalgamation or demerger or re-organisation of business, **within a period of 5 years from the date of its installation**, the amount allowed as deduction in respect of such new plant and machinery shall be **deemed to be the income** chargeable under the head “Profits and gains from business or profession” of the previous year in which such new plant and machinery is sold or transferred, in addition to taxability of gains, arising on account of transfer of such new plant and machinery.
4. However, this restriction shall not apply to the amalgamating or demerged company or the predecessor in a case of amalgamation or demerger or business reorganization referred to in section 47(xiii), 47(xiiib) and 47(xiv), within a period of five years from the date of its installation, **but shall continue to apply to the amalgamated company or resulting company or successor, as the case may be.**

Example

X Ltd. set up a manufacturing unit in notified backward area in the state of Telangana on 01.06.2019. It invested ₹30 crore in new plant and machinery on 1.6.2019. Further, it invested ₹25 crore in the plant and machinery on 01.11.2019, out of which ₹5 crore was second hand plant and machinery. Compute the depreciation allowable under section 32. Is X Ltd. entitled for any other benefit in respect of such investment? If so, what is the benefit available?

Solution

Computation of depreciation under section 32 for X Ltd. for A.Y. 2020-21

Particulars	₹ (in crores)
Plant and machinery acquired on 01.06.2019	30.000
Plant and machinery acquired on 01.11.2019	25.000
WDV as on 31.03.2020	
Less: Depreciation @ 15% on ₹ 30 crore	4.500
Depreciation @ 7.5% (50% of 15%) on ₹ 25 crore	1.875
Additional Depreciation@35% on ₹ 30 crore	10.500
Additional Depreciation@17.5% (50% of 35%) on ₹ 20 crore	3.500
WDV as on 01.04.2020	20.375
	34.625

Computation of deduction under section 32AD for X Ltd. for A.Y. 2020-21

Particulars	₹ (in crores)
Deduction under section 32AD @ 15% on ₹ 50 crore	7.50

Notes:

- (1) As per the second proviso to section 32(1)(ii), where an asset acquired during the previous year is put to use for less than 180 days in that previous year, the amount deduction allowable as normal depreciation and additional depreciation would be restricted to 50% of amount computed in accordance with the prescribed percentage. Therefore, normal depreciation on plant and machinery acquired and put to use on 1.11.2019 is restricted to 7.5% (being 50% of 15%) and additional depreciation is restricted to 17.5% (being 50% of 35%).
- (2) As per third proviso to section 32(1)(ii), the balance additional depreciation of ₹ 3.5 crore, being 50% of ₹ 7 crore (35% of ₹ 20 crore) would be allowed as deduction in the A.Y.2021-22.
- (3) As per section 32(1)(iia), additional depreciation is allowable in the case of any new machinery or plant acquired and installed after 31.3.2005 by an assessee engaged, *inter alia*, in the business of manufacture or production of any article or thing. In this case, since new plant and machinery acquired was installed by a manufacturing unit set up in a notified backward area in the State of Telangana, the rate of additional depreciation is 35% of actual cost of new plant and machinery. Since plant and machinery of ₹ 20 crore was put to use for less than 180 days, additional depreciation@17.5% (50% of 35%) is allowable as deduction.

However, additional depreciation shall not be allowed in respect of second hand plant and machinery of ₹ 5 crore.

Likewise, the benefit available under sections 32AD would not be allowed in respect of second hand plant and machinery. Accordingly, additional depreciation and investment allowance under sections 32AD have not been provided on ₹ 5 crore, being the actual cost of second hand plant and machinery acquired and installed in the previous year.

DEPRECIATION IN CASE OF SUCCESSION, AMALGAMATION, BUSINESS RE - ORGANISATION OR DEMERGER –[FIFTH PROVISIO TO SEC. 32(1) AND SEC. 44DB]:

These provisions are applicable while determining depreciation if there is a change of ownership of assets because of the following:

- a) Conversion of firm or sole proprietary concern into company [by satisfying conditions of section 47(xiii)/(xiv)];
- b) Conversion of private company/unlisted public company into LLP by satisfying condition of section 47(xiiib); and
- c) Succession to business other than on death – business of HUF taken over by a member, business of a firm taken over by a partner, conversion of HUF concern into company;
- d) Amalgamation of a company;
- e) Demerger of a company etc

In the year in which change of ownership takes place because of the aforesaid reasons, deprecation shall be calculated as under:

1. Compute depreciation of the previous year in which ownership of assets changes (because of the aforesaid reasons) **on the assumption that the succession, amalgamation or demerger has not taken place.**
2. **The amount of deprecation so determined shall be appropriated between the** (a) predecessor and (b) successor, as the case may be, **in ratio of number of days for which the assets are used by them during the previous year in which ownership changes.**

Income-tax (9th Amendment) Rules, 2019

Effective from 23-08-2019

New depreciation rates on vehicles purchased **between 23-08-2019 to 31-03-2020**

Notification No. 69/2019 dated 20.09.2019

S. No.	Block of Asset (Machinery & Plant) – Motor Cars	Depreciation Rate (WDV Method)
(i)	Motor cars, other than those used in a business of running them on hire, acquired or put to use on or after the 1st day of April, 1990 except those covered under entry (ii);	15
(ii)	Motor cars, other than those used in a business of running them on hire, <u>acquired on or after the 23rd day of August, 2019</u> but before the 1st day of April, 2020 and is put to use before the 1st day of April, 2020.	30
(iii)	Motor buses, motor lorries and motor taxis used in a business of running them on hire other than those covered under entry (iv).	30
(iv)	Motor buses, motor lorries and motor taxis used in a business of running them on hire, <u>acquired on or after the 23rd day of August, 2019</u> but before the 1st day of April, 2020 and <u>is put to use before the 1st day of April, 2020.</u>	45

PRACTICAL QUESTIONS

1. M/s. Dollar Ltd., a manufacturing concern, furnishes the following particulars:

	(₹)
(i) Opening Writing Down Value of plant and machinery (15% block)	5,00,000
(ii) Purchase of plant and machinery (put to use before 01.10.2019)	2,00,000
(iii) Sale proceeds of plant and machinery which became obsolete- the plant and machinery was purchased on 01-04-2017 for ₹ 5,00,000.	5,000

Further, out of purchase of plant and machinery:

- (a) Plant and machinery of ₹ 20,000 has been installed in office.
 (b) Plant and machinery of ₹ 20,000 was used previously for the purpose of business by the seller.

Compute depreciation and additional depreciation as per Income-tax Act, 1961 for the AY 2020-21.

2. Mr. Abhimanyu is engaged in the business of generation and distribution of electric power. He always opts to claim depreciation on written down value for income-tax purposes. **From the following details, compute the depreciation allowable as per the provisions of the Income-tax Act, 1961 for the assessment year 2020-21:**

	(₹ in lacs)
(i) Opening WDV of block (15% rate)	42
(ii) New machinery purchased on 12-10-2019	10
(iii) Machinery imported from Colombo on 12-4-2019 This machine had been used only in Colombo earlier and the assessee is the first user in India.	9
(iv) <u>New computer</u> installed in generation wing of the unit on 15-7-2019	2

3. Sai Ltd. has a block of assets carrying 15% rate of depreciation, whose written down value on 01.04.2019 was ₹ 40 lacs. It purchased another asset (second-hand plant and machinery) of the same block on 01.11.2019 for ₹ 14.40 lacs and put to use on the same day. Sai Ltd. was amalgamated with Shirdi Ltd. with effect from 01.01.2020.

You are required to compute the depreciation allowable to Sai Ltd. & Shirdi Ltd. for the previous year ended on 31.03.2020 assuming that the assets were transferred to Shirdi Ltd. at ₹ 60 lacs.

4. M/s Sidhant & Co., a sole proprietary concern is converted into a company, Sidhant Co. Ltd. with effect from November 29, 2019. The written down value of assets as on April 1, 2019 is as follows:

Items	Rate of Depreciation	WDV as on 1st April, 2019
Building	10%	₹ 3,50,000
Furniture	10%	₹ 50,000
Plant and Machinery	15%	₹ 2,00,000

Further, on October 15, 2019, M/s Sidhant & Co. purchased a plant for ₹ 1,00,000 (rate of depreciation 15%). After conversion, the company added another plant worth ₹ 50,000 (rate of depreciation 15%).

Compute the depreciation available to (i) M/s Sidhant & Co. and (ii) Sidhant Co. Ltd. for Assessment Year 2020-21

5. What are intangible assets? Give four examples. What is the rate of depreciation on a block of intangible assets?

6. Gopichand Industries furnishes you the following information:

	(₹)
Block I WDV of Plant and machinery (consisting of 10 looms)	5,00,000
Rate of depreciation	15%
Block II WDV of Buildings (consisting of 3 buildings)	12,50,000
Rate of depreciation	10%
Acquired on 5-07-2019 – 5 looms for	4,00,000
Sold on 7-12-2019 – 15 looms for	10,00,000
Acquired on 10-01-2020 – 2 looms for	3,00,000

Compute depreciation claim for the Assessment year 2020-21.

7. M/s. QQ & Co., a sole proprietary concern, was converted into a company on 1.9.2019. Before the conversion, the sole proprietary concern had a Block of Plant and Machinery (Rate of depreciation 15%), whose WDV as on 1.4.2019 was ₹ 3,00,000. On 1st April itself, a new plant of the same block was purchased for ₹ 1,20,000. After the conversion, the company has purchased the same type of Plant on 1.1.2020 for ₹ 1,60,000.

Compute the depreciation that would be allocated between the sole proprietary concern and the successor company.

8. Honest Industry furnishes you the following details pertaining to the financial year 2019-20:

Description	Plant & Machinery	Building	Intangible Assets (patents)
➤ Rate of depreciation	15%	10%	25%
➤ Opening balance as on 01-04-2019	14,50,000	25,00,000	15,00,000
➤ Acquired before 30-09-2019	12,00,000	Nil	5,00,000
➤ Acquired after 01-12-2019	4,00,000	18,00,000	Nil
➤ Transferred in March 2020, one of the patents held for the past 2 years	-	-	3,00,000

A machinery acquired in July 2019 original cost ₹ 1,50,000 was destroyed by fire and the assessee received compensation of ₹ 50,000 from the insurance company. Newly acquired building given above includes value of land of ₹ 3,00,000.

Calculate the eligible depreciation claim for the assessment year 2020-21. Note: Ignore additional/accelerated depreciation.

9. Determine the tax consequences in following cases for AY 2020-21:

- (a) X Co., an undertaking established in 2006 for generation and distribution of power, has opted for SLM method of depreciation. The written down value of its machinery as on 1.4.2019 was ₹ 5,10,000. The machinery is sold for ₹ 4,60,000 on 1.5.2019.
- (b) A Co. a power-generating unit (opted for SLM) has purchased machinery on 1-5-2019 for ₹ 5,10,000 which is destroyed by fire on 15-09-2019 and an insurance claim of ₹ 3,00,000 is received on 31-1-2020.
- (c) X Co., an undertaking established in 2008 for generation of power, has opted for SLM method of depreciation. The company had purchased machinery for ₹ 4,50,000. The written down value of its machinery as on 1.4.2019 is ₹ 3,00,000. The machinery is sold for ₹ 4,60,000 on 1-10-2019.

10. An industrial undertaking which commenced the manufacturing activity with effect from 1st September, 2019 has acquired the following assets during the previous year 2019-20:

Assets	Date of acquisition	Date when put to use	Cost of acquisition (₹)
Factory buildings	04.04.2019	01.09.2019	50,00,000
Plant and Machinery:			
Air pollution control equipment	04.05.2019	01.09.2019	400,000
Machinery A	05.05.2019	01.09.2019	200,000
Machinery B	07.06.2019	01.09.2019	500,000
Machinery C	30.08.2019	01.09.2019	10,00,000
Machinery D	01.09.2019	31.10.2019	400,000
Machinery E	01.01.2020	28.02.2020	300,000
Machinery F (second hand)	11.01.2020	13.01.2020	200,000
Motor car	01.07.2019	01.02.2020	500,000
Air conditioner (installed in the office)	01.02.2020	02.02.2020	100,000

Compute depreciation allowable for AY 2020-21 and the WDV as on 1-4-2020.

11. A newly qualified Chartered Accountant Mr. Dhaval commenced practice and has acquired the following assets in his office during FY 2019-20 at the cost shown against each item. **Calculate the amount of depreciation that can be claimed from his professional income for A.Y 2020-21:**

Sl. No.	Description	Date of acquisition	Date when put to use	Amount (₹)
1.	Computer	27 Sept., 19	2 Oct., 19	35,000
2.	Computer printer	2 Oct, 19	3 Oct, 19	12,500
3.	Books (of which books being annual publications are of ₹ 12,000)	1 Apr, 19	1 Apr, 19	13,000
4.	Office furniture (Acquired from practising C.A.)	1 Apr, 19	1 Apr, 19	3,00,000
5.	Laptop	26 Sep., 19	5 Oct., 19	43,000
6.	Fire extinguisher	1 Apr, 19	No instance arose to use during FY 2019-20	2,500

7. Purchased practising CA's office in April '19 who had run it for 4 years, for ₹ 5 lacs which includes ₹ 2 lacs for land and ₹ 3 lacs for cost of furniture (included in 4 above)

Note: Depreciation is to be provided at the applicable rates.

12. X starts a new business on April 10, 2019 and he purchases the following assets.

	Cost (₹ in lakh)
Building A - Office building	60.70
Building B - Residential building for manager	40.10
Building C - Factory building	70.40
Plant and machinery A - Office computer	1.20
Plant and machinery B - Fax machine	0.60
Plant and machinery C - Cars	6.10
Plant and machinery D - Air pollution control equipment	2.40
Plant and machinery E - PABX telephone system	1.10
Plant and machinery F - Air-conditioners	6.80
Plant and machinery G - Scooters for employees	1.90
Furniture - Office furniture	2.85
Furniture - Furniture for welfare centre of employees	4.10
Know-how - Know-how to manufacture goods	18.70

Categorise these asset in different blocks of assets.

13. Singhania & Co. own six machines, put in use for business in March, 2019. The depreciation on these machines is charged @ 15%. The written down value of these machines as on 1st April, 2019 was ₹ 8,50,000. Three of the old machines were sold on 10th June, 2019 for ₹ 11,00,000. A new plant was bought for ₹ 8,50,000 on 30th November, 2019.

You are required to:

- determine the claim of depreciation for Assessment Year 2020-21.
- compute the capital gains liable to tax for Assessment Year 2020-21.
- If Singhania & Co. had sold the three machines in June, 2019 for ₹ 21,00,000, will there be any difference in your above workings? Explain.

14. The written down value of the block of assets of Rosy Ltd. as on 1st April, 2019 was ₹ 5 lakh. An asset of the same block was acquired on 11th May, 2019 for ₹ 3 lakh. There was a fire on 18th September, 2019 and the assets were destroyed by fire and the assessee received a sum of ₹ 11 lakh from the insurance company.

Compute the capital gain assuming

- All the assets were destroyed by fire; and
- Part of the block of assets was destroyed by fire.

What will be the answer if assessee received ₹ 6 lakh from insurance company instead of ₹ 11 lakhs? Ignore Additional Depreciation!

15. X owns the following assets on April 1, 2019 (rate of depreciation: 15 per cent)

Assets	Written down value on April 1, 2019 ₹	Date of acquisition
Plant A	3,00,000	April 1, 1976
Plant B	2,00,000	May 10, 1975
Plant C	5,00,000	March 13, 1988

During the previous year 2019-20, the following plants are purchased/sold by X:

Assets	Rate of Depreciation	Date of purchase/sale	Selling price ₹	Cost price ₹	Date when the asset is put to use
Plant D (office air conditioner)	15%	March 10, 2020		4,08,000	March 30, 2020
Plant E (old)	15%	March 1, 2020		20,000	March 31, 2020
Plant A	15%	April 1, 2019	6,00,000		
Building A	10%	June 10, 2019		2,00,000	July 5, 2019
Plant C	15%	May 10, 2019	12,50,000		-
Plant F (second-hand)	40%	June 10, 2019		15,00,000	December 31, 2019

Determine the amount of depreciation and capital gain/loss for the assessment year 2020-21 (expenditure incurred on sale of plants A and C is ₹ 10,000). Assume that additional depreciation is not available.

- 16.** Mr. A, is an individual carrying on business. His stock and machinery were damaged and destroyed in a fire accident. The value of stock lost (totally damaged) was ₹ 6,50,000. The opening WDV of the block as on 1-4-2019 was ₹ 10,80,000.

During the process of safeguarding machinery and in the fire fighting operations, Mr. A lost his gold chain and a diamond ring, which he had purchased in April, 2008 for ₹ 1,20,000. The market value of these two items as on the date of fire accident was ₹ 1,80,000.

Mr. A received the following amounts from the insurance company:

- | | |
|---|------------|
| i) Towards loss of stock | ₹ 4,80,000 |
| ii) Towards damage of Machinery. | ₹ 6,00,000 |
| iii) Towards gold chain and diamond ring. | ₹ 2,30,000 |

You are requested to briefly comment on the tax treatment of the above three items under the provisions of the Income-tax Act, 1961.

SOLUTION TO PRACTICAL QUESTIONS

1. Computation of written down value of Plant and Machinery of M/s. Dollar Ltd. for the A.Y. 2020-21

Particulars	₹
Opening written down value (as on 01.04.2019)	5,00,000
Add: Purchase of plant and machinery during the previous year	2,00,000
	7,00,000
Less: Sale proceeds of obsolete plant and machinery sold during the year	<u>5,000</u>
Closing Written Down Value (as on 31.03.2020)	6,95,000

Computation of Depreciation and Additional Depreciation for A.Y. 2020-21 as per section 32 of the Income-tax Act, 1961

Particulars	₹
Normal Depreciation (₹ 6,95,000 x 15%)	1,04,250
Additional Depreciation (Refer Note 2) (₹ 2,00,000 – ₹ 20,000 – ₹ 20,000) x 20%	32,000
Depreciation on Plant and Machinery	1,36,250

Notes:-

- (1) Since the new plant and machinery was purchased and put to use before 1.10.2019, it was put to use for more than 180 days in the year. Hence, full depreciation is allowable for A.Y. 2020-21.
- (2) As per section 32(1)(ia), additional depreciation is allowable in the case of any new machinery or plant acquired by an assessee engaged, inter alia, in the business of manufacture or production of any article or thing, at the rate of 20% of the actual cost of such machinery or plant.

However, additional depreciation shall not be allowed in respect of, inter alia, –

- (i) any machinery or plant which, before its installation by the assessee, was used either within or outside India by any other person;
- (ii) any machinery or plant installed in office premises, residential accommodation or in any guest house.

In view of the above provisions, additional depreciation cannot be claimed in respect of –

- (i) Plant and machinery of ₹ 20,000 used previously for the purpose of business by the seller.
- (ii) Plant and machinery of ₹ 20,000, installed in office.

Therefore, in the given case additional depreciation has to be provided only on ₹ 1,60,000 (i.e., ₹ 2,00,000 – ₹ 40,000).

2.

Computation of depreciation under section 32 for A.Y. 2020-21

Particulars	₹	₹
Normal Depreciation		
Depreciation@15% on ₹ 51,00,000, being machinery (put to use for more than 180 days) [Opening WDV of ₹ 42,00,000 + Purchase cost of imported machinery of ₹ 9,00,000]	7,65,000	
Depreciation@7.5% on ₹ 10,00,000, being new machinery put to use for less than 180 days	75,000	
Depreciation@40% on computers purchased ₹ 2,00,000	8,40,000 <u>80,000</u>	9,20,000
Additional Depreciation (Refer Note below)		
➤ Additional Depreciation@10% of ₹ 10,00,000 [being actual cost of new machinery purchased on 12-10-2019]	1,00,000	
➤ Additional Depreciation@20% on new computer installed in generation wing of the unit [20% of ₹ 2,00,000]	40,000	1,40,000
Depreciation on Plant and Machinery		10,60,000

Note:-

The Finance Act, 2012 has extended the benefit of additional depreciation to new plant and machinery acquired and installed in power sector undertakings. Accordingly, additional depreciation is allowable in the case of any new machinery or plant acquired and installed by an assessee engaged, inter alia, in the business of generation or generation and distribution of power, at the rate of 20% of the actual cost of such machinery or plant.

Therefore, new computer installed in generation wing of the unit is eligible for additional depreciation@20%.

Since the new machinery was purchased only on 12.10.2019, it was put to use for less than 180 days during the previous year, and hence, only 10% (i.e., 50% of 20%) is allowable as additional depreciation.

However, additional depreciation shall not be allowed in respect of, inter alia, any machinery or plant which, before its installation by the assessee, was used either within or outside India by any other person. Therefore, additional depreciation is not allowable in respect of imported machinery, since it was used in Colombo, before its installation by the assessee.

3.

Statement showing computation of depreciation allowable to Sai Ltd. & Shirdi Ltd. for A.Y. 2020-21

Particulars	₹
Written down value (WDV) as on 1.4.2019	40,00,000
Addition during the year (used for less than 180 days)	14,40,000
Total	54,40,000
Depreciation on ₹ 40,00,000 @ 15%	6,00,000
Depreciation on ₹ 14,40,000 @ 7.5%	1,08,000
Total depreciation for the year	7,08,000
Apportionment between two companies:	
(a) Amalgamating company, Sai Ltd.	4,50,820
₹ 6,00,000 × 275/366	43,342
₹ 1,08,000 × 61/152	4,94,162
(b) Amalgamated company, Shirdi Ltd.	1,49,180
₹ 6,00,000 × 91/366	64,658
₹ 1,08,000 × 91/152	2,13,838

Notes:

(1) The aggregate deduction, in respect of depreciation allowable to the amalgamating company and amalgamated company in the case of amalgamation shall not exceed in any case, the deduction calculated at the prescribed rates as if the amalgamation had not taken place. Such deduction shall be apportioned between the amalgamating company and the amalgamated company in the ratio of the number of days for which the assets were used by them.

(2) The price at which the assets were transferred, i.e., ₹ 60 lacs, has no implication in computing eligible depreciation.

4. In the case of conversion of sole proprietary concern into a company as per section 47(xiv), the depreciation should be first calculated for the whole year assuming that no succession had taken place. Thereafter, the depreciation should be apportioned between the sole proprietary concern and the company in the ratio of the number of days for which the assets were used by them. It is assumed that in this case, the conditions specified in section 47(xiv) are satisfied.

Computation of depreciation allowable to Sidhant & Co. for A.Y. 2020-21

Particulars	₹	₹
Building		
WDV as on 1.4.2019	3,50,000	
Depreciation@10%		35,000
Furniture		
WDV as on 1.4.2019	50,000	
Depreciation@10%		5,000
Plant and Machinery		
WDV as on 1.4.2019	2,00,000	
Add: Additions during the year (purchased on 15.10.2019)	1,00,000	
	3,00,000	
Depreciation for the year (15% of ₹ 2,00,000 + 50% of 15% of ₹ 1,00,000) (₹ 30,000 + ₹ 7,500)		37,500

(Depreciation on new machinery is restricted to 50% of eligible depreciation, since the asset is put to use for less than 180 days in that year)		
Total depreciation for the year		77,500
Proportionate depreciation allowable to Sidhant & Co. for 242 days On existing assets (i.e. 1.4.2019 to 28.11.2019) (i.e. $242/366 \times ₹ 70,000$) On new machine for 45 days i.e., $45/169 \times ₹ 7,500$	46,284 1,997	48,281

Computation of depreciation allowable to Sidhant Co. Ltd. for A.Y. 2020-21

Particulars	₹
(i) Depreciation on the assets on conversion Proportionately for 123 days i.e. after conversion period $(124/366 \times ₹ 70,000) + (124/169 \times ₹ 7,500) = ₹ 23,716 + ₹ 5,503$	29,219
(ii) Depreciation @ 50% of normal rate of 15% on ₹ 50,000, being the value of plant purchased after conversion, which was put to use for less than 180 days	3,750
Depreciation allowable to Sidhant Co. Ltd.	32,969

Note: Since it has not been specifically mentioned that M/s Sidhant & Co. and Sidhant Co. Ltd. are manufacturing concerns or companies engaged in the business of generation or generation and distribution of power, additional depreciation is not provided for.

5. Intangible assets are assets which are not corporeal i.e., not capable of being touched. Such assets are represented by rights of the persons through them. According Section 32(1), the following are intangible assets :
- (i) Know-how
 - (ii) Patents
 - (iii) Copyrights
 - (iv) Trade Marks
 - (v) Licences
 - (vi) Franchises
 - (vii) Any other business or commercial rights of similar nature.
- They are to be depreciated at the rate of 25%.

6.

Computation of depreciation for Gopichand Industries for A.Y. 2020-21

Particulars	₹	₹
Block 1 : Plant & machinery (Rate of depreciation – 15%)		
WDV as on 1st April (10 looms)	5,00,000	
Add: Additions during the year		
- 5 looms acquired on 5th July	4,00,000	
- 2 looms acquired on 10th January	<u>3,00,000</u>	
	12,00,000	
Less : Assets sold during the year		
- 15 looms sold on 7th December	<u>10,00,000</u>	
W.D.V. as on 31st March (2 looms)	2,00,000	
Depreciation on ₹ 2 lakhs @ 15% (limited to 50%)		15,000
Block II: Buildings (Rate of depreciation – 10%)		
WDV as on 1st April (3 buildings)	12,50,000	
Depreciation on ₹ 12,50,000 @ 10%		1,25,000
Total depreciation for the year		1,40,000

Notes:

- (i) Closing balance of Block 1 : Plant and machinery represents the looms acquired on 10th January. These looms have been put to use or less than 180 days during the previous year, and therefore, only 50% of normal depreciation is permissible.
- (ii) No additional depreciation @ 20% of the cost of new plant and machinery is provided for **assuming that all conditions contained in the section 32(1)(iia) have not been fulfilled [Students may choose to claim AD]**

7.

Computation of depreciation in the case of transfer of business:

Depreciation is to be calculated as if there is no succession.

	(₹)
WDV as on 1st April	3,00,000
Add : Additions made before succession	1,20,000
	<u>4,20,000</u>
Less : Sale consideration of the asset sold	Nil
	<u>4,20,000</u>
Depreciation @ 15%	63,000

Allocation of depreciation between sole proprietary concern and the successor company:

The depreciation of ₹ 63,000 is to be allocated in the ratio of number of days the assets were used by the sole proprietary concern and the company.

Proprietary concern

1st April to 31st August = 153 days ₹ 63,000 x 153 / 366 = ₹ 26,336

Successor company

₹ 63,000 - ₹ 26,336 = ₹ 36,664 (i.e. ₹ 63,000 x 213 / 366)

The depreciation of ₹ 12,000 [50% of 15% on ₹ 1,60,000] in respect of asset purchased by the successor company on 1st January is fully allowable in the hands of the successor company.

Note: Since it has not been specified that the company is a manufacturing company or a company engaged in the generation or generation and distribution of power, additional depreciation has not been provided for.

8.

Computation of depreciation allowable to Honest Industry for the A.Y. 2020-21

Particulars	Plant & Machinery	Building	Intangible assets (patents)	Total (₹)
Rate of depreciation	15%	10%	25%	
Opening Balance as on 1.04.2019	14,50,000	25,00,000	15,00,000	
Add: Assets acquired during the year	16,00,000	15,00,000	5,00,000	
	30,50,000	40,00,000	20,00,000	
Less: Moneys payable in respect of asset sold or destroyed	50,000	-	3,00,000	
W.D.V as on 31.03.2020	30,00,000	40,00,000	17,00,000	
Asset held for less than 180 days	4,00,000	15,00,000	-	
Depreciation@50% of applicable rate	30,000	75,000	-	1,05,000
Asset held for more than 180 days	26,00,000	25,00,000	17,00,000	
Depreciation at the applicable rates	3,90,000	2,50,000	4,25,000	10,65,000
Total Depreciation allowable				11,70,000

Note - Land is not a depreciable asset. Therefore, ₹ 3 lacs, being the value of land, has been reduced from ₹ 18 lacs, being the value of building acquired during the year, for the purpose of computing depreciation.

9. The tax consequences in aforesaid cases shall be as follows -

- In this case, moneys payable is less than written down value of the asset. So, deduction for terminal depreciation shall be allowed. Terminal Depreciation u/s 32(1)(iii) = 5,10,000 - 4,60,000 = ₹ 50,000.
- In this case, machine is destroyed in the same previous year in which it is first brought into use. So, no terminal depreciation will be allowed. The deficiency of ₹ 2,10,000 [₹ 5,10,000 - ₹ 3,00,000] shall be treated as Short-Term Capital Loss.
- In this case moneys payable exceed actual cost.
So, Balancing Charge u/s 41(2) = [(Lower of 4,50,000 or 4,60,000) - 3,00,000] = ₹ 1,50,000; and Capital Gains = 4,60,000 - 4,50,000 = ₹ 10,000 ignoring indexation.

10. Computation of the depreciation allowable for the Assessment Year 2020-21 and the written down value as on 1st April, 2020-

Nature of Asset	Actual Cost	Rate of dep.	Normal Depreciation	Additional Depreciation	WDV as on 1-4-2020
Factory buildings	50,00,000	10%	500,000	0	4500000
Plant & machinery:					
Air pollution control equipment	400,000	40%	160,000	80,000	160,000
Machinery A, B & C	17,00,000	15%	255,000	340,000	1105000
Machinery D & E (used for less than 180 days)	700,000	15%	52,500	70,000	577500
Machinery F, motor car & AC (used for less than 180 days)	800,000	15%	60,000	Not Eligible	740000

11. Computation of depreciation allowable for A.Y. 2020-21

Asset	Rate	Depreciation
Block 1 Furniture	10%	30,000
Block 2 Plant (Computer, laptop, Printer & books)	40%	32,800
Block 3 Plant (Fire Extinguisher)	15%	375
Total depreciation allowable		63,175

Notes :**a) Computation of depreciation
Block of Assets**

₹

Block 1: Furniture-Rate 10%

Put to use for more than 180 days [₹ 3,00,000@10%]

30,000**Block 2: Plant-Rate 40%****(a)** Computer : (put to use for more than 180 days)
[₹ 35,000 @ 40%]

14,000

(b) Laptop (put to use for less than 180 days)
[₹ 43,000 @ 20%]

8,600

(c) Books : (all kinds) (Put to use for more than 180 days)
[₹ 13,000 @ 40%]

5,200

Computer printer (put to use for 180 days) [₹ 12,500 @40%]

5,000

32,800**Block 3 : Plant - Rate 15%**

Fire extinguisher [₹ 2,500 @ 15%]

375

- b)** Where an asset is acquired by the assessee during the previous year and is put to use for the purposes of business or profession for a period of less than 180 days, the deduction on account of depreciation would be restricted to 50% of the prescribed rate. In this case, since Mr. Dhaval commenced his practice in the previous year 2019-20 and acquired the assets during the same year, the restriction of depreciation to 50% of the prescribed rate would apply to those assets which have been put to use for less than 180 days in that year, namely, laptop.
- c)** In case of fire extinguishers, it is sufficient if they are kept ready for use. Actual use is not essential.

12.**Block 1- Building (rate of depreciation: 5%)**

Building B- Residential building	40.10
----------------------------------	--------------

Block 2- Building (rate of depreciation: 10%)

Building A- Office building	60.70
-----------------------------	-------

Building C- Factory building	<u>70.40</u>
------------------------------	--------------

Total	131.10
--------------	---------------

Block 3- Plant and machinery (rate of depreciation 15%)

Plant B- Fax machine	0.60
----------------------	------

Plant E- PBAX telephone	1.10
-------------------------	------

Plant F- Air-conditioner	6.80
--------------------------	------

Plant G- Scooters	1.90
-------------------	------

Plant C- Cars	<u>6.10</u>
---------------	-------------

Total	16.50
--------------	--------------

Block 4- Plant and machinery (rate of depreciation 40%)

Plant A- Office Computer	1.20
--------------------------	-------------

Plant D- Air Pollution control equipment	2.40
--	-------------

Block 5- Furniture (rate of depreciation: 10%)

Office furniture	2.85
------------------	------

Furniture for welfare centre	<u>4.10</u>
------------------------------	-------------

Total	6.95
--------------	-------------

Block 6- Know-how (rate of depreciation: 25%)

Know-how to manufacture goods	18.70
-------------------------------	--------------

13.**(i) Computation of depreciation for A.Y. 2020-21**

Particulars	₹
W.D.V. of the block as on 1.4.2019	8,50,000
Add: Purchase of new plant during the year	<u>8,50,000</u>
	17,00,000
Less: Sale consideration of old machinery during the year	
W.D.V of the block as on 31.03.2020	<u>11,00,000</u>
	6,00,000

Since the value of the block as on 31.3.2020 comprises of a new asset which has been put to use for less than 180 days, depreciation is restricted to 50% of the prescribed percentage of 15% i.e. depreciation is restricted to 7½%. Therefore, the depreciation allowable for the year is ₹ 45,000, being 7½% of ₹ 6,00,000.

Note: It is assumed that the firm is not eligible for additional depreciation under section 32(1)(ia).

(ii) The provisions under section 50 for computation of capital gains in the case of depreciable assets can be invoked only under the following circumstances:

(a) When one or some of the assets in the block are sold for consideration more than the value of the block.

(b) When all the assets are transferred for a consideration more than the value of the block.

(c) When all the assets are transferred for a consideration less than the value of the block.

Since in the first two cases, the sale consideration is more than the written down value of the block, the computation would result in short term capital gains.

In the third case, since the written down value exceeds the sale consideration, the resultant figure would be a short term capital loss.

In the given case, capital gains will not arise as the block of asset continues to exist, and some of the assets are sold for a price which is lesser than the written down value of the block.

(iii) If the three machines are sold in June, 2019 for ₹ 21,00,000, then short term capital gains would arise, since the sale consideration is more than the aggregate of the written down value of the block at the beginning of the year and the additions made during the year.

Particulars	₹	₹
Sale consideration		21,00,000
Less:		
W.D.V. of the machines as on 1.4.2019	8,50,000	
Purchase of new plant during the year	8,50,000	17,00,000
Short term capital gains		4,00,000

14.**(1) Compensation received is ₹ 11 lakh: Computation of Capital gains**

Written down value of the block on 1/4/19 5,00,000
Add: Asset acquired during the year 3,00,000

8,00,000**Less:** Sum received from the insurance company - ₹ 11 Lakh Maximum**8,00,000****WDV for Depreciation****NIL**

Note : In case (i) and (ii), both, i.e. whether the block is fully destroyed or partly destroyed by fire, there will be STCG of ₹ 3,00,000, since the sum received is more than the WDV of the block.

If compensation received is ₹ 6 lakh:

(i) **If the block is fully destroyed:** The difference between WDV of ₹ 8 lakh and insurance money of ₹ 6 lakh will be short-term capital loss.

(ii) **If the block is partly destroyed:** There will be no capital gains. Since the block and WDV both exist therefore, the balance WDV of ₹ 2 lakh will be eligible for depreciation.

15.**First block: Plant (rate of depreciation : 15%)**

₹

Depreciated value of the block on April 1, 2019 (₹ 3,00,000 + ₹ 2,00,000 + ₹ 5,00,000) 10,00,000

Add : Cost of plant (falling in this block) acquired during the previous year 2019-20 (i.e., Plant D : ₹ 4,08,000 + Plant E : ₹ 20,000) 4,28,000

14,28,000

Less : Sale consideration of plants A and C sold during the previous year 2019 -20 (i.e., ₹ 6,00,000 + ₹ 12,50,000 ; subject to a maximum of ₹ 14,28,000) 14,28,000

Written down value**Nil****Depreciation on first block****Nil****Capital gain on sale of plants A and C**

Sale consideration 18,50,000

Less : Cost of acquisition

₹

- Depreciated value of the block on April 1, 2019 10,00,000
- Cost of assets falling in the block acquired during the previous year 4,28,000
- Expenses on transfer 10,000

14,38,000**Short-term capital gain****412,000****Depreciation on other assets will be determined as under :**

	Second block	Third block
Name of assets	Plant	Building
Rate of depreciation	40%	10%
	₹	₹
	Nil	Nil
Add : Cost of assets purchased during 2019-20	15,00,000	2,00,000
Less : Sale consideration of assets transferred during the year	—	—
Written down value	15,00,000	2,00,000
Depreciation (*50% of 40% of ₹ 15,00,000, as Plant F is purchased during the previous year and put to use for less than 180 days]	3,00,000	20,000

16.

- (i) **Compensation towards loss of stock:** Any compensation received from the insurance company towards loss/damage to stock in trade is to be construed as a trading receipt. Hence, ₹ 4,80,000 received as insurance claim for loss of stock has to be assessed under the head “Profit and gains of business or profession”.

Note - The assessee can claim the value of stock destroyed by fire as revenue loss, eligible for deduction while computing income under the head “Profits and gains of business or profession”.

- (ii) **Compensation towards damage to machinery:** The question does not mention whether the salvaged machinery is taken over by the Insurance company or whether there was any replacement of machinery during the year. Assuming that the salvaged machinery is taken over by the Insurance company, and there was no fresh addition of machinery during the year, the block of machinery will cease to exist. Therefore, ₹ 4,80,000 being the excess of written down value (i.e ₹ 10,80,000) over the insurance compensation (i.e. ₹ 6,00,000) will be assessable as a short-term capital loss.

Note – If new machinery is purchased in the next year, it will constitute the new block of machinery, on which depreciation can be claimed for that year.

- (iii) **Compensation towards loss of gold chain and diamond ring:** Gold chain and diamond ring are capital assets as envisaged by section 2(14). They are not “personal effects”, which alone are to be excluded. As per section 45(1A), if any profit or gain arises in a previous year owing to receipt of insurance claim, the same shall be chargeable to tax as capital gains. The capital gains has to be computed by reducing the indexed cost of acquisition of jewellery from the insurance compensation of ₹ 2,30,000.

INCOME UNDER THE HEAD “PGBP”

Section 28 – CHARGING SECTION

1. Income arising to any person by way of profits and gains from the business or profession carried on by him at any time during the previous year.
2. **ANY COMPENSATION OR OTHER PAYMENT FOR:**
 - a) Termination or modification of any ***agreement entered for managing the affairs of an Indian company or the affairs in India of any other company.***
 - b) Termination or modification of any ***agreement holding an agency in India*** relating to the business of any other person.
 - c) ***Vesting of the management*** of any property or business with the Government under any law.
 - d) ***Termination or the modification of the terms and conditions, of any contract relating to his business***
3. **INCOME OF TRADE OR PROFESSIONAL ASSOCIATION:**

Income derived by **any trade, professional or similar associations** from specific services rendered by them ***to their members.***
4. **EXPORT INCENTIVES:** In case of an assessee engaged in the business of export/import:
 - Profits on sale of a **Import Entitlement licence** granted
 - **Cash assistance** received or receivable by any person against exports under any scheme of the Government of India.
 - Any **Customs duty or Excise duty drawback repaid or repayable** against export.
5. **GIFTS OR PERQUISITES FROM CLIENTS:**

The value of any benefit or perquisite whether convertible into money or not, arising from business or the exercise of any profession
6. **PAYMENTS RECEIVED BY A PARTNER FROM A PARTNERSHIP FIRM:**

Any interest, salary, bonus, commission or remuneration, by whatever name called, due to or received by a partner of a firm from such firm.
7. **SUMS RECEIVED UNDER A KEYMAN INSURANCE POLICY:**

Any sum received by employer under a Keyman insurance policy including the sum allocated by way of bonus on such policy.
8. **Conversion of Stock in Trade into Capital Asset:** [Also refer CG Notes]

Fair Market Value of inventory as on the date on which it is converted into, or treated as, a capital asset determined in the prescribed manner;
9. ***Any sum received or receivable, in cash or kind, on account of any capital asset (other than land or goodwill or financial instrument) being demolished, destroyed, discarded or transferred if the whole of the expenditure on such capital asset has been allowed as a deduction under Section 35AD.***
10. **Any sum whether received or receivable, in cash or kind, under an agreement**
 - a) for not carrying out any activity in relation to any Business **or Profession**; or
 - b) not to share any know-how, patent, copyright, trade mark, licence, franchise or any other business or commercial right of similar nature or information or technique likely to assist in the manufacture or processing of goods or provision for services.

However, the above sub-clause (a) shall not apply to any sum receivable on account of transfer of the right to manufacture, produce or process any article or thing or right to carry on any business or Profession, which is chargeable under the head “Capital gains”;

COMPUTATION OF INCOME FROM BUSINESS [SECTION 29]

Income under the head PGBP shall be computed in accordance with provisions contained in **Sec. 30 to 43D**

Net profit as per Profit & Loss Account	xxx
Add: Non-allowable expenses debited to Profit & Loss Account (P&L)	xxx
Add: Expenses allowable under any other head or Capital Exp./Personal Exp.	xxx
Add: Income chargeable under this head but not credited to P/L	xxx
Less: Expenses allowable under this head but not debited to P&L	xxx
Less: Income credited to P & L A/c but not chargeable under this head	xxx
Profits & Gains from Business or Profession	xxx

Expenditures allowed on Cash Basis [SECTION 43B]

Deduction in respect of following expenses are allowed **only if payment is made on or before the due date for furnishing return of income u/s 139(1) of the previous year in which such liability is incurred [i.e. before 31st July/ 30th Sep/ 30th Nov]**:

- a) Any sum payable by way of Tax, Duty, Cess or Fee, by whatever name called, under any law for the time being in force.
- b) Interest on any loan or advances from a scheduled bank or a cooperative bank on actual payment basis.
- c) Any sum payable by the assessee as interest on any loan or borrowing from
 - any public financial institution or
 - a State Financial Corporation or
 - a State Industrial Investment Corporation.
- d) **Any sum payable by the assessee as interest on any loan or borrowing from a deposit taking non-banking financial company or systemically important non-deposit taking non-banking financial company, in accordance with the terms and conditions of the agreement governing such loan or borrowing,** ★
- e) Bonus or Commission (for services rendered) payable to employees.
- f) Leave encashment payable to employees.
- g) Any sum payable by the assessee as an employer by way of contribution to any Provident Fund or Superannuation Fund or Gratuity Fund or any other fund for the welfare of employees.
- h) Any sum payable to the Indian Railways for the use of railway assets

Note:

1. If the payment is not made before the date mentioned above, then no allowance shall be allowed in respect of the outstanding liability. **Deduction can, however, be claimed in the year of payment.**
2. Section 43B is applicable only if the assessee is following mercantile system of accounting.
3. The above provisions are applicable on Employers contribution to PF, ESI etc and not employee contributions recovered by the employer which is being paid subsequently as per respective Acts.
4. Cooperative banks excludes Primary Agriculture Credit Society or a primary co-operative agriculture & rural development Bank
5. **No deduction for interest converted into loan/advance:** Any interest falling under (b), (c) & (d), which has been converted into a loan or borrowing or advance, ***shall not be regarded as “actually paid” and shall not be allowed as deductions.***

Example:

Debit side of the profit and loss account of Mayank Ltd. shows the following expenses, which have been due but are outstanding as on 31-3-20

Payment outstanding on 31-3-20		First payment		Second payment	
Particulars	Amount	Date	Amount paid	Date	Amount paid
Leave encashment expenses	65000	1-6-20	15000	25-12-20	50000
Excise duty payable	14000	10-6-20	3000	13-12-20	11000
Sales tax payable	48000	5-09-20	48000	-	-
Bonus payable to employees	87000	2-5-20	30000	30-09-20	57000
Interest payable to LIC loan	75000	13-5-20	50000	10-01-21	25000

Due date for filing of return of income is 30-09-2020

Find out the previous years in which the aforesaid payments are deductible. The company maintains books of accounts on the basis of mercantile system of accounting.

Solution

As per provision of sec. 43B following payment if made before due date of filing of return (i.e. 30/9/2020) then only it shall be allowed.

Particulars	Amount paid	Deduction allowed in the previous year	
		2019-20	2020-21
Leave encashment expense	65,000	15,000	50,000
Excise duty payable	14,000	3,000	11,000
Sales tax payable	48,000	48,000	-
Bonus payable to employees	87,000	87,000	-
Interest payable to LIC loan	75,000	50,000	25,000

Example:

An analysis of the profit and Loss Account and the Balance Sheet of Kapil as at March 31, 2020 reveals that the following expenses which were due, were though debited to Profit and Loss account, but have been paid after 31-3-2020:

- Sales tax ₹ 50000 (₹ 20000 paid on 14-09-2020; and ₹ 30000 paid on 15-12-2020)
- Excise duty ₹ 120000 (₹ 40000 paid on 14-09-2020; ₹ 40000 paid on 15-12-2020; and ₹ 40000 paid on 24-12-2020)
- Bonus to staff ₹ 60000 (₹ 58000 paid on 10-09-2020; and ₹ 2000 paid on 15-12-2020)
- Employers contribution to provident fund ₹ 55,000 (₹ 25000 paid on 15-7-2020; ₹ 10000 paid on 30-09-2020; and ₹ 20000 paid on 15-12-2020)

The due date for filing of return is 30-09-2020. In which previous years can the above payments be claimed as a deduction?

Solution

As per Sec. 43B certain expenditure (like sales tax, excise duty, bonus to staff, etc.) are not allowed if payment is not made before the due date of furnishing return of income. Deduction can, however, be claimed in the year of payment.

Statement showing previous year in which deduction can be claimed.

Particulars	Amount	Previous year in which deduction can be claimed
Sales tax		
• Paid on 14-09-2020	20000	2019-20
• Paid on 15-12-2020	30000	2020-21
Excise duty		
• Paid on 14-09-2020	40000	2019-20
• Paid on 15-12-2020	40000	2020-21
• Paid on 24-12-2020	40000	2020-21
Bonus to staff		
• Paid on 10-09-2020	58000	2019-20
• Paid on 15-12-2020	2000	2020-21
Employers contribution to provident fund		
• Paid on 15-07-2020	25000	2019-20
• Paid on 30-09-2020	10000	2019-20
• Paid on 15-12-2020	20000	2020-21

Cash payments in excess of ₹ 10,000 / ₹ 35,000 – Section 40A(3) & 40A(3A) read with Rule 6DD

- 1) Where the assessee incurs any expenditure, in respect of which **payment or aggregate of payments made to a person in a day** otherwise than by an account payee cheque or by an account payee bank draft or use of electronic system through bank account **or through such other prescribed electronic modes** ★ exceeds ₹ 10,000, such expenditure [100%] shall not be allowed as a deduction. [Section 40A(3)]
- 2) Further, In case of an assessee following mercantile system of accounting, if an expenditure has been allowed as deduction in any previous year on due basis, and payment has been made in a subsequent year otherwise than by account payee cheque or account payee bank draft or use of electronic system through bank account **or through such other prescribed electronic modes**, then the payment so made shall be deemed to be the income of the subsequent year if such payment or aggregate of payments made to a person in a day exceeds ₹ 10,000. Section 40A(3A)
- 3) *This limit of ₹ 10,000 has been raised to ₹ 35,000 in case of payment made to transport operators for plying, hiring or leasing goods carriages.*
- 4) **Section 40A(3) & Section 40A(3A) is applicable only for computing income under PGBP and IOS.**
- 5) **The provisions regarding payments by account payee cheque or draft apply equally to payments made for goods purchased on credit.**
- 6) If aggregate payment in a day (otherwise than by an account payee cheque/draft) to the same person in respect of an expenditure exceeds ₹ 10,000, it will be disallowed under section 40A(3), even if none of each payment in the day exceeds ₹ 10,000.
- 7) If an assessee makes payment of two different bills (none of them exceeds ₹ 10,000) at the same time in cash or by bearer cheque, section 40A(3) is not applicable even if the aggregate payment is more than ₹ 10,000. In other words unless the amount of the bill and the amount of payment exceed ₹ 10,000, section 40A(3) is not applicable.
- 8) Where the assessee makes payment over ₹ 10,000 at a time, partly by an account payee cheque and partly in cash or bearer cheque or crossed cheque to some parties but the payment in cash (or by bearer cheque or crossed cheque) alone at one time does not exceed ₹ 10,000, section 40A(3) is not attracted.
- 9) Provision of section 40A(3) does not apply in respect of an expenditure which is not to be claimed as deduction u/s 30 to 37.
- 10) **Rule 6DD: Cases where above restriction of payment mode is not applicable:**
 - a) **where the payment is made to RBI, SBI and any banking company, any co-operative bank, Land mortgage bank, LIC, etc.**
 - b) **where the payment is made to the Government in legal tender;**
 - c) **where the payment is made by**
 - a credit card / a debit card.
 - a bill of exchange made payable only to a bank;
 - the use of electronic clearing system through a bank account;
 - any letter of credit arrangements through a bank;
 - a mail or telegraphic transfer through a bank;
 - a book adjustment from any account in a bank to any other account in that or any other bank;
 - d) **where the payment is made for the purchase of agricultural or forest produce; the produce of animal husbandry (including livestock, meat, hides and skins) or dairy or poultry farming; fish or fish products; or the products of horticulture or apiculture, to the cultivator, grower or producer of such articles, produce or products;**
 - e) **where the payment is made, for the purchase of the products manufactured or processed without the aid of power in a cottage industry, to the producer of such products;**

- f) where the payment is made in a village or town, **which on the date of such payment is not served by any bank**, to any person who ordinarily resides, or is carrying on any business, profession or vocation, in any such village or town;
- g) where any payment is made to an employee of the assessee or legal heirs, on or in connection with the retirement, retrenchment, resignation, discharge or death, on account of gratuity, retrenchment compensation or similar terminal benefit **and the aggregate of such sums payable to the employee or his heir does not exceed ₹ 50,000**;
- h) where the payment is made by an assessee by way of salary to his employee after deducting TDS and when such employee -
 - is temporarily posted for a **continuous period of fifteen days or more** in a place other than his normal place of duty or on a ship; **and**
 - **does not maintain any account in any bank** at such place or ship;
- i) where the payment was required to be made on a **day on which the banks were closed** either on account of holiday or strike;
- j) where the payment is made by any person to his agent **who is required to make payment in cash for goods or services on behalf of such person**;
- k) where the payment is made **by an authorised dealer or a money changer** against purchase of foreign currency or travellers cheques in the normal course of his business.
- l) where the **payment is made by way of adjustment against the amount of any liability** incurred by the payee for any goods supplied or services rendered by the assessee to such payee;

Question: Determine the amount of disallowances in the cases given below –

1. *Generally X pays salary to his employees by account payee cheques. Salary of December 2019 is, however, paid to three employees A, B and C by bearer cheques (payment being ₹ 6,000, ₹ 10,000 and ₹ 10,500 respectively).*
2. *X Ltd. purchases goods on credit from Y Ltd. on May 6, 2019 for ₹ 86,000 which is paid as follows –*
 - a) ₹ 5,000 in cash on May 11, 2019;
 - b) ₹ 40,000 by a bearer cheque on May 31, 2019;
 - c) ₹ 41,000 by an account payee cheque on May 16, 2019.
3. *Z Ltd. purchases goods on credit from A Ltd. on May 10, 2019 for ₹ 6,000 and on May 30, 2019 for ₹ 5,000. The total payment of ₹ 11,000 is made by a crossed cheque on June 1, 2019.*
4. *A Ltd. purchases goods on credit from a relative of a director on June 20, 2019 for ₹ 50,000 (market value: ₹ 42,000). The amount is paid in cash on June 25, 2019.*
5. *B Ltd. purchases raw material on credit from A who holds 20% equity share capital in B Ltd. (the amount of bill being ₹ 36,000, market price being ₹ 9,000). It is paid in cash on July 26, 2019.*

Solution:

1. ₹ 10,500, being 100% of salary paid by bearer cheque to C, will be disallowed.
2. Nothing will be disallowed out of the payment of ₹ 5,000 in cash on May 11, 2019, as the payment does not exceed ₹ 10,000. 100% of ₹ 40,000 will be disallowed. Nothing will be disallowed out of ₹ 41,000.
3. Though the amount of payment exceeds ₹ 10,000, nothing shall be disallowed. To attract disallowances, the amount of bill as well as the amount of payment should be more than ₹ 10,000.
4. Out of the payment of ₹ 50,000, ₹ 8,000 (being the excess payment to a relative) shall be disallowed u/s 40A(2). As the payment is made in cash and the remaining amount exceeds ₹ 10,000, 100% of the balance (i.e., ₹ 42,000) shall be disallowed u/s 40A(3).
5. Out of the payment of ₹ 36,000, ₹ 27,000 (being the excess payment to a person holding a substantial interest) shall be disallowed u/s 40A(2). The remaining amount (i.e., ₹ 9,000) does not exceed ₹ 10,000. Nothing shall be disallowed u/s 40A(3) even if the payment is made in cash.

ADMISSABLE DEDUCTIONS**RENT, RATES, REPAIRS AND INSURANCE FOR BUILDINGS [Section 30]**

- **Business Use:** Section 30 allows deduction in respect of the **rent, rates, taxes, repairs and insurance** of buildings used by the assessee for the purpose of his business or profession.

However, where the **premises are used partly for business and partly for other purposes**, only a proportionate part of the expenses attributable to that part of the premises used for purposes of business will be allowed as a deduction.

- **Notional Rent:** Rent paid to proprietor is disallowed but rent paid by firm to its partner for using his premises is an allowed expenditure.

- **Current Repairs Vs Capital Repair:** This section allows deductions in respect of expenses incurred on account of **current repairs [Revenue in Nature]** to building in case where (i) the assessee is the owner of the building or (ii) the assessee is a tenant who has undertaken to bear the cost of repairs to the premises.

But if capital Expenditure is incurred on repair:

- **By the owner:** then, it shall be added to the cost of building & Depn. shall be allowed u/s. 32(1)(ii)
- **By the tenant:** then, the depreciation shall be allowed as per Explan. 1 to Section 32(1).
- **Municipal Taxes:** By virtue of section 43B, rates and taxes are deductible on cash basis.

REPAIRS AND INSURANCE OF MACHINERY, PLANT AND FURNITURE [Section 31]

- **Business Use of Asset:** Section 31 allows deduction in respect of the expenses on **current repairs (not being capital expenditure) and insurance** of machinery, plant and furniture used for the purposes of business or profession carried on by the assessee.
- Capital Expenditure incurred on repair shall be added to the cost of plant & machinery or furniture and depreciation shall be allowed under Section 32.
- **Rent payable for use of above assets** is not covered by section 31, but shall be allowed as deduction under section 37(1).
- Replacement of old frames for efficient functioning of machines without breakdowns, is allowable as deduction u/s 37 and not u/s 31 because it is not current repairs, **but accumulated repairs**

ACTUAL COST [SECTION 43(1)]

The expression "actual cost" means the actual cost of the asset to the assessee as reduced by that portion of the cost thereof, if any, as has been met directly or indirectly by any other person or authority.

PURCHASE PRICE

Add: Interest on loan borrowed for period up to the date of put to use [Sec. 36(1)(iii)]	xxx
Add: Expenses incurred for freight/insurance/loading/Unloading	xxx
Add: Trial Run Expenses, if any	xxx
Less: Amount met by any authority or other person by way of subsidy etc. Section 43(1)	xxx
Less: <i>Adjustment as per explanation 1 to 13 to Sec. 43(1), if applicable</i>	xxx
ACTUAL COST TO BE ADDED IN THE RELEVANT BLOCK OF ASSETS	xxx

*Where an assessee incurs any expenditure for acquisition of any asset in respect which a payment (or aggregate of payments made to a person in a day), otherwise than by an account payee cheque/draft/use of electronic clearing system through a bank account **or through such other prescribed electronic mode**, exceeds ₹ 10,000, such payment shall be ignored for the purposes of determination of "Actual Cost" of such asset.*

Consequently, Depreciation/Additional Depreciation under Section 32 and Deduction u/s 32AD pertaining to such payment is not available. Moreover, such expenditure will not be considered for the purpose of Section 50.



ACTUAL COST IN CERTAIN SPECIAL SITUATIONS [EXPLANATIONS TO SECTION 43(1)]

S.No	Mode of Acquisition	Actual Cost
(1)	Asset acquired by way of <u>gift or inheritance</u> .	WDV to the previous owner.
(2)	<u>Building previously used for private purposes</u> , now brought into use for the business of the assessee. [Note: Rate of depreciation applicable in previous year of bringing the asset into business use is applied.]	Actual cost of building <u>less</u> notional depreciation upto year of bringing it to business use.

Example: Compute the amount of depreciation allowable in the following cases - Dr. Jolly purchased a house property on 1-12-2017 for ₹ 10,00,000. Till 1-6-2019, the same was self-occupied as a residence. On this date, the building was brought into use for his medical profession. Rate of depreciation on buildings at the time of purchase of house property was 15%.

Solution : Explanation 5 to section 43(1) provides mode of computation of actual cost when a building initially used for personal purposes is brought into business use. The rate of depreciation to be applied is the rate in force in the year in which building is brought into business use i.e. 10%.

Computation of the amount of depreciation allowable (amounts in ₹)

WDV as on 31.3.2018	10,00,000
Less: Depreciation @ (10% x 50%) of ₹ 10,00,000 (use for less than 180 days)	50,000
WDV as on 1.04.2018	9,50,000
Less: Depreciation (10% of ₹ 9,50,000)	95,000
WDV as on 1.4.2019 (Actual cost of building)	855,000
Depreciation for the current year (10% of ₹ 8,55,000)	85,500

Example: A Car purchased by S on 10.08.2015 for ₹ 3,25,000 for personal use is brought into the business of the assessee on 1.12.2019, when its market value is ₹ 1,50,000. Compute the actual cost of the car and the amount of depreciation for the AY 2020-21 assuming the rate of depreciation to be 15%.

Answer: Computation of actual cost and depreciation [for the AY 2020-21]

Actual cost as on 1.12.2019 (in the business) (see note)	3,25,000
Less: Depreciation [as the asset is acquired and put to use in the business for less than 180 days, 50% of the normal depreciation is allowable] 50% x [15% x ₹ 3,25,000]	24,375
WDV as on 31.3.2020 (after Depreciation)	3,00,625

Note: In this case, car was purchased for personal use on 10.8.2015 for ₹ 3,25,000 and subsequently brought into the business of the assessee on 1.12.2019. The 'actual cost' of car is ₹ 3,25,000.

TREATMENT OF EXCHANGE RATE FLUCTUATIONS IN CASE OF PURCHASE OF AN ASSET FROM OUTSIDE INDIA [SECTION 43A]

- The assessee has acquired any capital asset from abroad on credit or on deferred payment or from money representing in foreign currency
- subsequently, after the date of acquisition, there is a change in **increase or reduction in the liability at the time of making the payment** towards the cost of the asset or repayment of money borrowed in any foreign currency along with interest due to foreign exchange rate fluctuation
- Such increase or reduction shall be added to or reduced from the cost of the assets.

EXPENDITURE ON SCIENTIFIC RESEARCH [Section 35]

Sec 35	Expenditure incurred	Deduction	Conditions / Remarks
(1)(i)	<ol style="list-style-type: none"> Revenue expenditure on scientific research incurred after commencement of business. Subject to conditions, Expenditure on scientific research <u>before commencement of business</u> by way of <ol style="list-style-type: none"> Purchase of materials; or Salary (except perquisite) of employees 	<p>Amount of expenditure incurred [100%]</p>	<p><u>Expenditure incurred within 3 years immediately preceding the date of commencement of business</u> is allowed as deduction in the year of commencement of business to the extent certified by the prescribed authority.</p>
(1)(ii)	<p>Sum paid to a Research Association, University, College or Institution whose object is undertaking of scientific research</p> <ul style="list-style-type: none"> ➤ 150% from AY 18-19 to AY 20-21 ➤ 100% from AY 21-22 	<p>1.50 x Sum paid [150%]</p>	<ul style="list-style-type: none"> ➤ Such association, university college or institution must be approved and notified by the CG. ➤ Deduction is allowed even if research is not related to business.
(1) (ia)	<p><u>Sum paid to a company</u> to be used by it for scientific research</p>	<p>100% x Sum paid</p>	<p>Such company is registered in India, is approved by prescribed authority and has the main object of 'scientific research and development'</p>
(1)(iii)	<p><u>Sum paid for Social Science or Statistical Research</u> to a Research Association which has as its object the undertaking of research in social science or statistical science or to a University, College or Institution</p>	<p>100% x Sum paid</p>	<ul style="list-style-type: none"> ➤ Such association, university college or institution must be approved and notified by the CG. ➤ Deduction is allowed even if research is not related to business.
(2)	<ul style="list-style-type: none"> ➤ Capital expenditure (except expenditure on the purchase of land) on scientific research related to business. ➤ Capital expenditure (except expenditure on the purchase of land) incurred within 3 years immediately preceding the date of commencement of business. 	<p>Amount of expenditure incurred</p>	<ul style="list-style-type: none"> ➤ Pre-commencement expenditure is allowed in the year of the commencement of the business. ➤ No depreciation is allowable.
(2AA)	<p>Sum paid to -</p> <ol style="list-style-type: none"> a National Laboratory; or a University; or an Indian Institute of technology; or a specified person <ul style="list-style-type: none"> ➤ 150% from AY 18-19 to AY 20-21 ➤ 100% from AY 21-22 	<p>1.50 x Sum paid [150%]</p>	<ul style="list-style-type: none"> ➤ Sum is paid with a <u>specific direction that it shall be used for scientific research undertaken under a programme approved</u> in this behalf by prescribed authority.

(2AB)	<p>Expenditure <u>(not being in nature of cost of any land or buildings)</u> incurred on scientific research on in-house research and development facility incurred <u>by a company engaged in the business of biotechnology, or, any business of manufacture or production of any article or thing, not being an article or thing specified in the list of the Eleventh Schedule</u></p> <p>[Cost of building shall be allowed u/s 35(1)(iv) @100%]</p> <ul style="list-style-type: none"> ➤ 150% from AY 18-19 to AY 20-21 ➤ 100% from AY 21-22 	<p>1.50 x expenditure incurred [150%]</p>	<ul style="list-style-type: none"> ➤ Such Research and development facility is approved by prescribed authority. ➤ Such assessee should enter into an agreement with prescribed authority for co-operation in such Research and development facility and audit of accounts maintained for that facility. ➤ No deduction shall be allowed in respect of such sum under any other provision of the Act. ➤ No deduction shall be allowed in this sub-section to a company approved u/s 35(1)(ia).
-------	---	--	--

Other points:

- Deduction not to be denied even if approval withdrawn subsequently :** The deduction allowable under this section shall not be denied merely on the ground that subsequent to the payment of such sum by the assessee-
 - the approval granted to association, university, college, other institution referred to u/s 35(1)(ii)/ (iii), or, the Laboratory or specified person referred to u/s 35(2AA) has been withdrawn; or
 - the approval granted to the programme undertaken by the National Laboratory, University, Indian Institute of Technology or specified person, has been withdrawn.
- Actual use for scientific research during the previous year - not necessary:**
Deduction under section 35(1)(iv) is available only if the asset was acquired during the previous year for the purposes of scientific research. There is no further requirement that asset must be put to use in the relevant previous year.
- In case of sale of assets used for research purpose & on which deduction is allowed u/s 35, money payable on sale will be considered as deemed income u/s 41(3) u/h PGBP to the extent deduction is allowed. Amount in excess of Cost of such asset will be liable for Capital Gain.**
- SET OFF OF UNABSORBED CAPITAL EXPENDITURE:**
The treatment for Set off and carry forward of unabsorbed scientific research capital expenditure shall be done in the same manner as that of unabsorbed depreciation.

Question: K Bio-medicals Ltd. is engaged in the business of manufacture of bio-medical items. The following expenses were incurred in respect of activities connected with scientific research:

Year ended	Item	Amount (₹)
31.03.2017 (Incurred after 01.09.2016)	Land	12,00,000
	Building	28,00,000
31.03.2018	Plant & Machinery	7,00,000
31.03.2019	Raw materials (allowed by prescribed authority)	3,20,000
31.03.2020	Raw materials and salaries (After commencement)	2,80,000

The business was commenced on 01.09.2019. In view of availability of better model plant and machinery, the existing plant and machinery were sold for ₹ 10,00,000 on 01.03.2020.

Discuss the implication of the above for the AY 2020-21 alongwith brief computation of deduction permissible under section 35 at 150% on eligible items.

SOLUTION:

₹

Expenditure allowed

Land	Not Allowed
Building	28,00,000
Plant and machinery	7,00,000
Raw materials	3,20,000
Raw materials and salaries (2,80,000 × 1.5 times)	4,20,000

[Pre-commencement expenditure is not eligible for weighted deduction of 150%]

On sale of existing P&M, ₹ 7,00,000 will be deemed to be business profits under section 41(3)**Short term capital gains on sale of plant and machinery**

Full value of consideration	10,00,000
Less: cost of acquisition	7,00,000
Short term capital gains	3,00,000

Question: A Ltd. furnishes the following particulars for the PY 2019-20. Compute the deduction allowable under section 35 for AY 2020-21, while computing its income under the head "PGBP":

	Particulars	₹
1.	Amount paid to Indian Institute of Science, Bangalore, for scientific research	2,00,000
2.	Amount paid to IIT, Delhi for an approved scientific research programme	3,00,000
3.	Amount paid to X Ltd., a company registered in India which has as its main object scientific research and development, as is approved by the prescribed authority	6,00,000
4.	<u>Expenditure incurred on in-house research and development facility as approved by the prescribed authority</u>	
	(a) Revenue expenditure on scientific research	4,00,000
	(b) Capital expenditure (including cost of acquisition of land ₹ 5,00,000) on scientific research	8,00,000

Solution: Computation of deduction under section 35 for the AY 2020-21

Particulars	₹	Section	% of weighted deduction	Amount of deduction (₹)
Payment for scientific research				
Indian Institute of Science	2,00,000	35(1)(ii)	150%	3,00,000
IIT, Delhi	3,00,000	35(2AA)	150%	4,50,000
X Ltd.	6,00,000	35(1)(iia)	100%	6,00,000
Expenditure incurred on in- house research and development facility				
Revenue expenditure	4,00,000	35(2AB)	150%	6,00,000
Capital expenditure	3,00,000	35(2AB)	150%	4,50,000
(excluding cost of acquisition of land ₹ 5,00,000)				
Deduction allowable u/s 35				24,00,000

Deduction in respect of donations for scientific research and rural development [Section 80GGA]

1) Any assessee not having income u/h “PGBP”.

2) No Deduction for cash donations/contributions exceeding ₹ 10,000:

No deduction shall be allowed under this section in respect of donation of any sum exceeding ₹ 10,000 unless such sum is paid by any mode other than cash.

3) **100% deduction of contribution made to:**

- a) **Research association/University/College/Other Institution** approved u/s 35(1)(ii) for scientific research;
- b) **Research association/University/College/Other Institution** approved u/s 35(1)(iii) for research in social science or statistical research
- c) **Public Sector Company/Local Authority/Association or institution** (approved by the National Committee) for carrying out any eligible project or scheme approved under section 35AC
- d) **Association/Institution** which undertaking any programme of rural development u/s 35CCA or which has undertaking training of persons for implementation of such programmes.
- e) **National Rural Development Fund or National Urban Poverty Eradication Fund (NUPEF)** set up and notified under section 35CCA.

Section 35AD - DEDUCTION IN RESPECT OF EXPENDITURE ON SPECIFIED BUSINESS

A. Specified business – Deduction u/s 35AD is available only in the case of a “specified business”:

W.e.f 01/04/2009

- (1) Setting up and operating a cold chain facility
- (2) setting up and operating a warehousing facility for storage of agriculture produce;
- (3) laying and operating a cross-country natural gas (w.e.f.01/04/2007) or crude or petroleum oil pipeline network for distribution, including storage facilities being an integral part of such network (only Company)

W.e.f 01/04/2010

- (4) building and operating, anywhere in India, a hotel of two-star or above category;

[Owner of Hotel is eligible for deduction even if owner transfers the operation of the hotel to another person]

- (5) building and operating, anywhere in India, a hospital with atleast 100 beds for patients;
- (6) developing and building a housing project under a scheme for slum redevelopment or rehabilitation;

W.e.f 01/04/2011

- (7) developing and building a housing project under a scheme for affordable housing
- (8) Production of fertilizer in India

W.e.f 01/04/2012

- (9) Setting up and operating an inland container depot or a container freight station notified or approved under the Customs Act, 1962
- (10) Bee-keeping and production and production of honey and beeswax; and
- (11) Setting up and operating a warehousing facility for storage of sugar

W.e.f 01/04/2014

- (12) Laying & Operating a slurry pipeline for the transportation of iron ore
- (13) Setting up and operating a semiconductor wafer fabrication manufacturing unit, if notified

W.e.f 01/04/2017 [AY 18-19]

- (14) Developing or Operating & Maintaining or Developing, Operating & Maintaining any **Infrastructure facility (Port, Airport, Rail system, Road, Highway Projects, Water Supply, Sewerage system, Solid waste management system etc) [Approved company assessee or Govt bodies]**

B. Specified business should be new business:

- (1) The specified business should not be set up by splitting up, or the reconstruction, of a business already in existence.
- (2) It should not be set up by the transfer of old plant and machinery.

(a) 20% old machinery is permitted:

If the value of the transferred assets does not exceed 20% of the total value of the machinery or plant used in the business, this condition is deemed to have been satisfied.

(b) Second-hand imported machinery is treated as new:

Any machinery or plant which was used outside India by any person (other than the assessee) shall not be regarded as machinery or plant previously used for any purpose, **if the following conditions are fulfilled-**

- (i) Such machinery or plant was never used in India.
- (ii) Such machinery or plant is imported into India from any other Country.
- (iii) No deduction on account of depreciation in respect of such machinery or plant has been allowed to any assessee previously.

C. **Audit of the books of account** – Books of account of the assessee should be audited.

D. **AMOUNT OF DEDUCTION:**

1. **100% of capital expenditure is deductible.**
2. ***Any expenditure in respect which payment (or aggregate of payments made to a person in a day), otherwise than by an account payee cheque/draft/use of electronic clearing system through a bank account **or through such other prescribed electronic mode**, exceeds ₹ 10,000, no deduction shall be allowed in respect of such payment under section 35AD.*** ★
3. **Expenditure incurred on the acquisition of any land or goodwill or financial instrument** is not eligible for any deduction u/s 35AD.
4. Expenditure incurred prior to the commencement of operation, wholly and exclusively, for the purpose of any specified business, shall be allowed as deduction during the previous year in which the assessee commences the operation of his specified business, **if the amount is capitalized in the books of account of the assessee on the date of commencement of operation.**

CONSEQUENCES OF CLAIMING DEDUCTION U/S 35AD :

- (i) If deduction is claimed and allowed u/s 35AD, the assessee shall not be allowed any deduction in respect of the specified business **under Section 10AA** or under the provisions of Chapter VIA [u/s 80IA to 80RRB] for the same or any other assessment year.
- (ii) Any **loss computed in respect of the specified business u/s 35AD** shall not to be set off except against profits and gains, if any, of other specified business u/s 73A (whether or not eligible for deduction u/s 35AD). To the extent the loss is unabsorbed, the same will be carried forward for set off against profits and gains from any specified business in the following assessment year and so on (no time-limit for carry forward such loss).
- (iii) Any **sum received or receivable on account of any capital asset**, in respect of which deduction has been allowed u/s 35AD, being demolished, destroyed, discarded, or transferred shall be treated as income of the assessee and chargeable to income tax under the head "Profits and gains of business or profession".
- (iv) Section **35AD(7A)** provides that any asset in respect of which a deduction is claimed and allowed under section 35AD shall be used only for the specified business **for a period of 8 years** beginning with the previous year in which such asset is acquired or constructed.
- (v) **Sub-section (7B) has been inserted** to provide that if such asset is used for any purpose other than the specified business, the total amount of deduction so claimed and allowed in any previous year in respect of such asset, **as reduced by the amount of depreciation allowable** in accordance with the provisions of section 32 as if no deduction had been allowed under section 35AD, **shall be deemed to be income** of the assessee chargeable under the head "Profits and gains of business or profession" of the previous year in which the asset is so used.
- (vi) **However, the deeming provision under sub-section (7B) shall not be applicable to a Sick company.**

Example:

ABC Ltd. is a company having two units – Unit A carries on specified business of setting up and operating a warehousing facility for storage of sugar; Unit B carries on non-specified business of operating a warehousing facility for storage of edible oil. Unit A commenced operations on 1.4.2018 and it claimed deduction of ₹ 100 lacs incurred on purchase of two buildings for ₹ 50 lacs each (for operating a warehousing facility for storage of sugar) under section 35AD for A.Y. 2019-20. However, in February, 2020, Unit A transferred one of its buildings to Unit B. Examine the tax implications of such transfer in the hands of ABC Ltd.

Solution:

Since the capital asset, in respect of which deduction of ₹ 50 lacs was claimed under section 35AD, has been transferred by Unit A carrying on specified business to Unit B carrying on non-specified business in the P.Y. 2019-20, the deeming provision under section 35AD(7B) is attracted during the A.Y. 2020-21.

Particulars	₹
Deduction allowed under section 35AD for A.Y. 2019-20	50,00,000
Less: Depreciation allowable u/s 32 for A.Y. 2019-20 [10% of ₹ 50 lacs]	<u>5,00,000</u>
Deemed income under section 35AD(7B)	45,00,000

Actual Cost of the Building for Depreciation purpose shall be 45 Lakhs now in AY 20-21

Example: On April 1, 2019, X Ltd. commences the operation of a warehousing facility in Andhra Pradesh for storage of Sugar. The following information is available from the records of company –

Expenses incurred prior to April 1, 2019

	₹
Purchase of land for warehouse	50,00,000
Construction cost of warehouse	8,00,000
Purchase of know-how for warehouse	10,00,000
Salary to staff	78,000

These expenses are capitalized on March 31, 2019.

Expenses incurred during PY 2019-20.

Construction cost of warehouse	60,00,000
Purchase of old plant and machinery (from domestic market)	2,00,000
Purchase of old plant and machinery (from Germany)	4,00,000
Purchase of new plant and machinery	9,00,000
Purchase of goodwill	3,50,000

Profit and loss account for the year PY 2019-20

	₹		₹
Depreciation of building (@ 5%)	3,40,000	Amount collected from persons using warehouse	78,00,000
Depreciation of machinery (@ 23.333%)	3,50,000		
Cost of know-how (amount written off)	10,00,000		
Other operating expenses	7,51,000		
Donation to a political party	10,000		
Net Profit	<u>53,49,000</u>		
	78,00,000		78,00,000

Out of other operating expenses, a payment of ₹ 40,000 is made in cash. Other operating expenses are deductible u/s 37. **Find out the taxable income of X Ltd. for the AY 2020-21 on the assumption that X Ltd. has the following income from other sources – income from the business of commission agency: ₹ 20,15,000 (computed under the provision of the Income-tax Act) and dividend from a foreign company (Holding – 15%): ₹ 50,000**

Solution:**Amount deductible u/s 35AD.**

Expenditure incurred prior to the commencement of operation of operation (to the extent these are capitalized)

Purchase of land (not qualified for deduction)	Nil
Construction cost of warehouse	8,00,000
Purchase of know-how	10,00,000
Salary to staff	78,000

Expenditure incurred during the previous year

Construction cost of warehouse	60,00,000
Purchase of machinery (₹ 2,00,000 + ₹ 4,00,000 + ₹ 9,00,000)	<u>15,00,000</u>
Amount deductible u/s 35AD	93,78,000

Computation of income from warehouse

Net profit as per profit and loss account	53,49,000
Add: Depreciation of building (not deductible as cost of building is eligible for deduction u/s 35AD)	3,40,000
Add: Depreciation of machinery (not deductible as cost of machinery is qualified for deduction u/s 35AD)	3,50,000
Add: Cost of Know-how (not deductible as deduction is available u/s 35AD)	10,00,000
Add: Amount paid in cash (operating expenses)	40,000
Add: Donation to political party	10,000
Less: Deduction u/s 35AD	<u>(-)93,78,000</u>
Loss from warehouse	(-)22,89,000

Computation of Income

	₹	₹
Commission agency business	20,15,000	
Warehouse Business	<u>(-)22,89,000</u>	
Business income (Set off not permissible)		20,15,000
Income from other sources (dividend from foreign company)		<u>50,000</u>
Gross total income		20,65,000
Less: Deduction u/s 80GGB (donation to a political party)		<u>10,000</u>
Net income		20,55,000

Notes:

1. Second hand imported machinery is taken as new machinery. The business of operating warehouse is formed by using new machinery of ₹ 13,00,000 and old machinery of ₹ 2,00,000. Value of old plant and machinery does not exceed 20% of the total value of plant & machinery. **Other conditions of section 35AD are satisfied X Ltd. is, therefore, eligible for deduction u/s 35AD.**
2. Loss from operating warehouse (by virtue section 73A) can be set off only against profit and gains, if any, of any other business specified u/s 35AD. In this case, X Ltd. does not have any other specified business. **Loss will be carried forward (without any time-limit) for being set off against income from operating warehouse or any other specified business u/s 35AD.**

Example: XYZ Ltd. commenced operations of the business of laying and operating a cross-country natural gas pipeline network for distribution on 1st April, 2019. The company incurred capital expenditure of ₹ 32 lakh during the period January to March, 2019 exclusively for the above business, and capitalized the same in its books of account as on 1st April, 2019.

Further, during the financial year 2019-20, it incurred capital expenditure of ₹ 95 lakh (out of which ₹ 60 lakh was for acquisition of land) exclusively for the above business. Compute the deduction under section 35AD for the AY 2020-21, assuming that XYZ Ltd. has fulfilled all the conditions specified in section 35AD.

Answer:

The amount of deduction allowable under section 35AD for AY 2020-21 would be:

Particulars	₹
Capital expenditure incurred during the PY 2019-20 (excluding the expenditure incurred on acquisition of land) = ₹ 95 lakh – ₹ 60 lakh	35 lakh
Capital expenditure incurred prior to 1.4.2019 (i.e., prior to commencement of business) and capitalized in the books of account as on 1.4.2019	32 lakh
Total deduction under section 35AD for AY 2020-21	67 lakh

Contributions for Rural Development Program[Section 35CCA]

1. This section allows a deduction of the following expenditure incurred by the assessee during the previous year:
 - a) Payment to an association or institution, having the objective of undertaking programmes of rural development. Such payment must be used for carrying out any programme of rural development approved by the prescribed authority.
 - b) Payment to an association or institution having as its object the training of persons for implementing rural development programme.
 - c) Payment to a National Rural Development Fund set up and notified by the Central Government.
 - d) Payments made to “National Urban Poverty Eradication Fund” (NUPEF) set up and notified by the Central Government.
2. **Certificate:** The deduction shall not be allowed in respect of expenditure by way of payment of any sum to any association or institution as referred in (a) & (b) above, unless the assessee furnishes a certificate from such association or institution in the prescribed manner.
3. **Deduction for the sum paid shall not be denied** if the approval granted to above programme/association/institution has been withdrawn subsequent to the payment by the assessee.

Weighted deduction for exp. on notified Agriculture Extension Project [Sec 35CCC]

Where an assessee incurs any expenditure (not being expenditure in the nature of cost of any land or building) on any notified agriculture extension project in accordance with the prescribed guidelines, then, such assessee can claim a weighted deduction of 150% of such expenditure.

Deduction will be restricted to 100% w.e.f. AY 21-22

Weighted deduction for expenditure on notified Skill Development Project [Sec 35CCD]

Where a company incurs any expenditure (not being expenditure in the nature of cost of any land or building) on any notified skill development project, then such company can claim a weighted deduction of 150% of such expenditure.

Deduction will be restricted to 100% w.e.f. AY 21-22

Question: ABC Limited is a company engaged in the business of biotechnology. The net profit of the company for the financial year ended 31-03-2020 is ₹ 15,25,890 after debiting the following items:

S. No.	Particulars	₹
(1)	Purchase price of the raw material used for the purpose of in-house research and development	1,80,000
(2)	Purchase price of assets used for in-house research and development wrongly debited to profit and loss account: <ol style="list-style-type: none"> (a) Land (b) Building 	5,00,000 3,00,000
(3)	Expenditure incurred on notified agricultural extension project	1,50,000
(4)	Expenditure on notified skill development project: <ol style="list-style-type: none"> (a) Purchase of land (b) Expenditure on training for skill development 	2,00,000 2,50,000
(5)	Expenditure incurred on advertisement in the souvenir published by a political party	75,000

Compute the income under the head “Profit and gains of business or profession” for the A.Y. 2020-21 of ABC Ltd.

Solution: Computation of income under the head “Profits and business or profession” for the A.Y. 2020-21:

Particulars	₹	₹
Net profit as per Profit and Loss A/c		15,25,890
Add: Item debited to P&L A/c, but to be disallowed –		
Purchase price of land used in in-house research and development [WN-1]	5,00,000	
Purchase price of building used in in-house research and development [WN -2]	-	
Expenditure incurred on notified agricultural extension project [WN -3]	1,50,000	
Expenditure incurred on purchase of land for notified skill development project [WN-4]	2,00,000	
Expenditure incurred on training for skill development for notified skill [WN-5]	2,50,000	
Expenditure incurred on advertisement in the souvenir publication by a political party [WN-6]	75,000	11,75,000
		27,00,890
Less: Raw material used for in-house research and development [WN-7]	90,000	
Expenditure incurred on notified agricultural extension project [WN-3]	2,25,000	
Expenditure incurred on training for skill development in a notified skill development project [WN-5]	3,75,000	6,90,000
Profit and gains from business		20,10,890

Working Notes:

- (1) Purchase price of land is not allowed as deduction under section 35(2AB).
- (2) Cost of building, being capital expenditure, 100% deduction shall be allowed under section 35(1)(iv) read with section 35(2).
- (3) This expenditure qualifies for 150% deduction under section 35CCC.
- (4) Purchase of land does not qualify for deduction under section 35CCD.
- (5) This expenditure qualifies for 150% deduction under section 35CCD.
- (6) The expenditure incurred on advertisement in the souvenir published by a political party is disallowed as per section 37(2B) while computing income under the head “Profit and Gains of Business or Profession” but the same would be allowed as deduction under sections 80GGB from the gross total income of the company.
- (7) The expenditure incurred on raw material qualifies for 150% deduction under section 35(2AB). Since, it is already debited to P&L A/c, hence balance 50% is allowed.

AMORTISATION OF PRELIMINARY EXPENSES [Section 35D]

- (a) Section 35D provides for the amortisation of preliminary expenses incurred by **Indian companies and other resident non-corporate taxpayers** for the establishment of business concerns or the expansion of the business of existing concerns.
- (b) This section applies in **the case of new companies**, to expenses incurred before the commencement of the business or **in the case of extension of an existing undertaking**, to expenses incurred till the extension is completed or till the setting up a new unit.
- (c) Such preliminary expenditure incurred **shall be amortised over a period of 5** successive PYs beginning with the PY in which the business commences or, the PY in which the extension of the undertaking is completed or new unit commences production.
- (d) **Eligible expenses - The following expenditure are eligible for amortisation:**

(1) Expenditure in connection with–

- (a) the preparation of feasibility report / project report;
- (b) conducting market survey or any other business survey;
- (c) engineering services relating to the business;
- (d) legal charges for drafting any agreement between the assessee and any other person for any purpose relating to the setting up to conduct the business of assessee.

Provided the above work must be carried out by the assessee himself or by a concern which is for the time being approved in this behalf by the Board.

(2) Where the assessee is a company, in addition to the above, expenditure incurred:

- (a) by way of legal charges for drafting the MOA/AOA of the company and on its printing;
- (b) by way of fees for registering the company under the Companies Act;
- (c) in connection with the issue, for public subscription, of the shares in or debentures of the company, being underwriting commission, brokerage and charges for drafting, printing and advertisement of the prospectus;

(e) Maximum Expenditure allowed to be amortized:

In case of Indian Company	<u>Higher of the following:</u> (a) 5% of the Capital Employed, or (b) 5% of the Cost of project.
Other Assessee	5% of the cost of the project

- (f) **'Cost of the project' means:** Actual cost of the fixed assets shown in the books **as on the last day of the previous year.**
- (g) **"Capital Employed" means:** Issued share capital + Debentures + **Long-term borrowings (7 years or more)** as on the last day of the previous year
- (h) **AUDIT:** Audit of accounts by a Chartered Accountant is necessary for claiming deduction u/s 35D.

Important Note:

- ✓ Expenditure on issue of shares which is not covered by section 35D is not allowable as revenue expenditure. **Therefore expenses incurred on –**
- **Issue of Right shares**
 - **Fees paid to ROC for enhancement of authorized share capital**
 - **Issue of shares to public**
- Will not be ALLOWED IF IT IS NOT COVERED BY SECTION 35D.
- ✓ **HOWEVER EXPENDITURE INCURRED ON ISSUE OF BONUS SHARES IS ALLOWABLE AS REVENUE EXPENDITURE.**
- ✓ **Discount on issue of debentures & premium on redemption of debentures** can be claimed as deduction proportionately during the period of life of debentures.

Example: X Ltd. is incorporated in Bangalore on September 6, 2019. It commences production on March 15, 2020. The following expenses are incurred by the company before commencement of business:

- Expenses on incorporation, issue of shares, etc. : ₹ 82,000
- Preparation of feasibility report, project report and conducting market survey (the work is completed by the taxpayer itself): ₹ 1,50,000.
- Engineering services (work is carried on by a concern which is not approved by the Board): ₹ 1,50,000.

Determine the amount of deduction u/s 35D assuming the following figures of fixed assets and capital on March 31, 2020 (i.e., the last day of the year in which the taxpayer starts production) –

	₹ In lakhs
Cost of fixed asset	45
Share capital	50
Debentures	12
Long-term borrowing from a financial institution (repayable for not less than 7 years)	8

Solution:

	₹
Cost of project	45,00,000
Capital employed (i.e., ₹ 50lakhs + ₹ 12 lakhs + ₹ 8 lakhs)	70,00,000
Maximum qualifying expenditure [i.e., 5% of ₹ 45 lakhs or ₹ 70 lakhs, whichever is higher] (a)	3,50,000

Qualifying expenditure

Expenditure on incorporation	82,000
Preparation of feasibility report, project report and conducting market survey	1,50,000
Total (b)	2,32,000
Amount eligible for amortisation [(a) or (b), whichever is lower]	2,32,000
Amount deductible in 5 years for the assessment years 2020-21 to 2024-25	46,400

Note: Expenditure on engineering services in this case is not qualified for deduction u/s 35D. These expenses may be capitalized by the tax payer to claim depreciation.

AMORTISATION OF EXPENSES FOR AMALGAMATION/DEMERGER [Section 35DD]

An Indian company, incurred expenditure wholly and exclusively for the purpose of amalgamation or demerger, shall be allowed a deduction equal to **one-fifth of such expenditure for 5 successive previous years** beginning with the previous year in which amalgamation or demerger takes place.

AMORTISATION OF EXPENDITURE INCURRED UNDER VOLUNTARY RETIREMENT SCHEME [Section 35DDA]

- This Section applies to an assessee who has incurred expenditure in any previous year in the form of payment **to any employee in connection with his voluntary retirement** [VRS Payment]
- The amount of deduction **allowable is one-fifth of the amount paid for that previous year**, and the balance in four equal installments in the four immediately succeeding previous years.
- In case of Amalgamation/Demerger (Transferee must be Indian Company) or Business Reorganisation being succession of business [Section 47(xiii)/47(xiiib)/47(xiv)] during the intervening period of the said 5 years, **the benefit of deduction will be available to the “New Company/LLP” for the balance period including the year in which such amalgamation/demerger/reorganisation or succession takes place.**

ALLOWABLE DEDUCTION IN COMPUTING PGBP

PREMIUM PAID FOR INSURANCE OF STOCK IN TRADE [Section 36(1)(i)]

If insurance policy has been taken out against risk, damage or destruction of the stock of the business or profession, the **premium paid** is deductible.

PREMIUM PAID BY EMPLOYER FOR HEALTH INSURANCE OF EMPLOYEES [SECTION 36(1)(ib)] -

A deduction is allowed to an employer in respect of **premium paid by him by any mode of payment other than cash** to effect or to keep in force an insurance on the health of his employees in accordance with a scheme framed by (i) the GIC and approved by the CG; or (ii) any other insurer and approved by the IRDA.

BONUS & COMMISSION [Section 36(1)(ii)]

Deduction is allowed in respect of the sum paid to the employees as bonus or commission (Other than in lieu of profit or dividend).

Note:

1. Deduction is subject to the provisions of Section 43B & 40A(2).
2. Voluntary payments are deductible if it is for service rendered.
3. Any bonus exceeding the statutory amount is allowed if such excess payment has been made on account of commercial expediency.

INTEREST ON BORROWED CAPITAL [Section 36(1)(iii)]

Amount of interest paid in respect of capital borrowed for the purposes of business or profession shall be allowed as deduction.

Conditions:

1. The assessee must have borrowed money
2. The money so borrowed must have been used for business or profession
3. The assessee must have incurred interest on borrowed amount.

Other Points:

1. Capital may be borrowed either to incur revenue expenditure or to incur capital expenditure.
2. Interest in respect of capital borrowed for acquisition of new asset ~~for extension of existing business or profession~~ (whether capitalised in the books of account or not) for any period beginning from the date on which the capital was borrowed for acquisition of the asset till the date on which such asset was first put to use, **shall not be allowed as deduction**. The same is however eligible for capitalization and shall be added to the Actual Cost.
3. **Interest on own capital is not deductible. Interest to member in case of AOP is not deductible. However, Interest to partner's are deductible.**
4. Deduction of interest is subject to Section 43B & Section 40(a)(i) & 40(a)(ia)
5. Interest on money borrowed for payment of Income tax or interest on late payment of advance tax or for late filing of return is not deductible.
6. Interest paid by the assessee on money borrowed for payment of dividends is an allowable deduction.

DEDUCTIBILITY OF DISCOUNT ON ZERO COUPON BONDS [Sec 36(1)(iiia)]

Section 36(1)(iiia) provides deduction for the discount on ZCB on pro rata basis having regard to the period of life of the bond.

Example: C Ltd. (an infrastructure company) issued ZCB on 1/8/19 @ ₹ 45 (face value ₹ 100) redeemable at par after 125 months. Public subscribed for 50,000 bonds, find amount allowed as deduction u/s 36(1)(iiia).

Solution Deduction allowed u/s 36(1)(iiia)

Total amount of discount	50000*(₹ 100 - ₹ 45)	₹ 2750000
Period of life of the bond		125 months
Cost per month	₹ 2750000/125 months	₹ 22000
No. of months in the PY 2019-20 for which the bonds remains outstanding	Period from 01/08/2019 to 31/03/2020	8 months
Amount allowed as deduction in the PY 2019-20	₹ 22000 * 8 months	₹ 176000

Section 36(1)(iva) – Deduction of expenses in the nature of Employer's contribution towards a pension scheme as referred in Section 80CCD

Section 36(1)(iva) provides that any sum paid by the assessee as an employer by way of contribution towards a pension scheme, as referred to in section 80CCD on account of an employee to the extent it does not exceed 10% of the salary of the employee in the previous year, shall be allowed as deduction.

["Salary" means Basic Salary + DA (forming part of retirement benefits)].

Example: X Ltd. contributes 20% of basic salary to the account of each employee under a pension scheme referred to in section 80CCD. Dearness Allowance is 40% of basic salary and it forms part of pay of the employees. Compute the amount of deduction allowable under section 36(1)(iva), if the basic salary of the employees aggregate to ₹ 10 lakh. Would disallowance under section 40A(9) be attracted, and if so, to what extent?

Computation of deduction allowable under section 36(1)(iva) and disallowance under section 40A(9)

Basic Salary	10,00,000
Dearness Allowance@40% of basic salary [DA forms part of pay]	4,00,000
Salary for the purpose of section 36(1)(iva) (Basic Salary + DA)	14,00,000

Actual contribution (20% of basic salary i.e. 20% of ₹ 10 lakh)	2,00,000
Less: Permissible deduction under Section 36(1)(iva)	
(10% of basic salary plus dearness pay = 10% of ₹ 14,00,000 = ₹ 1,40,000)	1,40,000
Excess contribution disallowed under Section 40A(9)	60,000

Allowance for Animals [Section 36(1)(vi)]

This clause grants an allowance in respect of animals which have died or become permanently useless. The amount of the allowance is the difference between the actual cost of the animals and the price realized on the sale of the animals themselves or their carcasses.

The allowance under the clause would thus recoup to the assessee the entire capital expenditure in respect of animal.

DEDUCTIONS IN RESPECT OF BAD DEBTS [Section 36(1)(vii) and sub-section (2)]

- 1) If the amount of any bad debt or part thereof is **written off as irrecoverable** in the accounts of the assessee for the previous year, the same will be allowed as deduction
- 2) **Provisions for bad debt are not allowed as deduction.**
- 3) There must be a debt and the debt **must be incidental to the Business** or profession of the assessee.
- 4) **No such deduction shall be allowed unless**
 - a) **such debt or part thereof has been taken into account in computing the income** of the assessee of the previous year in which the amount of such debt or part thereof is written off or of an earlier previous year, or
 - b) **represents money lent in the ordinary course of the business** of banking or money-lending which is carried on by the assessee.
- 5) Bad debt is not allowed as deduction to the assessee who maintains accounts on cash basis.
- 6) **Successor of Business:**
The Successor to the business is entitled to deduction in respect of the debt incurred by the predecessor if the business is not dissolved and the identity of business after succession remains the same. **Deduction for bad debt is allowed business wise and not the assessee-wise.**

7) Recovery of a bad debt subsequently [Section 41(4)]

If a deduction has been allowed in respect of a bad debt under section 36, and subsequently the amount recovered in respect of such debt is **more than the amount due after the allowance had been made**, the **excess shall be deemed to be the profits and gains of business or profession** and will be chargeable as income of the previous year in which it is recovered, **whether or not the business or profession in respect of which the deduction has been allowed is in existence at the time.**

Example:

X, a trader, sells goods on credit to Y (outstanding balance on April 1, 2019: ₹ 40,000 and total bills issued during 2019-20: ₹ 60,000. Out of ₹ 1,00,000, he recovers only ₹ 10,000 from Y during 2019-20. On March 31, 2020, he writes off ₹ 32,000 as bad debt. However, on December 19, 2020, X receives from Y as full and final payment (a) ₹ 15,000, or (b) ₹ 55,000, or (c) ₹ 70,000. Find out the tax consequences for different assessment years.

Solution:

AY 2020-21 During the previous year 2019-20, X writes off ₹ 32,000 as bad debt. It is, therefore, deductible for the AY 2020-21.

AY 2021-22: Tax treatment, when recovery is made during the previous year 2020-21, will be as follows:

Amount of debt as on April 1, 2020 (i.e., ₹ 1 lakhs – ₹ 10,000 – ₹ 32,000 being the amount written off) (1) ₹	Amount recovered as full and final payment (2) ₹	Deduction/Income (2) – (1) ₹
a) 58,000	15,000	(-) 43,000
b) 58,000	55,000	(-) 3,000
c) 58,000	70,000	12,000 [Sec 41(4)]

In situation (a) ₹ 43,000 is deductible as bad debts if he writes off ₹ 43,000 in his books of account as bad debt during the previous year 2020-21. Likewise, in situation (b) ₹ 3,000 is deductible as bad debts if X writes off ₹ 3,000 in his books of account for the year ending March 31, 2021. *In situation (c), however, ₹ 12,000, being the excess recovery, is taxable as business income by virtue of section 41(4) for the previous year 2020-21 irrespective of the fact whether the business is in existence during the previous year 2020-21 or not.*

EXPENSES ON FAMILY PLANNING [Section 36(1)(ix)] – ADMISSABLE ONLY TO COMPANIES

- **Revenue Expenditure:** Expenditure of revenue in nature incurred by a company for the purpose of promoting family planning amongst its employees will be fully allowed as a deduction.
- **Capital Expenditure:** Capital Expenditure will be allowed in **5 years in equal installments** commencing from the PY in which it is incurred.

DEDUCTION OF BANKING CASH TRANSACTION TAX PAID [Section 36(1)(xiii)]

Any amount of Banking Cash Transaction Tax paid by assessee during the previous year on the taxable banking transactions entered shall be allowed as deduction.

DEDUCTION OF SECURITIES TRANSACTION TAX PAID [Section 36(1)(xv)]

The amount of STT paid by the assessee during the year in respect of taxable securities transactions entered into in the course of business shall be allowed as deduction. *[In CG, benefit of STT is not available to investor]*

DEDUCTION OF COMMODITIES TRANSACTION TAX PAID [Section 36(1)(xvi)]

The amount of CTT paid by the assessee during the year in respect of taxable commodities transactions entered into in the course of business shall be allowed as deduction, if the income arising from such taxable commodities transactions is included in the income computed under the head "Profits and gains of business or profession".

Residuary Expenses [Section 37]

Revenue expenditure incurred for purposes of carrying on the business, profession or vocation:

- This is a residuary section under which only business expenditure is allowable but not the business losses, e.g., those arising out of embezzlement, theft, destruction of assets, misappropriation by employees etc. (Business Losses are allowable under section 29 as losses incidental to the business).
- The deduction is limited only to the amount actually expended and does not extend to a reserve created against a contingent liability.

Conditions for allowance:

- a) The expenditure should not be of the nature described in sections 30 to 36.
- b) It should have been incurred by the assessee in the accounting year.
- c) It should be in respect of a business carried on by the assessee the profits of which are being computed and assessed.
- d) It must have been incurred after the business was set up.
- e) It should not be in the nature of any personal expenses of the assessee.
- f) It should have been laid out or expended wholly and exclusively for the purposes of such business.
- g) It should not be in the nature of capital expenditure.
- h) The expenditure should not have been incurred by the assessee for any purpose which is an offence or is prohibited by law.

Allowable Expenditure u/s 37 under specific instructions of CBDT:

- a) Diwali and Muharat Expenses.
- b) Telephone Deposit paid under Tatkal Telephone Deposit Scheme
- c) Expenditure on Fluorescent Tubes including wiring and fitting expenditure - Initial expenditure is of capital nature but all replacement expenditure should be treated as revenue nature.
- d) Insurance Premium paid on account of loss of profits.
- e) Lagan or mahamai contribution collection by the Trade Association from their Members, on the business transactions.
- f) Annual Listing Fees paid to Stock Exchange.
- g) Commitment Charges paid by Borrower to Lender.
- h) Training Expenditure.
- i) Expenditure incurred by business concern on civil defence measures.
- j) Professional Tax paid.

LOSSES ALLOWABLE AS DEDUCTION:

- a) Loss on account of embezzlement, in the previous year in which embezzlement is discovered.
- b) Loss caused by forfeiture of Security Deposits given at the time of submission of tenders for supply of goods.
- c) Loss of Stock-in-Trade by fire and other natural calamities, or due to negligence of the employees or due to enemy action, or in transit.
- d) Loss on account of robbery or theft, provided it is in the course of business and incidental to the trade whichever trade it is.
- e) Loss caused by non-recovery of advances made in course of business, provided it is a Trading Loss
- f) Loss caused on account of fluctuations in exchange rate, at the time of remitting the money for purchase of raw material,
- g) Loss caused due to breach of contract for delivery of goods by either party.

LOSSES NOT ALLOWABLE AS DEDUCTION:

- 1) Loss relating to any business or profession discontinued before the commencement of the previous year.
- 2) Violation of law is not a normal incident of trade and an expense incurred by way of penalty for infraction of laws is not deductible.
- 3) Loss incurred due to damage, destruction, etc. of capital assets.
- 4) Loss which is not incidental to the carrying on of the business of the assessee
- 5) Loss due to sale of securities held as Investments.
- 6) Loss caused by forfeiture of advances given for purchase of Capital Assets.
- 7) Anticipated losses of subsequent years cannot be allowed as a deduction in the current year.

DEDUCTIBILITY OF PENALTIES & INTEREST UNDER VARIOUS LAWS

1. **Penalty for infraction of any law:** Not deductible

Exception:

- a) **If penalty is in nature of compensation** – Allowable as deduction
 - b) **Penalty for breach of Contract** – Allowable as deduction since there is no infraction of any law.
2. **Interest paid under any other law** – Allowable as a deduction if interest is compensatory in nature
– If interest is in nature of penalty then no deduction is allowable.

Note: Penal interest paid to bank is allowable as deduction since penal interest is payable as per the agreement between banker and borrower. There is no infraction of law.

3. **Interest paid under Income-tax Act** – Not allowable as deduction
4. **Interest on loan taken to pay the income-tax is not allowable as deduction.**

ALLOWABILITY OF CERTAIN EXPENSES

1. Dividend and Dividend distribution tax u/s 115O is not allowed as deduction.
2. Income tax, surcharge & education cess is not allowable as deduction.
3. Provision for unascertained liability is not allowable as deduction.
4. Prior period expenses are not allowable as deduction, but they are allowable if liability to pay crystallized during the previous year. (Ex: Increased salary is paid in current year under increased pay commission policy).

Advertisements in Publication of political parties – SECTION 37(2B)

Section 37(2B) disallows any deduction on account of expenditure incurred on advertisement in any souvenir, brochure, tract or the like published by any political party, whether it is registered with the Election Commission of India or not, made by any person carrying on business or profession in computing the profits and gains of the business or profession.

However, a deduction for the same or/and similar expenditure is allowed under Section 80GGB and 80GGC.

Deduction to Indian Companies for Donation to Political Parties etc [Section 80GGB]

Indian Company is allowed to claim 100% deduction for any sum contributed in the previous year to any political party or to Electoral Trust.

Deduction to Any Person for Donation to Political Parties etc [Section 80GGC]

100% Deduction from GTI is allowed to any person(Except Indian Company, Local Authority and any Artificial Judicial Authority wholly or partially funded by government) for any sum contributed in the previous year to any Political Party or Electoral Trust.

[Contribution u/s 80GGB & 80GGC must be made in mode other than cash]

Example:

During the P.Y. 2019-20, ABC Ltd., an Indian company,

- (1) contributed a sum of ₹ 2 lakh to an electoral trust; and
- (2) incurred expenditure of ₹ 25,000 on advertisement in a brochure of a political party.

Is the company eligible for deduction in respect of such contribution/expenditure, assuming that the contribution was made by cheque? If so, what is the quantum of deduction?

Solution

An Indian company is eligible for deduction under section 80GGB in respect of any sum contributed by it in the previous year to any political party or an electoral trust. Further, the word “contribute” in section 80GGB has the meaning assigned to it in Companies Act, and accordingly, it includes the amount of expenditure incurred on advertisement in a brochure of a political party.

Therefore, ABC Ltd. is eligible for a deduction of ₹ 2,25,000 under section 80GGB in respect of sum of ₹ 2 lakh contributed to an electoral trust and ₹ 25,000 incurred by it on advertisement in a brochure of a political party.

It may be noted that there is a specific disallowance under section 37(2B) in respect of expenditure incurred on advertisement in a brochure of a political party. Therefore, the expenditure of ₹ 25,000 would be disallowed while computing business income/gross total income. However, the said expenditure incurred by an Indian company is allowable as a deduction from gross total income under section 80GGB.

Disallowance of CSR expenditure

- (i) For the purposes of Section 37(1), any expenditure incurred by an assessee on the activities relating to Corporate Social Responsibility referred to in Section 135 of the Companies Act, 2013 shall not be deemed to have been incurred for the purpose of business and hence, **shall not be allowed as deduction** under section 37.
- (ii) The rationale behind the disallowance is that CSR expenditure, being an application of income, is not incurred wholly and exclusively for the purposes of carrying on business.
- (iii) However, ***CSR expenditure, which is of the nature described in sections 30 to 36, shall be allowed as deduction under those sections subject to fulfillment of conditions, if any, specified therein.***

INADMISSIBLE DEDUCTIONS [SECTION 40]**Section 40(a)(i)–Non-compliance of provisions of TDS where payment is made to Non-Resident or to any person outside India**

- No Deduction will be allowed where any Interest, Royalty, Fees for technical services or other sum chargeable under this Act, which is payable, -

(i) outside India;

(ii) in India to a Non-Resident, not being a Company or to a Foreign Company,

on which tax is deductible at source and **such tax has not been deducted or, after deduction, has not been paid on or before the due date specified in section 139(1).**

- However, it is provided that where in respect of any such sum, tax has been deducted in any subsequent year, or has been deducted during the previous year but paid after the due date specified in Section 139(1), such sum shall be allowed as a deduction in computing the income of the previous year in which such tax has been paid.

- **In case, assessee fails to deduct the whole or any part of tax on any such sum but is not deemed as assessee in default under the first proviso to section 201(1) by reason that such payee –** ★

i. has furnished his return of income under section 139;

ii. has taken into account such sum for computing income in such return of income; and

iii. has paid the tax due on the income declared by him in such return of income, and the payer furnishes a certificate to this effect from an accountant in such form as may be prescribed,

it would be deemed that the assessee has deducted and paid the tax on such sum on the date on which return of income has been furnished by the payee.

Note: Since the date of furnishing the return of income by the payee is taken to be the date on which the payer has deducted tax at source and paid the same, such expenditure/payment in respect of which the payer has failed to deduct tax at source shall be disallowed under section 40(a)(i) in the year in which the said expenditure is incurred. However, such expenditure will be allowed as deduction in the subsequent year in which the return of income is furnished by the payee, since tax is deemed to have been deducted and paid by the payer in that year.

Example:

Date on which TDS should have been deducted	Actual Date of Deduction	Time limit as per section 200(1)	Date of Payment of TDS	Previous year in which deductible
26.06.2019	26.06.2019	07.07.2019	07.07.2019	2019-2020
26.07.2019	26.07.2019	07.08.2019	02.09.2019	2019-2020
31.03.2020	31.03.2020	30.04.2020	30.04.2020	2019-2020
31.03.2020	31.03.2020	30.04.2020	30.12.2020	2020-2021
16.05.2019	16.05.2019	07.06.2019	Not Deposited	Not Deductible
10.06.2019	20.04.2020	07.07.2019	20.07.2022	2022-2023

Section 40(a)(ia) – Non-compliance of provisions of TDS where payment is made to Resident in India

30% of any sum payable (paid or payable during the PY) to a Resident on which tax is deductible at source, shall be disallowed if-

- (i) such tax has not been deducted; or
- (ii) such tax, after deduction, **has not been paid on or before the due date specified in section 139(1).**

Tax Points:

- 1) However, it is provided that where in respect of any such sum, tax has been deducted in any subsequent year, or has been deducted during the previous year but paid after the due date specified in Section 139(1), **30% of such sum** shall be allowed as a deduction in computing the income of the previous year in which such tax has been paid.
- 2) If tax has not been deducted & the deductor is able to establish that the payee has furnished the return of income by including such income in his return and paid tax due on income declared by him in such return of income, **it shall be deemed that the assessee has deducted and paid tax on such income on the date of furnishing return of income by the resident payee**

Example:

XYZ Ltd. made the following payments in the month of March 2020 to residents without deduction of tax at source. What would be the tax consequence for A.Y. 2020-21, assuming that the resident payees in all the cases mentioned below, have not paid the tax, if any, which was required to be deducted by XYZ Ltd.?

Particulars	Amount in ₹
Salary to its employees	15,00,000
Non-compete fees to Mr. X	70,000
Directors' remuneration	25,000

Would your answer change if XYZ Ltd. has deducted tax on the above in April, 2020 from subsequent payments made to these persons and remitted the same in July, 2020?

Answer

Non-deduction of tax at source on any payment on which tax is deductible as per the provisions of Chapter XVII-B would attract disallowance under section 40(a)(ia). Therefore, non-deduction of tax at source on salary payment on which tax is deductible under section 192 and non-compete fees and directors' remuneration on which tax is deductible under section 194J, would attract disallowance@30% of sum paid under section 40(a)(ia). Therefore, the amount to be disallowed under section 40(a)(ia) while computing business income for A.Y.2020-21 is as follows –

Particulars	Amount paid	Disallowance u/s 40(a)(ia) @ 30% of sum paid
(1) Salary [tax is deductible under section 192]	15,00,000	4,50,000
(2) Non-compete fees to Mr. X [tax is deductible under section 194J]	70,000	21,000
(3) Directors' remuneration [tax is deductible under section 194J without any threshold limit]	25,000	7,500
Disallowance under section 40(a)(ia)		4,78,500

If the tax is deducted and paid in the next year i.e., P.Y.2020-21, the amount of ₹ 4,78,500 would be allowed as deduction while computing the business income of A.Y. 2021-22.

Section 40(a)(iii)

Any sum which is chargeable under the head 'Salaries' shall be disallowed **if it is payable outside India or to a non-resident in India** and if the tax has not been paid thereon nor deducted there from within the time prescribed under the Act.

[Once paid without deduction of TDS, deduction can never be claimed even if tax is later deducted and paid]

Section 40(a)(v)– Any Tax on the value of perquisite provided to the employee paid by the employer u/s 10(10CC), shall not be allowed as deduction.

EXPENSES OR PAYMENTS NOT DEDUCTIBLE IN CERTAIN CIRCUMSTANCES [SECTION 40A]

Excess Payments to Relatives and Associates – Section 40A(2)

A. Where the assessee incurs any expenditure in respect of which a payment has been or is to be made to Specified Person, so much of the expenditure as is considered to be **excessive or unreasonable** (having regard to FMV of goods, services / Legitimate needs of business) shall be disallowed by the Assessing Officer.

B. Specified person means:

For the Assessee	Specified Person means
An Individual	Relative
	A person in whose business/profession the individual has substantial interest
A Company /Firm/AOPs/HUF	Any director of the company, partner of the firm, or member of the association or family, or any relative of such director, partner or member
	A person in whose business/profession the assessee or above individuals have substantial interest
Any Assessee	<ul style="list-style-type: none"> - An <u>individual who has a substantial interest</u> in the business or profession or any relative of such individual - a Company, Firm, AOPs or HUF <u>having a substantial interest in the business or profession of the assessee</u> or any director, partner or member of such Company, Firm, AOPs or HUF, or any relative of such director, partner or member, <u>or any other company carrying on business or profession in which the first mentioned company has substantial interest</u> - a Company, Firm, AOPs or HUF <u>of which a director, partner or member, as the case may be, has a substantial interest in the business or profession of the assessee</u>; or any director, partner or member of such company, firm, association or family or any relative of such director, partner or member;

C. The word “relative” as defined in the section 2(41) of the Act, means, **in relation to individual**, the spouse, brother or sister or any lineal ascendant or descendant of that individual.

D. A person shall be deemed to have a substantial interest in a business or profession if:

- in a case where the **business or profession is carried on by a company**, such person is, **at any time** during the previous year, the beneficial owner of equity shares carrying **not less than 20% of the voting power and**
- in any other case such person is, **at any time** during the previous year, beneficially entitled to **not less than 20% the profits** of such business or profession.

E. Amount disallowed under section 40A(2) is however taxable as income in the hands of recipient.

SECTION 41 – DEEMED INCOME/PROFITS CHARGEABLE TO TAX

EXCEPTION TO THE RULE THAT INCOME FROM BUSINESS CAN BE ASSESSED ONLY IF THE BUSINESS IS CARRIED ON DURING THE PREVIOUS YEAR:

Section 41(1): Recovery against any deduction**A. Conditions:**

1. Where an **allowance or deduction is allowed** in any assessment year in **respect of loss, expenditure or trading liability** incurred by the assessee **and**
2. **subsequently during any previous year** such assessee has obtained, whether in cash or in any other manner whatsoever, any amount in respect of **such loss or expenditure or some benefit in respect of such trading liability by way of remission or cessation thereof**,

B. Treatment: the amount obtained or benefit accrued shall be **deemed to be profits and gains of business or profession** and accordingly chargeable to income-tax as the income of that previous year.

C. Tax Points: Where such benefit has been **obtained by the successor in business**, such benefit shall be taxable in the hands of successor.

Section 41(2) – Balancing Charges

Section 41(3) –Any amount realised on transfer of an asset used for scientific research is taxable as business income to the extent of deduction allowed u/s 35 in the year in which the transfer takes place.

Section 41(4) –Any amount recovered by the assessee against bad debt earlier allowed as deduction shall be taxed as income in the year in which it is received.

Section 41(4A) - The withdrawal from special reserve created and maintained under section 36(1)(viii) will be deemed to be profits and gains of business and charged accordingly in the year of withdrawal. Even if the business is closed, it will be deemed to be in existence for this purpose.

Section 41(5)- Adjustment of loss - Generally, loss of a business cannot be carried forward after 8 years. An exception is, however, provided by section 41(5), This exception is applicable if the following condition are satisfied:

Condition 1	The business or profession is discontinued.
Condition 2	Loss of such business or profession pertaining to the year in which it is discontinued could not be set-off against any other income.
Condition 3	Such business is not speculation business.
Condition 4	After discontinued of such business or profession, there is a receipt which is deemed as business income under section 41(1), (3), (4) or (4A).

The unabsorbed loss pertaining to the year in which business/profession was discontinued is permitted to be set off against notional business income under section 41(1), (3), (4) or (4A) even after 8 years. It can be set off even if the return of the loss is not submitted in time.

Ques: A business (not being a speculation business) is discontinued on December 10, 1988. At the time there is unadjusted business loss of ₹ 35,000 (i.e., ₹ 10,000 of the previous year 1987-88 and ₹ 25,000 pertaining to the period commencing on April 1, 1988 and ending on December 10, 1988). On May 20, 2019, the assessee recovers a debt of ₹ 48,000 from a debtor which was allowed as bad debt in 1987-88. Find out the notional profit chargeable to tax for the previous year 2019-20 under section 41.

Solution:

Recovery of bad debt earlier allowed as bad debt [chargeable to tax under Section 41(4)

In spite of the fact that the business was discontinued on December 10, 1987]

48,000

Less: Unabsorbed business loss of the previous year in which the business was discontinued

(i.e., April 1, 1988 to December 10, 1988) by virtue of section 41(5)

25,000

Business income chargeable to tax for the assessment year 2020-21

23,000

Recovery after discontinuance of Business or Profession [Sec. 176]:

Any sum received after the discontinuance of the business or profession is deemed to be business or profession income of the recipient and charged to tax in the year of receipt.

CONTRIBUTIONS TO PROVIDENT AND OTHER FUNDS**CONTRIBUTION TO THE EMPLOYEES' PROVIDENT AND OTHER FUNDS ARE ALLOWABLE SUBJECT TO THE FOLLOWING CONDITIONS: [36(1)(iv) & (v)]**

- (i) In case of Provident or a superannuation or a Gratuity Fund, it should be one recognised or approved under the Income-tax Act.
- (ii) The amount contributed should be periodic payment and not an adhoc payment to start the fund.
- (iii) The fund should be for exclusive benefit of the employees.

The nature of the benefit available to the employees from the fund is not material; it may be pension, gratuity or provident fund.

Provisions of Section 43B will be applicable while allowing deduction.

AMOUNT RECEIVED BY ASSESSEE AS CONTRIBUTION FROM HIS EMPLOYEES TOWARDS THEIR WELFARE FUND TO BE ALLOWED ONLY IF SUCH AMOUNT IS CREDITED ON OR BEFORE DUE DATE:

Section 36(1)(va) and Section 57 provide that deduction in respect of any sum received by the taxpayer as contribution from his employees towards any welfare fund of such employees [Such sum is income u/s 2(24)] **will be allowed**

"only if such sum is credited by the taxpayer to the employee's account in the relevant fund on or before the due date. [Within 15 days of the close of every month. No Grace Period]"

DISALLOWANCE OF PROVISION FOR GRATUITY – SECTION 40A(7)

Section 40A(7) provides any provision for Gratuity made by the assessee is not allowed deduction.

However, no such disallowance would be made if

- (a) it is made towards **contribution to an approved gratuity fund or,**
- (b) for the purpose of making payment of any gratuity that has **become payable**

[However, the deduction allowed shall be subject to the provisions of Section 43B]

CONTRIBUTIONS BY EMPLOYERS TO FUNDS, TRUST ETC. [SECTIONS 40A (9) TO (11)]

No deduction will be allowed where the assessee pays in his capacity as an employer, any sum towards setting up or formation of or as contribution to any fund, trust, company, association of persons, body of individuals, society etc. other than **funds covered by sections 36(1)(iv), 36(1)(iva) and 36(1)(v), then the deduction will not be denied.**

MAINTENANCE OF BOOKS OF ACCOUNTS [SECTION 44AA& Rule 6F]

A. In case of Specified Professionals: [Subject to Section 44ADA]

- (i) Every person carrying on the specified profession shall keep and maintain the specified books of account:
- if his gross receipts **exceed ₹ 1,50,000 in each of the 3 years** immediately preceding the previous year; or
 - if, where the profession has been newly set up in the previous year, his gross receipts are likely **to exceed ₹ 1,50,000 in that year**.

(ii) Specified Professions are:

(a) Legal	(b) Accountancy	(c) Company Secretary
(d) Medical	(e) Engineering	(f) Architectural
(g) Information Technology	(h) Interior Decorator	(i) Film Artist
(j) Technical Consultancy	(k) Authorised Representative	

(iii) Specified Books of Accounts:

- a Cash Book;
- a journal, if mercantile basis is being followed.
- a ledger;
- Carbon copies of bills and receipts issued where sums exceeds ₹ 25;
- Original bills for expenditure exceeding ₹ 50.
- In case of a person carrying on medical profession, he will be required to maintain the following in addition to the list given above:**
 - a Daily Cash Register in Form 3C.
 - Inventory records of drugs, medicines and other consumable accessories used for his profession.

B. In case of Other Profession or Business:

Every taxpayer carrying on any business or profession (other than the professions specified above) must maintain the books of account prescribed by the CBDT in the following circumstances:

- in cases **where the income** from the business or profession **exceeds ₹ 1,20,000** or the total sales turnover or gross receipts, as the case may be, in the business or profession **exceed ₹ 10,00,000 in any one of three years** immediately preceding the accounting year; or

For an Individual/HUF assessee, the above limit is ₹ 250,000 & ₹ 25,00,000.

- in cases where the business or profession is newly set up in any previous year, if his income from business or profession is **likely to exceed ₹ 1,20,000** or his total sales turnover or gross receipts, as the case may be, in the business or profession are **likely to exceed ₹ 10,00,000 during the previous year**

For an Individual/HUF assessee, the above limit is ₹ 250,000 & ₹ 25,00,000.

- in cases deemed profit u/s 44AE or 44BB or 44BBB and the assessee has claimed that his income is lower than the profits or gains so deemed to be the profits and gains of his business.

- Where the provisions of Section 44AD(4) are applicable & Income exceeds the maximum amount which is not chargeable to income-tax in any PY

COMPULSORY AUDIT OF ACCOUNTS [SECTION 44AB]

1. **Applicability:** It is obligatory in the following cases for a person carrying on business or profession to get his accounts audited:

a) **Business:** if the total sales, turnover or gross receipts in business **exceeds ₹ 1 Crores** in any previous year; or

Section 44AB is amended to exclude the eligible person covered in Section 44AD

b) **Profession:** if the gross receipts in profession **exceeds ₹ 50 lakh** in any previous year; or

c) **Business covered u/s 44AE/44BB/44BBB:** if the assessee claims that his income is lower than the profits and gains computed on a presumptive basis.

d) **Profession covered u/s 44ADA:** If he claims that his income is lower than the profits and gains computed on a presumptive basis **and his income exceeds the basic exemption limit.**

e) **Business where Section 44AD(4) is applicable:**

Where the provisions of Section 44AD(4) are applicable & Income exceeds the maximum amount which is not chargeable to income-tax in any PY

2. **Report & Form:** The Assessee is required to get his accounts of such previous year audited by a Chartered Accountant **before the specified date** and report thereof is furnished in prescribed forms.

Specified Date:

(a) Where the assessee has under taken any international transaction as per Section 92B or specified domestic transaction as per section 92BA: **30th November of the relevant AY**

(b) In any other case: **30th September of the relevant AY**

3. **Consequence for non-compliance:**

Section 271B provides for penal action for not getting the accounts audited and for not filing the audit report by the **specified date**. **Penalty being lower of the following:**

(a) ½ percent of turnover or gross receipt; or

(b) ₹ 150,000.

4. **This Section does not apply** to a person who derives income of the nature referred to in sections 44B and 44BBA

Section 44AB makes it obligatory for every person carrying on business to get his accounts of any previous year audited if his total sales, turnover or gross receipts exceed ₹ 1 Cr. However, if an eligible person opts for presumptive taxation scheme as per section 44AD(1), he shall not be required to get his accounts audited if the total turnover or gross receipts of the relevant previous year does not exceed ₹ 2 Cr.

The CBDT has clarified that the higher threshold for non-audit of accounts has been given only to assessee's opting for presumptive taxation scheme under section 44AD.

PRESUMPTIVE INCOME IN CASE OF SPECIFIC BUSINESS OR PROFESSION [Section 44AD/Section 44AE]

	44AD	44AE
Eligible Assessee	<u>Resident</u> Individual/HUF/Firm, but not a LLP & has not claimed deduction u/s 10AA or other Income Based Deduction under chapter VIA	Any Assessee
Eligible Business	Any business except the business of Section 44AE; & whose turnover/gross receipts does not exceed ₹ 2 Crores	Business of Plying, hiring or leasing of Good carriage where the Assessee is owning not more than 10 Goods Carriage at any time during the previous year.
Amount of Presumptive Income	<p>8% of total turnover or gross receipts or higher sum</p> <p>[6% in case payment is received by account payee cheque/draft/use of electronic clearing system through a bank account or through such other prescribed electronic modes AND payment is received during the year or before the due date of ROI]</p>	<p>In case of HEAVY GOODS VEHICLE (Gross Vehicle Weight exceeds 12000 kilograms)</p> <p>₹ 1,000 per ton of gross vehicle weight or unladen weight, as the case may be, for every month or part of a month during which the heavy goods vehicle is owned by the assessee in the previous year</p> <p>OTHER THAN HEAVY GOODS VEHICLE:</p> <p>₹ 7,500 for every month or part of a month</p> <p>[For each vehicle owned by Assessee-Hire Purchase/installment]</p> <p>“A higher income can also be declared as per books”</p>
Provisions of Advance Tax	Advance tax is required to be paid by 15 th March – 100% in 1 installment)	Applicable
Effect if the assessee declares lower Income:	<p>If Section 44AD(4) is applicable, he will have to:</p> <p>a. Maintain books of account and other documents as required u/s 44AA if his total income exceeds the maximum exemption limit; and</p> <p>b. Get his accounts audited and furnish a report of such audit as prescribed u/s 44AB if his total income exceeds the maximum exemption limit. [Section 44AD(5)]</p>	<p>An assessee can declare his income lower than the prescribed, he will have to:</p> <p>a. Maintain books of account and other documents as required u/s 44AA and</p> <p>b. Get his accounts audited and furnish a report of such audit as prescribed u/s 44AB</p>

Common Note:

- Deduction u/s 30 to 38:** The assessee will be deemed to have been allowed the deductions under sections 30 to 38. No further Deduction is allowed.
- Deduction u/s 40(b) for assessee covered u/s 44AE:** Where the assessee is a firm, the salary and interest paid to its partners shall be deducted from the income computed above subject to the conditions and limits specified in clause (b) of section 40. **[No Such Deduction from AY 17-18 for assessee covered u/s 44AD & 44ADA]**

3. **Depreciation:** Depreciation is deemed to have been allowed. The WDV of asset will be calculated, as if depreciation has been allowed.
4. **Section 44AD & 44AE overrides Section 28 to 43C but does not override Chapter VI & Chapter VIA:** Therefore, the set off of current year losses & brought forward losses and deductions under chapter VIA are available against the income deemed under this section. However, current year and brought forward depreciation cannot be set off against the deemed income since that is governed by section 32.
5. **The provisions of Section 44AD is not applicable in following cases:**
 - a. A person carrying on **specified profession** as referred to in Section 44AA;
 - b. A person earning **income in the nature of commission or brokerage**; or
 - c. A person carrying on any **Agency Business**.
6. Where an eligible assessee declares profit for any PY as per this section and he declares profit for **any of the 5 consecutive AYs relevant to the PY succeeding such PY not as per Section 44AD**, he shall **not be eligible** to claim the benefit of the provisions of this section **for 5 AYs** subsequent to the AY relevant to the PY in which the profit has not been declared as per the Sec 44AD **[Sec 44AD (4)]**
7. An eligible assessee to whom the provisions of Section 44AD(4) are applicable **and whose total income exceeds the maximum amount which is not chargeable to income-tax**, shall be required to keep and maintain such books of account and other documents as required under section 44AA and get them audited and furnish a report of such audit as required under section 44AB. **[Sec 44AD (5)]**

Example:

Let us consider the following particulars relating to a resident individual, Mr. A, being an eligible assessee whose gross receipts do not exceed ₹ 2 crore in any of the assessment years between AY 2020-21 to AY 2022-23

Particulars	AY 2020-21	AY 2021-22	AY 2022-23
Gross receipts (Cash Sales)	1,80,00,000	1,90,00,000	2,00,00,000
Income offered for taxation	14,40,000	15,20,000	12,00,000
% of gross receipts	8%	8%	6%
Offered income as per presumptive taxation scheme u/s 44AD	Yes	Yes	No

In the above case, Mr. A, an eligible assessee, opts for presumptive taxation under section 44AD for AY 2020-21 and AY 2021-22 and offers income of ₹ 14.40 lakh and ₹ 15.20 lakh on gross receipts of ₹ 1.80 crore and ₹ 1.90 crore, respectively. However, for AY 22-23, he offers income of only ₹ 12 lakh on turnover of ₹ 2 crore, which amounts to 6% of his gross receipts. He maintains books of account under section 44AA and gets the same audited under section 44AB.

Since he has not offered income in accordance with the provisions of section 44AD(1) for five consecutive assessment years, after AY 2020-21, he will not be eligible to claim the benefit of section 44AD **for next five assessment years succeeding AY 2022-23 i.e., from AY 2023-24 to 2027-28.**

Example:

Mr. Praveen engaged in retail trade, reports a turnover of ₹ 1,98,50,000 for the financial year 2019-20. His income from the said business as per books of account is ₹ 13,20,000 computed as per the provisions of Chapter IV-D "Profits and gains from business or Profession" of the Income-tax Act, 1961. Retail trade is the only source of income for Mr. Praveen. A.Y. 2019-20 was the first year for which he declared his business income in accordance with the provisions of presumptive taxation under section 44AD.

- i. Is Mr. Praveen also eligible to opt for presumptive determination of his income chargeable to tax for the assessment year 2020-21?
- ii. If so, determine his income from retail trade as per the applicable presumptive provision assuming that whole of the turnover represents cash receipts.
- iii. In case Mr. Praveen does not opt for presumptive taxation of income from retail trade, what are his obligations under the Income-tax Act, 1961?
- iv. What is the due date for filing his return of income under both the options?

Solution:

- i. Yes. Since his total turnover for the F.Y. 2019-20 is below ₹ 200 lakhs, he is eligible to opt for presumptive taxation scheme under section 44AD in respect of his retail trade business.
- ii. His income from retail trade, applying the presumptive tax provisions under section 44AD, would be ₹ 15,88,000, being 8% of ₹ 1,98,50,000.
- iii. Mr. Praveen had declared profit for the previous year 2018-19 in accordance with the presumptive provisions and if he does not opt for presumptive provisions for any of the five consecutive assessment years i.e., A.Y. 2020-21 to A.Y. 2024-25, he would not be eligible to claim the benefit of presumptive taxation for five assessment years subsequent to the assessment year relevant to the previous year in which the profit has not been declared in accordance the presumptive provisions i.e. if he does not opt for presumptive taxation in say P.Y. 2019-20, then he would not be eligible to claim the benefit of presumptive taxation for A.Y. 2021-22 to A.Y. 2025-26.

Consequently, Mr. Praveen is required to maintain the books of accounts and get them audited under section 44AB, since his income exceeds the basic exemption limit.

- iv. In case he opts for the presumptive taxation scheme under section 44AD, the due date would be 31st July, 2020. In case he does not opt for presumptive taxation scheme, he is required to get his books of account audited, in which case the due date for filing of return of income would be 30th September, 2020.

PRESUMPTIVE INCOME IN CASE OF NOTIFIED PROFESSIONALS

SECTION 44ADA

Eligible Assessee	Resident Assessee engaged in Notified Profession as per Section 44AA
Eligible profession	Total Gross receipts does not exceed ₹ 50 Lakhs
Amount of Presumptive Income	50% of gross receipts or higher sum
Effect if the assessee declares lower Income:	<ol style="list-style-type: none"> a. Maintain books of account and other documents as required u/s 44AA <u>if his total income exceeds the maximum exemption limit</u>; and b. Get his accounts audited and furnish a report of such audit as prescribed u/s 44AB <u>if his total income exceeds the maximum exemption limit</u>.

Common Note:

1. **Deduction u/s 30 to 38:** The assessee will be deemed to have been allowed the deductions under sections 30 to 38. No further Deduction is allowed.
2. **Depreciation:** Depreciation is deemed to have been allowed. The WDV of asset will be calculated, as if depreciation has been allowed.

3. **Section 44ADA overrides Section 28 to 43C but does not override Chapter VI & Chapter VIA:**
Therefore, the set off of current year losses & brought forward losses and deductions under chapter VIA are available against the income deemed under this section. *However, current year and brought forward depreciation cannot be set off against the deemed income since that is governed by section 32.*

Note: Advance Tax provisions are applicable (similar to Section 44AD)

Advance tax is payable to the extent of the whole amount of such advance tax during each financial year on or before the 15th March (only 1 installment of 100%)

Computation of income under the head "Profits and gains of business or profession" for transfer of immovable property in certain cases [Sec. 43CA]

1. **Section 43CA** provides that where the consideration for the transfer of an asset (other than capital asset), being land or building or both, is less than the stamp duty value, the SDV shall be deemed to be the full value of the consideration for the purposes of computing income under the head "Profits and gains of business or profession".

Following proviso shall be inserted in sub-section (1) of section 43CA by the Finance Act, 2018, w.e.f. 1-4-2018:

Provided that where the value adopted or assessed or assessable by the authority for the purpose of payment of stamp duty does not exceed 105% of the consideration received or accruing as a result of the transfer, the consideration so received or accruing as a result of the transfer shall, for the purposes of computing profits and gains from transfer of such asset, be deemed to be the full value of the consideration.

2. **When date of agreement and date of registration are not same:**

SDV may be taken as on the date of the agreement for transfer and not as on the date of registration for such transfer if amount of consideration (or a part thereof) for the transfer has been received **by way of an account payee cheque or an account payee bank draft or by use of electronic clearing system through a bank account or through such other prescribed electronic modes** on or before the date of the agreement. ★

3. **Can an assessee challenge stamp duty valuation** – Yes. In that case, VO will be appointed.

Example:

Mr. Hari, a property dealer, sold a building in the course of his business to his friend Rajesh, who is a dealer in automobile spare parts, for ₹ 90 lakh on 1.1.2020, when the stamp duty value was ₹ 150 lakh. The agreement was, however, entered into on 1.7.2019 when the stamp duty value was ₹ 140 lakh. Mr. Hari had received a down payment of ₹ 15 lakh by cheque from Rajesh on the date of agreement. Discuss the tax implications in the hands of Hari and Rajesh, assuming that Mr. Hari has purchased the building for ₹ 75 lakh on 12th July 2018.

Would your answer be different if Hari was a share broker instead of a property dealer.

Answer

Case 1: Tax implications if Mr. Hari is a property dealer

In the hands of Mr. Hari	In the hands of Mr. Rajesh
In the hands of Hari, the provisions of section 43CA would be attracted. Therefore, ₹ 65 lakh, being the difference between the stamp duty value on the date of agreement (i.e., ₹ 140 lakh) and the purchase price (i.e., ₹ 75 lakh), would be chargeable as business income in the hands of Mr. Hari.	Since Mr. Rajesh is a dealer in automobile spare parts, the building purchased would be a capital asset in his hands. The provisions of section 56(2)(x) would be attracted in the hands of Mr. Rajesh who has received immovable property, being a capital asset, for inadequate consideration. Therefore, ₹ 50 lakh, being the difference between the stamp duty value of the property (i.e. ₹140 lakh) and the actual consideration (i.e. ₹ 90 lakh) would be taxable under section 56(2)(x) in the hands of Mr. Rajesh.

Case 2: Tax implications if Mr. Hari is a stock broker

In the hands of Mr. Hari	In the hands of Mr. Rajesh
<p>In case Mr. Hari is a stock broker and not a property dealer, the building would represent his capital asset and not stock-in-trade. In such a case, the provisions of section 50C would be attracted in the hands of Mr. Hari and ₹ 65 lakh, being the difference between the stamp duty value on the date of registration (i.e., ₹ 140 lakh) and the purchase price (i.e., ₹ 75 lakh) would be chargeable as short-term capital gains.</p> <p><i>It may be noted that under section 50C, there is an option to adopt the stamp duty value on the date of agreement, if the date of agreement is different from the date of registration and part of the consideration has been received on or before the date of agreement otherwise than by way of cash.</i></p>	<p>There would be no difference in the taxability in the hands of Mr. Rajesh, whether Mr. Hari is a property dealer or a stock broker.</p> <p>Therefore, the provisions of section 56(2)(x) would be attracted in the hands of Mr. Rajesh who has received immovable property, being a capital asset, for inadequate consideration.</p> <p>Therefore, ₹ 50 lakh, being the difference between the stamp duty value of the property (i.e. ₹ 140 lakh) and the actual consideration (i.e. ₹ 90 lakh) would be taxable under section 56(2)(x) in the hands of Mr. Rajesh.</p>

Method of Accounting [Section 145]

1. Income chargeable under the head "Profits and gains of business or profession" or "Income from other sources" shall, subject to the provisions of sub-section (2), be computed in accordance with ***either cash or mercantile system of accounting regularly employed by the assessee.***
2. The Central Government may notify in the Official Gazette from time to time **Income Computation and Disclosure Standards (ICDSs)** to be followed by any class of assessee or in respect of any class of income.
3. Where the Assessing Officer is not satisfied about the correctness or completeness of the accounts of the assessee, or where the method of accounting provided in sub-section (1) has not been regularly followed by the assessee, or income has not been computed in accordance with the standards notified under sub-section (2), **the Assessing Officer may make an assessment in the manner provided in section 144.**

Taxability of certain income [Section 145B] – New Section w.r.e.f. AY 17-18 (FA 2018)

1. Notwithstanding anything to the contrary contained in Section 145, the **interest received by an assessee on any compensation or on enhanced compensation**, as the case may be, **shall be deemed to be the income of the previous year in which it is received.**
2. **Any claim for escalation of price in a contract or export incentives** shall be deemed to be the income of the previous year in which **reasonable certainty of its realisation is achieved.**
3. The income referred to in **sub-clause (xviii) of clause (24) of section 2** shall be deemed to be the income of the previous year in which it is received, if not charged to income-tax in any earlier previous year.

Income as referred in Section 2(24)(xviii)

Assistance in the form of a subsidy or grant or cash incentive or duty drawback or waiver or concession or reimbursement (by whatever name called) by the Central Government or a State Government or any authority or body or agency in cash or kind to the assessee **other than-**

- a. the subsidy or grant or reimbursement **which is taken into account for determination of the actual cost of the asset** in accordance with the provisions of Explanation 10 to clause (1) of section 43; or
- b. the subsidy or grant **by the Central Government** for the purpose of the **corpus of a trust or institution established by the Central Government or a State Government**, as the case may be;

Problems under the head “PGBP”

1. A car purchased by Dr. Suman on 10.08.2017 for ₹ 5,25,000 for personal use is brought into professional use on 1.07.2019 by him, when its market value was ₹ 2,50,000. **Compute the actual cost of the car and the amount of depreciation for the assessment year 2020-21 assuming the rate of depreciation to be 15%.**

2. **Mr. Praveen Kumar has furnished the following particulars relating to payments made towards scientific research for the year ended 31.3.2020:**

Particulars	₹ (in lacs)
(i) Payments made to K Research Ltd.	20
(ii) Payment made to LMN College	15
(iii) Payment made to OPQ College	10
(iv) Payment made to National Laboratory	8
(v) Machinery purchased for in-house scientific research	25
(vi) Salaries to research staff engaged in in-house scientific research	12

Note: K Research Ltd. and LMN College are approved research institutions and these payments are to be used for the purposes of scientific research.

Compute the amount of deduction available under section 35 of the Income-tax Act, 1961 while arriving at the business income of the assessee.

3. **Win Limited commenced the business of operating a three star hotel in Tirupati on 1-4-2019. It furnishes you the following information:**

(a) Cost of land (acquired in June 2017) ₹ 60 lakhs

(b) Cost of construction of hotel building

Financial year 2017-18 ₹ 30 lakhs

Financial year 2018-19 ₹ 150 lakhs

(c) Plant and Machineries (all new) acquired during financial year 2018-19 ₹ 30 lakhs [All the above expenditures were capitalized in the books of the company]. Net profit before depreciation for the financial year 2019-20 ₹ 80 lakhs

Determine the amount eligible for deduction under section 35AD of the Income-tax Act, 1961, for the assessment year 2020-21.

4. MNP Ltd. commenced operations of the business of a new four-star hotel in Chennai on 1.4.2019. The company incurred capital expenditure of ₹ 40 lakh during the period January, 2019 to March, 2019 exclusively for the above business, and capitalized the same in its books of account as on 1st April, 2019. Further, during the previous year 2019-20, it incurred capital expenditure of ₹ 2.5 crore (out of which ₹ 1 crore was for acquisition of land) exclusively for the above business. **Compute the income under the head “Profits and gains of business or profession” for the assessment year 2020-21**, assuming that MNP Ltd. has fulfilled all the conditions specified for claim of deduction under section 35AD and has not claimed any deduction under Chapter VI-A under the heading “C. – Deductions in respect of certain incomes”.

The profits from the business of running this hotel (before claiming deducting under section 35AD) for the assessment year 2020-21 is ₹ 80 lakhs. Assume that the company also has another existing business of running a four-star hotel in Kanpur, which commenced operations 10 years back, the profits from which was ₹ 130 lakhs for assessment year 2020-21. **Would MNO Ltd. be entitled to deduction under section 35AD if it transfers the operation of the hotel in Chennai to PQR Ltd, while continuing to own the said hotel?**

5. Briefly discuss about the provisions relating to deductibility of interest on capital borrowed for the purpose of business or profession.
6. Comment on the allowability of the following claim made by the assessee: Mr. Achal, a hotelier, claimed expenditure on replacement of Linen and carpets in his hotel as revenue expenditure.
7. What are the conditions to be satisfied for the allowability of expenditure under section 37 of the Income-tax Act, 1961?

8. State with reasons, for the following sub-divisions, whether the following statements are true or false having regard to the provisions of the Income-tax Act, 1961:
- (i) For a dealer in shares and securities, securities transaction tax paid in a recognized stock exchange is permissible business expenditure.
 - (ii) Where a person follows mercantile system of accounting, an expenditure of ₹ 25,000 has been allowed on accrual basis and in a later year, in respect of the said expenditure, assessee makes the payment of ₹ 25,000 through a cheque crossed "& Co.", disallowance of ₹ 25,000 under section 40A(3) can be made in the year of payment.
 - (iii) It is mandatory for an assessee to claim depreciation under section 32 of the Income-tax Act, 1961.
 - (iv) The medi-claim premium paid to GIC by Mr. Lomesh for his employees, by a draft, on 27.12.2019 is a deductible expenditure under section 36.
 - (v) Under section 35DDA, amortization of expenditure incurred under eligible Voluntary Retirement Scheme at the time of retirement alone, can be done.
 - (vi) An existing assessee engaged in trading activities, can claim additional depreciation under Section 32(1)(iia) in respect of new plant acquired and installed in the trading concern, where the increase in value of such plant as compared to the approved base year is more than 10%.
9. State with reasons the allowability of the following expenses under the Income-tax Act, 1961 while computing income from business or profession for the Assessment Year 2020-21:
- (i) Provision made on the basis of actuarial valuation for payment of gratuity ₹ 5,00,000. However, no payment on account of gratuity was made before due date of filing return.
 - (ii) Purchase of oil seeds of ₹ 50,000 in cash from a farmer on a banking day.
 - (iii) Tax on non-monetary perquisite provided to an employee ₹ 20,000.
 - (iv) Payment of ₹ 50,000 by using credit card for fire insurance.
 - (v) Salary payment of ₹ 3,00,000 outside India by a company without deduction of tax.
 - (vi) **Custom Duty deposited** in cash ₹ 50,000 with State Bank of India.
 - (vii) Payment made in cash ₹ 30,000 to a transporter in a day for carriage of goods
10. Ramji Ltd., engaged in manufacture of medicines (pharmaceuticals), furnishes the following information for the year ended 31.03.2020:
- (i) Municipal tax relating to office building ₹ 51,000 not paid till 30.09.2020.
 - (ii) Patent acquired for ₹ 20,00,000 on 01.09.2019 and used from the same month.
 - (iii) Capital expenditure on scientific research ₹ 10,00,000, which includes cost of, land ₹ 2,00,000.
 - (iv) Amount due from customer X outstanding for more than 3 years written off as bad debt in the books ₹ 5,00,000.
 - (v) Income tax paid ₹ 90,000 by the company in respect of non-monetary perquisites provided to its employees.
 - (vi) Provident fund contribution of employees ₹ 5,50,000 remitted in July 2020.
 - (vii) Expenditure towards advertisement in souvenir of a political party ₹ 1,50,000.
 - (viii) Refund of GST ₹ 75,000 received during the year, which was claimed as expenditure in an earlier year.
- State with reasons the taxability or deductibility of the items given above under the Income-tax Act, 1961.**
- Note: Computation of total income is not required.**
11. Answer the following with reference to the provisions of the Income-tax Act, 1961:
- (a) Bad debt claim disallowed in an earlier assessment year, recovered subsequently. Is the sum recovered chargeable to tax?
 - (b) Tax deducted at source on salary paid to employees not remitted till the 'due date' for filing the return prescribed in section 139. Is the expenditure to be disallowed under section 40(a)(ia)?
 - (c) X Co. Ltd. paid ₹ 120 lakhs as compensation as per approved Voluntary Retirement Scheme (VRS) during the financial year 2019-20. How much is deductible under section 35DDA for the assessment year 2020-21?
 - (d) Bad debt of ₹ 50,000 written off and allowed in the financial year 2017-18 recovered in the financial year 2019-20.

12. State with reasons, whether the following statements are true or false, with regard to the provisions of the Income-tax Act, 1961:

- (a) Payment made in respect of a business expenditure incurred on 16th February, 2020 for ₹ 25,000 through a cheque duly crossed as "& Co." is hit by the provisions of section 40A(3).
- (b)
- It is a condition precedent to write off in the books of account, the amount due from debtor to claim deduction for bad debt.
 - 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 where the resident payee has not paid the tax due on such income.

13. Write short notes on:

- [Taxation of Firm Chapter]** - Restrictions on deductions allowable to the partnership firm in respect of salary and interest to its partners under section 40(b) of the Income-tax Act, 1961.
- [Setoff of losses Chapter]** - Carry forward and set off of unabsorbed depreciation.
- Additional depreciation.

14. During the financial year 2019-20, the following payments/expenditure were made/incurred by Mr. Yuvan Raja, a resident individual (whose turnover during the year ended 31.3.2019 was ₹ 99 lacs) :

- Interest of ₹ 12,000 was paid to Rehman & Co., a resident partnership firm, without deduction of tax at source;
- Interest of ₹ 4,000 was paid as interest to Mr. R.D. Burman, a non-resident, without deduction of tax at source;
- ₹ 6,00,000 was paid as salary to a resident individual without deduction of tax at source;
- Commission of ₹ 25,000 was paid to Mr. Vidyasagar on 2.7.2019. Without deduction of tax at source.

Briefly discuss whether any disallowance arises under the provisions of section 40(a)(i)/40(a)(ia) of the Income-tax Act, 1961. [After TDS Chapter]

15. M/s. Arora Ltd., submits the following details of expenditure pertaining to the financial year 2019-20:

- Payment of professional fees to Mr. Mani ₹ 50,000. Tax was not deducted at source.
- Interior works done by Mr. Hari for ₹ 2,00,000 on a contract basis. Payment made in the month of March 2020. Tax deducted in March 2020 was paid on 30.06.2020.
- Factory Rent paid to Mr. Rao ₹ 15,00,000. Tax deducted at source and paid on 01.10.2020.
- Interest paid on Fixed Deposits ₹ 2,00,000. Tax deducted on 31.12.2019 and paid on 28.09.2020.

Examine the above with reference to allowability of the same in the assessment year 2020-21 under the Income-tax Act, 1961. You answer must be with reference to section 40(a) read with relevant tax deduction at source provisions. Assume that the due date of filing the return of income is 30.09.2020. [After TDS Chapter]

16. Vinod is a person carrying on profession as film artist. His gross receipts from profession are as under:

	₹
Financial year 2017-18	1,15,000
Financial year 2018-19	1,80,000
Financial year 2019-20	2,10,000

What is his obligation regarding maintenance of books of accounts for each Assessment Year under section 44AA of Income-tax Act, 1961?

17. Ramamurthy had 4 non heavy goods vehicles as on 1.4.2019. He acquired 7 non-heavy goods vehicles on 27.6.2019. He sold 2 non-heavy goods vehicles on 31.5.2019. He has brought forward business loss of ₹ 50,000 relating to assessment year 2016-17 of a discontinued business. Assuming that he opts for presumptive taxation of income as per section 44AE, compute his total income chargeable to tax for the assessment year 2020-21.

18. Mr. Sukhvinder is engaged in the business of plying goods carriages. On 1st April, 2019, he owns 10 trucks (all non heavy goods vehicles). On 2nd May, 2019, he sold one of the non-heavy goods vehicles and purchased another non heavy goods vehicle on 6th May, 2019. This new vehicle could however be put to use only on 15th June, 2019.

Compute the total income of Mr. Sukhvinder for the AY 2020-21, taking note of the following data

Particulars	₹	₹
Freight charges collected		8,70,000
Less : Operational expenses	6,25,000	
Depreciation as per section 32	1,85,000	
Other office expenses	15,000	8,25,000
Net Profit		45,000
Other business and non- business income		70,000

19. X Ltd. follows mercantile system of accounting. After negotiations with the bank, interest of ₹ 4 lakhs (including interest of ₹ 1.2 lakhs pertaining to year ended 31.03.2020 has been converted into loan. **Can the interest of ₹ 1.2 lakhs so capitalized be claimed as business expenditure?**

20. List **Eight items** of expenses which otherwise are deductible shall be disallowed, unless payments are actually made within the due date for furnishing the return of income under Section 139(1). **When can the deduction be claimed, if paid after the said date?**

21. Mr. Gupta is having a trading business and his Trading and Profit & Loss Account for the financial year 2019-20 is as under:

Particulars	Amount (₹)	Particulars	Amount (₹)
To Opening stock	1,00,000	By Sales	70,00,000
To Purchase	49,00,000	By Closing stock	50,000
To Gross profit	20,50,000		
Total	70,50,000	Total	70,50,000
Salary to employees (Including Contribution to PF)	5,00,000	By Gross Profit b/d	20,50,000
Donation to Prime Minister Relief Fund	1,00,000		
Provision for bad debts	50,000		
Bonus to employees	50,000		
Interest on bank loan	50,000		
Family planning expenditure incurred on employees	20,000		
Depreciation	30,000		
Income-tax	1,00,000		
To Net profit	11,50,000		
	20,50,000	Total	20,50,000

Other information:

- (a) Depreciation allowable ₹ 40,000 as per Income-tax Rules, 1962.
- ★(b) No deduction of tax at source on payment of interest on bank loan has been made.
- (c) Payment of bonus to workers made in the month of October, 2019 on the occasion of Diwali festival.
- ★(d) Out of salary, ₹ 25,000 pertains to his contributions to recognized provident fund which was deposited after the due date of filing return of income. Further, employees contribution of ₹ 25,000 was also deposited after the due date of filing return of income.

Calculate gross total income of Mr. Gupta for the Assessment Year 2020-21.

22. Mr. Raju, a manufacturer at Chennai, gives the following Manufacturing, Trading and Profit & Loss Account for the year ended 31.03.2020.

Manufacturing, Trading and Profit & Loss Account for the year ended 31.03.2020

Particulars	₹	Particulars	₹
To Opening Stock	71,000	By Sales	32,00,000
To Purchase of Raw Materials	16,99,000	By Closing stock	2,00,000
To Manufacturing Wages & Expenses	5,70,000		
To Gross Profit	10,60,000		
	34,00,000		34,00,000
To Administrative charges	3,26,000	By Gross Profit	10,60,000
To State VAT penalty	5,000	By Dividend from domestic companies	15,000
To State VAT paid	1,10,000	By Income from agriculture (net)	1,80,000
To General Expenses	54,000		
To Interest to Bank (On machinery term loan)	60,000		
To Depreciation	2,00,000		
To Net Profit	5,00,000		
	12,55,000		12,55,000

Following are the further information relating to the financial year 2019-20:

- (i) Administrative charges include ₹ 46,000 paid as commission to brother of the assessee. The commission amount at the market rate is ₹ 36,000.
- (ii) The assessee paid ₹ 33,000 in cash to a transport carrier on 29.12.2019. This amount is included in manufacturing expenses (Assume that the provisions relating to TDS are not applicable to this payment.)
- ★(iii) A sum of ₹ 4,000 per month was paid as salary to a staff throughout the year and this has not been recorded in the books of account. **[Use alternative view in exam] – Also refer IOS Chapter**
- (iv) Bank term loan interest actually paid upto 31.03.2020 was ₹ 20,000 and the balance was paid in October 2020.
- ★(v) Housing loan principal repaid during the year was ₹ 50,000 and it relates to residential property occupied by him. Interest on housing loan was ₹ 23,000. Housing loan was taken from Canara Bank. These amounts were not dealt with in the profit and loss account given above.
- (vi) Depreciation allowable under the Act is to be computed on the basis of following information:

Plant & Machinery (Depreciation rate @ 15%)	₹
Opening WDV (as on 01.04.2019)	12,00,000
Additions during the year (used for more than 180 days)	2,00,000
Total additions during the year	4,00,000
Note: Ignore additional depreciation under section 32(1)(ia)	

Compute the total income of Mr. Raju for the assessment year 2020-21.

Note: Ignore application of section 14A for disallowance of expenditures in respect of any exempt income.

23. Mr. Sivam, a retail trader of Cochin gives the following Trading and Profit and Loss Account for the year ended 31st March, 2020: **Trading and Profit and Loss Account for the year ended 31.03.2020**

Particulars	₹	Particulars	₹
To Opening stock	90,000	By Sales	12,11,500
To Purchases	10,04,000	By Income from UTI	2,400
To Gross Profit	3,06,000	By Closing stock	1,86,100
	14,00,000		14,00,000
To Salary	60,000	By Gross profit b/d	3,06,000
To Rent and rates	36,000		
To Interest on loan	15,000		
To Depreciation	1,05,000		
To Printing & stationery	23,200		
To Postage & telegram	1,640		
To Loss on sale of shares (Short term)	8,100		
To Other general expenses	7,060		
To Net Profit	50,000		
	3,06,000		3,06,000

Additional Information:

- ★(i) It was found that some stocks were omitted to be included in both the Opening and Closing Stock, the values of which were:
- | | |
|---------------|----------|
| Opening stock | ₹ 9,000 |
| Closing stock | ₹ 18,000 |
- (ii) Salary includes ₹ 10,000 paid to his brother, which is unreasonable to the extent of ₹ 2,000.
 (iii) The whole amount of printing and stationery was paid in cash by way of one-time payment.
 (iv) The depreciation provided in the Profit and Loss Account ₹ 1,05,000 was based on the following information :The written down value of plant and machinery is ₹ 4,20,000 as on 01.04.2019. A new plant falling under the same block of depreciation was bought on 1.7.2019 for ₹ 70,000. Two old plants were sold on 1.10.2019 for ₹ 50,000.
 (v) Rent and rates includes **GST liability** of ₹ 3,400 paid on 7.4.2020.
 (vi) Other general expenses include ₹ 2,000 paid as donation to a Public Charitable Trust.
You are required to advise Mr. Sivam whether he can offer his business income under section 44AD i.e. presumptive taxation.

24. Following is the profit and loss account of Mr. Q for the year ended 31-03-2020:

Particulars	₹	Particulars	₹
To Repairs on Building	1,81,000	By Gross Profit	6,01,000
To Amount paid to IIT, Mumbai for an approved scientific research programme	1,00,000	By I.T. Refund	8,100
To Interest	1,10,000	By Interest on Company Deposits	6,400
To Travelling	1,30,550		
To Net Profit	93,950		
	6,15,500		6,15,500

Following additional information is furnished:

- (1) Repairs on building includes ₹ 1,00,000 being cost of building a new toilet.
 (2) Interest payments include ₹ 50,000 on which tax has not been deducted and penalty for contravention of Central GST Act of ₹ 24,000.

Compute the income chargeable under the head "Profits and gains of Business or Profession" of Mr. Q for the year ended 31-03-2020 ignoring depreciation.

25. Following is the profit and loss account of Mr. A for the year ended 31.3.2020:

Particulars	₹	Particulars	₹
To Repairs on building	1,30,000	By Gross profit	6,01,000
To Advertisement	51,000	By Income Tax Refund	4,500
To Amount paid to Scientific Research Association approved u/s 35	1,00,000	By Interest from company deposits	6,400
To Interest	1,10,000	By Dividends	3,600
To Traveling	1,30,000		
To Net Profit	94,500		
	6,15,500		6,15,500

Following additional information is furnished:

- (1) Repairs on building includes ₹ 95,000 being cost of raising a compound wall for the own business premises.
 (2) Interest payments include interest of ₹ 12,000 payable outside India to a non-resident Indian on which tax has not been deducted and penalty of ₹ 24,000 for contravention of Central GST Act.

Compute the income chargeable under the head 'Profits and gains of business or profession' of Mr. A for the year ended 31.3.2020 ignoring depreciation.

26. Briefly explain the term "substantial interest". State three situations in which the same assumes importance.

27. Raghav Industries Ltd. furnishes you the following information for the year ended 31-03-2020:

- (a) Scientific research expenditure related to its business ₹ 2,40,000 fully revenue in nature.
- (b) Building acquired for scientific research (including cost of land ₹ 5,00,000) in June 2019 for ₹ 12,00,000.
- (c) Amount paid to Indian Institute of Science, Bangalore for scientific research ₹ 50,000.
- (d) Demerger expenses incurred in financial year 2019-20 ₹ 5,00,000.
- (e) Contribution to the account of employees as per pension scheme referred to in section 80CCD amounted to ₹ 30,00,000. Amount above 10% of the salary of employees is ₹ 7,00,000.
- (f) Amount recovered from employees towards provident fund contribution ₹ 12,00,000 of which amount remitted upto the end of the year was ₹ 7,00,000 and the balance was remitted before the 'due date' for filing the return prescribed in Section 139(1).
- ★(g) Tax on non-monetary perquisites provided to the employees, borne by the employer ₹ 4,50,000.
- ★(h) Gain due to change in the rate of exchange of foreign currency ₹ 1,00,000 related to import of machinery. The machinery was acquired two years ago and put to regular use since then.

Explain in brief how the above said items would be dealt with for the A.Y. 2020-21.

Note: Computation of total income not required.

28. Advise an assessee on the admissibility or otherwise on the following aspects giving reasons in respect of its business income :

- (i) Brokerage paid for raising loan for the business.
- (ii) Cost of erecting medical unit annexed to the factory for emergency treatment of the employees.
- (iii) Compensation paid to an employee for the premature termination of his services.
- (iv) Travelling expenses of a director, who went to Japan for negotiating the purchase of a new heavy machinery, which was to be installed during next year.
- (v) Lump sum consideration of ₹ 5 lakh paid for acquiring know-how.

29. State, with reasons in brief, whether following receipts/expenses are capital or revenue in nature -

- (i) Ankit Ltd. received ₹ 3 lakh as compensation from Bhushan Ltd. for premature termination of a contract of agency;
- (ii) GST collected from the buyer of goods;
- (iii) Pretty Ltd., instead of receiving royalty year by year, received it in advance in lumpsum;
- (iv) Payment of ₹ 60,000 as compensation for cancellation of a contract for the purchase of machinery with a view to avoid an unnecessary expenditure;
- (v) An employee director of a company was paid ₹ 1.5 lakh as a lumpsum consideration for not resigning from the directorship.

30. Jardine Ltd. is an existing Indian Company, engaged in developing and providing computer software services which sets up a new industrial unit. It incurs the following expenditure in connection with the new unit:

	₹
Preparation of project report	4,00,000
Market Survey	5,00,000
Legal and other charges for issue of additional capital required for the new unit	2,00,000
Total	11,00,000

The following further data is given :

Cost of project	30,00,000
Capital employed in the new unit	40,00,000

What is the deduction admissible to the company under section 35D for AY 2020-21?

31. In the financial year 2017-18, RK Ltd. had prepared a Voluntary Retirement Scheme for its employees in accordance with which it paid ₹ 10 lakhs, ₹ 15 lakhs and ₹ 5 lakhs to its employees in the financial years 2017-18, 2018-19 and 2019-20 respectively. Compute the amount of deduction admissible u/s 35DDA to RK Ltd. in AY 2020-21.

32. Following is the Profit & Loss account of Mr. A a dealer in shares and securities for the year ended on 31.3.2020 (amounts in ₹)

To Trading Expenses	62,60,000	By Sales	72,54,000
To Administrative Exp.	1,05,000	By Interest on FD with bank	16,500
To Financial Expenses	48,265	By Dividend from Indian Co	64,360
To Demat & delivery charges	4,350	By Interest on I.T. Refund (A.Y.2008-09)	230
To Securities transaction tax	5,500		
To Net Profit before depreciation	9,11,975		
	73,35,090		73,35,090

Compute total income.

33. Computation of taxable income: Ram, who is 28 years of age, is a businessman in Delhi. On the basis of the following profit and loss account for the financial year 2019-20, compute his taxable income :

Opening stock	20,700	Sales	1,500,000
Purchases	1,000,000	Closing stock	25,200
Household expenses	10,000		
Income-tax for the financial year 2010-11	30,000		
Interest on capital	8,400		
Depreciation on furniture	12,000		
Reserve for bad debts	1,200		
Salaries and wages	60,000		
Rent and rates	25,000		
Net profit	357,900		
	1,525,200		1,525,200

Other relevant particulars are as follows:

- (i) Opening stock and closing stock have consistently been valued at 10% below cost price.
- (ii) Household expenses include a contribution of ₹ 1,500 towards public provident fund.
- (iii) Amount of depreciation on furniture as per income-tax provisions is ₹ 10,000.

34. Mrs. Thakur carries on a textile manufacturing business. Her Profit and Loss Account for the year ending 31st March 2020 is as follows (amounts in ₹) :

To Office Expenses	8,500	By Gross Profit	106,000
To Sundry Expenses	7,500	By Misc. Receipts	6,000
To Staff Welfare Expenses	750	By Income tax Refund	20,000
To Legal Expenses	5,000	By Bad debts recovered	4,500
To Salaries	17,000	By Gift from Mr. Thakur	10,000
To Outstanding liability for Excise duty	7,500		
To Bonus to staff	6,000		
To Depreciation	4,000		
To Contribution to Approved provident fund	7,000		
To Audit fees	32,500		
To Net profit	50,750		
Total	146,500	Total	146,500

Notes:

- (1) Depreciation as per Income-tax Act comes to ₹ 2,700.
- ★(2) Bonus payable under the Payment of Bonus Act, 1965 amounts to ₹ 2,500.
- (3) Sundry expenses include ₹ 1,500 paid as donation to her son's school for their annual function.
- (4) Office expenses include a capital expenditure of ₹ 5,000 on additional furniture purchased on 1.12.2019. No depreciation has been provided for in the books.
- (5) Liability for excise duty was paid as follows :
On 13.4.2020 ₹ 3,500 On 2.5.2020 ₹ 1,000 On 30.7.2020 ₹ 1,800; The return was filed on 31.7.2020 (last date for filing).
- ★(6) No tax has been deducted at source on the audit fees of ₹ 32,500.
- (7) Bad debts recovered were allowed as deduction in an earlier assessment.

You are required to compute Mrs. Thakur's business income.

35. Shri Nagesh's Profit and loss A/c for the year ended 31st March 2020 is as under (Amount in ₹) :

Opening Stock	40,000	Sales	540,000
Purchases	205,000	Closing Stock	60,000
Royalty	26,000	Commission	8,000
Wages	95,000	Interest from customers	2,000
Factory expense	45,000	Dividends	5,000
Rent rates and taxes	3,000	Contribution by employees towards RPF	2,100
Sundry expenses	5,300	Profit on sale of building	16,500
Salaries and bonus	9,500		
Contribution to RPF	2,100		
Legal expenses	1,800		
Provision for depreciation	1,500		
Travelling expenses	4,000		
Repairs	5,800		
Entertainment expenses	14,400		
Rural development expenses	1,000		
Advertisement expenses	4,900		
Miscellaneous expenses	2,800		
Net profits	166,500		
	633,600		633,600

Other information:

- (1) Opening and closing stock valued at 20% below cost price. Market price was higher than cost price.
- (2) A sum of ₹ 1,500 paid on the accident of an employee is included in the factory expenses.
- (3) Allowable depreciation is ₹ 1,800
- (4) Advertisement expenses include ₹ 3,000 for advertisement in souvenir published by political party.
- (5) Rural development expenses include ₹1,000 paid to an approved institution for carrying out an approved rural development programme. The approval was withdrawn after payment of such sum.
- (6) Sundry expenses ₹ 1,000 and contribution to recognised provident fund are unpaid.

Determine his taxable profits of business.

36. Mr. Rameshwar is registered Medical practitioner. He keeps his book on cash basis and his summarised cash account for year ended 31 March 2020 is as under (amounts in ₹)

To Balance b/d	2,700	By costs of medicines	20,000
To loan from Bank	6,000	By surgical equipments	6,000
To sale of medicines	30,500	By motor car purchased	12,000
To consultation fees	10,000	By car expenses	1,800
To visiting fees	8,000	By salaries	1,200
To interest on investments	9,000	By rent on dispensary	1,200
To dividend on shares	7,200	By General expenses	600
To sale of building	15,000	By personal expenses	3,600
To sale of furniture	5,000	By Life insurance premium	2,000
		By Interest on bank loan for investment	360
		By insurance of property	400
		By Fixed Deposit in Bank	30,000
		By balance c/d	14,240
	93,400		93,400

Compute his Income from profession taking into account the following further information:

- (1) 1/3rd of the motorcar expenses is in respect of his personal use.
- (2) The original cost of the building was ₹ 20,000 and written down value of furniture as on 1st April 2019 was ₹ 4,000. There was no other asset in this block.
- (3) The rate of depreciation on motorcar and on surgical equipments is 15%. An old car was purchased in May 2019 while the surgical equipments were purchased in Dec. 2019.
- ★(4) Outstanding consultancy fees and outstanding salaries are ₹ 20,000 and ₹ 1,000 respectively. Further, medicines valuing ₹ 5,000 were sold to Mr. Babu on credit.

37. Shri Mohit Jain, a resident assessee, has given the following Profit and Loss Account for the year ended 31st March 2020: (All amount in ₹)

To Office Salaries	26,000	By Gross profit	299,400
To Staff welfare Expenses	12,000	By Sundry receipts	8,800
To General expenses	13,000		
To Bad debts	6,000		
To Advance tax	800		
To Fire insurance	8,000		
To Advertisement expenses	22,000		
To Interest on Mohit's capital and loan	7,200		
To Expenditure incurred on acquisition of copyright on 1-2-2020 (it is put to use on the same day).	5,600		
To Lump sum consideration for acquiring know-how incurred on 5-3-2020 (it is put to use on April 1, 2020)	24,000		
To Depreciation on other business assets	12,000		
To Provision for income-tax	4,000		
To Contribution to a political party	2,000		
To Net profit	165,600		
	308,200		308,200

Other information:

(1) Salary to staff includes salary paid to a relative, which is unreasonable to the extent of ₹ 4,800.

(2) Depreciation on other assets according to income-tax provision comes to ₹ 19,200.

(3) Provision for income tax is excessive to the extent of ₹ 1,200.

(4) General expenses include an expenditure of ₹ 3,560 for arranging a long-term loan.

★(5) **During the previous year 2019-20, the following payments are made:**

(a) ₹ 14,000 paid on 5-5-2019 on account of outstanding customs duty of previous year 2018-19; and

(b) ₹ 10,000 paid on 3-1-2020 on account of outstanding CGST of the previous year 2018-19.

Find out the business income of Mr. Mohit Jain for the AY 2020-21. Due date of filing return of income is July 31, 2019 for AY 2019-20 and July 31, 2020 for AY 2020-21.

38. Alpha Ltd. a manufacturing company, which maintains accounts under mercantile system, has disclosed a net profit of ₹ 12.50 lakhs for the year ending 31st March 2020. **You are required to compute the taxable income of the company for the assessment year 2019-20 after considering the following information, duly explaining the reasons for each item of adjustment:**

(a) Advertisement expenditure includes the sum of ₹ 60,000/- paid in cash to the sister concern of a director, the market value of which is ₹ 52,000/-.

(b) Legal charges include a sum of ₹ 45,000/- paid to a consultant for framing a scheme of amalgamation duly approved by the Central Government.

(c) Repairs of plant and machinery include ₹ 1.80 lakhs towards replacement of worn out parts.

★(d) A sum of ₹ 6,000/- on account of liability foregone by a creditor has been taken to general reserve. The same was charged to the Revenue Account in the assessment year 2006-07.

(e) Sale proceeds of import entitlements amounting to ₹ 1 lakh has been credited to Profit and Loss A/c, which company claims as capital receipt not chargeable to Income tax.

(f) Being also engaged in the biotechnology business, the company incurred the following expenditure on in-house research and development as approved by prescribed authority: -

a) Research equipments purchased ₹ 1,50,000/-

b) Remuneration paid to scientists ₹ 50,000/-

The Total amount of ₹ 2,00,000/- is debited to Profit and Loss A/c.

39. [Also refer Agriculture Chapter] - The following is the profit and loss account for year ended 31st March, 2020 of Western Sugar Mills of which Shri Daga is the owner:

	₹		₹
To Manufacturing expenses	7,01,000	By Sale of Sugar and molasses	11,62,300
To Excise duty	92,795	By Rent from agricultural land	950
To Establishment charges	49,200	By Revenue from fisheries	4,000
To Fine paid to excise dept	2,000	By Sale proceeds from Sugar canes	6,05,055
To Salary and wages	1,21,445	By Profit on sale of motor truck	3,230
To General charges	16,750		
To Interest on bank loan	21,000		
To Daga's remuneration	38,750		
To Depreciation	91,000		
To Income-tax	25,000		
To Cultivation expenses	4,37,500		
To Net profit	1,79,095		
	<u>17,75,535</u>		<u>17,75,535</u>

Compute the income from business of Shri Daga from the Sugar Mill for the AY 2020-21 after taking the following information into consideration:

- ★ a) Sale proceeds of cane include ₹ 5,32,000 on account of cane produced and consumed in the factory and debited to manufacturing expenses, the average market price of such cane being ₹ 6,00,000.
- b) The motor truck sold during the year for ₹ 7,230 was purchased in the past for ₹ 19,000. Depreciation claimed in respect thereof in past assessment was ₹ 15,000.
- c) General charges include —
- ₹ 2,000 being the legal expenses incurred in defending a suit regarding the company's title to certain agricultural lands and
 - ₹ 10,000 paid to Shri Daga's son who is an employee in the Sugar Mill for a trip to Hawaii to study modern methods of manufacture.
- d) Depreciation in respect of all assets has been ascertained at ₹ 50,000 as per Income-tax Rules.

40. [Also refer Agriculture Chapter] - Mr. Tenzingh is engaged in composite business of growing and curing (further processing) coffee in Coorg, Karnataka. The whole of coffee grown in his plantation is cured. Relevant information pertaining to the year ended 31.3.2020 are given below:

Particulars	₹
WDV of car as on 1.4.2019	3,00,000
WDV of machinery as on 1.4.2019 (15% rate)	15,00,000
Expenses incurred for growing coffee	3,10,000
Expenditure for curing coffee	3,00,000
Sale value of cured coffee	22,00,000

Besides being used for agricultural operations, the car is also used for personal use; disallowance for personal use may be taken at 20%. The expenses incurred for car running and maintenance are ₹ 50,000. The machines were used in coffee curing business operations.

Compute the income arising from the above activities for the assessment year 2020-21. Show the WDV of the assets as on 31.3.2020.

PGBP - SOLUTION

- As per section 43(1), the expression “actual cost” would mean the actual cost of asset to the assessee. The purchase price of ₹ 5,25,000 is, therefore, the actual cost of the car to Dr. Suman. Market value (i.e. ₹ 2,50,000) on the date when the asset is brought into professional use is not relevant.

Therefore, amount of depreciation on car as per section 32 for the A.Y. 2020-21 would be ₹ 78,750, being ₹ 5,25,000 x 15%.

Note: Explanation 5 to section 43(1) providing for reduction of notional depreciation from the date of acquisition of asset for personal use to determine actual cost of the asset is applicable only in case of building which is initially acquired for personal use and later brought into professional use. It is not applicable in respect of other assets.

2.

Computation of deduction allowable under section 35

Particulars	Amount (₹ In lacs)	Section	% of weighted deduction	Amount of deduction (₹ in lacs)
Payment for scientific research				
K Research Ltd. [See Note 3]	20	35(1)(ii)	150%	30.00
LMN College	15	35(1)(ii)	150%	22.50
OPQ College [See Note 1]	10	-	Nil	Nil
National Laboratory [See Note 4]	8	35(2AA)	150%	12.00
In-house research [See Note 2]				
Capital expenditure	25	35(1)(iv) r.w. 35(2)	100%	25.00
Revenue expenditure	12	35(1)(i)	100%	12.00
Deduction allowable under section 35				101.50

Notes :-

- Payment to OPQ College:** Since the note in the question below item (iii) clearly mentions that only K Research Ltd. and LMN College (mentioned in item (i) and (ii), respectively) are approved research institutions, it is a logical conclusion that OPQ College mentioned in item (iii) is not an approved research institution. Therefore, payment to OPQ College would not qualify for deduction under section 35.
- Deduction for in-house research and development:** Only company assessee are entitled to weighted deduction@150% under section 35(2AB) in respect of in-house research and development expenditure incurred. However, in this case, the assessee is an individual. Therefore, he would be entitled to deduction@100% of the revenue expenditure incurred under section 35(1)(i) and 100% of the capital expenditure incurred under section 35(1)(iv) read with section 35(2), assuming that such expenditure is laid out or expended on scientific research related to his business.
- Payment to K Research Ltd. (Alternative Answer) :** Any sum paid to a company registered in India which has as its main object scientific research, as is approved by the prescribed authority, qualifies for a deduction of 100% under section 35(1)(iia). Therefore, it is also possible to take a view that payment of ₹ 20 lakhs to K Research Ltd. qualifies for a deduction of 100% under section 35(1)(iia) since K Research Ltd. is a company. The weighted deduction under section 35(1)(iia) would be ₹ 20 lacs (i.e., 100% of ₹ 20 lacs), in which case, the total deduction under section 35 would be ₹ 96.50 lacs.
- Payment to National Laboratory:** The percentage of weighted deduction under section 35(2AA) in respect of amount paid to National Laboratory is 150%.
- Under section 35AD, 100% of the capital expenditure incurred during the previous year, wholly and exclusively for the specified business, which includes the business of building and operating a hotel of two-star or above category anywhere in India which commences its operations on or after 1.4.2011, would be allowed as deduction from the business income.

However, expenditure incurred on acquisition of any land, goodwill or financial instrument would not be eligible for deduction.

Further, the expenditure incurred, wholly and exclusively, for the purpose of specified business prior to commencement of operation would be allowed as deduction during the previous year in which the assessee commences operation of his specified business. A condition has been inserted that such amount incurred

prior to commencement should be capitalized in the books of account of the assessee on the date of commencement of its operations.

Accordingly, the deduction under section 35AD for the A.Y. 2020-21 in the case of Win Ltd. would be calculated as follows, assuming that the expenditures were capitalised in the books of the company on 1.4.2019, being the date of commencement of operations-

Particulars	₹
Cost of land (not eligible for deduction under section 35AD)	Nil
Cost of construction of hotel building (₹ 30 lakhs + ₹ 150 lakhs)	180
Cost of plant and machinery	30
Deduction under section 35AD	210

Note:-

- (1) For A.Y.2020-21, the loss from specified business of operating a three star hotel would be ₹ 130 lakhs (i.e. ₹ 210 lakhs – ₹ 80 lakhs). As per section 73A, any loss computed in respect of the specified business referred to in section 35AD shall be set off only against profits and gains, if any, of any other specified business. The unabsorbed loss, if any, will be carried forward for set off against profits and gains of any specified business in the following assessment year.
- (2) Since the entire cost of plant and machinery and building qualifies for deduction under section 35AD, the same does not qualify for deduction under section 32.

4. Computation of income under the head “Profit and gains of business or profession” of MNP Ltd. for A.Y. 2020-21

Particulars	₹ (in lakh)	₹ (in lakh)
Profits from the specified business of new four-star hotel in Chennai (before providing deduction under section 35AD)		80
Less: Deduction under section 35AD		
Capital expenditure incurred during the P.Y. 2019-20 (excluding the expenditure incurred on acquisition of land) = ₹ 250 lakh – ₹ 100 lakh (See Notes 1 & 2 below)	150	
Capital expenditure incurred during January 2019 to March 2019 (i.e., prior to commencement of business) and capitalized in the books of account as on 1.4.2019 (See Note 3 below)	40	
Total deduction under section 35AD for A.Y. 2020-21		<u>190</u>
Income from the specified business of new hotel in Chennai		(110)
Profit from the existing business of running a four-star hotel in Kanpur (See Note 4 below)		<u>130</u>
Net profit from business after set-off of loss of specified business against profits of another specified business under section 73		20

Notes:

- (1) According to the provisions of section 35AD, an assessee shall be allowed a deduction in respect of 100% of the capital expenditure incurred wholly and exclusively for the purpose of the specified business which, inter alia, includes the business in the nature of building and operating a new hotel of two-star or above category, anywhere in India.
Therefore, the newly commenced four-star hotel business of MNP Ltd qualifies for deduction under section 35AD, since It has fulfilled all the conditions for claim of deduction under that section.
- (2) The expenditure on acquisition of land, however, does not qualify for deduction under section 35AD.
- (3) The capital expenditure incurred prior to commencement of specified business shall be allowed as deduction under section 35AD(1) in the year of commencement of specified business, if the same is capitalized in the books of accounts of the assessee on the date of commencement of its operations. Therefore, the expenditure of ₹ 40 lakh is allowable as deduction in A.Y. 2020-21, since it has been capitalized in the books of accounts of MNP Ltd. as on 1.4.2019.
- (4) As per section 73A, the loss computed under section 35AD in respect of a specified business can be set off against the profit of another specified business. Building and operating a hotel of two-star and above category, anywhere in India, is a specified business, therefore, the loss from the business of new four-star hotel in Chennai can be set-off against the income of the existing four-star hotel in Kanpur.

- (5) Section 35AD(6A) provides that where the assessee, MNO Ltd., builds a hotel of two-star or above category as classified by the Central Government and subsequently, while continuing to own the hotel, transfers the operation of the said hotel to another person, the assessee shall be deemed to be carrying on the specified business of building and operating a hotel. Therefore, in this case, MNO Ltd. would be eligible to claim investment linked deduction under section 35AD even if it transfers the operation of the Chennai hotel to PQR Ltd.
5. Under section 36(1)(iii), deduction is allowed in respect of interest on capital borrowed for the purposes of business or profession while computing income under the head "Profits and gains of business or profession". Further, Explanation 8 to section 43(1) clarifies that interest relatable to a period after the asset is first put to use cannot be capitalized. Interest in respect of capital borrowed for any period from the date of borrowing to the date on which the asset was first put to use should, however, be capitalized in the case of extension of existing business or profession. The proviso to section 36(1)(iii) provides that no deduction shall be allowed in respect of any amount of interest paid, in respect of capital borrowed for acquisition of a new asset or for extension of existing business or profession (whether capitalized in the books of account or not) for any period beginning from the date on which the capital was borrowed for acquisition of the asset, till the date on which such asset was first put to use.
6. The expenditure on replacement of linen and carpets in a hotel are in the nature of expenses incurred for the business and are allowable as revenue expenses under section 37(1).
- 7.
- (a) **The following conditions are to be fulfilled for the allowability of expenditure under section 37 -**
- (1) The expenditure should not be of the nature described in section 30 to 36;
 - (2) It should not be in the nature of personal expenditure of the assessee;
 - (3) It should have been incurred by the assessee during the previous year;
 - (4) The expenditure should have been laid out or expended wholly or exclusively for the purposes of the business or profession;
 - (5) It should not be in the nature of a capital expenditure; It should not have been incurred for any purpose which is an offence or which is prohibited by law.
- (b) **No** deduction is allowable for expenditure incurred by the assessee on advertisement in any souvenir, brochure, tract pamphlet or the like published by a political party [Section 37(2B)]
- (c) As per Explanation 2 to Section 37(1), any expenditure incurred by the assessee on the activities relating to Corporate Social Responsibility referred to in Section 135 of the Companies Act, 2013 shall **not** be deemed to be an expenditure incurred for the purpose of business or profession. Hence, such expenditure shall be disallowed while computing total income.
- 8.
- (i) **True** : Section 36(1)(xv) allows a deduction of the amount of securities transaction tax paid by the assessee in respect of taxable securities transactions entered into in the course of business during the previous year as deduction from the business income of a dealer in shares and securities.
- (ii) **True** : As per section 40A(3), in the case of an assessee following mercantile system of accounting, if an expenditure has been allowed as deduction in any previous year on due basis, and payment exceeding ₹ 10,000 has been made in the subsequent year otherwise than by account payee cheque or account payee bank draft, then the payment so made shall be deemed to be the income of the subsequent year in which such payment has been made.
- (iii) **True** : According to the Explanation 5 to section 32(1), allowance of depreciation is mandatory. Therefore, depreciation has to be provided mandatorily while calculating income from business / profession whether or not the assessee has claimed the same while computing his total income.
- (iv) **True** : Section 36(1)(ib) provides deduction in respect of premium paid by an employer to keep in force an insurance on the health of his employees under a scheme framed in this behalf by GIC or any other insurer. The medical insurance premium can be paid by any mode other than cash, to be eligible for deduction under section 36(1)(ib).
- (v) **False** : Expenditure incurred in making payment to the employee in connection with his voluntary retirement either in the year of retirement or in any subsequent year, will be entitled to deduction in 5 equal annual installments beginning from the year in which each payment is made to the employee.

- (vi) **False** : Additional depreciation can be claimed only in respect of eligible plant and machinery acquired and installed by an assessee engaged in the business of manufacture or production of any article or thing or in the business of generation or generation and distribution of power. In this case, the assessee is engaged in trading activities and the new plant has been acquired and installed in a trading concern. Hence, the assessee will not be entitled to claim additional depreciation under section 32(1)(iia).

9.

(i) **Not allowable as deduction**

As per section 40A(7), no deduction is allowed in computing business income in respect of any provision made by the assessee in his books of account for the payment of gratuity to his employees except in the following two cases:

- (1) where any provision is made for the purpose of payment of sum by way of contribution towards an approved gratuity fund or;
- (2) where any provision is made for the purpose of making any payment on account of gratuity that has become payable during the previous year.

Therefore, in the present case, the provision made on the basis of actuarial valuation for payment of gratuity has to be disallowed under section 40A(7), since, no payment has been actually made on account of gratuity.

Note: It is assumed that such provision is not for the purpose of contribution towards an approved gratuity fund.

(ii) **Allowable as deduction**

As per Rule 6DD, in case the payment is made for purchase of agricultural produce directly to the cultivator, grower or producer of such agricultural produce, no disallowance under section 40A(3) is attracted even though the cash payment for the expense exceeds ₹ 10,000.

Therefore, in the given case, disallowance under section 40A(3) is not attracted since, cash payment for purchase of oil seeds is made directly to the farmer.

(iii) **Not allowable as deduction**

As per section 40(a)(v), income-tax of ₹ 20,000 paid by the employer in respect of non monetary perquisites provided to its employees, which is exempt in the hands of the employee under section 10(10CC), is not deductible while computing business income.

(iv) **Allowable as deduction**

Payment for fire insurance is allowable as deduction under section 36(1). Since payment by credit card is covered under Rule 6DD, which contains the exceptions to section 40A(3), disallowance under section 40A(3) is not attracted in this case.

(v) **Not allowable as deduction**

Disallowance under section 40(a)(iii) is attracted in respect of salary payment of ₹ 2,00,000 outside India by a company without deduction of tax at source.

- (vi) **Allowable as deduction** As per Rule 6DD, if the payment is made to the Government and, under the rules framed by it, such payment is required to be made in legal tender, no disallowance under section 40A(3) is attracted even though the cash payment for the expense exceeds ₹ 10,000.

Therefore, in the given case, no disallowance under section 40A(3) is attracted since payment of Custom Duty is covered by the above mentioned exception contained in Rule 6DD.

(vii) **Allowable as deduction**

The limit for attracting disallowance under section 40A(3) for payment otherwise than by way of account payee cheque or account payee bank draft is ₹ 35,000 in case of payment made for plying, hiring or leasing goods carriage. Therefore, in the present case, disallowance under section 40A(3) is not attracted for payment of ₹ 30,000 made in cash to a transporter for carriage of goods.

10.

- (i) As per section 43B, municipal tax is not deductible for A.Y. 2020-21 since it is not paid on or before 30.09.2020, being the due date of filing the return for A.Y. 2020-21.

Note – It is assumed that the company has not undertaken any international transaction during the year, and therefore does not have to file a transfer pricing report under section 92E. Therefore, the due date of filing of return of the company would be 30th September, 2020.

- (ii) Patent is an intangible asset eligible for depreciation@25%. Since it has been acquired and put to use for more than 180 days during the previous year 2019-20, full depreciation of ₹ 5,00,000 (i.e. 25% of ₹ 20,00,000) is allowable as deduction under section 32.

- (iii) Weighted deduction@150% is available under section 35(2AB) in respect of expenditure incurred by a company on scientific research on in-house research and development facility as approved by the prescribed authority. However, cost of land is not eligible for deduction. Deduction under section 35(2AB) = 150% of ₹ 8 lakhs = ₹ 12,00,000.

Note: It is presumed that the in-house research and development facility is approved by the prescribed authority and is hence, eligible for the weighted deducted@150% under section 35(2AB).

- (iv) Bad debts i.e. ₹ 5,00,000 written off in the books of account as irrecoverable is deductible under section 36(1)(vii), provided the debt has been taken into account in computing the income of the company in the current previous year or any of the earlier previous years.
- (v) As per section 40(a)(v), income-tax of ₹ 90,000 paid by the company in respect of nonmonetary perquisites provided to its employees, exempt in the employee's hands under section 10(10CC), is not deductible while computing business income of the employer– company.
- (vi) The employees' contribution to provident fund is taxable in the hands of the company since it is included in the definition of income under section 2(24)(x). As per section 36(1)(va), provident fund contribution of employees is deductible only if such sum is credited to the employee's provident fund account on or before the due date under the Employees' Provident Fund and Miscellaneous Provisions Act, 1952. In this case, since it is remitted after the due date under the said Act, it is not deductible.

Note: There is an alternate view that remittance of provident fund contribution of employees is deductible even though it is remitted beyond the due date under the Employees' Provident Fund and Miscellaneous Provisions Act, 1952, in case the same is remitted before the due date of filing return of income in view of the Delhi High Court decision in CIT vs. Aimil Ltd

- (vii) Expenditure towards advertisement in souvenir of a political party is disallowed under section 37(2B) while computing business income. However, the same is deductible under section 80GGB from gross total income.
- (viii) Refund of a trading liability is taxable under section 41(1), if a deduction was allowed in respect of the same to the taxpayer in an earlier year. Since GST was claimed as expenditure in an earlier year, refund of the same during the year would attract the provisions of section 41(1).

11.

- (a) Recovery of a bad debt claim disallowed in the earlier year cannot be brought to tax under section 41(4). Section 41(4) can be invoked only in a case where bad debts or part thereof has been allowed as deduction earlier under section 36(1)(vii).
- (b) The scope of section 40(a)(ia) has been expanded w.e.f. A.Y. 2020-21 to cover all sums in respect of which tax is deductible under Chapter VII-B. Section 192, which requires deduction of tax at source from salary income, forms part of Chapter VII-B. Therefore, salary payment without deduction of tax at source would attract disallowance under section 40(a)(ia). However, only 30% of salary paid without deduction tax at source would be disallowed under section 40(a)(ia).
- (c) It is deductible in 5 equal annual instalments commencing from the previous year of payment. ₹ 24 lakhs, being 1/5th of ₹ 120 lakhs, is deductible under section 35DDA for the A.Y.2020-21.
- (d) As per section 41(4), any amount recovered by the assessee against bad debt earlier allowed as deduction shall be taxed as income in the year in which it is received. Therefore, in this case, ₹ 50,000 would be taxable in the F.Y.2019-20 (A.Y.2020-21).

12.

- (a) **True :** In order to escape the disallowance specified in section 40A(3), payment in respect of the business expenditure ought to have been made through an account payee cheque. Payment through a cheque crossed as "& Co." will attract disallowance under section 40A(3).
- (b)
- True :** It is mandatory to write off the amount due from a debtor as not receivable, in order to claim the same as bad debt under section 36(1)(vii).
 - True :** Section 40(a)(ia) provides that failure to deduct tax at source from rent or royalty payable to a resident, in accordance with the provisions of Chapter XVII-B, will result in disallowance of 30% of such expenditure, where the resident payee has not paid the tax due on such income.

13.

- (i) **In the case of a partnership firm, the deduction on account of interest and salary paid to its partners are as subject to the following restrictions contained in section 40(b) -**

- (a) It should be authorised by and in accordance with the terms of the partnership deed.
- (b) It should not relate to a period before the date of such deed.
- (c) Remuneration should be paid to a working partner.
- (d) The amounts allowable are subject to the following limits -

(1) In the case of interest

Simple interest up to 12% p.a. is allowable. This restriction is not applicable if a person is a partner in his representative capacity in the firm and he receives interest from the firm in his individual capacity. Similarly, the restriction is also not applicable if a person who is a partner in his individual capacity receives interest for and on behalf of someone else from the firm in which he is a partner.

- (2) In the case of salary, bonus, commission or remuneration paid by a firm to its working partners – It should not exceed the amount specified in the table below –**
For all firms

(a) On the first ₹ 3,00,000 of the book profit or in case of loss	₹ 1,50,000 or 90% of book profit, whichever is more
(b) On the balance of the book profit	@ 60%

- (ii) **Section 32(2) provides for carry forward of unabsorbed depreciation.**

Where, in any previous year, the profits or gains chargeable are not sufficient to give full effect to the depreciation allowance, such unabsorbed depreciation shall be added to the depreciation allowance for the following previous year and shall be deemed to be part of that allowance.

If there is no depreciation allowance for that previous year, the unabsorbed depreciation of the earlier previous year shall become the depreciation allowance of that year. The effect of the provisions of section 32(2) is that unabsorbed depreciation brought forward shall be deemed as the current year depreciation. Consequently, such unabsorbed depreciation can be set-off not only against income under the head “Profits and gains of business or profession” but also against income under any other head. Further, the unabsorbed depreciation can be carried forward indefinitely till it is fully set off.

However, in the order of set-off losses under different heads of income, effect shall first be given to current year depreciation, then to brought forward business losses and finally to unabsorbed depreciation.

- (iii) Section 32(1)(ia) provides that in the case of any new machinery or plant (other than ships and aircraft) acquired and installed after 31.3.2005 by an assessee engaged in the business of manufacture or production of any article or thing or in the business of generation or generation and distribution of power, a further sum equal to 20% of the actual cost of such machinery or plant shall be allowable as a deduction.

The additional depreciation is available to a new machinery or plant used in the manufacture or production of any article or thing or generation or generation and distribution of power. Additional depreciation will be taken into consideration for computing the WDV of the relevant block of assets.

Additional depreciation is not available in respect of the following assets:

(A) any machinery or plant

- (i) which has been used in India or outside India by any other person before its installation by the assessee; or
- (ii) installed in any office premises, residential accommodation including accommodation used in the nature of guest house ; or
- (iii) the whole of the actual cost of which is allowed as deduction (whether by way of depreciation or otherwise) in computing the income under the head “Profits and gains of business or profession” of any one previous year.

(B) any office appliances or road transport vehicles.

14. Disallowance under section 40(a)(i)/40(a)(ia) of the Income-tax Act, 1961 is attracted where the assessee fails to deduct tax at source as is required under the Act, or having deducted tax at source, fails to remit the same to the credit of the Central Government within the stipulated time limit.

The assessee is a resident individual, who was not subjected to tax audit during the immediately preceding previous year i.e., P.Y.2018-19 (as his turnover was less than ₹ 100 lakh in that year) and the TDS obligations have to be considered bearing this in mind.

- (i) The obligation to deduct tax at source from interest paid to a resident arises under section 194A in the case of an individual, only where he was subject to tax audit under section 44AB in the immediately preceding previous year, i.e., P.Y.2018-19. From the data given, it is clear that he was not subject to tax audit under section 44AB in the P.Y.2018-19. Hence, disallowance under section 40(a)(ia) is not attracted in this case.
- (ii) In the case of interest paid to a non-resident, there is obligation to deduct tax at source under section 195, hence non-deduction of tax at source will attract disallowance under section 40(a)(i).
- (iii) The scope of section 40(a)(ia) has been expanded w.e.f. A.Y. 2019-20 to cover all sums in respect of which tax is deductible under Chapter VII-B. Section 192, which requires deduction of tax at source from salary paid, is covered under Chapter VII-B. Therefore, disallowance under section 40(a)(ia) is attracted for failure to deduct tax at source under section 192 from salary payment. **However, only 30% of the amount of salary paid without deduction of tax at source would be disallowed.**
- (iv) The obligation to deduct tax at source under section 194-H from commission paid in excess of ₹ 15,000 to a resident arises in the case of an individual, only where he was subject to tax audit under section 44AB in the immediately preceding previous year. From the data given, it is clear that he was not subject to tax audit under section 44AB in the P.Y.2018-19. Hence, there is no obligation to deduct tax at source under section 194H during the P.Y. 2019-20. Therefore, disallowance under section 40(a)(ia) is not attracted in this case.

15. Allowability of expenses of M/s. Arora Ltd. for the A.Y. 2020-21

- (i) Payment of professional fees is subject to TDS under section 194J. Since no tax is deducted at source, ₹ 15,000, being 30% of the expenditure of ₹ 50,000 is disallowed under section 40(a)(ia).
- (ii) Since the tax was deducted in March, 2020 and paid on or before the due date of filing the return (i.e., on or before September 30th, 2020), the expenditure on interior works will be allowed as deduction. Hence, disallowance under section 40(a)(ia) is not attracted.
- (iii) The maximum time allowable for deposit of tax deducted at source is upto the due date of filing of return i.e., 30th September, 2020. In this case, since tax deducted under section 194-I was paid after the due date of filing the return, ₹ 4,50,000 being 30% of ₹ 15,00,000 is disallowed under section 40(a)(ia) for the previous year 2019-20.
- (iv) The tax deducted at source can be deposited on or before the due date of filing of return to avoid disallowance under section 40(a)(ia). In this case, disallowance would not be attracted since tax deducted during December 2019 was deposited before 30th September 2020 i.e. on 28.09.2020.

16. Section 44AA(1) requires every person carrying on any profession, notified by the Board in the Official Gazette (in addition to the professions already specified therein), to maintain such books of account and other documents as may enable the Assessing Officer to compute his total income in accordance with the provisions of the Income-tax Act, 1961.

Thus, a person carrying on a notified profession shall be required to maintain specified books of accounts:

- (i) if his gross receipts in all the three years immediately preceding the relevant previous year has exceeded ₹ 1,50,000; or
- (ii) if it is a new profession which is setup in the relevant previous year, it is likely to exceed ₹ 1,50,000 in that previous year.

In the present case, Vinod is a person carrying on profession as film artist, which is a notified profession. Since his gross receipts have not exceeded ₹ 1,50,000 in financial year 2017-18, the requirement under section 44AA to compulsorily maintain the prescribed books of account is not applicable to him.

17.

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

Particulars	₹
Presumptive business income under section 44AE	
4 non heavy goods vehicles for 2 months (4 x ₹ 7,500 x 2)	60,000
Balance 2 non-heavy goods vehicles for 10 months (2 x ₹ 7,500 x 10)	1,50,000
7 non- heavy goods vehicles for 10 months (7 x ₹ 7,500 x 10)	5,25,000
Business Income	7,35,000
Less: Brought forward business loss of discontinued business	50,000
Total Income	6,85,000

Note: The assessee is eligible for computing the income from goods carriages applying the presumptive provisions of section 44AE, since he does not own more than 10 goods carriages at any time during the previous year.

18. Section 44AE would apply in the case of Mr. Sukhvinder since he is engaged in the business of plying goods carriages and owns not more than ten goods carriages at any time during the previous year.

Section 44AE provides for computation of business income of such assessee on a presumptive basis. The income shall be deemed to be ₹ 7,500 from each goods carriage (as it is non-heavy goods vehicle) - for every month or part the month during which such carriage vehicle is owned by the assessee in the previous year or such higher sum as declared by the assessee in his return of income.

Mr. Sukhvinder's business income calculated applying the provisions of section 44AE is ₹ 9,07,500 (See Notes 1 & 2 below) and his total income would be ₹ 9,77,500.

However, as per section 44AE(7), Mr. Sukhvinder may claim lower profits and gains if he keeps and maintains proper books of account as per section 44AA and gets the same audited and furnishes a report of such audit as required under section 44AB. If he does so, then his total income would be ₹ 1,15,000.

Notes :

1. Computation of total income of Mr. Sukhvinder for A.Y. 2020-21

Particulars	Presumptive Income	Where books Are maintained
Income from business of plying goods carriages [See Note 2 Below]	9,07,500	45,000
Other business and non-business income	70,000	70,000
Total Income	9,77,500	1,15,000

2. Calculation of presumptive income as per section 44AE

Type of carriage	No. of Months	Rate per month	Amount
9 goods carriage – held throughout the year	12	7,500	8,10,000
1 goods carriage – held upto 2nd May	2	7,500	15,000
1 goods carriage – held from 6th May	11	7,500	82,500
Total			9,07,500

19. Under section 43B, interest on term loans and advances to scheduled banks shall be allowed only in the year of payment of such interest irrespective of the method of accounting followed by the assessee.

Explanation 3D to section 43B provides that if any interest payable by the assessee is converted into a loan, the interest so converted and not "actually paid" shall not be deemed as actual payment, and hence would not be allowed as deduction. Therefore, the interest of ₹ 1.2 lakhs converted into loan cannot be claimed as business expenditure.

20. Section 43B provides that the following expenses shall not be allowed as deduction unless the payments are actually made within the due date for furnishing the return of income under section 139(1):

- (i) Any tax, duty, cess or fees under any law in force.
- (ii) Any sum payable by the assessee as an employer by way of contribution to provident fund or superannuation fund or gratuity fund or any other fund for the welfare of the employees;
- (iii) Any bonus or commission for services rendered payable to employees;
- (iv) Any interest on any loan or borrowings from any public financial institution or State financial corporation or State industrial investment corporation;
- (v) Interest on loans and advances from a scheduled bank;
- (vi) **Any sum payable by the assessee as interest on any loan or borrowing from a deposit taking non-banking financial company or systemically important non-deposit taking non-banking financial company, in accordance with the terms and conditions of the agreement governing such loan or borrowing,**
- (vii) Any sum paid as an employer in lieu of earned leave at the credit of his employee.
- (viii) **Any sum payable to the Indian Railways for the use of railway assets**

In case the payment is made after the due date of filing of return of income, deduction can be claimed only in the year of actual payment.

21.

Computation of Gross Total Income of Mr. Gupta for the A.Y. 2020-21

Particulars	₹	₹
Income from Business or profession		
Net profit as per Profit and Loss Account		11,50,000
Add : Expenses not deductible		
➤ Donation to Prime Minister Relief Fund (Refer Note -1)	1,00,000	
➤ Provision for bad debts (Refer Note-2)	50,000	
➤ Family planning expenditure incurred on employees (Refer Note -3)	20,000	
➤ Depreciation as per Profit and Loss Account	30,000	
➤ Income-tax (Refer Note -4)	1,00,000	
➤ Employer's contribution to recognized provident fund (Note-5)	<u>25,000</u>	<u>3,25,000</u>
Less : Expense allowed		14,75,000
Depreciation as per Income- tax Rules, 1962		<u>40,000</u>
		14,35,000
Add : Employee's contribution included in income as per Section 2(24)(x) (Refer Note-6)		<u>25,000</u>
Business Income / Gross Total Income		<u>14,60,000</u>

Notes:-

- (1) Donation to Prime Minister Relief Fund is not allowed as deduction from the business income. It is allowed as deduction under section 80G from the gross total income.
- (2) Provisions for bad debts is allowable as deduction under section 36(1)(vii) (subject to the limits specified therein) only in case of banks, public financial institutions, State Financial Corporation and State Industrial Investment Corporation. Therefore, it is not allowable as deduction in the case of Mr. Gupta.
- (3) Expenditure on family planning is allowed as deduction under section 36(1)(ix) only to a company assessee. Therefore, such expenditure is not allowable as deduction in the hands of Mr. Gupta.
- (4) Income-tax paid is not allowed as deduction as per the provisions of section 40(a)(ii).
- (5) Since, Mr. Gupta's contribution to recognized provident fund is deposited after the due date of filing return of income, the same is disallowed as per provisions of section 43B.
- (6) Employee's contribution is includible in the income of the employer by virtue of Section 2(24)(x). The deduction for the same is not provided for as it was deposited after the due date. It has been assumed that it has not been already debited in the given profit and loss account.
- (7) TDS provisions under section 194A are not attracted in respect of payment of interest on bank loan. Therefore, disallowance under section 40(a)(ia) is not attracted in this case.
- (8) Since, the payment of bonus is made in October 2018, hence, no disallowance is attracted.

22.

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

Particulars	₹	₹
Profits and gains of business or profession		
Net profit as per profit and loss account		5,00,000
Add: Excess commission paid to brother disallowed under section 40A(2)	10,000	
Disallowance under section 40A(3) is not attracted since the limit for one time cash payment is ₹ 35,000 in respect of payment to transport operators. Therefore, amount of ₹ 33,000 paid in cash to a transport carrier is allowable as deduction.	Nil	
Salary paid to staff not recorded in the books (Assuming that the expenditure is in the nature of unexplained expenditure and hence, is deemed to be income as per section 69C and would be taxable @ 30% under section 115BBE – no deduction allowable in respect of such expenditure) [See Note 1 below]	48,000	
Bank term loan interest paid after the due date of filing of return under section 139(1) – disallowed as per section 43B	40,000	
State VAT penalty paid disallowed [See Note 2 below]	5,000	
Depreciation debited to profit and loss account	<u>2,00,000</u>	<u>3,03,000</u>
		8,03,000

Less: Dividend from domestic companies [Exempt under section 10(34)]	15,000	
Income from agriculture [Exempt under section 10(1)]	1,80,000	
Depreciation under the Income-tax Act, 1961 (As per working note)	<u>2,25,000</u>	<u>4,20,000</u>
		3,83,000
Income from house property		
Annual value of self-occupied property	Nil	
Less: Deduction under section 24(b) – interest on housing loan	<u>23,000</u>	<u>(23,000)</u>
Gross Total Income		3,60,000
Less: Deduction under section 80C in respect of Principal repayment of housing loan		<u>50,000</u>
Total Income		3,10,000

Working Note:**Computation of depreciation under the Income-tax Act, 1961**

Particulars	₹
Depreciation@15% on ₹ 14 lakh (Opening WDV of ₹ 12 lakh plus assets purchased during the year and used for more than 180 days ₹ 2 lakh)	2,10,000
	<u>15,000</u>
Depreciation @7.5% on ₹ 2 lakh (Cost of assets used for less than 180 days)	2,25,000

Notes (Alternate views):

1. It is also possible to take a view that the salary not recorded in the books of account was an erroneous omission and that the assessee has offered satisfactory explanation for the same. In such a case, the same should not be added back as unexplained expenditure, but would be allowable as deduction while computing profits and gains of business and profession.
2. Where the imposition of penalty is not for delay in payment of sales tax or VAT but for contravention of provisions of the Sales Tax Act (or VAT Act), the levy is not compensatory and therefore, not deductible. However, if the levy is compensatory in nature, it would be fully allowable. Where it is a composite levy, the portion which is compensatory is allowable and that portion which is penal is to be disallowed. Since the question only mentions "State VAT penalty paid" and the reason for levy of penalty is not given, it has been assumed that the levy is not compensatory and therefore, not deductible. It is also possible to assume that such levy is compensatory in nature and hence, allowable as deduction. In such a case, the total income would be ₹ 3,05,000.

23.

Computation of business income of Mr. Sivam for the A.Y. 2020-21

Particulars	₹	₹
Net Profit as per profit and loss account		50,000
Add: Inadmissible expenses / losses		
Under valuation of closing stock	18,000	
Salary paid to brother – unreasonable [Section 40A(2)]	2,000	
Printing and stationery paid in cash [Section 40A(3)]	23,200	
Depreciation (considered separately)	1,05,000	
Short term capital loss on shares	8,100	
Donation to public charitable trust	<u>2,000</u>	<u>1,58,300</u>
		2,08,300
Less: Deductions items:		
Under valuation of opening stock	9,000	
Income from UTI [Exempt under section 10(35)]	<u>2,400</u>	<u>11,400</u>
Business income before depreciation		1,96,900
Less: Depreciation (See Note 1)		<u>66,000</u>
		1,30,900

Computation of business income as per section 44AD -

As per section 44AD, the business income would be 8% of turnover i.e. $12,11,500 \times 8 / 100 = ₹ 96,920$
The business income under section 44AD is ₹ **96,920**.

As the business income under section 44AD is lower than the business income as per the normal provisions of the Act, it is advisable for Mr. Sivam to offer his business income under section 44AD.

Notes:**1. Calculation of depreciation**

Particulars	₹
WDV of the block of plant & machinery as on 1.4.2019	4,20,000
Add : Cost of new plant & machinery	<u>70,000</u>
	4,90,000
Less : Sale proceeds of assets sold	<u>50,000</u>
	4,40,000
WDV of the block of plant & machinery as on 31.3.2020 Depreciation @ 15% (No additional depreciation is allowable as the assessee is not engaged in manufacture or production of any article.)	<u>66,000</u>

2. Since GST liability has been paid before the due date of filing return of income under section 139(1), the same is deductible.

24.

**Computation of income under the head “Profits and gains of business or profession” of
Mr. Q for the A.Y. 2020-21**

Particulars	₹	₹
Net profit as per profit and loss account		93,950
Add: Expenses not allowable		
➤ Expenses on building a new toilet – Capital expenditure, hence not allowable as per section 37(1).	1,00,000	
➤ Interest payable on which tax has not been deducted at source [disallowed under section 40(a)] [See Note 1]	15,000	
➤ Penalty for contravention of Central GST Act [Penalty paid for violation or infringement of any law is not allowable as deduction under section 37(1)]	24,000	
➤ Payment to IIT, Mumbai for scientific research programme (to be treated separately)	<u>1,00,000</u>	<u>2,39,000</u>
		3,32,950
Less: Income not forming part of business income		
➤ Interest from company deposits (chargeable under the head “Income from other sources”)(See Note 2 below)	6,400	
➤ Income-tax refund (not an income chargeable to tax)	<u>8,100</u>	<u>14,500</u>
Less: Weighted deduction@150% under section 35(2AA) for payment to IIT for an approved scientific research program.		3,18,450
		<u>1,50,000</u>
Profit and gains of business or profession		1,68,450

Note –

- Section 40(a)(ia) provides for disallowance of 30% of any sum paid, on which tax is deductible under Chapter XVII-B, but the same has not been deducted. Hence, ₹ 15,000 being 30% of ₹ 50,000 has to be added back while computing business income.
- Interest on company deposits may also be treated as business income presuming that the interest has been earned by Mr. Q out of available temporary surplus funds which are not immediately required for his business purposes but nevertheless meant only for Mr. Q's business activities. In such a case, income under the head “Profit and gains of business or profession” would be ₹ 1,24,850.

25.

Profits and gains of business or profession of Mr. A for the year ended 31.3.2020

Particulars	₹	₹
Net profit as per profit and loss account		94,500
Add: Expenses not allowable		
(a) Expenses on raising compound wall – capital expenditure, hence disallowed	95,000	
(b) Interest payable outside India to a non-resident, as tax has not been deducted at source [Section 40(a)(i)]	12,000	
(c) Penalty for contravention of CGST Act [Penalty paid for violation or infringement of any law is not allowable as deduction under section 37(1)]	24,000	
(d) Contribution for scientific research (to be treated separately)	<u>1,00,000</u>	<u>2,31,000</u>
		3,25,500

Less: Income not forming part of business income		
(a) Interest from company deposits	6,400	
(b) Dividend	3,600	
(c) Income-tax refund	<u>4,500</u>	<u>14,500</u>
Less: Deduction under section 35 for scientific research [See Note below]		3,11,000
		1,50,000
Profit and gains of business or profession		1,61,000

Note: Contribution to approved scientific research association qualifies for deduction @ 150% under section 35(1)(ii).

26. As per Explanation to section 40A(2), a person shall be deemed to have a substantial interest in a business or profession, if, -

- (1) in case where the business or profession is carried on by a company, such person who, at any time during the previous year, is the beneficial owner of shares (not being shares entitled to a fixed rate of dividend, whether with or without a right to participate in profits), carrying not less than 20% of the voting power.
- (2) In any other case, such person who, at any time during the previous year, is beneficially entitled to not less than 20% of the profits of such business or profession.

Following are the situations under which the substantial interest assumes importance -

- (a) Taxability of deemed dividend under section 2(22)(e);
- (b) Disallowance of excessive or unreasonable expenditure under section 40A(2) to an individual who has a substantial interest in the business or profession of the assessee, and
- (c) Clubbing of salary income of spouse, under section 64(1)(ii) in respect of remuneration received by the spouse from a concern in which the individual has a substantial interest.

27.

- (a) The entire revenue expenditure of ₹ 2,40,000 on scientific research related to the business of the company qualifies for deduction under section 35(1)(i).

Note – If Raghav Industries Ltd. is a **company** engaged in the business of biotechnology or in any business of manufacture or production of any article or thing, not being an article or thing specified in the list of the Eleventh Schedule, it would be entitled to a weighted deduction of ₹ 3,60,000 (150% of ₹ 2,40,000, being the revenue expenditure on scientific research related to its business) under section 35(2AB), if the in-house research and development facility is approved by the prescribed authority and the company has entered into an agreement with the prescribed authority for cooperation in such research and development facility and for audit of accounts maintained for that facility.

- (b) As per section 35(1)(iv) read with section 35(2), if any capital expenditure (other than expenditure on acquisition of land) is incurred on scientific research related to the business carried on by the assessee, the whole of such capital expenditure is allowable as deduction in the previous year in which it is incurred. Therefore, ₹ 7,00,000 (i.e. ₹ 12,00,000 – ₹ 5,00,000, being the cost of land) is allowable as deduction for the A.Y.2020-21. It is assumed that the scientific research is related to the business of Raghav Industries Ltd.
- (c) The amount of ₹ 50,000 paid to Indian Institute of Science, Bangalore, for scientific research qualifies for a weighted deduction@150% of the sum paid as per section 35(1)(ii). Therefore, Raghav Industries Ltd. would be entitled to a deduction of ₹ 75,000 (i.e., 150% of ₹ 50,000) for the A.Y.2020-21.
- (d) As per section 35DD, one-fifth of the expenditure incurred on demerger would be allowable as deduction for five successive previous years beginning from previous year 2018-19. Therefore, in the previous year 2019-20, ₹ 1,00,000, being one-fifth of ₹ 5,00,000 would be allowable as deduction.
- (e) The employer's contribution to the account of an employee under a pension scheme referred to in section 80CCD, upto 10% of salary of the employee in the previous year, is allowable as deduction under section 36(1)(iva) while computing business income. Disallowance under section 40A(9) would be attracted only in respect of the amount in excess of 10% of salary. Accordingly, ₹ 23 lakhs would be allowed as deduction and ₹ 7 lakhs would be disallowed.
- (f) As per section 2(24)(x), the amount of provident fund contribution recovered from employees i.e. ₹ 12 lakhs would be taxable as income of Raghav Industries Ltd. However, the company can claim deduction under section 36(1)(va) of amount credited to the account of the employee in the provident fund before the due date under the relevant Act.

If ₹ 7 lakhs has been remitted before the said due date, the same is allowable as deduction. If it has not been so remitted, then the same is not allowable as deduction. The deduction would be restricted to the amount remitted before the due date. The balance ₹ 5 lakhs remitted after the due date under the said Act but before the due date of filing the return is not allowable as deduction.

(g) The tax of ₹ 4,50,000 borne by the employer on non-monetary perquisites provided to the employees is disallowed under section 40(a)(v).

(h) As per section 43A, the gain of ₹ 1,00,000, arising at the time of making payment in respect of an imported machinery, due to change in rate of exchange of foreign currency, has to be reduced from the actual cost of machinery, and depreciation would be computed on such reduced cost.

28. Answer:

- (i) Allowable, being business expenditure,
- (ii) Capital expenditure eligible for depreciation
- (iii) Allowable, if it is incurred on account of commercial expediency,
- (iv) Capital expenditure. It will form part of actual cost of machinery
- (v) Capital expenditure eligible for depreciation @ 25%.

29. Answer:

- (i) Capital receipt but chargeable to tax as business income, specifically covered by section 28;
- (ii) Revenue receipt, as the same is received in the course of business;
- (iii) Revenue receipt, though chargeable to tax as per system of accounting (mercantile or cash) followed by the assessee;
- (iv) Capital expenditure, as the same is incurred on capital account;
- (v) Revenue expenditure for the company; Taxable as 'Salaries' in the hands of the employee-director.

30. Answer: Computation of Deduction u/s 35D for AY 2020-21 [Discuss the provisions of 35D]

Amount qualifying for deduction is

5% of the cost of the project [5% × 30,00,000] = ₹ 1,50,000, or

5% of the capital employed in the new unit i.e. 5% ₹ 40,00,000 = ₹ 2,00,000.

Whichever is beneficial to the company.

Therefore, the higher of the above two is ₹ 2,00,000 which is the qualifying amount.

Net qualifying amount - **It is the lower of the following two.**

- a) Gross qualifying amount ₹ 2,00,000 or.
- b) Actual amount of preliminary expenses i.e. ₹ 11,00,000.

The lower of these two being ₹ 2,00,000 is the net qualifying amount.

Amount deductible for AY 20-21: - **1/5th of the net qualifying amount i.e. 1/5 ₹ 2,00,000 = ₹ 40,000.**

31. Answer: Each part payment made to employees in connection their voluntary retirement is deductible in five equal installments beginning from the year in which such part payment is made to the employees. The following table shows the deduction available u/s 35DDA to RK Ltd. in various financial years –

Financial Year	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24
Payment of ₹ 10 lakhs in 2017-18	2	2	2	2	2		
Payment of ₹ 15 lakhs in 2018-19		3	3	3	3	3	
Payment of ₹ 5 lakhs in 2019-20			1	1	1	1	1
Total (₹ lakhs)	2	5	6	6	6	4	1

Thus, the amount of deduction allowable u/s 35DDA to RK Ltd. in assessment year 2020-21 is ₹ 6 lakhs.

32. Answer:

Net profit as per profit and loss account	911975
Less : (i) Interest on FD with bank - Taxable as Income from other sources	16500
(ii) Dividend from Indian Co. - Exempt	64360
(iii) Interest on I.T. Refund - Taxable as Income from other sources	230
Profits and gains of business or profession	830885
Add: Income from other sources (Interest on FD and IT Refund)	16730
Total Income	847615
Rounded off-	847620

Note: Securities transaction tax is an allowable expenditure.

33. Answer: Computation of taxable income of Mr. Ram

Net profit as per Profit and Loss A/c	357,900
Add: Not allowable (Household Exp. + Income-tax + Interest on capital + Reserve for Bad debts) – 10000 + 30000 + 8400 + 1200	49,600
Add : Excess Depreciation debited to P&L A/c (12000 - 10000)	2,000
Add: Undervaluation of closing stock (25,200 x 1/9) (assuming that NRV exceeds cost)	2,800
Less : Undervaluation of opening stock (20,700 x 1/9) (assuming that NRV exceeds cost)	-2,300
Gross Total Income	410,000
Less : Deduction u/s 80C for contribution to PPF	1,500
Total income	408,500

34. Answer: Computation of business income of Mrs. Thakur for A.Y. 2020-21 (Amounts in ₹)

Net Profit as per Profit & Loss Account for the year ended 31.3.2020		50,750
Add: Expenses not admissible under the Income-tax Act:		
Donation paid to son's school	1,500	
Capital expenditure (Furniture)	5,000	
Depreciation as per books of account (considered separately)	4,000	
Excise duty unpaid after 31-7-2020	1,200	
(7,500 - 3,500 - 1,000 - 1,800)		
30% of Audit fees (being fees for professional services, on which TDS not made)	9,750	21,450
		72,200
Less: Amounts not taxable under the Income-tax Act:		
Gift from husband	10,000	
Income-tax refund	20,000	30,000
		42,200
Less: Depreciation under Income-tax Act:		
On items already included	2,700	
On new furniture (5,000 × 10% × 1/2) (used for less than 180 days)	250	2,950
Profits and gains from business		39,250

35. Answer: Computation of Income from Business (amounts in ₹)

Net profit as per Profit and Loss Account		1,66,500
Add: (1) Advertisement in a souvenir of political party	3,000	
(2) Contribution to RPF (outstanding)	2,100	
(3) Under valuation of closing stock $[(60000 \times 100) / 80] - 60000$	15,000	20,100
Less : (1) Dividend (Exempt)	5,000	
(2) Profit on sale of building (not taxable under this head)	16,500	
(3) Under valuation of opening stock $[(40000 \times 100) / 80] - 40000$	10,000	
(4) Extra Depreciation allowable (1,800 - 1,500)	300	31,800
Taxable Profits		1,54,800

36. Answer: Computation of taxable income from Business (amounts in ₹)

Gross earnings: Sale of medicines	30,500	
Consultation fees	10,000	
Visiting fees	8,000	48,500
Less: Allowable expenses viz. Cost of medicines	20,000	
Car expenses (1800 × 2 ÷ 3)	1,200	
Salaries	1,200	
Rent of dispensary	1,200	
General Expenses	600	
Depreciation allowed Motor car (12000 × 15%) × 2/3	1,200	
Surgical equipment (15% × 50% × 6000)	450	25,850
		22,650

Note : Since the assessee maintains accounts as per cash basis, therefore, outstanding consultancy fees, outstanding salaries and sale of medicines on credit will not be considered.

37. Answer: Computation of Income from Business for the Assessment Year 2020-21 (all amounts in ₹)

Profit as per Profit and Loss Account		165,600
Add: Advance tax	800	
Salary to staff (salary paid to relative to the extent it is treated as excessive)	4,800	
Interest on Mohit's capital and loan	7,200	
Expenditure on acquisition of copy right (being capital expenditure)	5,600	
Expenditure for acquiring know how (capital expenditure, no depreciation will be allowed thereon as the same was not put to use during the previous year)	24,000	
Depreciation	12,000	
Provision for Income tax	4,000	
Contribution to political party	2,000	60,400
Less: Depreciation as per Income tax	19,200	
Depreciation on copyright (5600 x 25% x 1/2) (used for less than 180 days)	700	
Outstanding CGST paid during the previous year	10,000	29,900
Income from Business		1,96,100

Note : Expenses for arranging a long-term loan are covered by the term 'interest' and are, therefore, allowable as deduction. Further, since outstanding customs duty of previous year 2018-19 was paid before due date of furnishing return of income for that year, therefore, the same had been allowed in that year. However, outstanding sales tax of previous year 2018-19 paid after such due date but during the previous year 2019-20 will be allowed during the previous year 2019-20.

38. Assessee: Alpha Ltd. Assessment Year 2020-21 (amounts in ₹)

Net Profit as per Profit and Loss Account		1,250,000
Add: Expenses disallowed or considered separately: -		
Excessive payment to relatives u/s 40A(2) [60,000 - 52,000]	8,000	
Cash payment in excess of ₹ 10,000 (whole of ₹ 52,000)	52,000	
Legal expenses	45,000	
Scientific research expenses	200,000	305,000
		15,55,000
Add: Amount foregone by the creditor is taxable u/s 41(1)		6,000
		15,61,000
Less: Admissible expenditure: -		
1/5th of amalgamation expenditure of ₹ 45,000 u/s 35DD	9,000	
In-house Research expenses u/s 35(2AB) (150% of 2,00,000)	3,00,000	3,09,000
Taxable Income		12,52,000

Notes:

- Cost of replacement of worn out part of machineries is revenue expenses. Since cost of replacement is included in Repairs, no adjustment is required.
- Sale of import entitlements is chargeable as business income under section 28(iia). Since it is already credited to profit and loss account, no adjustment is required.

Computation of Income from business of Shri Daga
[for the assessment year 2020-21]

Net profit as per profit & loss account	₹	₹
		1,79,095
Less: Items of income credited to Profit & Loss account but are not taxable under the head "Profit & gains of business of profession"		
Rent from agricultural land	950	
Revenue from fisheries	4,000	
Sale proceeds from canes	6,05,055	
Profit on sale of Motor Truck	3,230	(-) 6,13,235
		(-) 4,34,140
Add: Expenses not allowable		
Fine paid to excise department (see working note 1)	2000	
Legal Expenses incurred on defending suit [Capitalised]	2000	
Daga's Remuneration (see working note 2)	38,750	
Depreciation (considered separately)	91,000	

Income tax	25,000	
Cultivate on expenses (see working note 3)	4,37,500	(+) 5,96,250
		<u>1,62,110</u>
Less: Expenses allowable u/s 28 to 44D but not debited to p&l		
Depreciation's per Income-tax Rules	50,000	
Manufacturing expenses on cane produced and consumed in the factory (see working note 4)	68,000	1,18,000
Income from business		<u>44,110</u>

Working Notes:

1. Fine paid to excise department. It is presumed that fine is paid for infringement of central excise law.
2. Salary paid to the proprietor of the firm is not allowable.
3. **Cultivate on expenses:** Since the agricultural income on account of sale proceeds of cane has been taken out from the normal business receipts, any expenditure incurred towards this account (i.e. to earn agricultural income) is also not allowable.
4. **Manufacturing expenses:** If any item is produced in the factory, the income from which is considered separately, and the same item is used in normal business, the fair market value of the item produced has to be charged as expenditure in the normal business. Therefore, the average market price of the cane produced and consumed in the factory is allowable as business expenditure. **The expenses is under charged by ₹ 68,000 [i.e. ₹ 6,00,000 - ₹ 5,32,000].**

39. Where an assessee is engaged in the composite business of growing and curing of coffee, the income will be segregated between agricultural income and business income, as per Rule 7B of the Income-tax Rules, 1962.

As per the above Rule, income derived from sale of coffee grown and cured by the seller in India shall be computed as if it were income derived from business, and 25% of such income shall be deemed to be income liable to tax. The balance 75% will be treated as agricultural income.

Particulars	₹	₹	₹
Sale value of cured coffee			22,00,000
Less: Expenses for growing coffee		3,10,000	
➤ Car expenses (80% of ₹ 50,000)		40,000	
➤ Depreciation on car (80% of 15% of ₹ 3,00,000)		<u>36,000</u>	
Total costs of agricultural operations		3,86,000	
Expenditure for coffee curing operations	3,00,000		
Add: Depreciation on machinery (15% of 15,00,000) (See Note below)	<u>2,25,000</u>		
Total cost of the curing operations		<u>5,25,000</u>	
Total cost of composite operations			<u>9,11,000</u>
Total profits from composite activities			<u>3,22,250</u>
Amount regarded as business income (25% of above)			9,66,750
Amount treated as agricultural income (75% of above)			

Computation of value of depreciable assets as on 31.3.2020

Particulars	₹	₹	₹
Car Opening value as on 1.4.2019		3,00,000	
Depreciation thereon at 15%	45,000		
Less: Disallowance @20% for personal use	<u>9,000</u>		
Depreciation actually allowed		<u>36,000</u>	
Closing value as on 31.3.2020			2,64,000
Machinery Opening value as on 1.4.2019		15,00,000	
Less: Depreciation @ 15%		<u>2,25,000</u>	
Closing value as on 31.3.2020			12,75,000

Explanation 7 to section 43(6) provides that in cases of 'composite income', for the purpose of computing written down value of assets acquired before the previous year, the total amount of depreciation shall be computed as if the entire composite income of the assessee (and not just 25%) is chargeable under the head "Profits and gains of business or profession". The depreciation so computed shall be deemed to have been "actually allowed" to the assessee.

AOPs AND BOIs – Section 40(ba)

<u>Point</u>	<u>AOP</u>	<u>BOI</u>
1. Creation	Created by two or more persons voluntarily.	Created by operation of law.
2. Members	Companies, firms, HUFs or individuals.	Only Individuals.
3. Features	Persons join in a common purpose or action. Mere joint receipt of income not enough. Different from partnership.	It merely receives the income jointly and is assessable in the like manner and to the same extent as the beneficiaries.
4. Assessee	Not a representative assessee	A representative assessee

Section 40(ba) – Disallowances in case of AOPs or BOIs

- Any payment of interest, salary, commission, bonus or remuneration made by an AOPs or BOIs to its members shall be disallowed.
- Where interest is paid by an AOP or BOI to a member who has also paid interest to the AOP/BOI, the amount of interest to be disallowed under clause (ba) **shall be limited to the net amount of interest paid by AOP/BOI to the members.**
- Where an individual is a member in his individual capacity, **interest paid to him in his representative capacity shall not be taken into account.**
- Where an individual is a member in representative capacity, **interest paid to him in his individual capacity shall not be taken into account.**

Example: Computation of total income of AOP: Mr. T and Mr. Q are individuals, who constitute an Association of persons, sharing profit and losses in the ratio of 2 : 1. For the accounting year ended 31st March, 2020, the Profit and Loss account of the business was as under:

Cost of goods sold	42,50,000	Sales	49,00,000
Remuneration to: T	1,30,000	Dividend from companies	25,000
Q	1,70,000	Capital gains (long term)	6,40,000
Employees	2,56,000		
Interest to: T	48,300		
Q	35,700		
Other expenses •	1,11,700		
Sales tax penalty due	39,000		
Net Profit	5,24,000		
	55,65,000		55,65,000

Additional information furnished -

- 1) Other expenses included -
 - a) Entertainment expenses of ₹ 35,000;
 - b) Wristwatches costing ₹ 2,500 each were given to 12 dealers, who had exceeded the sales quota prescribed under a sales promotion scheme;
 - c) Employer's contribution of ₹ 6,000 to the Provident Fund was paid on 14th January 2021.
 - d) ₹ 30,000 was paid in cash to an advertising agency for publicity.
- 2) Outstanding sales tax penalty was paid on 15th October 2019. The penalty was imposed by the Sales-tax Officer for non-filing of returns and statements by the due dates.
- 3) T and Q had, for this year, income from other sources of ₹ 1,88,000 and ₹ 64,000 respectively.

Required to compute the total income of the AOP for the Assessment Year 2020-21

Solution: Computation of total income and tax liability of AOP (amounts in ₹)

Net profit an per Profit and Loss Account		524000
Add: Remuneration to members T and Q	300000	
Interest to members T and Q	84000	
Employer's contribution to PF not paid within due date	6000	
Advertising expenses paid in cash (100% of 30,000)	30000	
Sales tax penalty for non-filing of returns by due date (Not allowable as it is incurred for a purpose, which is prohibited by law - Explanation to Section 37(1))	39000	459000
Less: Incomes taxable under other heads :		983000
Dividends [Exempt u/s 10(34)]	25000	
Long-term capital gains	640000	665000
Profits and gains of business		318000
LTCG		640000
Total income of the AOP		958000

FIRMs – Section 40(b)

1) **"Firm", "Partners" and "Partnership" to include "Limited Liability Partnership (LLP)":**

- a) "Firm" shall have the meaning assigned to it in the Indian Partnership Act, 1932, and shall include a LLP as defined in the LLP Act, 2008.
- b) "Partner" shall have meaning assigned to it in Indian Partnership Act, 1932, and shall include:
 - i) any person who, being a minor, has been admitted to the benefits of partnership; and
 - ii) a partner of a LLP as defined in LLP Act, 2008;
- c) "Partnership" shall have the meaning assigned to it in the Indian Partnership Act, 1932, and shall include a LLP as defined in the LLP Act, 2008.

Provisions of the Indian Partnership Act, 1932: Partnership is the relation between persons who have agreed to share profits of 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".

- 2) **Exemption in respect of partner's share - Section 10(2A):** The partners' share in the total income of the firm shall be exempt from tax in the hands of partner.
- 3) **Under Income Tax Act, a partnership firm has a separate identity** apart from its partner. It is taxed as a separate entity at a flat rate of 30% + surcharge + Health & Education Cess @ 4%.
- 4) **Interest and remuneration received by partner - business income [Sec. 28 (v)]:** Interest, salary, bonus, commission or other remuneration received by a partner from a firm shall be chargeable to tax under the head PGBP. **However, any payment of remuneration etc to partners, not allowed as deduction to the firm, shall not be taxed in the hands of partners.**
- 5) **Carry forward & set-off of loss of Firm on change in constitution of firm [Sec. 78]:** where a change occurs in the constitution of firm, on account of retirement or death of a partner, the **proportionate loss of the retired or deceased partner** shall not be carried forward. However, this section **shall not apply in case of unabsorbed depreciation.**
- 6) **Disallowance of interest & remuneration to partners in excess of specified limits [Sec 40(b)]**

In the case of any firm assessable as such or a Limited Liability Partnership (LLP) the following amounts shall not be deducted in computing the income from business of any firm/LLP:

- a) Any salary, bonus, commission or remuneration, by whatever name called (hereinafter referred to as "remuneration"), **to any partner who is not a working partner.**
- b) Any remuneration **paid to the working partner** or interest **to any partner which is not authorised by or which is inconsistent with the terms of the partnership deed.**
- c) **Any interest payment** in excess of 12% simple interest p.a. as **authorised** by the partnership deed falling after the date of such deed.
- d) **Any remuneration paid to a partner**, authorised by a partnership deed and falling after the date of the deed **in excess of the following limits:**

<u>On the First ₹ 3 lakh of book profit or in case of "Loss"</u>	<u>Higher of ₹ 1,50,000 or 90% of book profit</u>
<u>On the balance</u>	<u>60% of Book Profit.</u>

7) Computation of Book Profits for determining remuneration:

Profits and Gains of Business or Profession of Firm computed as per Sec. 28 to 44D	XXX
Add: Interest to partners disallowed as per above provisions (if not already considered)	XXX
Add: Remuneration to partners, if debited to P&L A/c	XXX
Book Profits	XXX

- 8) **Circular No 8/2014:** *CBDT has clarified that income of a firm is to be taxed in the hands of the firm only & the same can under no circumstances be taxed in the hands of its partners.*

It is exempt in the hands of partners even if the income chargeable to tax become NIL in the hands of Firm on account of any exemption or deduction.

- 9) **Important Points for section 40(b) :**

(A) If an individual is a partner in firm on behalf of other person (i.e. in representative capacity), then —

- Interest paid to such individual in his individual capacity shall not be disallowed.
- Interest paid to such individual as partner in representative capacity and interest paid to the person ***so represented shall be taken into account for disallowance as given above.***

E.g.: If Mr. Ram is a partner in the firm on behalf of his wife, interest paid to Ram in his individual capacity will be allowed while interest paid to Ram on behalf of his wife as well as interest paid to his wife directly, both will be taken into account for the purposes of disallowance.

(B) If an individual is a partner in a firm in his individual capacity -

- Interest paid to him on behalf, or for the benefit, of any other person is not disallowed; and
- ***Interest paid to him in his personal capacity is taken into account for disallowance.***

E.g.: If Mr. Sohan is a partner in the firm in his individual capacity, then interest paid to him on behalf of any other person will not be disallowed, while interest paid to him in his individual capacity will be taken into account for the purposes of disallowance.

Question No. 1:

Nikhil, Gagan and Suman are partners in a firm with equal shares. The profit and loss account for the year ending 31st March, 2020 shows a net profit of ₹ 42,300 after debiting the following items:

- (i) Salary of ₹ 24,000 each to Nikhil and Gagan.
- (ii) Bonus to Suman ₹ 18,000.
- (iii) Commission of ₹ 9,000, ₹ 10,000 and ₹ 15,000 to Nikhil, Gagan and Suman respectively.
- (iv) Interest on capital @ 15% amounting to ₹ 4,500, ₹ 6,000 and ₹ 15,000 paid to Nikhil, Gagan and Suman respectively.

Assuming that all partners are working partners and the firm fulfils the conditions of Section 184, compute the total income of the firm and taxable income of the partners in the firm.

Solution: Computation of total income of the firm

Net profit as per Profit and Loss A/c		42,300
Add :		
Remuneration i.e. Salary, bonus and commission to partners		100,000
Interest to partners in excess of 12% p.a. $[(4500 + 6000 + 15000) \times 3 \div 15]$		5100
Book profits		147,400
Less : Remuneration allowable as per section 40(b), being the lower of the following -		
(a) Actual remuneration	100,000	
(b) Limit as per section 40(b)	150,000	100,000
Total income		47,400

Computation of total income of each partner of the firm

	Nikhil	Gagan	Suman
Interest on capital @ 12% (to the extent allowed in hands of the firm)	3,600	4,800	12,000
Salary, Bonus & Commission (fully taxable; as fully allowed in the hands of firm)	33,000	34,000	33,000
Total income	36,600	38,800	45,000

Question No. 2:

Profit and loss account of a partnership firm for the year ended 31st March, 2020 is as follows (amounts in ₹) :-

Cost of goods sold	10,00,000	Sales	15,00,000
Remuneration to Partners	1,45,000	Rent of House Property	60,000
Interest to Partners @ 20% p.a.	40,000	Dividend	1,70,000
Municipal Taxes of house property	25,000		
Other expenses	2,40,000		
Net Profit	2,80,000		
	17,30,000		17,30,000

Other information:

- (i) Out of other expenses, ₹ 18,400 is not deductible under sections 36, 37(1) and 43B.
- (ii) On 15th January 2020, the firm pays an outstanding **GST** liability of ₹ 54,700 for the previous year 2018-19. As this amount pertains to the previous year 2018-19, it has not been debited to the aforesaid profit and loss account

Calculate remuneration deductible under section 40(b).

Question No. 3:

The net profits of Jolly Brothers, a partnership firm, consisting of three partners carrying on business for the accounting year ended 31st March, 2020 was ₹ 5,40,000. The said net profits after charging salary payable to all the partners were amounting to ₹ 1,08,000, but before crediting interest to partners' accounts on their fixed capitals amounting to ₹ 10 lakh totally. The partnership deed provided for payment of interest on fixed capital at 18% per annum. The partnership deed does not, however, specify any salary entitlement to partners.

On this information, you are required to —

- (i) Compute the taxable income of the firm; and
- (ii) Calculate the remuneration allowable under provisions of the Income-tax Act, 1961 to all the partners, if the partnership deed had provided for the payment of remuneration to them.

Question No. 4:

A firm of Company Secretaries consisting of 3 partners earned a net surplus of ₹ 2,08,000 during the accounting year ended 31st March, 2020 after charging interest on capitals amounting to ₹ 36,000 calculated @ 18% per annum on the capitals of partners but before charging remuneration to partners. You are required to calculate the taxable income of the firm and tax thereon after allowing the maximum allowable remuneration to partners under the provisions of the Income-tax Act, 1961.

Question No. 5:

X & Co., a partnership firm as such, furnishes the following Profit and Loss Account for the previous year ending 31-3-2020 (amounts in ₹):

To cost of Goods	280000	By Sales	292000
To other Expenses	91,000	By Net Loss	172000
To Interest to Partners	25000		
To Remuneration to Partners	68000		
	464000		464000

The other expenses debited include ₹ 13,600 not allowable under section 37(1) of the Act. Interest to partners is in excess by ₹ 7,100 (not statutory allowable)

You are required to compute for the AY 2020-21:

- (1) Book profits of the firm,
- (2) Permissible remuneration to partners under section 40(b)
- (3) The income of the firm.

Question No. 6:

Chatterjee and Co., a firm of Company Secretaries at Kolkata, has furnished the profit and loss account for the year ended 31st March, 2020 as under (Amounts in ₹):

Expenses	165000	Gross receipts from profession	220000
Depreciation on assets	45,000	Net loss	131000
Remuneration to partners	141000		
	351000		351000

Additional information:

- (a) Expenses include an amount of ₹ 22,500 being interest on capital to partners credited @ 12% per annum on the balances and ₹ 22,500 being the expenditure not allowable under section 37.
- (b) Depreciation as per the income-tax rules is ₹ 48,000.

Compute the taxable income of the firm indicating the maximum permissible remuneration and interest allowable to partners under the provisions of the Income-tax Act, 1961.

Solution: Computation of remuneration allowed to the partner (amounts in ₹)

Net loss as per Profit & Loss account			-131000
Add: (a) Remuneration to partners		141000	
(b) Expenses disallowed u/s 37		22500	163500
			32500
			3000
Less: Depreciation not debited to P & L A/c (₹ 48000 - ₹ 45000)			
Book profit			29500
Less: Remuneration allowable u/s 40(b), being the lower of			
(a) Higher of - (i) 90% of 29,500	26550		
(ii) Minimum statutory limit	150000	150000	
(b) Actual Remuneration		141000	141000
Total Income (Business loss to be carried forward)			-111500

Note : Interest on capital ₹ 22,500 paid to partner is allowable, as interest doesn't exceed 12% p.a.

Question No. 7:

ABC is a partnership firm carrying on business, in which A, B and C are partners sharing profits and losses equally. In respect of **Assessment Year 2020-21**, it furnishes the following particulars (amounts in ₹):

1. Loss as per Profit and Loss A/c after debiting remuneration to partners and interest on their capital - ₹ 250,000
2. Remuneration to Partners:

A	90,000	
B	60,000	
C	30,000	
3. Interest paid on Capital: as on 1-4-2019

	Capital	Interest
A	100000	20,000
B	100000	20,000
C	100000	20,000

You are required to work out the income of the firm and of the partners A, B and C assuming that the partners have no other income.

Question No. 8:

Rao & Jain, a partnership firm consisting of two partners, reports a net profit of ₹ 7,00,000 before deduction of the following items:

- (1) Salary of ₹ 20,000 each per month payable to two working partners of the firm (as authorized by the deed of partnership).
- (2) Depreciation on plant and machinery under section 32 (computed) ₹ 1,50,000.
- (3) Interest on capital at 15% per annum (as per the deed of partnership). The amount of capital eligible for interest ₹ 5,00,000.

Compute:

- (i) Book-profit of the firm under section 40(b) of the Income-tax Act, 1961.
- (ii) Allowable working partner salary for the assessment year 2020-21 as per section 40(b) of the Income-tax Act,

Solution:

- (i) As per the provisions of Explanation 3 to section 40(b), book profit shall mean the net profit as per 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 the partners of the firm if the same has been already deducted while computing the net profit.
In the present case, the net profit given is before deduction of depreciation on plant and machinery, interest on capital of partners and salary to the working partners. Therefore, the book profits shall be as follows:

Computation of Book Profit of the firm under section 40(b) of the Income-tax Act, 1961.

Particulars	₹	₹
Net Profit (before deduction of depreciation, salary and interest)		7,00,000
Less: Depreciation under section 32	1,50,000	
Interest @ 12% p.a. [being the maximum allowable as per section 40(b)] (5,00,000 × 12%)	<u>60,000</u>	<u>2,10,000</u>
Book Profit		4,90,000

- (ii) Salary actually paid to working partners = ₹ 20,000 × 2 × 12 = ₹ 4,80,000. As per the provisions of section 40(b)(v), the salary paid to the working partners is allowed subject to the following limits –

On the first ₹ 3,00,000 of book profit	₹ 1,50,000 or 90% of book profit, whichever is more
On the balance of book profit	60% of the balance book profit

Therefore, the maximum allowable working partners' salary for the A.Y. 2020-21 in this case would be:

Particulars	₹
On the first ₹ 3,00,000 of book profit [(₹ 1,50,000 or 90% of ₹ 3,00,000) whichever is more]	2,70,000
On the balance of book profit [60% of (₹ 4,90,000 - ₹ 3,00,000)]	<u>1,14,000</u>
Maximum allowable partners' salary	3,84,000

Hence, allowable working partners' salary for the A.Y. 2020-21 as per the provisions of section 40(b)(v) is ₹ 3,84,000.

Important Note:

Salary & Interest received by a partner from a firm engaged in growing & manufacturing TEA is taxable under the head PGBP only to the extent of 40%.

Question: Following are the details of AB & Co., being engaged in manufacturing and growing tea in India

Particulars	₹	₹
Income from tea business before partner's remuneration and interest		600000
Less: Interest on capital @ 10%		
A	10000	
B	20000	
Less: Remuneration to partner		
A	90000	
B	180000	300000
Distributed between partners (in 1:2 ratio)		300000

Additional information for computation of tax liability of partners

	A	B
Long term capital gain on sale of agricultural land	4000	50000
Winning from lotteries	5000	-
Winning from horse races	-	2500
Other agricultural income	50000	10000
Rent from agro land situated in Nepal	1000	200000

Compute tax liability of firm and partners for the AY 2020-21

Solution:**Computation of total income and tax liability of M/s AB & Co. for AY 2020-21**

Particulars	Amount
Profits & gains of business or profession (40% of ₹ 300000 as per Rule 8)	1,20,000
Tax on above @ 30%	36,000
Add: Health & Education cess @ 4%	1,440
Tax and cess payable	37,440

Note: Remuneration to partners is below maximum limits provided in Section 40(b).

Computation of total income of partners for AY 2020-21

Particulars	A		B	
	Details	Amount	Details	Amount
Profits & gains of business or profession				
Share of profit from AB & Co. [exempted u/s 10(2A)]	-		-	
Interest from AB & Co. (40% as per Rule 8)	4,000		8,000	
Remuneration from AB & Co. (40% as per Rule 8)	36,000	40,000	72,000	80,000
<u>Capital gains</u>				
Long term capital gain on sale of agro-land		4,000		50,000
<u>Income from other sources</u>				
Winning from lotteries	5,000		-	
Winning from horse race	-		2,500	
Rent from agro land situated in Nepal	1,000	6,000	2,00,000	2,02,500
Total Income		50,000		3,32,500

Computation of agricultural income of partners for the AY 2020-21

Particulars	A	B
Share of profit from AB & Co. [exempted u/s 10(2A)]	-	-
Interest from AB & Co. (60% as per Rule 8)	6,000	12,000
Remuneration from AB & Co. (60% as per Rule 8)	54,000	1,08,000
Other agricultural income	50,000	10,000
Total	1,10,000	1,30,000

Computation of tax liability of Mr. A for the AY 2020-21

Particulars	₹
Tax on income from lotteries (₹ 5000*30%)(Note 1)	1,500
Tax on long term capital gain (as other income does not exceed ₹ 250000)	Nil
Tax on other income	Nil
Total tax	1,500
Less: Rebate	1,500
Tax and cess payable (Rounded off u/s 288B)	NIL

Note: Total income of Mr. A does not exceed ₹ 250,000, hence integration method of taxation is not applicable.

Computation of Tax Liability of Mr. B for the AY 2020-21

Particulars	Amount
Tax on income from horse race (₹ 2,500*30%)	750
Add: Tax on long term capital gain (₹ 50,000*20%)	10,000
Add: <u>Tax on remaining income</u> Tax on ₹ 410000 (i.e. agro income ₹ 1,30,000 + non-agro income other than capital gain and winning from horse race ₹ 2,80,000)	8,000
Total (i.e. Tax on agro as well as non-agro income)	18,750
Less: Tax on ₹ 3,80,000 (i.e. agro income ₹ 1,30,000 + maximum exempted limit ₹ 2,50,000)	6,500
Tax liability	12,250
Less: Rebate (Maximum ₹ 12,500)	12,250
Tax after Rebate	NIL
Add: Health & Education Cess @ 4%	NIL
Tax and Cess payable (Rounded off u/s 288B)	NIL

ASSESSMENT OF HINDU UNDIVIDED FAMILY

- 1) **Definition:** HUF is not defined under the Income-tax law. However, **as per Hindu law it means** “a family, which consists of all males lineally descended from a common ancestor and includes their wives and unmarried daughters”. The **head of a HUF is termed as 'Karta'**.
- 2) **Origin:** The relation of a HUF does not arise from a contract but arises from status. A person becomes a member of the HUF not by virtue of contract but by his birth.
- 3) **Cessation of membership:**
 - ✓ A male member continues to be a member of the HUF until partition of the HUF. On partition, he ceases to be a member of the earlier larger HUF and becomes member of another smaller HUF.
 - ✓ A female member ceases to be a member of the HUF in which she was born, when she gets married; in that case, she becomes a member of the HUF of her husband.
- 4) **Conditions for HUF: In order to be assessed as a HUF the following conditions are to be fulfilled –**
 - a) there should be coparcenership; and
 - b) there should be a Joint Family Property.
- 5) **Co-parcenership:** Co-parcener refers to those members of an HUF who acquire by birth an interest in the joint family property. Only the coparceners have a right to partition. **Now, the female members have been brought at par with the male members. Hence, now**
 - a) daughter of a coparcener becomes a coparcener by birth in her own right in the same manner as son. She will have the **same rights and liabilities** in respect of coparcenary property as of a son.
 - b) daughter shall be **entitled to same share** on partition of coparcenary property as that of the son.
 - c) female heir can **demand the partition** of a coparcenary property in the same manner as the son.
- 6) **HUF v. Hindu Coparcenery:** While-an HUF covers all members; the Hindu coparcenery is limited to male members (viz. the common ancestor, sons, grandsons and great grandsons) and the daughters of such coparceners. Hence, HUF is a wider body than coparcenery.
- 7) **Exemption to the members of HUF in relation to income of HUF [Section 10(2)]:** Any sum received by a member of a Hindu Undivided Family out of the income of the family or, in the case of any impartible estate, out of the income of the estate belonging to the family shall be exempt from tax.
- 8) **Partition:** Partition means physical or other division of property. **However, physical division of income without physical division of property producing the income is not partition.** Partial partition means a partition, which is partial as regards members or properties of HUF or both.
- 9) **Assessment after partition [Section 171]:** The law doesn't recognise any partial partition of HUF. Hence in case of partial partition, HUF shall be assessed as if no partition had taken place. However, in case of total partition, the assessment will be made as follows -
 - a) the Assessing Officer shall, after making inquiry, record the date of effect of such partition; and
 - b) the total income of HUF shall be assessed as that of HUF only upto the date of such partition.
- 10) **Schools of Hindu Law: There are two schools of Hindu law. They are –**
 - (1) Mithakshara school of Hindu law
 - (2) Dayabhaga school of Hindu law

Mithakshara law is followed by entire India except West Bengal and Assam. There is a basic difference between the two schools of thought with regard to succession.

Under the Mithakshara law, the inheritance is by birth. One acquires the right to the family property by his birth and not by succession irrespective of the fact that his elders are living. Thus every child born in the family acquires a right/share in the family property.

Dayabhaga law prevails in West Bengal and Assam. In ***Dayabhaga law, nobody acquires the right, share in the property by birth as long as the head of family is living***, that is, the children do not acquire any right, share in the family property, as long as his father is alive and only on death of the father, the children will acquire right/share in the property. Thus, the father and his brothers would be the coparceners of the HUF

11) ASSESSMENT OF HUF:

The income of a HUF is to be assessed in the hands of the HUF and not in the hands of any of its members. This is because HUF is a separate and a distinct tax entity.

12) FOLLOWING POINTS SHALL BE CONSIDERED:

1. **Remuneration to member of HUF due to investment of HUF fund:** Where joint fund is invested in a company or a firm, fees or remuneration received by any member of HUF as a director or partner from such company or firm by virtue of such investment shall be treated as income of the HUF. On the other hand., where such remuneration or fees is received by virtue of service rendered by such member (in his personal capacity) then such amount shall be taxable in hands of such member
2. **Remuneration to Karta:** Any genuine (not excessive) remuneration paid to the Karta for conducting business of the HUF is allowed expenditure in the hands of the HUF provided such remuneration is paid under a bonafide agreement and is in the interest of the family business.
3. **Personal income of the members:** income of the member of HUF acquired in his personal capacity shall not be taxable in the hands of HUF.
4. **Income from impartible estate:** Though the impartible estate belongs to the family, income arising there from is taxable in the hands of the holder of the 'estate' and not in the hands of the HUF.

13) STEPS FOR COMPUTATION OF INCOME TAX OF HUF

- Step 1** The Gross Total Income of HUF, like any other person, shall be computed under four heads of income, on the basis of their residential status. There can be no income under the head income from salaries in the case of HUF.
- Step 2** Sections 60 to 63 relating to income of other person included in the assessee's total income are applicable in case of HUF but section 64 is not applicable to HUF as it is applicable in case of individual assessee only.
- Step 3** Set off of losses is permissible while aggregating the income under different heads of income.
- Step 4** Carry forward and set off of losses of past years, if permissible, is allowed.
- Step 5** The income computed in steps 1 to 4 is known as gross total income from which the following deductions u/s 80C to 80U will be allowed:

Sl. No.	Section	Nature of Deductions
1	80C	Deduction in respect of Life Insurance Premium, deferred annuity, contribution to PF, subscription to certain equity shares or debentures, etc.
2	80D	Payment of medical insurance premium
3	80DD	Medical treatment of handicapped dependents and deposits made for maintenance of handicapped dependents
4	80DDB	Deduction in respect of medical treatment, etc.
5	80G	Donations to certain funds/charitable institutions etc.
6	80GGA	Certain donations for scientific research or rural development
7	80GGC	Deduction in respect of contribution given by any person to political parties
8	80JJA	Deduction in respect of profits and gains from business of collecting and processing of bio-degradable waste
9	80TTA	Deduction in respect of Saving Bank Account Interest

- Step 6** The balance income after allowing the deductions is known as Total Income which will be rounded off to the nearest ₹ 10.
- Step 7** Compute the tax on such total income at the prescribed rates of tax.
- Step 8** Add Health & Education Cess @ 4% on the tax shall be levied.
- Step 9** Deduct TDS and advance tax paid for the relevant assessment year. The balance is the net tax payable which must be rounded off to the nearest ten rupees. This tax has to be paid as self-assessment tax before submitting the return of income.

Question 1:

X is the coparcener of a Hindu Undivided Family consisting of himself, his father and two elder brothers. The assets of the family have not yet been partitioned. From out of the rental income of the family, X's father sends X ₹ 16,000 to enable him to maintain his family. Besides the above receipt, X has received a salary of ₹ 60,000 from his employer. Discuss the tax liability/ exemptions that Mr. X gets.

Solution: As per section 10(2), any sum received by a member of a HUF out of the income of the family is exempt from tax. Hence, share in HUF income received by X is exempt from tax. **However, salary of ₹ 60,000 is taxable. The tax liability in respect thereof shall be NIL.**

Question 2:

Mr. Prasad is a karta of a HUF. The family declares GTI of ₹ 4,00,000 for the assessment year 2020-21. The gross total income includes taxable long-term capital gains of ₹ 65,000 (taxable u/s Section 112) and short-term capital gains of ₹ 35,000 which is taxable under section 111A. The details of HUF funds investment made during the previous year 2019-20 are as follows (amounts in ₹):

Amount deposited in PPF in the name of members of HUF	10,000
Medical insurance premium paid by cheque:	
(a) in the name of the karta	4,000
(b) in the personal name of Mr. Prasad	5,000
Contributions made to:	
(a) Indra Gandhi Memorial Trust	7,000
(b) Delhi university (declared as an institution of national eminence)	3,000
(c) Zila saksharta samiti	5,000
(d) An approved charitable institution	30,000
(e) Government for the promotion of family planning	10,000
(f) Hanuman temple in the local mohalla	20,000

Compute the total income of HUF which is chargeable to tax for the AY 2020-21.

Solution: Computation of the Total Income of HUF

LTCG income (112)	65,000
STCG income (111A)	35,000
Other income	300,000
Gross Total Income	400,000
Less : Deduction u/s 80C (PPF deposit in the name of member of HUF)	10,000
Less : Deduction u/s 80D (Medical insurance premium paid to effect/keep in force insurance on the health of a member viz. Karta - whether in his personal name or in his name as Karta. Since payment is out of funds of the HUF, hence, deductible in computing total income of the HUF)	9,000
Less: Deduction under section 80G (See Note)	30,550
Total income	350,450

Note: Computation of deduction under section 80G

Donation to -	Qualifying Sum Rs.	% Eligible	Deduction
(A) Donation without any qualifying limit:			
1. Delhi university	3,000	100%	3000
2. Zila Saksharta Samiti	5,000	100%	5000
3. Indra Gandhi Memorial Trust	7,000	50%	3500

(B) Donation subject to qualifying limit of total donation of 10% of Adjusted GTI:

1. Government for the promotion of family planning.	10,000	100%	10,000
2. An approved charitable institution (While total donation is ₹ 30,000; the qualifying amount = 10% of Adj. GTI - Donation for family planning, which is eligible for 100% deduction)	18,100	50%	9,050
Qualifying amount under (B) = 10% of Adj. GTI	28,100		
Total Deduction u/s 80G			30,550
**Adjusted GTI = GTI - Deduction u/s 80C & 80D - LTCG - STCG referred u/s 111A			281,000

Question 3:

The following details of income for FY 2019-20 have been supplied by R who is Karta of HUF:

a. Profit from family business	1,44,000
b. Salary received by a member of family for looking after the family business	20,000
c. Remuneration received by Karta for working as secretary in a company	30,000
d. Municipal value of ancestral house let out	24,000
e. Local taxes of house	1,200
f. Dividend (Gross)	12,800
g. Long term capital gain	19,000
h. Long term capital gain from transfer of Investment	20,000
i. Profit from a firm in which Karta is a partner on behalf of HUF	28,000
j. Donation to recognized education institution	15,000
k. Life Insurance Premium paid	26,000

Compute the TI of the family for the AY 2020-21.

Solution: Gross Total Income of HUF for the AY 2020-21

Income from house property:-

Annual value	24,000	
Less: Local taxes of house	(1,200)	
Net annual value	22,800	
Less: Standard deduction @ 30 %	6,840	15,960

Profit gain of business or profession -

Profit from business		1,44,000
----------------------	--	----------

Capital Gain –

Long term capital gain	19,000	
Long term capital gain from transfer of Investment	20,000	39,000
Dividends		Exempt

Gross Total income**1,98,960****Less: Deduction**

U/s 80C	26,000	
U/s 80G 50% - (Donation to a recognized education institution)		
₹ 15,000 but limited to 10% of Adj GTI = ₹ 13,396		
50% of ₹ 13,396	6,698	32,698
Total income		1,66,260

Notes: -

- Income from long-term capital gain is assumed to be the income of HUF though specifically not mentioned in question.
- Profit from a firm is exempt
- Adjusted Gross Total Income ₹ 1,98,960 – ₹ 39,000 (LTCG) – ₹ 26,000 (80C) = ₹ 1,33,960.
- Salary to member is allowable expenses hence not added back.

Question 4:

The Karta of an HUF furnished the following particulars of the income of the HUF for the AY 2020-21:

Interest on Debentures	45,000
Interest on Govt. Securities	10,000
Dividend from UTI	6,000
Rent of House Property	20,000
Profit from an industrial undertaking	90,000
Long term Capital Gain	50,000
Agricultural income	60,000

The family paid ₹ 12,000 by way of insurance premium of its members and donated ₹ 16,000 to a recognized charitable institution. **Compute the amount of tax payable by the HUF.**

Solution**Computation of income of HUF**

(For the assessment year 2020-21)

Non-agricultural income**Income from house property**

Annual value	20,000	
Less: Standard deduction @ 30% u/s 24(a)	6,000	14,000

Income from business & profession

Profit from newly established industrial undertaking	90,000
--	--------

Income from long term capital gain		50,000
Income from other sources		
Interest on debentures	45,000	
Interest on Govt. securities	10,000	
Dividend from UTI	Exempt	55,000
Gross total income		2,09,000
Less: Deductions		
U/s 80C	12,000	
U/s 80G – ₹ 16,000 donated to a charitable institution 50% of [10% of ₹ 1,47,000]	7,350	19,350
Total income		1,89,650
Tax on Total income excluding of LTCG (₹ 1,89,650 – ₹ 50,000)	1,39,650	NIL
Tax on long term capital gain of ₹ 50,000 (as unexhausted basic exemption limit is ₹ 110,350)		NIL

1. No partial integrate of agricultural income with non-agricultural income as agricultural income exclusive of LTCG is **less than the exemption limit**
2. Adjusted GTI is ₹ 209,000 (GTI) – ₹ 50,000 (LTCG) – ₹ 12,000 (80C) = ₹ 147,000

Question 5:

A HUF has three coparceners: X (Karta), Y and Z. The family has the following incomes for the year ending March 31, 2020:

	₹
Interest on securities	5,00,000
Rent (House 1)	6,00,000
Rent of a House 2 (purchased in 1946 in the name of Mrs. X out of funds of the family)	3,50,000
Income from family business	9,70,000
Bank interest [Term Deposits]	3,12,000
Salary of Y from a company	6,00,000
One-third share from a partnership firm in which Y is a partner, representing the family	8,00,000

Determine the total income of the family for the AY 2020-21, assuming that the family pays life insurance premium of ₹ 14,000 (sum assured: ₹ 1,40,000) on the life of X and medical insurance premium of ₹ 36,000 for Mr. X.

Solution:

Interest on securities	5,00,000
Income from house property [(₹ 6,00,000 + ₹ 3,50,000) Less: Deduction u/s 24(a) - 30%]	6,65,000
Business income	9,70,000
Income from other sources	3,12,000
Gross Total Income	24,47,000
Less: Deductions	
U/s 80C	14,000
U/s 80D (subject to a maximum of ₹ 50,000)	36,000
Net income	23,97,000

Note – age of X is not given in the problem. However, the family purchased house in the name of Mrs. X in the year 1946. Since X was married in 1946, his age on March 31, 2020 should be at least of 60 years. Consequently, deduction up to ₹ 50,000 is available u/s 80D.

CLUBBING OF INCOME

TRANSFER OF INCOME WITHOUT TRANSFER OF THE ASSET [SEC 60]

If any person transfers the income from any asset without transferring the asset itself, such income is to be included in the total income of the transferor.

Example:

Mr. A confers the right to receive rent in respect of his house property on his wife, Mrs. A, without transferring the house itself to her. In this case, rent received by Mrs. A will be clubbed with the income of Mr. A.

INCOME ARISING FROM REVOCABLE TRANSFER OF ASSETS[SECTION 61]

- (i) All income arising to any person by virtue of a revocable transfer of assets is to be included in the total income of the transferor.
- (ii) **As per section 63**, the transfer is deemed to be revocable if whole or any part of income or assets is re-transferred to the transferor or transferor gets the right over such income or assets.

Note: This clubbing provision will operate even if only part of income of the transferred asset had been applied for the benefit of the transferor. **Once the transfer is revocable**, the entire income from the transferred asset is includible in the total income of the transferor.

EXCEPTIONS WHERE CLUBBING PROVISIONS ARE NOT ATTRACTED EVEN IN CASE OF REVOCABLE TRANSFER [SECTION 62]:

Section 61 will not apply in the following 2 cases -

1. Transfer not revocable during the life time of the beneficiary or the transferee:

If there is a transfer of asset which is not revocable during the life time of the transferee, the income from the transferred asset is not includible in the total income of the transferor ***provided the transferor derives no direct or indirect benefit from such income.***

Note: In the above case, as and when the power to revoke the transfer arises, the income arising by virtue of such transfer will be included in the total income of the transferor.

2. Transfer is made before 01.04.1961 & transfer is not revocable for a period exceeding 6 years.

CLUBBING OF INCOME ARISING TO SPOUSE [SECTION 64(1)(ii)]

Income by way of remuneration from a concern in which the individual has substantial interest

Any remuneration derived by a spouse from a concern in which the ***other spouse has a substantial interest***, shall be ***clubbed in the hands of the spouse who has a substantial interest in that concern***.

- No clubbing if remuneration is due to technical or professional qualifications of spouse.
- **If the husband and wife both have substantial interest in the concern and**
 - both are in receipt of remuneration from the concern,
 - then the remuneration of *both* shall be clubbed in the hands of *that spouse*
 - whose **total income**, **before including such remuneration, is greater.**

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

Meaning of substantial interest:

An individual shall be deemed to have a substantial interest in the concern:

- (i) For company - at least 20% equity shares of such company **at any time** during the PY are held by individual **along with his relatives**.
- (ii) For any other case- at least 20% of the profits of such concern **at any time** during the PY is held by individual **along with his relatives**.

“Relative” means the spouse, brother or sister or any ***lineal ascendant or descendant*** of the individual.

Class Notes

Class Notes

Question 1: Mr. A is an employee of X Ltd. and he has 25% shares of that company. His salary is ₹ 50,000 p.m. Mrs. A is working as a computer software programmer in X Ltd. at a salary of ₹ 30,000 p.m. She is, however, not qualified for the job. Compute the gross total income of Mr. A and Mrs. A for the AY 2020-21, assuming that they do not have any other income.

Solution: Mr. A is an employee of X Ltd and has 25% shares of X Ltd i.e. a substantial interest in the company. His wife is working in the same company without any professional qualifications for the same. Thus, by virtue of the clubbing provisions of the Act, the salary received by Mrs. A from X Ltd. will be clubbed in the hands of Mr. A.

Computation of GTI of Mr. A

Salary Income of Mr. A [₹ 50,000 × 12 – ₹ 50,000]	₹ 5,50,000
Salary Income of Mrs. A clubbed here [₹ 30,000 × 12 – ₹ 50,000]	₹ 3,10,000
Gross total income	₹ 8,60,000

The GTI of Mrs. A is NIL.

Question 2: Mr. B is an employee of Y Ltd. and has substantial interest in the company. His salary is ₹ 20,000 p.m. Mrs. B is also working in Y Ltd. at a salary of ₹ 12,000 p.m. without any qualifications. Mr. B also receives ₹ 30,000 as interest on securities. Mrs. B owns a house property which she has let out. Rent received from tenants is ₹ 6,000 p.m. Compute the gross total income of Mr. B and Mrs. B

Solution: Refer Class Notes

Question 3: Mr. Raman is a Chartered Accountant in practice. He engages his wife Mrs. Seetha as an employee for audit works and pays a sum of ₹ 20,000/ – p.m. towards salary. Mrs. Seetha before marriage has completed her C.A. articleship training and is presently awaiting result of the final examination. Examine the tax implication in respect of the above transaction.

Ans: Where the spouse of the assessee has qualification and experience, the remuneration obtained by virtue of the exercise or application of such qualification, experience and skill will not be subjected to clubbing because of the proviso to Sec. 64(1). Therefore, the income of Mrs. Seetha should not be clubbed with that of Mr. Raman. However, the Assessing Officer has power under section 40A(2) (refer PGBP Class) to examine the reasonableness of the salary paid to a relative and disallow to the extent it is excessive or unreasonable.

Question 4: Mr B holds 5% shares in A Ltd., where his brother and nephew hold 11% and 6% shares, respectively. Mrs B gets commission of ₹ 1,00,000 from A Ltd. for canvassing orders. She holds no technical/professional qualification. Mr B earns income of ₹ 5,00,000 from sugar business. Compute their total income

Solution : Computation of Total Income

Particulars of income	Mr. B ₹	Mrs. B ₹
Income from sugar business	5,00,000	
Commission for canvassing orders from Z Ltd.		100,000
Total Income	5,00,000	100,000

Note: In the instant case, Mr B holds 5% and his brother holds only 11% shares in A Ltd. The total of their shareholding is less than 20%. They have no substantial interest. Therefore, commission income is assessable as income of Mrs B. [Nephew is not a relative for clubbing purpose]

Question 5: Mr. & Mrs. Om both are working in A Ltd. without possessing any technical or professional qualification. From the following details compute their income:

Particulars	Mr. Om	Mrs. Om
Salary from A Ltd. (computed)	₹ 2,20,000	₹ 70,000
Other income	₹ 50,000	₹ 80,000
Share of holdings:		
Case 1	15%	6%
Case 2	3%	17%
Case 3	18%	1%

Solution:

Computation of gross total income of Mr. Om and Mrs. Om for the AY

Particulars	Case 1		Case 2		Case 3	
	Mr. Om	Mrs. Om	Mr. Om	Mrs. Om	Mr. Om	Mrs. Om
Salary of Mr. Om		220000		220000	220000	
Salary of Mrs. Om		70000		70000		70000
Other income	50000	80000	50000	80000	50000	80000
Gross total income	50000	370000	50000	370000	270000	150000

Notes:

- Substantial interest means assessee beneficially holds (whether individually or partly by assessee and partly by one or more of his relative) not less than 20% of equity shares of company.

When both, husband and wife, have substantial interest in a concern and both are drawing remuneration from that concern without possessing any specific qualification, remuneration from such concern will be included in the total income of husband or wife, whose total income excluding such remuneration, is higher.

In case 1 & 2, both has a substantial interest & total income of Mrs. Om is higher, therefore remuneration from A Ltd. will be clubbed in the hands of Mrs. Om.

- In case 3, since none of the spouse has substantial interest in the concern hence provision of sec. 64(1)(ii) shall not be attracted.

Question 6:

Mr. Rolly is holding 6% shares in A Ltd. As on 1/7/18, Miss Jolly joined the concern at a salary of ₹ 30,000 pm. However, Miss Jolly does not possess any professional qualification nor she has any experience in this regard.

On 1/4/19, Mr. Rolly married with Miss Jolly.

On 1/12/19, Mr. Rolly acquired further 21% shares in A Ltd.

Show the tax treatment of such salary income.

Solution:

An individual is deemed to have substantial interest if he holds 20% or more voting power at any time during the PY. Since Mr. Rolly is holding substantial interest (even for a day) in A Ltd. then salary income earned by his spouse Jolly ₹ 3,10,000 [₹ 360,000 – ₹ 50,000] shall be clubbed in his hand.

Question 7:

Mr. J and Mrs. J holds 15% and 10% shares in A Ltd. and both are employed by A Ltd. getting the monthly salary of ₹ 20,000 respectively. Their remuneration does not match their technical or professional knowledge or experience. Apart from the salary income Mr. J has business income of ₹ 300,000 & Mrs. J has earned ₹ 3,00,000 as rent of the house property. Mr. J has invested ₹ 120,000 in PPF account and another ₹ 60,000 in NSC. While Mrs. J has invested ₹ 1,10,000 in NSC and has donated ₹ 10,000 to PMNRF. Calculate the Total Income of Mr. J and Mrs. J.

Solution:

When both, husband and wife, have substantial interest in a concern and both are drawing remuneration from that concern without possessing any specific qualification, remuneration from such concern will be included in the total income of husband or wife, whose total income excluding such remuneration, is higher.

In given case, both has a substantial interest [shareholding with relative is 25%] & therefore remuneration will be clubbed in the hands of spouse whose total income [Excluding salary from A Ltd.] is higher.

Calculation to check higher total income (ignoring salary income)

	Mr. J	Mrs. J
Income under the head Salary	Ignore	Ignore
Income under the head house property	NIL	
GAV	3,00,000	
Less: Municipal Taxes	NIL	
NAV	3,00,000	
Less: Statutory deduction	90,000	
Income under the head PGBP	3,00,000	NIL
Gross Total Income	3,00,000	2,10,000
Less: Deduction u/s 80C	1,50,000	1,10,000
Deduction u/s 80G	NIL	10,000
Taxable Income	1,50,000	90,000

Calculation of total income

	Mr. J	Mrs. J
Income under the head Salary	3,80,000	NIL
Mr. J's own 2,40,000 – 50,000 [u/s 16(ia)]		
Mrs. J's 2,40,000 – 50,000 clubbed u/s 64(1)(ii)		
Income under the head house property	NIL	2,10,000
Income under the head PGBP	3,00,000	NIL
Gross Total Income	6,80,000	2,10,000
Less: Deduction u/s 80C	1,50,000	1,10,000
Less: Deduction u/s 80G		10,000
Taxable Income	5,30,000	90,000

CASE STUDY: When other spouse is not beneficially holding Substantial Interest in the Concern

The HUF is a partner in the firm ABC through its Karta "Mr. X" and has 25% shares in the profits of the firm. Wife of Mr. X is employed by firm ABC. In this case, clubbing shall not apply because Mr. X is partner in representative capacity and not in individual capacity. Clubbing applies where an individual is a partner in his individual capacity and has substantial interest in the firm and his spouse get remuneration from the firm.

Question No. 8:

Mr. Siddharth was a partner in a firm, representing his HUF, holding 25% of the share in the firm. His wife Vineeta, a house lady, has joined the firm for salary of ₹ 20,000 per month which has been proposed by the Assessing Officer to be clubbed in the hands of Siddharth-HUF by invoking section 64 of the Act. Whether AO is correct?

Answer

As per section 64(1)(ii) of the Income-tax Act, in computing the total income of any "individual", the remuneration paid to spouse by a firm in which the individual has substantial interest shall be liable for clubbing. In the present case, Mr. Siddharth is not a partner in his individual capacity, but a partner in representative capacity. The action of the Assessing Officer in this case is, therefore, not correct.

INCOME ARISING TO THE SPOUSE FROM AN ASSET TRANSFERRED WITHOUT ADEQUATE CONSIDERATION [SECTION 64(1)(iv)]

If an individual transfers directly or indirectly any asset other than house property to his/her spouse, the income from such an asset shall be included in the total income of the transferor.

The income from the transferred assets shall not be clubbed in the following cases:

- (i) if the transfer is for adequate consideration;
- (ii) the transfer is under an agreement to live apart;

Note:

1. If an individual transfers a house property to his spouse, without adequate consideration or otherwise than in connection with an agreement to live apart, the transferor shall be deemed to be the owner of the house property and its annual value will be taxed in his hands. **[Section 27]**
2. It is also to be noted that natural love and affection do not constitute adequate consideration.

Sec. 27(i) vs Sec. 64(1)(iv) in case of transfer of house property:

Where such transferred asset is a house property then the same will not be covered by Sec. 64(1)(iv) but governed by sec. 27(i) [Deemed owner in case of Income from house property].

- Mr. X transferred his house property (worth ₹ 1500000) in favour of Mrs. X out of love and affection without any consideration. Income generated from such property is ₹ 100000 shall be taxable in the hands of Mr. X by virtue of Sec. 27(i) without attracting provision of Sec. 64(1)(iv)
- Mr. X gifted Mrs. X ₹ 1500000 out of love and affection. Mrs. X purchased a house property from such gifted money. Income generated from such house property is ₹ 100000. Such income shall be first computed in hands of Mrs. X and then shall be clubbed in the hands of Mr. X by virtue of Sec. 64(1)(iv)

Class Notes:

INCOME ARISING TO SON'S WIFE FROM THE ASSETS TRANSFERRED WITHOUT ADEQUATE CONSIDERATION BY THE FATHER-IN-LAW OR MOTHER-IN-LAW [SECTION 64(1)(vi)]

Where an asset is transferred, directly or indirectly, by an individual to ***his or her son's wife*** without adequate consideration, the income from such asset is to be included in the total income of the transferor.

For the purpose of Clause (iv) & (vi) [Asset transferred to Spouse or Son's wife] above, following points must be noted:

- 1) The relationship **must exist on the date of transfer as well as at the time of accrual of income during the P.Y.**
- 2) Clubbing is not applicable on any income which arises **on accretion of the transferred asset.**
- 3) Section 64(1)(iv) will not be applicable if the property is acquired by the spouse out of Pin Money.
- 4) **Where the transferred assets is invested by the transferee in any business by way of capital contribution then, the following proportionate income shall be clubbed with the income of the individual:**

Investment made by transferee out of transferred asset As on the first day of Previous Year	X	<u>Total income from such business</u>
Total Investment in the business as on the first day of Previous Year		

Class Notes:

Question No. 9:

Mr A gifts ₹ 4,00,000 to Mrs A 1st February 2020. Mrs A starts crockery business and invests ₹ 1,00,000 from her account also. She earns profit of ₹ 60,000 during the period ending on 31 March 2020. How would you tax the business profits?

Answer:

Proportionate profits, in proportion the gifted amount from the spouse on the first day of the previous year bears to the total investment in the business on the first day of the previous year, will be taxable in the income of the transferor spouse.

As Mrs A has started the new business, the first previous year will begin on the date of setting up and will end on 31 March, immediately following. Thus, the first previous year will consist a period of 2 months from 1 February 2020, to 31 March 2020.

Therefore, proportionate profit of ₹ 50,000, computed as below, will be included in the income of Mr. A:

$$\frac{4,00,000}{5,00,000} \times 60,000 = 48,000$$

Question No. 10:

Mr A gifts ₹ 3,00,000 to Mrs A on 1st February 2020. Mrs A invests the same in the existing crockery business where she has already invested ₹ 5,00,000. Mrs A earns ₹ 3,00,000 from the business during the year 2019-20 ending on 31 March 2020 How would you assess the profits?

Answer: The previous year of the existing business is April to March. On the first day of the previous year (i.e. 1 April 2019), total investment has come from Mrs A account. As the proportion of the gifted amount from spouse on 1 April 2019 to the total investment in business on the same day is **NIL**, the whole of the profits of ₹ 3,00,000 for the year 2019-20 will be included in the total income of Mrs A.

Question No. 11: [INCOME ARISING FROM INCOME EARNED IS NOT TO BE CLUBBED]

Mr Goutam, out of his own funds, had taken a FDR for ₹ 1,00,000 bearing interest @ 10% p.a. payable half-yearly in the name of his wife Latika. The interest earned for the year 2019-20 of ₹ 10,000, was invested by Mrs Latika in the business of packed spices which resulted in a net profit of ₹ 55,000 for the year ended 31st March 2020. How shall the interest on FDR and income from business be taxed for the AY 2020-21?

Answer: Where an individual transfers an asset (excluding house property), directly or indirectly to his/her spouse, otherwise than for adequate consideration, or in connection with an agreement to live apart, income from such asset is included in the total income of such individual [Sec. 64(1)(iv)]. Accordingly, interest on FDR, accruing to wife, is included in the total income of her husband.

However, business profits cannot be clubbed with total income of husband. Clubbing applies only to the income from assets transferred without adequate consideration. It does not apply to the income from accretion of the transferred assets. Hence, business profit is taxable as the income of wife.

TRANSFER OF ASSETS FOR THE BENEFIT OF THE SPOUSE

[SECTION 64(1)(vii)]

Where any asset is transferred by an individual, without adequate consideration, to any person for the benefit of Spouse, then any income arising from such transferred asset, is liable to be taxed in the hands of the transferor, to the extent such income is used for the immediate / deferred benefit of such spouse.

IMP: Where any asset is transferred by any person to any person without consideration or for inadequate consideration, the provisions of 56(2)(x) would get attracted in the hands of transferee, if conditions specified thereunder are satisfied.

TRANSFER OF ASSETS FOR THE BENEFIT OF SON'S WIFE
[SECTION 64(1)(viii)]

Where any asset is transferred by an individual, without adequate consideration, to any person for the benefit of Son's wife, then any income arising from such transferred asset, is liable to be taxed in the hands of the transferor, to the extent such income is used for the immediate / deferred benefit of the Son's wife

IMP: Where any asset is transferred by any person to any person without consideration or for inadequate consideration, the provisions of 56(2)(x) would get attracted in the hands of transferee, if conditions specified thereunder are satisfied.

Question No. 12 :

Mrs. Kasturi transferred her immovable property to ABC Co. Ltd. subject to a condition that out of the rental income, a sum of ₹ 36,000 per annum shall be utilized for the benefit of her son's wife.

Mrs. Kasturi claims that the amount of ₹36,000 (utilized by her son's wife) should not be included in her total income as she no longer owned the property. Examine with reasons whether the contention of Mrs. Kasturi is valid in law.

Answer:

The clubbing provisions under section 64(1)(viii) are attracted in case of transfer of any asset, directly or indirectly, otherwise than for adequate consideration, to any person to the extent to which the income from such asset is for the immediate or deferred benefit of son's wife. Such income shall be included in computing the total income of the transferor-individual.

Therefore, income of ₹ 36,000 meant for the benefit of daughter-in-law is chargeable to tax in the hands of transferor i.e., Mrs. Kasturi in this case. The contention of Mrs. Kasturi is, hence, not valid in law.

Note - In order to attract the clubbing provisions under section 64(1)(viii), the transfer should be otherwise than for adequate consideration. In this case, it is presumed that the transfer is otherwise than for adequate consideration and therefore, the clubbing provisions are attracted. Moreover, the provisions of section 56(2)(x) will also get attract in the hands of ABC Co Ltd. if stamp duty value exceeds ₹ 50,000. and if the conditions specified thereunder are satisfied.

If it is presumed that the transfer was for adequate consideration, the provisions of section 64(1)(viii) would not be attracted.

CLUBBING OF MINOR'S INCOME [SECTION 64(1A)]

The income of the minor child [including minor married daughter] is liable to be taxed in the hands of that parent, whose total income, excluding income of minor child, is Greater.

Exception: No clubbing shall apply in case of following incomes:

- 1) Where a **minor child is suffering from disability** of the nature specified in Sec. 80U.
- 2) Where such income as arises / accrues to the minor child **on account of any manual work** done by him or **activity involving application of his skill, talent or specialized knowledge** and experience.

Notes:

1. **Section 10(32) provides** that where the income of an individual includes the income of his minor child due to the operation of Section 64(1A), the individual shall be entitled to exemption of such income subject to a maximum of ₹ 1,500 per child. **[Not applicable in case of Section 27 – Deemed Owner]**
2. Once clubbing of minor's income is done with that of one parent, it will continue to be clubbed with that parent only, in subsequent years. The Assessing Officer, may, however, club the minor's income with that of the other parent, if, after giving the other parent an opportunity to be heard, he is satisfied that it is necessary to do so.
3. Where **the marriage of his parents does not subsist**, income of the minor shall be clubbed in the income of that parent who maintains the minor child in the relevant previous year.

4. If the income by way of manual work or activity involving application or skill, etc. which was not clubbed, *in invested, and income is earned thereon, such investment income shall be clubbed.*
5. If the minor child becomes major during the P.Y., **then the incomes till the date he remained minor** in that P.Y. shall be clubbed with the parent.
6. **Minor Child includes step or adopted child.**

Question 13: Mr. A has three minor children – two twin daughters and one son. Income of the twin daughters is ₹ 2,000 p.a. each and that of the son is ₹ 1,200 p.a. Compute the income, in respect of minor children, to be clubbed in the hands of Mr. A.

Solution

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

Twin minor daughters [₹ 2,000 × 2]	₹ 4,000	
Less: Exempt u/s 10(32) [₹ 1,500 × 2]	<u>₹ 3,000</u>	₹ 1,000
Minor son	₹ 1,200	
Less: Exempt u/s 10(32)	<u>₹ 1,200</u>	<u>Nil</u>
Income to be clubbed in the hands of Mr. A		₹ 1,000

Cross Transfers

In the case of cross transfers also (e.g., A making gift of ₹ 50,000 to the wife of his brother B for the purchase of a house by her and a simultaneous gift by B to A's minor son of shares in a foreign company worth ₹50,000 owned by him), the income from the assets transferred would be assessed in the hands of the deemed transferor if the transfers are so intimately connected as to form part of a single transaction, and each transfer constitutes consideration for the other by being mutual or otherwise. Thus, in the instant case, the transfers have been made by A and B to persons who are not their spouse or minor child so as to circumvent the provisions of this section, showing that such transfers constituted consideration for each other.

The Supreme Court, in case of *CIT v. Keshavji Morarji*, observed that if two transactions are inter-connected and are parts of the same transaction in such a way that it can be said that the circuitous method was adopted as a device to evade tax, the implication of clubbing provisions would be attracted. Accordingly, the income arising to Mrs. B from the house property should be included in the total income of B and the dividend from shares transferred to A's minor son would be taxable in the hands of A. This is because A and B are the indirect transferors to their minor child and spouse, respectively, of income-yielding assets, so as to reduce their burden of taxation.

Question 14: *Mr. Vasudevan gifted a sum of ₹ 6 lakhs to his brother's wife on 14-6-2019. On 12-7-2019, his brother gifted a sum of ₹ 5 lakhs to Mr. Vasudevan's wife. The gifted amounts were invested as fixed deposits in banks by Mrs. Vasudevan and wife of Mr. Vasudevan's brother on 01-8-2019 at 9% interest. Examine the consequences of the above under the provisions of the Income-tax Act, 1961 in the hands of Mr. Vasudevan and his brother.*

Answer:

In the given case, Mr. Vasudevan gifted a sum of ₹ 6 lakhs to his brother's wife on 14.06.2019 and simultaneously, his brother gifted a sum of ₹ 5 lakhs to Mr. Vasudevan's wife on 12.07.2019. The gifted amounts were invested as fixed deposits in banks by Mrs. Vasudevan and his brother's wife. These transfers are in the nature of cross transfers. Accordingly, the income from the assets transferred would be assessed in the hands of the deemed transferor because the transfers are so intimately connected to form part of a single transaction and each transfer constitutes consideration for the other by being mutual or otherwise.

If two transactions are inter-connected and are part of the same transaction in such a way that it can be said that the circuitous method was adopted as a device to evade tax, the implication of clubbing provisions would be attracted. It was so held by the Apex Court in *CIT vs. Keshavji Morarji*.

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

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

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

Class Notes

-CONVERSION OF SELF-ACQUIRED PROPERTY INTO THE PROPERTY OF A HUF [SECTION 64(2)]

Where an individual, who is a member of the Hindu Undivided Family transfers his individual property to the family, otherwise than for adequate consideration, then the income from such property shall continue to be included in the total income of the individual.

Implication in the case of subsequent partition:

Where the converted property has been the subject matter of partition (whether partial or total) amongst the members of the family, the income derived from such, converted property as is received by the spouse, on partition, shall be deemed to arise to the spouse from assets transferred indirectly by the individual to the spouse and the income from the portion, received by the spouse, shall be clubbed in the hands of the transferor.

DISTINCTION BETWEEN SECTION 61 AND SECTION 64

It may be noted that the main distinction between the two sections is that Section 61 applies only to a revocable transfer made by any person while Section 64 applies to revocable as well as irrevocable transfers made only by individuals.

LIABILITY OF THE TRANSFEEE IN RESPECT OF CLUBBED INCOME [SECTION 65]

Sections 61 to 64 provide for clubbing of income of one person in the hands of the other in circumstances specified therein. However, service of notice of demand (in respect of tax on such income) may be made upon the person to whom such asset is transferred (i.e. the transferee). In such a case, the transferee is liable to pay that portion of tax levied on the transferor which is attributable to the income so clubbed.

INCOME INCLUDES LOSS [CLUBBING OF NEGATIVE INCOME]

'Income' would include 'loss'. Accordingly, where the specified income to be included in the total income of the individual is a loss, such loss will be taken into account while computing the total income of the individual.

Example: Consider the following cases:

- a) X transfers ₹ 1,00,000 to Mrs. X. By investing ₹ 1,00,000, Mrs. X sets up a business (total investment only ₹ 1,00,000). For the previous year, income from business is (–) ₹ 40,000. The loss of ₹ 40,000 will be included in the income of X.
- b) Minor son of Y has a business. For the previous year 2019-20, loss from business is ₹ 20,000. The loss of ₹ 20,000 will be included in the income of Y or Mrs. Y whosoever has higher income.

IMPORTANT POINTS

- 1) **LOAN Vs TRANSFER:** Giving a loan / Interest free Loan is not a transfer of assets. Therefore, if interest free loan is given by husband to wife/individual to son's wife/individual to his HUF, and the person to whom the loan is given purchases an asset out of the loan, then income from such asset shall not be clubbed in the hands of the person who has given the loan.
- 2) **CONVERSION OF TRANSFERRED PROPERTY:** The clubbing shall continue to apply even if the transferee has converted the transferred assets to some other form. For example, a house property is transferred to son's wife and she sells the house property and buys debentures, then income from debentures shall be clubbed with the income of transferor.
- 3) **CLUBBING OF CAPITAL GAIN INCOME:** If the transferee sells the transferred assets, then capital gains shall also be clubbed with the income of the transferor.
- 4) **INCOME ON INCOME/ACCRETIONS TO THE ASSETS TRANSFERRED:** Income arising out of income earned on transferred assets has not to be clubbed. Therefore, if debentures are transferred to son's wife without consideration and she receives debenture interest which is invested in bank FDR, then debenture interest shall be clubbed with the income of the transferor but interest on shall bank FDRs shall not be clubbed.

Similarly income arising from accretions to assets transferred has not to be clubbed. Therefore, capital gains on bonus shares will not be clubbed with income of transferor where shares have been transferred and the transferee receives bonus shares
- 5) **INADEQUATE TRANSFER:** If property has been transferred to spouse or son's wife directly or indirectly for a consideration which is inadequate, then only the part of income which is related to transfer of inadequate, shall be clubbed.
- 6) The clubbing provisions of section 64(1)(iv) is not applicable if the property is transferred by a Karta of HUF, gifting the **coparcenary property to his wife.**

SUMMARY OF CLUBBING CHAPTER

Section	Important Provisions
60	If any person transfers the income from any asset without transferring the asset itself, such income is to be included in the total income of the transferor.
61	<ol style="list-style-type: none"> All income arising to any person by virtue of a revocable transfer of assets is to be included in the total income of the transferor. The transfer is deemed to be revocable if whole or any part of income or assets is re-transferred to the transferor or transferor gets the right over such income or assets. Exception: If there is a transfer of asset which is not revocable during the life time of the transferee, the income from the transferred asset is not includible in the total income of the transferor
64(1)(ii)	<p><u>Remuneration of spouse from a concern in which another spouse has substantial interest</u></p> <ol style="list-style-type: none"> Any remuneration derived by a spouse from a concern in which the <i>other spouse has a substantial interest</i>, shall be clubbed in the hands of the <i>spouse who has a substantial interest in that concern</i>. No clubbing if remuneration is due to technical or professional qualifications of spouse. If the husband and wife both have substantial interest in the concern and both are in receipt of remuneration from the concern, then the remuneration of <i>both</i> shall be clubbed in the hands of <i>that spouse whose total income, before including such remuneration, is greater</i>. <u>Meaning of substantial interest:</u> Ownership of atleast 20% equity shares / 20% of the profits of such concern at any time during the PY is held by individual along with his relatives. [“Relative” means the spouse, brother or sister or any lineal ascendant or descendant of the individual]
64(1)(iv)	<p>Income from <u>assets transferred to the spouse</u> for without adequate consideration</p> <p>If an individual transfers (otherwise than as a consideration to live apart) directly or indirectly any asset <u>other than house property</u> to his/her spouse, the income from such an asset shall be included in the total income of the transferor.</p>
64(1)(vi)	<p>Income from <u>assets transferred to son's wife</u> for without adequate consideration</p> <p>Where an asset is transferred, directly or indirectly, by an individual to <u>his or her son's wife</u> without adequate consideration, the income from such asset is to be included in the total income of the transferor.</p>
	<p><u>Common points:</u></p> <ol style="list-style-type: none"> The relationship must exist on the date of transfer as well as at the time of accrual of income during the P.Y. Clubbing is not applicable on any income which arises on accretion of the transferred asset. [Say bonus shares allotted after transfer of shares] Where the transferred assets is invested by the transferee in any business by way of capital contribution then, the following proportionate income shall be clubbed with the income of the individual: <div style="text-align: center;"> $\frac{\text{Investment made by transferee out of transferred asset as on the first day of Previous Year}}{\text{Total Investment in the business as on the first day of Previous Year}} \times \text{Total income from such business}$ </div>

64(1)(vii)	Where any asset is transferred by an individual, without adequate consideration, to any person <u>for the benefit of Spouse</u> , then <i>any income arising from such transferred asset</i> , is liable to be taxed in the hands of the transferor, <i>to the extent such income is used for the immediate / deferred benefit of such spouse.</i>	
64(1)(viii)	Where any asset is transferred by an individual, without adequate consideration, to any person <u>for the benefit of Son's wife</u> , then <i>any income arising from such transferred asset</i> , is liable to be taxed in the hands of the transferor, <i>to the extent such income is used for the immediate / deferred benefit of the Son's wife</i>	
64(1A)	Clubbing of income of a minor child	The income of the minor child [including minor married daughter] is liable to be taxed in the hands of that parent, <u>whose Total Income</u> , excluding income of minor child, <u>is Greater.</u>
	<u>Exception: No clubbing shall apply in case of following incomes:</u>	
	<ol style="list-style-type: none"> Where a minor child is suffering from disability of the nature specified in Sec. 80U. Where such income as arises / accrues to the minor child on account of any manual work done by him or activity invoking application or his skill, talent or specialized knowledge and experience. 	
	<ol style="list-style-type: none"> Exemption u/s Section 10(32): Maximum exemption of ₹ 1,500 per annum per child. Marriage of his parents does not subsist : Clubbing to that parent who maintains the minor child If the income by way of manual work or activity involving application or skill, etc. which was not clubbed, <i>in invested, and income is earned thereon</i>, such investment income shall be clubbed. If the minor child becomes major during the P.Y., <u>then the incomes till the date he remained minor</u> in that P.Y. shall be clubbed with the parent. 	
64(2)	<u>Income from self acquired property converted to joint family property for inadequate consideration</u> <ol style="list-style-type: none"> Where an individual, who is a member of the HUF converts, his separate property as the property of the HUF otherwise than for adequate consideration, <u>then the income from such property shall continue to be included in the total income of the individual.</u> Implication in the case of subsequent partition: Where the above converted property has been distributed on partition among members of the family, the income derived from such, converted property as is received by the spouse, after partition, shall be deemed to arise to the spouse <u>from assets transferred indirectly by the individual to the spouse and the income from the portion, received by the spouse, shall be clubbed in the hands of the transferor.</u> 	
65	<u>Liability of transferee:</u> The transferee is always liable to pay that portion of tax levied on the transferor which is attributable to the income so clubbed.	
Other Common Points	<ol style="list-style-type: none"> Loan is not a transfer, so clubbing will not apply on Loan amount (even if it given interest free to spouse, son's wife etc.) The clubbing provisions of section 64(1)(iv) is not applicable if the property is transferred by a Karta of HUF, gifting the coparcenary property to his wife. Income accruing or arising from transferred assets only will be clubbed. <i>Any income earned out of such income [accreted assets] should not be clubbed</i> [Dividend/CG from Bonus Shares allotted to transferee] The clubbing shall continue to apply even if the transferee has converted the transferred assets to some other form. If property has been transferred to spouse or son's wife directly or indirectly for a consideration <u>which is inadequate</u>, then only the <i>part of income which is related to transfer of inadequate</i>, shall be clubbed 	

PRACTICAL QUESTION - CLUBBING

- 1) 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?**
- 2) X holds 20 per cent equity share capital in Y Ltd. Mrs. X is employed by Y Ltd. (salary being ₹ 40,000 per month) as general manager (finance). She does not have any professional qualification to justify remuneration. **Ascertain in whose hands salary income is chargeable to tax. Does it make any difference if Mrs. X was employed by Y Ltd. even prior to her marriage?**
- 3) Shankar has transferred a house property to Uma on 1st April 2012. Uma married Shekar, who is the son of Shankar on 1st April 2019. The income from the property received by Uma during the previous year 2019-20 is ₹ 1,20,000. The assessing officer has clubbed the above income in the hands of Shankar. **Is the action of assessing officer tenable under the law?**
- 4) A proprietary business was started by Smt. Rani in the year 2017. As on 1.4.2018 her capital in business was ₹ 3,00,000. Her husband gifted ₹ 2,00,000 on 10.4.2018, which amount Smt. Rani invested in her business on the same date. Smt. Rani earned profits from her proprietary business for the Financial year 2018-19, ₹ 1,50,000 and Financial year 2019-20 ₹ 3,90,000. **Compute the income, to be clubbed in the hands of Rani's husband for the Assessment year 2020-21 with reasons.**
- 5) Mr. Vaibhav started a proprietary business on 01.04.2018 with a capital of ₹ 5,00,000. He incurred a loss of ₹ 2,00,000 during the year 2018-19. To overcome the financial position, his wife Mrs. Vaishaly, a software Engineer, gave a gift of ₹ 5,00,000 on 01.04.2019, which was immediately invested in the business by Mr. Vaibhav. He earned a profit of ₹ 4,00,000 during the year 2019-20. **Compute the amount to be clubbed in the hands of Mrs. Vaishaly for the Assessment Year 2020-21.**
If Mrs. Vaishaly gave the said amount as loan, what would be the amount to be clubbed?
- 6) X and Y form a partnership firm on April 1, 2019 (profit sharing ratio - 2: 3) by investing ₹ 10 lakhs and ₹ 15 lakhs respectively. The investment has been financed from the following sources—

	X	Y
	₹	₹
Gift from Mrs. X	6,60,000	—
Gift from Mrs. Y	—	8,00,000
Past savings of X and Y	3,40,000	7,00,000

For the year ending March 31, 2020, share of profit from the firm is as follows—

	X	Y
	₹	₹
Interest on capital @ 12 per cent	1,20,000	1,80,000
Salary as working partner	24,000	24,000
Share of profit	1,08,000	1,62,000

Find out the income chargeable to tax in the hands of X and Mrs. X.

- 7) Raja gifts ₹ 2 lakh to his wife on 1-4-2019 which she invests in a firm on interest @ 18% p.a. On 1-1-2020, Mrs. Raja withdraws the money and gifts it to their son's wife. She claims that the interest which has accrued to the daughter – in – law from 1-1-2020 to 31-3-2020 on the investment made by the daughter – in – law is not assessable in her hands but in the hands of Raja. **Is this correct? What would be the position, if Mrs. Raja had gifted the money to their minor son, instead of the daughter – in – law?**

- 8) Divya was born on 7.6.2001. Her engagement took place on 5.3.2019. On the said day she received cash gifts of ₹ 25,000 each from her father, father's mother, father's father, mother, father's brother and father's sister. All six relatives made similar gifts on the day of marriage i.e. on 1.4.2019. The amount so received is deposited in a Private Limited Company in which her husband has substantial interest. For the year ending 31.3.2020, the company has paid her interest @ 14% i.e., ₹ 42,000. **Discuss how this income will be assessed to income tax.**
- 9) A and B are minor sons of X and Mrs. X. Business income of X is ₹ 3,40,000. Income from house property of Mrs. X is ₹ 1,90,000. Income of A and B from stage acting is ₹ 60,000 and ₹ 70,000 respectively. Besides interest on company deposits of A and B (deposit was made out of income from acting) is ₹ 30,000 and ₹ 1,000, respectively. A and B have received following birthday gifts: on May 20, 2019, gift received by B from his grandfather: ₹ 80,000; On September 14, 2019, gift received by A ₹ 60,000 from X's friend and ₹ 35,000 from a relative. **Find out the income of X, Mrs. X, A and B for the AY 2020-21**

10) Balu is the Karta of a HUF, whose members derive income as given below:

- | | |
|--|------------|
| (a) Income from Balu's own business | ₹ 50,000 |
| (b) Mrs. Balu a dermatologist earn salary income (computed) of | ₹ 81,000 |
| (c) Minor Son Deepak (earning interest on Fixed Deposits with ABC Ltd which were gifted to him by his Grandfather) | ₹ 15,000 |
| (d) Minor Daughter Priya gave a dance performance & received remuneration | ₹ 1,00,000 |
| (e) Deepak got winnings from Lottery (Gross) | ₹ 2,00,000 |

Explain how above will be taxed.

11) Mr. Singh is a trader. Particulars of his income and those of the members of his family are given below. These incomes relate to the previous year ended 31st March, 2020.

- | | ₹ |
|---|--------|
| (i) Income from business— Mr. Singh's | 90,000 |
| (ii) Salary income (computed) from an educational institution by Mrs. Singh, she is the Principal of the institution | 50,000 |
| (iii) Interest on company deposits derived by Master Deep Singh (minor son). These deposits were made in the name of Deep Singh by his father's father about 6 years ago. | 12,000 |
| (iv) Receipts from sale of paintings and drawings made by Minor Dipali Singh (minor daughter of Mr. and Mrs. Singh and a noted child artist) | 60,000 |
| (v) Income by way of lottery earnings by Master Dipender Singh (minor – son of Mr. Singh) | 6,000 |

Discuss whether the above will form part of the assessable income of any individual and also compute the assessable income of Mr. Singh.

- 12) Mr. Sharma has four minor children consisting 2 daughters and 2 sons. The annual income of 2 daughters were ₹ 9,000 and ₹ 4,500 and of sons were ₹ 6,200 and ₹ 4,300, respectively. The daughter who has income of ₹ 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.

13) Mr. Dhaval and his wife Mrs. Hetal furnish the following information:

Particulars	₹
(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 2.10.2019 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 AY 2020-21

14) Compute the gross total income of Mr. & Mrs. A from the following information:

Particulars	₹
(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.

15) Mr. A, a widower, has 3 children of 19 yrs, 15 yrs and 5 yrs respectively. The first child derives ₹ 1,00,000 income every year. The income details of Mr. A, his second and third child are as follows:

Particulars	Mr. A ₹	Second Child ₹	Third child ₹
Business income	50,000	—	—
Interest on FD invested out of gifts	—	15,000	—
Bank interest	7,000	8,000	1,000
Salary income (computed) earned on application of skills	48,000	24,000	—
Interest on salary income saved and invested	8,000	2,000	—

Compute GTI in the hands of various persons.

16) Mr. A is an employee of Larsen Limited and has substantial interest in the company. His salary is ₹ 25,000 p.m. Mrs. A also is working in that company at a salary of ₹ 10,000 p.m. without any professional qualification. Mr. A also receives ₹ 30,000 as income from securities, Mrs. A owns a house property which she has let out. Rent received from such house property is ₹ 12,000 p.m. Mr. & Mrs. A have three minor children—two twin daughters and one son. Income of the twin daughters is ₹ 2,000 p.a. and that of his son is ₹ 1,200 p.a. **Compute the income of Mr. A and Mrs. A.**

17) Mr. Dhaval has an income from salary (computed) of ₹ 3,50,000 and his minor children's income are as under:

Particulars	₹
Minor daughter has earned the following income:	
From a TV show	50,000
From interest on FD with a bank (deposited by Mr. Dhaval from his income)	5,000
Minor son has earned the following income:	
From the sale of a own painting	10,000
From interest on FD with a bank (deposited by Mr. Dhaval from his income)	1,000

Compute the gross total income of Mr. Dhaval.

18) Mr. B is the Karta of a HUF, whose members derive income as given below:

Particulars	₹
(a) Income from B's profession	45,000
(b) Mrs. B's salary income (computed) as fashion designer	76,000
(c) Minor son D (interest on fixed deposits with a bank which were gifted to him by his uncle)	10,000
(d) Minor daughter P's earnings from sports	95,000
(e) D's winnings from lottery (gross)	1,95,000

Discuss the tax implications in the hands of Mr. and Mrs. B.

19) The following details are furnished in respect of Mr. X and his family members. Determine the gross total income:

Particulars	Mr. X ₹	Mrs. X ₹	Minor Child ₹
Income as a child artist in films	—	—	60,000
Business Income (Own)	(40,000)		
Salary income from X Ltd. In which Mr. X holds 25% voting power @ ₹ 6,500 p.m.	—	78,000	—
Share of profit from Firm AB & Co.	(40%) 80,000	—	(10%) 20,000
Commission from AB & Co.	—	20,000	—
Interest income	8,000	5,000	4,000

Note:

- Mrs. X possesses B.Com degree and works as accountant of X Ltd.,
- Mrs. X does not render any services to M/s. AB & Co.,
- Interest income received by Mrs. X is from an investment of ₹ 40,000 gifted by Mr. X and ₹ 40,000 invested from her own resource.

20) X (Age: 35 years) gifts ₹ 10 lakh to Mrs. X (age : 31 years). She deposits the same in a bank @ 8 percent per annum. Y is minor child of X and Mrs. X. Y has a bank deposit of ₹ 70,000 (rate of interest 8.25 per cent) which was gifted to him by his grandfather. Other income of X and Mrs. X is as follows – X: ₹ 3,00,000 [salary (computed): ₹ 2,10,000, bank interest: ₹ 90,000], Mrs. X: ₹ 2,00,000 (interest as company deposits). Out of interest income, Mrs. X deposits ₹ 1,000 in Public Provident Fund. Mr. X deposits ₹ 40,000 in Public provident fund. **Find out the income chargeable to tax and tax thereon for the AY 2020-21.**

21) Determine the GTI of R and his wife from the following particulars for the year ending 31.3.2020:

- R and his wife are partners in a firm carrying on garments business, their respective shares of profit being ₹ 35,000 and ₹ 40,000.
- Their 17 year old son has been admitted to the benefits of another firm, from which he received ₹ 25,000 as his share of profit in the firm and ₹ 24,000 as interest on capital. The capital, was invested out of the minor's own funds amounting to ₹ 1,50,000.
- A house property in the name of R was transferred to his wife on 1.12.2019 for adequate consideration. The property has been let at a rent of ₹ 5,000 p.m.
- Debentures of a company of ₹ 2,00,000 and ₹ 1,00,000 purchased two years ago are in the names of R and his wife respectively, on which interest is receivable at 14% p.a. His wife had in the past transferred ₹ 1,00,000 out of her income to R for the purchase of the debentures in R's name.
- R had transferred ₹ 60,000 to his wife in the year 1990 without any consideration which was given as a loan by her to G. She earned ₹ 15,000 as interest during the earlier previous years which was also given on loan to G. During the financial year 2019-20, she received interest at 10% p.a. on ₹ 75,000.
- R transferred ₹ 60,000 to a trust, the income accruing from its investment as interest amounted to ₹ 9,000, out of which ₹ 6,000 shall be utilised for the benefit of his son's wife and ₹ 3,000 for the benefit of his son's minor child.

22) During the previous year 2019-20, the following transactions occurred in respect of Mr. A.

- (a) Mr. A had a fixed deposit of ₹ 5,00,000 in Bank of India. He instructed the bank to credit the interest on the deposit @ 9% from 1-4-2019 to 31-3-2020 to the savings bank account of Mr. B, son of his brother, to help him in his education.
- (b) Mr. A holds 75% share in a partnership firm. Mrs. A received a commission of ₹ 25,000 from the firm for promoting the sales of the firm. Mrs. A possesses no technical or professional qualification.
- (c) Mr. A gifted a flat to Mrs. A on April 1, 2019. During the previous year 2019-20, Mrs. A's "Income from house property" (computed) was ₹ 52,000.
- (d) Mr. A gifted ₹ 2,00,000 to his minor son who invested the same in a business and he derived income of ₹ 20,000 from the investment.
- (e) Mr. A's minor son derived an income of ₹ 20,000 through a business activity involving application of his skill and talent.

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

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

23) Discuss the tax implications of income arising from revocable transfer of assets. When will the clubbing provisions not apply at present, even where there is revocable transfer of assets?**24) Explain the provisions of the Income-tax Act, 1961, with regard to clubbing of income of spouse u/s 64.****25) State True or False, with reasons:**

Mr. Y, who is a physically handicapped minor (suffering from a disability of the nature specified in section 80U), earns bank interest of ₹ 50,000 and ₹ 60,000 from marking bags manually by himself. The total income of Mr. Y shall be computed in his hands separately.

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

State with reasons whether the contention of Mrs. Kasturi is valid in law.

SOLUTION - CLUBBING

Solution 1:

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.

Solution 2: In this case, X has substantial interest in Y Ltd. where Mrs. X is employed. Mrs. X does not have any professional qualification to justify the remuneration of ₹ 40,000 per month. Her salary income of ₹ 4,30,000 (i.e., ₹ 40,000 X 12 – **deduction u/s 16(ia) 50,000**) will be taxable in the hands of X. It does not make any difference even if Mrs. X was employed by Y Ltd. prior to her marriage.

Solution 3:

Income arising out of asset transferred without adequate consideration to son's wife is liable to be clubbed in the hands of the assessee, if the said relationship exists both at the time of transfer of property and at the time of accrual of income. Since, in this case, the said relationship didn't exist between Uma and Shankar at the time of transfer of house property, the income of ₹ 1,20,000 arising to Uma cannot be clubbed with the income of Shankar. Hence, the action of the assessing officer is untenable in law.

Solution 4:

In the assessment year 2019-20, Smt. Rani had earned income of ₹ 1,50,000. There was no clubbing of income in assessment year 2019-20, because there was no investment out of her Husband's funds as on the first day of the previous year i.e. 1-4-2018. So, the profit of ₹ 1,50,000 was fully taxed in the hands of **Smt. Rani** for the assessment year 2019-20.

In case of assessment year 2020-21: The total capital invested as on 1st day of the previous year i.e. 1-4-2019 was ₹ 3,00,000 + ₹ 2,00,000 + ₹ 1,50,000 (profits of 2018-19) i.e. ₹ 6,50,000. Out of this investment ₹ 2,00,000 represents investment of her Husband's funds.

Therefore, the amount liable to be clubbed in the assessment year 2020-21 with the income of her Husband is $[2,00,000 \div 6,50,000] \times 3,90,000 = ₹ 1,20,000$.

Solution 5:

Section 64(1)(iv) 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 (other than house property) transferred directly or indirectly to the spouse of the individual, otherwise than for adequate consideration or in connection with an agreement to live apart.

In this case, Mr. Vaibhav received a gift of ₹ 5,00,000 on 1.4.2019 from his wife Mrs. Vaishaly, which he invested in his business immediately. The income to be clubbed in the hands of Mrs. Vaishaly for the A.Y. 2020-21 is computed as under:

Particulars	Mr. Vaibhav's capital contribution (₹)	Capital contribution out of gift from Mrs. Vaishaly (₹)	Total (₹)
Capital as on 1.4.2019	3,00,000 (5,00,000 - 2,00,000)	5,00,000	8,00,000
Profit for F.Y. 2019-20 to be apportioned on the basis of capital employed on the first day of the previous year i.e. as on 1.4.2019 (3:5)	1,50,000 $\left[4,00,000 \times \frac{3}{8} \right]$	2,50,000 $\left[4,00,000 \times \frac{5}{8} \right]$	4,00,000

Therefore, the income to be clubbed in the hands of Mrs. Vaishaly for the **A.Y. 2020-21** is ₹ 2,50,000.

In case Mrs. Vaishaly gave the said amount of ₹ 5,00,000 as a bona fide loan, then, clubbing provisions would not be attracted.

Solution 6:

Share of profit [exempt under section 10(2A)]
Salary from the firm
Interest on capital [$* ₹ 1,20,000 \times ₹ 6.6 \text{ lakh} / ₹ 10 \text{ lakh}$]

Business income

** 120,000 – 79,200 = 40,800.

<u>X</u>	<u>Mrs. X</u>
₹	₹
Nil	—
24,000	—
40,800**	79,200*
64,800	79,200

Solution 7:

This case is analysed as under -

- 1) In this case, interest from the firm received by Mrs. Raja for the period 1.4.2019 to 31.12.2019 shall be clubbed in the hands of Mr. R under section 64(1)(iv) as the said interest accrues to Mrs. Raja.
- 2) Thereafter, Mrs. Raja has gifted ₹ 2 lakh to their son's wife on 1.1.2020. Now, no income accrues to Mrs. Raja on the money gifted and the income is derived only by the son's wife.
- 3) In this case, it is an indirect transfer of assets by Mr. Raja to their son's wife. This case will clearly fall under section 64(1)(vi) and the income accruing to son's wife will be included in Mr. Raja's total income. Thus, Mrs. Raja's contention is correct.
- 4) However, if Mrs. Raja had gifted the money to minor son, then by virtue of sec. 64(1A), the income accruing to the minor son would have been clubbed with the total income of Mr. Raja or Mrs. Raja whose total income, before such clubbing, had been greater.

Solution 8:

The income will be assessed to tax as follows-

- (1) **Taxability of gifts:** All of the six relatives who have gifted the said sum fall within the meaning of 'relative' as defined u/s 56(2)(x). Therefore, the cash gifts received from them are not taxable.
- (2) **Taxability of interest:** Divya is a minor. Sec. 64(1A) applies even in respect of income earned by minor married daughter. Therefore, the income earned by her i.e. ₹ 42,000 less Exemption of ₹ 1,500 u/s 10(32) shall be liable to be clubbed in the hands of that parent whose income before inclusion of minor's income is higher.

Solution 9:

	X ₹	Mrs. X ₹	A ₹	B ₹
Income from house property	-	1,90,000	-	-
Business income	3,40,000	-	-	-
Income from stage acting	-	-	60,000	70,000
Income from other sources				
Gift received by B on May 20, 2019 from grandfather (gift from a relative is not taxable)	-	-	-	-
Gift received by A on September 14, 2019 from X's friend (to be clubbed in the hands of X after giving exemption of ₹ 1,500)	58,500			
Gift received by A on September 14, 2019 from relatives (gift from a relative is not taxable)	-			
Interest from company deposit received by A (to be clubbed in the hands of X)	30,000			
Interest from company deposit received by B (to be clubbed in the hands of X after giving exemption of ₹ 1,500, amount to be clubbed is ₹ 1,000 - ₹ 1,000)	Nil			
Net income	4,28,500	1,90,000	60,000	70,000

Solution 10:**Notes:**

- 1) U/s 64(1A), Income of a Minor Child shall be clubbed in the hands of the Parent whose total income is greater before such clubbing. Exemption of ₹ 1,500 per child shall be allowed in respect of such income.
- 2) If the minor receives income by exercise of labour, hard work, skill, knowledge or experience, then such income shall not be clubbed. In the given case, the income of the Minor Daughter shall not be clubbed in the hands of her Parents.

Particulars	Mr. Balu	Mrs. Balu
Income from Salaries (computed):	NIL	81,000
Profits and Gains of Business or Profession:	50,000	Nil
Total Income before Clubbing of Minor Son's income	50,000	81,000
Add: Income of Minor Son Deepak (Note 1)		
(a) Interest on Fixed Deposit		15,000
(b) Lottery Winnings		2,00,000
		2,15,000
Less: Exemption u/s 10(32) for minor's income		(1,500)
Total Income		2,94,500

Solution 11:**Assessee: Mr. Singh****Previous Year: 2019-20
Computation of Total Income****Assessment Year: 2020-21**

Particulars	₹	₹
Profits and Gains of Business or Profession		90,000
Add: Income of Minor Children: (Note 1)		
(a) Interest on Company Deposits of Master Deep Singh	12,000	
Less: Exemption u/s 10(32)	(1,500)	10,500
(b) Lottery winnings of Master Dipender Singh	6,000	
Less: Exemption u/s 10(32)	(1,500)	4,500
Total Income		1,05,000

Notes:

- 1) U/s 64(1A), income of a Minor Child shall be clubbed in the hands of the Parent whose total income is greater before such clubbing. Exemption of ₹ 1,500 per child shall be allowed in respect of such income.
- 2) If the Minor receives income by exercise of labour, hard work, skill, knowledge or experience, then such income shall not be clubbed. Hence, Income of Dipali Singh, Minor Daughter of Mr. Singh is not clubbed in his hands.
- 3) Since Mr. Singh does not have substantial interest in the educational institution employing Mrs. Singh, provisions of Sec. 64(1)(ii) is not attracted.

Solution 12:

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. Sharma.

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 ₹ 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. Sharma:

Particulars	₹
(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 (₹ 6,200 + ₹ 4,300)	10,500
Less: Income exempt under section 10(32) (₹ 1,500 + ₹ 1,500)	3,000
Total (B)	7,500
Total Income to be clubbed as per section 64(1A) (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. Sharma, before including the minor children's income, is greater than the income of Mrs. Sharma, 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.

Solution 13:**Computation of Total Income of Mr. Dhaval and Mrs. Hetal for the AY 2020-21**

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

Notes:

- 1) 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, ₹ 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.
- 2) The income derived by the minor from manual work or from any activity involving exercise of his skill, talent or specialized knowledge or experience will not be included in the income of his parent. Hence, in the given case ₹ 86,000 being the income of the minor daughter C shall not be clubbed in the hands of the parents.
- 3) Under section 56(2)(x), cash gifts received from any person/persons exceeding ₹ 50,000 during the year in aggregate is taxable. Since the case gift in this case does not exceed ₹ 50,000 the same is not taxable.
- 4) 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 ₹ 1,500 per child shall be allowed in respect of such income.

Solution 14:

1. 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 ₹ 3,90,000 and income of Mrs. A is ₹ 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 ₹ 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	₹	₹
Income from profession		3,90,000
Income of minor son B from company deposit	15,000	
Less: Exemption under section 10(32)	<u>1,500</u>	13,500
Income of minor daughter C		
From special talent – not to be clubbed	-	
Interest from bank	3,000	
Gift of ₹ 2,500 received from a non-relative is not taxable under section 56(2)(x) being less than the aggregate limit of ₹ 50,000	<u>Nil</u>	
	3,000	
Less : Exemption under section 10(32)	<u>1,500</u>	1,500
Gross Total Income		4,05,000

Solution 15: Computation of Gross Total Income

Particulars		Mr. A ₹	Second Child ₹
1. Salary Income (Computed)		48,000	24,000
2. Income from business		50,000	
3. Income from other sources :			
Bank interest		7,000	
Interest on investment		8,000	
4. Income to be clubbed :			
a) Second child's income :			
Interest on FD	15,000		
Bank interest	8,000		
Interest on investment	<u>2,000</u>		
	25,000		
Less : Exempt u/s.10(32)	<u>(1,500)</u>	23,500	
b) Third child's income : Bank interest	1,000		
Less : Exempt u/s. 10(32)	<u>(1,000)</u>	Nil	
Gross Total income		1,36,500	24,000

Note: Income of minor child is clubbed even if it is earned on investment made out of salary. First child's income is not clubbed as age of majority had been attained.

Solution 16:

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

Particulars	Mr. A (₹)	Mrs. A (₹)
Income from Salaries		
Salary income of Mr. A (₹ 25,000 × 12 – (u/s 16) 50,000)	2,50,000	
Salary income of Mrs. A (₹ 10,000 × 12 – (u/s 16) 50,000) (See Note 1)	70,000	
Income from House Property		
Rent received (₹ 12,000 × 12)	1,44,000	
Less: Deduction under section 24@30%	<u>43,200</u>	1,00,800
Income from other sources		
Income from securities	30,000	
Income before including income of minor children under section 64(1A) (See Note 2)	3,50,000	1,00,800
Income of twin daughters (₹ 2,000 per child × 2)	₹ 4,000	
Less: Exempt u/s 10(32) (₹ 1,500 × 2)	<u>₹ 3,000</u>	1,000
-		-
Income of the minor son	₹ 1,200	
Less: Exempt u/s 10(32)	<u>₹ 1,200</u>	-
Total Income	3,51,000	1,00,800

Notes:

- (1) As per section 64(1), in case the spouse of the individual receives any amount by way of income from any concern in which the individual has substantial interest, 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 her technical or professional knowledge and experience, in which case, the clubbing provisions would not apply.

In this case, the salary of ₹ 10,000 p.m. received by Mrs. A from the company has to be included in the total income of Mr. A, as Mrs. A does not possess any technical or professional qualification for earning such income and Mr. A has substantial interest in the company.

- (2) As per section 64(1A), the income of a 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 ₹ 1,500 per child.

Therefore, the income of minor children shall be included in the income of Mr. A, since Mr. A's income of ₹ 3,50,000 (before including the income of the minor child) is greater than Mrs. A's income of ₹ 1,00,800.

Solution 17:

Computation of Gross Total Income of Mr. Dhaval

Particulars	₹	₹
Income from Salary (computed)		3,50,000
<u>Income from other sources:</u>		
Minor Daughter's income		
Income from T.V. show (See Note below)		Nil
Interest income from FD with a Bank	5,000	
Less : Exempt under section 10(32)	<u>1,500</u>	3,500
Minor son's income		
Income from sale of self made painting (See Note below)		Nil
Interest income from FD with a Bank	1,000	
Less : Exempt under section 10(32)	<u>1,000</u>	Nil
Gross Total Income		3,53,500

Note: 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 ₹ 50,000 being the income of the minor daughter from TV show and ₹ 10,000 being the income of minor son from sale of own painting, shall not be clubbed in the hands of Mr. Dhaval.

Solution 18:**Clubbing of income and other tax implications**

As per the provisions of section 64(1A), in case the marriage of the parents subsist, the income of a minor child shall be clubbed in the hands of the parent whose total income, excluding the income of the minor child to be clubbed, is greater. In this problem, it has been assumed that the marriage of Mr. B and Mrs. B subsists. Further, in case the income arises to the minor child on account of any manual work done by the child or as a result of any activity involving application of skill, talent, specialized knowledge or experience of the child, then, the same shall not be clubbed in the hands of the parent.

Tax implications:

- (i) Income of ₹ 45,000 from Mr. B's profession shall be taxable in the hands of Mr. B under the head "Profits and gains of business or profession".
- (ii) Salary income (computed) of ₹ 76,000 of Mrs. B as a fashion designer shall be taxable as "Salaries" in the hands of Mrs. B.
- (iii) Income from fixed deposit of ₹ 10,000 arising to the minor son D, shall be clubbed in the hands of the mother, Mrs. B as "Income from other sources", since her income is greater than income of Mr. B before including the income of the minor child.
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 ₹ 1,500 per child. The balance income would be clubbed in the hands of the parent as "Income from other sources".
- (iv) Income of ₹ 95,000 arising to the minor daughter P from sports shall not be included in the hands of the parent, since such income has arisen to the minor daughter on account of an activity involving application of her skill.
- (v) Income of ₹ 1,95,000 arising to minor son D from lottery shall be included in the hands of Mrs. B as "Income from other sources", since her income is greater than the income of Mr. B before including the income of minor child.

Note – Mrs. B can reduce the tax deducted at source from such lottery income while computing her net tax liability.

Solution 19: Computation of gross total income

Particulars	Mr. X ₹	Mrs. X ₹	Minor Child ₹
I. Salaries :			
Salary from X Ltd		28,000	
[6,500 p.m less deduction u/s 16 - 50,000]			
II. Profits and gains from business/profession :			
Income / (Loss)	(40,000)	—	60,000
III. Income from other sources :			
Interest income Own (Mr. X)	8,000		
Add : Spouse -Sec. 64(1)	<u>2,500</u>	—	----
Interest income own (Mrs. X)	2,500		
Interest income of minor child	4,000		
Less : Exempt u/s. 10(32)	<u>(1500)</u>	—	—
Commission income of spouse u/s.64(1)	20,000	5,000	
Gross Total Income	(9,500)	33,000	60,000

Note: Share of profit from firm is exempt from tax u/s. 10(2A). It is assumed that the expenditure attributable to exempt income have not been claimed as deduction.

Solution 20:

	X	Mrs. X
Salary (computed)	2,10,000	-
Income from other sources		
- Bank interest of Mrs. X	80,000	-
- Bank interest of Y (8.25% of ₹ 70,000 - ₹ 1,500)	4,275	-
- Bank interest of X	90,000	-
- Interest of company deposit		2,00,000
Gross total income	3,84,275	2,00,000
Less: Deduction under section 80C	<u>40,000</u>	<u>1,000</u>
Net income (rounded off)	3,44,280	1,99,000

Solution 21:

Computation of Gross Total Income of R
(For the assessment year 2020-21)

	₹	₹
1. Income from House Property:		
Rental value for 8 months (i.e., before transfer) (8 x 5,000)	40,000	
Less: Statutory deduction @ 30%	<u>12,000</u>	28,000
2. Profit from Business:		
(i) Share from firm (Exempt)	Nil	
(ii) Minor Son's share in another firm (Exempt)	Nil	
(iii) Interest on minor's capital with firm (₹ 24,000 - Exemption u/s 10(32) ₹ 1,500)	<u>22,500</u>	22,500
3. Income from other Sources:		
(i) Interest @ 14% on ₹ 1,00,000 Debentures (only one-half of ₹ 2,00,000 were bought by own funds)	14,000	
(ii) Interest received by his wife @ 10% on ₹ 60,000 (being transferred without any consideration)	6,000	
(iii) Interest on ₹ 6,000 from his trust (Interest income utilised for the benefit of son's wife)		
Gross Total Income		<u>76,500</u>

Computation of Gross Total Income of Mrs. R
(For the assessment year 2020-21)

	₹	₹
Income from House Property :		
Rental value for 4 months (i.e., after transfer) (₹ 5,000 x 4)	20,000	
Less : Statutory deduction @ 30%	<u>6,000</u>	14,000
Income from business :		
Share from firm (Exempt)	Nil	
Income from Other Sources :		
(i) Interest on ₹ 1,00,000 14% Debentures	14,000	
(ii) interest on ₹ 1,00,000 14% Debentures in husband's name but funds invested by her	14,000	
(iii) Interest on ₹ 15,000 @10%	<u>1,500</u>	29,500
(This interest is on accrued income of ₹ 60,000, which have been transferred to her by the husband and interest on such accrued income is treated as the income of the transferee, although the income on the transferred amounts is treated as the income of the transferor as it was transferred without any consideration.)		
Gross Total Income		<u>43,500</u>

Solution 22:

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

Particulars	Mr. A (₹)	Mrs. A (₹)	Minor Son (₹)
Salary income (of Mrs. A) [2,40,000 - 40,000]		2,00,000	-
Pension income (of Mr. A) (₹ 10,000×12 - 40,000)			-
Income from House Property [See Note (3) below]		-	-
Income from other sources		-	-
Interest on Mr. A's fixed deposit with Bank of India (₹ 5,00,000 × 9%) [See Note (1) below]	45,000	-	
Commission received by Mrs. A from a partnership firm, in which Mr. A has substantial interest [See Note (2) below]	<u>25,000</u>		
Income before including income of minor son under section 64(1A)		2,02,000	
Income of the minor son from the investment made in the business out of the amount gifted by Mr. A [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		2,20,500	20,000

Notes:

- (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 ₹ 45,000 transferred by Mr. A to Mr. B shall be included in the total income of Mr. A.

- (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 her technical or professional knowledge and experience, in which case, the clubbing provisions would not apply.

In this case, the commission income of ₹ 25,000 received by Mrs. A from the partnership firm has to be included in the total income of Mr. A, as Mrs. A does not possess any technical or professional qualification for earning such commission and Mr. A 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. A shall be deemed to be the owner of the flat gifted to Mrs. A and hence, the income arising from the same shall be computed in the hands of Mr. A.

Note: The provisions of section 56(2)(x) would not be attracted in the hands of Mrs. A, 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 ₹ 1,500 per child.

Therefore, the income of ₹ 20,000 received by minor son from the investment made out of the sum gifted by Mr. A shall, after providing for exemption of ₹ 1,500 under section 10(32), be included in the income of Mr. A, since Mr. A's income of ₹ 2,02,000 (before including the income of the minor child) is greater than Mrs. A's income of ₹ 2,00,000. Therefore, ₹ 18,500 (i.e., ₹ 20,000 – ₹ 1,500) shall be included in Mr. A's income. It is assumed that this is the first year in which clubbing provisions are attracted.

Note – The provisions of section 56(2)(x) would not be attracted in the hands of the minor son, since he has received a sum of money exceeding ₹ 50,000 without consideration from a relative i.e., his father.

- (5) In case the income earned by the minor child is on account of any activity involving application of any skill or talent, then, such income of the minor child shall not be included in the income of the parent, but shall be taxable in the hands of the minor child.

Therefore, the income of ₹ 20,000 derived by Mr. A's minor son through a business activity involving application of his skill and talent shall not be clubbed in the hands of the parent. Such income shall be taxable in the hands of the minor son.

Solution 23:**Income arising from revocable transfer of assets [Sections 61 & 63]**

- (i) All income arising to any person by virtue of a revocable transfer of assets is to be included in the total income of the transferor.
- (ii) A transfer is deemed to be revocable if:
- (a) it contains any provision for the re-transfer, directly or indirectly, of the whole or any part of the income or assets to the transferor, or
 - (b) it gives, in any way, the transferor, a right to re-assume power, directly or indirectly, over the whole or any part of the income or the assets.

Transfer not revocable during the life time of the beneficiary or the transferee [Section 62] If there is a transfer of asset which is not revocable during the life time of the beneficiary or transferee, the income from the transferred asset is not includible in the total income of the transferor provided the transferor derives no direct or indirect benefit from such income. If the transferor receives direct or indirect benefit from such income, such income is to be included in his total income even though the transfer may not be revocable during the life time of the beneficiary or transferee.

Solution 24:

As per section 64(1)(ii), any income arising directly or indirectly to the spouse of an individual by way of salary, commission, fees or any other form of remuneration, whether in cash or in kind, from a concern in which such individual has a substantial interest, would be clubbed. However, such rule does not apply where the spouse possesses technical or professional qualification and the income of the spouse is solely attributable to the application of his or her technical or professional knowledge and experience.

Where both husband and wife have substantial interest in a concern and both are in receipt of salary etc. from the said concern, such income will be clubbed with the income of the spouse whose total income, excluding such income, is greater.

An individual shall be deemed to have substantial interest in a concern under the following circumstances :

- (a) If the concern is a company, equity shares carrying not less than 20% of the voting power are, at any time during the previous year, owned beneficially by such person or partly by such person and partly by one or more of his relatives.
- (b) In any other case, if such person is entitled, or such person and one or more of his relatives are entitled in the aggregate, at any time during the previous year, to not less than 20% of the profits of such concern.

As per section 64(1)(iv), where there is a transfer of an asset other than house property, directly or indirectly from one spouse to another, otherwise than for adequate consideration or in connection with an agreement to live apart, any income that arises either directly or indirectly to the transferee from the transfer of the asset shall be included in the total income of the transferor.

However, any income from the accretion of transferred asset is not liable to be clubbed. It may be noted that natural love and affection will not constitute adequate consideration for the purpose of section 64(1).

Solution 25:

True. The clubbing provisions of section 64(1A) are not applicable in a case where the minor child is suffering from any disability of the nature specified in section 80U. The income of such minor child will not be clubbed in the hands of either of the parents. Consequently, the total income of Mr. Y will be assessed in his hands.

Solution 26:

The clubbing provisions under section 64(1)(viii) are attracted in case of transfer of any asset, directly or indirectly, otherwise than for adequate consideration, to any person to the extent to which the income from such asset is for the immediate or deferred benefit of son's wife. Such income shall be included in computing the total income of the transferor-individual.

Therefore, income of ₹ 36,000 meant for the benefit of daughter-in-law is chargeable to tax in the hands of transferor i.e., Mrs. Kasturi in this case. The contention of Mrs. Kasturi is, hence, not valid in law.

Note - In order to attract the clubbing provisions under section 64(1)(viii), the transfer should be otherwise than for adequate consideration. In this case, it is presumed that the transfer is otherwise than for adequate consideration and therefore, the clubbing provisions are attracted.

If it is presumed that the transfer was for adequate consideration, the provisions of section 64(1)(viii) would not be attracted.

SET OFF & CARRY FORWARD OF LOSSES

[Sections 70 to 80]

Section	Particulars
70	Inter Source - Set off of loss from one source against income from another source under the same head of income
71	Inter Head - Set off of loss from one head against income from another Head
71B	Carry forward and set off of loss from house property
72	Carry forward and set off of Business Losses [Non-Speculative]
73	Losses in Speculation Business
73A	Carry forward and set off of Losses by Specified Business [u/s 35AD]
74	Losses under the head "Capital gains"
74A	Losses from certain specified sources falling under the head "income from other sources" [Owning & Maintaining Race Horses]
78	Carry forward and set off of losses in case of change in constitution of firm or on succession
79	Carry forward and set off of losses in the case of certain companies [Closely Held Companies]
80	Submission of Return for Losses [Read with Section 139(3)]

"Set-off" means adjustment of losses against the profits from another source/head of income in the same assessment year. If losses cannot be set-off in the same year due to inadequacy of eligible profits, then such losses are carried forward to the next assessment year for adjustment against the eligible profits of that year subject to the provisions of the Act.

INTER SOURCE ADJUSTMENT / SET OFF [INTRA HEAD or WITHIN HEAD] [SECTION 70]

The **LOSS** in respect of any source of income under any head of income shall be set off against **INCOME** from any other source under the same head.

However, **Long term Capital Loss** can only be set off against Long term Capital Gains. **Short-term capital loss** is allowed to be set off against both short-term capital gain and long-term capital gain

Inter-source set-off, however, is not permissible in the following cases [Due to restrictions provided in other part of the Act]

- I. **Loss from a source, the income from which is exempt**, cannot be set off against any income.
- II. **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.
- III. **Loss from lottery, card games etc.** cannot be set off against any income.
- IV. **Loss from activity of owning and maintaining race-horses** can be set off only against income from owning and maintaining race- horses.
- V. **Speculation business loss** can be set off only against speculation business income. However, losses from other business can be adjusted against profits from speculation business.
- VI. **Loss from a Specified Business [Referred to in Section 35AD]** shall be set off only against profits and gains, if any, of any other specified business.

INTER HEAD ADJUSTMENT [SECTION 71]

Loss under one head of income can be adjusted or set off against income under another head. However,

- i) Loss under the head “PGBP” cannot be set off against income under the head “Salaries”.
- ii) Loss under the head ‘Capital Gains’ cannot be set-off against income under any other head.

New: Added by FA 2017

Loss under the head House Property will be setoff with other head's income to the extent of Only ₹ 200,000. Excess shall be allowed to carry forward under Section 71B.

Following points should be considered due to restrictions in other relevant Sections:

- i) **Speculation loss and Loss from the activity of owning and maintaining race horses** cannot be set off against income under any other head.
- ii) **Loss from a Specified Business [Referred to in Section 35AD]** cannot be set off against any other income.
- iii) **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.

Other Points:

1. Before adjusting the loss under section 71, one has to set off the loss under section 70.
2. No option is available to set off a loss or not to set off a loss
3. No order of priority is given to set off.
4. Carry forward of Loss under the head “Income from Other Sources” is not permissible in the Act:

Carry forward of Loss under the head “Income from Other Sources” is not permissible in the Act:

Example:

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

As the loss under the head "Income from other sources" cannot be carry forward to the next year, one should first set it off against other income.]

Question 1: Mr. A submits the following particulars pertaining to the AY 2020-21

Particulars	₹
Income from salary (computed)	4,00,000
Loss from self-occupied property	(-)70,000
Business loss	(-)1,00,000
Bank interest received	80,000
Compute the taxable income of Mr. A for the AY 2020-21	

Question 2: From the following information submitted to you, **compute the total income of Arun for the AY 2020-21 and calculate his tax liability** assuming he is not allowed any deduction under sections 80C to 80U.

	₹
Income from house property	60,000
Income from salary (computed)	1, 40,000
Business loss	(-) 1, 60,000
Short-term capital loss	(-) 40,000
Long-term capital loss	(-) 1, 60,000

Question 3: Mr. E has furnished his details for the AY **2020-21** as under:

Particulars	₹
Income from salaries (computed)	1,50,000
Income from speculation business	60,000
Loss from non-speculation business	(40,000)
Short term capital gain	80,000
Long term capital loss of A.Y. 2018-19	(30,000)
Winning from lotteries	20,000
What is the taxable income of Mr. E for the AY 2020-21?	

Class Notes

**MANDATORY FILLING OF RETURN [ITR] TO CARRY FORWARD
LOSSES: [Section 80]**

As per section 80, the assessee **must have filed a RETURN OF LOSS under section 139(3)** in order to carry forward and set off a loss. **Such a return should be filed within the time allowed under section 139(1).**
[31st July/30th September/30th November]

Following losses cannot be carried forward if Return of Loss is not filled within due date:

1. Loss from Non-Speculative Business **under Section 72**
2. Loss from Speculative Business **under Section 73**
3. Loss from the Specified Business (as referred in Sec 35AD) **under Sec 73A (Added by FA 16)**
4. Capital Loss **under Section 74**
5. Loss from the activity of owning and maintaining race horses **under Section 74A.**

However, **this condition does not apply** to carry forward of following losses: [means these losses can be c/f even if no ROI has been filled on time]:

1. Loss from House Property carried forward under section 71B
2. Unabsorbed Depreciation
3. Capital Expenditure on Scientific Research
4. Capital Expenditure on Family Planning

Note:

1. **Non-Filling of Return of Loss will not affect the Inter Source Adjustment u/s 70 or Inter-head Adjustment u/s 71 or adjustment of brought forward losses of previous year with current year Income.**
2. Also, Loss of the earlier year can be carried forward to next year(s) ***if the return of loss of that year(s) was submitted within due date.***

**SET -OFF AND CARRY FORWARD OF LOSS FROM HOUSE PROPERTY
[SECTION 71B]**

A Loss under the head house property, to the extent not set off u/s 70 & 71, shall be carried forward to the next 8 AYs to be set-off **against income under the head 'Income from house property'.**

[**Note:** In any assessment year, if there is a loss under the head 'Income from house property' after Inter source adjustment under section 70, such loss will first be set-off against income from any other head during the same year as per Section 71]

NOTE:

1. Loss under this head can be carried forward even if ROI is filed after the due date of filing ROI u/s 139(1).
2. There is no condition that assessee should own the house for which the loss is to be carried forwarded.
3. Once a particular loss is carried forward, **it can be set off only against the income from the same head** in the forthcoming assessment years.

CARRY FORWARD AND SET-OFF OF BUSINESS LOSSES [SECTION 72]

1. **Business loss** to the extent not set-off under section 70 & 71 shall be carried forward to the next assessment year and set-off against the income under head PGBP of the next assessment year(s) up to maximum for **EIGHT ASSESSMENT YEARS** [8 A.Y.'s] immediately succeeding the assessment year in which loss was first computed.
2. **The term Business Loss will not include:**
 - a) Unabsorbed Depreciation
 - b) Capital Expenditure on Scientific Research
 - c) Capital Expenditure on Family Planning
 - d) Speculative Business Loss
 - e) Loss from Specified Business u/s 35AD
3. Business may or may not be continued for which the carry forward and set off is desired.
4. **Loss from normal business can be set off from the speculation incomes or income from specified business u/s 35AD in subsequent AYs but opposite is not permissible.**
5. Loss of business shall be allowed to be carry forward only if ITR has been filed as per the time period mentioned in section 139(1).
6. Loss of business can be carry forward and **set off against income from professions** being carried on by the assessee.

CARRY FORWARD AND SET-OFF OF SPECULATION BUSINESS LOSSES [Section 73]

SPECULATIVE TRANSACTIONS 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.**

SPECULATION BUSINESS - Where the speculative transactions carried on by assessee are of such a nature as to constitute a business, the business shall be deemed to be distinct and separate from any other business.

Note: If the assessee is maintaining same books of account for speculative and non- speculative transactions, then the speculative transactions shall be segregated and treated as a separate business.

Deemed Speculative Business:

Where any part of the **business of a company** consists of **sale and purchase of shares**, such company for the purposes of section 73, be deemed to be carrying on a speculation business to the extent to which the business consists of sale and purchase of shares.

This shall not apply to the following companies:

- a) **Investment Company** i.e., the company whose total income mainly consists of income from house property, capital gains and income from other sources.
- b) Company whose **principal business is Business of Trading in Shares OR Banking or Granting loans and advances.**

THE FOLLOWING SHALL NOT BE DEEMED TO SPECULATIVE TRANSACTIONS:

- a) **a contact in respect of raw materials** entered in the normal course of business to guard against loss due to future price fluctuations or
- b) An **eligible transaction in respect of Trading in Derivatives** carried out in a recognized stock exchange.

An eligible transaction in respect of **Trading in Commodity Derivatives**, carried out in a recognized association, which is chargeable to **Commodities Transaction Tax**.

Provided in respect of trading in agricultural commodity derivatives, the requirement of chargeability of commodity transaction tax shall not apply (Added by Finance Act 2018).

IMPORTANT POINTS

1. The loss of a speculation business shall be set off only against the profits and gains of another speculation business.
2. The loss to the extent not set –off shall be carried forward to the next assessment year and set-off against the profits from speculation business of the next assessment year.
3. The loss from speculation business can be carried forward for **FOUR ASSESSMENT YEARS**.
4. Loss in a speculative transaction entered into on behalf of principle, is non-speculative loss of agent.

SET OFF AND CARRY FORWARD OF UNABSORBED DEPRECIATION

Set off and carry forward of unabsorbed depreciation shall be governed by Sec. 32(2) and not by Sec. 72

Meaning: Depreciation, which could not be fully absorbed in any previous year, owing to –

- There being no profits or gains chargeable for that previous year; or
- The profits or gains chargeable being less than the amount of depreciation.

Tax treatment:

Allowances or the part of the allowances of depreciation which remains unabsorbed shall be (Subject to Sec. 72 and Sec. 73) added to the amount of the depreciation for the following previous year and deemed to be the depreciation allowances for that previous year, and so on for the succeeding previous years.

Tax point:

Unabsorbed depreciation shall be allowed to be carried forward for any number of years and such carried forward unabsorbed depreciation **may be set off against any income, other than –**

- **Income under the head “Salaries”**
- **Winning from lotteries, cross word puzzles, etc.**

Note:

1. **Continuation of business is not important:** Unabsorbed depreciation can be carried forward even if the business, in respect of which the loss was originally computed, is not carried on during the previous year.
2. **Filing of return within due date is not mandatory:** Unabsorbed depreciation can be carried forward even if the return of income has not been filed within time.

ORDER OF SET-OFF OF LOSSES

As per the provisions of section 72(2), brought forward business loss is to be set-off before setting off unabsorbed depreciation. Therefore, the order in which set-off will be effected is as follows –

- a) Current year depreciation / Current year capital expenditure on scientific research and current year expenditure on family planning, to the extent allowed.
- b) Inter Source & Inter Head Adjustments [Section 70 & Section 71]
- c) Brought forward loss from business/profession [Section 72(1)]
- d) Unabsorbed depreciation [Section 32(2)]
- e) Unabsorbed capital expenditure on scientific research [Section 35(4)].
- f) Unabsorbed Capital expenditure on family planning [Section 36(1)(ix)]

CARRY FORWARD & SET OFF OF LOSSES BY SPECIFIED BUSINESS
[SECTION 73A]

- i) Any loss computed in respect of the **eligible specified business** referred to in Section 35AD shall be set off only against profits and gains, if any, of any other specified business ***whether eligible or not***.
- ii) **No Inter Head Set off:** The unabsorbed loss, if any, will be carried forward for set off against profits and gains of any specified business in the following assessment year and so on.
- iii) **No Time Limit:** There is **no time limit** specified for carry forward and set-off and therefore, such loss can be carried forward indefinitely for set-off against income from specified business.

Specified Business u/s 35AD are:

- (i) *Setting up and operating a cold chain facility*
- (ii) *Setting up and operating a warehousing facility for storage of agriculture produce;*
- (iii) *Laying and operating a cross-country natural gas or crude or petroleum oil pipeline network for distribution, including storage facilities being an integral part of such network*
- (iv) *Building and operating, anywhere in India, a hotel of two-star or above category;*
- (v) *Building and operating, anywhere in India, a hospital with atleast 100 beds for patients;*
- (vi) *Developing and building a housing project under a scheme for slum redevelopment or rehabilitation;*
- (vii) *Developing and building a housing project under a scheme for affordable housing **[AY 12-13]***
- (viii) *Production of fertilizer in India **[AY 12-13]***
- (ix) *Setting up and operating an inland container depot or a container freight station notified or approved under the Customs Act, 1962 **[AY 13-14]***
- (x) *Bee-keeping and production of honey and beeswax; **[AY 13-14]***
- (xi) *Setting up and operating a warehousing facility for storage of sugar. **[AY 13-14]***
- (xii) **Laying & Operating a slurry pipeline for the transportation of iron ore **[AY 15-16]****
- (xiii) **Setting up and operating a semiconductor wafer fabrication manufacturing unit, if notified **[AY 15-16]****
- (xiv) **Developing or operating and maintaining or developing, operating and maintaining, any infrastructure facility **(AY 18-19)****

LOSSES UNDER THE HEAD 'CAPITAL GAINS' [SECTION 74]

The loss under the head Capital Gain shall be carried forward to the following assessment year to be set off in the following manner:

1. Net loss under the head capital gains **cannot be set off against income under any other head during the previous year.**
2. Where the loss so carried forward is a STCL, it shall be set off against **any capital gains**, short term or long term, **arising in that year.**
3. Where the loss so carried forward is a LTCL, it shall be set off only against long term capital gain **arising in that year.**
4. Any unabsorbed loss shall be carried forward to the following assessment year up to a **maximum of 8 assessment years** immediately succeeding the assessment year for which the loss was first computed.
5. Here also, it is necessary that a return of loss is furnished before the due date.

Question 4: Compute the Gross total income of Mr. F for the AY 2020-21 from the information given below:

<u>Particulars</u>	₹
Net income from house property	1,25,000
Income from business (before providing for depreciation)	1,35,000
Short term capital gains on sale of shares	56,000
Long term capital loss from sale of property (brought forward from AY 2019-20)	(90,000)
Income from tea business	1,20,000
Dividends from Indian companies carrying on agricultural operations	80,000
Current year depreciation	26,000
Brought forward business loss (loss incurred six years ago)	(45,000)

Solution

The gross total income of Mr. F for the AY 2020-21 is calculated as under:

<u>Particulars</u>	₹	₹
Income from house property		1,25,000
Income from business		
Profits before depreciation	1,35,000	
Less: current year depreciation	26,000	
Less: brought forward business loss	45,000	
	64,000	
Income from tea business (40% is business income)	48,000	1,12,000
Income from the capital gains		
Short term capital gains	56,000	
Long term capital loss from property (cannot be set off)	Nil	56,000
Gross Total Income		2,93,000

Note: Dividend from Indian companies is exempt from tax. 60% of the income from tea business is treated as agricultural income and therefore, exempt from tax.

Question 5: During the PY 2019-20, Mr. C has the following income and the brought forward losses:

<u>Particulars</u>	₹
Short term capital gains on sale of shares	1,50,000
Long term capital loss of AY 2018-19	(96,000)
Short term capital loss of AY 2019-20	(37,000)
Long term capital gain	75,000
What is the capital gain taxable in the hands of Mr. C for the AY 2020-21?	

Question 6: Mr. B, a resident individual, furnishes the following particulars for the PY 2019-20:

Particulars	₹
Income from salary (computed)	45,000
Income from house property	(24,000)
Income from business – non-speculative	(22,000)
Income from speculative business	(4,000)
Short-term capital gains	(25,000)
Long-term capital gains	19,000

What is the total income chargeable to tax for the AY 2020-21?

Class Notes

LOSSES FROM THE ACTIVITY OF OWNING AND MAINTAINING RACE HORSES [SECTION 74A]

1. The losses incurred by an assessee from the activity of owning and maintaining race horses **can only be set-off against the income from** the activity of owning and maintaining race horses.
2. Such loss can be carried forward for a **maximum period of 4 assessment years** immediately succeeding the assessment year for which the loss was first computed for being set-off against the income from the activity of owning and maintaining race horses.
3. The carry forward and set-off is permissible only if the activity of owning & maintaining race-horses is carried on by Assessee in the previous year relevant to the assessment year in which such loss is carried forward and set-off.
4. **Filing of returns before the due date prescribed u/s 139(1) is necessary to carry forward the loss.**

Question 7: Mr. D has the following income for the PY 2019-20:

Particulars	₹
Income from the activity of owning and maintaining the race horses	75,000
Income from textile business	85,000
Brought forward textile business loss	50,000
Brought forward loss from the activity of owning and maintaining the race horses (relating to AY 2017-18)	96,000

What is the taxable income in the hands of Mr. D for the AY 2020-21?

Solution

The taxable income is calculated as under:

Particulars	₹	₹
Income from the activity of owning and maintaining race horses	75,000	
Less: Brought forward loss from the activity of owning and maintaining race horses	<u>96,000</u>	
Loss from the activity of owning and maintaining race horses to be carried forward to AY 2020-21	(21,000)	
Income from textile business	85,000	
Less: Brought forward business loss from textile business.	<u>50,000</u>	<u>35,000</u>
Taxable business income		35,000

Note: Loss from the activity of owning and maintaining race horses cannot be set-off against any other source/head of income.

SUMMARY

Nature of income		Set – Off			Carry Forward	Set – Off
		Same Source under same head	Inter – Source under same head	Inter – Head	For Assessment Year	From
Salary		N.A				
House property		✓	✓	✓ (max 2 lakhs)	8 Years	Same Head
PGBP	Non – Speculation	✓	✓	✓ Except from Salary	8 Years	Same Head
	Speculation	✓	×	×	4 Years	Same Source
	Specified Business u/s 35AD	✓	×	×	Indefinite	Same Source
	Unabsorbed Depreciation Cap Exp on Sci. Research Cap Exp on F. Plan by Co	✓	✓	✓ Except from Salary	Indefinite	Any Income Except from Salary
CGs	Short Term	✓	✓	×	8 Years	LTCG/STCG
	Long Term	✓	×	×	8 Years	Only LTCG
IOS	Owing & Maintenance race horses	✓	×	×	4 Years	Same Source
	Winning from Lottery etc.	×	×	×	Carry forward of loss under the head IOS is not permissible.	
	Interest etc.	✓	✓	✓		

NOTE:

- i) **Speculation business loss** can be set off only against speculation business income. However, losses from other business can be adjusted against profits from speculation business.
- ii) **Loss from the activity of trading in derivatives, however, is not to be treated as speculative loss.**
- iii) **Loss under the head “PGBP”** cannot be set off against income under the head “Salaries”.
- iv) **Long term Capital Loss** can be set off against Long term Capital Gains. Thus, short-term capital loss is allowed to be set off against both short-term capital gain and long-term capital gain.
- v) **Loss under the head ‘Capital Gains’** cannot be set-off against income under any other head.
- vi) **Loss from activity of owning and maintaining race-horses** can be set off only against income from owning and maintaining race- horses.
- vii) **Loss from a Specified Business [Referred to in Section 35AD]** can be set off against profits and gains, if any, of any other specified business **whether eligible or not. [14 Business]**
- viii) **Loss from a source, the income from which is exempt**, cannot be set off against any income.
- ix) **Loss from lottery, card games etc.** cannot be set off against any income.
- x) **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.
- xi) **In case the assessee is lower income group, It’s prefer to set off losses with LTCG u/s 112 first as the same is taxed @ 20% and also deductions under chapter VIA against such loss is not available.**

A. Where the losses incurred are not set – off against the income of the immediately succeeding year, such losses cannot be set – off at a later date. However, the benefit to be denied is limited to the loss which could be set – off and not the entire loss which is being carried forward.

B. Order of Set-off:

Section 70 [Inter Source]; Section 71[Inter Head]; Adjustment of B/f Losses and then finally Carry forward of losses

C. Section 80:

Following losses cannot be carried forward if Return of Loss is not filled within Due Date u/s 139(1):

1. Loss from Non-Speculative Business under Section 72
2. Loss from Speculative Business under Section 73
3. Loss from Specified Business under Section 73A
4. Capital Loss under Section 74
5. Loss from the activity of owning and maintaining race horses under Section 74A.

[Note: Non-Filling of Return of Loss will not affect the Inter Source Adjustment u/s 70 or Inter-head Adjustment u/s 71 or adjustment of brought forward losses of previous year with current year Income]

Problems on set off and carry forward of losses

- 1) X, an individual, submits the following information relevant for the AY 2020-21

	Profit - ₹	Loss - ₹
Salary income	1,42,000	
Income from house property:		
House A	1,15,000	
House B		1,17,000
House C		1,21,000
Profits and gains of business or profession :		
Business A	1,08,000	
Business B		1,18,000
Business C (speculative)	1,11,000	
Business D (speculative)		1,23,000
Capital gains :		
Short – term capital gains	1,06,000	
Short – term capital loss		1,28,000
Long – term capital gains on sale of building	12,500	
Income from other sources :		
Income from card games	1,08,000	
Loss from card games		1,07,010
Loss on maintenance of race horses		1,06,000
Interest on securities	1,04,000	—

Determine the net income of X for the AY 200-21

- 2) **Imp:** Rajesh submits the following information for previous year 2019-20 relevant to the AY 2020-21:

	₹
1. Profit from Business X situated in Bangalore	2,80,000
2. Profit from Business Y situated in Hyderabad	1,25,000
3. Loss from Business Z carried in Germany (the business is controlled from India but profits are not received in India)	85,000
4. Unabsorbed depreciation of business Z	45,000
5. Income from house property situated in India	30,000
6. Income from house property situated in London (rent received in London)	50,000

Find out the Gross Total Income of Rajesh for the AY 2020-21 if he is (a) ROR in India (b) Not ordinarily resident in India and (c) Non – resident in India. [After Residential Status]

- 3) **Imp:** Compute GTI of Mr. X in following cases –

Source of income	Case – I	Case – II
Income from house property (A)	40000	50000
Income from house property (B)	(20000)	(35000)
Speculation income	80000	(60000)
Business income	(30000)	50000
Income from activity of owning and maintaining race – horses business (A)	(60000)	20000
Income from activity of owning and maintaining race – horses business (B)	30000	(16000)
Income from agricultural business	(35000)	20000
Short term capital gain (transaction A)	40000	(30000)
Short term capital gain (transaction B)	(20000)	15000
Long term capital gain (transaction A)	(40000)	47000
Long term capital gain (transaction B)	20000	(4000)
Income from lottery	40000	—
Income from horse races	10000	25000
Income on card games	(15000)	(30000)
Interest on securities	20000	10000

4) Compute GTI of Mr. J from following data –

Source of income	Amount ₹
Income under the head 'Salaries'	70000
Income from house property (A)	60000
Income from house property (B)	(70000)
Speculation income	20000
Business income	(130000)
Income from activity of owning and maintaining race – horses	(150000)
Income from agricultural business	(125000)
Short term capital gain	30000
Long term capital gain	(100000)
Income from lottery	10000
Income from horse races	170000
Dividend income from non – domestic company (shares purchased out of borrowed money)	(90000)
Interest on securities	20000

5) Mr. B has furnished you the following data –

	₹
Income from house property	(–) 130000
Salaries (computed)	80000
Income from other sources	(–) 90000
Income from lotteries	350000

Mr. B is seeking your advice relating to set off and carry – forward.

6) Mr. S has furnished following details to compute his gross total income: (After Clubbing)

Income from house property	(-) 20000
Profits and gains of business or profession	15000
Taxable income of minor son from investment	175000

7) Mr. X submits the following particulars pertaining to the A.Y. 2020-21:

Particulars	₹
Income from salary (computed)	5,00,000
Loss from self – occupied property	(–) 70,000
Business loss	(–) 1,00,000
Bank interest (FD) received (gross)	90,000

Compute the taxable income of Mr. X for the A.Y. 2020-21.

8) Mr. X furnishes the following particulars for the P.Y. 2019-20:

Particulars	₹
Income from salary (computed))	55,000
Income from house property	(34,000)
Income from business – non – speculative	(22,000)
Income from speculative business	(4,000)
Short – term capital gains	(35,000)
Long – term capital gains	29,000

What is the total income chargeable to tax for the A.Y. 2020-21?

9) **Imp:** Mrs. Amutha submits the following information for the year ending 31.3.2020:

Particulars	₹
Income from salaries (computed))	60,000
Income from house property	
House 1	16,000
House 2	(–)20,000
House 3 (self – occupied property]	(–)12,000
Profits and gains of business/profession	
Business A	(–)25,000
Business B (Speculative)	35,000
Capital gains	
Short term capital loss	(–)18,000
Long term capital gain	10,000
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

Determine the gross total income for the AY 2020-21.

10) **R, a resident individual – submits the following information relevant for the previous year ending on 31.3.2020:**

	₹
(a) Income from salary (computed)	+ 72,000
(b) Interest on securities	+ 12,000
(c) Income from House Property	
House No. 1	+ 22,000
House No. 2	– 60,000
House No. 3	– 10,000
(d) Profit and Gains from Business :	
Business No. 1	+ 26,000
Business No. 2	– 22,000
Business No. 3 (speculative)	– 74,000
Business No. 4 (speculative)	+ 46,000
(e) Capital gains :	
Short – term capital gain (computed)	– 70,000
Long – term capital gain (computed)	+ 64,000
(f) Income from card games and betting (gross)	+ 70,000
Loss from maintenance of horse races	– 56,000
Income from owning & maintaining horse races	+ 30,000

Determine the total income of R for the AY 2020-21.

11) **Imp:** X, a resident individual submits the following information for the AY 2020-21:

	₹
BUSINESS A	
Loss of the previous year 2019-20	(–) 1,20,000
Brought forward loss of the previous year 2018 – 19	(–) 1,45,000
BUSINESS B	
Profit of previous year 2019-20	1,35,000
BUSINESS C (previous year ends on March 31, business discontinued on April 10, 2019)	
Profits of the period April 1, 2019 to April 10, 2019	Nil
Brought forward loss of previous year 2018-19	(–) 1,16,000
BUSINESS D (PY ends on March 31, business discontinued on Mar 31, 2019)	
Brought forward loss of previous year 2017-18	(–) 1,04,000
OTHER INCOME	
Interest on debentures held as stock – in – trade	1,48,000

Interest on bonds held as investments	1,60,000
Long – term capital loss on sale of shares (STT not paid)	(–) 1,46,400
Income from house property	1,17,000
Dividend [deemed dividend under section 2(22)(e)] on September 3, 2019 held as investment	
1,80,000.	

Determine the net income of X for the AY 2020-21. Also calculate the amount of loss which can be carried forward for being set off to the next assessment year.

12) Mr. X informs you the following for AY 2020-21:

- Taxable salary ₹ 5,20,000/ –
- Loss from House property A ₹ 60,000/ –
- Income from House property B ₹ 40,000/ –
- Brought forward business loss – AY 2012-13 - ₹ 1,00,000/ –
- Current year business income – ₹ 80,000/ –
- Bank interest – ₹ 20,000/ – **Determine total income and carry forward loss, if any.**

13) From the following particulars of Mr. Naresh for the previous year ending 31.03.2020 compute the income under each head and the taxable income with reasons and also explain the provisions of carry forward of such loss, that could not be absorbed:

(i) Income from business (Proprietary concern)	
(a) Net adjusted profit from Textile Trade	20,000
(b) Net adjusted loss from Automotive Trade	30,000
(c) Loss in shares trade (Shares were never taken delivery)	40,000
(ii) Negative income from House Property	(–) 25,000
(iii) Capital Gain:	
(a) Short – term Loss	(–) 20,000
(b) Long – term gain	30,000

14) Simran, engaged in various types of activities, gives 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 Asst. Year 2018-19	15,000
(d) Short – term loss on sale of securities and shares	15,000
(e) Profit of speculative transactions entered into during the year	12,500
(f) Loss of speculative transactions of Asst. Year 2015-16 not set off till Asst Year 2019-20	15,000

Compute the total income of Simran for the AY 2020-21.

15) Imp: Mr. Yashwant 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:

(i) He has two houses:	
(a) House No. I – After all statutory deductions	36,000
(b) House No. II – current year loss	(10,000)
(ii) He has three proprietary businesses:	
(a) Textile business:	
(i) Discontinued from 31st October 2019 – current year loss	25,000
(ii) Brought forward business loss of the previous year 2016-17	80,000
(b) Chemical business:	
(i) Discontinued from 1st March, 2018 – hence no profit/loss	Nil
(ii) Bad debts allowed in earlier years recovered during this year	30,000
(iii) Brought forward business loss for the assessment year 2018-19	20,000
(c) Leather business: profit for the current year	70,000
(iii) (i) Short – term capital gains	20,000
(ii) Long – term capital loss	15,000

- 16) **Imp:** The summarized p & l a/c of Y (from his grocery stores) for the PY ended 31/3/20 is as under:

Particulars	Amount	Particulars	Amount
Expenses	420000	Gross profit	600000
Net profit	280000	Dividends (from Indian listed companies)	100000
	<u>700000</u>		<u>700000</u>

The following further information was provided for the same previous year: Y had other business (proprietary)

Cloth trade (loss)	₹ 42000
Speculation (profit)	₹ 30000
Loss in proprietary business carried on in the name of his minor son	₹ 45000
He had carried forward loss in electrical spares for assessment year 2018-19, which business was closed down (return filed in time)	₹ 39000
Income of Mrs. Y	₹ 55000

Compute the assessable income of Y for the assessment year 2020-21 under the head "PGBP".

- 17) **Imp** Mr. Garg, a resident individual, furnishes the following particulars of his income and other details for the previous year 2019-20.

Particular	₹
(1) Income from Salary (computed)	15,000
(2) Income from business (before providing depreciation)	66,000
(3) Long term capital gain on sale of land	10,800
(4) Loss on maintenance of race horses	15,000
(5) Loss from gambling	9,100

The other details of unabsorbed depreciation and brought forward losses pertaining to Assessment Year 2019-20 are as follows:

Particular	₹
(1) Unabsorbed depreciation	11,000
(2) Loss from Speculative business	22,000
(3) Short term capital loss	9,800

Compute the Gross total income of Mr. Garg for the Assessment Year 2020-21 and the amount of loss, if any that can be carried forward or not.

- 18) Mr. Batra furnishes the following details for year ended 31.03.2020:

Particulars	₹
Short term capital gain	1,40,000
Loss from speculative business	60,000
Long term capital gain on sale of land	30,000
Long term capital loss on sale of shares (securities transaction tax not paid)	1,00,000
Income from business of textile (after allowing current year depreciation)	50,000
Income from activity of owning and maintaining race horses	15,000
Income from salary (computed)	1,00,000
Loss from house property	40,000

Following are the brought forward losses:

- Losses from activity of owning and maintaining race horses-pertaining to A.Y. 2017-18 - ₹ 25,000.
- Brought forward loss from business of textile ₹ 60,000 - Loss pertains to A.Y. 2012-13.

Compute gross total income of Mr. Batra for the Assessment Year 2020-21. Also state the eligible carry forward losses for the Assessment Year 2020-21.

19) Mr. Sohan submits the following details of his income for the assessment year 2020-21:

Particulars	₹
Income from salary	3,00,000.00
Loss from let out house property	40,000.00
Income from sugar business	50,000.00
Loss from iron ore business b/f (discontinued in 2012-13)	1,20,000.00
Short term capital loss	60,000.00
Long term capital gain	40,000.00
Dividend	5,000.00
Income received from lottery winning (Gross)	50,000.00
Winnings in card games	6,000.00
Agricultural income	20,000.00
Short term capital loss under section 111A	10,000.00
Bank interest	5,000.00

Calculate gross total income and losses to be carried forward.

20) [Imp] Mr. Rajat submits the following information for the financial year ending 31st March, 2020. He desires that you should:

- (a) Compute the total income and
(b) Ascertain the amount of losses that can be carried forward.

Particulars	₹
(i) He has two houses :	
(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 :	
(a) Textile Business :	
(i) Discontinued from 31st October, 2019 – Current year loss	40,000
(ii) Brought forward business loss of A.Y. 2016-17	95,000
(b) Chemical Business :	
(i) Discontinued 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 A.Y. 2018-19	50,000
(c) Leather Business : Profit for the current year	1,00,000
(d) Share of profit in a firm in which he is partner since 2007*	16,550
(iii) (a) Short-term capital gain	60,000
(b) Long-term capital loss	35,000
(iv) Contribution to LIC towards premium	10,000

21) [Imp] Compute the total income of Mr. Krishna for the assessment year 2020-21 from the following particulars:

Particulars	Amount (₹)
Income from business before adjusting the following items:	1,75,000
(a) Business loss brought forward from assessment year 2017-18	70,000
(b) Current depreciation	40,000
(c) Unabsorbed depreciation of earlier year	1,55,000
Income from house property (Gross Annual Value)	4,32,000
Municipal taxes paid	32,000
Mr. Krishna sold a plot at Noida on 12th September, 2019 for a consideration of ₹ 6,40,000, which had been purchased by him on 20th December, 2017 at a cost of ₹ 4,10,000	
Long-term capital gain on sale of debentures	60,000
Dividend on shares held as stock in trade	22,000
Dividend from a company carrying on agri business	10,000

During the previous year 2019-20, Mr. Krishna has repaid ₹ 1,67,000 towards housing loan from a scheduled bank. Out of ₹ 1,67,000, ₹ 97,000 was towards payment of interest and rest towards principal payments.

- 22) 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 (computed)	18,000
(ii) Net annual value of 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 race horse	9,000
(vii) Loss on gambling	8,000

Depreciation allowable under the Income-tax Act, 1961, comes to ₹ 8,000, for which no treatment is given above. The other details of unabsorbed depreciation and brought forward losses (pertaining to A.Y. 2019-20) are:

Particulars	₹
i. Unabsorbed depreciation	9,000
ii. Loss from speculative business	16,000
iii. Short term capital loss	7,800

Compute the gross total income of Mr. P for the Assessment year 2020-21, and the amount of loss that can or cannot be carried forward.

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

- (i) Salary received as a partner from a partnership firm ₹ 7,50,000. The same was allowed to the firm.
- (ii) Long-term capital gain on sale of land ₹ 5,00,000.
- (iii) ₹ 51,000 received in cash from friends in party.
- (iv) ₹ 55,000, received towards dividend on listed equity shares of domestic companies.
- (v) Brought forward business loss of AY 2019-20 ₹ 12,50,000.

The return for AY 2019-20 was filed in time. Compute gross total income of Ms. Geeta for the Assessment Year 2020-21 and ascertain the amount of loss that can be carried forward.

SOLUTION – SET OFF

Solution 1:

Net income 2,21,000

Loss to be carried forward

Speculative business loss 12,000
 Short-term capital loss 9,500
 Loss from the activity of owning and maintaining race horses 1,06,000

Solution 2:

Business Income	Resident (₹)	NOR (₹)	NR (₹)
Business X (Profit)	2,80,000	2,80,000	2,80,000
Business Y (Profit)	1,25,000	1,25,000	1,25,000
	4,05,000	4,05,000	4,05,000
Business Z (Loss); (controlled from India but received out of India)	(-) 85,000	(-) 85,000	Nil
	3,20,000	3,20,000	4,05,000
Unabsorbed depreciation of business Z	(-) 45,000	(-) 45,000	Nil
	2,75,000	2,75,000	4,05,000
Income from house property	---	---	---
Property in India	30,000	30,000	30,000
Property in London	50,000	---	---
Gross Total Income	3,55,000	3,05,000	4,35,000

Solution 3:**Computation of Gross Total Income of Mr. X for the AY 2020-21**

Particulars	Case -I (₹)		Case-II (₹)	
Income from House Property				
House property A	40000		50000	
House Property B	(-)20000	20000	(-) 35000	15000
Profits & Gains of Business or Profession				
Speculation income	80000		(-) 60000	Nil
Other business	(-) 30000	50000		50000
Income from agricultural business (Exempted)	Nil			Nil
Capital Gains				
Short term capital Gain				
Transaction A	40000	-	(-) 30000	
Transaction B	(-) 20000	20000	15000	
Long term capital gain				
Transaction A	(-) 30000		47000	
Transaction B	10000	Nil	(-) 4000	28000
Income from other sources				
Casual income				
Income from lottery	40000		—	
Income from horse races	10000		25000	
Income on card games (losses not to be considered)	Nil	50000	Nil	25000
Income from activity of owning & maintaining race-horses				
Business (A)	(-) 60000		20000	
Business (B)	30000	Nil	(-) 16000	4000
Other income				
Interest on securities		20000		10000
Gross Total Income		160000		132000
Losses to be carried forward				
Loss from activity of owning & maintaining race horse		(-) 30000		—
Long term capital loss		(20000)		-
Speculation loss		-		(60000)

Solution 4:**Computation of GTI of Mr. Jacky for the A.Y. 2020-21**

Particulars	Details	Amount	Amount
Salaries		70000	
Income from house property			
House property A	60000		
House Property B	(70000)	(10000)	
Profits & Gains of Business or Profession			
Speculation income	20000		
Other business income	(130000)		
Income from agricultural business [exempted u/s 10(1)]	Nil	(110000)	
Capital Gains			
Short term capital gain		30000	
Long term capital gain	(100000)	Nil	
Long term capital loss cannot be set off against any income & shall be carried forward			
Income from Other Sources			
Casual income			
Income from lottery	10000		
Income from horse races	170000		180000
As no loss can be set off against such income.			
Income from activity of owning and maintaining race-horses			
Loss from activity of owning and maintaining race-horses cannot be set off against any income & shall be carried forward	(150000)	Nil	
Other income			
Dividend from non-domestic company	(90000)		
Interest on securities	20000	(70000)	
Gross Total Income		(90000)	180000

Conclusion: From salary income, losses under the head income from other sources ₹ 70,000 is adjusted as because loss under the head 'PGBP' cannot be set off against salary income and loss under the head income from other sources cannot be carried forward. Thereafter loss under the head 'HP' of ₹ 10,000 and losses under the head 'PGBP' up to ₹ 20,000 is adjusted against Short term capital gain of ₹ 30,000 and remaining losses under the head Profits and gains of business or profession ₹ 90,000 is carried forward. **Alternatively, loss under the head Income from house property of ₹ 10,000 and loss under the head Profits & gains of business or profession of ₹ 80,000 can be carried forward.**

Solution 5:**Statement showing application of sec. 71**

Particulars	Amount
Salaries	80,000
Income from house property	(-) 130,000
Income from other sources	
Winning from lotteries	350,000
Other income	(90,000)
Gross total income	350,000

Conclusion

Casual income shall be fully taxable as no loss can be set off against such income. 350000

Losses to be carried forward

(a) Loss under the head "Income from house property"	(130000)
(b) Loss under the head "Income from other sources", as such loss cannot be carried forward.	Nil

Income under the head 'Salaries' is first adjusted with the loss under the head 'IOS' as the same cannot be carried forward. Though loss under the head 'IOS' is ₹ 90,000 and such loss could be adjusted with income under the head 'Salaries' only to the extent of ₹ 80,000 still the remaining loss of ₹ 10,000 cannot be carried forward.

Solution 6:**Computation of gross total income of Mr. S for the A.Y. 2020-21**

<u>Particulars</u>	<u>Details</u>	<u>Amount</u>
Income from house property		(-) 20000
Profits & gains of business or profession		15000
Income from other sources		
Taxable income of minor son from investment u/s 64(1A)	175000	
Less: Exemption u/s 10(32)	(-) 1500	173500
Gross Total Income		168500

Solution 7:**Computation of taxable income of Mr. X for the A. Y. 2020-21**

<u>Particulars</u>	<u>Amount</u> (₹)	<u>Amount</u> (₹)
Income from salary	5,00,000	
Income from house property	(-) 70,000	4,30,000
Business income	(-) 1,00,000	
Income from other sources (bank interest)	90,000	
Business loss to be carried forward	(-) 10,000	-
Gross total income [See Note below]		4,30,000

Note: Business loss of ₹ 1,00,000 is set off against bank interest of ₹ 90,000 and remaining business loss of ₹ 10,000 shall be carried forward as it cannot be set off against salary income.

Solution 8:**The total income chargeable to tax for the A.Y. 2020-21 is calculated as under:**

<u>Particulars</u>	<u>Amount</u> (₹)	<u>Amount</u> (₹)
Income from salaries	55,000	
Income from house property	(34,000)	21,000
Profits and gains of business and profession		
Business loss to be carried forward [Note 1]	(22,000)	
Speculative loss to be carried forward [Note 2]	(4,000)	
Capital Gains		
Long term capital gain	29,000	
Short term capital loss	(35,000)	
Short term capital loss to be carried forward [Note 3]	(6,000)	
Taxable income		21,000

Note 1: Business loss cannot be set-off against salary income. Therefore, loss of ₹ 22,000 from the non-speculative shall be carried forward.

Note 2: Short term capital loss can be set off against both short term capital gain and long term capital gain. Therefore, short term capital loss of ₹ 35,000 can be set-off against long-term capital gains to the extent of ₹ 29,000. The balance short term capital loss of ₹ 6,000 cannot be set-off against any other income and has to be carried forward to the next year for set-off against capital gains, if any.

Solution 9:**Computation of gross total income of Mrs. Amutha for A.Y. 2020-21**

<u>Particulars</u>	<u>₹</u>	<u>₹</u>
I. Salaries:		
Salary		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	

Set Off & Carry Forward – By CA Suraj Agrawal**SATC****13B.4**

To be carried forward to A.Y 2021-22	(8,000)	Nil
V. Income from other sources :		
i) Interest on Securities (Gross)	18,000	
Less: Interest on loan	20,000	(2,000)
ii) Loss on maintenance of race horses carried forward to A.Y 2021-22	(12,000)	
iii) 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.

Solution 10

Total Income of R
(For the assessment year 2020-21)

Income from salary		72,000
Income from House Property (22,000 - 60,000 - 10,000)		(-) 48,000
Income from Profits and Gains from business		
Non-Speculative Business [26,000- 22,000]		4,000
Speculative Business- 3	- 74,000	
Speculative Business- 4	+ 46,000	
Carried forward	- 28,000	
Income from capital gain		
Short-term capital loss	- 60,000	
Long-term capital gain	54,000	
Carried forward capital loss	- 6,000	
Income from other sources		
Interest on securities	12,000	
Income from card game and betting	70,000	82,000
Income from maintaining horses	30,000	
Loss from maintenance of race horses	(-) 56,000	
To be carried forward	(-) 26,000	
Gross Total Income		110,000

Solution 11:

	₹
Loss of Business A for the previous year 2019-20	(-) 1,20,000
Profit of Business B for the previous year 2019-20	1,35,000
Profit of Business C for the period April 1, 2019 to April 10, 2019	Nil
Interest on debentures held as stock-in-trade	<u>1,48,000</u>
Current business profit	1,63,000
Less : Brought forward loss of Business A, Business C and Business D [i.e., (1,45,000 + 1,16,000 + 1,04,000) subject to the maximum of ₹ 1,63,000]	<u>1,63,000</u>
Income under the head "Profits and gains of business or profession"	Nil

Computation of Net Income

Income from house property	1,17,000
Profits and gains of business or profession	Nil
Capital gains	Nil
(Loss of ₹ 1,46,400 will be carried forward for next 8 years for set off against long-term capital gain)	
Income from other sources	
Interest on bonds held as investment	1,60,000
Deemed dividend on shares (exempt)	<u>NIL</u>
Gross total income	2,77,000
Less : Deduction under sections 80C to 80U	Nil
Net income	2,77,000

Notes :

- As debentures are held by X as stock-in-trade, interest income is a part of business profits. Interest income can, therefore, be utilised for claiming set off of brought forward business losses. This rule is, however, not applicable in the case of interest on bonds as bonds are held by X as investment.
- Though Business D was not in existence during the previous year 2019-20, yet the brought forward business loss of the year 2018-19 can be set off against the income of the assessment year **2020-21**

Solution 12:**Computation of Total Income of Mr. X:**

Particulars	₹
Salary Income	5,20,000
Income from House Property - as given	(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 (A.Y. 2012-13) - 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 less ₹ 80,000 set off) to assessment year **2021-22** since the period of eight assessment years eligible for carry forward has expired.

Solution 13:

Computation of Income under the head 'Profits and gains of business or profession'
[for the assessment year 2020-21]

	₹	₹
Income from house property		(-) 25,000
Profit and gains of business or profession		
Net adjusted profit of textile trade	20,000	
Net loss of automotive trade	(-) 30,000	(-) 10,000
Speculative loss in shares business		
[Not allowed to be set off against any income except profit of speculative shares business](-)	40,000	
Capital gains		
Long term capital gain	30,000	
Less : Short term capital loss	(-) 20,000	10,000
Taxable income		(-) 25,000/NIL

Statement of losses to be carried forward to assessment year 2021-22

If LTCG is adjusted against business loss

Income from house property	25,000
Speculative loss from shares	40,000

If LTCG is adjusted against loss from house property

Income from house property	15,000
Income from business	10,000
Income from speculative business	40,000

15,000**Solution 14:****Computation of total income of Simran for the A.Y. 2020-21**

	₹	₹
Profit of business of consumer and house-hold products		50,000
Less: Loss of business of readymade garments for the year adjusted under section 70(1)	10,000	
Less: Brought forward loss of catering business closed in assessment year 2018-19 set off against business income for the year as per section 72(1)	15,000	25,000
Profit of speculative transaction		12,500
Total Income		37,500

Notes:

- Loss of speculative transaction of assessment year 2015-16 is not allowed to be set off against the profit of speculative transaction of the assessment year 2020-21, since, as per the provisions of section 73(4), such loss can be carried forward for set-off for a maximum period of 4 years. This time limit of 4 years expired in assessment year 2019-20
- Short term capital loss of ₹ 15,000 on sale of securities and shares has to be carried forward as per section 74 since there is no income under the head Capital Gains for the assessment year **2020-21**. The loss is to be carried forward for set off in future years against income chargeable under the head Capital Gains. Such loss can be carried forward for a maximum period of 8 assessment years.

Solution 15:**Computation of gross total income
[for the assessment year 2020-21]**

	₹	₹
Income from house property		
House No. I 36,000		
House No. II (-) 10,000		26,000
Profits and gains of business or profession		
Profit of the leather business	70,000	
Losses : Textile business - current year loss	(-) 25,000	
	45,000	
Bad debts recovered taxable u/s 41 (4)	30,000	75,000
Income from capital gains		
Short term capital gain	20,000	
Long term capital loss, can be set off only against LTCG	Nil	20,000
		1,21,000
Set off of b/f losses		
b/f business loss of assessment year 2016-17	80,000	
b/f business loss of assessment year 2018-19	20,000	
	1,00,000	
Maximum allowed to be set off (to the extent of income under the head 'Profits and gains of business or profession')		(-) 75,000
Gross total income		46,000
Statement of losses to be carried forward to assessment year 2021-22		
business loss of assessment year 2016-17 (80,000-75,000)		5,000
business loss of assessment year 2018-19		20,000
Total		25,000
Long term capital loss of assessment year 2020-21		15,000

Solution 16:**Computation of Profits & gains of business or profession of Mr. Y for the PY: 2019-20**

Particulars	Amount
Net profit as per Profit and Loss account	280000
Less: Income not taxable credited to P/L A/c	
Dividends	100000
Profits and gains of business of grocery shop	180000
Add: Income from speculation business	30000
Less: Loss from cloth trade	(42000)
Less: Loss from business of minor clubbed u/s 64(1A)	(45000)
Profits and gains of business after application of sec. 70 but before application of sec. 72	123000
Less: Brought forward loss of electric spare business	(39000)
Profits & gains of business or profession	84000

Solution 17:**Computation of Gross Total Income of Mr. Garg for the A.Y. 2020-21**

Particulars	₹	₹
(i) Income from salary		15,000
(ii) Profits and gains of business or profession	66,000	
Less : Unabsorbed depreciation brought forward from A.Y. 2019-20 (Unabsorbed depreciation can be set-off against any head of income)	11,000	55,000
(iii) Capital gains		
Long term capital gain on sale of land	10,800	
Less : Brought forward short term capital loss [Short-term capital loss can be set-off against both short-term capital gains and long-term capital gains as per section 74(1)]	9,800	1,000
Gross total income		71,000

Amount of loss to be carried forward to AY 2021-22

Particulars	₹
(1) Loss from speculative business [to be carried forward as per Section 73] [Loss from a speculative business can be set off only against income from another speculative business. Since there is no income from speculative business in the current year, the entire loss of ₹ 22,000 brought forward from A.Y.2019-20 has to be	22,000

carried forward to A.Y. 2021-22 for set-off against speculative business income of that year. It may be noted that speculative business loss can be carried forward for a maximum of four years as per section 73(4), i.e., upto AY 2023-24]	
(2) Loss on maintenance of race horses [to be carried forward as per Section 74A] [As per section 74A(3), the loss incurred in the activity of owning and maintaining race horses in any assessment year cannot be set-off against income from any other source other than the activity of owning and maintaining race horses. Such loss can be carried forward for a maximum of four assessment years i.e., upto AY 2024-25]	15,000
(3) Loss from gambling can neither be set-off nor be carried forward	

Solution 18:**Computation of Gross Total Income of Mr. Batra for the A.Y. 2020-21**

Particulars	₹	₹
Salaries	1,00,000	
Less: Current year loss from house property	(40,000)	60,000
Profit and gains of business or profession	50,000	
Income from textile business	60,000	
Less: Loss from textile business brought forward from A.Y. 2012-13	(10,000)	NIL
Balance business loss of A.Y. 2012-13 [See Note 1]		
Income from the activity of owning and maintaining race horses	15,000	
Less: Loss from activity of owning and maintaining race horses brought forward from A.Y. 2017-18	(10,000)	NIL
Loss to be carried forward to A.Y. 2021-22 [See Note 2]		
Capital Gain		
Short term capital gain		1,40,000
Long term capital gain on sale of land	30,000	
Less: Long term capital loss on sale of shares	1,00,000	
Loss to be carried forward to A.Y. 2021-22 [See Note 3]	(70,000)	NIL
Gross Total Income		2,00,000

Losses to be carried forward to A.Y. 2021-22

Particulars	₹
Current year loss from speculative business [See Note-4]	60,000
Current year long term capital loss on sale of shares	70,000
Loss from activity of owning and maintaining of race horse pertaining to AY 2017-18	10,000

Notes:-

- (1) As per section 72(3), business loss can be carried forward for a maximum of eight assessment years immediately succeeding the assessment year for which the loss was first computed. Since the eight year period for carry forward of business loss of A.Y. 2012-13 expired with the A.Y. 2020-21, the balance unabsorbed business loss of ₹ 10,000 cannot be carried forward to A.Y. 2021-22.
- (2) As per section 74A(3), the loss incurred on maintenance of race horses cannot be set-off against income from any source other than the activity of owning and maintaining race horses. Such loss can be carried forward for a maximum period of 4 assessment years.
- (3) long-term capital loss on sale of such shares can be set-off against long-term capital gain on sale of land. The balance loss of ₹ 70,000 cannot be set-off against short term capital gain or against any other head of income. The same has to be carried forward for set-off against long-term capital gain of the subsequent assessment year. Such long-term capital loss can be carried forward for a maximum of eight assessment years.
- (4) Loss from speculation business cannot be set-off against any income other than profit and gains of another speculation business. Such loss can, however, be carried forward for a maximum of four years as per section 73(4) to be set-off against income from speculation business.

Solution 19:**Computation of gross total income of Mr. Sohan for the A.Y. 2020-21**

Particulars	₹	₹
Salaries		
Income from salary	3,00,000	
Less: Loss from house property set-off against salary income as per section 71	<u>(40,000)</u>	2,60,000
Profits and gains of business or profession		
Income from sugar business	50,000	
Less: Brought forward loss from iron-ore business set-off as per section 72(1)	<u>(50,000)</u>	Nil
Balance business loss of ₹ 70,000 of P.Y. 2012-13 carried forward to A.Y. 2020-21		
Capital gains		
Long term capital gain	40,000	
Less: Short term capital loss set-off	<u>(40,000)</u>	Nil
Balance short-term capital loss of ₹ 20,000 to be carried forward Short-term capital loss of ₹ 10,000 under section 111A to be carried forward		
Income from other sources		
Winnings from lottery	50,000	
Winnings from card games	6,000	
Bank interest	<u>5,000</u>	61,000
Gross Total Income		<u>3,21,000</u>
Losses to be carried forward to A.Y. 2021-22		
Loss of iron-ore business	70,000	
Short term capital loss	30,000	

Notes:

- The following income are exempt under section 10 –
 - Dividend income [Exempt under section 10(34)], assuming that dividend is received from a domestic company.
 - Agricultural income [Exempt under section 10(1)].
- It is presumed that loss from iron-ore business relates to P.Y. 2012-13, the year in which the business was discontinued.

Solution 20:**Computation of total income of Mr. Rajat for the AY 2020-21**

Particulars	₹	₹
1. Income from house property		
House No. 1	72,000	
House No. 2	<u>30,000</u>	(-) 42,000
2. Profits and gains of business or profession		
Profit from leather business	1,00,000	
Bad debts recovered taxable under section 41(4)	<u>35,000</u>	
	1,35,000	
Less: Current year loss of textile business	<u>(-) 40,000</u>	
	95,000	
Less: Brought forward business loss of textile business for A.Y. 2016-17 set off against the business income of current year	<u>95,000</u>	Nil
3. Capital Gains		
Short-term capital gain		60,000
Gross Total Income		<u>1,02,000</u>
Less: Deduction under Chapter VI-A		<u>10,000</u>
Under section 80C – LIC premium paid		
Total Income		<u>92,000</u>

Statement of losses to be carried forward to A.Y. 2021-22

Particulars	₹
Business loss of A.Y. 2018-19 to be carried forward under section 72	50,000
Long term capital loss of A.Y. 2020-21 to be carried forward under section 74	35,000

Notes:

- (1) Share of profit from firm of ₹ 16,550 is exempt under section 10(2A).
- (2) Long-term capital loss cannot be set-off against short-term capital gains. Therefore, it has to be carried forward to the next year to be set-off against long-term capital gains of that year.

Solution 21:**Computation of Total Income of Mr. Krishna for the AY 2020-21**

Particulars	₹	₹
(1) Income from house property		
Gross Annual Value	4,32,000	
Less: Municipal taxes paid	<u>32,000</u>	
Net Annual Value (NAV)	4,00,000	
Less: Deductions under section 24		
(a) 30% of NAV	1,20,000	
(b) Interest on housing loan	<u>97,000</u>	1,83,000
(2) Income from business		
Income from business	1,75,000	
Less : Current year depreciation under section 32(1)	<u>40,000</u>	
	1,35,000	
Less: Set-off of brought forward business loss of AY 2017-18 under section 72	<u>70,000</u>	
	65,000	
Less: Unabsorbed depreciation set-off [See Note 2]	<u>65,000</u>	Nil
(3) Capital gains		
Long term capital gain on sale of debentures	60,000	
Less: Unabsorbed depreciation set-off [See Note 2]	<u>60,000</u>	Nil
Short term capital gain on sale of land [See Note 1]	2,30,000	
Less: Unabsorbed depreciation set-off [See Note 2]	<u>30,000</u>	2,00,000
(4) Income from other sources		
Dividend on shares (whether held as stock-in-trade or from a company carrying on agricultural operations) exempt under section 10(34)	-	Nil
Gross Total Income		3,83,000
Less : Chapter VI-A deduction		
Section 80C [Principal repayment of housing loan]		70,000
Total income		3,13,000

Notes:

- (1) Since land is held for a period of less than 24 months, the gain of ₹ 2,30,000 arising from sale of such land is a short-term capital gain.
- (2) **Brought forward unabsorbed depreciation can be adjusted against any head of income.**
However, it is most beneficial to set-off unabsorbed depreciation first against long-term capital gains, since it is taxable at a higher rate of 20% (the other income of the assessee falling in the 10% slab rate).

Solution 22**Computation of Gross Total Income of Mr. P for the A.Y. 2020-21**

Particulars	₹	₹
(i) Income from salary		18,000
(ii) Income from House Property		
Net Annual Value	70,000	
Less : Deduction under section 24 (30% of ₹ 70,000)	<u>21,000</u>	49,000
(iii) Income from business and profession		
(a) Income from business	80,000	
Less : Current year depreciation	<u>8,000</u>	
	72,000	
Less : Unabsorbed depreciation	<u>9,000</u>	63,000
(b) Income from speculative business	12,000	
Less : Brought forward loss from speculative business (Balance loss of ₹ 4,000 (i.e. ₹ 16,000 – ₹ 12,000) can be carried forward to the next year)	<u>12,000</u>	Nil
(iv) Income from capital gain		
Long term capital gain on sale of land	15,800	
Less : Brought forward short term capital loss	<u>7,800</u>	8,000
Gross total income		1,38,000

Amount of loss to be carried forward to the next year

Particulars	₹
Loss from speculative business (to be carried forward as per section 73)	4,000
Loss on maintenance of race horses (to be carried forward as per section 74A)	9,000

Notes:

- (i) Loss on gambling can neither be set-off nor be carried forward.
- (ii) As per section 74A(3), the loss incurred on maintenance of race horses cannot be set-off against income from any other source other than the activity of owning and maintaining race horses. Such loss can be carried forward for a maximum period of 4 assessment years.
- (iii) Speculative business loss can set off only against income from speculative business of the current year and the balance loss can be carried forward to A.Y. 2021-22. It may be noted that speculative business-loss can be carried forward for a maximum of four years as per section 73(4).

Solution 23:**Computation of Gross Total Income of Ms. Geeta for the Assessment Year 2020-21**

Particulars	₹
Profits and gains of business and profession	
Salary received as a partner from a partnership firm is taxable under the head "Profits and gains of business and profession"	7,50,000
Less: Brought forward business loss of Assessment Year 2019-20 to be set-off against business income (Maximum)	<u>7,50,000</u> Nil
Capital Gains	
Long term capital gain on sale of land	5,00,000
Income from other sources	
Cash gift received from friends - since the value of cash gift exceeds ₹ 50,000, the entire sum is taxable	51,000
Dividend received from a domestic company is exempt under section 10(34)	<u>Nil</u>
Gross Total Income	5,51,000

Notes :

1. Balance brought forward business loss of assessment year 2019-20 of ₹ 5,00,000 has to be carried forward to the next year.

RETURN OF INCOME

COMPULSORY FILING OF RETURN OF INCOME [SECTION 139(1)]

1. It is mandatory for **COMPANIES AND FIRMS** to file a return of income or loss for every previous year on or before the due date.
2. Further, every person, being an Individual / HUF / AOP / BOI / AJP:
 - ✓ whose **TOTAL INCOME** during the previous year
 - ✓ without giving effect to the provisions of Section 10AA or Chapter VI-A **or Section 54/54B/54D/54EC or 54F** exceeded the basic exemption limit [**₹ 250,000 / ₹ 300,000 / ₹ 500,000 as the case may be**]
 - ✓ is required to file a return of income on or before the due date.
3. In case of **person other than above**, filing of return on or before the due date is mandatory, if Total Income exceeds Basic Exemption Limits.

Compulsory filing of income tax return in relation to assets located outside India

Any Resident person (other than RNOR) who is not required to furnish a return under section 139(1) and who during the PY:

- a) holds (beneficial Owner) any asset (including any financial interest in any entity) located outside India or
- b) has a signing authority in any account located outside India or
- c) is a beneficiary of any asset (including financial interest in any entity) located outside India

Shall furnish, on or before the due date, a return in respect of his Income or loss for the PY in prescribed manner. However, an individual being a beneficiary of any asset (including any financial interest in any entity) located outside India would not be required to file return of income under this clause, where, income, if any, arising from such asset is includible in the income of the person referred to in (a) above in accordance with the provisions of the Income-tax Act, 1961.

Added by Finance (No. 2) Act 2019

Any person other than a company or a firm, who is not required to furnish a return under section 139(1), is required to file income-tax return in the prescribed form and manner on or before the due date if, during the previous year, such person –

- a) has deposited an amount or aggregate of the amounts exceeding ₹ 1 crore in one or more current accounts maintained with a banking company or a co-operative bank; or
- b) has incurred expenditure of an amount or aggregate of the amounts exceeding ₹ 2 lakh for himself or any other person for travel to a foreign country; or
- c) has incurred expenditure of an amount or aggregate of the amounts exceeding ₹ 1 lakh towards consumption of electricity; or
- d) fulfils such other prescribed conditions.

‘DUE DATE’

- a) **30th November of the AY, where the assessee is required to furnish a report u/s 92E – Transfer Pricing Report for International & Specified Domestic Transactions**
- b) **30th September of the AY**, where the assessee is:
- (i) A company **[Other than a company covered above]**; or
 - (ii) A person (**excluding person covered above**) whose **accounts are required to be audited** under the Income-tax Act, 1961 or any other law in force; or
 - (iii) A **working partner of a firm** whose accounts are required to be audited under the Income-tax Act, 1961 or any other law for the time being in force.
- c) **31st July of the AY**, in the case of any other assessee.

Note: If on the last date on which Income tax Return ought to be filed is a holiday then it can be filed on the next working day and it will be assumed as if return was filed on the due date.

Consequences for default in Furnishing Income tax Return:

- i) **Interest u/s 234A & late fee u/s 234F**
- ii) **Losses (Selected) can not be carried forwarded.**
- iii) **Deduction u/s 10AA & Income based deduction [80-IA to 80RRB] will not be available.**

Fee for Default in furnishing Return of Income [SECTION 234F]

Where a person, who is required to furnish a return of income under section 139, fails to do so within the prescribed time limit under section 139(1), he shall pay, by way of fee, a sum of-

- a. **₹ 5,000** if the return is furnished **on or before the 31st December of AY**;
- b. **₹ 10,000** in any other case

However, if the total income of the person does not exceed ₹ 500,000, the fees payable shall not exceed ₹ 1,000

RETURN OF LOSS [SECTION 139(3)]

Refer Notes of **Set-off Chapter**

BELATED RETURN [SECTION 139(4)]

Any person who has not furnished a return within the time allowed to him under section 139(1) may furnish the return for any previous year at any time –

- (i) before the end of the relevant assessment year; or
- (ii) before the completion of the assessment,

whichever is earlier.

REVISED RETURN [SECTION 139(5)]

- (1) If any person having furnished a return under section 139(1) or 139(4), discovers any omission or any wrong statement therein, he may furnish a revised return at any time **before the end of the relevant assessment year OR before completion of assessment**, whichever is earlier.
- (2) It may be noted that a belated return can be revised now.
- (3) Once a revised return is filed, the original filed return must be taken to have been withdrawn & substituted by the revised return.
- (4) **CAN A LOSS RETURN BE REVISED:**
Assessee files a loss return u/s. 139(3). Later it revises the return u/s. 139(5) and claims enhanced amount of loss. According to section 139(3), once a return is filed, all the provisions of the Income-tax Act shall apply as if such return has been filed u/s.139(1). Consequently, the filing of revised loss return is valid **and section 80 does not come in the way of disallowing the carry forward of such increased amount of loss.**

DEFECTIVE RETURN [SECTION 139(9)]

- 1. Where the Assessing Officer considers that the return of income furnished by the assessee is defective, he **may intimate the defect to the assessee and give him an opportunity to rectify the defect within a period of 15 days from the date of such intimation.**
- 2. The Assessing Officer has the discretion to extend the **time period beyond 15 days**, on an application made by the assessee.
- 3. If the defect is not rectified within the period of 15 days or such further extended period, then the return would be **treated as an invalid return.**
- 4. **The consequential effect would be the same as if the assessee had failed to furnish the return. However, the Assessing Officer can condone the delay and treat the return as a valid return.**
- 5. **A return of income shall be regarded as defective unless** the annexures, statements and columns in the return of income relating to computation of income chargeable under each head of income, computations of gross total income and total income have been duly filled in.
- 6. Return shall not be regarded as defective ***if tax together with interest, if any, payable in accordance with the provisions of Section 140A has not been paid on or before the date of furnishing of the return.***

PERMANENT ACCOUNT NUMBER (PAN) [SECTION 139A]

1. Following persons, who have not been allotted a permanent account number (PAN), are liable to apply to the AO within the prescribed time for the allotment of a PAN:
 - a. Every person whose total income or the total income of any other person in respect of which he is assessable under this Act **during any previous year exceeded the basic exemption limit**; or
 - b. Every person carrying on **any business or profession whose total sales, turnover or gross receipts exceeds or is likely to exceed ₹ 5 lakh** in any previous year; or
 - c. Every person, being a resident, other than an individual, which enters into a financial transaction of an amount aggregating to ₹ 2,50,000 or more in a financial year.
 - d. Every person who is the managing director, director, partner, trustee, author, founder, karta, chief executive officer, principal officer or office bearer of the person mentioned in (c) above or any person competent to act on behalf of such person.
2. The AO, having regard to the nature of transactions as may be prescribed, may also allot a PAN to any other person.
3. Such PAN **comprises of 10 alphanumeric characters** and is issued in the form of a laminated card.
4. Quoting of PAN is mandatory in all documents pertaining to the following prescribed transactions:
 - a. in all returns to, or correspondence with, any income-tax authority;
 - b. in all challans for the payment of any sum due under the Act;
 - c. in all documents pertaining to such transactions entered into by him, as may be prescribed by the CBDT in the interests of revenue.
5. If there is a change in the address or in the name and nature of the business of a person, on the basis of which PAN was allotted to him, he should intimate such change to the Assessing Officer.
6. Persons, who have agricultural income and are not in receipt of any other taxable income, **are exempt from the provisions of section 139A.**

PENALTY FOR FAILURE TO COMPLY WITH THE PROVISIONS OF SECTION 139A or for quoting or intimating wrong PAN or possessing more than one PAN (Section 272B):

₹ 10,000. [No Penalty, if defaulter has reasonable cause of such failure.]

Monetary limits of specified transactions which require quoting of PAN:

S.No.	Nature of transaction	Value of transaction
1.	Sale or purchase of motor vehicle (other than two wheeled motor vehicle) which requires registration	All such transactions
2.	Opening an account [other than a time-deposit referred to at Sl. No.12 and a Basic Savings Bank Deposit Account] with a bank etc	All such transactions
3.	Making an application to any bank etc for issue of a credit or debit card.	All such transactions
4.	Opening of a Demat account	All such transactions
5.	Payment to a hotel or restaurant against a bill or bills at any one time	Payment in cash of an amount exceeding ₹ 50,000.
6.	Payment in connection with travel to any foreign country or payment for purchase of any foreign currency at any one time	Payment in cash of an amount exceeding ₹ 50,000.
7.	Payment to a Mutual Fund for purchase of its units	Amount exceeding ₹ 50,000.
8.	Payment to a company or an institution for acquiring debentures or bonds	Amount exceeding ₹ 50,000.

9.	Payment to the Reserve Bank of India for acquiring bonds	Amount exceeding ₹ 50,000.
10.	Cash Deposit with a banking company or a cooperative bank	Deposits in cash exceeding ₹ 50,000 during any one day.
11.	Purchase of bank drafts or pay orders or banker's cheques	Payment in cash of an amount exceeding ₹ 50,000 during any one day.
12.	A Time Deposit with, - (i) a banking company or a co-operative bank (ii) a Post Office; (iii) a Nidhi referred in Companies Act, 2013; or (iv) a NBFC	Amount exceeding ₹ 50,000 or aggregating to more than ₹ 5 lakh during a financial year
13.	Payment for one or more pre-paid payment instruments	Payment in cash or by way of a bank draft or pay order or banker's cheque of an amount aggregating to more than ₹ 50,000 in a financial year.
14.	Payment as life insurance premium	Amount aggregating to more than ₹ 50,000 in a financial year.
15.	A contract for sale or purchase of securities (other than shares)	Amount exceeding ₹ 1 lakh per transaction
16.	Sale or purchase, by any person, of shares of a company not listed in a recognised stock exchange.	Amount exceeding ₹ 1 lakh per transaction.
17.	Sale or purchase of any immovable property	Amount exceeding ₹ 10 lakh or valued by stamp valuation authority referred to in section 50C of the Act at an amount exceeding ₹ 10 lakh
18.	Sale or purchase, by any person, of goods or services of any nature other than above.	Amount exceeding ₹ 2 lakh per transaction

Note:

- In case of minor who does not have any income chargeable to income-tax, PAN of his father or mother or guardian is required.
- Further, any person who does not have a PAN and who enters into any transaction specified in this rule, shall make a declaration in Form No. 60 giving therein the particulars of such transaction.
- Also, the provisions of this rule shall not apply to the Central Government, the State Governments and the Consular Offices

Inter-changeability of PAN with the Aadhaar number

Every person who is required to furnish or intimate or quote his PAN may furnish or intimate or quote his Aadhaar Number in lieu of the PAN w.e.f. 1.9.2019 if he

- has not been allotted a PAN but possesses the Aadhaar number**
- has been allotted a PAN and has intimated his Aadhaar number to**

prescribed authority in accordance with the requirement contained in section 139AA(2).

PAN would be allotted in prescribed manner to a person who has not been allotted a PAN but possesses Aadhaar number.

Section 139AA - Quoting of Aadhaar number

1. Every person who is eligible to obtain Aadhaar number shall, on or after the 1st day of July, 2017, quote Aadhaar number—
 - (i) in the application form for allotment of permanent account number;
 - (ii) in the return of income:
2. Where the person does not possess the Aadhaar Number, the Enrolment ID of Aadhaar application form issued to him at the time of enrolment shall be quoted in the application for permanent account number or, as the case may be, in the return of income furnished by him.
3. Every person who has been allotted permanent account number as on the 1st day of July, 2017, and who is eligible to obtain Aadhaar number, shall intimate his Aadhaar number to such authority in such form and manner as may be prescribed, on or before a date to be notified by the Central Government in the Official Gazette:

Provided that in case of failure to intimate the Aadhaar number, the permanent account number allotted to the person shall be deemed to be invalid and the other provisions of this Act shall apply, as if the person had not applied for allotment of permanent account number.
4. The provisions of this section shall not apply to such person or class or classes of persons or any State or part of any State, as may be notified by the Central Government in this behalf, in the Official Gazette.

Accordingly, the Central Government has, vide Notification No. 37/2017 dated 11.05.2017 effective from 01.07.2017, notified that the provisions of section 139AA relating to quoting of Aadhar Number would not apply to an individual who does not possess the Aadhar number or Enrolment ID and is:

- a. residing in the States of Assam, Jammu & Kashmir and Meghalaya;
- b. a non-resident as per Income-tax Act, 1961;
- c. of the age of 80 years or more at any time during the previous year;
- d. not a citizen of India

TAX RETURN PREPARERS SCHEME [SECTION 139B]

Section 139B provides that for the purpose of enabling any specified class or classes of persons in preparing and furnishing returns of income, the CBDT may, without prejudice to the provisions of section 139, frame a Scheme, by notification in the Official Gazette, providing that such persons may furnish their returns of income through a Tax Return Preparer (TRP) authorised to act as such under the Scheme.

CBDT had notified the “Tax Return Preparer Scheme, 2006”. Content of amended scheme are:

Particulars	Contents
Applicability of the scheme	The scheme is applicable to all eligible persons .
Eligible person	Any person <u>being an individual or a Hindu undivided family</u> .
Tax Return Preparer	<p>Any individual who has been issued a "Tax Return Preparer Certificate" and a "unique identification number" under this Scheme by the Partner Organisation to carry on the profession of preparing the returns of income in accordance with the Scheme.</p> <p>However, the following person are not entitled to act as TRP:</p> <ul style="list-style-type: none"> (i) any officer of a scheduled bank with which the assessee maintains a current account or has other regular dealings. (ii) any legal practitioner who is entitled to practice in any civil court in India. (iii) A chartered accountant.
Educational qualification for Tax Return Preparers	An individual, who holds a bachelor degree from a recognised Indian University or institution, or has passed the intermediate level examination conducted by the Institute of Chartered Accountants of India or the Institute of Company Secretaries of India or the Institute of Cost Accountants of India, shall be eligible to act as TRP .
Preparation of and Furnishing the Return of Income by the TRP	<p>An eligible person may, at his option, furnish his return of income u/s 139 for any assessment year after getting it prepared through a TRP:</p> <p>However, the following eligible persons (an individual or a HUF) cannot furnish a return of income for an assessment year through a TRP:</p> <ul style="list-style-type: none"> (i) who is carrying out business or profession during the previous year and accounts of the business or profession for that previous year are required to be audited under section 44AB or under any other law for the time being in force; or (ii) who is not a resident in India during the previous year. <p>An eligible person cannot furnish a revised return of income for any assessment year through a TRP unless he has furnished the original return of income for that assessment year through such or any other TRP.</p> <p>Further, a return of income which is required to be furnished in response to a notice under section 142(1)(i) or under section 148 or under section 153A cannot be prepared or furnished through a TRP.</p>

RETURN BY WHOM TO BE VERIFIED [Section 140]:

Assessee	Case	Verified by
Individual	In General	Individual himself
	Where the individual concerned is absent from India	Individual himself or by the duly authorized person of such individual
	Where the individual is mentally incapacitated	Guardian of such individual or any other person competent to act on his behalf
	Where by any other reason it is not possible to verify the return.	Any person duly authorized by him
	Note: when return is verified by any authorized person in that case the return should be accompanied with power of attorney.	
HUF	In General	Karta
	Where the 'Karta' is absent from India or is mentally incapacitated	Any adult member of the family
Firm	In General	Managing Partner
	If due to any reason it is not possible for managing partner to verify or where there is no managing partner	Any adult partner
Limited liability partnership	In General	Designated partner
	If due to any unavoidable reason such designated partner is not able to verify and verify the return, or where there is not designated partner	Any partner
Local authority	Principal Officer	
Political party	Chief Executive Officer	
Company	In General	Managing Director (MD)
	If due to any reason it is not possible for MD to verify or where there is no MD	Any director
	Non-Resident company	A person holding a valid power of attorney. Copy of such power of attorney must be attached with the return.
	Where the company is being wound up (whether under the orders of a court or otherwise); or where any person has been appointed as the receiver of any assets of the company	Liquidator
	Where an application for corporate insolvency resolution process has been admitted by the Adjudicating Authority under the Insolvency and Bankruptcy Code, 2016.	insolvency professional appointed by such Adjudicating Authority

SELF-ASSESSMENT [SECTION 140A]

Payment of tax, interest and fee before furnishing return of income

Where any tax is payable on the basis of any return required to be furnished under, inter alia, section 139, after taking into account -

- a. the amount of tax, already paid, under any provision of the Income-tax Act, 1961
- b. the tax deducted or collected at source
- c. **any relief of tax claimed under section 89**

the assessee **shall be liable to pay such tax together with interest and fees** payable under any provision of this Act for any delay in furnishing the return or any default or delay in payment of advance tax before furnishing the return. **The return shall be accompanied by the proof of payment of such tax, interest and fee.**

Order of adjustment of amount paid by the assessee

Where the amount paid by the assessee under section 140A(1) falls short of the aggregate of the tax, interest and fees as aforesaid, the amount so paid shall **first be adjusted towards the fees payable and thereafter towards interest and the balance, if any, shall be adjusted towards the tax payable.**

Interest under section 234A

For the above purpose, interest payable under section 234A shall be computed on the amount of tax on the total income as declared in the return, **as reduced by the amount of-**

- a. advance tax paid, if any;
- b. any tax deducted or collected at source;
- c. **any relief of tax claimed under section 89**

Interest under section 234B

Interest payable under section 234B shall be computed on the assessed tax or on the amount by which the advance tax paid falls short of the assessed tax.

For this purpose “assessed tax” means the **tax on total income declared in the return as reduced by the amount of TDS/TCS/Relief u/s 89** on any income which forms part of the total income;

Consequence of failure to pay tax, interest or fee

If any assessee fails to pay the whole or any part of **such of tax or interest or fees**, he shall be deemed to be an **assessee in default** in respect of such tax or interest or fees remaining unpaid and all the provisions of this Act shall apply accordingly.

Provision of credit of relief provide under section 89 [Sec. 140A, 143, 234A, 234B & 234C) - NEW

Section 89 contains provisions for providing relief where salary is paid in arrears or in advance. The existing provisions of Section 140A, 143, 234A, 234B & 234C contain provisions pertaining to tax computation after allowing credit for prepaid taxes and certain admissible reliefs, credits etc. **However, the relief under section 89 is not specifically mentioned in these sections.**

Amendment by Finance (No. 2) Act 2019: With a view to avoiding genuine hardship in the case of a person who is eligible for relief under section 89, the provisions of Sections 140A, 143, 234A, 234B & 234C have been amended (with retrospective effect from the assessment year 2007-08) to provide that computation of tax liability shall be made under these sections **after allowing relief under section 89.**

Problems - Return of Income

1. Paras is resident of India. During the FY 2019-20, interest of ₹ 2,88,000 was credited to his Non Resident (External) Account with SBI. ₹ 30,000, being interest on fixed deposit with SBI, was credited to his saving bank account during this period. He also earned ₹ 3,000 as interest on this saving account. **Is Paras required to file return of income?**

What will be your answer, if he owns one shop in Kerala having area of 150 sq. ft.?

2. **State with reasons whether you agree or disagree with the following statements:**
- (a) Return of income of Limited Liability Partnership (LLP) could be verified by any partner.
 - (b) Time limit for filing return under section 139(1) in the case of Mr. A having total turnover of ₹ 160 lakhs for the year ended 31.03.2020, whether or not opting to offer presumptive income under section 44AD is 30th September 2020.
3. **Specify the persons who are authorized to verify under section 140, the return of income filed under section 139 of the Income-tax Act, 1961 in the case of:**
- i. Political party;
 - ii. Local authority;
 - iii. Association of persons, and
 - iv. Limited Liability Partnership (LLP).
4. Mr. Vineet submits his return of income on 12-09-2020 for A.Y 2020-21 consisting of income under the head "Income from house property" and "Income from other sources". On 21-01-2021, he realized that he had not claimed deduction under section 80TTA in respect of his interest income on the Savings Bank Account. He wants to revise his return of income by the end of the relevant assessment year. **Discuss.**
5. **State whether filing of income-tax return is mandatory for the AY 2020-21 in respect of the following cases:**
- A Limited Liability Partnership (LLP) with business loss of ₹ 1,30,000.
6. **State with reasons, whether the following statements are true or false, with regard to the provisions of the Income-tax Act, 1961:**
- (i) The Assessing Officer has the power, inter alia, to allot PAN to any person by whom no tax is payable.
 - (ii) Where the Karta of a HUF is absent from India, the return of income can be signed by any male member of the family.
7. 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 under section 44AB. Her total income for the assessment year 2020-21 is ₹ 3,35,000. She wants to furnish her return of income for assessment year 2020-21 through a tax return preparer. **Can she do so?**
8. **Can an individual, who is not in India, sign the return of income from outside India? Is there any other option?**
9. **Explain with brief reasons whether the return of income can be revised under section 139(5) of the Income-tax Act, 1961 in the following cases:**
- (i) Belated return filed under section 139(4)
 - (ii) Return already revised once under section 139(5)
 - (iii) Return of loss filed under section 139(3)
10. Enumerate the circumstances in which an individual assessee is empowered to verify his return of income under section 139 by himself or otherwise by any authorized person.
11. **Discuss the correctness or otherwise of the following-**
- a) Mr. P (NR) having business loss of ₹ 1,00,000 (after providing for depreciation of ₹ 75,000) furnishes his return of income on 5-8-2020 (turnover for FY 2019-20 ₹ 1 Crore). He wants to carry forward ₹ 1,00,000.
 - b) Mr. P has furnished his return of income for the Assessment Year 2020-21 on 31st March 2021.
 - c) Mr. Q has furnished his return of income for the Assessment Year 2020-21 on 1st April 2021.
 - d) Mr. R didn't file any return of income for the Assessment Year 2020-21 and his assessment for that year was completed on 31st December 2020. He furnishes return of income u/s 139(4) on 1-1-2021.

12. Mr. Sharma's sales for year ended 31-3-2020 were ₹ 10,00,000 and his income for the same year was ₹ 2,10,000. As his income doesn't exceed maximum amount not chargeable to tax, **he is of the opinion that neither he is required to apply for PAN nor he is required to furnish his return of income.**

13. Discuss whether the following persons are required to submit return of income for the AY 2020-21:

Assessee	Net income ₹	Sources of income	Turnover/gross receipt ₹
P Ltd.	10,000	Business	98,00,000
X (Firm)	(-) 40,000	Business	1,65,00,000
Mr. Q	2,60,000	House Property income	-
Rohan	(-) 12,000	Capital gains	-
Mr. K (68 years)	2,90,000	Interest	-
Mrs. M	2,50,000	Business	97,00,000
Sohit	2,50,100	Partner in Chartered Accountants firm	Firm's receipts ₹ 44,00,000
Rohit	2,50,100	Sleeping partner in trading firm	Firm's turnover ₹ 1.5 crore
Mohan	2,55,000	Salary, Interest, HP	

Also state the due date for furnishing the return, wherever applicable.

14. Ms. Priyanka is a partner in a firm but not a working partner, whose turnover for the previous year 2019-20 is ₹ 275 lacs. The due date of filing the return of income by Mr. Priyanka is 31st July, 2020, if he is getting only interest on capital from the firm. **Whether this statement is correct.**

ANSWER – Return of Income

1. An individual is required to furnish a return of income under section 139(1) if his total income, before giving effect to the deductions under Chapter VI-A, exceeds the maximum amount not chargeable to tax i.e., ₹ 2,50,000 (for A.Y. 2020-21).

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

Particulars	₹
Income from other sources	
Interest earned from Non-resident (External) Account ₹ 2,88,000 [Exempt under section 10(4)(ii), assuming that Mr. Paras has been permitted by RBI to maintain the aforesaid account]	NIL
Interest on fixed deposit with SBI	30,000
Interest on savings bank account	3,000
Gross Total Income	33,000
Less: Deduction under section 80TTA (Interest on saving bank account)	3,000
Total Income	30,000

Since the total income of Mr. Paras for A.Y.2020-21, before giving effect to the deductions under Chapter VI-A, is less than the basic exemption limit of ₹ 2,50,000, he is not required to file return of income for A.Y.2019-20. **Owning a shop having area of 150 sq.ft in Kerala would not make any difference to the answer.**

Note: In the above solution, interest of ₹ 2,88,000 earned from Non-resident (External) account has been taken as exempt on the assumption that Mr. Paras, a resident, has been permitted by RBI to maintain the aforesaid account. However, in case he has not been so permitted, the said interest would be taxable. In such a case, his total income, before giving effect to the deductions under Chapter VIA, would be ₹ 3,21,000 (₹ 30,000 + ₹ 2,88,000 + ₹ 3,000), which is higher than the basic exemption limit of ₹ 2,50,000. Consequently, he would be required to file return of income for AY 2020-21. **Here again, ownership of shop in Kerala is immaterial.**

2.

(a) Disagree

The return of income of LLP should be signed by a designated partner. Any other partner can sign the Return of Income of LLP **only in** the following cases:-

- where for any unavoidable reason such designated partner is not able to sign and verify the return, or,
- where there is no designated partner.

(b) Disagree

In case Mr. A opts to offer his income as per the presumptive taxation provisions of section 44AD, then, the due date under section 139(1) for filing of return of income for the year ended 31.03.2020 shall be 31st July, 2020. It is only in case Mr. A does not opt for presumptive taxation provisions under section 44AD and offers income to be lower than 8% of total turnover (or 6% as the case may be) and his total income exceeds the basic exemption limit, he has to keep books of account as per section 44AA and get his accounts audited under section 44AB, in which case the due date for filing return would be 30th September, 2020.

3. The following persons (mentioned in Column III below) are authorised as per section 140, to verify the return of income filed under section 139:

I	II	III
(i)	Political party	Chief Executive Officer of such party (whether known as secretary or by any other designation).
(ii)	Local authority	Principal Officer thereof.
(iii)	Association of Persons	Any member of the association or the principal officer thereof.
(iv)	LLP	Designated partner, or Any partner,
		➤ where the designated partner is not able to verify the return for any unavoidable reason;
		➤ where there is no designated partner.

4. Since Mr. Vineet has income only under the heads “Income from house property” and “Income from other sources”, he does not fall under the category of a person whose accounts are required to be audited under the Income-tax Act, 1961 or any other law in force. Therefore, the due date of filing return for A.Y. 2020-21 under section 139(1), in his case, is 31st July, 2020. Since Mr. Vineet had submitted his return only on 12.9.2020, the said return is a belated return under section 139(4).

As per section 139(5), now a return furnished under section 139(4) can be revised. Now, a belated return under section 139(4) can be revised before the end of AY. Therefore, Mr. Vineet can revise the return of income filed by him under section 139(4), to claim deduction under section 80TTA.

5. As per third proviso to section 139(1), every company or firm shall furnish on or before the due date the return in respect of its income or loss in every previous year. Since LLP is included in the definition of “firm” under the Income-tax Act, 1961, it has to file its return mandatorily, even though it has incurred a loss.

6.

- (i) **True** : Section 139A(2) provides 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.

- (ii) **False**: Section 140(b) provides that where the Karta of a HUF is absent from India, the return of income can be signed by any other adult member of the family; such member can be a male or female member.

7. Section 139B provides a scheme for submission of return of income for any assessment year through a tax return preparer. However, it is not applicable to persons whose books of account are required to be audited under section 44AB. Therefore, Mrs. Hetal cannot furnish her return of income for A.Y. 2020-21 through a tax return preparer.

8. As per section 140, return of income can be signed by an individual even if he is absent from India. Hence, an individual can himself sign the return of income from a place outside India. Alternatively, any person holding a valid power of attorney and duly authorised by the individual can also sign the return of income.

9. Any person who has furnished a return under section 139(1) or section 139(4) can file a revised return if he discovers any omission or any wrong statement in the return filed earlier. Accordingly,

- (i) A belated return filed under section 139(4) can now be revised.
(ii) 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. before the end of the relevant assessment year or before the completion of assessment, whichever is earlier.
(iii) 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).

10. The following table enumerates the specific circumstances and the authorized persons empowered to verify the return of income of an individual assessee filed under section 139(1) in each such circumstance:

	Circumstance	Return of income, to be verified by
(i)	Where he is absent from India	<ul style="list-style-type: none"> ➤ the individual himself; ➤ or any person duly authorised by him in this behalf holding a valid power of attorney from the individual. (Such power of attorney should be attached to the return of income)
(ii)	Where he is mentally incapacitated from attending to his affairs	<ul style="list-style-type: none"> ➤ his guardian; or ➤ any other person competent to act on his behalf.
(iii)	Where, for any other reason, it is not possible for the individual to verify the return	<ul style="list-style-type: none"> ➤ any person duly authorised by him in this behalf holding a valid power of attorney from the individual (Such power of attorney should be attached to the return of income)
(iv)	In circumstances not covered under (i), (ii) & (iii) above	<ul style="list-style-type: none"> ➤ the individual himself

11. The correctness or otherwise of the aforesaid is discussed hereunder-

- a) **Incorrect**: The due date for furnishing return was 31/07/2020. Since return has not been filed within the due date specified in section 139(1), hence, business loss of ₹ 25,000 cannot be carried forward. However, unabsorbed depreciation of ₹ 75,000 can be carried forward.
b) **Correct**: Belated return has been filed within time limit i.e. by the end of relevant assessment year.
c) **Incorrect**: Last date for filing belated return for assessment year 2020-21 is 31st march 2021. Since return has been filed after that date, hence it is invalid.

- d) **Incorrect:** Belated return cannot be filed after the date of completion of assessment. Hence, the return filed after completion of assessment is invalid.

12. Mr. Sharma is liable to apply for PAN, as his sales exceed ₹ 5 lakhs, but he is not required to furnish return of income, as his income doesn't exceed ₹ 2,50,000.

13. The following table gives the answer-

Assessee	Whether return required to be filed?	Due date	Remarks
P Ltd.	Yes	30-09-2020 or 30-11-2020	Company is compulsorily required to file return
X (Firm)	Yes	30-09-2020	Firm is compulsorily required to file its return. Accounts to be audited u/s 44AB.
Q	Yes	31-07-2020	-
Rohan	No	-	If Rohan wants to carry forward his loss, he must file return of income on or before 31-7-2020
Mr. K	No	-	Income doesn't exceed maximum amount not chargeable to tax, which is ₹ 3,00,000
Mrs. M	No	-	Income doesn't exceed maximum amount not chargeable to tax, which is ₹ 2,50,000
Sohit	Yes	31-07-2020	Extended time limit is applicable only in case of working partner of a firm, whose accounts are required to be audited u/s 44AB.
Rohit	Yes	31-07-2020	Extended time limit is applicable only in case of working partner of a firm, whose accounts are required to be audited u/s 44AB.
Mohan	Yes	31-07-2020	-

14. True, the due date gets extended to 30th Sep. only in respect of working partner.

ADVANCE TAX [SECTIONS 207 TO 219]

LIABILITY FOR PAYMENT OF ADVANCE TAX

- (1) Tax shall be payable in advance during any FY in respect of Total Income of the assessee which would be chargeable to tax for the AY immediately following that financial year.
- (2) Under section 208, obligation to pay advance tax arises in every case where the advance tax payable is **₹ 10,000 or more.**
- (3) Further, where a person has received any income without deduction of tax, he shall be liable to pay advance tax in respect of such income also.
- (4) **However, A Resident Senior Citizen, not having any income chargeable u/h "PGBP" shall not be liable to pay advance tax.**
- (5) **Amount of Advance Tax Payable is:**

Tax (including cess) on Total Income	XXX
Less: Tax Deducted at Source / Tax collected at source / Relief u/s 89	(XXX)
Amount of Tax Payable	XXX

Section – 211 – Advance tax is payable in the following installments

For Assessee who declares profits or gains in accordance with the Sec 44AD or Sec 44ADA

Advance tax is payable to the extent of the whole amount of such advance tax during each financial year on or before the 15th March

For other Assessee:

Due date of installment	Installment Amount
On or before 15 th June	15% of the advance tax liability
On or before 15 th Sept	45% of the Advance tax liability as reduced by the amount, of any, paid in earlier installment.
On or before 15 th Dec	75% of the advance tax liability as reduced by the amount, if any, paid in earlier installments.
On or before 15 th Mar	100% of the advance tax liability as reduced by the amount, if any, paid in earlier installments.

Interest for non-payment or short-payment of advance tax [Section 234B]

- (1) Interest under section 234B is attracted for non-payment of advance tax or payment of advance tax of an amount **less than 90% of assessed tax.**
- (2) The interest liability would be **1% per month or part of the month** starting from 1st April following the financial year and ending on the date of payment of Income Tax.
- (3) Such interest is calculated on the amount of **difference between the assessed tax and the advance tax paid.**
- (4) **Assessed tax** is the **tax calculated on total income less TDS/TCS/Relief u/s 89**

Interest payable for deferment of advance tax [Section 234C]

- (1) Interest under section 234C is attracted for deferment of advance tax beyond the due dates.
- (2) The interest liability would be 1% per month, for a period of 3 months, for every deferment.
- (3) However, for the installment due on 15th March, the interest liability under this section would be 1% for one month.
- (4) In case of Assessee covered in Section 44AD/Section 44ADA, Interest@1% on amount of shortfall [Installment due on 15th March i.e. 100% less Advance Tax Paid]
- (5) The interest is to be calculated on the difference between the amount arrived at by applying the specified percentage of Tax due on Returned Income [Tax less TDS/TCS/Relief u/s 89] and the actual amount paid by the due date
- (6) If advance tax paid in case of 1st & 2nd installment is 12% or more and 36% or more respectively, then no interest shall be payable by any assessee.

Additional Points

- a) Under the provisions of Section 234A and 234B, interest is chargeable **per month or part of a month**. This means that even where the delay is for part of a month, say even for one day, interest shall be charged for whole month.
- b) **Rule 119A:**
 - (i) Where interest is to be calculated for every month or part of a month comprised in a period, **any fraction of a month shall be deemed to be a full month**.
 - (ii) Where interest is to be calculated on annual basis, any fraction of a month shall be ignored.
 - (iii) The amount of tax in respect of which interest is to be calculated is to be **rounded off to the nearest multiple of rupees hundred and any fraction of hundred is to be ignored**.
- c) **Any** amount paid by way of advance tax on or before 31st March shall also be treated as advance tax paid during the financial year for all purposes of the Act.
- d) Where the assessee does not pay any installment by the due date, he shall be **deemed to be an assessee in default** in respect of such installment.
- e) if the last day for payment of any installment of advance tax is a day **on which bank is closed**, then the assessee can make payment on the **next immediately following working day**, and in such cases, the interest under sections 234B and 234C shall be not be charged.
- f) **Net agricultural income has to be considered for the purpose of computing advance tax.**

SECTION 234A - INTEREST (PENAL NATURE) FOR DEFAULT IN FURNISHING OF ROI

Applicability:	1. The ROI is not filed within the due date u/s 139(1) or within the time allowed by the notice u/s 142(1), or 2. The ROI is not furnished	
Rate of Interest	1% for every month or part of the month	
Period of Interest	1. When the ROI is filed: From the due date of filing the return, till the date of furnishing the ROI. 2. Where ROI is not filed: From the due date of filing Return of Income, upto the date of completion of assessment.	
Amount on which interest is payable	Tax Payable Less: TDS/TCS/Advance Tax Paid/Relief u/s 89 Tax Amount on which interest is payable:	XXX XXX XXX

Return filed late, but tax paid before due date: No Interest u/s 234A [CBDT Circular]

Problems on Advance Tax & Interest

1. Who is liable to pay advance tax? What is the procedure to compute the advance tax payable?

Answer:

As per section 207, tax shall be payable in advance during any financial year in accordance with the provisions of sections 208 to 219, in respect of an assessee's current income i.e., the total income of the assessee which would be chargeable to tax for the assessment year immediately following that financial year.

In order to reduce the compliance burden on senior citizens having passive sources of income like interest, rent etc., Section 207 provides exemption from payment of advance tax to a resident individual-

- (1) not having any income chargeable under the head "Profits and gains of business or profession"; and
- (2) of the age of 60 years or more at any time during the previous year.

As per section 208, the obligation to pay advance tax arises in every case where such tax payable by the assessee during that year is ₹ 10,000 or more.

Procedure for computing advance tax payable [Section 209]

- (1) An assessee has to **first estimate his current income** (under five heads of income after applying the provisions of aggregation of income and set-off or carry forward of losses and allowing deductions under Chapter VI-A).
- (2) The assessee shall then compute the income-tax payable on his current income **at the rates in force in the financial year**.
- (3) The tax so calculated shall be reduced by the amount of tax which has been **actually deducted** at source.
- (4) Net agricultural income is also to be considered for the purpose of computing advance tax in case of specified classes of assesseees.

The specified percentage of advance tax shall be paid by the assessee on his own on or before the due date of each installment. A person who pays any installment or installments may, increase or reduce the amount of advance tax payable in subsequent installment(s) in accordance with his estimate of current income and the advance tax payable thereon.

2. **IMP (4 Marks):** Briefly discuss the provisions relating to payment of advance tax on income arising from capital gains, casual income etc.

Answer:

Interest under Section 234C shall not be leviable in respect of any shortfall in payment of tax due on returned income, where such shortfall is on account of under-estimate or failure to estimate-

- (i) **The amount of Capital Gain**
- (ii) **Casual Income**
- (iii) **PGBP Income where the income accrues or arises under the said head for the first time**
- (iv) **Income in the nature referred to in Section 115BBDA i.e. dividend in aggregate exceeding of ₹ 10 Lakhs received during the PY**

However, the assessee should have paid the whole of the amount of tax payable in respect of such income referred to in (i), (ii), (iii), or (iv), as the case may be, had such income been a part of the Total Income, as part of the remaining installments of advance tax which are due or where no such installments are due, by 31st March of the financial year.

3. The following particulars are furnished by Abdul for the FY 2019-20 (AY 2020-21):

Tax on total income (paid on 30.09.2020)	₹ 1,50,000
Due date for filing the return	30-09-2020
Actual date of filing the return	1-10-2020

Calculate the total interest payable under sections 234A, 234B and 234C.

Answer:**Computation of Interest payable by Abdul (amount in ₹)**

Interest under section 234A (Since the tax has been paid on 30-9-2020 i.e. on or before the due date of filing of return of income and no tax is due on 1-10-2020 on the date of filing of the return, therefore, no interest can be charged.)		NIL
Interest under section 234B for 6 months i.e. 1-4-20 to 30-09-2020 (1,50,000*1%*6)		9,000
Interest under section 234C as follows-		
15% of ₹ 1,50,000 i.e. ₹ 22,500*1%*3 months	675	
45% of ₹ 1,50,000 i.e. ₹ 67,500 *1%*3 months	2,025	
75% of ₹ 1,50,000 i.e. ₹ 1,12,500*1%*3 months	3,375	
100% of ₹ 1,50,000 i.e. ₹ 1,50,000*1%*1 months	1,500	7,575
Total interest payable		16,575

4. The following particulars are furnished by Ms. Madhuri for the financial year 2018-19 (assessment year 2020-21):

Tax on total income (paid on 31.7.2020) - ₹ 50,000

Date of filing the return 1.8.2020

Due date for filing the return 31.7.2020

Compute the total interest payable under sections 234A, 234B and 234C.

Answer:

The total interest payable by Ms. Madhuri under section 234 is computed as under:

Interest for	Calculation	Amount (₹)
Delay in filing under section 234A	NIL, as tax fully paid on due date	NIL
Default in payment of advance tax u/s 234B	50,000*1%*4 months	2,000
Deferment of Advance Tax u/s 234C	15% of ₹ 50,000*1%*3 months	225
	45% of ₹ 50,000*1%*3 months	675
	75% of ₹ 50,000*1%*3 months	1125
	100% of ₹ 50,000*1%*1 months	500
Total Interest Payable		4525

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

Tax on total income ₹ 10,000; Due date of filing returns: 31.7.2020; Date of filing the return 1.8.2020; Tax and interest thereon fully paid on 1.8.2020.

6. In the case of an individual, if the information in Question No. 5 is modified as under, what will be the interest implication:

- Tax and interest fully paid only on 31.3.2020 and return filed on 31.12.2020.
- Tax and interest fully paid only on 15.3.2020 and return filed on 1.9.2020.

7. The "tax due on the returned income" for the AY 2020-21 is ₹ 15,000/- (i.e. tax on returned income less tax deductible or collectible at source). Advance tax paid is ₹ 14,000/- (₹ 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.**

8. For the AY 2020-21, following details are available:

- Due date of filing ROI 31.07.2020
- Date of filing of ROI 01.12.2020
- Tax as per ROI ₹ 3,50,000
- Advance tax paid on 19.03.2020 ₹ 2,40,000
- Tax deducted at source ₹ 40,000

Compute payment required to be made u/s 140A; assuming payment is made on 01.12.2020. Determine the interest payable under section 234A, 234B & 234C?

TAX DEDUCTED AT SOURCE

DEDUCTION OF TAX AT SOURCE AND ADVANCE PAYMENT [SEC 190]

The total income of an assessee for the previous year is taxable in the relevant assessment year. However, the income-tax is recovered from the assessee in the previous year itself through –

- (1) Tax deduction at Source (TDS) / Tax collection at source (TCS)
- (2) Payment of Advance Tax

Another mode of recovery of tax is from the employer through tax paid by him under section 192(1A) **on the non-monetary perquisites provided to the employee [example Rent Free Accommodation]**.

These taxes are deductible from the total tax due from the assessee. The assessee, while filing his return of income, has to pay self-assessment tax under section 140A, if tax is due on the total income as per his return of income after adjusting, *inter alia*, TDS, TCS, **relief of tax claimed under section 89** and advance tax.

DIRECT PAYMENT [SECTION 191]

Section 191 provides that in the following cases, tax is payable by the assessee directly –

1. in the case of income in respect of which tax is not required to be deducted at source; and
2. Income in respect of which tax is liable to be deducted but is not actually deducted.

In view of these provisions of section 191, the proceedings for recovery of tax necessarily had to be taken against the assessee whose tax was liable to be deducted, but not deducted.

SURCHARGE & CESS

Surcharge (when receipts payable exceeds 1 Crores / 10 Crores / 50 Lakhs etc) **or H & EC** is applicable when TDS is deducted either **from Salary payment to any person (Res / NR) OR from the payment to NR / Foreign Company**.

NO TDS on GST Component

Circular No. 23/2017 - Tax shall be deducted at source on the amount paid/payable to Resident without GST component if such GST component is indicated separately.

SALARY [Section 192]

Person Responsible to deduct Tax	ANY PERSON responsible for paying any income chargeable to tax under the head 'Salaries' i.e. Employers
Category of Payee	Employee [Resident as well as Non-Resident]
Rate of TDS	Average rate of income tax computed on the basis of the rates in force for the relevant financial year in which the payment is made, on the estimated total income of the assessee.
Time for Deduction of Tax	At the time of Payment. [Due date is irrelevant]
Tax on Non-Monetary Perquisite	<ul style="list-style-type: none"> U/s 192(1A), the employer may, at his option, pay income-tax on the whole or part of perquisite provided by way of non-monetary payments. The tax so payable shall be construed as if it were, a tax deductible at source, from the income under the head "Salaries"
Other Income	<p>A tax payer having salary income in addition to other income chargeable to tax for that financial year, may send to the employer, the following:</p> <ol style="list-style-type: none"> a. particulars of such other income and particulars of any tax deducted under any other provision; b. loss, if any, under the head 'Income from house property'. <p>The employer shall take the above particulars into account while calculating tax deductible at source.</p>

Requirement to obtain evidence/ proof/ particulars of claims from the employee by the employer

S. No.	Nature of Claim	Evidence or particulars
1	House Rent Allowance	Name, address and PAN of the landlord(s) where the aggregate rent paid during the previous year exceeds ₹ 1 lakh.
2	Leave Travel Concession or Assistance	Evidence of expenditure
3	Deduction of interest under the head "Income from house property"	Name, address and PAN of the lender
4	Deduction under Chapter VIA	Evidence of investment or expenditure.

Taxable Withdrawal from Employee Provident Fund [Sec 192A]

For the purpose of discouraging pre-mature withdrawal and promoting long term savings, if the employee makes withdrawal before continuous service of five years (other than the cases of termination due to ill health, contraction or discontinuance of business, cessation of employment etc.) and does not opt for transfer of accumulated balance to new employer, the withdrawal would be subject to tax.

1. TDS rate is **10%** in case of **premature taxable withdrawal** from EPF (at the time of payment)
2. No TDS if payment is **Less than ₹ 50,000**
3. In case PAN is not furnished, **TDS rate will be MMR.**

Interest on securities [Section 193]

Person Responsible to deduct Tax & Payee	Every person responsible for paying <u>to a resident</u> any income by way of interest on securities.
Rate of TDS	<i>10% [only Resident payee are covered here]</i>
Time for Deduction of Tax	At the time of credit to the account of payee or payment, whichever is earlier.

TDS SHALL NOT BE DEDUCTED IN THE FOLLOWING CASES:

1. On any **Security of the CG/SG**
2. **Interest upto ₹ 10,000 on 8% Taxable Savings Bonds 2003.**
3. **Interest upto ₹ 10,000 on 7.75% GOI Savings (Taxable) Bonds, 2018**
4. *On interest payable on "Power Finance Corporation Limited 54EC Capital Gains Bond" and "Indian Railway Finance Corporation Limited 54EC Capital Gains Bond."*
5. Interest paid to **Resident Individual 'or' HUF** on **listed or unlisted debentures** of **widely held company by account payee cheque** of an amount **not exceeding ₹ 5,000** during a financial year.
6. on **Securities to LIC, GIC, subsidiaries of GIC or any other insurer.**
7. Interest payable on securities issued by a company, where such security is in demat form and is listed on a recognised stock exchange.

Dividends [Section 194]

Person Responsible to deduct Tax	Domestic Company
Payee	Resident Shareholder.
Rate of Deduction of Tax [TDS Rate]	10%
Time for Deduction of Tax	Before making any payment in cash or cheque or warrant, or any distribution or payment to a share holder
Non-deduction of TDS	<ul style="list-style-type: none"> Dividends referred in u/s 115-O. Dividend payments to an individual, if it is paid by account payee cheque and aggregate of dividend distributed / likely to be distributed does not exceed ₹ 2500. Dividend receivable by LIC, GIC, its subsidiaries or any other insurer.

Interest other than interest on securities [Section 194A]

Person Responsible to deduct Tax	All assessee <u>other than individual and HUF whose accounts are not subject to audit u/s 44AB of the Act during the preceding financial year</u> - Paying Interest other than Interest on Securities
Payee	RESIDENT PERSON
Rate of Deduction of Tax [TDS Rate]	10%
Time for Deduction of Tax	At the time of credit to the account of payee or payment, whichever is earlier.
Non-deduction of TDS	NO TDS If aggregate amount of interest [by all branch] credited or paid does not exceed- <ul style="list-style-type: none"> a) Where the payer is (i) a Banking Company, or (ii) A Co-operative Society engaged in banking business, or (iii) in respect of Deposit with post office notified by the central Government [Time deposits including recurring deposits] - w.e.f 01/04/2019 ₹ 40,000 ₹ 10,000 (₹ 50,000 in case of senior citizen)# b) In any other case - ₹ 5,000

The threshold limit will be reckoned with reference to the total interest credited or paid by the banking company or the co-operative society or the public company, as the case may be, (and not with reference to each branch), **where such banking company or co-operative society or public company has adopted core banking solutions.**

NO TDS IS DEDUCTED U/S 194A IN THE FOLLOWING CASES:

- ✓ Interest paid or credited by a firm to any of its partners;
- ✓ Interest paid or credited by a co-operative society to a member thereof or any other cooperative society **[Except interest paid to member by Cooperative bank];**
- ✓ **Interest income credited or paid in respect of deposits (other than time deposits or recurring deposits) with**
 - a bank to which the Banking Regulation Act, 1949 applies; or
 - a co-operative society engaged in carrying on the business of banking.
- ✓ **Interest income credited or paid by the Central Government** under any provisions of the Income-tax Act.
- ✓ **Interest paid or credited to** Banking companies, Statutory Corporations, LIC, Insurance Companies, UTI and other notified institution.
- ✓ income paid or payable by an infrastructure capital company or infrastructure capital fund or public sector company in relation to a **Zero Coupon Bond issued.**

QUESTION:

Examine the TDS implications under section 194A in the cases mentioned hereunder–

1. On 1.10.2019, Mr. Harish made a six-month fixed deposit of ₹ 10 lakh@9% p.a. with ABC Co-operative Bank. The fixed deposit matures on 31.3.2020.
2. On 1.6.2019, Mr. Ganesh made three nine month fixed deposits of ₹ 3 lakh each, carrying interest@9% with Dwarka Branch, Janakpuri Branch and Rohini Branch of XYZ Bank, a bank which has adopted CBS. The fixed deposits mature on 28.2.2020.
3. On 1.4.2019, Mr. Rajesh started a 1 year recurring deposit of ₹ 80,000 per month@8% p.a. with PQR Bank. The recurring deposit matures on 31.3.2020.

SOLUTION

1. ABC Co-operative Bank has to deduct tax at source@10% on the interest of ₹ 45,000 ($9\% \times ₹ 10 \text{ lakh} \times \frac{1}{2}$) under section 194A. The tax deductible at source under section 194A from such interest is, therefore, ₹ 4,500.
2. XYZ Bank has to deduct tax at source@10% under section 194A, since the aggregate interest on fixed deposit with the three branches of the bank is ₹ 60,750 [$3,00,000 \times 3 \times 9\% \times 9/12$], which exceeds the threshold limit of ₹ 40,000. Since XYZ Bank has adopted CBS, the aggregate interest credited/paid by all branches has to be considered. Since the aggregate interest of ₹ 60,750 exceeds the threshold limit of ₹ 40,000, tax has to be deducted@10% under section 194A.
3. Tax has to be deducted under section 194A by PQR Bank on the interest of ₹ 41,600 falling due on recurring deposit on 31.3.2020 to Mr. Rajesh, since
 - i. “recurring deposit” is included in the definition of “time deposit”; and
 - ii. such interest exceeds the threshold limit of ₹ 40,000.

Winnings from lotteries, crossword puzzles, Games etc [Sec 194B & 194BB]

Particulars	194B	194BB
Person Responsible to deduct Tax	Any person paying the sum by way of winnings from lottery, Crossword Puzzle, Card Game or Game of any sort.	Any Person being the holder of license paying winning from Horse Races
Non-deduction of TDS	If the payment does not exceed ₹ 10,000 during a financial year.	If the payment does not exceed ₹ 10,000 during a financial year.
Payee	All Assessee [Resident as well as Non-Resident]	
Rate of Deduction of Tax [TDS Rate]	30% [Benefit of lower or NIL Tax under Section 197 is not applicable]	
Time for Deduction of Tax	At the Time of Payment; [Where prize money is in Kind, before releasing the prize, the payer should ensure that tax has been paid in respect of the winnings.]	

Payments to contractors and sub-contractors [Section 194C]

Person Responsible to deduct Tax	Payments made by any person other than Individual/HUF/BOI/AOP, who are not subject to tax Audit u/s 44AB of the Act during the preceding financial year.
Payee	Any person Resident in India
TDS on	Payment for work contract
Time for Deduction of Tax	At the time of Credit or Payment, whichever is earlier.

Rate of Deduction of Tax [TDS Rate]	<p>For all Contractors and Sub Contractors:</p> <p>(a) If payee is Ind. & HUF – 1%</p> <p>(b) for others payee – 2%</p> <p>[Provision of Section 197 for lower TDS Rate is available]</p>
--	---

Non Deduction of TDS:

- (1) No deduction will be required to be made **if the consideration for the contract** (payee-wise) does not exceed ₹ 30,000.

Further, tax will be required to be deducted at source where the amount being credited or paid to a contractor/sub-contractor **exceeds ₹ 30,000 in a single payment or ₹ 100,000 in the aggregate during a financial year.**

- (2) **No Individual or HUF** shall be liable to deduct tax on sum credited or paid to the account of the contractor where such sum is **credited or paid exclusively for personal purposes** of such individual or any member of HUF.
- (3) **In case of Contractor in the business of Plying, Hiring or Leasing goods Carriages:**

No deduction on payment to a contractor, during the course of the business of plying, hiring or leasing goods carriages, if he furnishes his PAN to the deductor & owns 10 or Less goods carriage at any time during the PY

If PAN is not quoted by the Transporter, TDS Rate will be 20% in the absence of PAN as per Section 206AA.

- (4) The deduction of income-tax will be made from sums paid for carrying out any work or for supplying labour for carrying out any work. In other words, **the section will apply only in relation to 'works contracts' and 'labour contracts' and will not cover contracts for sale of goods.**
- (5) **Work includes –**
- advertising;
 - broadcasting and telecasting including production of programmes for such broadcasting or telecasting;
 - carriage of goods or passengers by any mode of transport **other than by railways**;
 - catering;
 - manufacturing or supplying a product according to the requirement or specification of a customer **by using material purchased from such customer.**

However, "work" shall not include manufacturing or supplying a product according to the requirement or specification of a customer by using raw material purchased from a person, other than such customer, as such a contract is a contract for 'sale'.

[It may be noted that the term "work" would include manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from such customer. In such a case, tax shall be deducted on the invoice value excluding the value of material purchased from such customer if such value is mentioned separately in the invoice. Where the material component has not been separately mentioned in the invoice, tax shall be deducted on the whole of the invoice value.]

Applicability of TDS provisions on payments by broadcasters or Television Channels to production houses for production of content or programme for telecasting [Circular No. 04/2016, dated 29-2-2016]

The issue under consideration is whether payments made by the broadcaster/telecaster to production houses for production of content/programme are payments under a 'work contract' liable for tax deduction at source under section 194C or a contract for 'professional or technical services' liable for tax deduction at source under section 194J.

In this regard, the CBDT has clarified that while applying the relevant provisions of TDS on a contract for content production, a distinction is required to be made between:

1. a payment for production of content/programme as per the specifications of the broadcaster/telecaster; and
2. a payment for acquisition of broadcasting/ telecasting rights of the content already produced by the production house.

In the first situation where the content is produced as per the specifications provided by the broadcaster/telecaster and the copyright of the content/programme also gets transferred to the telecaster/ broadcaster, such contract is covered by the definition of the term 'work' in section 194C and, therefore, subject to TDS under that section.

However, in a case where the telecaster/broadcaster acquires only the telecasting/ broadcasting rights of the content already produced by the production house, there is no contract for "carrying out any work", as required in section 194C(1). Therefore, such payments are not liable for TDS under section 194C. However, payments of this nature may be liable for TDS under other sections of Chapter XVII-B of the Act.

Insurance commission [Section 194D]

Person Responsible to deduct Tax	Any Insurance company paying Insurance Commission
Payee	Resident Assessee
Rate of TDS	10% [Provision of Section 197 for lower TDS Rate is available]
Time for Deduction of Tax	At the Time of Credit or payment, whichever is earlier.
Non-deduction of TDS	If the payment does not exceed ₹ 15,000 during financial Year

Payment in respect of life insurance policy [Section 194DA]

Person Responsible to deduct Tax	Insurance Company issuing Life Insurance Policy
Rate of Deduction of Tax [TDS Rate]	1% on any sum paid to a Resident under a Life Insurance Policy including the sum allocated by way of bonus <u>which are not exempt u/s 10(10D)</u> <i>However, from 1.9.2019, tax is to be deducted at source @5% on the amount of income comprised therein i.e., after deducting the amount of insurance premium paid by the resident assessee from the total sum received.</i>
Time for Deduction of Tax	At the Time of Payment
Non-deduction of TDS	No TDS, If the aggregate payment is less than ₹ 100,000.

QUESTION:

Examine the applicability of the provisions for TDS under section 194DA in the above cases -

- Mr. X, a resident, is due to receive ₹ 4.50 lakhs on 31.3.2020, towards maturity proceeds of LIC policy taken on 1.4.2017, for which the sum assured is ₹ 4 lakhs and the annual premium is ₹ 1,25,000.
- Mr. Y, a resident, is due to receive ₹ 2.20 lakhs on 31.3.2020 on LIC policy taken on 1.4.2011, for which the sum assured is ₹ 2 lakhs and the annual premium is ₹ 35,000.
- Mr. Z, a resident, is due to receive ₹ 95,000 on 1.10.2019 towards maturity proceeds of LIC policy taken on 1.10.2011 for which the sum assured is ₹ 90,000 and the annual premium was ₹ 19,000.

SOLUTION

- Since the annual premium exceeds 10% of sum assured in respect of a policy taken on 1.4.2013, the maturity proceeds of ₹ 4.50 lakhs are not exempt under section 10(10D) in the hands of Mr. X. **Therefore, tax is required to be deducted@5% under section 194DA on the amount of income comprised therein i.e., on ₹ 75,000 (₹ 4,50,000, being maturity proceeds - ₹ 3,75,000, being the entire amount of insurance premium paid).**
- Since the annual premium is less than 20% of sum assured in respect of a policy taken before 1.4.2012, the sum of ₹ 2.20 lakhs due to Mr. Y would be exempt under section 10(10D) in his hands. Hence, no tax is required to be deducted at source under section 194DA on such sum payable to Mr. Y.
- Even though the annual premium exceeds 20% of sum assured in respect of a policy taken before 1.4.2012, and consequently, the maturity proceeds of ₹ 95,000 would not be exempt under section 10(10D) in the hands of Mr. Z, the tax deduction provisions under section 194DA are not attracted since the maturity proceeds are less than ₹ 1 lakh.

Payments to Non-Resident Sportsmen or Sports Association [Section 194E]

Person Responsible to deduct Tax	Any person making payment in nature of income as referred in Section 115BBA
Payee	Non-Resident Sportsman (including athlete) or Entertainer who is not an Indian Citizen / Non-Resident Sports Association
Rate of Deduction of Tax [TDS Rate]	20% + surcharge + cess
Time for Deduction of Tax	At the Time of Credit or payment, whichever is earlier.

Income referred to in section 115BBA

1. income received or receivable **by a non-resident sportsman (including an athlete)** by way of-
 - a. participation in any game or sport in India (However, games like crossword puzzles, horse races etc. taxable under section 115BB are not included herein); or
 - b. advertisement; or
 - c. contribution of articles relating to any game or sport in India in newspapers, magazines or journals.
2. Guarantee amount paid or payable **to a non-resident sports association or institution** in relation to any game or sport played in India. **However, games like crossword puzzles, horse races etc. taxable under section 115BB are not included herein.**
3. income received or receivable **by a non-resident entertainer (who is not a citizen of India)** from his performance in India.

QUESTION:

Calculate the amount of tax to be deducted at source (TDS) on payment made to Ricky Ponting, an Australian cricketer non-resident in India, by a newspaper for contribution of articles ₹ 25,000.

SOLUTION

Under section 194E, the person responsible for payment of any amount to a nonresident sportsman for contribution of articles relating to any game or sport in India in a newspaper shall deduct tax @20%. Further, since Ricky Ponting is a non-resident, health and education cess @4% on TDS would also be added.

Therefore, tax to be deducted = ₹ 25,000 x 20.8% = ₹ 5,200.

Payments in respect of deposits under National Savings Scheme**[Section 194EE]**

1. The person responsible for paying to any person any amount from NSS as mentioned in section 80CCA shall, at the time of payment thereof, deduct income-tax thereon at the rate of **10%**.
2. No deduction if payment is less than ₹ 2,500 during the financial year.
3. No TDS in case of payment on death to legal heirs of the assessee.

Commission etc. on the sale of lottery tickets [Section 194G]

Under Section 194G, the person responsible for paying any income by way of commission, remuneration or prize (by whatever name called) on lottery tickets in an **amount exceeding ₹ 15,000 shall deduct income-tax thereon at the rate of 5%**. Such deduction should be made at the time of credit or payment, whichever is earlier.

Commission or brokerage [Section 194H]

Person Responsible to deduct Tax	All assessee other than individual and HUF whose accounts are not subject to audit u/s 44AB of the Act during the preceding financial year – Responsible for paying any income by way of commission (other than insurance commission) or brokerage
Payee	Resident Person
Rate of Deduction of Tax [TDS Rate]	5% [Provision of Section 197 for lower TDS Rate is available]
Time for Deduction of Tax	At the Time of Credit or payment, whichever is earlier.
Non-deduction of TDS	No TDS, If the aggregate payment does not exceed ₹ 15,000.

“Commission or brokerage” includes any payment received or receivable, directly or indirectly, by a person acting on behalf of another person for services rendered, or for any services in the course of buying or selling of goods, or in relation to any transaction relating to any asset, valuable article or thing, other than securities.

Further, there would be no requirement to deduct tax at source on commission or brokerage payments by BSNL or MTNL to their public call office (PCO) franchisees.

Applicability of TDS provisions on payments by television channels and publishing houses to advertisement companies for procuring or canvassing for advertisements [Circular No. 05/2016, dated 29-2-2016]

There are two types of payments involved in the advertising business:

- 1. Payment by client to the advertising agency, and***
- 2. Payment by advertising agency to the television channel/newspaper company***

The applicability of TDS on these payments has already been dealt with in Circular No. 715 dated 8-8-1995, where it has been clarified that while TDS under section 194C (as work contract) will be applicable on the first type of payment, there will be no TDS under section 194C on the second type of payment e.g. payment by advertising agency to the media company.

However, another issue has been raised in various cases as to whether the fees/charges taken or retained by advertising companies from media companies for canvassing/booking advertisements (typically 15% of the billing) is 'commission' or 'discount' for attracting the provisions of section 194H.

The CBDT has clarified that ***no TDS is attracted on payments made by television channels/newspaper companies to the advertising agency for booking or procuring of or canvassing for advertisements.***

It is also further clarified that 'commission' referred to in CBDT's Circular No. 715 dated 8-8-1995 does not refer to payments by media companies to advertising companies for booking of advertisements but to payments for engagement of models, artists, photographers, sportspersons, etc. and, therefore, is not relevant to the issue of TDS referred to in this Circular.

QUESTION:

Moon TV, a television channel, made payment of ₹ 50 lakhs to a production house for production of programme for telecasting as per the specifications given by the channel. The copyright of the programme is also transferred to Moon TV. Would such payment be liable for tax deduction at source under section 194C? Discuss.

Also, examine whether the provisions of tax deduction at source under section 194C would be attracted if the payment was made by Moon TV for acquisition of telecasting rights of the content already produced by the production house.

SOLUTION

In this case, since the programme is produced by the production house as per the specifications given by Moon TV, a television channel, and the copyright is also transferred to the television channel, the same falls within the scope of definition of the term 'work' under section 194C. Therefore, the payment of ₹ 50 lakhs made by Moon TV to the production house would be subject to tax deduction at source under section 194C.

If, however, the payment was made by Moon TV for acquisition of telecasting rights of the content already produced by the production house, there is no contract for "carrying out any work", as required in section 194C(1).

Therefore, such payment would not be liable for tax deduction at source under section 194C.

RENT [SECTION 194-I]

Person Responsible to deduct Tax	<p>All assessee other than individual and HUF whose accounts are not subject to audit u/s 44AB of the Act during the preceding financial year</p> <p>– Responsible for paying Rent.</p> <p>“RENT” means any payment under any lease, sub-lease, tenancy or any other agreement or arrangement for the use of (either separately or together) any –</p> <p>(a) land; or (b) building (including factory building); or (c) land appurtenant to a building (including factory building); or (d) machinery; or (e) plant; or (f) equipment; or (g) furniture; or (h) fittings,</p> <p>whether or not any or all of the above are owned by the payee.</p>	
Payee	Any person being Resident	
TDS Rate	Land/Building/ Furniture/Fittings	Machinery/Plant/Equipment
	10% for all	2 %
Time for Deduction of Tax	At the Time of Credit or payment, whichever is earlier.	
Non-deduction of TDS	<ul style="list-style-type: none"> No deduction if amount of rent paid/payable does not exceed ₹ 2,40,000 (w.e.f 01/04/2019) ₹ 1,80,000 during any financial year. NO TDS if the payee is the Government or a local authority. 	

Tax Points: – 194I applicable

- ✓ If a person has taken a particular space on rent and thereafter sub-lets the same fully or in part for putting up hoarding, he would be liable to TDS u/s 194-I and not u/s 194C.
- ✓ Payment made for the rent to the co-owner each having a definite and ascertainable share in the property is exceeds the limit of ₹ 1,80,000 per annum in the hands of **each co-owner separately**
- ✓ Payment made to landlord as deposit **if in the nature of advance rent or non-refundable deposit.**
- ✓ **Payment made for Warehousing Charges.** However, **the provisions of 194-I are not applicable to the cooling charges paid by the customers of the cold storage.** However, since the arrangement between the customers and cold storage owners are basically contractual in nature, **the provision of section 194-C will be applicable** to the amounts paid as cooling charges by the customers of the cold storage.
- ✓ Treatment of tax credit in the hands of the Payee, for TDS on Advance Rent: - **pro-rata TDS is allowed according to the rent offered for taxation.**

No requirement to deduct tax at source under section 194-I on remittance of Passenger Service Fees (PSF) by an Airline to an Airport Operator [Circular No. 21/2017, dated 12.06.2017]

Section 194-I requires deduction of tax at source at specified percentage on any income payable to a resident by way of rent. *Explanation* to this section defines the term “rent” as any payment, by whatever name called, under any lease, sub-lease, tenancy or any other agreement or arrangement for the use of any (a) land; or (b) building; or (c) land appurtenant to a building; or (d) machinery; (e) plant; (f) equipment (g) furniture; or (h) fitting, whether or not any or all of them are owned by the payee.

The primary requirement of any payment to qualify as rent is that the payment must be for the use of land and building and ***mere incidental/minor/ insignificant use of the same while providing other facilities and service would not make it a payment for use of land and buildings so as to attract section 194-I.***

Accordingly, the CBDT has, vide this circular, clarified that the provisions of section 194-I shall **not** be applicable on payment of PSF by an airline to Airport Operator.

Clarification on applicability of TDS provisions of section 194-I on lumpsum lease premium paid for acquisition of long term lease [Circular No. 35/2016, dated 13-10-2016]

The issue of whether or not TDS under section 194-I is applicable on 'lump sum lease premium' or 'one-time upfront lease charges' paid by an assessee for acquiring long-term leasehold rights for land or any other property has been examined by the CBDT.

Accordingly, the CBDT has, vide this Circular, clarified that lump sum lease premium or one-time upfront lease charges, which are not adjustable against periodic rent, paid or payable for acquisition of long-term leasehold rights over land or any other property ***are not payments in the nature of rent*** within the meaning of section 194-I. Therefore, such payments are not liable for TDS under section 194-I.

TDS ON PURCHASE OF IMMOVABLE PROPERTY [Section 194-IA]

Person Responsible to deduct Tax	Any person (being a transferee) responsible for paying (other than the person referred to in section 194LA)
Payee	<i>Resident transferor</i>
Payments Covered	Any sum by way of consideration for transfer of any immovable property (other than <i>agricultural land in rural area in India</i>). [Situated in or outside India]
<i>Consideration includes (w.e.f 01/09/2019)</i>	<i>Consideration for transfer of immovable property include all charges of the nature of club membership fee, car parking fee, electricity or water facility fee, maintenance fee, advance fee or any other charges of similar nature, which are incidental to transfer of the immovable property.</i>
Rate of Deduction of Tax	1%
Time for Deduction of Tax	At the Time of Credit or payment, whichever is earlier.
Non-deduction of TDS	No tax is deductible where the consideration paid or payable for the transfer of an immovable property <i>is less than ₹ 50,00,000.</i>
NOTE: Provisions of section 203A (pertaining to TAN) shall not apply in respect of tax deducted	

TDS ON PAYMENT OF RENT BY CERTAIN IND/HUF [Section 194-IB]

Person Responsible to deduct Tax	<u>Any Individual and HUF whose accounts are not subject to audit u/s 44AB of the Act during the preceding financial year</u>
Payee	<i>Resident</i>
Payments Covered	Rent Exceeding ₹ 50,000 p.m.
Rate of Deduction of Tax	5% of aggregate rent
Time for Deduction of Tax	At the Time of Credit of Rent for the Last Month or Payment, whichever is earlier.

NOTE:

1. Provisions of Section 203A (pertaining to TAN) shall not apply in respect of tax deducted
2. In case Section 206AA applies, TDS amount shall not exceed the amount of Rent payable for the last month of the Previous Year/Tenancy Period.

QUESTION:

Mr. X, a salaried individual, pays rent of ₹ 55,000 per month to Mr. Y from June, 2019. Is he required to deduct tax at source? If so, when is he required to deduct tax? Also, compute the amount of tax to be deducted at source. Would your answer change if Mr. X vacated the premises on 31st December, 2019? Also, what would be your answer if Mr. Y does not provide his PAN to Mr. X?

SOLUTION

Since Mr. X pays rent exceeding ₹ 50,000 per month in the F.Y. 2019-20, he is liable to deduct tax at source @5% of such rent for F.Y. 2019-20 under section 194-IB. Thus, ₹ 27,500 [$55,000 \times 5\% \times 10$] has to be deducted from rent payable for March, 2020.

If Mr. X vacated the premises in December, 2019, then tax of ₹ 19,250 [$55,000 \times 5\% \times 7$] has to be deducted from rent payable for December, 2019. In case Mr. Y does not provide his PAN to Mr. X, tax would be deductible @20%, instead of 5%.

In case 1 above, this would amount to ₹ 1,10,000 [$55,000 \times 20\% \times 10$] but the same has to be restricted to ₹ 55,000, being rent for March, 2020.

In case 2 above, this would amount to ₹ 77,000 [$55,000 \times 20\% \times 7$] but the same has to be restricted to ₹ 55,000, being rent for December, 2019.

Section 194-IC : REFER CG NOTES

Fees for Professional or Technical Services [Section 194J]

Person Responsible to deduct Tax	Any person, other than an individual or a HUF, who is responsible for paying income of specified nature. Individual/HUF, subjected to tax audit u/s 44AB in the immediately preceding year, are liable to deduct TDS on payment in the nature of fees for professional services & Fees for Technical Services only.
Payee	Any person being Resident
Payments Covered	(a) Fees for Professional Services (b) Fees for Technical Services (c) Royalty (d) Payments referred u/s 28(va) - Sum received for not carrying out any activity in relation to Business/Profession or not sharing any Know-How, Patent etc. [Non-Compete Fees]
Rate of Deduction of Tax [TDS Rate]	10% [2% if payee is engaged only in the business of Operation of Call Centre]
Time for Deduction of Tax	At the Time of Credit or payment, whichever is earlier.
Non-deduction of TDS	<ul style="list-style-type: none"> No tax deduction is required if the amount being credited or paid during a financial year <u>does not exceed</u> ₹ 30,000 for each of four payments separately. No TDS on Sum paid by Individual / HUF towards professional services exclusively for their personal purposes.
<u>TDS on remuneration other than salary to a director [Section 194J]</u> Section 194J has been amended to provide that tax is required to be deducted on the remuneration or fee or commission etc paid to a director, which is not in the nature of salary, at the rate of 10% of such remuneration.	

Meaning of “Professional services”

“Professional services” means services rendered by a person in the course of carrying on legal, medical, engineering or architectural profession or the profession of accountancy or technical consultancy or interior decoration or advertising or such other profession as is notified by the CBDT for the purposes of section 44AA or of this section.

Other professions notified for the purposes of section 44AA are as follows:

- Profession of “authorised representatives”;
- Profession of “film artist”;
- Profession of “company secretary”.

The CBDT has notified the services rendered by following persons in relation to the sports activities as Professional Services for the purpose of the section 194J:

- Sports Persons,
- Umpires and Referees,
- Coaches and Trainers,
- Team Physicians and Physiotherapists,
- Event Managers,
- Commentators,
- Anchors and
- Sports Columnists.

Accordingly, the requirement of TDS as per section 194J would apply to all the aforesaid professions. The term “profession”, as such, is of a very wide import. However, the term has been defined in this section exhaustively.

For the purposes of TDS, therefore, all other professions would be outside the scope of section 194J. For example, this section will not apply to professions of teaching, sculpture, painting etc. unless they are notified.

Consideration for use or right to use of computer software is royalty within the meaning of section 9(1)(vi)

As per section 9(1)(vi), any income payable by way of royalty in respect of any right, property or information is deemed to accrue or arise in India. The term “royalty” means consideration for transfer of all or any right in respect of certain rights, property or information.

The consideration for use or right to use of computer software is royalty by clarifying that, transfer of all or any rights in respect of any right, property or information includes and has always included transfer of all or any right for use or right to use a computer software (including granting of a licence) irrespective of the medium through which such right is transferred.

Consequently, the provisions of tax deduction at source under section 194J would be attracted in respect of consideration for use or right to use computer software since the same falls within the definition of royalty.

Note:

The Central Government has, vide *Notification No.21/2012 dated 13.6.2012*, effective from 1st July, 2012, exempted certain software payments from the applicability of tax deduction under section 194J. **Accordingly, where payment is made by the transferee for acquisition of software from a resident transferor, the provisions of section 194J would not be attracted if -**

- a. the software is acquired in a subsequent transfer without any modification by the transferor;
- b. tax has been deducted under section 194J on payment for any previous transfer of such software; and
- c. the transferee obtains a declaration from the transferor that tax has been so deducted along with the PAN of the transferor.

Payment of compensation on acquisition of certain immovable property [Section 194LA]

Person Responsible to deduct Tax	Any person
Payee	Any person being Resident
Payments Covered	Any payment in the nature of compensation/ enhanced compensation on account of compulsory acquisition of any immovable property (other than agricultural land). Here Agricultural land includes Urban Land also.
TDS Rate	10%
Time for Deduction of Tax	At the time of payment
Non-deduction of TDS	No tax deduction is required if the aggregate amount during the financial year <u>does not exceed ₹ 250,000</u>

Payment made by an individual or a HUF for contract work or by way of fees for professional services or commission or brokerage [Section 194M]

NEW SECTION – effective from 01/09/2019

A. Applicability and rate of TDS

Section 194M, inserted with effect from 1.9.2019, provides for deduction of tax at source @5% by an individual or a HUF responsible for paying any sum during the financial year **to any resident** –

- i. for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract; or
- ii. by way of commission (not being insurance commission referred to in section 194D) or brokerage; or
- iii. by way of fees for professional services.

It may be noted that only individuals and HUFs (other than those who are required to deduct income-tax as per the provisions of section 194C or 194H or 194J) are required to deduct tax in respect of the above sums payable during the financial year to a resident.

B. Time of deduction

The tax should be deducted at the time of credit of such sum or at the time of payment of such sum, whichever is earlier.

C. Threshold limit

No tax is required to be deducted where such sum or, as the case may be, aggregate amount of such sums credited or paid to a resident during the financial year does not exceed ₹ 50,00,000.

D. Non-applicability of TDS under section 194M

An individual or a Hindu undivided family is **not liable to deduct tax at source** under section 194M if –

- i. they are required to deduct tax at source under section 194C for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract i.e., an individual or a HUF who is subject to tax audit under section 44AB(a)/(b) in the immediately preceding financial year and such amount is not exclusively credited or paid for personal purposes of such individual or HUF.
- ii. they are required to deduct tax at source under section 194H on commission (not being insurance commission referred to in section 194D) or brokerage i.e., an individual or a HUF whose total sales, gross receipts or turnover from the business or profession carried on by him exceed the monetary limits of ₹ 1 crore and ₹ 50 lakhs, respectively, specified under section 44AB during the immediately preceding financial year.
- iii. they are required to deduct tax at source under section 194J on fees for professional services i.e., an individual or a HUF whose total sales, gross receipts or turnover from the business or profession carried on by him exceed the monetary limits of ₹ 1 crore and ₹ 50 lakhs, respectively, specified under section 44AB during the immediately preceding financial year and such amount is not exclusively credited or paid for personal purposes of such individual or HUF.

E. No requirement to obtain TAN

The provisions of section 203A containing the requirement of obtaining Tax deduction account number (TAN) shall not apply to the person required to deduct tax in accordance with the provisions of section 194M.

QUESTION:

Examine whether TDS provisions would be attracted in the following cases, and if so, under which section. Also specify the rate of TDS applicable in each case. Assume that all payments are made to residents.

S.No.	Particulars of the payer	Nature of payment	Aggregate of payments made in the F.Y. 2019-20
1	Mr. Ganesh, an individual carrying on retail business with turnover of ₹ 2.5 crores in the P.Y. 2018-19	Contract Payment for repair of residential house	5 lakhs
		Payment of commission to Mr. Vallish for business purposes	₹ 80,000
2	Mr. Rajesh, a wholesale trader who declares profits under section 44AD for P.Y. 2018-19 and P.Y. 2019-20.	Contract Payment for reconstruction of residential house (made during the period January- March, 2020)	₹ 20 lakhs in January, 2020, ₹ 15 lakhs in Feb 2020 and ₹ 20 lakhs in March 2020.
3	Mr. Satish, a salaried individual	Payment of brokerage for buying a residential house in March, 2020	₹ 51 lakhs
4	Mr. Dheeraj, a pensioner	Contract payment made during October-November 2019 for reconstruction of residential house	₹ 48 lakhs

SOLUTION

S.No.	Particulars of the payer	Nature of payment	Aggregate of payments in the F.Y. 2019-20	Whether TDS provisions are attracted?
1	Mr. Ganesh, an individual carrying on retail business with turnover of ₹ 2.5 crores in the P.Y. 2018-19	Contract Payment for repair of residential house	₹ 5 lakhs	No, TDS under section 194C is not attracted since the payment is for personal purpose and TDS under section 194M is not attracted as aggregate of contract payment to the payee in the P.Y.2019-20 does not exceed Rs.50 lakh.
2	Mr. Rajesh, a wholesale trader who declares profits under section 44AD for P.Y. 2018-19 and P.Y. 2019-20.	Contract Payment for reconstruction of residential house	₹ 55 lakhs	Yes, under section 194M, since the aggregate of payments (i.e., ₹ 55 lakhs) exceed ₹ 50 lakhs, and the payments are made after 1.9.2019. Since he declares profits on presumptive basis under section 44AD, he is not subject to tax audit in the P.Y. 2018-19. Hence, TDS provisions under section 194C are not attracted in respect

				of payments made in the P.Y. 2019-20.
3	Mr. Satish, a salaried individual	Payment of brokerage for buying a residential house	₹ 51 lakhs	Yes, under section 194M, since the payment of ₹ 51 lakhs made in March 2020 exceeds the threshold of ₹ 50 lakhs. Since Mr. Satish is a salaried individual, the provisions of section 194H are not applicable in this case.
4	Mr. Dheeraj, a pensioner	Contract payment for reconstruction of residential house	₹ 48 lakhs	<p>TDS provisions under section 194C are not attracted since Mr. Dheeraj is a pensioner and hence, not subject to tax audit.</p> <p>TDS provisions under section 194M are also not applicable in this case, since the payment of ₹ 48 lakhs, even though made after 1.9.2019, does not exceed the threshold of ₹ 50 lakhs.</p>

TDS on cash withdrawal [Section 194N] - NEW**w.e.f 01/09/2019****1. Applicability and rate of TDS**

Section 194N, inserted with effect from 1.9.2019, provides that every person, being

- a banking company to which the Banking Regulation Act, 1949 applies (including any bank or banking institution referred under section 51 of that Act)
- a co-operative society engaged in carrying on the business of banking, or
- a post office

who is responsible for paying, in cash, any sum or aggregate of sums exceeding ₹ 1 crore during the previous year to any person **from one or more accounts** maintained by such recipient-person with it, shall deduct tax at source **@2% of sum exceeding ₹ 1 crore.**

2. Time of deduction

This deduction is to be made **at the time of payment of such sum.**

3. Non-applicability of TDS under section 194N

Liability to deduct tax at source under section 194N shall not be applicable to any payment made to-

- the **Government**
- any **banking company** or co-operative society engaged in carrying on the business of banking or a post-office
- any **business correspondent** of a banking company or co-operative society engaged in carrying on the business of banking, in accordance with the RBI guidelines
- any **white label ATM operator** of a banking company or co-operative society engaged in carrying on the business of banking, in accordance with the authorisation issued by the RBI under the Payment and Settlement Systems Act, 2007
- such **other person or class of persons notified** by the Central Government in consultation with the RBI.

AMOUNT PAYABLE TO GOVERNMENT/RBI ETC [SECTION 196]

No Deduction of Tax shall be made by any person from any sums payable to:

- | | |
|--|-------------------------------------|
| (i) CG/SG | (ii) RBI |
| (iii) Statutory Corporation which is exempt from Tax | (iv) Mutual Fund [Section 10(23D)]. |

Tax Deducted is income received [Section 198]

- (1) All sums deducted in accordance with the foregoing provisions shall, for the purpose of computing the income of an assessee, **be deemed to be income received.**
- (2) However, the following tax paid or deducted would not be deemed to be income received by the assessee for the purpose of computing the total income–
 - i. the tax paid by an employer under section 192(1A) on non-monetary perquisites provided to the employees
 - ii. **tax deducted under section 194N**

Credit for Tax Deducted At Source [Section 199]

- (1) TDS deducted and paid shall be treated as payment of tax on behalf of the deductee.
- (2) Any sum referred to in Section 192(1A) and paid to the CG, shall be treated as the tax paid on behalf of the employee. [Tax on Non-Monetary Perquisite]

Consequences of failure to deduct or pay [Section 201]

- (1) The following persons **shall be deemed to be an assessee in default** if they do not deduct the whole or any part of the tax or after deducting fails to pay the tax -
 - (i) any person including the principal officer of a company, who is required to deduct any sum in accordance with the provisions of the Act; and
 - (ii) an employer paying tax on non-monetary perquisites under section 192(1A) .

Provided such person shall not be deemed to be an assessee in default in respect of such tax if Resident payee (resident or non-resident)-

- (a) ***has furnished his ROI u/s 139;***
- (b) ***has taken into account such sum for computing income in his ROI; and***
- (c) ***has paid the tax due on the income declared by him,***
and the person furnishes a certificate from a chartered accountant in prescribed manner.

- (2) Such person shall also be liable to pay simple interest:

- (i) At **one percent [1%]** for every month or part of a month on the amount of such tax was deductible to the date on which such tax is deducted; and
- (ii) At **one and one-half percent [1.5%]** for every month or part of a month on the amount of such tax was deducted to the date on which such tax is actually paid.

Provided that if Resident payee has furnished his ROI as aforesaid, the interest shall be payable from date on which tax was deductible to the date of furnishing ROI only.

- (3) No order shall be made under this Section deeming a person to be an assessee in default for failure to deduct the whole or any part of the tax from a person resident in India, at any time **after the expiry of**
 - **7 years from the end of the financial year** in which the payment is made or credit is given OR
 - **2 years from the end of financial year in which the correction statement is delivered under proviso to Section 200(3),**
whichever is later.

QUESTION:

An amount of ₹ 40,000 was paid to Mr. X on 1.7.2019 towards fees for professional services without deduction of tax at source. Subsequently, another payment of ₹ 50,000 was due to Mr. X on 28.2.2020, from which tax@10% (amounting to ₹ 9,000) on the entire amount of ₹ 90,000 was deducted. However, this tax of ₹ 9,000 was deposited only on 22.6.2020. Compute the interest chargeable under section 201(1A).

SOLUTION

Interest under section 201(1A) would be computed as follows:

Particulars	Amount (₹)
1% on tax deductible but not deducted i.e., 1% on ₹ 4,000 for 8 months	320
1½% on tax deducted but not deposited i.e. 1½% on ₹ 9,000 for 4 months	540
Total	860

Common number for TDS [Section 203A]

- Persons responsible for deducting tax shall apply to the AO for the allotment of a “**Tax deduction and Collection account number**” in Form No. 49B. [TAN]
- The same is to be obtained **within 1 month from the end of the month** in which the tax was deducted.
- TDS No. [TAN] has to be compulsorily quoted in** challans for payment of any tax deducted; TDS Certificates; TDS Statements; TDS Returns; and other documents as prescribed.

No Direct Demand on Assessee/Payee [Section 205]

Where tax is deductible at source under the forgoing provisions of this chapter, the assessee shall not be called upon to pay the tax himself **to the extent to which tax has been deducted from that income.**

Mandatory requirement of furnishing PAN in all TDS Matters [Sec 206AA]:

- Any person whose receipts are subject to TDS i.e. the deductee, **shall mandatorily furnish his PAN** to the deductor **otherwise the deductor shall deduct tax at source at higher of the following rates –**
 - the rate prescribed in the Act;
 - at the rate in force i.e., the rate mentioned in the Finance Act; or
 - at the rate of 20%.**
- Furnishing of PAN is mandatory also in cases where the taxpayer files a declaration in **Form 15G or 15H (under section 197A) for non deduction of TDS otherwise, abovementioned rates will apply.**
- Further, No certificate u/s 197 (Lower TDS) will be granted by the AO unless the PAN is furnished by the applicants.

TAX COLLECTION AT SOURCE [Section 206C]

1. **Every Seller** at the time of debiting the buyer with the amount payable or receiving payments **from buyers engaged in business** of alcoholic liquor, forest produce, scrap, timber, tendu leaves, etc. **shall collect tax** at the followings rates:

Sr. No.	Nature of goods	TCS Rate
1	Alcoholic liquor for human consumption (other than Indian made foreign liquor)	1%
2	Tendu Leaves	5%
3	Timber obtained under a forest lease	2.5%
4	Timber obtained by mode other than under a forest lease	2.5%
5	Any other forest produced not being timber or tendu leaves	2.5%
6	Scrap	1%
7	Minerals, being Coal or lignite or iron ore	1%

Such tax is not to be collected if the purchase of above goods is made by buyer (Resident in India) for the purpose of manufacturing, processing or producing articles or things or for the purposes of generation of power.

2. **Every person, who grants a lease or a license or enters into a contract, etc for the purpose mentioned below shall collect tax at the following rates:**

Sl. No.	Nature of contract or license or lease, etc.	TCS Rate
(i)	Parking Lot	2%
(ii)	Toll plaza	2%
(iii)	Mining and quarrying (excluding mineral oils, petroleum & natural gas)	2%

3. Every Person, being a Seller, who receives any amount as consideration for sale of a motor vehicle (at retail level) of the **value exceeding ten lakh rupees**, shall, **at the time of receipt of such amount**, collect from the buyer, a sum equal to **1% of the sale consideration** (any mode) as income-tax.
4. "Seller" means the Central Government, a State Government or any local authority or corporation or authority established by or under a Central, State or Provincial Act, **or any company or firm or co-operative society and also includes an individual or a Hindu undivided family whose total sales, gross receipts or turnover from the business or profession carried on by him exceed the monetary limits specified under clause (a) or clause (b) of section 44AB during the financial year immediately preceding the financial year.**
5. **Buyer for Point 1:**

- ✓ Buyer does not include a Public Sector Company, the CG, SG and an Embassy, a High Commission, Legation, Commission, Consulate and the trade representation of a foreign state and a club
- ✓ A buyer in the retail sale of such goods purchased by him for personal consumption.

6. Buyer for Point 3:***Buyer doesn't include***

- (a) Public Sector company which is engaged in the business of carrying passengers*
- (b) A Local Authority*
- (c) CG, SG and an Embassy, High Commission, Legation, Commission, Consulate & the Trade representation of a foreign State.*

Section 206CC - Requirement to furnish Permanent Account number by collectee.

- (1)** Notwithstanding anything contained in any other provisions of this Act, any person paying any sum or amount, on which tax is collectible at source under Chapter XVII-BB (herein referred to as collectee) **shall furnish his Permanent Account Number** to the person responsible for collecting such tax (herein referred to as collector), failing which tax shall be collected at the ***higher of the following rates***, namely:—
 - a.** at twice the rate specified in the relevant provision of this Act; or
 - b.** at the rate of 5%.
- (2)** The provisions of this section shall **not apply to a non-resident who does not have permanent establishment** in India.

Problems – TDS

1. Compute the amount of tax deduction at source on the following payments made by M/s. S Ltd. during the FY 2019-20 as per the provisions of the Income-tax Act, 1961.

S. No.	Date	Nature of Payment
(i)	1-10-2019	Payment of ₹ 2,00,000 to Mr. "R" a transporter (owns 9 Truck) who is having PAN.
(ii)	1-11-2019	Payment of fee for technical services of ₹ 25,000 and Royalty of ₹ 20,000 to Mr. Shyam who is having PAN.
(iii)	30-06-2019	Payment of ₹ 25,000 to M/s X Ltd. for repair of building.
(iv)	01-01-2020	Payment of ₹ 2,00,000 made to Mr. A for purchase of diaries made according to specifications of M/s S Ltd. However, no material was supplied for such diaries to Mr. A by M/s S Ltd.
(v)	01-01-2020	Payment made ₹ 1,80,000 to Mr. Bharat for compulsory acquisition of his house as per law of the State Government.
(vi)	01-02-2020	Payment of commission of ₹ 16,000 to Mr. Y.

2. State the applicability of TDS provisions and TDS amount in the following cases:

- (a) Rent paid for hire of machinery by B Ltd. to Mr. Raman ₹ 2,50,000.
 (b) Fee paid to Dr. Srivatsan by Sundar (HUF) ₹ 35,000 for surgery performed to a member of the family.

3. What are the provisions relating to tax deduction at source in respect of:

- (a) ABC and Co. Ltd. paid ₹ 19,000 to one of its Directors as sitting fees on 1-01-2020.
 (b) Mr. X sold his house to Mr. Y on 01-02-2020 for ₹ 60 lacs?

4. Ashwin doing manufacture and wholesale trade furnishes you the following information : Total turnover for the financial year

Particulars	₹
2018-19	2,05,00,000
2019-20	1,95,00,000

State whether tax deduction at source provisions are attracted for the below said expenses incurred during the financial year 2019-20:

Particulars	₹
Interest paid to UCO Bank	41,000
Contract payment to Raj (2 contracts of ₹ 12,000 each)	24,000
Shop rent paid (one payee)	2,90,000
Commission paid to Balu	17,000

5. State in brief the applicability of tax deduction at source provisions, the rate and amount of tax deduction in the following cases for the financial year 2019-20:

- (i) Winning by way of jackpot in a horse race ₹ 1,00,000.
 (ii) Payment made by a firm to sub-contractor ₹ 3,00,000 with outstanding balance of ₹ 1,20,000 shown in the books as on 31-03-2020.
 (iii) Rent paid for plant and machinery ₹ 1,50,000 by a partnership firm having sales turnover of ₹ 20,00,000 and net loss of ₹ 15,000.
 (iv) Payment made to Ricky Ponting, an Australian cricketer, by a newspaper for contribution of articles ₹ 25,000.

6. State the concessions granted to transport operators onwards in the context of cash payments under section 40A(3) and deduction of tax at source under section 194-C.

7. 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 GST @ 15% on lease rent charges. Calculate the deduction of tax at source (TDS) to be made by M/s Vaibhavi Corporation Ltd. on payment made to Mrs. Indira and narrate related formalities in relation to TDS.

8. Bharghav doing textiles business furnishes you the following information:

Total turnover for the financial year:

	₹
2018-19	205,00,000
2019-20	195,00,000

State whether the provisions of tax deduction at source are attracted for the following expenses incurred during the financial year 2019-20:

	₹
Interest paid to Indian Bank on Term Loan	92,800
Advertisement expenses to R (two individual payments of ₹ 24,000 and ₹ 34,000)	58,000
Factory rent paid to C	2,45,000
Brokerage paid to B, a sub-broker	16,000

- 9. Examine the obligation of the person responsible for paying the income to deduct tax at source and indicate the due date for payment of such tax wherever applicable in respect of the following item:**

MSP Manufactures Ltd., the employer credited salary due for the financial year 2019-20 amounting to ₹ 2,80,000 to the account of Q, the employee, in its books of account on 31.3.2020. Q has not furnished any information about his income/loss from any other head or proof of Investments/payments qualifying for deduction under Section 80C.

- 10. Dr. Z is an individual medical practitioner. His gross receipts from the medical practice for the year ending 31st March, 2019 are ₹ 60 lakhs. Whereas the gross professional receipts for the year ending 31st March, 2020 is ₹ 82 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	₹ 29,500
D	Mr. Y	Clinic furnishing contract	₹ 29,000
E	Mr. Y	Clinic furnishing contract	₹ 48,000
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.

- 11. X has been running a sole proprietary business whose accounts are audited u/s 44AB. He pays a monthly rent of ₹ 15,000 for the office premises to R, the owner of building and an Individual. Besides he also pays service charges of ₹ 10,000 per month to R towards the use of furniture, fixtures and vacant land appurtenant thereto. Discuss the liability for TDS.**

- 12. X Ltd. makes the following payments during the financial year 2019-20–**

- Payment to A, a resident transport contractor (owns 8 truck): ₹ 11,50,000 (PAN is intimated by A to X Ltd.).
- Payment to B, a resident transport contractor (owns 8 truck): ₹ 1,00,000 (PAN is not intimated by B or B does not have PAN).
- Payment to C, a resident catering contractor: ₹ 21,50,000 (PAN is intimated by C to X Ltd.).
- Payment to D, a resident catering contractor: ₹ 2,00,000 (PAN is not intimated by D or D does not have PAN).

Determine the amount of tax deductible u/s 194C in this case.

- 13. X Ltd. has taken a building on rent for its office (rent being ₹ 10,000 per month payable to A). A does not have PAN. Discuss the liability of TDS u/s 194-I for the financial year 2019-20.**
- 14. X won the first prize in a lottery ticket on September 1, 2019 and the prize money was a Maruti car worth ₹ 4 lakhs. According to sec. 194B, tax has to be deducted at source from the winnings of lottery at the time of payment of the prize money. What is the procedure to be adopted before handing over the Maruti car to X?**
- 15. The Government of Assam pays ₹ 75,000 as commission to one of its agent on sale of lottery tickets. The agent is of the view that TDS is not required, as the payer is a State Government. Discuss.**

16. X Ltd. pays ₹ 1,50,000 to Y Ltd. , a resident contractor, who under a contract dated October 15, 2019, manufactures a product according to specification, of X Ltd. by using materials purchased from X Ltd. **What is the relevant TDS provision on this point?**
17. XY Cements Ltd., the assessee, purchases jute bags from PQ & Co. The latter has to supply the jute bags with the logo and address of the assessee, printed on it. From September 1, 2019 to March 20, 2020, the value of jute bags supplied is ₹ 8,00,000, for which the invoice has been raised on March 20, 2020. While effecting the payment for the same, **is the assessee bound to deduct tax at source, assuming that the value of printing component involved is ₹ 60,000?** You are informed that the assessee has not sold any material to PQ & Co. and that the latter has to manufacture the jute bags in its plant using raw materials purchased by it from outsiders.
18. **X is a sole proprietor. His annual turnover is more than ₹ 280,00,000 since last 5 years. During the financial year 2019-20, he makes the following payments to a non-banking company –**
1. Interest on loan taken for the marriage of his daughter (amount of interest paid on March 1, 2020: ₹ 5,00,000)
2. Interest on loan for business purposes (amount of interest paid on March 21, 2020: ₹ 6,00,000)
U/s 194A, tax is deductible on interest other than interest on securities. **Discuss whether the aforesaid payments are covered by this provision.**
19. **X is a sole proprietor. His annual turnover is more than ₹ 280,00,000 since last 5 years. During the financial year 2019-20, he makes the following payments –**
1. Brokerage paid to a broker for arranging purchase of a residential property for his personal use (amount of brokerage paid on March 1, 2020: ₹ 5,00,000)
2. Commission paid to salesman for selling goods manufactured by X (amount of brokerage paid on March 21, 2020: ₹ 6,00,000)
U/s 194H, tax is deductible on brokerage or commission. **Discuss whether the aforesaid payments are covered by this provision.**
20. **X is sole proprietor. His annual turnover is more than ₹ 280,00,000 since last 5 years. During the financial year 2019-20, he makes the following payments of rent –**
1. Rent paid to A Ltd. for a residential property for his personal use (amount of Rent paid on March 1, 2020: ₹ 5,00,000)
2. Rent paid to B Ltd. for taking a machinery on rent (amount of Rent paid on March 21, 2020): ₹ 6,00,000).
U/s 194-I, tax is deductible on rent payment. **Discuss whether the aforesaid payments are covered by this provision.**
21. **X is sole proprietor. His annual turnover is more than ₹ 280,00,000 since last 5 years. During the financial year 2019-20, he makes the following payments:**
1. Payment of royalty for business purpose: ₹ 20,00,000 on January 2020.
2. Payment of professional fees to an architect for construction of a residential building for his own use: ₹ 6,00,000 on January 3, 2020.
3. Payment of professional fees to an advocate for filing an appeal in the Bombay High Court pertaining to a business transaction: ₹ 7,00,000 on January 10, 2020.
4. Payment of technical fees to an engineer for preparation of a project report (which will be set up in a backward area in Jharkhand): ₹ 8,00,000 during April 2019.
Discuss the TDS Deductibility.
22. M, an individual, had let out his building on a monthly rent of ₹ 25,000. The tenant deducted tax u/s 194-I from the Rent paid to M, but did not remit such tax to the credit of the Central Government. M filed his return of income for the Assessment Year 2020-21 including therein the Rental Income from the said building and paid the balance tax on his total income after taking credit for tax deducted at source by the Tenant. **The AO has called upon M to pay the tax to the extent of TDS. Is the AO justified**

Solution – TDS

1.

- (i) No tax is required to be deducted at source under section 194C by M/s S Ltd. On payment to transporter Mr. R, provided he furnishes his PAN to M/s. S Ltd.
- (ii) As per section 194J, liability to deduct tax is attracted only in case the payment made as fees for technical services and royalty, individually, exceeds ₹ 30,000 during the financial year. In the given case, since, the individual payments for fee of technical services i.e. ₹ 25,000 and royalty ₹ 20,000 is less than ₹ 30,000 each, there is no liability to deduct tax at source. It is assumed that no other payment towards fees for technical services and royalty were made during the year to Mr. Shyam.
- (iii) Provisions of section 194C are not attracted in this case, since the payment for repair of building on 30.06.2019 to M/s. X Ltd. is less than the threshold limit of ₹ 30,000.
- (iv) According to section 194C, the definition of “work” does not include the manufacturing or supply of product according to the specification by customer in case the material is purchased from a person other than the customer. Therefore, there is no liability to deduct tax at source in respect of payment of ₹ 2,00,000 to Mr. A, since the contract is a contract for ‘sale’.
- (v) As per section 194LA, any person responsible for payment to a resident, any sum in the nature of compensation or consideration on account of compulsory acquisition under any law, of any immovable property, is responsible for deduction of tax at source if such payment or the aggregate amount of such payments to the resident during the financial year exceeds ₹ 2,50,000. In the given case, no liability to deduct tax at source is attracted as the payment made does not exceed ₹ 2,50,000.
- (vi) As per section 194H, any person (other than an individual or HUF) who is responsible for paying commission or brokerage to a resident shall deduct tax at source if the amount of such income or the aggregate of the amounts of such income credited or paid during the financial year exceeds ₹ 15,000. Since the commission payment made to Mr. Y exceeds ₹ 15,000, the provisions of section 194H are attracted. The tax to be deducted at source shall be - ₹ 16,000 x 5% = ₹ 800.

2.

- (a) Since the rent paid for hire of machinery by B. Ltd. to Mr. Raman **exceeds ₹ 2,40,000**, the provisions of section 194-I for deduction of tax at source are attracted. The rate applicable for deduction of tax at source under Section 194-I on rent paid for hire of plant and machinery is 2% assuming that Mr. Raman had furnished his permanent account number to B Ltd.

Therefore, the amount of tax to be deducted at source = **₹ 2,50,000 x 2% = ₹ 5,000.**

Note: In case Mr. Raman does not furnish his permanent account number to B Ltd., tax shall be deducted @ 20% on ₹ 2,50,000, by virtue of provisions of section 206AA.

- (b) As per the provisions of section 194J, a Hindu Undivided Family is required to deduct tax at source on fees paid for professional services only if it is subject to tax audit under section 44AB in the financial year preceding the current financial year.

However, if such payment made for professional services is exclusively for the personal purpose of any member of Hindu Undivided Family, then, the liability to deduct tax is not attracted.

Therefore, in the given case, even if Sundar (HUF) is liable to tax audit in the immediately preceding financial year, the liability to deduct tax at source is not attracted in this case since, the fees for professional service to Dr. Srivatsan is paid for a personal purpose i.e. the surgery of a member of the family.

TDS provisions under section 194M are also not applicable in this case, since the payment does not exceed the threshold of ₹ 50 lakhs.

3.

- (a) Section 194J provides for deduction of tax at source @10% from any sum paid by way of any remuneration or fees or commission, by whatever name called, to a resident director, which is not in the nature of salary on which tax is deductible under section 192. The threshold limit of ₹ 30,000 upto which the provisions of tax deduction at source are not attracted in respect of every other payment covered under section 194J is, however, not applicable in respect of sum paid to a director.

Therefore, tax@10% has to be deducted at source under section 194J in respect of the sum of ₹ 19,000 paid by ABC Ltd. to its director.

- (b) Section 194-IA requires every person, being a transferee, responsible for paying any sum as consideration for transfer of any immovable property (other than agricultural land), to deduct tax@1% of such sum, at the time of credit of such sum to the account of the resident transferor or at the time of payment of such sum to a resident transferor, whichever is earlier.

Such tax is required to be deducted at source where the consideration for transfer of immovable property is ₹ 50 lakhs or more.

In this case, since the consideration for transfer of house exceeds ₹ 50 lakhs, Mr.Y is liable to deduct tax at source@1% under section 194-IA on the consideration of ₹ 60 lakhs payable for transfer of house to Mr. X.

4. As the turnover of Ashwin for F.Y. 2018-19, i.e. ₹ 205 lakh, has exceeded the monetary limit of ₹ 100 lakh prescribed under section 44AB, he has to comply with the tax deduction provisions during the financial year 2019-20, subject to, however, the exemptions provided for under the relevant sections for applicability of TDS provisions.

Interest paid to UCO Bank

TDS under section 194A is not attracted in respect of interest paid to a banking company.

Contract payment of ₹ 24,000 to Raj for 2 contracts of ₹ 12,000 each

TDS provisions under section 194C would not be attracted if the amount paid to a contractor does not exceed ₹ 30,000 in a single payment or ₹ 100,000 in the aggregate during the financial year. Therefore, TDS provisions under section 194C are not attracted in this case.

Shop Rent paid to one payee – Tax has to be deducted under section 194-I as the rental payment **exceeds ₹ 2,40,000.**

Commission paid to Balu– Tax has to be deducted under section 194-H as the commission exceeds ₹ 15,000.

5.

- (i) Provisions for tax deduction at source under section 194BB @ 30% are attracted if the amount exceeds ₹ 10,000 in respect of income arising by way of winning a jackpot in horse races.
Tax to be deducted = ₹ 1,00,000 x 30% = ₹ 30,000

- (ii) Provisions of tax deduction at source under section 194C are attracted in respect of payment by a firm to a sub-contractor. Under section 194C, tax is deductible at the time of credit or payment, whichever is earlier @ 1% if the payment is made to an individual or HUF and 2% for others.
Assuming that sub-contractor to whom payment has been made is an individual and the aggregate amount credited during the year is ₹ 4,20,000, tax is deductible @ 1% on ₹ 4,20,000.
Tax to be deducted = ₹ 4,20,000 x 1% = ₹ 4,200

- (iii) As per section 194-I, tax is to be deducted @ 2% on payment of rent for plant and machinery, only if the payment **exceeds ₹ 2,40,000** during the financial year. Since rent of ₹ 1,50,000 paid by a partnership firm does not exceed ₹ 2,40,000, tax is not deductible.

- (iv) Under section 194E, the person responsible for payment of any amount to a non-resident sportsman for contribution of articles relating to any game or sport in India in a newspaper shall deduct tax @ 20%. Further, since Ricky Ponting is a non-resident, H&EC @ 4% on TDS would also be added.
Therefore, tax to be deducted = ₹ 25,000 x 20.80% = ₹ 5,200.

6. Section 40A(3) provides for disallowance of expenditure incurred in respect of which payment or aggregate of payments made to a person in a day exceeds ₹ 20,000, and such payment or payments are made otherwise than by account payee cheque or account payee bank draft or use of electronic system through bank account **or through such other prescribed electronic modes.**

However, in case of payment made to transport operators for plying, hiring or leasing goods carriages, the disallowance will be attracted only if the payments made to a person in a day exceeds ₹ 35,000.

Therefore, payment or aggregate of payments up to ₹ 35,000 in a day can be made to a transport operator otherwise than by way of account payee cheque or account payee bank draft or use of electronic system through bank account **or through such other prescribed electronic modes**, without attracting disallowance under section 40A(3).

Under section 194C, tax had to be deducted in respect of payments made to contractors at the rate of 1% in case the payment is made to individual or Hindu Undivided Family or at the rate of 2% in any other case.

However, no deduction is required to be made from any sum credited or paid or likely to be credited or paid during the previous year to the account of a contractor, during the course of the business of plying, hiring or leasing goods carriages, if the contractor furnishes his permanent account number (PAN) to the person paying or crediting such sum.

7.

- (1) As per Circular No. 23/2017 issued by the CBDT, there will be no TDS on GST components in any Section. Therefore, tax deducted at source under section 194-I would be required to be made on the amount of rent paid or payable excluding the amount of service tax, i.e. tax has to be deducted under section 194-I on ₹ 12 lakh.
- (2) Tax is deductible @ 10% under section 194-I.
- (3) Hence, in the given case, TDS under section 194-I would amount to ₹ 10,000, to be deducted every month.
- (4) Tax deducted should be deposited within prescribed time i.e. on or before seven days from the end of the month in which the deduction is made and upto 30th April for the month of March.

8. Since the turnover of Mr. Bharghav for F.Y. 2018-19, i.e., ₹ 105 lakhs, has exceeded the monetary limit of ₹ 200 lakhs prescribed under section 44AB, he has to comply with the tax deduction provisions during the financial year 2019-20, subject to, however, the exemptions provided for under the relevant sections for applicability of TDS provisions.

(i) Interest paid to Indian Bank on term loan

TDS under section 194A is not attracted in respect of interest paid to a banking company.

(ii) Advertisement expenses to R (two individual payments of ₹ 24,000 and ₹ 34,000)

Under section 194C, the provisions for tax deduction at source would not be attracted if the amount paid to a contractor does not exceed ₹ 30,000 in a single payment or ₹ 100,000 in the aggregate during the financial year. Therefore, provisions for deduction of tax at source under section 194C are not attracted in respect of payment of ₹ 24,000 to R.

However, payment of ₹ 34,000 to R would attract TDS@1% under section 194C, since it exceeds ₹ 30,000.

Note - The tax to be deducted would be ₹ 340, being 1% of ₹ 34,000.

(iii) Factory rent of ₹ 2,45,000 paid to C

Tax has to be deducted under section 194-I as the rental payment **exceeds ₹ 2,40,000**.

Note - The tax to be deducted is ₹ 24,500, being 10% of ₹ 2,45,000.

(iv) Brokerage of ₹ 16,000 paid to B, a sub-broker

Tax has to be deducted@5% under section 194-H as the brokerage exceeds ₹ 15,000 during the F.Y. 2019-20.

Note - The tax to be deducted is ₹ 800, being 5% of ₹ 16,000.

9. Sec 192 of the Income Tax Act warrants deduction of tax at source in respect of payment of salary to employees. The Section is casting responsibility on the employer to deduct tax at source at the time of making payment of salary to the employee. In case credit entries are passed in the books of the employer for salary due to employees, the liability to deduct tax u/s.192 does not arise. Accordingly, in the given case, MSP Ltd is not liable to deduct tax on salaries. Non- furnishing of information relating to investments, deductions etc of the employee is not relevant to the given situation.

10. 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, 2019 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 is applicable 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 ₹ 100,000 during the financial year. In the given case, though the independent contract value of contracts of C and D does not exceed ₹ 30,000, the aggregate value of all these contracts to Mr. Y exceeds ₹ 100,000 during the financial year. Therefore, Dr. Z is responsible to deduct tax u/s. 194C. Practically, in respect of the first 2 contracts, viz, C and D, entire contract amount would have been paid without deduction of tax. It is the responsibility of the payer to deduct entire amount of tax on all contracts from the contract E. Accordingly, in the given case the aggregate value of the contract of ₹ 106,500 is subject to TDS at the rate of 1% amounting to ₹ 1065.

Therefore, the total amount of tax to be deducted by Dr. Z for the AY 2020-21 under section 194C is ₹ 1515.

11. U/s 194-I, Rent means any payment by whatever name called, under any lease, sub-lease, tenancy or any other agreement or arrangement for use of (either separately or together) any - Land, or Building (including Factory Building), or Land appurtenant to a Building (including Factory Building), or Machinery or Plant or Equipment or Furniture or Fittings whether or not any or all of the above is owned by the Payee.

In view of the above, the entire monthly payment of ₹ 25,000 paid by way of Rent and Service Charges shall be liable to deduction of tax @ 10% under section 194-I.

12. Payment/credit of consideration of a works contract to a resident contractor is covered by section 194C. the expression "works contract" includes advertising contracts, broadcasting /telecasting contract, carriage of goods or passengers, catering and manufacturing (if raw material is supplied by the payer). Tax will be deducted at the rate of 1% (if recipient is an individual/HUF) or 2% (if recipient is any other person). If PAN of the contractor is not available, tax will be deducted at the rate of 20%. However, in the case payment or credit to transport contractors (i.e., the business of plying, hiring or leasing goods carriages), no tax is deductible if the recipient contractor gives his PAN to payer.

	₹
Payment to A (transport contractor and PAN is intimated, no TDS)	Nil
Payment to B (transport contractor and PAN is not intimated, tax will be deducted @ 20%)	20,000
Payment to C (catering contractor and PAN is intimated, tax will deducted @ 1%)	21,500
Payment to D (catering contractor and PAN is not intimated, tax will deducted @ 20%)	40,000
Total	81,500

13. If PAN is not intimated by the recipient to the deductor (or payer), tax will be deducted at source either at the normal rate or at the rate of 20%, whichever is higher. However, in this case the aggregate payment is ₹ 1,20,000 . the threshold limit in section 194-I is **₹ 2,40,000**. In other words, tax u/s 194-I is not deductible if payment/credit of rent does not **exceeds ₹ 2,40,000**. This rule is applicable even if the recipient does not intimate PAN. Tax is not deductible in this case.

14. As per Sec. 194B, a person responsible for paying to any person any income by way of winnings from lotteries or crossword puzzles exceeding ₹ 10,000 is required, at the time of such payment, to deduct income-tax thereon at the rate of 30%. Where the winnings are wholly in kind, the person responsible for paying shall, before realizing the winning in kind, ensure that tax has been paid in respect of the winnings.

Tax liability on the prize in kind, i.e., Maruti car is ₹ 1,20,000 (i.e., 30% of ₹ 4,00,000) which may be recovered by the person responsible for tax deduction, from X and the same can be deposited with the Government on account of tax deduction.

If, however, the person responsible for tax deduction, does not want to recover ₹ 1,20,000 from X, then ₹ 4,00,000 will be grossed up. Grossed amount will be ₹ 5,71,429 [i.e., ₹ 4,00,000 ÷ (1 - 0.30)]. TDS liability will be 30% of ₹ 5,71,429 (i.e., ₹ 1,71,429) ₹ 1,71,429 will be borne by the person responsible for tax deduction and it will be deposited as TDS.

15. As per Sec. 194G, the payer shall deduct income-tax at the rate of 5% at the time of making payment of any income by way of commission. ₹ 3,750 (5% of ₹ 75,000) shall be tax deduction at source u/s 194G. The view of the recipient is not legally tenable. Tax has to be deducted at source even if payer is a state government.
16. Payment to Y Ltd. is covered by section 194C. Tax is deductible at the rate of 2%. In the case of work contract being manufacturing or supplying product according to the specification of customer (by using material purchased from such customer), **TDS shall be deducted on the invoice value excluding the value of material purchased from such customer if such value is mentioned separately in the invoice.** Where the material component has not been separately mentioned in the invoice, TDS shall be deducted on the whole of the invoice value.
17. The term 'work' **does not include manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from a person, other than such customer.** The assessee has not sold any material to PQ & Co. and, therefore, the transaction does not fall within the purview of section 194C. This is not a works contract assigned by XY Cements Ltd. to PQ & Co. It is a contract of sale of goods by PQ & Co. to XY Cements Ltd. Since contract of sale of goods is not covered by section 194C, tax is not deductible.
18. X, the payer, is an individual. His books of account are required to be audited u/s 44AB. Consequently, tax is deductible u/s 194A. **Section 194A is applicable in such a case regardless of the fact whether payment of interest pertains to a personal loan or a business loan.** Tax will be deductible on ₹ 5,00,000 as well as ₹ 6,00,000 at the rate of 10%.
19. X, the payer, is an individual. His books of account are required to be audited u/s 44AB. Consequently, tax is deductible on commission or brokerage u/s 194H. Section 194H is applicable in such a case regardless of the fact whether payment of commission or brokerage is for personal purpose or business purposes. Tax will be deductible on ₹ 5,00,000 as well as ₹ 6,00,000 at the rate of **5%**
20. X, the payer, is an individual. His books of account are required to be audited u/s 44AB. Consequently, tax is deductible on payment/credit of rent u/s 194-I. Section 194-I is applicable in such a case regardless of the fact whether payment of payment/credit of rent is for personal purpose or business purposes. Tax will be deductible on ₹ 5,00,000 as well as ₹ 6,00,000. TDS rate is 2% of rent for use of machinery, plant or equipment. It is 10% of rent for use of land, building, furniture or fixture.
21. X, the payer, is an individual. His books of account are required to be audited u/s 44AB. U/s 194J, tax is deductible by an individual/HUF (whose books of account are required to be audited u/s 44AB in the preceding year) as follows –
1. Tax is deductible on payment/credit of technical fees (whether it is for business purpose or otherwise).
 2. Tax is deductible on payment/credit of professional fees **only when it is for business purpose.**
 3. Tax is **not deductible** at all on payment/credit of royalty by an individual/HUF.

Consequently, in the given problem tax will be deductible as follows –

	Amount of TDS (i.e., @ 10% of payment/credit) ₹
1. Payment of royalty for business purposes (no TDS by an individual/HUF u/s 194J)	Nil
2. Payment of professional fees for personnel purposes (no TDS by an individual/HUF u/s 194J on professional fees for personal purposes)	Nil*
3. Payment of professional fees for business purposes (tax is deductible)	70,000

4. Payment of technical fees (tax is deductible)	80,000
Total	1,50,000

* TDS provisions under section 194M are also not applicable in this case, since the payment of ₹ 7 lakhs, even though made after 1.9.2019, does not exceed the threshold of ₹ 50 lakhs.

22. Section 205 provides that where tax is deductible at source, under the provision of the Act, the assessee shall not be called upon to pay the tax himself to the extent to which the tax has been deducted from that income. In view of the above specific provisions, Mr. M cannot be held liable to pay tax to the extent TDS. Hence, the action of AO is not justifiable.

INCOME BASED DEDUCTIONS & EXEMPTIONS

Deduction to Newly Established Units in SEZs [SECTION 10AA]

A deduction of profits and gains which are derived by an assessee being an entrepreneur **from the export of articles or things or providing any service**, shall be allowed **from the TOTAL INCOME** of the assessee.

(1) **Eligible Assesseees:** All categories of assesseees

(2) **Conditions:**

- i) It has begun or begins to manufacture or produce articles or things or provide **any service on or after 1.4.2005 (PY 05-06) in any SEZ. [No Deduction from AY 21-22]**
- ii) The sale proceeds from exports should be received in or brought into India, in convertible foreign exchange, ***within a period of 6 months from the end of the Previous Year*** or within extended period allowed by RBI.

(3) **New Business / New Plant & Machinery:**

- i) It should not be formed by splitting up or reconstruction of a existence business.
- ii) It should not be formed by transfer of plant and machinery previously used for any purpose ***exceeding 20% of the total value of machinery and plant*** used in the business. **[20% old – Allowed]**
- iii) For this purpose, any machinery or plant which was used outside India by any person other than the assessee shall not be regarded as machinery or plant previously used for any purpose if the following conditions are fulfilled:
 - (a) such machinery or plant was not at any time used in India;
 - (b) such machinery or plant is imported into India from any country outside India; and
 - (c) no deduction on account of depreciation has been allowed in respect of such machinery or plant to any person earlier.

(4) **Quantum and Period of Deduction:**

- | | |
|---|---|
| i) <u>For First 5 AYs</u> | : 100% of the profits derived from exports. |
| ii) <u>For next 5 Consecutive AYs</u> | : 50% of such profits |
| iii) <u>For next 5 Consecutive AYs</u> | : <u>Least of the below two:</u> |
| | (a) 50% of Such Profits |
| | (b) Reserve credited to <u>SEZ Re-Investment Allowance Reserve Account</u> |



Explanation to Section 10AA(1):

For the removal of doubts, it is hereby declared that the amount of deduction under this section shall be allowed from the **total income of the assessee computed in accordance with the provisions of this Act**, before giving effect to the provisions of this section **and the deduction under this section shall not exceed such total income of the assessee.**

(5) **Conditions to be satisfied for claiming deduction for further 5 years (after 10 years):**

The amount credited to the Special Economic Zone Re-investment Reserve Account is utilized-

- a) for the purposes of ***acquiring machinery or plant*** which is first put to use before the expiry of a period of ***three years*** following the previous year in which the reserve was created; and
- b) until the acquisition of the machinery or plant as aforesaid, for the purposes of the business of the undertaking. **However, it should not be utilized for**
 - i. distribution by way of dividends or profits; or
 - ii. for remittance outside India as profits; or
 - iii. for the creation of any asset outside India;

(6) CONSEQUENCES OF MIS-UTILISATION / NON-UTILISATION OF RESERVE:

- (a) Mis-Utilised amount shall be deemed to be the profits in the year in which the amount was so utilised; or
- (b) Unutilised amount shall be deemed to be the profits in the year immediately following the said period of three years.

(7) Computation of Exemption u/s 10AA:

The profits derived from export of articles or things or services (including computer software) shall be:

Profits of the Business of the undertaking	X	$\frac{\text{Export Turnover}}{\text{Total Turnover}}$
--	---	--

Note:

- “Export Turnover” means the consideration received in or brought into India by the assessee in convertible foreign exchange but does not include:
 - Freight, Telecommunication Charges and Insurance *attributable to the delivery* of the articles or things outside India; or
 - Expenses incurred in foreign exchange* in providing the technical services outside India.
- Here, profits includes *profits derived from on-site development of computer software (including services for development of software) outside India* for the purpose of determining profits derived from export of computer software outside India

(8) OTHER COMMON POINTS:

- AUDIT:** Accounts of the assessee for the relevant year should be audited.
- INTER-UNIT TRANSFER:** Where **any goods or services of eligible business** are transferred to any other business (or vice versa) otherwise than at Market Value on date of transfer, **then the profits and gains of the eligible business shall be computed as if the transfer was made at market value**.
- NO DOUBLE OR EXCESS DEDUCTION:** The deductions claimed and allowed under this section **shall not exceed the profits and gains of the eligible business**. Further, profits and gains allowed as deduction under this section will not be considered for deduction under any other provisions of the Act.
- EXCESSIVE PROFITS:** Where it appears to the AO that the **assessee derives more than ordinary profits** from the eligible business due to close connection between the assessee and any other person, the AO may consider such profits as may be reasonable for the purpose of computing deduction under this section.
- AMALGAMATION/DEMERGER:**

INDIAN COMPANY	←→	INDIAN COMPANY
----------------	----	----------------

In the case of any amalgamation or demerger, by virtue of which the Indian company carrying on the eligible business is transferred to another Indian company:

- No deduction will be available to the amalgamating company/demerged company, in the year of amalgamation/demerger.
 - The deduction will be available to the amalgamated/resulting company for unexpired period.
- f) Where a deduction under this section is claimed and allowed in relation to any specified business eligible for investment-linked deduction under section 35AD, **no deduction shall be allowed under section 35AD in relation to such specified business for the same or any other assessment year.**

Amendment in Section 10AA – SEZ Units

Before amendment, key issue was whether provision of Section 10AA are deduction provision or exemption provision & if this is deduction, at what stage one will get the benefit of deduction (under PGBP Head, After GTI before chapter VIA deduction etc)

To resolve above controversy, following *Explanation* shall be inserted in sub-section (1) of Section 10AA by the Finance Act, 2017, w.e.f. AY 2018-19:

*For the removal of doubts, it is hereby declared that the amount of deduction under this section shall be allowed **from the total income** of the assessee computed in accordance with the provisions of this Act, before giving effect to the provisions of this section **and the deduction under this section shall not exceed such total income of the assessee.***

“It means Deduction u/s 10AA will be available after deduction under chapter VIA”

[As amended by Finance Act 2016, Deduction under Section 10AA will **not be available** w.e.f. AY 21-22]

Circular 4/2018

CBDT has clarified that **freight, telecommunication charges & insurance expenses** are to be excluded both from “Export Turnover” and “Total turnover” while working out deduction admissible under Section 10AA to the extent they are attributable to the delivery of articles or things outside India.

Similar **expenses incurred in foreign exchange for rendering services** outside India are to be excluded from both “Export Turnover” and “Total Turnover” while computing deduction admissible u/s 10AA.

PRACTICAL QUESTIONS – DEDUCTION & EXEMPTIONS

- 1) PR Industries Ltd., a unit established in Special Economic Zone, for providing various services furnishes the following particulars of its first year of its operation ended on 31.03.2020 (amounts in ₹ Lakhs):

Total receipts from provisions of services	50
Receipts from export of services	40
Profits of business	5

Out of the total export, ₹ 8 lakhs could not be realized on account of death of the Foreign Service recipient. The plant and machinery used in the business had been depreciated @ 25% on SLM basis and depreciation of ₹ 2 lakhs was charged in the P&L A/c. Compute the taxable income of the company.

Solution:

The assessee is eligible for the deduction u/s 10AA for the AY 2020-21

Thus, its total income shall be calculated as follows –

Computation of taxable income of the company (All amount in ₹)

Net Profit as per P&L A/c	5,00,000
Add: Depreciation as per books	2,00,000
	7,00,000
Less: Depreciation as per IT Rules (15% of 8 lakhs) [Cost of machinery = 2 lakhs / 25%]	1,20,000
Profits and Gains of Business / GTI	5,80,000
Less: Deduction u/s 10AA [100% of {(5,80,000 / 50,00,000) X 32,00,000}]	3,71,200
Taxable Income	2,08,800

- 2) A company is engaged in the development and sale of computer software applications. It has started a new undertaking in SEZ. It furnishes the following data and requests you to compute the deduction allowable to it under Sec. 10AA in respect of AY 2020-21

Particulars	(₹ in lakhs)
Total profit of the company for the previous year	50
Total turnover, i.e. Export sales and Domestic sales for the previous year	550
Consideration received in respect of export of software received in convertible foreign exchange within 6 months of the end of the previous year	250
Sale proceeds credited to a separate account in a bank outside India with the approval of RBI	50
Telecom and insurance charges attributable to export of software	10
Staff costs and travel expenses incurred in foreign exchange to provide technical assistance outside India to a client	40

Solution:**Computation of income of an undertaking in SEZ: AY 2020-21**

Particulars	(₹ in lakh)
Total profit / GTI	50
Less: Deduction under Sec. 10AA: $\frac{\text{Export turnover} \times \text{Total}}{\text{Total turnover}} = 50 \times \frac{250}{550}$	<u>25</u>
Taxable Income	25

Note :

Export turnover	(₹ in lakhs)
(i) Sale proceeds of software received in convertible foreign exchange within the prescribed period	250
(ii) Sale proceed in convertible foreign exchange kept outside India with the approval of RBI	50
	300
Less: (i) Telecom and insurance attributable to export turnover	(-) 10
(ii) Expenses incurred in foreign exchange outside India to provide technical assistance to a client there	(-) 40
Export turnover	250

3) From the following particulars compute the deduction u/s 10AA and the taxable profit:

Particulars	A Ltd.	B Ltd.
	₹ in lakhs	
Export Turnover	125	240
Domestic Turnover	68	42
Profits of the business	21	28

Additional information: The export turnover of A Ltd. includes charges received from on site development of computer software outside India to the extent of ₹ 30 Lakhs. B Ltd. has realized only 90% of its Export turnover and the remaining 10% has become irrecoverable.

4) Nathan Aviation Ltd. is running two industrial undertakings, one in a SEZ (Unit S) and another in a normal area (Unit N). The brief summarized details for the year ended 31-3-2020 are as under:

	(₹ in lakhs)	
	S	N
Domestic turnover	10	100
Export turnover	120	Nil
Gross profit	20	10
Less: Expenses and depreciation	7	6
Profits derived from the unit	13	4

The brought forward business loss pertaining to Unit N is ₹ 2 lakhs. Briefly compute the business income of the assessee.

Solution:

Computation of income of Nathan Aviation Ltd.

	Unit S (SEZ)	Unit N (Outside SEZ)
	₹	₹
Profit derived from the unit	13,00,000	4,00,000
Less: Brought forward loss of unit N	Nil	(2,00,000)
Gross Total Income	13,00,000	2,00,000
Less: Deduction under section 10AA [₹ 13 Lakh × ₹ 120 lakh ÷ ₹ 130 lakh]	12,00,000	Nil
Total Income	1,00,000	2,00,000

The following assumptions have been made-

- Unit S satisfies all conditions of Section 10AA and it was set up on or after April 1, 2015 (100% deduction is available only in first 5 years); and
- Brought forward loss of unit N pertains to the AY 2012-13 (or any subsequent assessment year) (loss can be carried forward only for 8 years).

INCOMES NOT INCLUDED IN TOTAL INCOME [SECTION 10]

- **Agricultural Income from Land Situated in India [Section 10(1)]**
- **Amounts received by a member from the income of the HUF [Section 10(2)]**
- **Share Profit of a partner from partnership firm [Section 10(2A)]**
Circular No 8/2014: The CBDT has clarified that the entire profit credited to the Partner's accounts in the firm would be exempt from tax in the hands of such partners, even if the income chargeable to tax becomes NIL in the hands of the firm on account of any exemption or deduction.
- **Exemption to non-residents and person resident outside India from Interest credited in Non-resident (External) Account in India [Sec 10(4)]**

- **Exemption to Individuals who are not citizens of India [Sec 10(6)]**

SALARY OF DIPLOMATIC PERSONNEL - Section 10(6)(ii) grants exemption to a person in respect of the remuneration received by him for services as an official of an embassy, high commission, legation, consulate or the trade representation of a foreign State or as a member of the staff of any of these officials.

SALARY OF FOREIGN EMPLOYEES - Section 10(6)(vi) provides that remuneration received by a foreign national as an employee of a foreign enterprise for service rendered by him during his stay in India is also exempt from tax.

Conditions -

- (1) The foreign enterprise is not engaged in a business activity in India;
- (2) The employee's stay in India does not exceed a total of 90 days in the previous year;
- (3) The remuneration is not liable to be deducted from the employer's income chargeable to tax under the Act.

SALARY RECEIVED BY A SHIP CREW - Section 10(6)(viii) provides that salary income received by or due to a non-citizen of India who is also non-resident for services rendered in connection with his employment on a foreign ship where his total stay in India does not exceed a total of 90 days in the previous year.

REMUNERATION OF A FOREIGN TRAINEE: Section 10(6)(xi) provides that any remuneration received by employees of foreign Government from their respective Government during their stay in India in connection with their training in any establishment or office of the Government; or any company owned by Government or its subsidiary; or any Statutory Corporation; or any Co-operative Society wholly financed by the CG/SG.

- **FA 18 - Royalty income or fees for technical services received from National Technical Research Organisation (NTRO) [Section 10(6D)]**

Income arising to non-corporate non-residents and foreign companies, by way of royalty from or fees from technical services rendered in or outside India to, **the National Technical Research Organisation (NTRO) is exempt**

- **Allowances payable outside India [Section 10(7)]**
- **Payments to Bhopal Gas Victims [Section 10(10BB)]**
- **Exemption of compensation received on account of disaster from CG/SG or local authority to Individual or legal heirs [Sec 10(10BC)]**

Exemption is not available to the extent such amount has been allowed a deduction on account of any loss or damage caused by such disaster under this Act.

➤ **Receipts from LIC [Section 10(10D)]**

[Exemption under section 10(10D) not available in respect of any sum received by any person under “keyman insurance policy” assigned to Keyman before maturity]

➤ **Any Payment from SPF/PPF [Section 10(11)]**

➤ **Any Payment from Sukanya Samriddhi Account [Section 10(11A)]**

➤ **Any Payment from RPF [Section 10(12)]**

➤ **FA 18 - Any payment from NPS to an assessee employee on closure of account/scheme as referred in Section 80CCD, to the extent of 40% amount payable [Section 10(12A)]**

➤ **Any payment from NPS to an Employee on partial withdrawal made out of his account, to the extent it does not exceed 25% of the amount of contributions made by him is Exempt. [Section 10(12B)]**

➤ **Any Payment from Approved Superannuation Fund [Section 10(13)]**

➤ **Interest from Deposit Certificates issued under the Gold Monetisation Scheme, 2015 [Sec 10(15)]**

➤ **Education Scholarship - Exempt [Section 10(16)]**

➤ **Daily Allowance & Constituency Allowances to MP/MLA - Exempt [Section 10(17)]**

➤ **Government Rewards / Awards [Sec. 10(17A)]**

The reward or award may be instituted in the public interest, by the Central or State Government or any other body approved by the Central or State Government.

➤ **Exemption of income of a Sikkimese Individual [Section 10(26AAA)]**

Income of a Sikkimese individual from any source in the State of Sikkim; or by way of dividend or interest on securities. However, no exemption will be available to a Sikkimese woman who (on or after 01.04.2008) marries a non-Sikkimese Individual.

➤ **Exemption in respect of clubbed income of Minor [Section 10(32)]**

➤ **Exemption of capital gain on transfer of a unit of Unit Scheme, 1964 (US 64) [Section 10(33)]**

➤ **Exclusion of dividends referred to in Section 115-O from total income [Section 10(34)] [Dividend excludes dividend chargeable to tax under section 115BBDA]**

➤ **Exemption of income received by an investor on account of buy-back of unlisted shares of a domestic company [Section 10(34A)]**

The income arising to the shareholders in respect of such buy back of unlisted shares by the domestic company would be exempt under section 10(34A), where the company is liable to pay the additional income-tax on the buy-back of shares.

➤ **Income from units from the Administrator of specified undertaking / specified company / mutual fund specified in clause (23D) [Section 10(35)]**

➤ **Income received in a transaction of reverse mortgage [Sec 10(43)]**