# Frequently Asked Questions While Filing Income Tax Returns


| S. No | Description | Page No |
|---|---|---|
| 1 | General | 2 |
| 2 | Filing Returns | 9 |
| 3 | Senior Citizens | 12 |
| 4 | Salary Income and Pension | 15 |
| 5 | Filing of the return of income ITR 1 to 7 | 20 |
| 6 | Computation of Tax | 35 |
| 7 | Income from House Property | 45 |
| 8 | Capital Gains | 55 |
| 9 | Gifts received by an Individual or HUF | 66 |
| 10 | Tax Deducted at Source | 73 |
| 11 | Assessments under the Income Tax Law | 92 |
| 12 | Provisions useful for Non Residents (NRIs) | 101 |


Compiled from https://www.incometaxindia.gov.in/pages/default.aspx
Feed back / suggestions may please be sent to paramanuseniors@protonmail.com
- paramanuseniorshealth.org (A website created by Pensioners for Pensioners)

This is an attempt to bring comprehensive knowledge on income Tax matters and visitors are urged to refer to the above mentioned IT Department's web site for authentic and latest information.

## General FAQs

- What is Income-tax?

  It is a tax levied by the Government of India on the income of every person. The provisions governing the Income-tax are covered in the Income-tax Act, 1961.

- What is the administrative framework of Income-tax?

  The revenue functions of the Government of India are managed by the Ministry of Finance. The Finance Ministry has entrusted the task of administration of direct taxes like Income-tax, Wealth tax, etc., to the Central Board of Direct Taxes (CBDT). The CBDT is a part of Department of Revenue in the Ministry of Finance.

  CBDT provides essential inputs for policy framing and planning of direct taxes and also administers the direct tax laws through the Income-tax Department. Thus, Income-tax Law is administrated by the Income-tax Department under the control and supervision of the CBDT.

- What is the period for which a person's income is taken into account for the purpose of Income-tax?

  Income-tax is levied on the annual income of a person. The year under the Income-tax Law is the period starting from 1st April and ending on 31st March of next calendar year. The Income-tax Law classifies the year as (1) Previous year, and (2) Assessment year.

  The year in which income is earned is called as previous year and the year in which the income is charged to tax is called as assessment year.

  *e.g.,* Income earned during the period of 1st April, 2021 to 31st March, 2022 is treated as income of the previous year 2021-22. Income of the previous year 2021-22 will be charged to tax in the next year, *i.e.,* in the assessment year 2022-23.

- Who is supposed to pay Income-tax?

  Income-tax is to be paid by every person. The term 'person' as defined under the Income-tax Act under section 2(3) covers in its ambit natural as well as artificial persons.

  For the purpose of charging Income-tax, the term 'person' includes Individual, Hindu Undivided Families [HUFs], Association of Persons [AOPs], Body of individuals [BOIs], Firms, LLPs, Companies, Local authority and any artificial juridical person not covered under any of the above.

  Thus, from the definition of the term 'person' it can be observed that, apart from a natural person, *i.e.,* an individual, any sort of artificial entity will also be liable to pay Income-tax.

- How does the Government collect Income-tax?

  Taxes are collected by the Government through three means: a) voluntary payment by Tax payers into various designated Banks. For example, Advance Tax and Self Assessment Tax paid by the taxpayers, b) Taxes deducted at source [TDS] from the income of the receiver, and c) Taxes collected at source [TCS]. It is the constitutional obligation of every person earning income to compute his income and pay taxes correctly.

- What are the applicable tax rates?

  The rates of Income-tax and corporate taxes are available in the Finance Act passed by the Parliament every year. You can also check your tax liability by using the free online tax calculator available at www.incometaxindia.gov.in

  Click here to check your tax liability

  Click here to view tax rates

- From where can I take the help of any expert on Income-tax related matters?

  You can take the help of tax professionals or the help of Public Relations Officer [PRO] in the local office of the Income-tax Department. You may also take assistance from Tax Return Preparers [TRPs]. You can locate your nearest TRP at www.trpscheme.com

- In the Challan there are terms like Income-tax on companies & Income-tax other than companies. What do they mean?

  The tax that is to be paid by the companies on their income is called as corporate tax, and for payment of same in the challan it is mentioned as Income-tax on Companies (Corporation tax)-0020. Tax paid by non-corporate assessees is called as Income-tax, and for payment of the same in the challan it is to be mentioned as Income-tax (other than Companies)-0021.

- How is advance tax calculated and paid?

  Advance tax is to be calculated on the basis of expected tax liability of the year. Advance tax is to be paid in instalments as given below:

  a) In case of all the assessees (other than the eligible assessees as referred to in section 44AD and 44ADA) :

  i) Atleast to 15 per cent – On or before 15th June

  ii) Atleast to 45 per cent – On or before 15th September

  iii) Atleast to 75 per cent – On or before 15th December

  iv) Atleast to 100 per cent –On or before 15th March

  b) In case of eligible assessee as referred to in section 44AD and 44ADA:

  100 per cent – On or before 15th March

  Note: Any tax paid on or before 31st day of March shall also be treated as advance tax paid during the same financial year.

  The deposit of advance tax is made through challan ITNS 280 by ticking the relevant column, *i.e.*, advance tax.

- What is tax on regular assessment and how is it paid?

Under the Income-tax Act, every person has the responsibility to correctly compute and pay his due taxes. Where the Department finds that there has been understatement of income and resultant tax due, it takes measures to compute the actual tax amount that ought to have been paid. This demand raised on the person is called as Tax on regular assessment. The tax on regular assessment-400 has to be paid within 30 days of receipt of the notice of demand .

- What are the precautions that I should take while filling-up the tax payment challan?

  While making payment of tax, apart from other things, one should clearly mention following :

  - Head of payment, *i.e.*, Corporation Tax/Income-tax (other than companies)
  - Amount and mode of payment of tax
  - Type of payment [*i.e.,* Advance tax/Self assessment tax/Tax on regular assessment/Tax on Dividend/Tax on distributed Income to Unit holders/Surtax]
  - Assessment year
  - The unique identification number called as PAN [Permanent Account Number] allotted by the IT Department.
- Do I need to insist on some proof of payment from the Banker to whom I have submitted the challan?

  The counter-foil of the Income-tax Challan filled by taxpayers, should be stamped and returned by the bank. Please ensure that the bank stamp contains BSR (Bankers Serial number code), Challan Identification Number (CIN) and the date of payment.

- How can I know that the Government has received the amount deposited by me as taxes in the bank?
- What should I do if my tax payment particulars are not found against my name in the website?

  The possible reasons for no credit being displayed in your Form 26AS can be:

  1. Deductor/collector has not filed his TDS/TCS statement;
  2. You have not provided PAN to the deductor/collector;
  3. You have provided incorrect PAN to the deductor/collector;
  4. The deductor/collector has made an error in quoting your PAN in the TDS/TCS return;
  5. The deductor/collector has not quoted your PAN;
  6. The details of challan against which your TDS/TCS was deposited was wrongly quoted in the statement by the deductor or wrongly quoted in the challan details uploaded by the bank.

  To rectify these errors you may request the deductor:

  7. to file a TDS/TCS statement if it has not been filed;
  8. to rectify the PAN using a PAN correction statement in the TDS/TCS statement that has been already uploaded if it has made an error in the PAN quoted;
  9. to furnish a correction statement if the deductor had filed a TDS/TCS statement and had inadvertently missed providing your details or you had not given your PAN to him before he filed the TDS/TCS return;

10. to furnish a correction statement if the deductor had filed a TDS/TCS statement which had mistake in the challan details;
11. to take up with the bank to rectify any mistake in the amount in the challan details uploaded by the bank.

- Is my responsibility under the Income-tax Act over once taxes are paid?

  No, you are thereafter responsible for ensuring that the tax credits are available in your tax credit statement and TDS/TCS certificates received by you and that full particulars of income and tax payment are submitted to the Income-tax Department in the form of Return of Income which is to be filed before the due date prescribed in this regard.

- Who is an Assessing Officer?

  He/She is an officer of the Income-tax Department who has been given jurisdiction over a particular geographical area in a city/town or over a class of persons. You can find out from the PRO or from the Departmental website http://www.incometaxindia.gov.in about the officer administering the law which could be based on your geographical jurisdiction or the nature of income earned by you. One can also before section section 2(7A) of Income tax Act.

- Income-tax is levied on the income of every person. As per Income-tax Law what constitutes income?

  Under the Income-tax Law, the word income has a very broad and inclusive meaning. In case of a salaried person all that is received from an employer in cash, kind or as a facility is considered as an income. For a businessman his net profit will constitute his income. Income may also flow from investments in the form of Interest, Dividend, Commission, etc. Further, income may be earned on account of sale of capital assets like building, gold, etc.

  Income shall be computed as per relevant provision of Income-tax Act, 1961 which lays down detail condition for computation of income chargeable to tax under various heads of income

- What is exempt income and taxable income?

  An exempt income is not charged to tax, *i.e.,* Income-tax Law specifically grants exemption from tax to such income. Incomes which are chargeable to tax are called as taxable incomes.

- What is revenue receipt and capital receipt?

  Receipts can be classified into two kinds: A) Revenue receipt, B) Capital receipt.

  Revenue receipts are recurring in nature like salary, profit from business, interest income, etc.

  Capital receipts are generally of isolated nature like receipt on account of sale of residential building, personal jewellery, etc.

- Are all receipts, i.e., capital and revenue receipts, charged to tax?

  The general rule under the Income-tax Law is that all revenue receipts are taxable, unless they are specifically granted exemption from tax and all capital receipts are exempt from tax, unless there is a specific provision for taxing them.

- I am an agriculturist. Is my income taxable?

  Agricultural income is not taxable. However, if you have non-agricultural income too, then while calculating tax on non-agricultural income, your agricultural income will be taken into account for rate purpose. For meaning of Agricultural Income refer section 2(IA) of the Income-tax Act.

- Under the Income-tax Law is income from animal husbandry considered as an agricultural income?

  No.

- Do I need to maintain any records or proof of earnings?

  For every source of income you have to maintain proof of earning and the records specified under the Income-tax Act. In case no such records are prescribed, you should maintain reasonable records with which you can support the claim of income.

- As an agriculturist, am I required to maintain any proof of earnings and expenditures incurred?

  Even if you have only agricultural income, you are advised to maintain some proof of your agricultural earnings/expenses.

- If I win a lottery or prize money in a competition, am I required to pay Income-tax on it?

  Yes, such winnings are liable to flat rate of tax at 30% without any basic exemption limit. In such a case the payer of prize money will generally deduct tax at source (i.e., TDS) from the winnings and will pay you only the balance amount.

- If my income is taxed in India as well as abroad, can I claim any sort of relief on account of double taxation?

  Yes, you can claim relief in respect of income which is charged to tax both in India as well as abroad. Relief is either granted as per the provisions of double taxation avoidance agreement entered into with that country (if any) by the Government of India or by allowing relief as per section 91 of the Act in respect of tax paid in the foreign country.

- What does Profession mean?

  Profession means exploitation of one's skills and knowledge independently. Profession includes vocation. Some examples are legal, medical, engineering, architecture, accountancy, technical consultancy, interior decoration, artists, writers, etc.

- What books of account have been prescribed to be maintained by a person carrying on business/profession under the Income-tax Act?

  The Income-tax Act does not prescribe any specific books of account for a person engaged in business or in non-specified profession. However, such a person is expected to keep and

maintain such book of account and other documents as may enable the Assessing Officer to compute his total income in accordance with the provisions of the Act, if:-.

| Particulars | Individual or HUF | Any other assessee |
|---|---|---|
| In case of existing business or profession, income or gross turnover in any one of the 3 preceding previous years exceeds the following- | | |
| Income from business or profession | Rs. 2,50,000 | Rs. 1,20,000 |
| Turnover/gross receipts in the business or profession | Rs. 25,00,000 | Rs. 10,00,000 |
| In case of newly setup business or profession, income or gross turnover of the first previous year is likely to exceed the following- | | |
| Income from business or profession | Rs. 2,50,000 | Rs. 1,20,000 |
| Turnover/gross receipts in the business or profession | Rs. 25,00,000 | Rs. 10,00,000 |

For companies the books of account are prescribed under the Companies Act. Further, the Institute of Chartered Accountants of India has prescribed various Accounting Standards and Guidelines that are required to be followed by the business entities As regards the maintenance of books of account by a professional, who is engaged in specified profession has to maintain certain prescribed books of account, if the annual receipts from the profession exceed Rs. 1,50,000 in all the three years immediately preceding the previous year (in case of newly set up profession, his annual receipts in the profession for that year are likely to exceed Rs. 1,50,000).

Specified profession covers profession of legal, medical, engineering, architectural, accountancy, company secretary, technical consultancy, interior decoration, authorised representative, film artist or information technology.

For more details on the provisions relating to maintenance of books of account you may refer provisions of section 44AA read with Rule 6F of the Income-tax Rules, 1962.

- Where should the books of account of business be kept and for how long?

All the books of account and related documents should be kept at the principal place of business, *i.e.*, where the business or profession is generally carried on. These documents should be preserved for a minimum of six years from the end of relevant Assessment year, i.e., for a total of 7 financial year from the end of relevant year. However, when the assessment has been reopened, all books of account and other documents which were kept and maintained at the time of reopening of assessment should continue to be so kept and maintained till the assessment so reopened has been completed.

- My name is not updated as per NSDL Website?

In case of mismatch in details as per PAN and the income tax portal , an assesee may file grievance. Click here https://www.incometaxindia.gov.in/Pages/tax-services/pan-grievances.aspx for steps for filing grievance related to PAN.

- How to check status of Aadhaar PAN linking?

  You can check your Aadhaar-PAN Linking status from the following link: https://eportal.incometax.gov.in/iec/foservices/#/pre-login/link-aadhaar-status

- Please give me email of income tax ombudsman?

  Please see the following link to check the list of Email Id of income tax ombudsman: https://www.incometaxindia.gov.in/Pages/ombudsman/know-your-ombudsman.aspx

## FAQs in respect of filling-up of the Income-tax return forms for Assessment Year 2021-22

- I am a non-resident. The Taxpayer Identification Number (TIN) is not allotted in my jurisdiction of residence. How do I report the same in the column on "residential status"?

  In case TIN has not been allotted in the jurisdiction of residence, the passport number should be mentioned instead of TIN. Name of the country in which the passport was issued should be mentioned in the column "jurisdiction of residence".

- I am a director in a foreign company which does not have PAN. How do I report the same against the column "Whether you were Director in a company at any time during the previous year?"

  You should choose "foreign company" in the drop-down provided for "type of company". In such case, PAN is not mandatory. However, PAN should be mentioned, if such foreign company has been allotted a PAN.

- Whether an individual who is a non-resident, or resident but not ordinary resident (RNOR)) is also required to disclose details of his directorship in a foreign company which does not have any income accruing or arising in India?

  Yes.

- I have held shares of a company during the previous year, which are listed in a recognized stock exchange outside India. Whether I am required to report the requisite details against the column "Whether you have held unlisted equity shares at ...read more

  I have held shares of a company during the previous year, which are listed in a recognized stock exchange outside India. Whether I am required to report the requisite details against the column "Whether you have held unlisted equity shares at any time during the previous year?

  No.

- I have held equity shares of a company which were previously listed in a recognised stock exchange, but delisted subsequently, and became unlisted. How do I report PAN of company in the column "whether you have held unlisted equity shares at....read more

  I have held equity shares of a company which were previously listed in a recognised stock exchange, but delisted subsequently, and became unlisted. How do I report PAN of company in the column "whether you have held unlisted equity shares at any time during the previous year"?

  In such cases, PAN of the company may be furnished if it is available. In case PAN of delisted company cannot be obtained, you may enter a default value in place of PAN, as "NNNNN0000N".

- In case unlisted equity shares are acquired or transferred by way of gift, will, amalgamation, merger, demerger, or bonus issue etc., how to report the "cost of acquisition" and "sale consideration" in the relevant column?

  You may enter zero or the appropriate value against "cost of acquisition" or "sale consideration" in such cases. Please note that the details of unlisted equity shares held during the year are required only for the purpose of reporting. The quantitative details entered in this column are not relevant for the purpose of computation of total income or tax liability.

- I hold shares in an unlisted foreign company which has been duly reported in the Schedule FA. Whether I am required to report the same again in the column "Whether you have held unlisted equity shares at any time during the previous year?"

  Yes.

- I have held unlisted equity shares as stock-in-trade of business during the previous year. Whether I have to report the same in the column "Whether you have held unlisted equity shares at any time during the previous year?"

  Yes.

- Please clarify whether holding of equity shares of a Co-operative Bank or Credit Societies, which are unlisted, are required to be reported?

  The details of equity shareholding in any entity which is registered under the Companies Act, and is not listed on any recognised stock exchange, is only required to be reported.

- I have sold land and building to a non-resident. Whether I need to report the PAN of buyer in the table A1/B1 in Schedule CG?

  As mentioned in ITR form, quoting of PAN of buyer is mandatory only if tax is deducted under section 194-IA or is mentioned in the documents.

- I am resident and have sold land and building situated outside India. Whether I need to report the details of property and identity of buyer in Schedule CG?

  The details of property and name of buyer should invariably be mentioned. However, quoting of PAN of buyer is mandatory only if tax is deducted under section 194-IA or is mentioned in the documents.

- Whether it is mandatory to provide ISIN details and scrip-wise computation of Long Term Capital Gains (LTCG) arising on sale of Shares/Mutual Funds units on which STT has been paid?

  The tools for computation of LTCG under sections 112A and 115AD have been provided in the departmental utility for the convenience of taxpayers. These are optional tools designed for computation of the final figures of LTCG, which is then populated in the respective items in Schedule CG. Alternatively, the taxpayers can themselves compute the aggregate long term gain or loss manually, and input the same directly in the respective items in Schedule CG.

- An unlisted company is required to furnish details of assets and liabilities in the Schedule AL-1 of ITR-6? Please clarify whether details of assets held as stock-in-trade of business are also required to be reported therein.

  In case jewellery/motor vehicle etc. is held as stock-in-trade of business, the drop-down value "stock-in-trade" should be selected against the field "purpose for which used", while filling up details in the relevant table (table 'I' or table 'H'). In such cases, only the aggregate values are required to be filled up, and the particular details of each asset held as stock-in-trade is not required to be reported.

- I hold foreign assets during the previous year which have been duly reported in the Schedule FA. Whether I am required to report such foreign asset again in the Schedule AL (if applicable)?

  Yes.

- An unlisted company is required to furnish details of shareholding as at the end of previous year in the Schedule SH-1 of ITR-6. Please clarify whether these details are required to be furnished in case of an unlisted foreign company.

  Not required.

- An unlisted company is required to furnish details of assets and liabilities in the Schedule AL-1 of ITR-6. Please clarify whether these details are required to be furnished in case of an unlisted foreign company.

  Not required.

- Please clarify whether a farmer producer company as defined in section 581A of Companies Act, 1956 is required to furnish details of shareholding in the Schedule SH-1 of ITR-6?

  No. However, please ensure to tick the option 'Yes' against the item "whether the company is a producer company as defined in section 581A of Companies Act, 1956?" in Part-A General.

- A company is required to disclose break-up of all payments and receipts during the year, in foreign currency, as per Schedule FD of ITR-6 (if it is not required to get the accounts audited u/s 44AB). Please clarify whether only the receipts/payments relat

  Yes. In Schedule FD, the break-up of receipts and payments in foreign currency is required to be reported only in respect of business operations in India.

- In schedule TDS, one is required to enter the head under which corresponding receipt has been offered. In some cases, TDS is deducted by the payer in current year, but corresponding income is to be offered in future years. How to fill up Schedule TDS in s

  In such cases, no TDS credit should be claimed under the column "in own hands" for the current year. If this is done, the column "Corresponding receipt offered" is greyed-off and is not required to be filled up.

## FAQs for Senior Citizens

- **What are the benefits available to a senior citizen and very senior citizen in respect of tax rates?**

Senior citizens and a very senior citizen are granted a higher exemption limit as compared to normal tax payers. Exemption limit is the quantum of income up to which a person is not liable to pay tax. The exemption limit granted to senior citizen and very senior citizen for the financial year 2020-21 is as follows:

| *Senior citizen* | *Very senior citizen* |
|---|---|
| A senior citizen is granted a higher exemption limit compared to non-senior citizens. The exemption limit for the financial year 2020-21 available to a resident senior citizen is Rs. 3,00,000. The exemption limit for non-senior citizen is Rs. 2,50,000. Thus, it can be observed that an additional benefit of Rs. 50,000 in the form of higher exemption limit is available to a resident senior citizen as compared to normal tax payers. | A very senior citizen is granted a higher exemption limit compared to others. The exemption limit for the financial year 2020-21 available to a resident very senior citizen is Rs. 5,00,000. The exemption limit for non-senior citizen is Rs. 2,50,000. Thus, it can be observed that an additional benefit of Rs. 2,50,000 in the form of higher exemption limit is available to a resident very senior citizen as compared to normal tax payers. |

- **At what age a person will qualify as a senior citizen and very senior citizen under the Income-tax Law?**

Before understanding the age criteria, it is very important to know that the tax benefits offered under the Income-tax Law to a senior citizen/very senior citizen are available only to resident senior citizen and resident very senior citizens. In other words, these benefits are not available to a non-resident even though he may be of higher age. The age and other criteria to qualify as a senior citizen and very senior citizen under the Income-tax Law are as follows:

| *Criteria for senior citizen* | *Criteria for very senior citizen* |
|---|---|
| Must be of the age of 60 years or above but less than 80 year at any time during the respective year. | Must be of the age of 80 years or above at any time during the respective year. |
| Must be resident | Must be resident |

- **Is there any special benefit available under the Income-tax law to senior citizens?**

Yes, the Income-tax Law very well takes care of the senior citizens of the nation by offering them several tax benefits. In this part you can gain knowledge of various benefits offered by the Income-tax Law to senior citizens.

- **Is a very senior citizen granted exemption from e-filing of income tax return?**

From Assessment year 2019-20 onwards, a very senior citizen filing his return of income in Form ITR 1/4 can file his return of income in paper mode, i.e., for him e filing of ITR 1/4 (as the case may be) is not mandatory. However, he may go for e-filing if he wishes.

- Is a Resident senior citizen granted exemption from payment of advance tax?

  As per section 208, every person whose estimated tax liability for the year is Rs. 10,000 or more, shall pay his tax in advance, in the form of "advance tax". However, section 207 gives relief from payment of advance tax to a resident senior citizen. As per section 207 a resident senior citizen (i.e., an individual of the age of 60 years or above during the relevant financial year) not having any income from business or profession, is not liable to pay advance tax.

- What are the benefits available in respect of interest on deposits in case of senior citizens?

  Section 80TTB of the Income Tax law gives provisions relating to tax benefits available on account of interest income from deposits with banks or post office or co-operative banks of an amount upto Rs. 50,000 earned by the senior citizen (i.e., an individual of the age of 60 years or above). Interest earned on saving deposits and fixed deposit, both shall be eligible for deduction under this provision.

  Section 194A of the Income Tax law gives corresponding provisions that no tax shall be deducted at source from payment of interest by bank or ppost-office or co-operative bank to a senior citizen up to Rs. 50,000. Therefor limit is to be computed for every bank individually.

- What are the benefits available in respect of expenditure incurred on account of medical treatment of specified diseases on treatment of a senior citizen?

  section 80DDB of the Income-tax Law gives various provisions relating to tax benefits available on account of expenditure on medical treatment of specified diseases. Click the following link to know about details of section 80DDB which covers the details of special benefits under section 80DDB available to a senior citizen. Check page 8 topic "Deduction in respect of expenditure on medical treatment of specified diseases [ section 80DDB]"

  https://www.incometaxindia.gov.in/tutorials/20.%20tax%20benefits%20due%20to%20health%20insurance.pdf

- What are the benefits available in respect of expenditure incurred on account of medical insurance premium/ medical expenditure to a senior citizen and on account of?

  Section 80D of the Income-tax Law gives various provisions relating to tax benefits available on account of payment of medical insurance premium and other related items. Click the following link to know about details of section 80D which covers the details of special benefits under section 80D available to a senior citizen. Check page 5 topic "Deduction in respect of medical insurance premium [ Section 80D]"

- Is a senior citizen exempts from filing Income-tax return (ITR)?

  Income-tax Act, 1961 provides no exemption to senior citizen or very senior citizen from filing of return of income. However, to provide relief to the senior citizens (whose age is 75 years or more) and to reduce the compliance burden on them, the Finance Act, 2021, has inserted a new section 194P.

This provision requires a banking company to deduct tax under this provision if deductee is maintaining an account with it in which he is receiving his pension income. The tax is required to be deducted under this new provision if the recipient is a resident individual whose age is 75 years or more at any time during the year and the following conditions are fulfilled:

a) Total Income of the deductee consists only income in the nature of pension and interest received or receivable from any account maintained with deductor (such bank); and

b) Deductee has furnished a declaration to deductor containing prescribed particulars.

If the above conditions are satisfied, the deductor shall compute the income of deductee after giving effect to the deduction allowable under Chapter VI-A and rebate under section 87A. Tax on such income is required to be deducted on the basis of rates in force.

If tax is deducted from the income of such senior-citizen, he shall not be liable to furnish the return of income for the previous year in which tax has been deducted.

## FAQs on Salary Income / Pension

- What is considered as salary income?

  section 17 of the Income-tax Act defines the term 'salary'. However, not going into the technical definition, generally whatever is received by an employee from an employer in cash, kind or as a facility [perquisite] is considered as salary.

- What are allowances?

  Allowances are fixed periodic amounts, apart from salary, which are paid by an employer for the purpose of meeting some particular requirements of the employee. E.g., Tiffin allowance, transport allowance, uniform allowance, etc.

  There are generally three types of allowances for the purpose of Income-tax Act - taxable allowances, fully exempted allowances and partially exempted allowances.

  Perquisites are benefits received by a person as a result of his/her official position and are over and above the salary or wages. These perquisites can be taxable or non-taxable depending upon their nature. . Uniform allowance is exempt to the extent of expenditure incurred for official purposes u/s 10(14).

- My employer reimburses to me all my expenses on grocery and children's education. Would these be considered as my income?

  Yes, these are in the nature of perquisites and should be valued as per the rules prescribed in this behalf.

- During the year I had worked with three different employers and none of them deducted any tax from salary paid to me. If all these amounts are clubbed together, my income will exceed the basic exemption limit. Do I have to pay taxes on my own?

  Yes, you will have to pay self-assessment tax and file the return of income.

- Even if no taxes have been deducted from salary, is there any need for my employer to issue Form-16 to me?

  Form-16 is a certificate of TDS. In your case it will not apply. However, your employer can issue a salary statement.

- Is pension income taxed as salary income?

  Yes. However, pension received from the United Nations Organisation is exempt.

- Is Family pension taxed as salary income?

  No, it is taxable as income from other sources.

- If I receive my pension through a bank who will issue Form-16 or pension statement to me- the bank or my former employer?

The bank.

- Are retirement benefits like PF and Gratuity taxable?

In the hands of a Government employee Gratuity and PF receipts on retirement are exempt from tax. In the hands of non-Government employee, gratuity is exempt subject to the limits prescribed in this regard and PF receipts are exempt from tax, if the same are received from a recognised PF after rendering continuous service of not less than 5 years.

Note:

W.e.f. Assessment Year 2022-23, no exemption shall be available for the interest income accrued during the previous year in the recognised and statutory provident fund to the extent it relates to the contribution made by the employees over Rs. 2,50,000 in the previous year.

However, if an employee is contributing to the fund but there is no contribution to such fund by the employer, then the interest income accrued during the previous year shall be taxable to the extent it relates to the contribution made by the employee to that fund in excess of Rs. 5,00,000 in a financial year.

- Are arrears of salary taxable?

Yes. However, the benefit of spread over of income to the years to which it relates to can be availed for lower incidence of tax. This is called as relief u/s 89 of the Income-tax Act.

- Can my employer consider relief u/s 89 for the purposes of calculating the TDS from salary?

Yes, if you are a Government employee or an employee of a PSU or company or co-operative society or local authority or university or institution or association or body. In such a case you need to furnish Form No. 10E to your employer.

- My income from let out house property is negative. Can I ask my employer to consider this loss against my salary income while computing the TDS on my salary?

Yes but only to the extent of Rs. 2 lakh, however, losses other than losses under the head 'Income from house property' cannot be set-off while determining the TDS from salary.

- Is leave encashment taxable as salary?

It is taxable if received while in service. Leave encashment received at the time of retirement is exempt in the hands of the Government employee. In the hands of non-Government employee leave encashment will be exempt subject to the limit prescribed in this behalf under the Income-tax Law.

- Are receipts from life insurance policies on maturity along with bonus taxable?

As per section 10(10D), any amount received under a life insurance policy, including bonus is exempt from tax. However, following receipts would be subject to tax:

1. Any sum received under sub-section (3) of section 80DD; or
2. Any sum received under Keyman insurance policy; or

3. Any sum received in respect of policies issued on or after April 1st, 2003, in respect of which the amount of premium paid on such policy in any financial year exceeds 20% (10% in respect of policy taken on or after 1st April, 2012) of the actual capital sum assured; or
4. Any sum received for insurance on life of *specified person (issued on or after April 1st 2013) in respect of which the amount of premium exceeds 15% of the actual capital sum assured.

* Any person who is –

i) A person with disability or severe disability specified under section 80U; or
ii) suffering from disease or ailment as specified in the rule made under section 80DDB.

Following points should be noted in this regard:

- Exemption is available only in respect of amount received from life insurance policy.

  Exemption under section 10(10D) is unconditionally available in respect of sum received for a policy which is issued on or before March 31, 2003.
- Amount received on the death of the person will continue to be exempt without any condition.

- What is the taxability of ex-gratia received from employer?

  If a person or his heir receives *ex-gratia* from Central govt/state govt/ local authority/Public Sector Undertaking due to injury to the person/death while on duty such ex-gratia payment will not be taxable.

- Where is House Rent allowance (HRA) to be reflected while filing income-tax return (ITR)?

  The amount of HRA is required to be disclosed in the ITR under the column allowances to the extent exempt under section 10. section 10(3A) is the relevant section under which the amount of exempt HRA to be shown.

  What is the taxability of House Rent allowance (HRA)?

  Least/minimum of the following is exempt (Not taxable/deducted from total HRA received)

  (a) Actual amount of HRA received

  (b) Rent paid Less 10% of salary

  (c) 50% of salary if house taken on rent is situated in Kolkata, Chennai, Mumbai and Delhi

  or

  40 % of salary if the house is taken on rent is NOT situated in Kolkata, Chennai, Mumbai and Delhi.

  Click here to calculate taxability of House Rent Allowance

- What is the taxability of Fixed Medical allowance?

  Medical allowance is a fixed allowance paid to the employees of a company on a monthly basis, irrespective of whether they submit the bills to substantiate the expenditure or not. It is fully taxable in the hands of employee.

- What is the taxability of Conveyance allowance?

As per section 10(14) read with Rule 2BB Conveyance allowance is exempt to the extent of amount received or amount spent, whichever is less. For e.g., If amount received is Rs. 100 and amount spent is Rs. 80, then only Rs. 20 is taxable. However, if amount actually spent is Rs. 100; then nothing is taxable.

- Is standard deduction applicable to all the salaried person whether he is an employee of Central or State Government?

  W.e.f. Assessment year 2019-20, the standard deduction is allowed while computing income chargeable under the head salaries. It is available to all class of employees irrespective of the nature of employer. Standard Deduction is also available to pensioners. Amount of Standard Deduction is Rs. 40,000 or amount of salary/pension, whichever is lower.

  However, the Finance Act, 2019 has increased the maximum amount of standard deduction from Rs. 40,000 to Rs. 50,000.

  Note: The standard deduction under section 16(ia) is available only for Pension Chargeable under the head "Income under the head Salaries" and not for Pension chargeable under "Income from Other Sources".

- Is transport allowance can be claimed as exemption by an employee from A.Y 2020-21 onwards?

  Exemption of transport allowance of Rs. 1600 p.m granted to an employee is discontinued from A.Y 2019-20.

  However, exemption of transport allowance of Rs. 3200 p.m granted to an employee who is blind or deaf and dumb or orthopaedically handicapped is still available.

- Is standard deduction applicable to family pensioners?

  Section 16(ia) has been introduced by Finance Act, 2018 for class of person whose income is chargeable to tax under head salary. Family Pension is taxable under the head income from other sources. Hence standard deduction is not applicable in case of Family Pension.

- Mr. X having Gross Salary of Rs. 7,00,000 during the the previous year 2020-21. Compute the standard deduction allowable to him?

  Standard deduction is allowable to the extent of:

  a) Rs. 50,000 or

  b) Amount of Salary, whichever is lower

  In this case standard deduction of Rs. 50,000 is allowable to Mr.X.

- What is Form 12BB?

  As per RULE LINK - Rule 26C of the Income Tax Rules - Form No. 12BB is required to be furnished by an employee to his employer for estimating his income or computing the tax deduction at source.

  An assessee shall furnish evidence or particulars of the claims, such as House Rent

Allowance, Leave Travel concession, Deduction of Interest under the head " Income from house property" and deductions under Chapter-VIA in Form No. 12BB for estimating his income or computing the tax deduction at source.

- When relief under section 89 of the Income Tax Act is available?

  Relief under section 89 is available to an individual if he has received

  - Salary or family pension in arrears or in advance [Rule 21A (2)]
  - Gratuity in excess of exemption under section 10(10)(ii)/(iii) [Rule 21A(3)]
  - Compensation on termination of employment [Rule 21A(4)]
  - Commuted pension in excess of exemption under section 10(10A)(i) [ Rule 21A(5)]

  In case of payment received other than above CBDT can allow relief under section 89 after examining each individual case. [Rule 21A (6)]

- What is the effective date of enhancement of limit of gratuity from Rs 10 lakh to 20 lakh for purpose of tax exemption computation under section 10(10)(ii)?

  The exemption limit under section 10(10)(ii) for the employees, who are covered under Payment of Gratuity Act, 1972, has been enhanced from Rs. 10,00,000 to Rs. 20,00,000 vide notification S.O.1420 (E) dated 29 March 2018 notified by Ministry of Labour and Employment. The exemption limit under section 10(10)(iii) for the employees, who are not covered under the Payment of Gratuity Act, 1972, is Rs. 20,00,000 as enhanced by Notification No. SO 1213(E), dated 08-03-2019.

## FAQs on filing the Return of Income – ITR – 1 to 7

- What is a return of income?

ITR stands for Income Tax Return. It is a prescribed form through which the particulars of income earned by a person in a financial year and taxes paid on such income are communicated to the Income-tax Department. It also allows carry -forward of loss and claim refund from income tax department.Different forms of returns of income are prescribed for filing of returns for different Status and Nature of income. These forms can be downloaded from www.incometaxindia.gov.in

- ITR Description
- ITR 1 (SAHAJ) For Individuals being a resident other than not ordinarily resident having Income from Salaries, One house property, Other sources (Interest etc.) and having total income upto Rs. 50 lakhs
- ITR 2 It is applicable to an individual and HUFs whose income chargeable to income-tax under the head "Profits or gains of business or profession" is in the nature of interest, salary, bonus, commission or remuneration, by whatever name called, due to, or received by him from a partnership firm.
- ITR 3 It is applicable to an individual or a Hindu Undivided Family who is carrying on a proprietory business or profession.
- ITR 4 Also known as SUGAM is applicable to individuals or Hindu Undivided Family or partnership firm (other than limited liability partnership firm) who have opted for the presumptive taxation scheme of section 44AD/ 44ADA

- What are the forms of return prescribed under the Income-tax Law?

Under the Income-tax Law, different forms of returns are prescribed for different classes of taxpayers. The return forms are known as ITR forms (Income Tax Return Forms). The forms of return prescribed under the Income-tax Law for filing of return of income for the assessment year 2021-22 (*i.e.*, financial year 2020-21) are as follows:

| Return Form | Brief Description |
|---|---|
| ITR - 1 | Also known as SAHAJ is applicable to an individual having salary or pension income or income from one house property (not a case of brought forward loss) or income from other sources (not being lottery winnings and income from race horses, income taxable under section 115BBDA or income reffered in section 115BBDA or income referred in section 115BBE). |
| ITR - 2 | It is applicable to an individual or an Hindu Undivided Family not having income chargeable to income-tax under the head "Profits or gains of business or profession" |
| ITR - 3 | It is applicable to an individual or a Hindu Undivided Family who has any income chargeable to tax under the head business or profession |

| | |
|---|---|
| ITR - 4 | Also known as SUGAM is applicable to individuals or Hindu Undivided Family or partnership firm who have opted for the presumptive taxation scheme of section 44AD/ 44ADA/44AE. |
| ITR - 5 | This Form can be used by a person being a firm, LLP, AOP, BOI, artificial juridical person referred to in section 2(31)(vii), cooperative society and local authority. However, a person who is required to file the return of income under section 139(4A) or 139(4B) or 139(4C) or 139(4D) shall not use this form (*i.e.,* trusts, political parties, institutions, colleges) |
| ITR - 6 | It is applicable to a company, other than a company claiming exemption under section 11 (exemption under section 11 can be claimed by charitable/religious trust). |
| ITR - 7 | It is applicable to a persons including companies who are required to furnish return under section 139(4A) or section 139(4B) or section 139(4C) or section 139(4D) (*i.e.,* trusts, political parties, institutions, colleges). |
| ITR - V | It is the acknowledgement of filing the return of income. |

- What are the different modes of filing the return of income?

The Return Form can be filed with the Income-tax Department in any of the following ways, -

(i) by furnishing the return in a paper form;

(ii) by furnishing the return electronically under digital signature;

(iii) by transmitting the data in the return electronically under electronic verification code;

(iv) by transmitting the data in the return electronically and thereafter submitting the verification of the return in Return Form ITR-V;

Note

Where the return of income is filed in the manner given at (iv) without digital signature, then the taxpayer should take two printed copies of Form ITR-V. One copy of ITR-V, duly signed by the taxpayer, is to be sent (within the period specified in this regard, i.e., 120 days) by ordinary post or speed post to "Income-tax Department - CPC, Post Bag No. 1, Electronic City Post Office, Bengalore-560100 (Karnataka). The other copy may be retained by the taxpayer for his record.

- Which mode of filing of return is applicable to whom?

*The applicable return of income shall be furnished by a person mentioned in column (*ii*) of the Table below to whom the conditions specified in column (*iii*) apply, in the manner specified in column (*iv*) thereof:—*

| Sl. | Person | Condition | Manner of furnishing return of income |
|---|---|---|---|
| (i) | (ii) | (iii) | (iv) |
| 1 | Individual or Hindu undivided family | (a) Accounts are required to be | Electronically under digital signature; |

| | | | |
|---|---|---|---|
| | | audited under section 44AB of the Act; | |
| | | (b) A super senior citizen (whose age is 80 years or above at any time during the previous year) who furnishes the return either in ITR-1 or ITR-4 | (A) Electronically under digital signature; or<br>(B) Transmitting the data electronically in the return under electronic verification code; or<br>(C) Transmitting the data in the return electronically and thereafter submitting the verification of the return in Form ITR-V; or<br>(D) Paper form; |
| | | (c) In any other case | (A) Electronically under digital signature; or<br>(B) Transmitting the data electronically in the return under electronic verification code; or<br>(C) Transmitting the data in the return electronically and thereafter submitting the verification of the return in Form ITR-V; ] |
| *2* | *Company* | *In all cases.* | *Electronically under digital signature.* |
| *3* | *A person required to furnish the return in Form ITR-7* | *(a) In case of a political party;* | *Electronically under digital signature;* |
| | | *(b) In any other case* | *(A) Electronically under digital signature; or* |
| | | | *(B) Transmitting the data in the return electronically under electronic verification code; or* |
| | | | *(C) Transmitting the data in the return electronically and thereafter submitting the verification of the return in Form ITR-V.* |
| *4* | *Firm or limited liability partnership or any person (other* | *(a) Accounts are required to be audited* | *Electronically under digital signature;* |

| | | | |
|---|---|---|---|
| | *than a person mentioned in Sl. 1 to 3 above) who is required to file return in Form ITR-5* | *under section 44AB of the Act;* | |
| | | *(b) In any other case.* | *(A) Electronically under digital signature; or* |
| | | | *(B) Transmitting the data in the return electronically under electronic verification code; or* |
| | | | *(C) Transmitting the data in the return electronically and thereafter submitting the verification of the return in Form ITR-V* |

- **Is it necessary to attach any documents along with the return of income?**

  ITR return forms are attachment less forms and, hence, the taxpayer is not required to attach any document (like proof of investment, TDS certificates, etc.) along with the return of income (whether filed manually or filed electronically). However, these documents should be retained by the taxpayer and should be produced before the tax authorities when demanded in situations like assessment, inquiry, etc.

  As discussed above, no documents are to be attached along with the return of income, however, in case of a taxpayer who is required to furnish a report of audit under section 10(23C)(iv), 10(23C)(v), 10(23C)(vi), 10(23C)via), 10A, 10AA, 12A(1)(b), 44AB, 44DA, 50B, 80-IA, 80-IB, 80-IC, 80-ID, 80JJAA, 80LA, 92E, 115JB or 115VW or to give a notice under section 11(2)(a) shall furnish it electronically on or before the date of filing the return of income.

- **Who can use ITR – 1 (SAHAJ)?**

  **Return Form ITR - 1 (SAHAJ) can be used by an individual whose total income includes:**

  (1) Income from salary/pension; or

  (2) Income from one house property (excluding cases where loss is brought forward from previous years); or

  (3) Income from other sources (excluding winnings from lottery and income from race horses, income taxable under section 115BBDA or Income of the nature referred to in section 115BBE).

  Further, in a case where the income of another person like spouse, minor child, etc., is to be clubbed with the income of the taxpayer, this return form can be used only when such income falls in any of the above categories.

- ITR - 1 (SAHAJ) For Individuals having Income from Salaries, one house property, other sources (Interest etc.) and having total income upto Rs.50 lakh

- Who cannot use ITR – 1 (SAHAJ)?

  Return Form ITR - 1 (SAHAJ) cannot be used by an individual:

  - Who is a Non-resident or Not Ordinarily Resident
  - Who is a Director of a company
  - Whose total income exceeds Rs. 50 lakhs
  - Who has income from more than 1 house property
  - Who has held unlisted equity shares at any time during the previous year
  - Who claims deduction under section 80QQB or Section section 80RRB in respect of royalty from patents or books
  - Who is a person in whose case tax has been deducted under section 194N.
  - Who is a person in whose case payment or deduction of tax has been deferred under section 191(2) or section 192(1C)
  - Who claims deduction under section 10AA or Part-C of Chapter VI-A
  - Who has brought forward loss or losses to be carried forward under any head
  - Person claiming deduction under section 57 from income taxable under the head 'Other Sources'(other than deduction allowed from family pension)
  - Who wants to claim relief under section 90 or section 91
  - Who wants to claim credit of tax deducted at source in the hands of any other person.
  - Who has any assets (including Financial Interest in an entity) located outside India.
  - Who has signing authority in any account outside India
  - Who has any income to be apportioned in accordance with provisions of section 5A
  - Who has any of the following income:

  a) Income from Business or Profession

  b) Capital Gains

  c) Income taxable under the head 'Other sources' which is taxable at special rate

  d) Dividend income exceeding Rs. 10 lakhs taxable under section 115BBDA

  e) Unexplained income (i.e., cash credit, unexplained investment, etc.) taxable at 60% under section 115BBE

  f) Agricultural Income exceeding Rs. 5,000

  g) Income from any source outside India

- Who can use ITR – 2?

  Form ITR – 2 can be used by an individual and Hindu Undivided Family who is not eligible to fileITR-1 Sahaj and not having income from “profit and gains of business or profession” and also not having income from “Profits and gains of business or profession” in the nature of

interest, salary, bonus, commission or remuneration, by whatever name called, due to, or received by him from a partnership firm.

Further, in case where the income of another person like spouse, minor child, etc., is to be clubbed with the income of the taxpayer, this Return Form can be used if income to be clubbed falls in any of the above categories.

ITR - 2 It is applicable to an individual and HUFs whose income chargeable to income-tax under the head "Profits or gains of business or profession" is in the nature of interest, salary, bonus, commission or remuneration, by whatever name called, due to, or received by him from a partnership firm

- Who cannot use ITR – 2?

  Form ITR - 2 cannot be used by an individual and HUF whose total income for the year includes income from profit and gains from business or profession and also having income in the nature of interest, salary, bonus, commission or remuneration, by whatever name called, due to, or received by him from partnership firm

- Who can use ITR – 3?

  Form ITR – 3 can be used by an individual or a Hindu Undivided Family who is having income from profits and gains of business or profession.ITR – 3 is also required to be filed by a person whose income is chargeable to tax under the head "Profits and gains ofbusiness or profession" is in the nature of interest, salary, bonus, commission or remuneration, by whatever name called, due to, or received by him from a partnership firm.

- Who cannot use ITR – 3?

  Form ITR – 3 cannot be used by any person other than an individual or a HUF. Further, an individual or a HUF not having income from business or profession cannot useITR – 3.

- Who can use ITR – 4 (SUGAM)?

  Form ITR – 4 (SUGAM) can be used by an Individual/HUF/Firm (Other than LLP) whose total income for the year includes:

  (a) Business income computed as per the provisions of section 44AD or44AE; or;

  (b) Income from Profession as computed as per the provisions of44ADA; or

  (c) Income from salary/pension; or

  (d) Income from one house property (excluding cases where loss is brought forward from previous years); or

  (e) Income from other sources (excluding winnings from lottery and income from race horses dividend income in excess of Rs. 10 lakhs or unexplained Income, etc. as referred to in section 115BBE)

  Further, in a case where the income of another person like spouse, minor child, etc., is to be clubbed with the income of the taxpayer, this return form can be used where income to be clubbed falls in any of the above categories.

- Who cannot use ITR – 4 (SUGAM)?

Form ITR – 4 (SUGAM) cannot be used by an individual/HUF:

• Who is a Non-resident or Not Ordinarily Resident

• Who is a Director of a company

• Whose total income exceeds Rs. 50 lakhs

• Who has income from more than one House Property

• Who has held unlisted equity shares at any time during the previous year

• Who claims deduction under section 80QQB or section 80RRB in respect of royalty from patent or books

• Who claims deduction under section 10AA or Part-C of Chapter VI-A

• Who has brought forward loss or losses to be carried forward under any head

• Who has income of the nature specified in section 17(2)(vi) on which tax is payable or deductible under section 191(2) or section 192(1C).

• Person claiming deduction under section 57 from income taxable under the head 'Other Sources' (other than deduction allowed from family pension)

• Who wants to claim relief under section 90 and section 91

• Who wants to claim credit of tax deducted at source in the hands of any other person.

• Who has any assets (including Financial Interest in an entity) located outside India.

• Who has signing authority in any account outside India

• Who has any income to be apportioned in accordance with provisions of section 5A

• Who has any of the following income:

a) Income from Business or Profession

b) Income from Business or ProfessionCapital Gains or Loss

c) Income from Business or ProfessionIncome taxable under the head 'Other sources' which is taxable at special rate

d) Income from Business or ProfessionDividend income exceeding Rs. 10 lakhs taxable under Section 115BBDA

e) Income from Business or ProfessionUnexplained income (i.e., cash credit, unexplained investment, etc.) taxable at 60% under section 115BBE

f) Income from Business or ProfessionAgricultural Income exceeding Rs. 5,000

g) Income from Business or ProfessionIncome from any source outside India

h) Income from Business or ProfessionIncome from speculative business and other special incomes.

i) Income from Business or ProfessionIncome from agency business or commission or brokerage

In case the assesse keeps and maintains all books of accounts and other documents referred to in section 44AA, and also gets his accounts audited and obtains an audit report as per section 44AB, filling up the Form ITR – 4 (SUGAM) is not mandatory. In such a case, other regular return forms viz. Form ITR – 3 or Form ITR – 5, as applicable, should be used.

- Who can use ITR – 5?

  Form ITR – 5 can be used by a person being a firm, LLP, AOP, BOI, Artificial Juridical Person (AJP) referred to in section 2(31)(vii), local authority referred to in section 2(31)(vi), representative assessee referred to in section 160(1)(iii) or (iv), cooperative society, society registered under Societies Registration Act, 1860 or under any other law of any State, trust other than trusts eligible to file Form ITR – 7, estate of deceased person, estate of an insolvent, business trust referred to in section 139(4E) and investments fund referred to in section 139(4F).

- Who cannot use ITR – 5?

  Form ITR – 5 cannot be used by, a person who is required to file the return of income under section 139(4A) or 139(4B) or 139(4C) or139(4D) (i.e., trusts, political party, institutions, colleges).

- Who can use ITR – 6?

  Form ITR – 6 can be used by a company, other than a company claiming exemption under section 11 (charitable/religious trust can claim exemption under section 11).

- Who cannot use ITR – 6?

  Form ITR – 6 cannot be used by a company claiming exemption under section 11 (charitable/religious trust can claim exemption under section 11).

- Who can use ITR – 7?

  Form ITR – 7 can be used by persons including companies who are required to furnish return under section 139(4A) or section 139(4B) or section 139(4C) or section 139(4D) (i.e., trusts, political party, institutions, colleges).

- Who cannot use ITR – 7?

  Form ITR – 7 cannot be used by a person who is not required to furnish return under section 139(4A) or section 139(4B) or section 139(4C) or section 139(4D) (i.e., trusts, political party, institutions, colleges).

- How to file the return of income electronically?

  Income-tax Department has established an independent portal for e-filing of return of income. The taxpayers can log on to https://www.incometax.gov.in for e-filing the return of income. Click here to view the step by step procedure to file Income-tax return online.

- What is e-filing utility provided by the Income-tax Department?

  The Income-tax Department has provided free e-filing utility (i.e., Java & excel) to generate e-return and furnishing of return electronically. The e-filing utility provided by Department is simple, easy to use and also contains instructions on how to use it. By using the e-filing utility, the taxpayers can easily file their returns of income. Utility can be downloaded from https://www.incometax.gov.in

- Is there any e-filing help desk established by the Income-tax Department?

  In case of queries on e-filing of return, the taxpayer can contact 1800 180 1961.

- What is the difference between e-filing and e-payment?

E-payment is the process of electronic payment of tax (i.e., by net banking or SBI's debit/credit card) and e-filing is the process of electronically furnishing of return of income. Using the e-payment and e-filing facility, the taxpayer can discharge his obligations of payment of tax and furnishing of return easily and quickly.

- Will I be put to any disadvantage by filing my return?

  No, on the contrary by not filing your return inspite of having taxable income, you will be liable to the penalty and prosecution provisions under the Income-tax Act.

- What are the benefits of filing my return of income?

  Filing of return is your duty and earns for you the dignity of consciously contributing to the development of the nation. Apart from this, your income-tax returns validate your credit worthiness before financial institutions and make it possible for you to access many financial benefits such as bank credits, etc.

- What are the benefits of e-filing the return of income?

  E-filing can be done from any place at any time and it saves time and efforts. It is simple, easy and faster. The e-filed returns are generally processed faster as compared to returns filed manually.

- Is it necessary to file return of income when I do not have any positive income?

  If you have sustained a loss in the financial year, which you propose to carry forward to the subsequent year for adjustment against subsequent year(s) positive income, you must make a claim of loss by filing your return before the due date.

- What are the due dates for filing returns of income/loss?

  Due date of filing of return of income

| *Sr. No.* | *Status of the taxpayer* | *Due date* |
|---|---|---|
| 1 | Any company other than a company who is required to furnish a report in Form No. 3CEB under section 92E (i.e. other than covered in 2 below) | October 31 of the assessment year |
| 2 | Any person (may be corporate/non-corporate) who is required to furnish a report in Form No. 3CEB under section 92E | November 30 of the assessment year |
| 3 | Any person (other than a company) whose accounts are to be audited under the Income-tax Law or under any other law | October 31 of the assessment year |
| 4 | A working partner of a firm whose accounts are required to be audited under this Act or under any other law. | October 31 of the assessment year |
| 5 | Any other assessee | July 31 of the assessment year . |

- Will I be penalized on late filing of ITR even if I am not liable to file it?

  No, late filing fee under section 234F not leviable in case you are not required to file ITR as per section 139 but filing it voluntary though after the due date.

- If I fail to furnish my return within the due date, will I be fined or penalized?

  If a person who is required to furnish a return of income under section 139 and fails to do so within time prescribed in sub-section (1) , you will have to pay interest on tax due.

  Further, as per section 234F, late filing fees of Rs.5,000 shall be payable if return furnished after due date specified under section 139(1). However amount of late filing fees to be paid shall be Rs.1,000, if the total income of the person does not exceed Rs.5 lakhs.

- Can a return be filed after the due date?

  Return of income which has not been furnished on or before the due date specified under section 139(1) is called belated return. Belated return of income is furnished under section 139(4).

  Any person who has not furnished a return of income within the time period allowed under section 139(1) or within the time period allowed under a notice issued under section 142(1), may furnish return for any previous year

  - at any time 3 months before the end of the relevant assessment year or before completion of the assessment, whichever is earlier.

  However, a belated return attracts late filing fees under section 234F.

  As per section 234F, late filing fees of Rs.5,000 shall be payable if return furnished after due date specified under section 139(1). However amount of late filing fees to be paid shall be Rs.1,000, if the total income of the person does not exceed Rs.5 lakhs.

- If I have paid excess tax how will it be refunded to me?

  The excess tax can be claimed as refund by filing your Income-tax return. It will be refunded to you by crediting it in your bank account through ECS transfer. The department has been making efforts to settle refund claims at the earliest.

- If I have committed any mistake in my original return, am I permitted to file a revised return to correct the mistake?

  A return of income can be revised at any time during the assessment year or before the assessment made whichever is earlier.

  If original return has filed in paper format or manually, then technically it cannot be revised by online mode or electronically.

- How many times can I revise the return?

  If a person after furnishing the return finds any mistake, omission or any wrong statement, then return should be revised within prescribed time limit.

A return can be revised at any time 3 months before the end of the Assessment Year or before the completion of the assessment; whichever is earlier.

If original return has filed in paper format or manually, then technically it cannot be revised by online mode or electronically.

Revised return can be filed online under section 139(5).

- Am I required to keep a copy of the return filed as proof and for how long?

Yes, since legal proceedings under the Income-tax Act can be initiated up to four or six years (as the case may be) prior to the current financial year, you must maintain such documents at least for this period. However, in certain cases the proceedings can be initiated even after 6 years, hence, it is advised to preserve the copy of return as long as possible. Further, after introduction of the e-filing facility, it is very easy and simple to maintain the copy of return of income.

- There are various deductions that are not reflected in the Form 16 issued by my employer. Can I claim them in my return?

Yes, it can be claimed if you are otherwise eligible to claim the same.

- Why is return filing mandatory, even though all my taxes and interests have been paid and there is no refund due to me?

Amounts paid as advance tax and withheld in the form of TDS or collected in the form of TCS will take the character of your tax due only on completion of self-assessment of your income. This self-assessment is intimated to the Department by way of filing of the return of income. Only then the Government assumes rights over the taxes paid by you. Filing of return is critical for this process and, hence, has been made mandatory. Failure will attract levy of penalty.

- Am I liable for any criminal prosecution [arrest/imprisonment, etc.] if I don't file my Income-tax return, even though my income is taxable?

Non-payment of tax attracts interests, penalty and prosecution. The prosecution can lead to rigorous imprisonment from 3 months to 2 years (when the tax sought to be evaded exceeds Rs. 25,00,000 the punishment could be 6 months to 7 years).

- What is Form 26AS?

It is a form issued under Rule 31AB, wherein the following information in relation to a PAN is published:

- TDS - Part A & A1 of Form 26AS
- TCS - Part B of Form 26AS
- Details of tax paid other than TDS / TCS - Part C of Form 26AS
- Details of Refund - Part D of Form 26AS
- Details of AIR transactions - Part E of Form 26AS

- What to do if discrepancies appear in actual TDS and TDS credit as per Form 26AS?

Every person deducting tax at source has to furnish the details of tax deducted by him to the Income-tax Department. The details will cover the name of the deductee, Permanent Account Number of the deductee, amount of tax deducted, amount paid to the deductee, date of payment of TDS to the credit of Government, etc. On the basis of the details of TDS provided by the deductor, the Income-tax Department will update Form 26AS of the deductee. Many times the actual amount of TDS and TDS credit as appearing in Form 26AS may differ and it may happen that the TDS credit appearing in Form 26AS may be less as compared to actual TDS, this may happen due to reasons like non-furnishing of TDS details to the Income-tax Department by the deductor, deducting the tax in incorrect Permanent Account Number, etc. In such a case the deductee should approach the deductor and request him to take the necessary steps to rectify the discrepancy due to above reasons.

The Income-tax Department updates the TDS details in Form 26AS on basis of details provided by the person deducting the tax (i.e., the deductor), hence, if there is any default on the part of deductor like non -furnishing of TDS details (i.e., TDS return) to the Income-tax Department, deducting the tax in incorrect Permanents Account Number, etc. then Form 26AS will not reflect the actual TDS. In such a case, the taxpayer may not be able to claim the credit of correct TDS. Hence, the taxpayers are advised to confirm the tax credit appearing in Form 26AS and should reconcile the difference, if any.

If discrepancy is due to deductor , then he may file TDS/TCS correction statement and correct the same.

- What precautions should be taken while filing the return of income?

The followings are the important steps/points/precautions to be kept in mind while filing the return of income:

1) The first and foremost precaution is to file the return of income on or before the due date. Taxpayers should avoid the practice of filing belated return. Following are the consequences of delay in filing the return of income/ Loss (other than house property loss):

a. Losses cannot be carried forward.

b. Levy of interest under section 234A.

c. Late filing fees under section 234F is levied for return filed after due date. Late filing fee of Rs. 5,000 shall be payable if return furnished after due date. However amount of late filing fees to be paid shall be Rs. 1,000, if total income does not exceed Rs. 5 Lakh.

d. Exemptions under section 10A, section 10B, are not available.

e. Deduction under 80-IA, 80-IAB, 80-IB, 80-IC , 80-ID and 80-IE, are not available.

f. Deduction under 80IAC, 80IBA, 80JJA, 80JJAA, 80LA, 80P, 80PA, 80QQB and 80RRB are not available. (From A.Y 2018-19)

2) Taxpayer should download Form 26AS and should confirm actual TDS/TCS/Tax paid. If any discrepancy is observed then suitable action should be taken to reconcile it.

3) Compile and carefully study the documents to be used while filing the return of income like bank statement/passbook, interest certificate, investment proofs for which deductions is to be claimed, books of account and balance sheet and P&L A/c (if applicable), etc.

4) No documents are to be attached along with the return of income. The taxpayer should identify the correct return form applicable in his case. Carefully provide all the information in the return form. Confirm the calculation of total income, deductions (if any), interest (if any), tax liability/refund, etc.

5) Ensure that other details like PAN, address, e-mail address, bank account details, etc., are correct.

6) After filling all the details in the return of income and after confirmation of all the details, one can proceed with filing the return of income. In case return is filed electronically without digital signature and without electronic verification code do not forget to post the acknowledgement of filing the return of income at CPC Bangalore within 120 days of filing return of income.

7) For details on e-filing please log on to https://www.incometax.gov.in

What is the eligibility for claiming rebate u/s 87A?

For AY 2021-22, following are the conditions for claiming rebate under section 87A:

- An assessee is a resident Individual
- Total Income does not exceed Rs. 5,00,000
- Maximum rebate allowed is 100% of Income tax or Rs. 12,500

Rebate under section 87A is not available to a non-resident individual, resident or non-resident HUF/AOP/BOI and company.

- Which ITR form is applicable for LIC agent ?

LIC agent can use ITR-3 as LIC agent receiving the commission from insurance company.

- How to file return of income?

Return of income can be filed either in hard copy (Only ITR 1/4 in specified cases) at the local office of the Income-tax Department or can be electronically filed at https://www.incometax.gov.in

- ITR Description
- ITR 1 (SAHAJ) For Individuals being a resident other than not ordinarily resident having Income from Salaries, One house property, Other sources (Interest etc.) and having total income upto Rs. 50 lakhs
- ITR 2 It is applicable to an individual and HUFs whose income chargeable to income-tax under the head "Profits or gains of business or profession" is in the nature of interest, salary, bonus, commission or remuneration, by whatever name called, due to, or received by him from a partnership firm.
- ITR 3 It is applicable to an individual or a Hindu Undivided Family who is carrying on a proprietory business or profession.
- ITR 4 Also known as SUGAM is applicable to individuals or Hindu Undivided Family or partnership firm (other than limited liability partnership firm) who have opted for the presumptive taxation scheme of section 44AD/ 44ADA/44AE.

- View Previous Year Return Forms

Visit the below link for step by step guide for e-Filing of Income-tax return:

https://www.incometaxindia.gov.in/Pages/tax-services/file-income-tax-return.aspx

- Can total deductions exceeds the Gross Total Income (GTI)?

Deductions provided under Chapter VIA of the Income tax Act, cannot exceed the Gross Total Income (GTI). Income here means all the income accumulated in the GTI and reduced by the incomes mentioned below.

- Long term Capital Gain (LTCG) under section 112 of the Act
- Long Term Capital Gain (LTCG) under section 112A of the Act (Applicable from A.Y2019-20)
- Short Term Capital Gains (STCG) under section 111A of the Act
- Incomes referred to in sections 115A, 115AB, 115AC, 115AD, 115BBA and 115D
- Casual incomes like winnings from lotteries, horse races, etc., under section 58(4) of the Act.

- Do I need to file the income-tax return even when I have paid all the taxes in advance?

Filing of Income-tax return is mandatory for every person whose income (before considering certain exemptions and deductions) exceed maximum exemption limit. With effect from Assessment Year 2020-21, it is mandatory for every person, who is not required to furnish return of income under any other provision of section 139(1), to file return of income if during the previous year he:

1. Has deposited an amount (or aggregate of amount) in excess of Rs. 1 crore in one or more current account maintained with a bank or a co-operative bank.

2. Has incurred aggregate expenditure in excess of Rs. 2 lakh for himself or any other person for travel to a foreign country.

3. Has incurred aggregate expenditure in excess of Rs. 1 lakh towards payment of electricity bill.

4. Fulfils such other conditions as may be prescribed.

- Even when the advance taxes have been paid, the same need to be reported to the Department through Income-tax return filing procedure.
- This completes the self-assessment of income and taxes are computed on the same.
- Failure to file the income tax return will attract levy of penalty.
- Form 26AS reflects the taxes which have been reported by the third party to whom the taxes have been deposited or by whom the taxes have been deducted.
- Income-tax return helps in reconciling the records as submitted by assessee and as per Income-tax department records.
- Assessee claims refund.

- TDS has been deposited under wrong PAN. How can I claim that TDS?

TDS credit must be checked in Form 26AS before filing of Income-tax return. If it is not reflected correctly there may be several reasons like:

- TDS is not deposited by deductor
- TDS is deposited but return is not filed by deductor
- TDS is wrongly deposited under some other PAN

- TDS credit is not updated in Form 26AS
- Any other reason

When deductor deposits TDS under some wrong PAN, he has to make correction in the statement for PAN. In some cases, online PAN correction can also be made.

Assessee can claim TDS in Income-tax return after that PAN correction.

## FAQs on Computation of Tax

- When do I have to pay the taxes on my income?

  The taxes on income can be finalized only on the completion of the previous year. However, to enable a regular flow of funds and for easing the process of collection of taxes, Income-tax Act has provisions for payment of taxes in advance during the year of earning itself or before completion of previous year. It is also known as Pay as your earn concept.

  Taxes are collected by the Government through the following means:

  1. Voluntary payment by taxpayers into various designated Banks such as Advance tax, Self-Assessment tax, etc.
  2. Taxes deducted at source
  3. Taxes collected at source
  4. Equalisation Levy

- Under how many heads the income of a taxpayer is classified?

  Section 14 of the Income-tax Act has classified the income of a taxpayer under five different heads of income, *viz.:*

  - Salaries
  - Income from house property
  - Profits and gains of business or profession
  - Capital gains
  - Income from other sources

- What is gross total income?

  Total income of a taxpayer from all the heads of income (as discussed in previous FAQ) is referred to as Gross Total Income.

- What is the difference between gross total income and total income?

  Total Income is the income on which tax liability is determined. It is necessary to compute total income to ascertain tax liability. section 80C to 80U provides certain deductions which can be claimed from Gross Total Income (GTI). After claiming these deductions from GTI, the income remaining is called as Total Income. In other words, GTI *less* Deductions (under section 80C to 80U) = Total Income (TI). Total income can also be understood as taxable income. Following table gives a better understanding of the difference between GTI and TI :

Computation of gross total income and Taxable Income

| *Particulars* | *Amount* |
|---|---|
| Income from salary | XXXXX |
| Income from house property | XXXXX |
| Profits and gains of business or profession | XXXXX |
| Capital gains | XXXXX |

| | |
|---|---|
| Income from other sources | XXXXX |
| *Gross Total Income* | XXXXX |
| *Less*: Deductions under Chapter VI-A (*i.e.* under section 80C to 80U) | (XXXXX) |
| *Total Income (i.e., taxable income)* | XXXXX |

*Note*: Inter source losses, inter head losses, brought forward losses, unabsorbed depreciation, etc., (if any) will have to be adjusted (as per the Income-tax Law) while computing the gross total income.

Note: If the eligible assessee has opted for concessional tax regime under section 115BAA, 115BAB, 115BAC and 115BAD, the total income of assessee is computed without claiming specified exemptions or deductions:

- How to round off total income before computing tax liability?

  As per section 288A, total income computed in accordance with the provisions of the Income-tax Law, shall be rounded off to the nearest multiple of ten. Following points should be kept in mind while rounding off the total income:

  - First any part of rupee consisting of any paisa should be ignored.

  After ignoring paisa, if such amount is not in multiples of ten, and last figure in that amount is five or more, the amount shall be increased to the next higher amount which is in multiple of ten and if the last figure is less than five, the amount shall be reduced to the next lower amount which is in multiple of ten and the amount so rounded off shall be deemed to be the total income of the taxpayer.

  *Illustration for better understanding*

  If the taxable income of Mr. Keshav is Rs. 2,52,844.99, then first paisa shall be ignored, *i.e.,* 0.99 paisa shall be ignored) and the remaining amount of Rs. 2,52,844 shall be rounded off to Rs. 2,52,840 (since last figure is less than five). If the total income is Rs. 2,52,845 or Rs. 2,52,846.01, then it shall be rounded off to Rs. 2,52,850 (since the last figure is five or above).

- Can I claim deduction for my personal and household expenditure while calculating my taxable income or profit?

  No, you cannot claim deduction of personal expenses while computing the taxable income.

  While computing income under various heads, deduction can be claimed only for those expenses which are provided under the Income-tax Act.

- Most of my income is given away in charity and I am left with just enough money to meet my personal requirements. What will be considered as my income?

  What is done after the income is earned by you will not give you tax exemption. However, contribution to approved institutions will give you the benefit of deduction from taxable income under section 80G subject to limits specified therein.

- **My daughter stays in USA. She owns a house in India and has let it out. She has asked tenants to pay rent to me. She has not received any rent. Is she still liable to tax? What if she transfers the house to me?**

  Rental income is charged to tax in the hands of the owner of the property. Your daughter is the owner of the house and, therefore, she is liable to pay tax, even though you receive rent. If the house is transferred to you, then you will become the owner and you will have to pay Income-tax on the rental income.

- **Is there any limit of income below which I need not pay tax?**

  At this moment (i.e., for the financial year 2021-22) Individual, HUF, AOP, and BOI having income below Rs. 2,50,000 need not pay any Income-tax. In respect of resident individuals of the age of 60 years and above but below 80 years, the basic exemption limit is Rs. 3,00,000 and in respect of resident individuals of 80 years and above, the limit is Rs. 5,00,000. For other categories of persons such as co-operative societies, firms, companies and local authorities, no basic exemption limit exists and, hence, they have to pay taxes on their entire income chargeable to tax.

- **How to compute the total tax liability?**

  After ascertaining the total income, *i.e.,* income liable to tax, the next step is to compute the tax liability for the year. Tax liability is to be computed by applying the rates prescribed in this regard. Following table will help in understanding the manner of computation of the total tax liability of the taxpayer.

Computation of total income and tax liability for the year

| *Particulars* | *Amount* |
|---|---|
| Income from salary | XXXXX |
| Income from house property | XXXXX |
| Profits and gains of business or profession | XXXXX |
| Capital gains | XXXXX |
| Income from other sources | XXXXX |
| Total of head wise income | XXXXX |
| Set off of cosses | XXXXX |
| *Gross Total Income* | *XXXXX* |
| *Less*: Deductions under Chapter VI-A (*i.e.,* under section 80C to 80U)) | (XXXXX) |
| *Total Income (i.e., taxable income)* | *XXXXX* |
| Tax on total income to be computed at the applicable rates (for rates of tax, refer "Tax Rate" section) | XXXXX |
| *Less :* Rebate under section 87A (discussed in later FAQ) | (XXXXX) |

| | |
|---|---|
| *Tax Liability After Rebate* | XXXXX |
| *Add:* Surcharge (discussed in later FAQ) | XXXXX |
| *Tax Liability After Surcharge* | XXXXX |
| *Add:* Health & Education cess @ 4% on tax liability after surcharge | XXXXX |
| *Tax liability before rebate under sections 86, section 89, sections 90, 90A and 91 (if any) (*)* | XXXXX |
| *Less :* Rebate under sections 86, section 89, sections 90, 90A and 91(if any) (*) | (XXXXX) |
| *Tax liability for the year before pre-paid taxes* | XXXXX |
| *Less:* Prepaid taxes in the form of TDS, TCS and advance tax | (XXXXX) |
| *Tax payable/Refundable* | XXXXX |

(*) Rebate under section 86 is available to a member of association of persons (AOP) or body of individuals (BOI) in respect of income received by such member from the AOP/BOI.

Rebate (*i.e.,* relief) under section 89 is available to a salaried employee in respect of sum received towards arrears of salary, gratuity, etc.

Rebate under sections 90, 90A and 91 is available to a taxpayer in respect of double taxed income, *i.e.,* income which is taxed in India as well as abroad.

*Note :* For provisions relating to Minimum Alternate Tax (MAT) in case of corporate taxpayers and Alternate Minimum Tax (AMT) in case of non-corporate taxpayers refer tutorial on "MAT/AMT".

- How to round off the tax liability?

As per section 288B, tax payable by the taxpayer or tax refundable to the taxpayer shall be rounded off to the nearest multiple of ten, following points should be kept in mind while rounding off the tax :

- First any part of rupee consisting of any paisa should be ignored.
- After ignoring paisa, if such amount is not a multiples of ten, and the last figure in that amount is five or more, the amount shall be increased to the next higher amount which is a multiple of ten and if the last figure is less than five, the amount shall be reduced to the next lower amount which is a multiple of ten; and the amount so rounded off shall be deemed to be the tax payable by the taxpayer or refundable to the taxpayer.

*Illustration for better understanding*

If the tax liability or refund due to Mr. Keshav is Rs. 2,52,844.99, then first paisa shall be ignored, (*i.e.,* 0.99 paisa shall be ignored) and the remaining amount of Rs. 2,52,844 shall be rounded off to Rs. 2,52,840 (since last figure is less than five). If the tax liability or refund due is Rs. 2,52,845 or Rs. 2,52,846.01, then it shall be rounded off to Rs. 2,52,850 (since the last figure is five or above).

- **What is rebate under section 87A for F.Y 2021-22 and who can claim it?**

  An individual who is resident in India and whose total income does not exceed Rs. 5,00,000 is entitled to claim rebate under section 87A. Rebate under section 87A is available in the form of deduction from the tax liability. Rebate under section 87A will be lower of 100% of income-tax liability or Rs. 12,500. In other words, if the tax liability exceeds Rs. 12,500, rebate will be available to the extent of Rs. 12,500 only and no rebate will be available if the total income (i.e. taxable income) exceeds Rs. 5,00,000.

- **Can a partnership firm or HUF claim rebate under section 87A?**

  Rebate under section 87A is available only to a resident individual, hence, any person other than a resident individual cannot claim rebate under section 87A.

- **Can a non-resident claim rebate under section 87A?**

  Rebate under section 87A is available only to an individual who is resident in India, hence, non-residents cannot claim rebate under section 87A.

- **What is surcharge and how it is computed?**

  Surcharge is an additional tax levied on the amount of income-tax. In case of individuals/HUF/AOP/BOI/artificial juridical person, surcharge is levied @ 10% on the amount of income-tax where the total income of the taxpayer exceeds Rs. 50 lakh but doesn't exceeds Rs. 1 crore.

  Surcharge is levied @ 15% of income-tax where the total income of the taxpayer exceeds Rs. 1 crore but doesn't exceeds Rs. 2 crore.*(*)*.

  Surcharge is levied @ 25% of income-tax where the total income of the taxpayer exceeds Rs. 2 crore but doesn't exceeds Rs. 5 crore*(*)*.

  Surcharge is levied @ 37% of income-tax where the total income of the taxpayer exceeds Rs. 5 crore*(*)*.

  In case of Firm, co-operative society and local authority surcharge is levied at 12% if total income exceeds Rs 1 crore.

  In case of a domestic company surcharge is levied @ 7% on the amount of income-tax if the total income exceeds Rs. 1 crore but does not exceed Rs. 10 crore and @ 12% on the amount of income-tax if total income exceeds Rs. 10 crore *(*)*.

  In case of a foreign company surcharge is levied @ 2% on the amount of income-tax if the total income exceeds Rs. 1 crore but does not exceed Rs. 10 crore and @ 5% on the amount of income-tax if total income exceeds Rs. 10 crore *(*)*.

  (*) A taxpayer can claim marginal relief from the amount of surcharge, subject to certain conditions. Refer to next FAQ for concept of marginal relief.

  *Illustration for better understanding*

  Mr. Kapoor is a doctor, his total income for the year amounted to Rs. 44,00,000. Will he be liable to pay surcharge, if yes, then how much?

  **

Surcharge is additional tax levied on the amount of income-tax. In case of individuals surcharge is levied @ 10% on the amount of income-tax where the total income of the taxpayer exceeds Rs. 50 lakh. In this case, total income of Mr. Kapoor is below Rs. 50 lakh, hence, he will not be liable to pay surcharge.

- What is marginal relief and how it is computed?

The concept of marginal relief is designed to provide relaxation from levy of surcharge to a taxpayer where the total income exceeds marginally above Rs. 50 lakh, Rs. 1 crore, Rs. 2 crore, Rs. 5 crore or Rs. 10 crore, as the case may be.

Thus, while computing surcharge, in case of taxpayers (i.e. Individuals/HUF/AOP/BOI/artificial juridical person) having total income of more than Rs. 50 lakh marginal relief shall be available in such a manner that the net amount payable as income-tax and surcharge shall not exceed the total amount payable as income-tax on total income of Rs. 50 lakh by more than the amount of income that exceeds Rs. 50 lakh.

In case of a company, surcharge is levied @ 7% (2% in case of foreign company) on the amount of income-tax if the total income exceeds Rs. 1 crore but does not exceed Rs. 10 crore and @ 12% (5% in case of foreign company) on the amount of income-tax if total income exceeds Rs. 10 crore. Hence, in case of company whose total income exceeds Rs. 1 crore but does not exceeds Rs. 10 crore, marginal relief will be computed as discussed above, but in the case of company having total income above Rs. 10 crore marginal relief is available in such a manner that the net amount payable as income-tax and surcharge shall not exceed the total amount payable as income-tax and surcharge on total income of Rs. 10 crore by more than the amount of income that exceeds Rs. 10 crore.

Illustration for better understanding

Mr. Mukesh is salaried employee (age 40 years). His total income from salary for the year 2021-22 amount to Rs. 51,00,000. Will he liable to pay surcharge, if yes, then how much and will he get the benefit of margin relief?

**

Surcharge is additional tax levied on the amount of income-tax. In case of taxpayers (i.e. Individuals/HUF/AOP/BOI/artificial juridical person), surcharge is levied @ 10% on the amount of income-tax where the total income of the taxpayer exceeds Rs. 50 lakh. In this case, total income of Mr. Mukesh exceeds Rs. 50 lakh and hence he will be liable to pay surcharge. Marginal relief is available in cases where the total income is slightly above Rs. 50 Lakh. The Computation of normal tax liability (i.e. liability without marginal relief) and tax liability under marginal relief (i.e. liability after marginal relief) will be as follows:

(1) Normal tax liability (i.e. without marginal relief)

| | |
|---|---|
| Tax on total income before surcharge (*) | 13,42,500 |
| Add: Surcharge (@10% on the amount of income-tax of Rs. 13,42,500 | 1,34,250 |
| Tax liability after surcharge (i.e., normal tax liability) | 14,76,750 |

(*) The normal tax rates for the financial year 2021-22 applicable to an individual below the age of 60 years are as follows:

- Nil upto income of Rs. 2,50,000
- 5% for income above Rs. 2,50,000 but upto Rs. 5,00,000
- 20% for income above Rs. 5,00,000 but upto Rs. 10,00,000
- 30% for income above Rs. 10,00,000.

Apart from above rates, cess will be computed separately.

(2) Tax liability under marginal relief (i.e. after marginal relief)

| | |
|---|---|
| Tax on Rs. 50 lakh (at the above discussed rates) | 13,12,500 |
| Add: Income above Rs. 50 lakh | 1,00,000 |
| Tax liability under marginal relief | 14,12,500 |

Conclusion

Normal tax liability (*i.e.* without marginal relief) comes to Rs. 14,76,750 and tax liability under marginal relief comes to Rs. 14,12,500. It can be observed that tax liability under marginal relief is lower and, hence, Rs. 14,12,500 will be the tax liability before cess. Total tax liability will be computed as follows:

| | *Rs.* |
|---|---|
| Tax liability after marginal relief (*) | 14,12,500 |
| *Add:* Health & education cess @ 4% | 56,500 |
| *Tax liability* | 14,69,000 |

(*) In this case, surcharge paid by Mr. Mukesh will be Rs. 70,000 computed as follows:

| | *Rs.* |
|---|---|
| Tax liability (before cess) on Rs. 51,00,000 after considering the provisions of marginal relief | 14,12,500 |
| Tax liability (before cess) at normal rates on Rs. 51,00,000 if surcharge is not levied | 13,42,500 |
| Surcharge (*i.e.* increase in tax liability) | 70,000 |

*Illustration for better understanding*

Mr. Raja is businessman (age 35 years). His total income for the year 2021-22 amounted to Rs. 1,02,00,000. Will he be liable to pay surcharge, if yes, then how much and will he get the benefit of marginal relief?

**

Surcharge is additional tax levied on the amount of income-tax. In case of taxpayers (i.e. Individuals/HUF/AOP/BOI/artificial juridical person), surcharge is levied @ 10% on the amount of income-tax where the total income of the taxpayer exceeds Rs. 1 crore. In this case, total income of Mr. Raja exceeds Rs. 1 crore and hence he will be liable to pay surcharge. Marginal relief is available in cases where the total income is slightly above Rs. 1 crore. The Computation of normal tax liability (i.e. liability without marginal relief) and tax liability under marginal relief (i.e. liability after marginal relief) will be as follows:

(1) Normal tax liability (i.e. without marginal relief)

| | |
|---|---|
| Tax on total income before surcharge (*) | 28,72,500 |
| Add: Surcharge (@15% on the amount of income-tax of Rs. 28,72,500 ) | 4,30,875 |
| Tax liability after surcharge (i.e., normal tax liability) | 33,03,375 |

(*) The normal tax rates for the financial year 2021-22 applicable to an individual below the age of 60 years are as follows:

- Nil upto income of Rs. 2,50,000
- 5% for income above Rs. 2,50,000 but upto Rs. 5,00,000
- 20% for income above Rs. 5,00,000 but upto Rs. 10,00,000
- 30% for income above Rs. 10,00,000.

Apart from above rates, cess will be computed separately.

(2) Tax liability under marginal relief (i.e. after marginal relief)

| | |
|---|---|
| Tax on Rs. 1 crore (at the above discussed rates) | 28,12,500 |
| Add: Surcharge on income-tax @ 10% (if income is Rs. 1 crore) | 2,81,250 |
| Add: Income above Rs. 1 crore | 2,00,000 |
| Tax liability under marginal relief | 32,93,750 |

Conclusion

Normal tax liability (*i.e.* without marginal relief) comes to Rs. 33,03,375 and tax liability under marginal relief comes to Rs. 32,93,750. It can be observed that tax liability under marginal relief is lower and, hence, Rs. 32,93,750 will be the tax liability before cess. Total tax liability will be computed as follows:

| | |
|---|---|
| | *Rs.* |
| Tax liability after marginal relief (*) | 32,93,750 |
| *Add:* Health & education cess @ 4% | 1,31,750 |
| *Tax liability* | 34,25,500 |

*Illustration for better understanding*

Mr. Karan is a businessman (age 35 years). His total income for the year 2021-22 amounted to Rs. 1,07,00,000. Will he be liable to pay surcharge, if yes, then how much and will he get the benefit of marginal relief?

**

Surcharge is additional tax levied on the amount of income-tax. In case of taxpayers (i.e. Individuals/HUF/AOP/BOI/artificial juridical person) surcharge is levied @ 15% on the amount of income-tax where the total income of the taxpayer exceeds Rs. 1 crore. In this case, total income of Mr. Karan exceeds Rs. 1 crore and hence he will be liable to pay surcharge. Marginal relief is available in cases where the total income is slightly above Rs. 1 crore. The computation of normal tax liability (*i.e.* liability without marginal relief) and tax liability under marginal relief (*i.e.* liability after marginal relief) will be as follows :

(1) Normal tax liability (i.e. without marginal relief)

| | |
|---|---|
| Tax on total income before surcharge (*) | 30,22,500 |
| Add: Surcharge (@15% on the amount of income-tax of Rs. 30,22,500) | 4,53,375 |
| Tax liability after surcharge (i.e., normal tax liability) | 34,75,875 |

(*) Tax rates are discussed in previous illustration.

(2) Tax liability under marginal relief (i.e. after marginal relief)

| | |
|---|---|
| Tax on Rs. 1 crore (at the rates discussed in previous illustration) | 28,12,500 |
| Add: Income above Rs. 1 crore | 7,00,000 |
| Tax liability under marginal relief | 35,12,500 |

Conclusion

Normal tax liability (*i.e.* without marginal relief) comes to Rs. 34,75,875 and tax liability under marginal relief comes to Rs. 35,12,500. It can be observed that normal tax liability (i.e. without marginal relief) is lower and, hence, Rs. 34,75,875 will be the tax liability before cess. Total tax liability will be computed as follows:

| | *Rs.* |
|---|---|
| Normal tax liability i.e. tax liability after surcharge of<br><br>Rs. 4,53,375 | 34,75,875 |
| *Add:* Health & education cess @ 4% | 1,39,035 |
| *Tax liability* | 36,14,910 |

- What is minimum alternate tax?

  For details on minimum alternate tax (MAT) refer to tutorial on"Minimum Alternate Tax and Alternate Minimum Tax"

- What is alternate minimum tax?

  For details on alternate minimum tax (AMT) refer to tutorial on "Minimum Alternate Tax and Alternate Minimum Tax"

## FAQs on Income from House Property

- **Is rental income from sub-letting chargeable to tax under the head "Income from house property"?**

  Rental income in the hands of owner is charged to tax under the head "Income from house property". Rental income of a person other than the owner cannot be charged to tax under the head "Income from house property". Hence, rental income received by a tenant from sub-letting cannot be charged to tax under the head "Income from house property". Such income is taxable under the head "Income from other sources" or profits and gains from business or profession, as the case may be.

- **Whether rental income could be charged to tax in the hands of a person who is not a registered owner of the property?**

  Rental income from property is charged to tax under the head "Income from house property in the hands of the owner of the property". If a person receiving the rent is not the owner of the property, then rental income is not charged to tax under the head "Income from house property" (*E.g.* Rent received by tenant from sub-letting). In the following cases a person may not be the registered owner of the property, but he will be treated as the owner (*i.e.,* deemed owner) of the property and rental income from property will be charged to tax in his hands:

  (1) If an individual transfers his or her house property to his/her spouse (not being a transfer in connection with an agreement to live apart) or to his/her minor child (not being married daughter) without adequate consideration, then the transferor will be deemed as owner of the property.

  (2) Holder of impartible estate is deemed as the owner of the property comprised in the estate

  (3) A member of co-operative society, company or other association of persons to whom a building (or part of it) is allotted or leased under house building scheme of the society, company or association, as the case may be, is treated as deemed owner of the property.

  (4) A person acquiring property by satisfying the conditions of section 53A of the Transfer of Property Act, will be treated as deemed owner (although he may not be the registered owner). Section 53A of said Act prescribes following conditions:

  (*a*) There must be an agreement in writing.

  (*b*) The purchase consideration is paid or the purchaser is willing to pay it.

  (*c*) Purchaser has taken the possession of the property in pursuance of the agreement.

  (5) In case of lease of a property for a period exceeding 12 years (whether originally fixed or provision for extension exists), lessee is deemed to be the owner of the property. However, any right by way of lease from month-to-month or for a period not exceeding one year is not covered by this provision.

- **Under which head is the rental income from a shop charged to tax?**

To tax the rental income under the head "Income from house property", the rented property should be building or land appurtenant thereto. Shop being a building, rental income will be charged to tax under the head "Income from house property".

- **What is the tax treatment of composite rent when the composite rent pertains to letting of building along with other assets?**

Composite rent includes rent of building and rent towards other assets or facilities. The tax treatment of composite rent is as follows:-

(a) In a case where letting out of building and letting out of other assets are inseparable (i.e., both the lettings are composite and not separable, e.g., letting of equipped theatre), entire rent (i.e. composite rent) will be charged to tax under the head "Profits and gains of business and profession" or "Income from other sources", as the case may be. Nothing is charged to tax under the head "Income from house property"..

(b) In a case where, letting out of building and letting out of other assets are separable (i.e., both the lettings are separable, e.g., letting out of refrigerator along with residential bungalow), rent of building will be charged to tax under the head "Income from house property" and rent of other assets will be charged to tax under the head "Profits and gains of business and profession" or "Income from other sources", as the case may be. This rule is applicable, even if the owner receives composite rent for both the lettings. In other words, in such a case, the composite rent is to be allocated for letting out of building and for letting of other assets.

- **What is the tax treatment of composite rent when the composite rent pertains to letting out of building along with charges for provision of services?**

In such a case, composite rent includes rent of building and charges for different services (like lift, watchman, water supply, etc.): In this situation, the composite rent is to be bifurcated and the sum attributable to the use of property will be charged to tax under the head "Income from house property" and charges for various services will be charged to tax under the head "Profits and gains of business and profession" or "Income from other sources" (as the case may be).

- **How to compute income from a property which is let out throughout the year?**

Income chargeable to tax under the head "Income from house property" in the case of a let-out property is computed in the following manner:

| *Particulars* | *Amount* |
|---|---|
| Gross annual value | XXXX |
| *Less:-* Municipal taxes paid during the year | XXXX |
| *Net Annual Value (NAV)* | XXXX |
| *Less:-* Deduction under section 24 | |
| ➢Deduction under section 24(a)) at 30% of NAV | (XXXX) |

| | |
|---|---|
| ➢Deduction under section 24(b)) on account of interest on borrowed capital | (XXXX) |
| *Income from house property* | XXXX |

- How to compute gross annual value of a property which is let-out throughout the year?

Gross annual value of a property which is let-out throughout the year is determined in the following manner :

*Step 1:* Compute reasonable expected rent of the property (for details refer to FAQ on computation of reasonable expected rent).

*Step 2:* Compute actual rent of the property (for details refer to FAQ on computation of actual rent).

*Step 3:* Compute gross annual value (Gross annual value will be higher of amount computed at step 1 or step 2).

- How to compute reasonable expected rent while computing gross annual value of a property which is let-out throughout the year. ?

Reasonable expected rent will be higher of the following:

- Municipal value of the property (Note 1); or
- Fair rent of the property (Note 2).

If a property is covered under Rent Control Act, then the reasonable expected rent cannot exceed standard rent (Note 3).

*Note 1:* Meaning of Municipal Value

For collection of municipal taxes, local authorities make periodic survey of all buildings in their jurisdiction. Such value determined by the municipal authorities in respect of a property, is called as municipal value of the property.

*Note 2:* Meaning of Fair Rent

It is the reasonable expected rent which the property can fetch. It can be determined on the basis of rent fetched by a similar property in the same or similar locality.

*Note 3:* Meaning of Standard Rent

It is the maximum rent which a person can legally recover from his tenant under the Rent Control Act. Standard rent is applicable only in case of properties covered under Rent Control Act.

- How to compute actual rent while computing gross annual value of a property which is let-out throughout the year?

Actual rent means the rent for which the property is let out during the year. While computing actual rent, rent pertaining to vacancy period is not to be deducted. However, unrealised rent (*) is to be deducted from actual rent if conditions specified in this regard are satisfied.

*(*)* Unrealised rent is the rent of the property which the owner of the property could not recover from the tenant, *i.e.,* rent not paid by the tenant. If following conditions are satisfied, then unrealised rent is to be deducted from actual rent of the year:

- ➢ The tenancy is *bona fide.*
- ➢ The defaulting tenant has vacated the property, or steps have been taken to compel him to vacate the property.
- ➢ The defaulting tenant is not in occupation of any other property of the taxpayer.
- ➢ The taxpayer has taken all steps to recover such amount, including legal proceedings or he satisfies the Assessing Officer that legal proceedings would be useless.

- **How to compute gross annual value of a property which is let-out throughout the year?**

The steps involved in computation of gross annual value of a property which is let-out throughout the year are already discussed earlier, hence, we will take an illustration for better understanding.

*Illustration*

From the following information provided by Mr. Raja in respect of 3 properties rented out by him compute the gross annual value of all the properties.

| *Particulars* | *Property A (Rs.)* | *Property B (Rs.)* | *Property C (Rs.)* |
|---|---|---|---|
| Municipal Value | 8,48,484 | 8,48,484 | 2,52,252 |
| Fair Rent | 2,52,252 | 2,52,252 | 8,48,484 |
| Standard Rent | Not Applicable | 84,252 | 9,84,000 |
| Actual rent for the entire year | 9,60,000 | 60,000 | 9,60,000 |
| Unrealised rent (*) | 1,60,000 | NIL | 80,000 |

(*) All the conditions specified for deduction of unrealised rent are satisfied.

**

Gross annual value will be computed as follows:

*Step 1:* Compute reasonable expected rent of the property.

*Step 2:* Compute actual rent of the property.

*Step 3:* Compute gross annual value.

Based on these steps the computation will be as follows

| *Particulars* | *Property A (Rs.)* | *Property B (Rs.)* | *Property C (Rs.)* |
|---|---|---|---|
| Amount at Step 1 (Note 1) | 8,48,484 | 84,252 | 8,48,484 |

| | | | |
|---|---|---|---|
| Amount at Step 2 (Note 2) | 8,00,000 | 60,000 | 8,80,000 |
| Amount at Step 3, *i.e.,* Gross annual value (Note 3) | 8,48,484 | 84,252 | 8,80,000 |

Note 1: Amount at Step 1 (,*i.e.,* Reasonable expected rent) is higher of municipal value or fair rent (subject to standard rent).

Note 2: Amount at Step 2 is actual rent after deducting unrealised rent., *i.e.,* Rs. 8,00,000 (9,60,000 – Rs. 1,60,000) in case of property A, Rs. 60,000 in case of property B and Rs. 8,80,000 (Rs. 9,60,000 – Rs. 80,000) in case of property C.

Note 3: Gross annual value will be higher of amount at Step 1 or Step 2.

- **How to compute the gross annual value in the case of a property which is vacant for some time during the year?**

  Where the property or any part of the property is let and was vacant during the whole or any part of the previous year and owing to such vacancy the actual rent received or receivable by the owner in respect thereof is less than the reasonable expected rent than the actual rent so received or receivable (as reduced by the vacant allowance) shall be considered to be the Gross Annual Value of the property.

- **While computing income chargeable to tax under the head "Income from house property" in the case of a let-out property, what are the expenses to be deducted from gross annual value?**

  While computing income chargeable to tax under the head "Income from house property" in the case of a let-out property, only following items can be claimed as deductions from gross annual value. In other words, deduction cannot be claimed for any expenditure incurred by the taxpayer other than following:

  Deduction on account of municipal taxes paid by the taxpayer during the year (*).

  Deduction under section 24(a) @ 30% of Net Annual Value.

  Deduction under section 24(b) on account of interest on capital borrowed for the purpose of purchase, construction, repair, renewal or reconstruction of the property.

  *(*)* Only municipal taxes paid by the owner during the year can be deduced, hence, municipal taxes due but not paid during the year cannot be deducted or taxes borne by the tenant cannot be deducted.

- **Can interest paid on loans taken from friends and relatives be claimed as deduction while calculating house property income?**

  Yes, if the loan is taken for purchase, construction, repair, renewal or reconstruction of the house. If the loan is taken for personal or other purposes then the interest on such loan cannot be claimed as deduction.

- **While computing income chargeable to tax under the head "Income from house property" in the case of a let-out property, how much interest on housing loan can be claimed as deduction?**

While computing income chargeable to tax under the head "Income from house property" in case of a let-out property, the taxpayer can claim deduction under section 24(b) on account of interest on loan taken for the purpose of purchase, construction, repair, renewal or reconstruction of the property.

In case of a let-out property, there is no limit on the quantum of interest which can be claimed as deduction under section 24(b). However, in case of a self occupied property, limit is Rs. 2,00,000 or Rs. 30,000, as the case may be.

- What is pre-construction period?

While computing income chargeable to tax under the head "Income from house property" in case of a let-out property, the taxpayer can claim deduction under section 24(b) on account of interest on loan taken for the purpose of purchase, construction, repair, renewal or reconstruction of the property.

Deduction on account of interest is classified in two forms, *viz.,* interest pertaining to pre-construction period and interest pertaining to post-construction period.

Post-construction period interest is the interest pertaining to the relevant year (*i.e.,* the year for which income is being computed).

Pre-construction period is the period commencing from the date of borrowing of loan and ends on earlier of the following:

➢ Date of repayment of loan; or

➢ 31st March immediately prior to the date of completion of the construction/acquisition of the property.

Interest pertaining to pre-construction period is allowed as deduction in five equal annual instalments, commencing from the year in which the house property is acquired or constructed.

Thus, total deduction available to the taxpayer under section 24(b) on account of interest will be 1/5th of interest pertaining to pre-construction period (if any) + Interest pertaining to post construction period (if any).

- My spouse and I jointly own a house in which both of us have invested equally out of independent sources. Can the rental income received be split up between us and taxed in the individual hands?

Yes, if the share of each co-owner is ascertainable.

- What is self-occupied property?

A self-occupied property means a property which is occupied throughout the year by the taxpayer for his residence (also refer next FAQ).

- How to compute income from self occupied property?

A self-occupied property means a property which is occupied throughout the year by the taxpayer for his residence. Income chargeable to tax under the head "Income from house property" in case of a self-occupied property is computed in following manner :

| *Particulars* | *Amount* |
|---|---|
| Gross annual value | Nil |
| *Less:-* Municipal taxes paid during the year | Nil |
| *Net Annual Value (NAV)* | Nil |
| *Less:-* Deduction under section 24 | |
| ➢Deduction under section 24(a) @ 30% of NAV<br>➢Deduction under section 24(b) on account of interest on borrowed capital | Nil<br>(XXXX) |
| *Income from house property* | XXXX |

From the above computation it can be observed that "Income from house property" in the case of a self occupied property will be either Nil (if there is no interest on housing loan) or negative (*i.e.,* loss) to the extent of interest on housing loan. Deduction in respect of interest on housing loan in case of a self-occupied property cannot exceed Rs. 2,00,000 or Rs. 30,000, as the case may be (discussed later). Deduction of municipal taxes paid during the year will not be allowed in case of self occupied property.

- Can a property not used for residence by the taxpayer be treated as self occupied property?

A self-occupied property means a property which is occupied throughout the year by the owner for his residence. Thus, a property not occupied by the owner for his residence cannot be treated as a self occupied property. However, there is one exception to this rule. If the following conditions are satisfied, then the property can be treated as self-occupied and the annual value of a property will be "Nil", even though the property is not occupied by the owner throughout the year for his residence :

(a) The taxpayer owns a property;

(b) Such property cannot actually be occupied by him owing to his employment, business or profession carried on at any other place and he has to reside at that other place in a building not owned by him;

(c) The property mentioned in (a) above (or part thereof) is not actually let out at any time during the year;

(d) No other benefit is derived from such property.

- What income is charged to tax under the head "Income from house property"?

Rental income from a property being building or land appurtenant thereto of which the taxpayer is owner is charged to tax under the head "Income from house property".

- What will be the tax implications if a person occupies more than one property for his residence? Can he treat all the properties as self occupied (SOP) and claim gross annual value (GAV) as Nil?

The SOP benefit (*i.e.,* treating property as SOP and claiming GAV as Nil) is available only in respect of one property occupied by the owner for his residence.

If a person occupies more than one property for his residence, then the SOP benefit will be granted only in respect of any one property as selected by him and other property/properties will be treated as "Deemed to be let-out". Income from deemed to be let-out property is computed in the same manner as discussed in the case of "Let-out" Property.

However w.e.f. Assessment Year 2020-21, a person can claim two properties as self-accupied house property.

- I own two houses. One is a farmhouse that I visit on weekends and the other is in the city that I use on weekdays. Is it correct to treat both these residences as self occupied?

  No, for the purpose of Income-tax Law you can claim only one property as self occupied property and other property will be deemed to be let-out property. upto Assessment year 2019-20.

  However, w.e.f. Assessment 2020-21, a person can claim two properties as self-occupied house properties subject to certain conditions. Thus, from Assessment Year 2020-21 onwards only, both the houses can be treated as self-occupied properties subject to fulfilment of specified conditions.

- I own three houses which are occupied by me and my family. Is there any tax implication for financial Year 2019-20?

  Yes, as already mentioned in the earlier FAQ, w.e.f., Assessment Year 2020-21, a person can claim two properties as self-occupied house properties. Thus, any two of the house properties (as per your choice) shall be treated as self-occupied and the remaining property shall be treated as deemed let-out and will be taxed accordingly.

- In case of a self-occupied property, how much of interest on housing loan can be claimed as deduction?

  In the case of self-occupied property, deduction under section 24(b) cannot exceed Rs.2,00,000 or Rs. 30,000 (as the case may be). If all the following conditions are satisfied, then the limit in respect of interest on borrowed capital will be Rs.2,00,000:

  - ➢ Capital is borrowed on or after 1-4-1999.
  - ➢ Capital is borrowed for the purpose of acquisition or construction (*i.e.,* not for repair, renewal, reconstruction).
  - ➢ Acquisition or construction is completed within 5 years from the end of the financial year in which the capital was borrowed.
  - ➢ The person extending the loan certifies that such interest is payable in respect of the amount advanced for acquisition or construction of the house or as re-finance of the principal amount outstanding under an earlier loan taken for acquisition or construction of the property.

  If any of the above condition is not satisfied, then the limit of Rs. 2,00,000 will be reduced to Rs. 30,000.

Deduction from Assessment Year 2017-18

As per Section 80EEof the Income-tax Act, deduction of up to Rs. 50,000 is allowed to an Individual towards interest on loan taken for acquisition of a residential house property. However, the deduction is allowed subject to following conditions:

The deduction under Section 80EE is allowed subject to following conditions:

(*a*) the loan should be sanctioned by the financial institution during the period beginning on the 01-04-2016 and ending on 31-03-2017;

(*b*) the amount of loan should not exceed Rs. 35 lakhs;

(*c*) the value of residential house property should not exceed Rs. 50 lakh; and

(*d*) the assessee should not own any residential house property on the date of sanction of loan.

Deduction from Assessment Year 2020-21

With an objective to provide an impetus to the 'Housing for all' initiative of the Government and to enable the home buyer to have low-cost funds at his disposal, the Finance (No. 2) Act, 2019 has inserted a new Section 80EEA under the Income-tax Act for those individuals who are not eligible to claim deduction under Section 80EE. An individual can claim deduction up to Rs. 150,000 under Section 80EEA subject to following conditions:

(*a*) Loan should be sanctioned by the financial institution during the period beginning on 01-04-2019 and ending on the 31-03-2021;

(*b*) Stamp duty value of residential house property should not exceed Rs. 45 lakhs;

(*c*) The assessee should not own any residential house property on the date of sanction of loan; and

(*d*) The assessee should not be eligible to claim deduction under Section 80EE.

Hence, an individual who does not meet the criteria of Section 80EE shall now be eligible to claim deduction under Section 80EEA of up to Rs. 150,000 in addition to deduction under section 24(b).

- How to compute income from a property which is self-occupied for part of the year and let out for part of the year?

At times a property may be let-out for some time during the year and is self-occupied for the remaining period (*i.e.,* let-out as well as self occupied during the year). For the purpose of computation of income chargeable to tax under the head "Income from house property", such a property will be treated as let-out throughout the year and income will be computed accordingly.

However, while computing the taxable income in case of such a property, actual rent will be considered only for the let-out period.

- How to compute income from a property, when part of the property is self-occupied and part is let-out?

A house property may consist of two or more independent units, one of which is self-occupied and the remaining are/are used for any other purpose (*i.e.,* let-out or used for own business). Income from such property will be computed in the following manner:

a) Part/unit which is occupied by the taxpayer for his residence throughout the year will be treated as an independent property and income from such a part/unit will be computed in the manner as discussed in case of a self-occupied property.

b) Part/unit which is let out will be treated as an independent property and income from such a part/unit will be computed in the manner as discussed in case of let out property.

- What is the tax of treatment of unrealised rent which is subsequently realised?

  Any subsequent recovery of unrealized rent shall be deemed to be the income of taxpayer under the head "Income from house property" in the year in which such rent is realized (whether or not the assesse is the owner of that property in that year). It will be charged to tax after deducting a sum equal to 30% of unrealized rent.

- I have 5 separate let out properties. Should I calculate the house property income separately for each individual property or by clubbing all the rental receipts in one calculation?

  The calculation will have to be made separately for each of the properties.

- What is the tax treatment of arrears of rent?

  The amount received on account of arrears of rent (not charged to tax earlier) will be charged to tax after deducting a sum equal to 30% of such arrears. It is charged to tax in the year in which it is received. Such amount is charged to tax whether or not the taxpayer owns the property in the year of receipt.

## FAQs on Capital Gains

- **What incomes are charged to tax under the head "Capital Gains"?**

Any profit or gain arising from transfer of a capital asset during the year is charged to tax under the head "Capital Gains".

- **What is the meaning of capital asset?**

Capital asset is defined to include:

a) Any kind of property held by an assessee, whether or not connected with business or profession of the assesse.

b) Any securities held by a FII which has invested in such securities in accordance with the regulations made under the SEBI Act, 1992.

**However, the following items are excluded from the definition of "capital asset":**

Any stock-in-trade, consumable stores, or raw materials held by a person for the purpose of his business or profession.

*E.g.,* Motor car for a motor car dealer or gold for a jewellery merchant, are their stock-in-trade and, hence, they are not capital assets for them.

Personal effects of a person, that is to say, movable property including wearing apparels (*) and furniture held for personal use, by a person or for use by any member of his family dependent on him.

(*) However, jewellery, archeological collections, drawings, paintings, sculptures, or any work of art are not treated as personal effects and, hence, are included in the definition of capital assets.

**Agricultural Land in India, not being a land situated:**

* Within jurisdiction of municipality, notified area committee, town area committee, cantonment board and which has a population of not less than 10,000;

* Within range of following distance measured aerially from the local limits of any municipality or cantonment board:

* not being more than 2 KMs, if population of such area is more than 10,000 but not exceeding 1 lakh;

* not being more than 6 KMs , if population of such area is more than 1 lakh but not exceeding 10 lakhs; or

* not being more than 8 KMs , if population of such area is more than 10 lakhs.

Population is to be considered according to the figures of last preceding census of which relevant figures have been published before the first day of the year.

- 6½% Gold Bonds, 1977 or 7% Gold Bonds, 1980 or National Defence Gold Bonds, 1980 issued by the Central Government.
- Special Bearer Bonds, 1991, issued by the Central Government
- Gold Deposit Bonds issued under Gold Deposit Scheme, 1999.
- Deposit certificates issued under the Gold Monetisation Scheme, 2015.

**Following points should be kept in mind:**

The property being capital asset may or may not be connected with the business or profession of the taxpayer. *E.g.* Bus used to carry passenger by a person engaged in the business of passenger transport will be his Capital asset.

Any securities held by a Foreign Institutional Investor which has invested in such securities in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992 will always be treated as capital asset, hence, such securities cannot be treated as stock-in-trade.

- **What is the meaning of the term 'long-term capital asset'?**

Any capital asset held by a person for a period of more than 36 months immediately preceding the date of its transfer will be treated as long-term capital asset.

However, in respect of certain assets like shares (equity or preference) which are listed in a recognised stock exchange in India, units of equity oriented mutual funds, listed securities like debentures and Government securities, Units of UTI and Zero Coupon Bonds, the period of holding to be considered is 12 months instead of 36 months.

In case of unlisted shares in a company, the period of holding to be considered is 24 months instead of 36 months.

With effect from Assessment Year 2018-19, the period of holding of immovable property (being land or building or both), shall be considered to be 24 months instead of 36 months.

- **What is long-term capital gain and short-term capital gain?**

Gain arising on transfer of long-term capital asset is termed as long-term capital gain and gain arising on transfer of short-term capital asset is termed as short-term capital gain. However, there are a few exceptions to this rule, like gain on depreciable asset is always taxed as short-term capital gain.

- **Why capital gains are classified as short-term and long-term?**

The taxability of capital gain depends on the nature of gain, i.e. whether short-term or long-term. Hence to determine the taxability, capital gains are classified into short-term capital gain and long-term capital gain. In other words, the tax rates for long-term capital gain and short-term capital gain are different. Similarly, computation provisions are different for long-term capital gains and short-term capital gains.

- **How to compute long-term capital gain?**

Long term capital gain arising on account of transfer of long-term capital asset will be computed as follows:

| *Particulars* | *Rs.* |
|---|---|
| Full value of consideration (*i.e.,* Sales consideration of asset) | XXXXX |
| *Less:* Expenditure incurred wholly and exclusively in connection with transfer of capital asset (E.g., brokerage, commission, etc.) | (XXXXX) |
| Net sale consideration | XXXXX |
| *Less:* Indexed cost of acquisition (*) | (XXXXX) |
| *Less:* Indexed cost of improvement, if any (*) | (XXXXX) |
| *Long-Term Capital Gain* | XXXXX |

*Indexed cost of acquisition is computed with the help of following formula:*

$$\text{Cost of acquisition} \times \frac{\text{Cost inflation index of the year of transfer of capital asset}}{\text{Cost inflation index of the year of acquisition}}$$

*Indexed cost of improvement is computed with the help of following formula :*

$$\text{Cost of improvement} \times \frac{\text{Cost inflation index of the year of transfer of capital asset}}{\text{Cost inflation index of the year of improvement}}$$

## How to compute short-term capital gain?

Short-term capital gain arising on account of transfer of short-term capital asset is computed as follows:

| *Particulars* | *Rs.* |
|---|---|
| Full value of consideration (*i.e.,* Sales value of the asset) | XXXXX |
| *Less:* Expenditure incurred wholly and exclusively in connection with transfer of capital asset (E.g., brokerage, commission, etc.) | (XXXXX) |
| Net Sale Consideration | XXXXX |
| *Less:* Cost of acquisition (*i.e.*, the purchase price of the capital asset) | (XXXXX) |
| *Less:* Cost of improvement (*i.e.,* post purchase capital expenses incurred on addition/improvement to the capital asset) | (XXXXX) |
| *Short-Term Capital Gain* | XXXXX |

Is the benefit of indexation available while computing capital gain arising on transfer of short-term capital asset?

Indexation is a process by which the cost of acquisition/improvement of a capital asset is adjusted against inflationary rise in the value of asset. The benefit of indexation is available only in case of long-term capital assets and is not available in case of short-term capital assets.

- In respect of capital asset acquired before 1st April, 2001 is there any special method to compute cost of acquisition?

Generally, cost of acquisition of a capital asset is the cost incurred in acquiring the capital asset. It includes the purchase consideration plus any expenditure incurred exclusively for acquiring the capital asset. However, in respect of capital asset acquired before 1st April, 2001, the cost of acquisition will be higher of the actual cost of acquisition of the asset or fair market value of the asset as on 1st April, 2001. This option is not available in the case of a depreciable asset.

- If any undisclosed income [in the form of investment in capital asset] is declared under Income Declaration Scheme, 2016, then what should be the cost of acquisition of such capital asset?

The fair market value of the asset as on 1st June, 2016 [which has been taken into account for the purpose of said declaration Scheme, 2016] shall be deemed as cost of acquisition of the asset. [This provision is applicable w.e.f. 1-4-2017]

- As per the Income-tax Law, gain arising on transfer of capital asset is charged to tax under the head "Capital gains". What constitutes 'transfer' as per Income-tax Law?

Generally, transfer means sale, however, for the purpose of Income-tax Law "Transfer", in relation to a capital asset, includes:

i. Sale, exchange or relinquishment of the asset;

ii. Extinguishment of any rights in relation to a capital asset;

iii. Compulsory acquisition of an asset;

iv. Conversion of capital asset into stock-in-trade;

v. Maturity or redemption of a zero coupon bond;

vi. Allowing possession of immovable properties to the buyer in part performance of the contract;

vii. Any transaction which has the effect of transferring an (or enabling the enjoyment of) immovable property; or

viii. Disposing of or parting with an asset or any interest therein or creating any interest in any asset in any manner whatsoever.

- What are the provisions relating to computation of capital gain in case of transfer of asset by way of gift, will, etc.?

Capital gain arises if a person transfers a capital asset. section 47 excludes various transactions from the definition of 'transfer'. Thus, transactions covered under section 47 are

not deemed as 'transfer' and, hence, these transactions will not give rise to any capital gain. Transfer of capital asset by way of gift, will, etc., are few major transactions covered in section 47. Thus, if a person gifts his capital asset to any other person, then no capital gain will arise in the hands of the person making the gift (*).

If the person receiving the capital asset by way of gift, will, etc. subsequently transfers such asset, capital gain will arise in his hands. Special provisions are designed to compute capital gains in the hands of the person receiving the asset by way of gift, will, etc. In such a case, the cost of acquisition of the capital asset will be the cost of acquisition to the previous owner and the period of holding of the capital asset will be computed from the date of acquisition of the capital asset by the previous owner.

(*) As regards the taxability of gift in the hands of person receiving the gift, separate provisions are designed under section 56.

- I have sold a house which had been purchased by me 5 years ago. Am I required to pay any tax on the profit earned by me on account of such sale?

House sold by you is a long-term capital asset. Any gain arising on transfer of capital asset is charged to tax under the head "Capital Gains". Income-tax Law has prescribed the method of computing capital gain arising on account of sale of capital assets. Thus, to check the taxability in your case, you have to compute capital gain by following the rules laid down in this regard, and if the result is gain, then the same will be liable to tax.

- Are any capital gains exempt under section 10?

Section 10 provides list of incomes which are exempt from tax amongst those the major exemptions relating to capital gain are as follows:

Section 10(33): Long-term or short-term capital gain arising on transfer of units of Unit Scheme, 1964 (US 64) referred to in Schedule I to the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 (58 of 2002) and where the transfer of such asset takes place on or after 1-4-2002.

Section 10(37) : An individual or Hindu Undivided Family (HUF) can claim exemption in respect of capital gain arising from the transfer of agricultural land situated in an urban area by way of compulsory acquisition under any law or a consideration for such transfer is determined or approved by the Central Government or the Reserve Bank of India. This exemption is available if the land was used by the taxpayer (or by his parents in the case of an individual) for agricultural purposes for a period of 2 years immediately preceding the date of its transfer. Such income has arisen from the compensation or consideration for such transfer received by an assessee on or after the 1$^{st}$ day of April, 2004.

Section 10(37A): An individual or Hindu Undivided Family (HUF) can claim exemption in respect of capital gain arising from the transfer of land or building or both under Land Pooling Scheme under the Andhra Pradesh Capital City Land Pooling Scheme (Formulation and Implementation) Rules, 2015 made under the provisions of the Andhra Pradesh Capital Region Development Authority Act, 2014 (Andhra Pradesh Act 11 of 2014) and the rules, regulations and Schemes made under the said Act. This exemption is available if an individual or HUF was owner of such land or building as on 02-06-2014.

- At what rates capital gains are charged to tax?

For provisions in this regard check tutorials on "Tax on Short-Term Capital Gains and Tax on Long-Term Capital Gains".

- **Is there any benefit available in respect of re-investment of capital gain in any other capital asset?**

A taxpayer can claim exemption from certain capital gains by re-investing the amount of capital gain into specified asset. The following table highlights the assets in respect of which the benefit of re-investment is available:

| *Section under which bene fit is available* | *Eligible Assessee* | *Gain eligible for claiming exemption* | *Asset in which the capital gain is to be re-invested to claim exemption* |
|---|---|---|---|
| section 54 | Individual/HUF | Long-term capital gain arising on transfer of residential house property. | Gain to be re-invested in purchase or construction of one residential house property in India.<br>However, w.e.f., Assessment Year 2020-21, an assessee can make investment in two residential house property in India. The option of making investment in two residential house is available only if the amount of long-term capital gain doesn't exceed Rs. 2 crore. Further, the benefit of making investment in two residential houses can be availed once in a lifetime. |
| section 54B | Individual/HUF | Long-term or short-term capital gain arising on transfer of agricultural land which was used by individual or his parents or HUF for agriculture purposes for atleast 2 years immediately prior to transfer. | Gain to be re-invested in purchase of agricultural land (may be in rural arear or urban area). |
| section 54EC | Any person | Long term capital gain arising on transfer of land or building or both . | Gain to be re-invested in purchase of bonds specified under section 54EC. |
| Section 54EE | Any person | Long-term capital gain arising on transfer of any | Gain to be re-invested in long-term specified assets to be |

| | | | |
|---|---|---|---|
| | | capital asset. | notified by the Central Government to finance start-ups. |
| section 54F | Individual/HUF | Long-term capital gain arising on transfer of any capital asset other than residential house property, provided on the date of transfer the taxpayer does not more than one residential house property from the assessment year 2001-02 (except new house property) | Net sale consideration to be re-invested in purchase or construction of only one residential house property in India. |
| section 54D | Any person | Long-term or Short-term capital gain arising on transfer of land or building forming part of an industrial undertaking which is compulsorily acquired by Government and was used for industrial purpose for a period of 2 years prior to its acquisition. | Gain to be re-invested to acquire land or building for industrial purposes. |
| section 54G | Any person | Long term or Short term capital gain arising on transfer of land, building, plant or machinery in order to shift an industrial undertaking from urban area to rural area. | Gain to be re-invested to acquire land, building, plant or machinery in order to shift an industrial undertaking to a rural area. |
| section 54GA | Any person | Long term or short term capital gain arising on transfer of land, building, plant or machinery in order to shift an industrial undertaking from urban area to any Special Economic Zone. | Gain to be re-invested to acquire land, building, plant or machinery in order to shift an industrial undertaking to any Special Economic Zone. |
| section 54GB | Individual/HUF | Long-term capital gain arising on transfer of residential property (a house or a plot of land). The transfer should take place during 1st April, 2012 and 31st March 2017. However, in case of investment in | The net sale consideration should be utilised for subscription in equity shares of an "eligible company". W.e.f. April 1, 2017, eligible start-up is also included in definition of "eligible company" . |

| | | | |
|---|---|---|---|
| | | "eligible start-up", the residential property can be transferred upto 31st march 2021. | |

In order to claim the exemption on account of re-investment in various situations as discussed above, other conditions specified in the respective sections should also be satisfied and the re-investment should be made within the period specified in the respective sections.

- Are there any bonds in which I can invest my capital gains to claim tax relief?

As per section 54EC - An assessee can claim tax relief by investing the amount of long-term capital gain arising from:

a) any long term capital asset (upto A.Y 2018-19)
b) long term capital asset being land or building or both (From A.Y 2019-20) in the specified bonds as follows:
a) Bond redeemable after 5 years from A.Y 2019-20 (3 years upto A.Y 2018-19) issued by National Highways Authority of India (NHAI) or
b) Bond redeemable after 5 years from A.Y 2019-20 (3 years upto A.Y 2018-19) issued by Rural Electrification Corporation Limited (REC) or
c) Bond redeemable after 5 years from A.Y 2019-20 (3 years upto A.Y 2018-19) issued on or after 15th June 2017 by Power Finance Corporation Limited or
d) Bond redeemable after 5 years from A.Y 2019-20 (3 years upto A.Y 2018-19) issued on or after 08th August 2017 by Indian Railway Finance Corporation Limited or
e) Bond redeemable after 5 years from A.Y 2019-20 (3 years for A.Y 2018-19) issued by any other authority but notified by Central Government [Applicable from A.Y 2018-2019] within a period of 6 months from the date of transfer of capital asset and such bonds should not be redeemed before 5 years from A.Y 2019-20 (3 years upto A.Y 2018-19) from the date of their acquisition.

This benefit cannot be availed in respect of short-term capital gain.
Maximum amount of investment in specified bonds cannot exceeds Rs. 50,00,000. Thus, deduction under section 54EC cannot be claimed for more than Rs. 50,00,000.

- What is the meaning of stamp duty value and what is its relevance while computing capital gain in case of transfer of capital asset, being land or building or both?

"Stamp duty value means the value adopted or assessed or assessable by any authority of a State Government for the purpose of payment of stamp duty. As per section 50C, while computing capital gain arising on transfer of land or building or both, if the actual sale consideration on transfer of such land and/or building is less than the stamp duty value, then the stamp duty value will be taken as full value of consideration, i.e., as deemed selling price and capital gain will be computed accordingly." (not applicable from A.Y 2019-20)

From assessment year 2019-20 actual sales consideration will be treated as full value consideration if stamp duty value does not exceeds 105% of actual sales consideration. In case where stamp duty value exceeds 105%of actual sales consideration, then stamp duty value will be considered as full value of consideration for computing capital gain.

- **Whether interest received on amount deposited in capital gain account under capital gain account scheme is taxable?**

  • Capital Gains Account Scheme is a scheme to facilitate the taxpayer.

  • If taxpayer could not invest the capital gains
  - to acquire new asset
  - before due date of furnishing of return of income
  - then the capital gains amount can be deposited
  - before due date for furnishing of return of income
  - in a special bank account
  - maintained in any branch of a nationalized bank

  • Interest earned on Capital Gains Account is chargeable to tax under the head "Income from Other Sources"

  • Interest earned on Capital Gain Account is charged to tax in the year it accrues and is credited to the capital gain account of the assessee.

- **Whether profit earned from sale of land or building or both chargeable to capital gain tax?**

  • Profits and gains earned from sale of land or building or both are chargeable to tax under the head "Capital Gain"

  • In the case of sale of land or building or both, the value determined by stamp duty authorities will be considered as full value of consideration if the following conditions are satisfied –

  a) The asset transferred is land or building or both.
  b) Sale Consideration is less than the value as determined by the stamp duty authority for the payment of stamp duty.
  c) Stamp Duty value exceeds 105% of the consideration received or receivable on account of transfer. [Applicable from A.Y 2019-20].

  • For the purpose of valuation, stamp duty valuation shall be considered on the date of registration of the property.

  Exception - Where the date of agreement fixing the consideration and date of registration are not same, then the stamp duty value will be considered on the date of agreement for such transfer.

  The above exception will be applicable if –

  a) Full consideration or part there-of is received by an account payee cheque/draft or by use of electronic clearing system through a bank account. Or through such other electronic mode as may be prescribed.
  b) Such amount is received before the date of agreement.
  c) It is applicable from the A.Y 2017-2018.

- **Which Form is to be filed for withdrawal from Capital Gain Account?**

  As per Rule 9 of Capital Gain Accounts Scheme, 1988, the procedure of withdrawal from Capital Gain Account Scheme is as follows:

  Withdrawal from Account-A

  Amount can be withdrawn from Account-A at any time after making initial subscription by depositing Form C along with the pass book in the deposit office.

  For any withdrawal from Account-A, other than initial withdrawal, a depositor needs to apply in Form D in duplicate. The details regarding the manner and extent of utilization of the amount of immediately preceeding withdrawal are as follows:-

  Withdrawal from Account -B

  A depositor intending to withdraw the amount from Account-B, shall first transfer the amount in his Account-B to Account-A and withdraw the amount in the same manner as is specified for Account-A. Manner of transfer and conversion of deposit account are prescribed under the Rule 7 of Capital Gain Accounts Scheme,1988.

  Depositor having the deposit account B may apply in Form-B along with deposit receipts and details of deposit account A for transfer of the amount standing to credit in deposit account B. In case depositor has not opened deposit account A, depositor has also to request for opening deposit account A along with Form B.

- **I want to close my capital gain account. The capital gain amount is already disbursed and only interest is lying in account. The branch manager asked for Form G with AO's endorsement on it. How to get it? Please advise procedure?**

  1. As per Rule 13 of Capital Gain Account Scheme 1988, in case of closure of capital gain account, a depositor (other than an eligible company as referred to in section 54GB applicable w.e.f 25-10-2012) is required to file an application in Form-G along with the passbook of account-A or deposit receipt of account-B, as the case may be, to the deposit office with the prior approval of the Assessing Officer who has jurisdiction over the depositor.

  2. If a depositor is an eligible company as referred to in section 54GB, then for closure of capital gain account, it shall be required to make a joint application in Form G along with the passbook of account-A or deposit receipt of account-B, as the case may be, to the deposit office signed by the eligible assessee as referred to in section 54GB with the prior approval of the Assessing Officer having jurisdiction over the eligible assessee as referred to in section 54GB.

  3. Deposit office shall make the payment of the amount in the account of depositor including the amount of interest accrued by crediting such amount to any bank account of the depositor.

  4. In case of deceased depositor where nomination is made, a nominee may file an application for the closure of account in Form-H along with the passbook of account-A or deposit receipt of account-B, as the case may be, to the deposit office with the prior approval of jurisdictional Assessing Officer of the deceased depositor. Deposit office shall make the payment of the amount in the account of the deceased depositor, including the amount of interest accrued by crediting such amount to any bank account of the nominee.

5. In case of deceased depositor where nomination is not made, a legal heir may file an application for the closure of account in Form-H along with the passbook of account-A or deposit receipt of account-B, as the case may be, to the deposit office with the prior approval of jurisdictional Assessing Officer of the deceased depositor.

   If there are more than one legal heir of the deceased depositor, the legal heir making the claim individually can do so by providing the letter of authorization from other legal heirs in his favour.

6. The Assessing Officer before granting the approval for the closure of account shall obtain from the legal heir a succession certificate issued under Part V of the Indian Succession Act, 1925, or a probate of the will of the deceased depositor, or letter of administration to the estate of the deceased, in case there is no will in order to verify the claim of such legal heir to the account of the deceased depositor.

   Deposit office shall make the payment of the amount in the account of the deceased depositor, including the amount of interest accrued by crediting such amount to any bank account of the nominee.

## FAQs on Gifts received by an individual or HUF

- **Are monetary gifts received by an individual or Hindu Undivided Family (HUF) taxable?**

  If the following conditions are satisfied then any sum of money received (*i.e,* monetary gift may be received in cash, cheque, draft, etc.) by an individual/ HUF will be charged to tax (*):

  - Sum of money received without consideration.
  - The aggregate value of such sum of money received during the year exceeds Rs. 50,000.

  (*) Refer next FAQ for situations in which sum of money received by an individual or HUF is not charged to tax, *i.e.,* monetary gift is not charged to tax.

- **Are there any cases in which sum of money received without consideration, i.e., monetary gift received by an individual or HUF is not charged to tax?**

  If any sum of money is received on or after 01/10/2009 by an Individual or HUF without any consideration and the aggregate value of which exceeds Rs. 50,000 during the previous year, then the whole of the aggregate value of such sum is chargeable to tax.

  However, in the following cases nothing will be charged to tax in respect of any sum of money received by an Individual or HUF without any consideration, if the same is received:

  - from any relative or by a HUF from its members; or
  - on the occasion of the marriage of the individual; or
  - under a will/ by way of inheritance; or
  - in contemplation of death of the payer or donor as the case may be; or
  - from a local authority as defined under Explanation to clause (20) of section 10 of the Income-tax Act, 1961; or
  - from any fund, foundation, university, other educational institution, hospital or other medical institution, any trust or institution referred to in section 10 or
  - by any fund, trust, institution, any university, other educational institution, any hospital, other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10; or (applicable if the money is received on or after 1st day of April, 2017)
  - from or by a trust or institution registered under section 12AA/ section 12AB; or
  - from or by a trust or institution registered under section 12A; or (applicable if the money is received on or after 1st day of April, 2017)
  - by way of transaction not regarded as transfer under section 47(i)/(iv)/(v)/(vi)/(via)/(viaa)/(vib)/ (vic)/ (vica)/ (vicb)/ (vid)/ (vii)
  - from an Individual by a trust created or established solely for the benefit of relative of the Individual. (applicable if the money is received on or after 1st day of April, 2017)
  - from such class of person's and subject to such conditions as may be prescribed.

- **Gift received from relatives are exempt from tax. Who will be considered as relative for the purpose of claiming such exemption?**

  Gift received from relatives are exempt from tax. by virtue of Section 56. Following persons would be considered as relative

  (*a*) Spouse of the individual;

(*b*) Brother or sister of the individual;

(*c*) Brother or sister of the spouse of the individual;

(*d*) Brother or sister of either of the parents of the individual;

(*e*) Any lineal ascendant or descendent of the individual;

(*f*) Any lineal ascendant or descendent of the spouse of the individual;

*(g)* Spouse of the persons referred to in (b) to (f).

- **Apart from marriage are there any other occasions in which monetary gift received by an individual will not be charged to tax?**

  Gift received only on the occasion of marriage of the individual is not charged to tax. Apart from marriage there is no other occasion in which gift received by an individual is not charged to tax. Hence, gift received on occasions like birthday, anniversary, etc. will be charged to tax.

- **Are monetary gifts received from friends liable to tax?**

  Gifts received from relatives (as defined in the previous FAQ) are not charged to tax.

  Friend is not a relative as defined in the list and hence, gift received from friends will be charged to tax (if other criteria of taxing gift are satisfied).

- **Are monetary gifts received from abroad liable to tax?**

  If the aggregate value of monetary gift received during the year by an individual or HUF exceeds Rs. 50,000 and the gifts are not covered under the exceptions prescribed in the preceding FAQ, then gifts whether received from India or abroad will be charged to tax.

- **An Individual received different gifts (cash) from his friends, none of the gift exceeded Rs. 50,000 but the total of the gifts received during the year exceeded Rs. 50,000. What will be the tax treatment in such a case?**

  Sum of money received without consideration by an individual or HUF is chargeable to tax if the aggregate value of such sum received during the year exceeds Rs. 50,000.

  The important point to be noted in this regard is the "aggregate value of such sum received during the year". The taxability of the gift is determined on the basis of the aggregate value of gift received during the year and not on the basis of individual gift. Hence, if the aggregate value of gifts received during the year exceeds Rs. 50,000, then aggregate value of such gifts received during the year will be charged to tax.

- **If the aggregate value of gift received during the year by an individual or HUF exceeds Rs. 50,000, whether total amount of gift will be charged to tax or only the amount in excess of Rs. 50,000 will be charged to tax?**

  Sum of money received without consideration by an individual or HUF is charged to tax if the aggregate value of such sum received during the year exceeds Rs. 50,000. Once the aggregate value of monetary gift received during the year exceeds Rs. 50,000, then the aggregate value of gift received during the year will be charged to tax.

- **Are there any cases in which the value of immovable property received by an individual or HUF without consideration (i.e. by way of gift) is not charged to tax?**

  Stamp duty of immovable property is chargeable to tax, if immovable property is received by an Individual or HUF without any consideration and the stamp duty value exceeds Rs. 50000.

  However, in the following cases nothing will be charged to tax in respect of immovable property received on or after 01/10/2009 without any consideration, even if the stamp duty value exceeds Rs. 50,000:

  - from any relative or by a HUF from its members; or
  - on the occasion of the marriage of the individual; or
  - under a will/ by way of inheritance; or
  - in contemplation of death of the payer or donor as the case may be; or
  - from a local authority as defined under Explanation to clause (20) of section 10 of the Income-tax Act, 1961; or
  - from any fund, foundation, university, other educational institution, hospital or other medical institution, any trust or institution referred to in section 10(*23C*); or
  - by any fund, trust, institution, any university, other educational institution, any hospital, other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10; or (applicable if the property is received on or after 1st day of April, 2017)
  - from or by a trust or institution registered under section 12AA/ section 12AB ; or
  - from or by a trust or institution registered under section 12A ; or (applicable if the property is received on or after 1st day of April, 2017)
  - by way of transaction not regarded as transfer: (applicable if the property is received on or after 1st day of April, 2017)

  11. property received by way of distribution at the time of total or partial partition of HUF [sec. 47(i)]
  12. property received by an Indian subsidiary company, if the parent company or its nominees hold the whole of the share capital of the subsidiary company [sec. 47(iv)] (Inserted by Finance Act, 2018 i.e. w.e.f 01.04.2018)
  13. property received by an Indian holding company, if the whole of the share capital of the subsidiary company is held by the holding company [sec. 47(v)] (Inserted by Finance Act, 2018 i.e. w.e.f 01.04.2018)
  14. property received by amalgamated company from amalgamating company in the scheme of amalgamation, if amalgamated company is an Indian company. [sec. 47(vi)]
  15. property received by resulting company from demerged company in the scheme of demerger, if resulting company is an Indian company. [sec. 47(vib)]
  16. property received by a banking institution from banking company in a scheme of amalgamation of a banking company with a banking institution sanctioned and brought into force by the Central Government under sub-section (7) of section 45 of the Banking Regulation Act, 1949 (10 of 1949) [sec. 47(viaa)]
  17. property received by successor co-operative bank from predecessor co-operative bank in a business reorganisation. [sec. 47(vica)]
  18. from an Individual by a trust created or established solely for the benefit of relative of the Individual. (applicable if the property is received on or after 1st day of April, 2017)
  19. from such class of persons and subject to such conditions, as may be prescribed.

- **An individual received gift of three properties from his friend. The value of none of the property exceeded Rs. 50,000, but the aggregate value of these three properties exceeded Rs. 50,000. What will be the tax treatment of gift in this case?**

  In case of immovable property received without consideration by an individual or HUF, the limit of Rs. 50,000 is to be applied transaction-wise and all immovable properties received as gift during the year are not to be clubbed for applying the limit of Rs. 50,000. Hence, if the total stamp value of immovable properties received as gift during the year exceeds Rs. 50,000 but the stamp value of none of the property exceeds Rs. 50,000, then nothing will be charged to tax.

- **Are immovable properties received as gift from friends liable to tax?**

  Gifts received from relatives are not charged to tax. Relative for this purpose means:

  (*a*) Spouse of the individual;

  (*b*) Brother or sister of the individual;

  (*c*) Brother or sister of the spouse of the individual;

  (*d*) Brother or sister of either of the parents of the individual;

  (*e*) Any lineal ascendant or descendent of the individual;

  (*f*) Any lineal ascendant or descendent of the spouse of the individual;

  *(g)* Spouse of the persons referred to in (b) to (f).

  Friend is not a relative as defined in the above list and hence, gift received from friends will be charged to tax (if other criteria of taxing gift are satisfied).

- **An Individual received gift of a flat from his friend. The stamp duty value of the flat is Rs. 84,000. In this case whether the total value of gifted property will be charged to tax or only the value in excess of Rs. 50,000 will be charged to tax?**

  If the conditions discussed in earlier FAQ (regarding the taxability of gift of immovable property) are satisfied, then the entire value of immovable property received without consideration, i.e., received as gift will be charged to tax. Once the taxability is attracted, i.e., value of property received as gift exceeds Rs. 50,000 then the entire value of the property is chargeable to tax. Hence, in this case entire value of property, i.e., Rs. 84,000 will be charged to tax.

- **Would any taxability arise if an immovable property is received for less than its stamp duty value?**

  If an Individual or HUF receives (on or after 1$^{st}$ day of October, 2009 but before April 1, 2017) and any person receives (After April 1, 2017), in any previous year from any person or persons any immovable property(being land or building or both):

  - without consideration, the stamp duty value of which exceeds Rs. 50,000 then the stamp duty value shall be chargeable to tax.

- for a consideration, if stamp duty value exceeds the amount of consideration and the difference between stamp duty value and consideration is more than Rs. 50,000, then such difference is chargeable to tax. (applicable from A.Y 2014-15 to A.Y 2018-19).
- for a consideration, if stamp duty value exceeds 110%* of the amount of consideration and the difference between stamp duty value and consideration is more than Rs. 50,000, then such difference is chargeable to tax.

Provided that where the date of an agreement and date of registration are not same, Stamp Duty will be considered as applicable on the date of agreement. This will be applicable only when the amount of consideration is received by account-payee cheque or bank draft or online transfer or through such other electronic mode as my be precribed before the date of agreement.

Provided that if the stamp duty value of immovable property is disputed by the assessee on grounds mentioned in sub-section (2) of section 50C, the Assessing officer may refer the valuation of such property to a Valuation Officer, and the provisions of section 50C and sub-section (15) of section 155 shall apply in relation to stamp duty value of such property as they apply for valuation of a capital asset under those sections.

* To boost the demand in the real-estate sector and to enable the real-estate developers to sell their unsold inventory at a lower rate, the safe harbour limit is increased from existing 10% to 20% in case of transfer of residential property during the period from 12-11-2020 to 30-06-2021 by way of the first-time allotment to any person. Further, the consideration received or accruing as a result of such transfer should not exceed Rs. 2 crores

- **Are gifts of movable property received by an individual or HUF charged to tax?**

If the following conditions are satisfied then value prescribed for movable property (*) received by an individual or HUF will be charged to tax:

- Prescribed movable property is received without consideration (*i.e.,* received as gift).
- The aggregate fair market value of such property received by the taxpayer during the year exceeds Rs. 50,000

In above case, the fair market value of the prescribed movable property will be treated as income of the receiver.

(*) Prescribed movable property means shares/securities, jewellery, archaeological collections, drawings, paintings, sculptures or any work of art and bullion, being capital asset of the taxpayer.

Considering the above definition, nothing will be charged to tax in respect of gift of any item being a movable property other than covered in the above definition, *e.g.,* Nothing will be charged to tax in respect of a television set received as gift, because a television set is not covered in the definition of prescribed movable property.

($) Refer next FAQ for situations in which prescribed movable property received without consideration by an individual or HUF, *i.e.,* received as gift is not charged to tax.

- **Are there any cases in which the value of prescribed movable property received without consideration, i.e., received as gift by an individual or HUF is not charged to tax?**

If the conditions given in preceding FAQ are satisfied, then value of prescribed movable property received without consideration, *i.e.,* received as gift by an individual or HUF is charged to tax. However, in the following cases nothing will be charged to tax in respect of prescribed movable property received without consideration:

- Property received from relatives.
- Property received by a HUF from its members.
- Property received on the occasion of the marriage of the individual.
- Property received under will/ by way of inheritance.
- Property received in contemplation of death of the donor.
- Property received from a local authority as defined under section 10(20) of the Income-tax Act).
- Property received from any fund, foundation, university, other educational institution, hospital or other medical institution, any trust or institution referred to in section 10(23C).
- Property received from or by a trust or institution registered under section 12AA or section 12A.
- Any shares received by an individual or HUF, as a consequence of business re-organisation of co-operative bank or demerger or amalgamation of a company [as referred to in clause (vicb) or clause (vid) or clause (vii) of Section 47]
- from an induvidual by a trust created or established solely for the benefit of relative of individual.
- from such class of persons and subject to conditions as my be prescribed.

- **An individual received gift of jewellery from his friends. The total value of jewellery received during the year as gift from all the friends amounted to Rs. 84,000. What will be the tax treatment of gift in this case?**

  If the aggregate fair market value of prescribed movable property received by an individual or HUF without consideration during the year exceeds Rs. 50,000, then the total value of such properties received during the year without consideration will be charged to tax. In this case the total value of jewellery received during the year exceeds Rs. 50,000 and hence, Rs. 84,000 will be charged to tax.

- **Does any taxability arise if prescribed movable property is received by an individual or HUF for less than its fair market value?**

  If the following conditions are satisfied then prescribed movable property (*) received by an individual or HUF will be charged to tax *($)*:

  - Prescribed movable property is acquired by an individual or HUF.
  - The aggregate fair market value of such properties acquired by the taxpayer during the year exceeds the consideration of these properties by more than Rs. 50,000. In other words, the aggregate fair market value of all such properties is higher than the consideration and the difference is more than Rs. 50,000.

  (*) Prescribed movable property means shares/securities, jewellery, archaeological collections, drawings, paintings, sculptures or any work of art and bullion, being capital asset of the taxpayer.

  Considering the above definition, nothing will be charged to tax if any movable property (other than those covered in the above definition) is received for less than its fair market

value *e.g.,* Nothing will be charged to tax in respect of a television set received for less than its fair market value because a television set is not covered in the definition of prescribed movable property.

($) Refer next FAQ for situations in which prescribed movable property received for less than its fair market value is not charged to tax.

- **Are there any cases in which prescribed movable property received for less than its fair market value by an individual or HUF is not charged to tax?**

  If the conditions given in preceding FAQ are satisfied, then prescribed movable property received (*i.e.* acquired) by an individual or HUF for less than its fair market value is chargeable to tax. However, in the following cases nothing will be charged to tax in respect of prescribed movable property received for less than its fair market value:

  - Property received from relatives (*).
  - Property received by a HUF from its members.
  - Property received on the occasion of the marriage of the individual.
  - Property received under will/ by way of inheritance.
  - Property received in contemplation of death of the donor.
  - Property received from a local authority as defined under section 10(20) of the Income-tax Act.
  - Property received from any fund, foundation, university, other educational institution, hospital or other medical institution, any trust or institution referred to in section 10(23C).
  - Property received from a trust or institution registered under section 12AA/ section 12AB or section 12A.
  - by way of transaction not regarded as transfer under section 47(i)/(iv)/(v)/(vi)/(via)/ (viaa)/(vib)/ (vic)/ (vica)/ (vicb)/ (vid)/ (vii).
  - from an individual by a trust created or established solely for the benefit of relative of the individual.
  - From such persons and subject to such conditions as may be prescribed.

  *(*) Relative for this purpose means:*

  (*a*) Spouse of the individual;

  (*b*) Brother or sister of the individual;

  (*c*) Brother or sister of the spouse of the individual;

  (*d*) Brother or sister of either of the parents of the individual;

  (*e*) Any lineal ascendant or descendent of the individual;

  (*f*) Any lineal ascendant or descendent of the spouse of the individual;

  *(g)* Spouse of the persons referred to in (b) to (f).

## FAQs on Tax Deducted at Source (TDS)

- What is tax deducted at source?

For quick and efficient collection of taxes, the Income-tax Law has incorporated a system of deduction of tax at the point of generation of income. This system is called as "Tax Deducted at Source", commonly known as TDS. Under this system tax is deducted at the origin of the income. Tax is deducted by the payer and is remitted to the Government by the payer on behalf of the payee.

The provisions of deduction of tax at source are applicable to several payments such as salary, interest, commission, brokerage, professional fees, royalty, contract payments, etc. In respect of payments to which the TDS provisions apply, the payer has to deduct tax at source on the payments made by him and he has to deposit the tax deducted by him to the credit of the Government.

- What are the payments covered under the TDS mechanism and the rates for deduction of tax at source?

Tax is deductible at source at the rates given in table (*infra*). If PAN of the deductee is not intimated to the deductor, tax will be deducted at source by virtue of section 206AA either at the rate given in the table or at the rate or rates in force or at the rate of 20 per cent, whichever is higher. Further, under section 94A(5), if payment or credit is made or given to a deductee who is located in a notified jurisdictional area, tax is deductible at the rate given in the table or at the rate of 30 per cent, whichever is higher. TDS rates for the financial year 2020-21 are as follows—

| CATEGORY A - *WHEN RECIPIENT IS RESIDENT* | |
|---|---|
| *Nature of payment* | *TDS (SC :* Nil*, EC :* Nil*, SHEC :* Nil*)* |
| • Sec. 192 - Payment of salary | Normal or Special Tax Rate plus surcharge and education cess<br>Surcharge: 10% (if total income exceeds Rs. 50 lakh but doesn't exceed Rs. 1 crore), 15% (If total income exceeds Rs. 1 crore but doesn't exceed Rs. 2 crore), 25% (If total income exceeds Rs. 2 crore but doesn't exceed Rs. 5 crore), 37% (If total income exceeds Rs. 5 crore)<br>HEC : 4% |
| • Sec. 192A - Payment of taxable accumulated balance of provident fund | 10 |
| • Sec. 193 - Interest on securities— | |
| *a.* interest on (*a*) debentures/securities for money issued by or on behalf of any local authority/statutory corporation, (*b*) listed debentures of a company [not being listed securities in demat form], (*c*) any security of the Central or State Government [*i.e.,* 8% Savings (taxable) Bonds, 2003 or 7.75% savings (Taxable) Bonds, 2018, but not any other Government security] | 10 |
| *b.* any other interest on securities (including interest on non-listed debentures) | 10 |

| | |
|---|---|
| • Sec. 194 - Dividend— | 10 |
| • Sec. 194A - Interest other than interest on securities | 10 |
| • Sec. 194B - Winnings from lottery or crossword puzzle or card game or other game of any sort | 30 |
| • Sec. 194BB - Winnings from horse races | 30 |
| • Sec. 194C - Payment or credit to a resident contractor/sub-contractor— | |
| *a.* payment/credit to an individual or a Hindu undivided family | 1 |
| *b.* payment/credit to any person other than an individual or a Hindu undivided family | 2 |
| • Sec. 194D - Insurance commission | 10 |
| - if recipient is a resident (other than a company) | 5 |
| - if recipient is a domestic company | 10 |
| • Sec. 194DA - Payment in respect of life insurance policy | 1 |
| • Sec. 194EE - Payment in respect of deposits under National Savings Scheme, 1987 | 10 |
| • Sec. 194F - Payment on account of repurchase of units of MF or UTI | 20 |
| • Sec. 194G - Commission on sale of lottery tickets | 5 |
| • Sec. 194H - Commission or brokerage | 5 |
| • Sec. 194-I - Rent— | |
| *a.* rent of plant and machinery | 2 |
| *b.* rent of land or building or furniture or fitting | 10 |
| • Sec. 194-IA - Payment/credit of consideration to a resident transferor for transfer of any immovable property (other than rural agricultural land) | 1 |
| • Sec. 194-IB - Payment of rent by an individual or HUF not subjected to tax audit under Section 44AB | 5 |
| • Sec. 194-IC - Payment under Joint Development Agreement to a resident individual or HUF who transfers land or building as per such agreement | 10 |
| • Sec. 194J - Fees for professional or technical services. Note: 2% if payee is engaged in the business of operation of call center | 10 |
| *1.* sum paid or payable towards fees for technical services | 2 |
| *ii.* sum paid or payable towards royalty in the nature of consideration for sale, distribution or exhibition of cinematographic films; | 2 |
| *iii.* Any other sum | 10 |
| Note: 2% if payee is engaged in the business of operation of call center | |
| • Sec. 194LA - Payment of compensation on acquisition of certain immovable property | 10 |

| | |
|---|---|
| • Sec. 194LBA(1) - Payment of the nature referred to in section 10(*23FC*) or section 10(*23FC)(a)* or section 10(*23FCA*) by business trust to resident unit holders | 10 |
| • Sec. 194LBB - Payment in respect of units of investment fund specified in section 115UB | 10 |
| • Sec. 194LBC(1) - Payment in respect of an investment in a securitisation trust specified in clause (d) of the Explanation occurring after section 115TCA (with effect from June 1, 2016) | - |
| section 194M – Payment of contractual work, commission (not being insurance commission referred to in section 194D), brokerage or professional fees, by an individual or a HUF not covered under section 194C, section 194H and 194J | 5 |
| section 194N – Payment in cash by banking company or co-op. bank or post office | 2/5 |
| section 194K – Income in respect of units payable to resident | 10 |
| Section 194P – Deduction of tax by specified bank in case of senior citizen having age of 75 or more | Tax on total income as per rate in force |
| Section 194Q – Payment to resident for purchase of goods of the aggregate value exceeding Rs. 50 lakhs | 0.1 % exceeding Rs. 50 lakhs |

CATEGORY B - *WHEN RECIPIENT IS NON-RESIDENT OR FOREIGN COMPANY*

| *Aggregate payment or credit* subject to TDS during the *financial year 2020-21* → | *If recipient is non-resident Individual/HUF/AOP/BOI/Artificial juridical person* | | | *If recipient is non-resident co-operative society/ firm* | | *If recipient is non-domestic company* | | |
|---|---|---|---|---|---|---|---|---|
| | *Rs.50 lakh or less* | *More than Rs. 50 lakh but not more than Rs. 1 crore* | *More than Rs. 1 crore* | *Rs. 1 crore or less* | *More than Rs. 1 crore* | *Rs. 1 crore or less* | *More than Rs. 1 crore but not more than Rs. 10 crore* | *More than Rs. 10 crore* |
| *Nature of payment* | *TDS (inclusive of SC:* Nil, *Health & Education cess: 4%)* | *TDS (inclusive of SC:* 10%, *Health & Education cess: 4%)* | *TDS (inclusive of SC:* 15%, *Health & Education cess: 4%)* | *TDS (inclusive of SC:* Nil, *Health & Education cess: 4%)* | *TDS (inclusive of SC: 12%, Health & Education cess: 4%)* | *TDS (inclusive of SC:* Nil, *Health & Education cess: 4%)* | *TDS (inclusive of SC: 2%, Health & Education cess: 4%)* | *TDS (inclusive of SC: 5%, Health & Education cess: 4%)* |
| • Sec. 192 - Payment of salary | Normal/Special Tax Rate | Normal Tax Rate plus SC, EC and SHEC | Normal Tax Rate plus SC, EC and SHEC | – | – | – | – | – |
| • Sec. 192A- Payment of taxable accumulated balance of provident fund | 10.4 | 11.44 | 11.96 | - | - | - | - | - |
| • Sec. 194B - Winnings from lottery or crossword puzzle or card game or | 31.2 | 34.32 | 35.88 | 31.2 | 34.944 | 31.2 | 31.824 | 32.76 |

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| other game of any sort | | | | | | | | |
| • Sec. 194BB - Winnings from horse races | 31.2 | 34.32 | 35.88 | 31.2 | 34.944 | 31.2 | 31.824 | 32.76 |
| • Sec. 194E - Payment to a non-resident foreign citizen sportsman/entertainer or non-resident sports association | 20.8 | 22.88 | 23.92 | 20.8 | 23.296 | 20.8 | 21.216 | 21.84 |
| • Sec. 194EE - Payment in respect of deposits under National Saving Scheme, 1987 | 10.4 | 11.44 | 11.96 | *NA* | *NA* | *NA* | *NA* | *NA* |
| • Sec. 194F - Re-purchase of units of MF or UTI | 20.8 | 22.88 | 23.92 | *NA* | *NA* | *NA* | *NA* | *NA* |
| • Sec. 194G - Commission on sale of lottery tickets | 5.2 | 5.72 | 5.98 | 5.2 | 5.824 | 5.2 | 5.304 | 5.46 |
| • Sec. 194LB - Payment/credit by way of interest by infrastructure debt fund | 5.2 | 5.72 | 5.98 | 5.2 | 5.824 | 5.2 | 5.302 | 5.46 |
| • Sec. 194LBA(2) - Payment of the nature referred to in Section 10(23FC)(a) | 5.2 | 5.72 | 5.98 | 5.2 | 5.824 | 5.2 | 5.304 | 5.46 |
| • Sec. 194LBA(2) - Payment of the nature referred to in Section 10(23FC)(b) | 10.4 | 11.44 | 11.96 | 10.4 | 11.65 | 10.4 | 10.61 | 10.92 |
| • Sec. 194LBA(3) - Payment of the nature referred to in section 10(23FCA) by business trust to unit holders | 31.2<br>or<br>20.8*<br>* In case of distribution of dividend received from specified domestic company. | 34.32<br>22.88 | 35.88<br>23.92 | 31.2<br>20.8 | 34.944<br>23.30 | 41.6<br>20.8 | 42.432<br>21.22 | 43.68<br>21.84 |
| • Sec. 194LBB - Payment in respect of units of investment fund specified in Sec. 115UB | 31.2<br>or<br>20.8*<br>* In case of distribution of dividend received from specified domestic company. | 34.32<br>22.88 | 35.88<br>23.92 | 31.2<br>20.8 | 34.944<br>23.30 | 41.6<br>23.8 | 42.432<br>21.22 | 43.68<br>21.84 |
| • Sec. 194LBC(2) - Payment in respect of an investment in a securitisation trust specified in clause (d) of the *Explanation* occurrin g after section 115TCA (with effect from June 1, 2016) | 31.2 | 34.32 | 35.88 | 31.2 | 34.944 | 41.6 | 42.432 | 43.68 |
| • Sec. 194LC - Payment/credit of interest by an Indian specified company on foreign currency approved loan/long-term infrastructure bonds (with effect from October 1, 2014, any bond) from outside India | 5.2<br>or<br>4.16*<br>* In case where interest is payable in respect of Long-term Bond or Rupee Denominated Bond listed on recognised stock exchange located in IFSC | 5.72<br>4.58 | 5.98<br>4.78 | 5.2<br>4.16 | 5.824<br>4.66 | 5.2<br>4.16 | 5.304<br>4.24 | 5.46<br>4.37 |
| • Sec. 194LD - Interest on a rupee denominated bond of an Indian company or Government | 5.2 | 5.72 | 5.98 | 5.2 | 5.824 | 5.2 | 5.304 | 5.46 |

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| security (from June 1, 2013) | | | | | | | | |
| • Sec. 195 - Payment/credit of other sum to a non-resident — | | | | | | | | |
| *a.* income of foreign exchange assets payable to an Indian citizen | 20.8 | 22.88 | 23.92 | *NA* | *NA* | *NA* | *NA* | *NA* |
| *b.* income by way of long-term capital gains referred to in section 115E or section 112(1)(c)(*iii*) | 10.4 | 11.44 | 11.96 | 10.4 | 11.648 | 10.4 | 10.608 | 10.92 |
| *c.* income by way of long-term capital gains referred to in section 112A | 10.4 | 11.44 | 11.96 | 10.4 | 11.648 | 10.4 | 10.608 | 10.92 |
| *d.* short-term capital gains under • Sec. 111A | 15.6 | 17.16 | 17.94 | 15.6 | 17.472 | 15.6 | 15.912 | 16.38 |
| *e.* any other long-term capital gains [not being covered by Section 10(33), 10(*36*) and 112A] | 20.8 | 22.88 | 23.92 | 20.8 | 23.296 | 20.8 | 21.216 | 21.84 |
| *f.* income by way of interest payable by Government/Indian concern on money borrowed or debt incurred by Government or Indian concern in foreign currency (not being interest referred to in • Sec. 194LB or• Sec. 194LC | 20.8 | 22.88 | 23.92 | 20.8 | 23.296 | 20.8 | 21.216 | 21.84 |
| *g.* royalty [*see* Note 5] | 10.4 | 11.44 | 11.96 | 10.4 | 11.648 | 10.4 | 10.608 | 10.92 |
| *h.* royalty [not being royalty of the nature referred to in (*f*) *supra*] [*see* Note 6] – | | | | | | | | |
| □ where the agreement is made after March 31, 1961 but before April 1, 1976 | 10.4 | 11.44 | 11.96 | 10.4 | 11.648 | 52 | 53.04 | 54.6 |
| □where the agreement is made on or after April 1, 1976 | 10.4 | 11.44 | 11.96 | 10.4 | 11.648 | 10.4 | 10.608 | 10.92 |
| *i.* fees for technical services [*see* Note 7] – | | | | | | | | |
| □ where the agreement is made after February 29, 1964 but before April 1, 1976 | 10.4 | 11.44 | 11.96 | 10.4 | 11.648 | 51.52 | 53.04 | 54.6 |
| □ where the agreement is made on or after April 1, 1976 | 10.4 | 11.44 | 11.96 | 10.4 | 11.648 | 10.4 | 10.608 | 10.92 |
| *j.* any other income | 31.2 | 34.32 | 35.88 | 31.2 | 34.944 | 41.6 | 42.432 | 43.68 |
| • Sec. 196B - Payment/credit of income | 10.4 | 11.44 | 11.96 | 10.4 | 11.648 | 10.4 | 10.608 | 10.92 |

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| from units (including long-term capital gains on transfer of such units) to an offshore fund | | | | | | | | |
| • Sec. 196C - Payment/credit of interest of foreign currency bonds or GDR (including long-term capital gains on transfer of such bonds) | 10.4 | 11.44 | 11.96 | 10.4 | 11.648 | 10.4 | 10.608 | 10.92 |
| • Sec. 196D - Payment/credit of income from securities (not being dividend, short-term or long-term capital gain) to Foreign Institutional Investors | 20.8 | 22.88 | 23.92 | 20.8 | 23.296 | 20.8 | 21.216 | 21.84 |

*Notes*:

*1.* Under sections 192 tax is deductible from salary. The payer shall calculate salary taxable in the hands of recipient. The amount so determined is subject to tax deduction under sections 192. Under sections 192A, tax is deductible on taxable accumulated balance of provident fund. Under section 195, tax is deductible only if income is taxable in the hands of recipient in India. In any other case, gross payment or credit (without GST, if GST is shown separately) is subject to tax deduction.

*2.* In *Category B,* tax is deductible at the above rates or the rates specified in ADT agreements entered into by the Central Government under section 90 (whichever is lower) [section 2(*37A*)(*iii*)].

*3.* Tax is not deductible under section 192A, section 193, 194, 194A, with effect from 1/6/2017 194D, 194DA, 194-I, or 194EE if the recipient makes a declaration in Form No. 15G/15H under the provisions of section 197A.

*4.* Under section 197 the recipient can apply the Assessing Officer in Form No. 13 to get a certificate of lower/no tax deduction. This benefit is, however, not available if tax is deductible under secti n 192A, section 194B, 194BB, 194E, 194EE, 194F, 194-IA, 194LBA, 194LB, 194LC, 196B, 196C or 196D.

*5.* Royalty payable by Government or an Indian concern in pursuance of an agreement made by non-resident with the Government or the Indian concern after March 31, 1976, where such royalty is in consideration for the transfer of all or any rights (including the granting of a licence) in respect of copyright in any book on a subject referred to in the first proviso to section 115A(1A) to the Indian concern or in respect of computer software referred to in the second proviso to section 115A(1A), to a person resident in India.

*6.* Not being royalty of the nature referred to above, payable by Government or an Indian concern in pursuance of an agreement made by non-resident with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to matter included in the industrial policy, the agreement is in accordance with that policy.

*7.* Fees for technical services payable by Government or an Indian concern in pursuance of an agreement made by non-resident with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to matter included in the industrial policy, the agreement is in accordance with that policy.

- Is there any minimum amount upto which tax is not deducted?

The Income-tax Act has prescribed a different threshold limit for deduction of tax at source under various sections. If the expenditure incurred/payment made during the year is below the threshold limit, then there is no requirement to deduct tax at source.

The threshold limit for deduction of tax at source under various sections is as follows:

| S.No. | Particulars | Section | Threshold limit |
|---|---|---|---|
| 1. | No deduction of tax at source from salaries | 192 | If net taxable income is less than the maximum amount which is not chargeable to tax (i.e. Rs. 2,50,000 for an individual other than senior citizen, Rs. 3,00,000 for Senior Citizens and Rs. 5,00,000 for Super Senior Citizens) |
| 1A. | No TDS from payment of accumulated balance of provident fund account due to an employee | 192A | If taxable premature withdrawal amount is less than Rs. 50,000. |
| 2. | No TDS from interest paid on debentures issued by a company in which public are substantially interested. Provided interest is paid by account payee cheque to resident individual or HUF | 193 | If amount of interest paid during the financial year does not exceed Rs. 5,000 |
| 3. | No TDS from interest paid on 8% Saving (Taxable) Bonds 2003 or 7.75% Savings (Taxable) Bonds, 2018 (applicable from A.Y 2019-20) to resident persons | 193 | If amount of interest paid or likely to be paid during the financial year does not exceed Rs. 10,000 |
| 3A. | No TDS from interest on 6.5% Gold bonds, 1977 or 7% Gold bonds, 1980 paid to resident individual | 193 | If bonds held by other than non-resident individual (or behalf of any other person) and makes declaration to the payer that the nominal value of such bonds does not exceed Rs. 10,000 at any time during the period to which interest relates. |
| 4. | No TDS from dividend paid by Indian company by an account payee cheque to individual | 194 | If aggregate amount of dividend paid or credited during the financial year does not exceed Rs. 5000. |
| 5. | No TDS from interest other than on securities paid by a banking company or co-operative society engaged in carrying on the business of banking | 194A | If amount of interest paid or credited on time deposit during the financial year exceeds Rs 10,000 (*) (for all type of payee)/Rs |

| | | | |
|---|---|---|---|
| | | | 50,000 (from 01/04/2018 if payee is resident senior citizen) (*) w.e.f. 01/04/2019, the threshold limit is increased from Rs. 10,000 to Rs. 40,000. |
| 6. | No TDS from interest on any deposit with a post office under Senior Citizens Saving Scheme Rules, 2004( Notified scheme) | 194A | If amount of interest paid or credited on time deposit during the financial year exceeds Rs 10,000 (*) (for all type of payee)/Rs 50,000 (from 01/04/2018 if payee is resident senior citizen) (*) w.e.f. 01/04/2019, the threshold limit is increased from Rs. 10,000 to Rs. 40,000. |
| 7. | No TDS from interest other than on securities if payer is any other person other than post office or banking company or co-operative society engaged on the banking. | 194A | If amount of interest paid or credited on time deposit during the financial year exceeds Rs 5,000. |
| 8. | No TDS from Lottery / Cross Word Puzzles | 194B | If amount paid during the financial year does not exceed Rs. 10,000. |
| 9. | No TDS from winnings from horse races | 194BB | If amount paid during the financial year does not exceed Rs. 10,000. |
| 10. | No TDS to contractor to resident person | 194C | a) If sum paid/credited to a contractor in a single payment does not exceed Rs. 30,000<br>b) If sum paid/credited to contractor in aggregate does not exceed Rs. 1,00,000 during the financial year (Rs. 1,00,000 w.e.f. 01/06/2016) |
| 11. | No TDS from insurance commission paid or payable during the financial year to resident person | 194D | If amount paid or credited during the financial year does not exceed Rs. 15,000 |
| 12 | No TDS from sum payable under a life insurance policy (including bonus) to a resident person (w.e.f. 01-10-2014) | 194DA | If amount paid or payable during the financial year is less than Rs. 1 lakh. |
| 13. | No TDS from payments made out of deposits under NSS | 194EE | If amount of payment or aggregate amount of payments in financial year is less than Rs. 2,500. In case of payment is received by legal heirs no tax shall be deducted. |
| 14. | No TDS from commission paid on sale of lottery tickets | 194G | If amount of income the financial year does not exceed Rs. 15,000 |

| | | | |
|---|---|---|---|
| 15. | No TDS from payment of commission or brokerage | 194H | If amount paid or credited during the financial year does not exceed Rs. 5,000 (Rs. 15,000 w.e.f. 01/06/2016). Further no tax to be deducted from commission payable by BSNL/ MTNL to their Public call office franchisees. |
| 16. | No TDS on payment of rent in respect of any land or building, furniture or fittings or plant and machinery to a resident person | 194-I | If amount paid or credited during the financial year does not exceed Rs. 1,80,000 (Rs. 2,40,000 w.e.f. 01/04/2019).<br>No tax deductions shall be made under this section if rent is paid to a business trust, being a real estate investment trust, in respect of any real estate asset, referred to in 10(23FCA), owned directly by such business trust. |
| 17. | No TDS on payment of consideration for purchase of an immovable property(other than agriculture land) to a resident transferor | 194-IA | If consideration paid or payable for transfer of an immovable property is less than Rs. 50 Lakhs. |
| 17A. | No TDS on payment of rent of any land or building or both by an individual/HUF [whose books of account are not required to be audited under section 44AB to resident person. | 194-IB | If amount of rent does not exceed Rs. 50,000 for a month or part of a month. |
| 18. | No TDS on payment of fee for professional services, fee for technical services, royalty, any sum referred to in section 28(va) to a resident person | 194J | If amount paid or credited during the financial year does not exceed Rs. 30,000 |
| 19. | No TDS from income in respect of units payable to resident | 194K | If the amount of income paid or payable exceeds Rs. 5,000 during the financial year |
| 20. | No TDS on payment of compensation/enhanced compensation on compulsory acquisition of immovable property (other than Agricultural Land) to a resident person | 194LA | If such sum amount does not exceed Rs. 2,50,000 during a financial year. |
| 21. | No TDS is required to be deducted on sum payable to a person with respect to contractual work, commission, brokerage or for professional services | 194M | If the aggregate amount paid or credited during the financial year does not exceed Rs. 50 lakhs |

| | | | |
|---|---|---|---|
| 22. | No TDS is required to be deducted on the amount withdrawn in cash from any account | 194N | If the aggregate amount withdrawn does not exceed Rs. 1 crore during the previous year. However, the threshold limit shall be Rs. 20 lakh if the person, has not filed return of income (ITR) for three previous years immediately preceding the previous year in which cash is withdrawn, and the due date for filing ITR under 139(1) has expired. |
| 23. | No TDS from payment to participants of e-commerce | 194-O | If amount paid or payable Resident Individual or HUF during the financial year does not exceed Rs. 5 Lakhs |
| 24. | No TDS on sum paid to seller for purchase of goods | 194Q | If sum paid to seller for purchase of goods doesn't exceeds Rs. 50 lakh |

- **Can the payee request the payer not to deduct tax at source and to pay the amount without deduction of tax at source?**

A payee can approach to the payer for non-deduction of tax at source but for that they have to furnish a declaration in Form No. 15G/15H, as the case may be, to the payer to the effect that the tax on his estimated total income of the previous year after including the income on which tax is to be deducted will be nil.

Form No. 15G is for the individual or a person (other than company or firm) and Form No. 15H is for the senior citizens.

Note: The CBDT vide Order u/s 119, dated 03-04-2020 has clarified that if a person had submitted Form No. 15G and 15H for FY 2019-20 to banks and other institutions then these forms will be valid up to 30.06.2020 for FY 2020-21 also.

- **What are the consequences a deductor would face if he fails to deduct TDS or after deducting the same fails to deposit it to the Government's account?**

A deductor would face the following consequences if he fails to deduct TDS or after deducting the same fails to deposit it to the credit of Central Government's account:-

a) Disallowance of expenditure

As per section 40(a)(i) of the Income-tax Act, any sum (other than salary) payable outside India or to a non-resident, which is chargeable to tax in India in the hands of the recipient, shall not be allowed to be deducted if it is paid without deduction of tax at source or if tax is deducted but is not deposited with the Central Government till the due date of filing of return.

However, if tax is deducted or deposited in subsequent year, as the case may be, the expenditure shall be allowed as deduction in that year.

Similarly, as per section 40(a)(ia), any sum payable to a resident, which is subject to deduction of tax at source, would attract 30% disallowance if it is paid without deduction of tax at source or if tax is deducted but is not deposited with the Central Government till the due date of filing of return.

However, where in respect of any such sum, tax is deducted or deposited in subsequent year, as the case may be, the expenditure so disallowed shall be allowed as deduction in that year.

As per Section 58(1A) (as amended with effect from the assessment year 2018-19), the provisions of section 40(a)(ia) and 40(a)(iia) shall also apply in computing the income chargeable under the head "Income from other sources".

b) Levy of interest

As per section 201 of the Income-tax Act, if a deductor fails to deduct tax at source or after the deducting the same fails to deposit it to the Government's account then he shall be deemed to be an assessee-in-default and liable to pay simple interest as follows:-

(i) at one per cent for every month or part of a month on the amount of such tax from the date on which such tax was deductible to the date on which such tax is deducted; and

(ii) at one and one-half per cent for every month or part of a month on the amount of such tax from the date on which such tax was deducted to the date on which such tax is actually paid.

c) Levy of Penalty

Penalty of an amount equal to tax not deducted or paid could be imposed under section 271C

- Under what circumstances a deductor would not be deemed as an assessee-in-default even after he fails to deduct TDS or after deducting the same fails to deposit it to the Government's account?

A deductor who fails to deduct the whole or any part of the tax on the sum paid to a resident or on the sum credited to the account of a resident shall not be deemed to be an assessee-in-default in respect of such tax if such resident—

(i) has furnished his return of income undersection 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 deductor furnishes a certificate to this effect in Form No.26A from a chartered accountant.

- However, w.e.f. 01-09-2019, sum paid to non-resident will be covered by above provisions.

In such a case, the payee can claim the refund of entire/excess amount of TDS (as the case may be) by filing the return of income

- If the payer does not deduct tax at source, will the payee face any adverse consequences by means of action taken by the Income-tax Department?

  It is the duty and responsibility of the payer to deduct tax at source. If the payer fails to deduct tax at source, then the payee will not have to face any adverse consequences. However, in such a case, the payee will have to discharge his tax liability. Thus, failure of the payer to deduct tax at source will not relieve the payee from payment of tax on his income.

- What are the duties of the person deducting tax at source?

  Following are the basic duties of the person who is liable to deduct tax at source.

  • He shall obtain Tax Deduction Account Number and quote the same in all the documents pertaining to TDS.

  • He shall deduct the tax at source at the applicable rate.

  • He shall pay the tax deducted by him at source to the credit of the Government (by the due date specified in this regard*).

  • He shall file the periodic TDS statements, i.e., TDS return (by the due date specified in this regard*).

  • He shall issue the TDS certificate to the payee in respect of tax deducted by him (by the due date specified in this regard*).

  *Refer tax calendar for the due dates.

- How can I know the quantum of tax deducted from my income by the payer?

  To know the quantum of the tax deducted by the payer, you can ask the payer to furnish you a TDS certificate in respect of tax deducted by him. You can also check Form 26AS from your e-filing account at https://www.incometax.gov.in

  You can also use the "View Your Tax Credit" facility available at www.incometaxindia.gov.in

- At what rate the payer will deduct tax if a taxpayer doesn't furnish return of income?

  As per section 206AB, the tax shall be deductible at the higher rates prescribed under this provision if the following conditions are satisfied:

  (a) Deductee has not filed the return of income for 2 assessment years relevant to the previous year immediately prior to the previous year in which tax is required to be deducted;

  (b) The due date to file such return of income, as prescribed under section 139(1), has expired; and

  (c) The aggregate amount of tax deducted and collected at source is Rs. 50,000 or more in each of these 2 previous years.

Tax is required to be deducted at higher rates in respect of every sum or income or amount from which tax is deductible under any provision of Chapter XVII-B except the sum or income or amount on which tax is deductible under any of the following provisions:

- What to do if the TDS credit is not reflected in Form 26AS?

  Non-reflection of TDS credit in Form 26AS can be due to several reasons like non-filing of TDS statement by the payer, quoting incorrect PAN of the deductee in the TDS statement filed by the payer. Thus, in case of non-reflection of TDS credit in Form 26AS, the payee has to contact the payer for ascertaining the correct reasons for non-reflection of the TDS credit in Form 26AS.

- At what rate the payer will deduct tax if I do not furnish my Permanent Account Number to him?

  As per section 206AA, if you do not furnish your Permanent Account Number to the payer (i.e., deductor), then the deductor shall deduct tax at the higher of the following rates :

  • At the rate specified in the relevant provision of the Act.

  • At the rate or rates in force, i.e., the rate prescribed in the Finance Act.

  • At the rate of 20%.

- However, the provisions of section 206AA shall not apply in the following cases:-

  I. In respect of payment of interest on long-term bonds to a non-resident under section 194LC.
  II. Where deductee being a non-resident or a foreign company, shall in respect of payments in the nature of interest, royalty, fees for technical services and payments on transfer of any capital asset, furnish the following details and documents to the deductor, namely:—
  III. name, e-mail id, contact number;
  IV. address in the country or specified territory outside India of which the deductee is a resident;
  V. a certificate of his being resident in any country or specified territory outside India from the Government of that country or specified territory if the law of that country or specified territory provides for issuance of such certificate;
  VI. Tax Identification Number of the deductee in the country or specified territory of his residence and in case no such number is available, then a unique number on the basis of which the deductee is identified by the Government of that country or the specified territory of which he claims to be a resident.

- I do not have PAN. Can I furnish Form 15G/15H for non-deduction of TDS from interest?

  As persection 206AA, a declaration in Form No. 15G or Form No. 15H is not a valid declaration, if it does not contain PAN of the person making the declaration. If the declaration is without the PAN, then tax is to be deducted at higher of following rates :

  • At the rate specified in the relevant provision of the Act.

  • At the rate or rates in force, i.e., the rate prescribed in the Finance Act.

• At the rate of 20%.

• Would I face any adverse consequences if instead of depositing TDS in the government's account I use it for my personal needs?

Yes, failure to remit tax deducted by you in the government's account within stipulated time-limit would attract interest, penalty and rigorous imprisonment of upto seven years.

- I have not received TDS certificate from the deductor. Can I claim TDS in my return of income?

  Yes, the tax credit in your case will be reflected in your Form 26AS and, hence, you can check Form 26AS and claim the credit of the tax accordingly. However, the claim of TDS to be made in your return of income should be strictly as per the TDS credit being reflected in Form 26AS. If there is any discrepancy in the tax actually deducted and the tax credit being reflected in Form 26AS then you should intimate the same to the deductor and should reconcile the difference. The credit granted by the Income-tax Department will be as per Form 26AS.

- If I buy any land/building then is there any requirement to deduct tax from the sale proceeds to be paid by me to the seller?

  Yes, Finance Act, 2013 has introduced section 194-IA which provides for deduction of tax at source in case of payment of sale consideration of immovable property (other than rural agricultural land) to a resident. Section 194-IA is not applicable if the seller is a non-resident. Tax is to be deducted @ 1%. No tax is to be deducted if the consideration is below Rs. 50,00,000. If the sale consideration exceeds Rs. 50,00,000, then tax is to be deducted on the entire amount and not only on the amount exceeding Rs. 50,00,000.

  If the seller is a non-resident then tax is be deducted under section 195 and not under section 194-IA. Thus, in case of purchase of property from non-resident TDS provisions of section 195 will apply and not of section 194-IA

- What is the difference between PAN and TAN?

  PAN stands for Permanent Account Number and TAN stands for Tax Deduction Account Number. TAN is to be obtained by the person responsible to deduct tax, i.e., the deductor. In all the documents relating to TDS and all the correspondence with the Income-tax Department relating to TDS one has to quote his TAN.

  PAN cannot be used for TAN, hence, the deductor has to obtain TAN, even if he holds PAN.

  However, in case of TDS on purchase of land and building (as per section 194-IA) as discussed in previous FAQ, the deductor is not required to obtain TAN and can use PAN for remitting the TDS.

  Further in case of TDS on rent (as persection 194-IB) and TDS on payment of certain sums by Individuals of HUFs (as per section 194M), the deductor can use PAN instead of TAN for remiiting TDS

- FAQs from TDS – Centralized Processing Cell

To see the FAQs from TDS – Centralized Processing Cell, please visit at http://contents.tdscpc.gov.in/en/top-faq.html

- What is the amount of TDS if property belongs to NRI?

  Yes, u/s 195. In case you have any doubt regarding the amount on which TDS is to be made, you may file an application with the officer handling non-resident taxation who will pass an order determining the TDS to be made. Alternatively, if the recipient feels that the TDS is more he may file an application with his Assessing Officer for non-deduction.

- Whether limit of Rs. 50,000 per month under section 194-IB is applicable to each of the co-owners separately in case rent is paid individually to co-owners?

  As per the section 194IB, an individual or HUF whose books of account are not liable for audit u/s 44AB, paying rent to a resident exceeding Rs. 50,000 per month or part of the month for land or building, liable to deduct tax @ 5% at the time of credit of rent, for the last month of the previous year or last month of the tenancy in case property is vacated during the year, as the case may be, to the account of the payee or at the time of payment thereof in cash or by cheque or draft or any other mode, whichever is earlier.

  Therefore, limit of Rs. 50,000 is applicable for each co-owner separately, if rent is paid to co-owners of the property.

  For Example: Mr. A is making payment of rent of Rs. 1,00,000 per month to Mr. B &Mr. C who are co-owners of the property, where in rent paid to Mr. B is Rs. 70,000 and to Mr. C is Rs. 30,000 ; A is liable to deduct tax @ 5% under section 194IB on rent paid to Mr. B as the amount of rent paid exceeds Rs. 50,000 and is not required to deduct tax on rent paid to Mr. C as the amount of rent paid does not exceed Rs. 50,000.

- Who is required to file Form 15CA ?

  As per Rule 37BB, any person responsible for paying to a non-resident, not being a company, or to a foreign company, any sum chargeable to tax under the provisions of Income tax Act, 1961, shall furnish such information in Form 15CA and Form 15CB:

  - In case the payment or the aggregate of such payments made during the financial year does not exceed Rs. 5 lakh rupees, such information is to be furnished in Part A of Form No.15CA.
  - In case the payment exceeds Rs. 5 lakh such information is required to be furnished in Part B of Form No. 15CA after obtaining a certificate from the Assessing Officer under section 197; or an order from the Assessing Officer under sub-section (2) or sub-section (3) of section 195.
  - In case the payment exceeds Rs. 5 lakh such information is required to be furnished in Part C of Form 15CA after obtaining certificate in Form No.15CB from an accountant as defined in the *Explanation* to sub-section (2) of section 288.
  - In case the payment other than the payment referred in sub-rule (3) of Rule 37BB which is not chargeable to tax under the provisions of Income tax Act,1961, such information is required to be furnished in Part D of Form No. 15CA.

- When Form 15CA is not required to be furnished?

In accordance with sub-rule (3) of Rule 37BB, Form 15CA and Form 15CB are not required to be furnished in case of following transactions:

- Remittance is made by an individual and it does not require prior approval of the Reserve Bank of India as per the provisions of section 5 of the Foreign Exchange Management Act, 1999 (42 of 1999), read with Schedule III to the Foreign Exchange (Current Account Transaction) Rules, 2000; or
- Remittance is of the nature specified as follows:

| Sl. No. | Purpose code as per RBI | Nature of payment |
|---|---|---|
| 1 | S0001 | Indian investment abroad - in equity capital (shares) |
| 2 | S0002 | Indian investment abroad - in debt securities |
| 3 | S0003 | Indian investment abroad - in branches and wholly owned subsidiaries |
| 4 | S0004 | Indian investment abroad - in subsidiaries and associates |
| 5 | S0005 | Indian investment abroad - in real estate |
| 6 | S0011 | Loans extended to Non-Residents |
| 7 | S0101 | Advance payment against imports |
| 8 | S0102 | Payment towards imports - settlement of invoice |
| 9 | S0103 | Imports by diplomatic missions |
| 10 | S0104 | Intermediary trade |
| 11 | S0190 | Imports below Rs.5,00,000 - (For use by ECD offices) |
| 12 | SO202 | Payment for operating expenses of Indian shipping companies operating abroad |
| 13 | SO208 | Operating expenses of Indian Airlines companies operating abroad |
| 14 | S0212 | Booking of passages abroad - Airlines companies |
| 15 | S0301 | Remittance towards business travel |
| 16 | S0302 | Travel under basic travel quota (BTQ) |
| 17 | S0303 | Travel for pilgrimage |
| 18 | S0304 | Travel for medical treatment |
| 19 | S0305 | Travel for education (including fees, hostel expenses, etc.) |
| 20 | S0401 | Postal services |
| 21 | S0501 | Construction of projects abroad by Indian companies including import of goods at project site |
| 22 | S0602 | Freight insurance - relating to import and export of goods |
| 23 | S1011 | Payments for maintenance of offices abroad |

| | | |
|---|---|---|
| 24 | S1201 | Maintenance of Indian embassies abroad |
| 25 | S1202 | Remittances by foreign embassies in India |
| 26 | S1301 | Remittance by non-residents towards family maintenance and savings |
| 27 | S1302 | Remittance towards personal gifts and donations |
| 28 | S1303 | Remittance towards donations to religious and charitable institutions abroad |
| 29 | S1304 | Remittance towards grants and donations to other Governments and charitable institutions established by the Governments |
| 30 | S1305 | Contributions or donations by the Government to international institutions |
| 31 | S1306 | Remittance towards payment or refund of taxes |
| 32 | S1501 | Refunds or rebates or reduction in invoice value on account of exports |
| 33 | S1503 | Payments by residents for international bidding. |

- Whether TCS can be collected on amount inclusive of GST?

  As per section 206C (1) every person, being a seller shall, at the time of debiting of the amount payable by the buyer to the account of the buyer or at the time of receipt of such amount from the said buyer in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, collect from the buyer. Hence, amount debited to the account of buyer or payment shall be received by seller inclusive of VAT/ excise/GST. TCS to be collected on inclusive of GST.

- How much TDS will be deducted in case of payment of Remuneration to company's director?

  Sec 194J levies TDS on technical and professional services. As per the provisions of the Companies Act, director of the company is also a manager and thus, a technical personnel. As per Section 194J(1)(ba), any payment made to director in the nature of sitting fees, remuneration or any other sum other than those on which tax deductible under section 192 is to be considered for deduction of tax at source @ 10% under section 194J. Further, there is no threshold limit for deduction of tax at source.

- What is the procedure of filing Form 15CA?

  Form 15CA shall be furnished electronically online. Procedure for filing of Form 15CA at e-filing portal is given below-

  Step 1 – Log on to " E-filing ' portal at https://www.incometax.gov.in by assessee by using his credentials

  Step 2- Go to the " E-file" menu located at the upper side of the page and click on Income Tax Forms.

  Step 3- PAN of the assessee will be pre-filled. Select "Form 15CA" from drop down list in "Form Name" from drop down list.

Step 4- Select relevant part from "Select relevant part from the down "

Step 5- Fill Form 15CA of selected part and click on "submit" button.

Step 6- Fill up the verification part of relevant part of Form 15CA.

Note- It is mandatory to upload Form 15CB prior to filling Part C of Form 15CA. To fill up the details in Part C of Form 15CA, the acknowledgment number of e-Filed Form 15CB will be required.

If Form is submitted successfully, a message "successfully submitted" will appear on screen and a confirmation e-mail will be sent to the registered email account.

Before starting the filling the Form 15CA, please refer to instructions available at https://portal.incometaxindiaefiling.gov.in/e-Filing/OnlineForms/CommonFormsLink.htm

- What is the procedure of filing Form 15CB?

To file Form 15CB, taxpayer is required to Add CA in his account. CA can be added by using the following steps:

• Firstly Login to e-Filing Portal, click on "My Account" tab and select "My CA" option.

• Enter the "Membership Number" of the CA, select 15CB from "Form Name" and click on "Submit" button.

Once CA has been entered by the taxpayer, afterwards CA can file Form 15CB in behalf of the taxpayer.

However, the C.A. must be registered as C.A. on his e-filing portal. Process for Registration as Chartered Accountant is as follows:

• User can registered as "Chartered Accountant" in the e-filing portal. If not already registered, user is required to click on "Register Yourself" in the homepage.

• Select "Chartered Accountants" from "Tax Professional" and click on "Continue".

• Enter the mandatory details and complete the registration process.

Process of filing Form 15CB by Chartered Accountants is as follows:

• Go to https://www.incometax.gov.in and click on "Downloads" tab.

• Select "Forms (Other than ITR)" and then download either Excel or Java Utility as per your own convenience.

• Prepare the XML file using the above utility.

• Login to e-Filing portal account and click on "e-File" tab and select "Upload Form" from the drop down menu.

• After selecting "Upload Form", enter PAN/TAN of the assessee, PAN of C.A., select "Form Name" as "15CB", select "Filing Type" as "Original". Click on submit once you have done and you will receive a success message and afterwards an email will be sent to your registered email ID.

Note: DSC is Mandatory to file Form 15CB.

For details please refer to general instruction of java utility of Form 15CB.

- Whether TDS required to be deducted on payment made to Government?

No tax required to be deducted by any person from any sum payable to-

0. the Government, or
1. the Reserve Bank of India, or
2. a corporation established by or under a Central Act which is, under any law for the time being in force, exempt from income-tax on its income, or
3. a Mutual Fund specified under clause (23D) of section 10,

where such sum is payable to it by way of interest or dividend in respect of any securities or shares owned by it or in which it has full beneficial interest, or any other income accruing or arising to it.

## FAQs on Assessments under the Income-tax Law

- What is the meaning of assessment?

  Every taxpayer has to furnish the details of his income to the Income-tax Department. These details are to be furnished by filing his return of income. Once the return of income is filed by the taxpayer, the next step is the processing of the return of income by the Income-tax Department. The Income-tax Department examines the return of income for confirming its correctness. The process of examining the return of income by the Income-tax Department is called "Assessment". Assessment also includes re-assessment or best judgment assessment under section 144.

  Note: The Finance Act, 2018 has inserted section 143(3A) to implement e-assessment scheme for the regular assessment carried out by the Assessing Officer under section 143(3).

  Now, the Finance Act 2020 has expanded the scope of e-assessment to cover the best judgment assessments under section 144. The Central Government may issue necessary directions in this regard by 31-03-2022.

- What are the major assessments under the Income-tax Law?

  Under the Income-tax Law, there are four major assessments as given below:

  section 143(1), *i.e.*, Summary assessment without calling the assessee *i.e.* taxpayer.

  - Assessment under section 143(3), *i.e.*, Scrutiny assessment.
  - Assessment under section 144, *i.e.*, Best judgment assessment.
  - Assessment under section 147, *i.e.*, Income escaping assessment.

- What is assessment under section 143(1)?

  Scope of assessment under section 143(1)

  Assessment under section 143(1) is like preliminary checking of the return of income. At this stage no detailed scrutiny of the return of income is carried out. At this stage, the total income or loss is computed after making the following adjustments (if any), namely:-

  (i) any arithmetical error in the return; or

  (ii) an incorrect claim, if such incorrect claim is apparent from any information in the return;

  (iii) disallowance of loss claimed, if return of the previous year for which set off of loss is claimed was furnished beyond the due date specified under sub-section (1) of section 139

  (iv) disallowance of expenditure indicated in the audit report but not taken into account in computing the total income in the return;

  (v) disallowance of deduction claimed under sections 10AA, 80-IA, 80-IB, 80-IC, 80-ID or section 80-IE, if the return is furnished beyond the due date specified under sub-section (1) of section 139; or

  (vi) addition of income appearing in Form 26AS or Form 16A or Form 16 which has not been included in computing the total income in the return.

However, no such adjustments shall be made unless an intimation is given to the assessee of such adjustments either in writing or in electronic mode. Further, the response received from the assessee, if any, shall be considered before making any adjustment, and in a case where no response is received within thirty days of the issue of such intimation, such adjustments shall be made.

For the above purpose "an incorrect claim apparent from any information in the return" means a claim on the basis of an entry in the return:-

(i) of an item which is inconsistent with another entry of the same or some other item in such return;

(ii) in respect of which the information is required to be furnished under the Act to substantiate such entry and has not been so furnished; or

(iii) in respect of a deduction, where such deduction exceeds specified statutory limit which may have been expressed as monetary amount or percentage or ratio or fraction;

- What is the procedure adopted for making the assessment under section 143(1)?

  Assessment under section 143(1) is like preliminary checking of the return of income. At this stage, the total income or loss is computed after making the preliminary adjustments (as discussed in previous FAQ). The other procedures in this regard are as follows:

  - After making the adjustments (if any) as discussed in previous FAQ, the tax, interest, and fee if any, shall be computed on the basis of the adjusted income.
  - Any sum payable by the taxpayer or refund due to the taxpayer shall be intimated to him.
  - An intimation shall be prepared or generated and sent to the taxpayer specifying the sum determined to be payable by, or the amount of refund due to him.
  - An intimation shall also be sent to the taxpayer, in a case, where the loss declared in the return of income by the taxpayer is adjusted but no tax or interest is payable by, or no refund is due to him.
  - No intimation will be sent to the taxpayer in a case where no sum is payable or refundable or no adjustment is made to the returned income. In such a case, the acknowledgement of the return of income shall be deemed to be the intimation.

  *As per section 234F, a fee shall be levied where the return of income is not filed within the due dates prescribed under section 139(1). Fee for default in furnishing return of income shall be Rs. 5,000 if return has been furnished after the due date prescribed under section 139(1). However, it shall be Rs. 1,000 if the total income of an assessee does not exceed Rs. 5 lakh.

- What is the time limit for making the assessment under section 143(1)?

  Assessment under section 143(1) can be made within a period of 9 months from the end of the financial year in which the return of income is filed.

- What is assessment under section 143(3)?

  This is a detailed assessment and is referred to as scrutiny assessment. At this stage, a detailed scrutiny of the return of income will be carried out. The scrutiny is carried out to

confirm the correctness and genuineness of various claims, deductions, etc., made by the taxpayer in the return of income.

- **What is the scope of assessment under section 143(3) i.e. scrutiny assessment?**

  The objective of scrutiny assessment is to confirm that the taxpayer has not understated the income or has not computed excessive loss or has not underpaid the tax in any manner.

  To confirm the above, the Assessing Officer carries out a detailed scrutiny of the return of income and will satisfy himself regarding various claims, deductions, etc., made by the taxpayer in the return of income.

- **What is the procedure adopted for making the assessment under section 143(3) i.e. scrutiny assessment?**

  In case of Assessment under section 143(3), a scrutiny is carried out to confirm the correctness and genuineness of various claims, deductions, etc., made by the taxpayer in the return of income. The other procedures in this regard are as follows:

  - If the Assessing Officer or prescribed income tax authority considers it necessary or expedient to ensure that the taxpayer has not understated the income or has not computed excessive loss or has not underpaid the tax in any manner, then he will serve on the taxpayer a notice requiring him to attend his office or to produce or cause to be produced any evidence on which the taxpayer may rely on in support of the return.
  - The provisions of notice are governed by section 143(2). In other words, to carry out assessment under section 143(3), the Assessing Officer should serve a notice under section 143(2).
  - Notice under section 143(2) shall be served on the taxpayer within a period of six months from the end of the financial year in which the return is filed.
  - The taxpayer or his representative (as the case may be) will appear before the Assessing Officer and will place his arguments, supporting, etc., on various matters/issues as required by the Assessing Officer.
  - After hearing/verifying such evidence and taking into account such particulars as the taxpayer may produce and such other evidence as the Assessing Officer may require on specified points and after taking into account all relevant material which he has gathered, the Assessing Officer shall, by an order in writing, make an assessment of the total income or loss of the taxpayer and determine the sum payable by him or refund of any amount due to him on the basis of such assessment.

- **What is the time limit for making the assessment under section 143(3) i.e. scrutiny assessment?**

  As per section 153, the time limit for making assessment under section 143(3) is:-

  1. Within 21 months from the end of the assessment year in which the income was first assessable. [For assessment year 2017-18 or before]
  2. 18 months from the end of the assessment year in which the income was first assessable. [for assessment year 2018-19]
  3. 12 months from the end of the assessment year in which the income was first assessable [Assessment year 2019-20 and onwards]

Note: If reference is made to TPO, the period available for assessment shall be extended by 12 months

- **What is assessment under section 144?**

  Assessment under section 144 (called best judgment assessment) is an assessment carried out as per the best judgment of the Assessing Officer. Best judgment assessment is resorted due to certain failures (specified under section 144) on the part of the taxpayer (discussed in next FAQ).

- **Under what circumstances the Assessing Officer will proceed for making assessment under section 144 i.e. best judgment assessment?**

  As per section 144, the Assessing Officer is under an obligation to make an assessment to the best of his judgment in the following cases:

  - If the taxpayer fails to file the return of income as required within the due date prescribed under section 139(1) or a belated return under section 139(4) or a revised return under section 139(5).
  - If the taxpayer fails to comply with all the terms of a notice issued under section 142(1).

    *Note:* section 142(1) deals with the general provisions relating to an inquiry before assessment. Under section 142(1), the Assessing Officer can issue notice asking the taxpayer to file the return of income if he has not filed the return of income or to produce or cause to be produced such accounts or documents as he may require and to furnish in writing and verified in the prescribed manner information in such form and on such points or matters (including a statement of all assets and liabilities of the taxpayer, whether included in the accounts or not) as he may require.

  - If the taxpayer fails to comply with the directions issued under section 142(2A).

    *Note:* Section 142(2A) deals with special audit. As per section 142(2A), if the conditions justifying special audit as given in section 142(2A) are satisfied, then the Assessing Officer will direct the taxpayer to get his accounts audited from a chartered accountant nominated by the principal chief commissioner or Chief Commissioner or Principal Commissioner or Commissioner and to furnish a report of such audit in the prescribed form.
  - If after filing the return of income, the taxpayer fails to comply with all the terms of a notice issued under section 143(2), *i.e.*, notice of scrutiny assessment.

    From the above criteria, it can be observed that best judgment assessment is resorted in cases where the return of income is not filed by the taxpayer or there is no co-operation by the taxpayer on various matters.

- **What is the procedure adopted for making the assessment under section 144 i.e. best judgment assessment?**

  Assessment under section 144 (called best judgment assessment) is an assessment carried out as per the best judgment of the Assessing Officer. The other procedures in this regard are as follows:

- If the circumstances justifying best judgment assessment (discussed in previous FAQ) are satisfied, then the Assessing Officer will serve a notice on the taxpayer to show cause why the assessment should not be completed to the best of his judgment.
- No notice as given above is required in a case where a notice under section 142(1) has been issued prior to the making of an assessment under section 144.
- If the Assessing Officer is not satisfied by the arguments of the taxpayer and he has reason to believe that the case demands a best judgment, then he will proceed to carry out the assessment as per best of his knowledge.
- If the criteria of the best judgment assessment are satisfied, then after taking into account all relevant material which the Assessing Officer has gathered, and after giving the taxpayer an opportunity of being heard, the Assessing Officer shall make the assessment of the total income or loss to the best of his judgment and determine the sum payable by the taxpayer on the basis of such assessment.

- **What is assessment under section 147?**

  This is an income escaping assessment. This assessment is carried out if the Assessing Officer observes that any income has escaped assessment.

- **What are the circumstances under which assessment under section 147 i.e. income escaping assessment can be carried out?**

  If any income of an assessee has escaped assessment for any assessment year, the Assessing Officer may, subject to the new provisions of sections 148 to 153, assess or reassess such income and also any other income which has escaped assessment and which comes to his notice subsequently in the course of the proceedings, or recompute the loss or the depreciation allowance or any other allowance, as the case may be, for such assessment year.

  It is imperative to note that once assessment or reassessment or re-computation has started, the Assessing Officer is empowered to assess or reassess the income which has escaped assessment and which comes to his notice subsequently in the course of the proceeding under this procedure notwithstanding that the procedure prescribed in new section 148A was not followed before issuing such notice for such income.

- **What is the procedure adopted for making the assessment under section 147 i.e. income escaping assessment?**

  The Assessing Officer is required to make an assessment or re-assessment as per the following procedures:

  Issue of Notice

  The Assessing Officer shall serve on the assessee a notice under Section 148 along with a copy of the order passed under clause (d) of section 148A, requiring him to furnish within return of his income or the income of any other person in respect of which he is assessable under this Act during the previous year corresponding to the relevant assessment year.

  The notice shall be issued in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed; and the provisions of Income-tax Act shall, so far as may be, apply accordingly as if such return were a return required to be furnished under section 139.

Circumstances in which notice can be issued

Notice is required to be issued only when information with the Assessing officer suggests that the income chargeable to tax has escaped assessment. Prior approval of specified authority is also required to be obtained before issuing such notice by the Assessing Officer.

- What is the time limit for making the assessment under section 147 i.e. income escaping assessment?

As per section 153, the time limit for making assessment under section 147 is:-

0. Within 9 months from the end of the financial year in which the notice under section 148 was served (if notice is served before 01-04-2019).
1. 12 months from the end of the financial year in which notice under section 148 is served (if notice is served on or after 01-04-2019).

Note: If reference is made to TPO, the period available for assessment shall be extended by 12 months

- What recourse is available to me if I am not satisfied with the order passed by my Assessing Officer?

If you are not satisfied with the order passed by your Assessing Officer then you can file an appeal to the higher authority. The first appellate authority is the Commissioner (Appeals). Subsequently, the matter can be taken to the Income-tax Appellate Tribunal, then to the High Court and the Supreme Court.

Alternatively, instead of going for the appeal mechanism, you can make an application of revision to the Commissioner of Income-tax.

Form No. 35 .In case of appeals to Commissioner (Appeals) (irrespective of date of initiation of assessment proceedings) the following fee is payable :

Where assessed income is Rs. 1,00,000 or less - Rs. 250.

Where assessed income is more than Rs. 1,00,000 but not more than Rs. 2,00,000 - Rs. 500.

Where assessed income is more than Rs. 2,00,000 - Rs. 1,000.

Where subject-matter of appeal is not covered under any of the above - Rs. 250.

- What is limited scrutiny?

In case of assessment two type of cases have been selected for scrutiny: one is 'Limited Scrutiny' and other is 'Complete Scrutiny'.

The assessees concerned have duly been intimated about their cases falling either in 'Limited Scrutiny' or 'Complete Scrutiny' through notices issued under section 143(2) of the Income-tax Act, 1961 ('Act'). The procedure for handling 'Limited Scrutiny' cases shall be as under:

a. In 'Limited Scrutiny' cases, the reasons/issues shall be forthwith communicated to the assessee concerned.

b. The Questionnaire under section 142(1) of the Act in 'Limited Scrutiny' cases shall remain confined only to the specific reasons/issues for which case has been picked up for scrutiny. Further, the scope of enquiry shall be restricted to the 'Limited Scrutiny' issues.

c. These cases shall be completed expeditiously in a limited number of hearings.

d. During the course of assessment proceedings in 'limited Scrutiny' cases, if it comes to the notice of the Assessing Officer that there is potential escapement of income exceeding Rs. five lakhs (for metro charges, the monetary limit shall be Rs. ten lakhs) requiring substantial verification on any other issue(s), then, the case may be taken up for 'Complete Scrutiny' with the approval of the Pr. CIT/CIT concerned. However, such an approval shall be accorded by the Pr. CIT/CIT in writing after being satisfied about merits of the issue(s) necessitating 'Complete Scrutiny' in that particular case.

- How to file response to notice issued under section 143(2)?

If a return has been furnished under section 139 or in response to notice under section 142(1), the Assessing Officer or the prescribed income tax authority, as the case may be, if, considers it necessary to ensure that the assessee has not understated the income or has not computed excessive loss or has not under-paid the tax in any manner, shall serve a notice on the assessee requiring him on a date specified in the notice, either to attend the office of the Assessing Officer or to produce before the Assessing Officer any evidence on which the assessee may rely in support of the return.

Provided that no notice under this sub section shall be served on the assessee after the expiry of 6 months from the end of the financial year in which the return is furnished.

- When it shall be deemed that Income has escaped Assessment?

  - In cases other than Search, Survey or Requisition

The information suggesting that the income chargeable to tax has escaped assessment means any information flagged in the case of the assessee for the relevant assessment year as per the 'Risk Management Strategy' formulated by the CBDT from time to time or any final objection raised by the Comptroller and Auditor General of India (CAG) to the effect that the assessment in the case of the assessee for the relevant assessment year has not been made as per the provisions of the Income-tax Act.

  - In search, survey or requisition cases

In search, survey or requisition cases initiated or made or conducted, on or after 1st April 2021, it shall be deemed that the Assessing Officer has information which suggests that the income chargeable to tax has escaped assessment in the case of the assessee for the 3 assessment years immediately preceding the assessment year relevant to the previous year in the following cases:

(a) A search is initiated under section Section 132 or books of account, other documents or any assets are requisitioned under section Section 132A, on or after the 1st day of April 2021, in the case of the assessee;

(b) A Survey is conducted under section 133A in the case of the assessee;

(c) The Assessing Officer is satisfied, with the prior approval of PCIT or CIT, that any money, bullion, jewellery or other valuable article or thing, seized or requisitioned in case of any other person on or after the 1st day of April 2021, belongs to the assessee; or

(d) The Assessing Officer is satisfied, with the prior approval of PCIT or CIT, that any books of account or documents, seized or requisitioned in case of any other person on or after the 1st day of April 2021, pertains or pertain to, or any information contained therein, relate to, the assessee.

Procedure before Issuance of Notice

The Assessing Officer shall be required to follow the below procedure as laid down in Section 148A before issuing a notice under new section Section 148 in cases other than search, survey or requisition.

- Conducting Inquiry

The Assessing Officer shall conduct an enquiry, if required, with the prior approval of specified authority, concerning the information which suggests that income chargeable to tax has escaped assessment.

- Granting an opportunity of being heard

The Assessing Officer shall provide an opportunity of being heard to the assessee, with the prior approval of specified authority, by serving upon him a notice to show cause within such time, as may be specified in the notice, being not less than 7 days but not exceeding 30 days from the date on which such notice is issued, or such time, as may be extended by him based on an application in this behalf, as to why a notice under new section Section 148 should not be issued based on information which suggests that income chargeable to tax has escaped assessment in his case for the relevant assessment year and results of an enquiry conducted, if any.

- Consider Reply of Assessee The Assessing Officer shall consider the reply furnished by the assessee furnished, if any, in response to the show-cause notice issued by AO.
- Passing an Order

The Assessing Officer shall decide, based on material available on record including reply of the assessee, whether or not it is a fit case to issue a notice under new section Section 148, by passing an order, with the prior approval of specified authority, within 1 month from the end of the month in which the reply of the assessee is received by him, or where no such reply is furnished, within 1 month from the end of the month in which time or extended time allowed to furnish a reply expires.

- What is the time limit for issuing notice under section 148 i.e. income escaping assessment?

Time limit for issuance of notice under section 148 of the Income-tax Act:

| Particulars | Time Limit |
|---|---|
| In general | No notice shall be issued if 3 years have elapsed from the end of the relevant assessment year. |
| Where the Assessing Officer has evidence in his possession which reveals that the income escaping assessment, represented in the form of asset, | Notice can be issued beyond a period of 3 years but not beyond the period of 10 years from the end of the |

| | |
|---|---|
| amounts to or is likely to amount to Rs. 50 lakhs or more. | relevant assessment year. |

Notice under section 148 of the Income-tax Act cannot be issued at any time in a case for the relevant assessment year beginning on or before 1st day of April 2021, if such notice could not have been issued at that time on account of being beyond the time limit of 6 years, i.e., time-limit prescribed under the existing provisions of Section 149(b), as it stood immediately before the new amendment.

Further, to compute the period of limitation for issuance of notice under new section 148, the time or extended time allowed to the assessee in providing an opportunity of being heard or period during which such proceedings before issuance of notice under section 148 are stayed by an order or injunction of any court, shall be excluded. If after excluding such period, time available to the Assessing Officer for passing order, about fitness of a case for issue of 148 notice, is less than 7 days, the remaining time shall be extended to 7 days.

## FAQs on Provisions useful for Non-Residents

- **Is the residential status of a person relevant for determining the taxability of the income in his hands?**

  Yes, the residential status of a person earning income is very much relevant for determining the taxability of such income in his hands.

  Taxability of any income in the hands of a person depends on the following two things :

  (1) Residential status of the person as per the Income-tax Law; and

  (2) Nature of income earned by him.

  Hence, residential status plays a vital role in determining the taxability of the income.

- **What are the different classes of residential status prescribed under the Income-tax Law for an individual?**

  For the purpose of Income-tax Law, an individual can have any one of the following residential status:

  (1) Resident and ordinarily resident in India (also known as resident)

  (2) Resident but not ordinarily resident in India

  (3) Non-resident

  Every year the residential status of the taxpayer is to be determined by applying the provisions of the Income-tax Law designed in this regard (discussed later) and, hence, it may so happen that in one year the individual would be a resident and ordinarily resident and in the next year he may become non-resident or resident but not ordinarily resident and again in the next year his status may change or may remain same.

- **Will a person holding Indian citizenship be treated as a resident in India for the purpose of charging Income-tax?**

  The Finance Act, 2020 has introduced new section 6(1A) to the Income-tax Act, 1961. The new provision provides that an Indian citizen shall be deemed to be resident in India only if his total income, other than income from foreign sources, exceeds Rs. 15 lakhs during the previous year. For this provision, income from foreign sources means income which accrues or arises outside India (except income derived from a business controlled in or a profession set up in India).

  However, such individual shall be deemed to be Indian resident only when he is not liable to tax in any country or jurisdiction by reason of his domicile or residence or any other criteria of similar nature.

  Thus, from Assessment Year 2021-22, an Indian Citizen earning total income in excess of Rs. 15 lakhs (other than from foreign sources) shall be deemed to be resident in India if he is not liable to pay tax in any country.

  "Liable to tax" in relation to a person and with reference to a country means that there is an income-tax liability on such person under the law of that country for the time being in force. It shall include a person who has subsequently been exempted from such liability under the law of that country.

- **What are the different classes of residential status prescribed under the Income-tax Law for a Hindu Undivided Family (HUF)?**

  For the purpose of Income-tax Law, a HUF can have any one of the following residential status:

  (1) Resident and ordinarily resident in India

  (2) Resident but not ordinarily resident in India

  (3) Non-resident

  Every year the residential status of the taxpayer is to be determined by applying the provisions of the Income-tax Law designed in this regard (discussed later) and, hence, it may so happen that in one year the HUF would be a resident and ordinarily resident and in the next year it may become non-resident or resident but not ordinarily resident and again in the next year its status may change or may remain same.

- **What are the different classes of residential status prescribed under the Income-tax Law for a person other than an individual or a HUF?**

  For the purpose of Income-tax Law, a person other than an individual or a HUF, *i.e.,* company, partnership firm, etc., can have any one of the following residential status:

  (1) Resident

  (2) Non-resident

  Every year the residential status of the taxpayer is to be determined by applying the provisions of the Income-tax Law designed in this regard (discussed later) and, hence, it may so happen that in one year the taxpayer would be a resident and in the next year may become non-resident and again in the next year the status may change or may remain same.

- **How to determine the residential status of an Individual?**

  To determine the residential status of an individual, the first step is to ascertain whether he is resident or non-resident. If he turns to be a resident, then the next step is to ascertain whether he is resident and ordinarily resident or is a resident but not ordinarily resident.

  Step 1 given below will ascertain whether the individual is resident or non-resident and step 2 will ascertain whether he is ordinarily resident or not ordinarily resident. Step 2 is to be performed only if the individual turns to be a resident.

  *Step 1: Determining whether resident or non-resident*

  Under the Income-tax Law, an individual will be treated as a resident in India for a year if he satisfies any of the following conditions (*i.e.* may satisfy any one or may satisfy both the conditions):

  (1) He is in India for a period of 182 days or more in that year; or

  (2) He is in India for a period of 60 days or more in the year and for a period of 365 days or more in 4 years immediately preceding the relevant year.

  However, in respect of an Indian citizen and a person of Indian origin who visits India during the year, the period of 60 days as mentioned in (2) above shall be substituted with 182 days. The similar concession is provided to the Indian citizen who leaves India in any previous year as a crew member or for the purpose of employment outside India.

The Finance Act, 2020, w.e.f., Assessment Year 2021-22 has amended the above exception to provide that the period of 60 days as mentioned in (2) above shall be substituted with 120 days, if an Indian citizen or a person of Indian origin whose total income, other than income from foreign sources, exceeds Rs. 15 lakhs during the previous year. Income from foreign sources means income which accrues or arises outside India (except income derived from a business controlled in or a profession set up in India).

Note: The Finance Act, 2020 has introduced new section 6(1A) to the Income-tax Act, 1961. The new provision provides that an Indian citizen shall be deemed to be resident in India only if his total income, other than income from foreign sources, exceeds Rs. 15 lakhs during the previous year. For this provision, income from foreign sources means income which accrues or arises outside India (except income derived from a business controlled in or a profession set up in India).

However, such individual shall be deemed to be Indian resident only when he is not liable to tax in any country or jurisdiction by reason of his domicile or residence or any other criteria of similar nature.

Thus, from Assessment Year 2021-22, an Indian Citizen earning total income in excess of Rs. 15 lakhs (other than from foreign sources) shall be deemed to be resident in India if he is not liable to pay tax in any country.

*Step 2: Determining whether resident and ordinarily resident or resident but not ordinarily resident*

A resident individual will be treated as resident and ordinarily resident in India during the year if he satisfies following conditions:

(1) He is resident in India for at least 2 years out of 10 years immediately preceding the relevant year.

(2) His stay in India is for 730 days or more during 7 years immediately preceding the relevant year.

However, w.e.f., Assessment Year 2021-22, the Finance Act, 2020 has inserted the following two more situations wherein a resident person is deemed to be 'Not Ordinarily Resident' in India:

a) An Indian Citizen or a person of Indian origin whose total income (other than income from foreign sources) exceeds Rs. 15 lakhs during the previous year and who has been in India for a period of 120 days or more but less than 182 days;

b) An Indian Citizen who is deemed to be resident in India as per new section 6(1A).

A resident individual who does not satisfy any of the aforesaid conditions or satisfies only one of the aforesaid conditions will be treated as resident but not ordinarily resident.

In short, following test will determine the residential status of an individual:

- If the individual satisfy any one or both the conditions specified at step 1 and satisfies any of the conditions specified at step 2, then he will become resident and ordinarily resident in India.
- If the individual satisfy any one or both the conditions specified at step 1 and satisfies none or one condition specified at step 2, then he will become resident but not ordinarily resident in India.
- If the individual satisfy no conditions satisfied at step one, then he will become non-resident.

Click here to calculate Residential Status

- **How to determine the residential status of a HUF for the purpose of the Income-tax Law?**

To determine the residential status of a HUF, the first step is to ascertain whether the HUF is resident or a non-resident. If the HUF turns to be a resident, then the next step is to ascertain whether it is resident and ordinarily resident or is resident but not ordinarily resident.

Step 1 given below will ascertain whether the HUF is resident or non-resident and step 2 will ascertain whether the HUF is ordinarily resident or not ordinarily resident. Step 2 is to be performed only if the HUF turns to be a resident.

*Step 1: Determining whether resident or non-resident*

For the purpose of Income-tax Law, a HUF will be treated as resident in India, if the control and management of the affairs of the HUF is located (partly or wholly) in India.

*Step 2: Determining whether resident and ordinarily resident or resident but not ordinarily resident*

A resident HUF will be treated as resident and ordinarily resident in India during the year if its manager (*i.e.* karta or manager) satisfies both the following conditions :

(1) He is resident in India for at least 2 years out of 10 years immediately preceding the relevant year.

(2) His stay in India is for 730 days or more during 7 years immediately preceding the relevant year.

A resident HUF whose manager (*i.e.* karta or manager) does not satisfy any of the aforesaid conditions or satisfies only one of the aforesaid conditions will be treated as resident but not ordinarily resident.

In short, following test will determine the residential status of a HUF :

- If the control and management of the affairs of the HUF is located (partly or wholly) in India and the manager (*i.e.* karta or manager) satisfies both the conditions specified at step 2, then the HUF will become resident and ordinarily resident in India.
- If the control and management of the affairs of the HUF is located (partly or wholly) in India and the manager (*i.e.* karta or manager) satisfies none or only one condition specified at step 2, then the HUF will become resident but not ordinarily resident in India.
- If the control and management of the affairs of the HUF is located wholly outside India, then the HUF will become non-resident.

- **How to determine the residential status of a company?**

With effect from Assessment Year 2017-18, a company is said to be resident in India in any previous year, if:

(i) it is an Indian company; or

(ii) its place of effective management, at any time in that year, is in India.

For this purpose, the "place of effective management" means a place where key management and commercial decisions that are necessary for the conduct of the business of an entity as a whole are, in substance made.

The concept of POEM is effective from Assessment Year 2017-18. The CBDT has issued the final guidelines for determination of POEM of a foreign company.

The final guidelines on POEM contain some unique features. One of the unique features is test of Active Business Outside India (ABOI). The guidelines prescribe that a company shall be said to engaged in 'active business outside India' if passive income is not more than 50% of its total income. Further, there are certain additional cumulative conditions to be satisfied regarding location of total assets, employees and payroll expenses.

The place of effective management in case of a company engaged in active business outside India shall be presumed to be outside India if the majority meetings of the board of directors of the company are held outside India.

In cases of companies other than those that are engaged in active business outside India, the determination of POEM would be a two stage process, namely:—

1. First stage would be identification or ascertaining the person or persons who actually make the key management and commercial decision for conduct of the company's business as a whole.
2. Second stage would be determination of place where these decisions are in fact being made.

However, it has been provided that the POEM guidelines shall not apply to a company having turnover or gross receipts of INR 50 crores or less in a financial year vide *CIRCULAR NO.8, DATED 23-2-2017.*

(To know more about POEM guidelines, read *CIRCULAR NO.6, DATED 24-1-2017.)*

- **How to determine the residential status of a person other than an individual, HUF and company?**

Every person other than an individual, HUF and company is said to be resident in India during the year, if the control and management of its affairs for that year is located wholly or partly in India.

- **Which incomes are charged to tax in India in the hands of a taxpayer?**

The following chart highlights the tax incidence in case of different persons:

| *Nature of income* | | *Residential status* | |
|---|---|---|---|
| | *ROR (*)* | *RNOR (*)* | *NR (*)* |
| Income which accrues or arises in India | Taxed | Taxed | Taxed |
| Income which is deemed to accrue or arise in India | Taxed | Taxed | Taxed |
| Income which is received in India | Taxed | Taxed | Taxed |
| Income which is deemed to be received in India | Taxed | Taxed | Taxed |

| | | | |
|---|---|---|---|
| Income accruing outside India from a business controlled from India or from a profession set up in India | Taxed | Taxed | Not taxed |
| Income other than above (*i.e.,* income which has no relation with India) | Taxed | Not taxed | Not taxed |

(*) ROR means resident and ordinarily resident.

RNOR means resident but not ordinarily resident.

NR means non-resident.

- What incomes are deemed to have accrue or arise in India?

Following incomes are treated as incomes deemed to have accrued or arisen in India:

- Capital gain arising on transfer of property situated in India.
- Income from business connection in India.
- Income from salary in respect of services rendered in India.
- Salary received by an Indian national from Government of India in respect of service rendered outside India. However, allowances and perquisites are exempt in this case.
- Income from any property, asset or other source of income located in India.
- Dividend paid by an Indian company.
- Interest received from Government of India.
- Interest received from a resident is treated as income deemed to have accrued or arisen in India in all cases, except where such interest is earned in respect of funds borrowed by the resident and used by resident for carrying on business/profession outside India or is in respect of funds borrowed by the resident and is used for earning income from any source outside India.
- Interest received from a non-resident is treated as income deemed to accrue or arise in India if such interest is in respect of funds borrowed by the non-resident for carrying on any business/profession in India.
- Royalty/fees for technical services received from Government of India.
- Royalty/fees for technical services received from resident is treated as income deemed to have accrued or arisen in India in all cases, except where such royalty/fees relates to business/profession/other source of income carried on by the payer outside India.
- Royalty/fees for technical services received from non-resident is treated as income deemed to have accrued or arisen in India if such royalty/fees is for business/profession/other source of income carried by the payer in India.

  Income arising outside India, being any sum of money referred to in sub-clause (xviia) of clause (24) of section 2, paid on or after 05-07-2019 by a person resident in India to a non-resident.

- When is a business connection said to be established?

Business connection includes a profession at connection. Business connection includes any activity carried out through a person acting on behalf of a non-resident who performs any one or more of the following:

- If such person has in India authority to conclude contracts on behalf of the non-resident (it will not include cases where authority is restricted to contract for purchase of goods or merchandise on behalf such non-resident); or
- If such person in India habitually maintains stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the non-resident;
- If such person habitually secures orders in India mainly or wholly for the non-resident or for the other non-resident under the same management.

  No business connection shall be deemed to have been established, if the business is carried on through an independent broker, general commission agent or other agent (*i.e.,* a broker or commission agent who is not working mainly or wholly for such non-resident or other non-resident under same management), provided such person is working in his ordinary course of business.

Only so much of income which accrues or arises due to such business connection is deemed to be income accruing or arising from India and not the entire income of the non-resident.

- **What are the other provisions under the Income-tax Act which are applicable to a Non-Resident?**

  Refer chart and Table on 'Non-Resident Benefit Allowable'.

- **What is the objective of FEMA?**

  The main objective of FEMA is to facilitate external trade and payments and for promoting the orderly development and maintenance of foreign exchange market in India. FEMA deals with provisions relating to procedures, formalities, dealings, etc. of foreign exchange transactions in India. The transactions relating to foreign exchange have been classified under FEMA into two main categories, viz., (1) Current Account Transaction, (2) Capital Account Transaction.

- **What is capital account transaction?**

  As defined in Section 2(e) of the FEMA, "capital account transaction" means transactions which alters the assets or liabilities, including contingent liabilities outside India, of persons resident in India or assets or liabilities, in India, of persons resident outside India and includes transactions referred to in section 6(3) of the FEMA. Transactions covered in section 6(3) of FEMA are as follows: -

  - Transfer or issue of any foreign security by a person resident in India.
  - Transfer or issue of any security by a person resident outside India.
  - Transfer or issue of any security or foreign security by any branch, office or agency in India of a person resident outside India.
  - Any borrowing or lending in foreign exchange in whatever form by whatever name called.

- Any borrowing or lending in rupees in whatever form or whatever name called between a person resident in India and a person resident outside India.
- Deposits between persons resident in India and persons resident outside India.
- Export, import or holding of currency or currency notes.
- Transfer of immovable property outside India, other than a lease not exceeding five years by a person resident in India.
- Acquisition or transfer of immovable property in India, other than lease not exceeding five years by a person resident outside India.
- Giving of a guarantee or surety in respect of any debt, obligation or other liability incurred –

  by a person resident in India and owed to a person resident outside India or

  by a person resident outside India.

Note : Section 6(3) has been omitted by Finance Act, 2015 w.e.f. a date yet to be notified.

- **What is current account transaction?**

  As defined in Section 2(j) of the FEMA, "current account transaction" means a transaction other than a capital account transaction and without prejudice to the generality of the foregoing such transaction includes :–

  - Payments due in connection with foreign trade, other current business, services and short-term banking and credit facilities in the ordinary course of business,
  - Payments due as interest on loans and as net income from investments,
  - Remittances for living expenses of parents, spouse and children residing abroad, and
  - Expenses in connection with foreign travel, education and medical care of parents, spouse and children.
  - In terms of section 5 of the FEMA, Any person may sell or draw foreign exchange to or from an authorized person if such sale or drawl is a current account transaction provided that Central Government may, in public interest and in consultation with the Reserve Bank, impose such reasonable restrictions for current account transactions as may be prescribed. .

- **What are the major provisions covered in FEMA, 1999?**

  The major provisions of FEMA, 1999 relate to following matters :

  - Dealing in foreign exchange, etc.
  - Holding of foreign exchange, etc.
  - Current account transactions
  - Capital account transactions
  - Export of goods and services
  - Realization and repatriation of foreign exchange
  - Exemption from realization and repatriation in certain cases.

- Provisions relating to authorised persons. *i.e.* authorised by RBI to deal with foreign exchange or in foreign securities
- Power of RBI to inspect authorized person
- Contravention and penalties
- Adjudication and appeal
- Directorate of enforcement
- Miscellaneous provisions

For more details on FEMA refer to the FAQ section at www.rbi.org.in